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SENATE—*Tuesday, November 12, 2002*

The Senate met at 1 p.m. and was called to order by the Vice President (Mr. CHENEY).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Serendipitous God who delights to surprise us with interventions of inspiration when we least expect them and most need them, we praise You for enabling this lame duck session to soar like an eagle. We pray that these next days completing the work of the 107th Congress will be expeditious. Following last Tuesday's elections, may a spirit of magnanimity be the ambiance of the Senate family. Help those who lost accept Your comfort and courage with the assurance that when one door closes, You open a new door of opportunity. Enable those who won to reach out with empathy to those who were defeated. Bind the whole Senate family together with the greater ties of dedication to You, patriotism for our Nation, and commitment to excellence in finishing well the work that must be done. With oneness of mind and heart we claim Your promise through Isaiah: "Those who wait on the Lord shall renew their strength; they shall mount up with wings like eagles, they shall run and not be weary, they shall walk and not faint."—Isaiah 40:31. Thank You, Lord, for this eagle session. Amen.

PLEDGE OF ALLEGIANCE

The Vice President led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

CERTIFICATE OF APPOINTMENT

The VICE PRESIDENT. The Chair lays before the Senate a certificate of appointment for Senator DEAN M. BARKLEY of the State of Minnesota.

Without objection, it will be placed on file and the certificate of appointment will be deemed to have been read.

The certificate of appointment is as follows:

> STATE OF MINNESOTA, EXECUTIVE DEPARTMENT
>
> CERTIFICATE OF APPOINTMENT
>
> *To the President of the Senate of the United States:*
>
> This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Minnesota, I, Jesse Ventura, the Governor of said State, do hereby appoint Dean M. Barkley a Senator from said State to represent said State in the Senate of the United States until the vacancy therein, caused by the death of Paul Wellstone, is filled by election as provided by law.
>
> Witness: His excellency our Governor, Jesse Ventura, and our seal hereto affixed at Saint Paul, Minnesota this fourth day of November in the year of our Lord 2002.
>
> By the Governor:
>
> JESSE VENTURA,
> *Governor.*

ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. The Senator will present himself at the desk. The Chair will administer the oath of office as required by the Constitution and prescribed by law.

Mr. BARKLEY, escorted by Senator DAYTON, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the Vice President; and he subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

(Applause, Senators rising.)

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

SCHEDULE

Mr. DASCHLE. Mr. President, today the Senate will be in a period for morning business wherein Senators will have the opportunity to eulogize our departed colleague PAUL WELLSTONE, the late Senator from Minnesota, and to welcome Senator BARKLEY.

I understand Senator DAYTON and Senator BARKLEY, who was just sworn in, would like to speak. I ask unanimous consent that following my remarks and those of the Republican leader, Senators DAYTON and BARKLEY be recognized to speak.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WELCOME TO SENATOR DEAN BARKLEY

Mr. DASCHLE. Mr. President, Senator LOTT and I would like to begin by welcoming Senator BARKLEY. He is the 39th Senator to represent the great State of Minnesota. He was born in Annandale, MN. He received his undergraduate and law degrees from the University of Minnesota, so he is truly a son of the State.

He ran for the House of Representatives in 1991 and for the Senate in 1994 and then in 1996 as a reform party candidate. He advised the Governor, Governor Ventura, in his successful campaign for the Minnesota governorship in 1998. He was appointed as director of Minnesota's Planning and State Strategic Long-term Planning Agency.

In addition, as a businessman, he brings a great deal of experience and real-life perspective to this Chamber. I congratulate Senator BARKLEY, his wife Susan, and their three children and welcome him to the Senate family.

Before I make my remarks in regard to our dear departed colleague, I yield the floor to accommodate Senator LOTT's interest in welcoming Senator BARKLEY as well.

The PRESIDENT pro tempore. The Senator from Mississippi.

Mr. LOTT. Mr. President, I extend our welcome to our new Senator, DEAN BARKLEY from Minnesota. I congratulate him on his selection and wish him well on behalf of the Members of the Senate on both sides of the aisle. I pledge to him my commitment and our commitment to work with him as he fills this interim appointment on behalf of the people of the great State of Minnesota.

I reviewed his background. I have had a chance to visit with him. I know he is going to be very serious about this opportunity he has to do the right thing for his own State but also for our country.

His experience as director of the Minnesota Planning and State Strategic and Long-term Planning Agency should serve him well in his time in the Senate. His involvement in the effort toward good government in his State, his participation in the reform party and the independence party, and as a matter of fact his friendship and work over the years with members of both parties, Democrat and Republican, will serve him well in this period that he will be in the Senate.

We are looking forward to the opportunity to encourage him, to answer his questions, and to work with him on behalf of the people he will now represent. So I extend our congratulations and our welcome to Senator BARKLEY of Minnesota.

IN REMEMBRANCE OF PAUL WELLSTONE

Mr. DASCHLE. Mr. President, let me reiterate our welcome to Senator BARKLEY, but no one needs to be reminded how it is he is here. I begin our remembrance of PAUL WELLSTONE with the recognition that at times such as this it is more important to celebrate a life than to mourn a death. I will do my utmost in the next couple of minutes to remember my own advice, the importance of celebrating a life.

We mourn the loss of PAUL WELLSTONE, his wife Sheila, their daughter Marcia, the staff, and the pilots who lost their lives. It has been a shock from which we have not yet fully recovered. Sometimes in these difficult moments, I turn to the Bible, sometimes I turn to expressions offered to me by others, and sometimes to poetry.

An old Irish text was found in a Carmelite monastery in Tallow County, Wicklow, Ireland. The text was entitled "Togetherness." I find solace in the words of Togetherness.

> Death is nothing at all—
> I have only slipped away into the next room.
> Whatever we were to each other, that we are still.
> Call me by my old familiar name, speak to me in the easy way which we always used.
> Laugh as we always laughed at the little jokes we enjoyed together.
> Play, smile, think of me, pray for me.
> Let my name be the household word it always was.
> Let it be spoken without effort.
> Life means all that it ever meant.
> It is the same as it always was:
> There is an absolute unbroken continuity.
> Why would I be out of your mind because I am out of your sight?
> I am but waiting for you, for an interval, somewhere very near, just around the corner.
> All is well. Nothing is passed, nothing is lost.
> One brief moment, and all will be as it was before—
> Only better, infinitely happier, and forever—
> We will all be one together . . .

PAUL was all of 5 foot 5. But I remember what someone once told me: someone certainly more than 5 foot 5. He said it is not the size of the man in the fight, it is the size of the fight in the man. PAUL WELLSTONE by that measurement was a giant. He fought. He spoke. He challenged us all. But he did so in a way that made him a friend, not an enemy, a friend with people on this side of the aisle and a friend, of course, with those on this side, too; he had friends.

While he walked in this Chamber small in stature, everyone recognized that if you measure a man and, in so doing, measure the true weight of his being, you don't measure his size, you measure his heart.

PAUL WELLSTONE inspired me. With his physical challenges—his back, his knees, his legs from wrestling injuries, and then later with MS—I never once heard him complain. Never once did he come to me saying, TOM, you have to give me an opportunity to recover, to rest. He had an energy, a dynamism, that overcame all of those ailments. He seemed more well than those who are well. He inspired all with his joy, with his passion, with his energy.

For those of us who believe in public service, there was no greater evidence of his deep sense of commitment to public service than his advocacy for mental health parity. Again, working across the aisle with Senator DOMENICI, that passion, that energy, that commitment, that determination, that persistence, all that was PAUL WELLSTONE, flowed right up there from that desk. We knew he cared about mental health parity. I can think of no better monument, no better memorial, no better way to honor him than by passing mental health parity soon.

We were all the beneficiaries. Perhaps those who will benefit most by his memory, his example, by his commitment, are our youth. I spoke to his staff on the Sunday following his passing. I reminded them that in the course of 5 years in my early life, I, too, lost heroes. Their names were John F. Kennedy, Robert F. Kennedy, and Martin Luther King. While I recognize their physical being is no longer here, as our poem said, I recognize, too, that they only slipped into the next room, and their spirit was very much alive. And that burns within me with my understanding and my belief in our democracy in this commitment you must make to public service.

In remembering the Wellstones, we must also pay tribute to that remarkable woman, Sheila Wellstone, for her advocacy, her leadership, her commitment to abolishing domestic abuse. The commitment she made, the lives she saved, her willingness to be engaged, the extraordinary effort she made and the example she set, too, is something we will always remember and for which we will always be indebted.

On this new day, let us not think of sadness but of celebration. Let us celebrate the life of PAUL WELLSTONE as we acknowledge the loss of his physical being. Let us extend our heartfelt condolences to David, to Mark, and to Todd, to Cari, Keith, to Joshua and Acacia, Sydney and Matt, his family. The hole in their hearts is large. The hole in their lives may never be fully filled.

To them I ask they, too, find solace in the words of "Togetherness."

> Death is nothing at all—I have only slipped away into the next room. Whatever we were to each other, that we are still.

I yield the floor.

The PRESIDENT pro tempore. The Republican leader.

Mr. LOTT. Mr. President, I will begin by thanking Senator DASCHLE for his remarks so well delivered just now and also for conversations that he and I experienced in the aftermath of this tragic loss.

I rise today also to pay tribute to the life and the service of Senator PAUL WELLSTONE of Minnesota. He had a real impact on this institution. He was a committed warrior to things he believed in. He did it not only with compassion but with sincerity and also generousness and geniality. He never failed to take the time to tell a story, to explain why he felt so strongly about these issues. He was unfailingly willing to be considerate of others, to seek an agreement as to how the process would work, even when it led to a battle of words and of votes. He also had such an upbeat, optimistic view of that process, that battle, and the next one.

He would come over and say: "Good job, I'll get you next time," if he hadn't won. Even when he might be the single vote, or one of a couple of votes—just a few—he was undaunted. You cannot help but admire that approach to life and to the Senate. I not only understand when Senators take a different view, I appreciate it when they take that view—the way PAUL WELLSTONE did.

I have learned over the years that the saying that seems trite is so true in life and in this institution: You can disagree without being disagreeable. He was the master at that.

I appreciated the friendship we developed. I loved to pick at him. I loved to go over and kid him about the little extra face hair that he had for a while, and I would tell him he was my man for the nomination for Presidency. When other potential candidates would come up, I would say: Oh, no, I am already committed to PAUL. He loved it, actually.

He was very kind to me. When I faced difficult tragedies—as with Paul Coverdell, when I stood here with tears rolling down my face, announcing the loss of that great Senator—he would always be one of the first to come over and engage and say how he felt. Sometimes in difficult straits that the Senate has had to go through, when Senator DASCHLE and I had to make difficult decisions, he would be the only one who would come over and say: It was tough, I know, but you did the right thing. I remember that.

So I think the people of Minnesota have an awful lot to be proud of in their Senator. When I went there to pay my respects to the people of Minnesota and to the family and to his friends and supporters, Senator KENNEDY was on the bus as we were leaving the airport. He said: We appreciate the fact that you are here. I know you are here not just because you are the leader of the party, but because you wanted to pay proper respects.

I said: I am here because it is the right thing to do, but also because, if the tables had been reversed and this was for me, PAUL would have been there. I really believe that.

So I take my hat off, I salute the Senator. He will be missed. The Senate will be different. But to the people and his family who are so heartbroken, to his friends and supporters and the people all over his State, our memory of him and his service will not be forgotten. He will go down in history as a truly unique Member of the Senate. I guess we all are in some respects but PAUL more so than others.

I yield the floor.

The PRESIDENT pro tempore. The senior Senator from Minnesota.

Mr. DAYTON. Mr. President, for more than 20 years PAUL and Sheila WELLSTONE were my friends and my political allies, so it is with a heavy heart that I stand here today. For the last 2 years PAUL was my mentor and partner in the Senate, and I will miss him especially, as will Minnesota, as will America.

I thank my many colleagues in the Senate who came to Minnesota just a short time ago for the memorial service commemorating PAUL and Sheila, their daughter Marcia, their staff and friends, Mary McEvoy, the Democratic Party Associate Chair, Tom Lapic, and Will McLaughlin. Over half of the Senate attended that evening. Another dozen former Senators, a dozen or so Members of the House, President Clinton, Vice President Gore, Secretary Thompson, Reverend Jackson. PAUL and Sheila would have been honored.

I especially want to thank my Republican colleagues, Senator LOTT, Senator NICKLES, and the others who attended that evening. I was not aware until the next day that Senator LOTT was treated discourteously by some in the Minnesota crowd. To him and anyone else who suffered that misfortune, I deeply apologize. PAUL and Sheila would have been horrified, as was I when I learned about it, as would the people of Minnesota have been. That is not the way we treat distinguished guests in Minnesota.

As for the rest of the evening, if the eulogists spoke sometimes a little long, they at times became impassioned, political, or even partisan—well, it was a service for PAUL WELLSTONE. The speakers were selected, but they weren't scripted. They were all family and close friends who were still in shock and in great emotional distress and in deep pain.

What was most extraordinary about that service that evening, what hopefully will be remembered now the campaigns have concluded, is that over 20,000 people came to honor the lives and mourn the tragic deaths of PAUL and Sheila and Marcia WELLSTONE, Mary McEvoy, Tom Lapic, and Will McLaughlin—over 20,000 people. That was unprecedented in Minnesota.

Nothing in my lifetime or in my knowledge of the State was even in the same realm of that magnitude of love and gratitude and grief and sorrow. The service was held at the University of Minnesota Basketball Arena which seats over 15,000 people. It was filled an hour before the service was scheduled to begin. The fire marshals closed the doors. Another 6,000 or so arrivals filled an adjacent arena to watch the service on closed-circuit television. It, too, was overfilled by the time the service began. Police and university officials urged late arrivals to go home and watch the service on television, but hundreds, several hundred, remained clustered outside, standing around, wanting to be part of this unprecedented Minnesota congregation. That enormous outpouring of people and their emotions attested to the breadth and depth of PAUL WELLSTONE's political reach. He had touched so many people so deeply. He had helped them, comforted them, and reassured them. He had inspired so many people. He was their voice, their champion, their hero, their United States Senator. And then suddenly, tragically, cruelly, he was snatched away and gone forever.

It was a service to remember and in part regret. It was a service of remembrance and regret for eight exceptional people who lost their lives flying to a funeral service in northeastern Minnesota.

I knew PAUL, but the first time I saw him in action was in June of 1982 at the DFL State Convention. I was endorsed at that convention to run for the first time for the U.S. Senate, and the first day that 3-day convention opened, PAUL announced—much to everyone's surprise—he was going to run for the endorsement for State auditor 2 days hence.

For the previous 8 months, a very earnest young man had been in every county and every district and political event in Minnesota in Democratic circles, explaining in numbing detail the functions of the office of State auditor and how he was the best qualified to fulfill them. Sunday came around, and the auditor's endorsement was the last endorsement at the end of the third day. There were 1,300 Democratic delegates who were tired and worn out and ready to go home. PAUL appeared on the stage after his opponent's one last excruciating explanation of the auditor's position, and presented himself—most of the audience seeing him for the first time—and he gave a typical PAUL WELLSTONE speech: Nuclear freeze, save the environment, for economic justice—nothing of much particular relevance to the office of State auditor. He was endorsed by acclamation of the delegates.

PAUL and I both lost our elections that November, but we spent the next 3 years campaigning together, working for the Governor of Minnesota, Rudy Perpich, in the Office of Energy and Economic Development. We spent many hours talking and traveling the State together. In 1990 we swapped our political aspirations, PAUL ran for the Senate and I for State auditor, and this time we won. PAUL's victory in 1990 was one of the most memorable David-defeats-Goliath stories in America's political history.

In the first published poll several months before the election, the incumbent was ahead by over 50 percent. PAUL was in single digits. He was given no chance to win, and almost no help by the political establishment. He was outspent in the campaign by over 5 to 1. Yet PAUL was the only Democratic challenger that year who ousted an incumbent. His campaign symbol, his signature and his icon, became the rattling, gas-guzzling, usually in-the-repair-shop green bus. But despite a brilliant campaign which captured the public attention, this distinctively different candidate walked fast and talked fast and actually rode a bus. His innovative ads won national awards that year, produced a campaign that couldn't even afford to air them.

Despite 8 months of PAUL WELLSTONE and his best hyperdrive, that amazing energy and excitement, and organizing all over the State, he still entered that final weekend before the election, with most polls showing him being 6 to 8 points behind.

That Saturday, as our Statewide DFL ticket boarded the bus—not PAUL'S bus, which was once again in the repair shop, but another bus—for its final 2-day swing around the State, PAUL's opponent had just launched a vicious personal attack against him. The campaign had no money to produce or air a response. Those 2 days were agonizing for PAUL and Sheila and Marcia, who accompanied him, and for those of us who were sharing that experience with him. Then, like a miracle, the hero of the moment came forth, the former Senator and Vice President, Walter Mondale, whom fate was to bind to the conclusion of another Wellstone campaign 12 years later.

The Vice President publicly denounced the attack as a violation of Minnesota's standard of decency. The editorial board of the State's largest newspaper agreed the day before the election. And the majority of Minnesota voters agreed the following day.

It was the most stunning upset and astounding victory in Minnesota political history.

PAUL WELLSTONE was on the green bus headed to Washington, which, of course, was the bus that broke down on the way.

Despite PAUL'S 20 years of political experience, he wasn't prepared for the Senate. The Senate may not have been prepared for PAUL. I know he later regretted some of his earlier decisions. He told me so after he sat down with me when I won my election two years ago, and he was counseling me to take a different approach.

But while he would have changed perhaps his early style, he would not have changed his substance. He would not have changed because he could not have changed his values or his ideals or his convictions. He could not alter his passion for social justice, his caring for people, or his outrage at their oppression or suffering. His values were the essence of who he was. They were the core of his beliefs, the cornerstone of his conscience. They were the hallowed ground of his political soul.

PAUL WELLSTONE was a hard-working political activist, a hard-nosed political organizer, and a smart, savvy politician. He wanted to win. He knew how to win. But he would not win if it meant losing his soul or forgetting his conscience or sacrificing his principles.

He was no Don Quixote out tilting at windmills. He was rather, a Richard the Lionheart on a crusade, mindful of the risks, the pitfalls, and the odds, but undeterred by them.

Time after time during his 12 years in the Senate, he took his stand believing that he was right—well, maybe not right but correct. He voted his conscience. He voted his convictions, hoping that 50 or more of his colleagues would vote with him, but willing to stand alone if they did not.

Some people said that PAUL'S dissenting votes reflected badly on him. Others said they reflected badly on the Senate. Some people believe the Senate would be a better place without PAUL WELLSTONE. Others of us believe the Senate would be a better place with 50 more like him.

Those who questioned his accomplishments overlook the obvious. PAUL could work tirelessly, speak persuasively, and do everything effectively. But he could only vote once—1 out of 100, 1 out of 535.

Paul had only 2 years out of his 12 years with a Democratic President, Senate, and House, as the Republicans will have again in January. For his other 10 years, PAUL served in divided government. He did not accomplish all he wanted to. He did not accomplish much he wanted to. But he accomplished all he could. And he would have accomplished so much more if death had not intervened so suddenly and so cruelly.

There was so much life and so much politics left in PAUL WELLSTONE, and so much courage. His death echoes the words of Ernest Hemingway:

> Few men are willing to brave the disapproval of their fellows, the censure of their colleagues, the wrath of their society. Moral courage is a rarer quality than bravery in battle or great intelligence. Yet it is the one essential, vital quality of those who would seek to change a world which yields most painfully to change. If people bring so much courage to this world, the world has to kill them to break them, so of course it kills them. The world breaks everyone and afterwards many are strong at the broken places. But those that will not break, it kills. It kills the very good and the very gentle and the very brave impartially. If you are none of those, you can be sure that it will kill you too but there will be no special hurry.

Those are the words of Ernest Hemingway.

PAUL WELLSTONE wasn't that fatalistic. At least, he didn't live or practice the politics of fatalism. PAUL was a social reformer and a crusader for social and economic reform. He believed in it. He dedicated his life to it. He gave his life for it. He knew the odds were stacked heavily against him, especially here in Washington. He knew how hard it was; how unusual the circumstances had to be for a PAUL WELLSTONE to make it to the Senate. He knew how hard it was for a PAUL WELLSTONE to stay here, to combat the powerful forces aligned against him and their enormous financial and political resources that would try to defeat him.

He detested political fundraising. He disliked the amounts of money he had to ask for, and he distrusted most of the people who could provide it. His loathing of fundraising was matched only by his hatred of flying in small airplanes—the principal reason he vowed his 1996 campaign would be his last. But when the time came, he could not turn his back on the crusade. He could not abandon the causes, and he could not leave the people—because it was the people PAUL loved. He loved being with people.

As long as he wasn't raising money from them, or flying with them, PAUL loved being with people—real people, farmers, iron rangers, educators, senior citizens, children, all classes, all races, all religions, all points of view. PAUL practiced the politics of diversity, and inclusion, and empowerment. He truly cared about people as individuals. He cared about their lives, their families, their well-being. He loved visiting veterans homes, nursing homes, and schools. He loved spending hours with people who couldn't vote or benefit him politically.

He cared about people because they needed him—not because he needed them. The poor, the unfortunate, the mentally ill, the disadvantaged and the distressed—he loved working for them, working to make their lives better, and working to give them a chance, a job, a farm, a home, a life.

I agree with the majority leader. If this Senate, if this Congress and this administration want to show their respect for PAUL WELLSTONE, if they want to honor his memory, we will pass and the President will sign into law the Wellstone-Domenici Mental Health Parity bill before we adjourn this year. Nothing less would do him justice. Nothing else would make him happier.

PAUL came to love this institution of the Senate. For an organizer, it was the ultimate challenge. He genuinely liked most of his colleagues—even those he disagreed with most of the time. Yes. He got frustrated, discouraged, and impatient. But he respected the Senate. He loved being a Senator, and he was learning how to be a great one.

He was a great man. He was a great husband—with an even greater wife, Sheila. He was a great father and a great politician. He was an excellent U.S. Senator, and he was becoming a great one. But death denied him that opportunity. And it denied us him, and it denied the people of Minnesota the leader they elected to represent them.

He died on his way to a funeral, that of the father of a friend. He flew because he had to, despite what in hindsight seems more like a premonition than a fear. He willed himself to fly because he had to be the best U.S. Senator he could be.

And he never backed away from adversity. He got on a reliable plane with a reputable charter firm flown by two licensed pilots. They flew into what was reportedly occluded but not threatening weather, with low clouds and light, freezing precipitation—not ideal but not unusual for northern Minnesota in late fall.

And then, somehow, inexplicably, the plane landed in a desolate forest rather than a nearby airport. It burst into a huge conflagration and destroyed the lives of eight people, and damaged many more lives who lost their loved ones, and left many thousands—thousands—of people without their leaders, their allies, their heroes, and their friends.

But life goes on, as it must. Minnesota held an election, as it should. Senator-elect Norm Coleman conducted himself honorably in the aftermath of that great tragedy and won honorably and honestly in that election and has earned the right, through the expressed will of the people of Minnesota, to serve as a U.S. Senator for 6 years, beginning in January. And I pray that he will be our Senator for the next 6 years.

But former Vice President Mondale performed a great service to our DFL Party in Minnesota, to our State, and I believe to our democracy by stepping forward at the last moment when, in hindsight, the situation was impossible but seemed possible only because it was former Vice President Mondale.

Senator DEAN BARKLEY is an excellent appointment made by Governor Ventura. He has earned this honor. He is knowledgeable. He is experienced. And he is committed to good government. He has proven that as commissioner of State planning. Through his own political pioneering he has forged an independent strength and spirit which has captured the political imagination of the people throughout our State and offers great promise in the years ahead, and he will have himself great promise in the years ahead. I am honored to be working with him during these next months, as I look forward to working with Senator-elect Coleman when he begins his term in January.

We have a special spirit in Minnesota. Our political spirit is testified to here today by Congressman JIM RAMSTAD and Congressman MARK KENNEDY, who are witnessing these words of tribute to their colleague. Both worked closely with Senator WELLSTONE, especially Congressman RAMSTAD during his long years in the House with PAUL on many issues of which they shared concern and commitment. And PAUL'S staff, who loved him and gave their lives of service with him, and who are suffering a loss that is also immeasurable, are here as well. And I pray that they, too, will find opportunities in the future. I know they will, but it just will not be with PAUL.

Years ago, then-President John Kennedy paraphrased a statement made by Theodore Roosevelt which seems like a fitting bipartisan note on which to end these remarks. He said in New York City, in a speech paraphrasing President Roosevelt:

> The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood, who knows the great enthusiasms, the great devotions, and spends himself in a worthy cause; who at best, if he wins, knows the thrills of high achievement, and, if he fails, at least fails daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat.

PAUL, you have won many battles, but now you can wipe the dust and sweat and blood off of your face, and may you rest in eternal peace.

I yield the floor.

The PRESIDING OFFICER (Mr. DURBIN). Under the previous order, the Senator from Minnesota is recognized.

Mr. BARKLEY. Mr. President, I stand to say a few words in honor of the late Senator PAUL WELLSTONE.

Over a decade ago, Minnesota sent one of its best to this Chamber. He followed in the special tradition of public service that our State knows well. From Ramsey to Stassen, from Olson to Humphrey, from Mondale to, yes, Ventura, our State has broken the mold more than once.

The man we sent here was PAUL WELLSTONE, and no one would dispute that Minnesota broke the mold again. PAUL was short in stature but, as it proved, enormous in energy and passion. He had a passion for principle, he had a passion for politics, and, most of all, he had a passion for people.

PAUL was a fighter, and, much like Hubert Humphrey, a Happy Warrior. PAUL was the most effective kind of fighter there is: one that never gives up—never. And if there is one attribute that his colleagues and his constituents admired, it was this: his unrelenting energy to fight the fight.

I knew PAUL. I respected PAUL. We both have been like salmon in our own political rivers, swimming into the currents. Therefore, understanding his tireless energies in the cause of change, I am highly honored to speak to his memory today.

True, there is an empty desk here today, a shrouded reminder of a life cut short. But for the PAUL WELLSTONE I knew, the empty chair is more telling. Whether he was in this Chamber or at home in Minnesota, PAUL was on his feet, out of his chair, speaking his mind. Always moving—in thought, in language, in body—PAUL was, indeed, a man of motion and, more than that, a man of emotion. For if there is something that we all knew about PAUL, he not only believed in things, he felt them. This was why PAUL WELLSTONE was so formidable. For thought can be persuaded, changed, and abated. But a feeling? Never.

PAUL, his wife Sheila, and their daughter Marcia tragically perished in the northlands of our State. Their untimely fate was sadly shared by three loyal staff members—Tom Lapic, Will McLaughlin, and Mary McEvoy—as well as the two pilots—Captains Richard Conry and Michael Guess.

As an unexpected and new Member of this Chamber—but more, as a singular citizen of the State of Minnesota—allow me to take this moment to express my personal and heartfelt condolences to all of those families who lost their loved ones. I know I speak for all Minnesotans when I say to those families and friends: Your loss was our loss, and we are all crushingly sorry for it.

PAUL was unique, one of a kind. And yet, the essence of the man was no different from anyone in this Chamber. He wanted to make his State, and his Nation—our world—a better place. We all may differ about how to do so, and some may have disagreed with how PAUL saw it, but no one ever doubted his motives. A selfless champion for those who have no voice—the frail, the weak, the disenfranchised—PAUL'S voice was their voice. And what a voice it was.

Typical of PAUL'S self-deprecating sense of humor, he loved to relate his meeting with a distinguished senior Member of this body, Senator FRITZ HOLLINGS of South Carolina, who remarked to PAUL, "You know, Senator WELLSTONE, you remind me of another Minnesota Senator, Hubert H. Humphrey." And as PAUL began to swell with pride at being in the company of this great champion of civil rights, the senior Senator burst his bubble, "Yes, sir, just like him, you talk too much." PAUL loved this story, and he loved telling it on himself—so typical of the man.

Most of all, PAUL loved and adored his wife and his family, especially his grandchildren. He loved his friends. He loved Carleton College in Northfield, MN. He loved his students; and they knew it. Indeed, PAUL simply loved people. And he loved them simply, unabashedly.

PAUL loved Minnesota and all the people in it. From the known and recognized, to the unknown and uncared for, he loved them all—truly and deeply.

Finally, Mr. President, PAUL loved this distinguished institution. He loved and cherished the U.S. Senate, where today I, too, am honored to stand. PAUL loved his entire staff.

Let me take this opportunity to thank Senator WELLSTONE'S staff for your generous and gracious welcome and offer of support in the truly hectic days since Thursday when I arrived. That you could be so unselfish in your time of unspeakable loss and heartbreak is something I will never, ever forget. I sincerely thank you for the help you have given me.

I plan to continue the fight during my short time here on one of PAUL'S signature issues: mental-health parity. And with Senator DAYTON and Minnesota's Congressional delegation, we plan to introduce a bill to honor Sheila and PAUL WELLSTONE through a living legacy project. I hope that everyone in this Chamber will join us in this tribute.

There is a brief passage out of "Sonnets from the Portuguese," by Elizabeth Barrett Browning, that I would like to share. Her words more perfectly express the thoughts that I am so inadequately attempting to convey about our dear, departed friend, PAUL WELLSTONE:

> "Guess now who holds thee?"
> "—Death," I said.
> But there the silver answer rang:
> "Not Death—but Love."

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, on October 25 the Senate and the people of Minnesota, the people of this country, and I personally suffered a terrible loss—

the death of our colleague, PAUL WELLSTONE, who, as we know, died in a plane crash with his wife Sheila and daughter Marcia, three members of his staff, and the pilots.

I am sure we will all reflect back on how we were notified, how we learned of this tragedy. I was speaking to Senator DASCHLE's chief of staff, Pete Rouse, asking him how things were going. We talked quite a bit during the last month of the campaign.

He said: I have some bad news.

What?

He said: Senator WELLSTONE's plane went down in Minnesota, and there is no hope that anyone survived that crash.

I will never forget that phone call. The passing of PAUL WELLSTONE is a loss for all of us, those who knew him and those who did not. This week, most of us are returning to Washington for the first time since the tragedy, so this is our opportunity, this is my opportunity, to speak about PAUL WELLSTONE with whom I lived here for 12 years, a long time, a lot of days. I certainly am not qualified to talk about all of his accomplishments. There are professors who will write about his accomplishments in years to come. But I can talk about him as a person, how I saw him.

He represented Minnesota well; there is no question about that. Although he did not grow up in Minnesota, moving there as an adult, he embraced the state and its people. And the people of Minnesota loved him dearly and deeply. He talked often of how much he enjoyed living in Minnesota and how proud he was to represent Minnesotans and be a part of the great political legacy of the state.

My father-in-law was born in Russia. But as a boy, he immigrated to Minnesota, and he grew up in Duluth, a tough town, where he and his friends all had nicknames. My mother-in-law grew up in Minneapolis. So when I got to meet a Senator from Minnesota, of course, I was eager to share a lot of my personal reflections on my wife's family, and PAUL and I enjoyed talking about Minnesota.

The impact that PAUL WELLSTONE made and the admiration he received extended well beyond Minnesota. He and I were allies in many legislative battles, and I know many people in the State of Nevada—working families, veterans, retirees, teachers, students, health care professionals and their patients—also appreciated him. He was an articulate and compassionate public servant who fought fiercely for them. Many more Nevadans, like all Americans, are now better off because of PAUL WELLSTONE's work in the Senate, and they would be even better off had he been able to be elected to his third term, as he would have been.

Of course, here among his colleagues in the Senate he was not only well liked but respected, as has been said here today on several occasions. People might not have always or even often agreed with PAUL, but they all had great respect for him. That is why I was so impressed to see a number of his Republican colleagues from Minnesota come and stand in silence at his desk today.

I was fortunate to serve with PAUL, to benefit from his advice and his judgment, and to enjoy his friendship. I smile because I am going to be lonelier here in the Senate without PAUL.

I don't know on how many occasions I went to PAUL WELLSTONE: PAUL, do you have to do this? And he always explained why he had to do it.

I am a better Senator and I know I am a better person for having known PAUL.

He used his voice to speak passionately and courageously on behalf of the voiceless. He gave hope to the hopeless and helpless. He was a kind and gentle person.

I used to see him often in the House gym. He would run from his home to the gym every morning. When because of illness, he couldn't run anymore, without a lot of fanfare and a lot of talk, he walked. Then he decided to work out other places. He went to the gymnasium where the police officers, the Capitol Police, work out. Those of us who knew and loved PAUL saw his physical deterioration, but it was something about which he never complained.

I remember one occasion when Sheila had gone home and he was here alone. He couldn't get dressed; he was in such pain. He came here. We helped him down to the physician's office. He never complained. He was in such pain, sweat coming off his head.

He was a tough person physically, a tough person. I can vouch for that. He was a champion wrestler, high school and college. I think probably the dedication that it takes to be a wrestler, losing weight, having to exert total energy for an extended period of time, the work ethic he developed, the things he did physically and mentally and emotionally, and his determination that made him so successful on the mat also prepared him well for the successes he had as an organizer and activist, campaigner, Senator, and a person.

PAUL WELLSTONE was a fighter who always remained true to his beliefs, stood up for his principles, served the interests of the people of Minnesota and the United States.

There are many things about PAUL WELLSTONE that I remember and hold dear. I can say without any hesitation that he was my friend. I think he thought I was his friend.

I remember the first time I ever heard PAUL WELLSTONE speak. That was in 1990 when there was a public reception in Statuary Hall for the newly elected Senators. We were all there. He stood and gave a great speech. I asked: Who is this guy? He said it so well. He said things I thought about, the importance of politics and government and being involved. He spoke of his grassroots campaign.

I remember the last speech I heard him give, right there. In the years I have been in the Senate, that seat has been the place of great speeches. PAUL WELLSTONE took over Dale Bumpers' seat. They both had a similar style in many respects. They both wandered around back there with that long cord.

The last speech I heard PAUL give, he said, among other things—and this is a quote—

> You could call me a softie. I am a softie.

And he was. He believed he could help people who are less fortunate than he, someone that didn't have a Ph.D., who had been a college professor, hadn't been a U.S. Senator, who didn't have the fine loving family that he had. He could reach out to them. He felt he could do that. He was a softie.

Mr. President, I don't always go to the prayer breakfasts held every Wednesday, but I do go on occasion. I don't go every Wednesday. But I wanted to hear PAUL WELLSTONE at a Senate prayer breakfast, so I went to that prayer breakfast. It was a memorable experience for me to hear PAUL talk about his spirituality, which is something he didn't speak out about in public—except on this occasion. I will never forget that prayer breakfast, where PAUL WELLSTONE spoke of his spirituality, his faith, his deeply held principles. He was a man committed to ideas and ideals.

I also remember PAUL for the love he had for his wife Sheila. They were inseparable. In this campaign, there were a lot of comparisons made between his campaign and mine in 1986, where the opposing candidate switched parties; there were a lot of similarities. He said talk to Sheila about that, show her the ads that you ran. They were always together, never apart. Even now it is so. They had the love of their children, the surviving boys, Mark and David. One is involved in public housing and the other is a wrestling coach and teacher. Right here, a few feet in front of me, on one of those Fridays where we were trying to get everything done and get out of here, PAUL was so anxious to go. Why? Because he thought this was the time his son's wrestling team was going to be the State champions of Minnesota. PAUL WELLSTONE, BARBARA BOXER, and I were talking. I was trying to stall for time, and I asked, "How many wrestling matches have you had, PAUL?"

I also remember PAUL because of my dad. As I have said here on occasion, my father committed suicide. One reason I have been able to publicly talk about that is because of PAUL WELLSTONE. PAUL helped us to understand mental illness is not something to be ashamed of. Any time PAUL WELLSTONE publicly had a chance to talk about suicide, he talked about suicide prevention and talked about my efforts on this. He never tried to take credit for anything alone. He worked so hard on the issue mental health parity. Part of that is suicide. We have 31,000 people a year killing themselves. Because of PAUL, we are doing something about that. We passed a resolution in the Senate recognizing it as a national health problem. We have given money to research the problems of suicide, depression and mental illness. There are medical schools now studying why people kill themselves. So I will never forget PAUL WELLSTONE for a lot of reasons, not the least of which is my father.

I will also remember PAUL WELLSTONE for the things he did for the so-called little people—those who are often not noticed or are neglected. How many of us around here know the people who clean our offices? Not many of us. They come by late at night when we are gone, and when we come into the offices in the morning the trash cans are empty, the desks are cleaned off. It's easy to overlook the people who do that, who work hard to help us. PAUL and Sheila WELLSTONE wanted to know who they were, so they waited and waited until somebody came to their office so they could thank them for cleaning the office. That also includes the elevator operators, doorkeepers, police officers, janitors, as I have already mentioned. He knew them by name, stopped to talk with them and listened to them.

To show the kind of guy he was with the Capitol Police, Mr. President, this man holds the record—he was suffering from multiple sclerosis and he holds the record—with all these big, physical, well-trained, young policemen—he holds the record for pushups and pullups. You can go and see who holds the record at the Capitol Police gymnasium. It is Senator PAUL WELLSTONE. He was a hell of a man, Mr. President.

He stared disease in the face; he had multiple sclerosis. Did anybody ever hear PAUL whine, complain, or feel sorry for himself? No. He took it right on the jaw, like he did a lot of punches, and he went about doing his business. Those of us who worked with him for 12 years saw how his physical condition deteriorated. How long would it have been before he had to walk with a cane? I don't know. But he persevered. That is one reason I remember PAUL WELLSTONE.

Of course, Mr. President, we all remember PAUL WELLSTONE because he stood for something. No one could ever question PAUL WELLSTONE's sense of value. I still smile when I remember saying to PAUL, "Do you have to do this?" Well, I knew the answer before I asked the question. We who hold public office are judged on the difficult votes we are called on to make. To his credit, PAUL WELLSTONE relied on his conscience—not on consultants—in such moments. I admire him so much for that.

Before entering politics, PAUL was a gifted and popular college professor. To a great extent, he remained a teacher even after entering the Senate, educating his constituents about government, and encouraging colleagues to learn more about issues and consider other perspectives, engaging us and challenging us. There are lots of times I can reflect back on when PAUL WELLSTONE, in his Socrates-like presentations, was trying to educate the Senate. He would say to me, "I am wasting my time; what good am I doing here?" I would proceed to tell him all the good he had done. He was educating me, getting me to reflect upon what he had done, just like I am sure he did at Carleton College with his students.

PAUL was a person with great compassion, who reminded us of our moral obligation to care for all human beings—I repeat, especially the most vulnerable, the hungry, the poor, the homeless, the ill, victims of abuse, and others who suffered.

PAUL WELLSTONE is irreplaceable. His life was cut short, and because of that, it is incumbent upon us in the Senate and throughout America to remember his message of hope and compassion and carry forward his efforts to secure economic and social justice for all in the best way we can. In that way, we honor the legacy of a great man, PAUL WELLSTONE.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank the Senator from Nevada for his very articulate statement on PAUL's life. We all shared experiences in working with PAUL.

Every Sunday, the Washington Post Style Section prints a column called "Life Is Short." The column selects one individual and gives a snapshot of that individual's life. If that column focused on Senator PAUL WELLSTONE's life, the single snapshot would be a large photo album.

Senator DASCHLE has said PAUL WELLSTONE was the "soul of the Senate." I believe PAUL tried to find the soul in all of us. He challenged us, on a daily basis, to remember that every man, woman, and child in this Nation should have access to quality education, a first-rate health care system that includes mental health and prescription drug coverage, and jobs that provide decent minimum wage.

Three weeks ago, PAUL made his final appearance in the Chamber. PAUL gave a very passionate speech about the need to extend unemployment benefits and provide more help for our veterans. His closing comments were vintage PAUL. He said:

> What are people who cannot find jobs, who are out of work, who are struggling to put food on the table, supposed to do? What in the world is going on? What has happened to our humanity?

Later that day, PAUL came back to the Senate floor to give his thoughts about the 2003 Defense spending bill. He thanked Senators INOUYE and STEVENS for their inclusion of an amendment that addressed domestic violence and sexual assault which he had championed. As we all know, the issue is not only important to PAUL, it was especially important to his wife Sheila.

At the end of those remarks, PAUL said, in reference to his own provision that was not included in the final conference agreement:

> I know my colleagues did their best. We will be back.

That was PAUL—always gracious in both victory and defeat. Even more importantly, he never focused on defeat because he was constantly plotting his next move to better educate his colleagues and their staff on the issues—always the college professor.

I had the honor and the pleasure of working with PAUL on an array of issues—education, veterans, dairy, health care, and job training. These are not easy issues, but the difficulty of the issue never deterred PAUL. He always saw the glass half full rather than a half-empty glass.

In 1997 and 1998, Senators KENNEDY, DEWINE, WELLSTONE, and I worked together to pass the Workforce Investment Act, legislation that restructured our job training system. Throughout those 2 years, we had many long meetings. In every single meeting, PAUL told us about the impact various provisions would have on Minnesota. There was never a meeting, public or private, where PAUL did not mention the concerns and ideas that were on the minds of his constituents.

PAUL would also tell stories of his children. During many HELP Committee hearings on education, we would often hear about his two children who were teaching in the Minnesota public school system. He was so proud of all his children, his grandchildren, and, of course, Sheila.

PAUL was also very proud of his staff. He had great respect for their views and always remarked to his colleagues that he was very fortunate to have a very talented and devoted staff.

Three years ago at the funeral of Walter Payton, the outstanding Chicago Bears running back, who was also an extraordinary human being, the Rev. Jesse Jackson remarked that on a tombstone, there is a birthday, a small dash, and a date of passing. He said:

> The dash between those two dates is the part you control. . . . The dash determines the height and depth of how you live your life.

PAUL WELLSTONE maximized the height and depth of his dash. I was so lucky to have known PAUL, to have had an opportunity to not only work with him but to learn from him and, most importantly, to have been able to call him a good friend.

I was en route to Minnesota to campaign for PAUL when I learned of his tragic death. I instead spent time with his wonderful sons, David and Mark. I brought them the pictures of their dad celebrating the dairy program victory with Senator LEAHY and another recent victory for Minnesota as well as New England. It brought proud smiles to their faces. As I had expected, they were so much like their dad. I know they will continue on the path that PAUL and Sheila created for them.

PAUL, I will miss you, the Senate will miss you, and the country will miss you. May your commitment, energy, integrity, and passion always guide us to do our best at all times. Goodbye, PAUL.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, life gives no joy like that it takes away. As always, the poet said it best. All of us in the Senate were suddenly and tragically reminded of that on a Friday morning 2½ weeks ago—a cold, gray, dreary October day. I was in a van driving between Fargo and Grand Forks, ND, when I received a call saying that an airplane had crashed in northern Minnesota and that Senator PAUL WELLSTONE, his wife Sheila, staff, and others were on the plane. To say that I and others have been deeply saddened, in fact devastated, by the loss of one of our colleagues is perhaps to even understate it.

PAUL WELLSTONE and Sheila Wellstone died as they campaigned throughout Minnesota for another term in the Senate. It was a tough campaign, a close campaign, a hard-fought campaign. And yet PAUL WELLSTONE never complained about that. He seemed to relish it.

One of the last things he told me on the floor of the Senate several weeks ago about this campaign was, with a sparkle in his eye: We are going to win this campaign. He said: BYRON, I have 4,000 volunteers—4,000 volunteers—who are going to be working election day in Minnesota for me, getting people to the polls, driving people, calling people.

That was so typical of PAUL WELLSTONE. It was always about citizen action, about people rising to the passion of an idea. That was typical PAUL WELLSTONE.

PAUL and Sheila WELLSTONE were wonderful friends to many of us in the Senate, and our thoughts and prayers go to the family, the families of the pilots who lost their lives, the families of PAUL's daughter and the three staff people who were on the plane as well.

As my colleague from Minnesota, Senator DAYTON, said in what I thought was a wonderful tribute to his friend and colleague, all of us would be remiss if we did not say to PAUL's staff: PAUL would want first and foremost for us to recognize you today. PAUL attracted to his service in the Senate men and women with the burning in their soul to do good things, who cared about fairness and justice and who cared about public service.

All of us who work here know PAUL WELLSTONE had a wonderful staff, and they have been through some very difficult times, about as difficult as it can get for a Senate staff. Our thoughts and prayers go out to them and for strength as well.

Today let me for a moment remember PAUL and Sheila for their service to our country. This is a rather small community in the Senate—men and women who love this country, fellow travelers who want to make democracy work. What the American people see are some pitched battles during the day and the early evening hours in the middle of a debate in which there are different philosophies and ideas that clash on the Senate floor. What they do not see is we are colleagues and friends, first and foremost.

I think the entire Senate membership would say: We have, indeed, lost a couple of good friends, PAUL and Sheila WELLSTONE. Our country has lost two tireless fighters for justice. The Senate has lost its strongest voice for those who do not have it so good in this country. And American politics has lost the true champion for the little guy.

If ever a man and wife were a team, it was PAUL and Sheila WELLSTONE. They did everything together. Sheila's public service, as PAUL would be the first to tell you, was every bit as important as his. That public service was marked by a green bus, and that green bus meant in Minnesota and our part of the country citizen action, people empowerment, and something that was on the move, a mission, a campaign on the move.

It is true, as my colleague said, PAUL was different. He would not have been caught dead in Ferragamo shoes, even if he wanted them, and he did not. He was not a man to wear Brooks Brothers suits. He was short of stature and tall of ambition with a power and passion of ideas, as my colleague from Nevada just described, that would at the end stage of any debate leave him sitting at that chair with two more amendments to offer—the hour was late and patience was short. Imploring him made no difference. You could say: PAUL, PAUL, we are just out of time; can you just not offer one of these amendments? The answer was always the same: Absolutely not. I am here to offer this amendment. This amendment is important. I came here to do that work and there are people who depend on me to offer this amendment—people whose lives were changed because of this amendment.

It was always with PAUL: No. And we always turned away understanding the passion that burned in his soul to do the right thing, to do the thing he felt was important for our country.

PAUL was different in a much more significant way as well. In today's modern politics, it is so often the case that politicians with a sophisticated network of pollsters and advisers are able to evaluate exactly which way the wind is blowing, to be able to set their sail to get maximum capability from that wind. It is a constant job of tacking for some into or with that wind to find out exactly where the maximum wind will be. PAUL was not interested in sailing or winds. PAUL was only interested in the rudder. He set the rudder and he did not care where the wind was: This is the direction I am going and it does not matter whether it is a favorable wind or an unfavorable wind. This is where we are headed and this is why—very unusual in modern politics but also very refreshing.

I found it interesting that those newspapers that were not very good to his ideas in life, in death gave PAUL great credit for raising ideas, for standing by his principles, for never wavering and never causing for a moment any constituent anyplace to wonder where he stood. You knew where PAUL WELLSTONE stood.

There are two things, of a great many, that stand out in my mind. One day I sent around a memorandum to Senators saying we were going to visit a youth detention center in Maryland and I wanted to know if anyone wanted to come along. PAUL WELLSTONE called me and said: I would like to come.

The two of us, with some staff, went out to a youth detention center and spent the entire morning sitting in that youth detention center talking to kids, kids who had committed murder, kids who were drug addicted, kids who had been in the worst kind of trouble one could possibly imagine. Driving back to Capitol Hill after this visit, I once again got another glimpse of PAUL WELLSTONE's soul. He said: If someone had cared about those kids early in their lives they would not be there today. Someone needed to help those kids at the right moment, and we can do that in the Senate.

To PAUL, that visit was, how can we reach out to help people who need help at a time when they desperately need that help?

In the last couple of months, PAUL came up to me while we were in the well of the Senate, and he said: I was campaigning in Minnesota and I went to an independent auto repair shop, and the major automobile manufacturers would not give the computer codes to these independent auto repair shops. These small independents are telling me they cannot work on the new cars. They do not have the computer cards for the carburetors and all those things they have to have to work on those cars.

He said: That is unfair, and it is going to drive those folks out of business. This is going to kill the little guy.

He asked if I would hold a hearing on this in my Consumer Subcommittee. I said of course I will. We put together some information on it. The day of the hearing came and Senator WELLSTONE was to be the lead-off witness. That was not enough for Senator WELLSTONE. As was his want, in the way he did politics, the hearing room was packed. It was full of mechanics and independent repair shop owners from all across this country. I guess that hearing room holds probably 100 people, and there were 150 people there. PAUL had brought his people, the independent repair shop folks, to that hearing room as a demonstration of this problem, to say this problem ought to be fixed.

PAUL was the lead-off witness and as was typical with him, with great passion he made the case about the unfairness to the little guy, about the independent repair shops trying to make a living, and how what is happening is unfair to them.

About 3 weeks ago, right before we completed our work and left for the election, PAUL came up to me on the floor of the Senate during a vote. He was holding a sheet of paper. He was flashing this paper and saying: We won. His point was that the automobile manufacturers had reached an agreement with the independent repair shops, and that problem had gotten solved. For PAUL, it was about the little guy versus the big guy, about those who did not have the power and those who did.

It was always that he wanted to stand on the side of those who did not have the power, those who needed help. That was so much of PAUL WELLSTONE'S life.

There is much to say, and my colleagues, I am sure, will say it when we talk about his service to our country. It is sufficient now to say that one of our Senate desks is empty. The Senate has lost a wonderful friend.

I conclude by quoting Thomas Moore, if I might, and relate it to PAUL'S service:

Let fate do her worst; there are relics of joy,
Bright dreams of the past, which she cannot destroy;
Which come in the nighttime of sorrow and care,
And bring back the features that joy used to wear.
Long; long be my heart with such memories fill'd!
Like the vase, in which roses have once been distill'd
You may break, you may shatter the vase, if you will,
But the scent of the roses will hang 'round it still.

PAUL WELLSTONE is no longer in the Senate, his desk is empty, but the passion of his ideas most surely will remain for years and years to come.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, today I reflect on the life of a friend and reflect on a political life. Politics is a fateful calling. The voters can end a political life in a few hours on any Tuesday. Promising public careers can be terminated abruptly. But like life itself, political life should be measured by its quality rather than its quantity. By that measure, PAUL WELLSTONE, a man small in stature, became a giant in this Senate.

This is not my desk in the Senate. My desk is the one directly in front of the desk where we honor the memory of PAUL WELLSTONE. So many times I had to leave my desk because when Senator PAUL WELLSTONE got wound up on an issue of great importance to him, you had better clear out. He had this famous desk with the long microphone cord, and he would roam all over this area, speaking with passion and commitment. I wanted to stand back a few steps to witness it because it was truly historic when he took to the Senate floor.

I do not think there were any routine Wellstone speeches. With all credit to his staff, I am sure he embellished them in the certain qualities that even the best staff person could not add. There was no routine nature about PAUL WELLSTONE in politics.

I remember when he first ran. People kind of laughed about the idea. This professor from a small college in Minnesota is going to run against an incumbent Senator?

We all know what that was about. This had to be a class project. He was going to go out and make his stand, make his speeches, and probably lose by an embarrassing margin. But then they started getting reports back from that early campaigning. This now famous green schoolbus, which I had a chance to see when I was in Minneapolis for the tribute to PAUL WELLSTONE, had a platform on the back where he would stand like Harry Truman and make his speeches.

I remember his television commercial which they replayed during tributes after he died in the plane crash. He said: You will have to listen very closely because I don't have much time. I don't have much money and I have to tell you everything. This is my home; this is where I work.

It was a classic presentation of what he was all about in just a few seconds.

At the end of the campaign after he won and surprised everyone, there is a photo of PAUL, Sheila, and Marcia when PAUL agreed to finally retire the pair of shoes he wore throughout the campaign. What a sorry pair of shoes. He was no slave to fashion, to say the least.

In his campaign in the Senate, I can recall he was admonished by a colleague to go home and change his shirt because it did not look like a Senator's shirt. He did not think of those things. Those things were so inconsequential to his view.

He thought about the important things, the really important things. He reminded us time and again of how those things are overlooked. You draw together 100 Senators across the United States, you put the national political agenda in front of us, and PAUL WELLSTONE found it hard to believe that we could miss so many important things.

Sheila was the same way. His wife Sheila, the unpaid Senator to Minnesota at his side, worked on issues such as domestic abuse, inviting all of us to come to an art center she had regularly to highlight what victims were expressing through their art in terms of domestic abuse.

We used to talk about PAUL WELLSTONE'S amendments on the floor. They were great amendments. Some of them did not get a great number of votes. We used to speak in the caucus about the so-called Wellstone amendments. We used to have competition to make sure that he got enough votes so it was not called a Wellstone amendment. And he said, I win some of these amendments. And he did. Without fail, every one of the amendments challenged every one of us to look at the national agenda and look at America from a different perspective.

We get caught up in the life of public service and forget the people that PAUL WELLSTONE never forgot. I think back to some of them. PAUL WELLSTONE did not make any bones about the fact that he opposed the Vietnam war. During the 1960s, when many of us were in college and that was a dominant issue of the time, he was opposed to that war. But you would find, as I did in his tribute in Minneapolis, the veterans groups coming out in large numbers to pay tribute to PAUL WELLSTONE. There was no separation between them. PAUL WELLSTONE opposed the war, but he did not oppose the warriors who came home. He became their champion in the Senate.

When people would bring up his own military record, or lack of it, or his own position on Vietnam, he would always be able to rally the veterans of Minnesota who would say, we are for PAUL WELLSTONE because he fought for us to make sure we were not forgotten when we came home. That is the kind of person he was.

I think of the debate on education in the Senate, the no child left behind bandwagon. I was on it. What a big bandwagon it was. It was the President, the leaders, the Democrats and the Republicans in the House and Senate, liberal and conservative alike. We would all be for no child left behind. But not PAUL WELLSTONE. PAUL WELLSTONE was the one voice saying, wait a minute, we may be going too far here. High-stakes testing for kids can destroy their lives in the future. Are we moving too fast without thinking about the children and what it could be doing to their lives? Again and again, PAUL WELLSTONE forced us all to slow down even as we were involved in some political movement that seemed to have great force behind us, to stop and think about the actual people affected, the children, the teachers, the families.

He was first and foremost a teacher himself, at Carlton College and in the Senate. Time and again, he taught us. He never taught us better than the lesson on mental health parity. PAUL WELLSTONE realized that our treatment of mental health in the United States of America in the 21st century is shameful. It is disgraceful. He told us over and over that we treat people with mental illness as if they are suffering from some curse rather than some illness. He begged us time and again to treat fairly people who suffer from mental illness.

I join with everyone here today, all the Members of the Senate who have given speeches and nice comments about PAUL WELLSTONE, all the members of our government, from the President on down, who said what a great man he was and great values he brought to public life. Members can prove it by passing this Wellstone-Domenici bill for mental health parity and do it on an expedited schedule. PAUL WELLSTONE, if he were here today, would say: Forget the speeches, forget the flowers; pass the bill, help some people. That is what government is supposed to be about. That is a challenge to us.

We ought to mark our calendar today. Here we are, November 12, thinking about the challenges this country is going to face. Instead, step back and say: Where will we be 2 or 3 months from now dealing with mental health parity? Will we have done enough? PAUL WELLSTONE led that fight in a way that was classic Wellstone.

In the debate he would know, many times, that the forces were against him, that he did not stand a chance. He would stand here with such passion and commitment and make these speeches, hour after hour, if necessary, always respectful of his opposition, always on the Senate floor, even for those who saw the world in completely different terms, but always committed to what he was fighting for.

They tell us the politics of PAUL WELLSTONE are now out of fashion. I don't believe that for a second. You ought to know that since PAUL WELLSTONE passed away, many in the Senate have been trading phone calls late at night in their homes talking about not only PAUL and the great loss of Sheila and Marcia and the three campaign workers and the two pilots, but reflecting on ourselves and why we are here. PAUL would like that. PAUL would like that his passing would cause us all to think a little bit harder about who will carry on his fight.

I have heard a lot of us in these conversations, my colleagues and myself, talking about what we need to do to make sure that voice is not silenced in the Senate, to make certain that PAUL WELLSTONE's passion and commitment live on. That is the greatest tribute of all.

For 6 years, I served in the Senate with PAUL WELLSTONE. For 2 years, he was over my shoulder at this Senate desk.

For every Member of the Senate, PAUL WELLSTONE will always be over our shoulder keeping an eye on what we do, listening to our speeches, asking us in real human terms whether we are forgetting someone in the process.

The victims who cannot afford lobbyists in Washington, DC, the poor and dispossessed who may not even have the will to vote, let alone to participate in this process, the people without the resources to be heard, who is going to speak for them? PAUL WELLSTONE did. Those who stand in tribute to his memory should make certain that voice is never silenced.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I will also say a few words about PAUL and Sheila WELLSTONE. PAUL and Sheila were good friends of my wife Anne, my son John, and myself. We met shortly after they arrived in Washington for PAUL to take up his duties in the Senate. Our friendship grew over time. Friendship came easily to PAUL and to Sheila because they had a genuine interest in and a compassion for other people. So on a personal level, PAUL and Sheila will be greatly missed.

On a policy level, they will also be greatly missed in this Senate. PAUL believed strongly that government should and could help improve the lives of average people. He championed better education for our children, better access to health care, particularly mental health care, as my colleague from Illinois has described. He championed a decent wage for workers. Any issue that presented a choice between the public interest and a special interest, there was no question where PAUL stood.

Sheila was also a fierce advocate for policies in which she believed. Her focus for many years was on the problems of domestic violence, and she and PAUL helped spotlight that problem. They did much to put it on our national agenda. PAUL said what he believed. He voted his convictions, even when those convictions placed him in a small minority in the Senate. He was proud to proclaim himself a Liberal in an age where most Americans have been persuaded that liberal is a pejorative term.

The truth is that his views, when not distorted by his opponents, were very much endorsed by the majority of the Americans. His core belief was that those who are less fortunate should be helped to obtain the tools with which to succeed. That belief is shared by most in this great country. His service in the Senate was an effort to implement that belief.

When serving here in the Senate, one is always aware that the imperative to do what is right sometimes conflicts with the desire to be reelected. PAUL always chose to do what he considered right and damn the consequences. He came to the Senate with a clear intent to make a difference in the history of his nation, and he succeeded. The death of PAUL and Sheila and their daughter, their staff and pilots, was a great tragedy for our country. It was also a great tragedy for this Senate. The Senate will be a lesser place without PAUL WELLSTONE.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, I rise today, along with my colleagues, to pay tribute to the memory of our tragically departed friend and colleague, Senator PAUL WELLSTONE, and to remember his life partner Sheila, their daughter, and the others who lost their lives in the plane crash.

We send our condolences and our prayers to the families of all of those who were involved.

Whenever Senator WELLSTONE came to the floor of the Senate to fight on behalf of our Nation's most vulnerable, to fight for economic fairness, for working men and women, to fight for quality public education and health care for all our children, can't you just hear his voice now—standing up over and over again to fight and to speak out in behalf of the people he represented—to protect our environment.

In thinking about Senator WELLSTONE, I thought of the words of Frederick Douglass in 1857 when he said:

> If there is no struggle, there is no progress. Those who profess to favor freedom and yet depreciate agitation want crops without plowing up the ground. They want rain without thunder and lightning. They want the ocean without the awful roar of its many waters.

PAUL WELLSTONE was ready to fight for progress. And he was unafraid of the war that followed. In fact, he embraced it.

PAUL WELLSTONE believed the status quo can never be a cause but, rather, must be the constant casualty of time in any nation dedicated to equality and justice and freedom.

Did he win every battle? No. But the very fight of Senator PAUL WELLSTONE ennobled the Senate and enlightened this Nation by giving voice to the challenges that confront us.

I would like to read from a speech that Senator WELLSTONE gave to graduating students at Swarthmore College. The passion of PAUL's words reminds us of the shame of passivity, the passivity of standing back and watching millions of families slide into poverty, and our Nation's future slip away from them.

Senator WELLSTONE asked:

> How can it be that in the United States of America—today—at the peak of our economic performance—we are still being told that we cannot provide a good education for every child?
>
> We are still being told that we cannot provide good health care for every citizen.
>
> We are still being told that people can't look forward to jobs that they can support themselves and their children on.
>
> We're still being told that we cannot achieve the goal of having every five-year-old come to kindergarten ready to learn.
>
> How can it be that we are being told that we cannot do this at the peak of our economic performance?
>
> I say to you today that it is not right. It is not acceptable. We can do much better, and if not now, when? If we don't do this now, when will we do it as a nation?
>
> That is a betrayal of our heritage. The impoverishment of so many children is our national disgrace.

Senator WELLSTONE did not pull any punches. Yet he was not a cynic either. He believed that by giving wings to the nobler angels of our Nation, we could place progress in the wind.

In the same speech I was quoting from, Senator WELLSTONE closed, urging people to get involved with politics and public service and become those nobler angels whose wings would give flight to change and to justice. He said:

> I do not believe the future will belong to those who are content with the present.
>
> I do not believe the future will belong to the cynics, or to those who stand on the sideline.
>
> The future will belong to those who have passion, and to those who are willing to make the personal commitment to make our country better.
>
> The future will belong to those who believe in the beauty of their dreams.

We will miss PAUL WELLSTONE's leadership, his voice on this Senate floor. We will miss the beauty of his dreams of an America where the most vulnerable among us are valued, where all of our children are cherished, and where no one who gets up and goes to work in the morning goes to sleep at night in poverty.

But, PAUL, while we will miss you coming to the floor of the Senate to share those dreams, I promise you those dreams will not die.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Alaska.

Mr. MURKOWSKI. I wish the Presiding Officer a good afternoon.

Mr. President, I, too, would like to lend a few comments to one we fondly regarded as the "Little Giant," Senator PAUL WELLSTONE.

I, obviously, had an opportunity over the years to converse, discuss, debate, agree—occasionally disagree—with our friend who truly believed in his cause, a cause that was perhaps more liberal than my own, but a cause that was reflected on what makes the Senate so unique; that is, the cause of the balance that we have, more or less a mainstream of thought that prevails in the Senate. But in many cases it is brought about by those who have very active views, whether they be liberals or conservatives.

But PAUL WELLSTONE did represent, if you will, the pendulum in the Senate. His contribution was one of activism, of standing for the underdog, of reflecting on the needs of some we can never properly repay; specifically, the veterans of this Nation who have given so much so that we can live in the freedom of our democracy.

As I have reflected, along with Senator STEVENS and Representative YOUNG, because of the vast distances between our State of Alaska and Washington, DC, and the tribulations of long flights back and forth, and the ever-increasing pressures to make dates, particularly during campaigns, having just run a campaign myself, why, I can recall the unpleasant evening flights in bad weather, with a recognition that people expect you to be present at a given time. And it is the demands that are constant pressures to try to fulfill obligations that cause each Member of both the House and the Senate to live, perhaps, on the edge. Unfortunately, that edge results in additional exposure that is associated with accidents. And we have seen that in the passing of our good friend PAUL WELLSTONE, who, again, to me, is referred to as the "Little Giant": small in stature but significant in what he believed. And his contribution, again, I think is measurable in one sense by those who knew him but in another sense by the legacy he leaves in this body.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise to pay tribute to our colleague, PAUL WELLSTONE.

As with the loss of anyone so vital, so full of energy, and so dear to us, it is hard to believe that PAUL is really gone. But as with a brother, or a father, or a great teacher, even if they have died, they leave a part of themselves with those who carry on. They are never really gone.

I first met PAUL before either of us had been elected to the Senate. I was meeting with different people as I considered a run for the Senate, and I heard about this professor in Minnesota who was planning to run in 1990. I had a chance to visit him at his home. When we met, we laughed at the idea that the two of us or either of us, would ever have been elected to the Senate.

But then PAUL went on to run a terrific campaign, without a lot of money, but with a whole lot of energy. When he won, he helped me and others to believe that we could do the same. I will always be grateful to him for that example, as I am sure are many others across the country who were inspired by PAUL and the exceptional life that he led.

So now we know that whenever a candidate runs a scrappy populist campaign, PAUL WELLSTONE will be there.

PAUL WELLSTONE believed in clean elections. PAUL was a strong, stalwart ally over the years that we served together in the Senate, working for campaign finance reform. He was an original cosponsor of the first McCain-Feingold bill—one of a handful of us, along with Senators Claiborne Pell and FRED THOMPSON and he was there all the way. Some have said that the law that we enacted this year went too far. Characteristically, PAUL thought that it did not go far enough.

PAUL WELLSTONE wrote: "The way in which money has come to dominate politics is the foremost ethical issue of politics of our time. We need to invite ordinary citizens back into American politics to work for what is right for our nation."

Whenever Americans reform our election campaigns, PAUL WELLSTONE will be there.

PAUL WELLSTONE said: "I don't represent the big oil companies. I don't represent the big pharmaceutical companies. I don't represent the Enrons of this world. But you know what, they already have great representation in Washington. It's the rest of the people that need it." That's what PAUL WELLSTONE said.

So, whenever there are voices standing up for the little guy, PAUL WELLSTONE's voice will be there.

There is a role that some Senators play of leading where not many follow because they know that it is right. PAUL WELLSTONE had the courage of his convictions. He was not afraid to stand alone. Now that he is gone, there may come more times when some of us will be counted as the only vote against something.

But whenever a Senator stands alone in the well of the Senate and casts a solitary vote because that's what he or she believes, that Senator won't really be alone because PAUL WELLSTONE will be there.

There is a role that some Senators play of reminding the rest of us of what is right, even when we don't necessarily like to hear it. It has been said many times, and it is nonetheless true, that like Paul Douglas, Phil Hart, and Paul Simon before him, PAUL WELLSTONE was the conscience of the Senate.

Whenever political expediency pulls us to vote one way, but our consciences pull us back the other, PAUL WELLSTONE will be there.

PAUL WELLSTONE was a dear, sweet man, and a good friend to those of us who knew him. Yes, he had a puckish grin and a ready sense of humor. His passing brings a tear to our eyes.

But whenever we think of that smile of his, PAUL WELLSTONE will be there.

The Bible says: "Justice, justice shall you pursue." PAUL didn't need to be told. That was who he was. PAUL WELLSTONE believed in justice with every fiber of his being.

PAUL fought for justice for children who didn't have enough to eat. He fought for environmental justice, even for the poor side of town. He fought for social justice when it came to access to health care. He fought for economic justice when it came to a fair minimum wage and the ability of working families to protect themselves under the bankruptcy law. And he fought for justice among nations, and for peace. PAUL WELLSTONE was the very embodiment of justice.

And so, PAUL WELLSTONE, here on the Senate floor, there is a hole in our hearts. We will miss you, dear friend.

But we will still look for you. For wherever it is on this Senate floor, at a political rally, or at a town hall meeting somewhere on a cold, windy day in the heartland of America whenever someone speaks for justice, PAUL WELLSTONE will be there.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, PAUL WELLSTONE was an extraordinary leader with a common touch. His dedication to the well-being of average Americans was unparalleled in Congress.

He believed all of our citizens, no matter how humble their beginnings, or difficult their plight, had an equal right to happy, healthy, and full lives. He always made the time to hear the real needs of the people, and he always took the time to speak up for them in the U.S. Senate.

For PAUL, core beliefs were not something to be compromised. He understood as well as anyone in this body the give-and-take of legislation. But we always knew his values were at the forefront of every battle, and the people of Minnesota could count on him to fight for them with every ounce of his considerable energy and ability.

PAUL and I were seatmates. His desk is right beside mine on the Senate floor. But we were more than neighbors. PAUL was our conscience, our guiding light. He turned overlooked needs and forgotten causes into real hopes for millions of Americans. For them, PAUL WELLSTONE was their champion, their Senator.

Earlier this year, Senator WELLSTONE chaired a hearing in the Labor Committee on an issue of great concern to American workers. A group of low-wage men and women were so excited by the prospect of the hearing that they took a day off from work, boarded buses, and headed for the hearing. When they arrived, they found the room full and the door barred. But Senator WELLSTONE heard about the workers who were waiting in the hallway, unable to get in. He invited them in and seated them on the dais among the Senators attending the hearing. For PAUL, this was the way it was intended to be. For him, there was no distance, no barrier between the people and their elected representatives.

Senator WELLSTONE did his homework. He knew the facts and he also knew the reality of everyday life for the people he cared for so deeply and served so well. When the Senate debated education policy, we knew PAUL understood the issues thoroughly. We also knew PAUL had spent more time visiting the public schools than any other Senator. He knew the challenges firsthand because he had taken the time to listen to parents, teachers, and schoolchildren so he could be a true voice for them in Washington.

He taught us all by his example that Americans face challenges together. He was the embodiment of e pluribus unum, that out of many peoples in America, we are one Nation. He lived every moment of every day fighting to make our Nation even stronger, ever the beacon of opportunity for all of our citizens.

PAUL, we will miss you. You and Sheila and Marcia leave an extraordinary legacy for millions of Americans to honor, to cherish, and to carry on. Your outstanding contributions to the Senate, to Minnesota, and to the Nation will always be remembered.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FEINGOLD). Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, it is with a very heavy heart that all of us gather in the Chamber that will miss one of our own. It was with a very heavy heart we received the news on that snowy, icy day that we had lost, while flying in northern Minnesota, a wonderful companion and colleague and, along with him, his life's companion, and part of that family—his daughter.

This freshman Senator had observed this Senator from Minnesota who had such energy and, along with it, such happiness. I can still see PAUL WELLSTONE thrusting in the air those short, little jabs, while at the same time having that wry smile on his face, as he would teach us the way we should be as Senators—advocating for those who could not advocate for themselves, for those who could not hire with unlimited resources. He was there to stand and represent those folks.

I went to Minnesota in August to do what I could for PAUL WELLSTONE in a race that, interestingly, as November 5 approached—and PAUL was so concerned about what was going to be the effect of his vote on the Iraq resolution, the fact he voted his conscience, the fact he stood up as the little giant against what was otherwise considered the tide. The fact he did that resonated among his constituents in Minnesota. We saw the result of that in the polls, for PAUL had jumped up from an even race. He was up five, six, seven points before that fateful day his life was taken from us.

I think back to that time in August I had gone out there to campaign for PAUL. It was a time of mourning in the Minneapolis-St. Paul area because a lady police officer had just had her life snuffed out in an unusual kind of murder, where it was unsuspected. I went with PAUL and Sheila that night to several events, including back to the source of that crime, at a project where so many of the community leaders had turned out. I watched PAUL as he interacted with those grieving constituents, as they all came together in a resolve to heal the wounds in that community and bring the races together, instead of dividing them, as so often might have been the case in a very unfortunate circumstance where a police officer had lost her life.

I went to what was called the "national night out"—a remembrance of what communities can do in coming together.

I went to two or three such events on that evening I visited with PAUL and Sheila. I watched the interaction of him with Minnesotans. I saw that it was the same PAUL WELLSTONE that I saw interacting with Senators in this Chamber, in our caucuses, in our luncheon meetings, in the cloakroom, and in the committee meetings. It was the same friendly, highly intelligent man, always offering that smile, getting from place to place with that limp in his gait as a result of an old wrestling injury. And he was so attractive. He was attractive to us as a friend and a colleague. He was attractive to the folks of Minnesota as their Senator.

I went to their home, a modest, very comfortable, very appropriately appointed duplex townhouse, close in so he could be where his constituents were. It was easy access for him, even though with that limp; it had a set of stairs, at least two, if not three stories. It was so comfortable as a retreat for him, made so by his lifelong companion Sheila, who was at his side throughout that campaign and who was at his side throughout his professional career, including his career in the Senate.

Then when I was in Minnesota, I talked to his kids. This is not his immediate family kids. This was the extension of PAUL WELLSTONE, the professor, the extension of PAUL WELLSTONE, the Senator, who had legions of young people, some in their middle years, who went door to door telling why those Minnesotans should vote and continue him in the Senate.

I saw their conviction as I talked to them basically to share a number of stories I had as a Congressman going door to door. A lot of those experiences we shared were quite humorous, some of the unexpected experiences when one goes knocking on doors. I explained to them, with a bit of overstatement, that western civilization depended on what they were doing, going door to door. We all had a good laugh about that.

They were committed. They were committed to PAUL WELLSTONE. They were committed for the kind of person he represented, and they were doing the job and they were very effective. Their number had multiplied many times over so that as it came to that fateful day, there were legions of some 4,000 of those young people who were canvassing Minnesota.

That says a lot about the kind of person PAUL WELLSTONE was and how his memory will live; that young people believed enough in him that they would spend all day in a thankless job of going door to door.

I remember so well the PAUL WELLSTONE we loved around here. He was not afraid to take on any foe. He was not afraid to take on any subject where he felt he could offer something of substance to the discussion, and as far as this Senator is concerned, it often made the difference because it was done with dignity, it was done with passion, it was done with energy, and his orations were done with great conviction.

That is a great example. That is a great role model for all of us. We will miss him deeply.

I remember when I came to the Minnesota airport for that memorial service. Someone met me at the gate and escorted me to the place where we were all to huddle up and then board the buses. As I walked in to that waiting room, what stared me in the face was a simple poster that said: WELLSTONE for Senate. I remember almost having my breath taken away as I realized that he was not going to be with us in body anymore. But he certainly will continue with us in spirit.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the Senate is greatly diminished with the passing of Senator PAUL WELLSTONE. As we see the bouquet of flowers on his desk, we can see PAUL in action, speaking out, speaking up indefatigable on the issues of concern to him.

He undertook a very difficult campaign back in 1990 against the odds, against a popular incumbent Senator. He was able to mobilize students, activists, people who believed in what he believed in because he was always a man with a cause. All the time he had a point. He did not mind being a dissenter.

People who may be listening to this session of the Senate do not know, but there is a little card at the desk on each side, Republicans and Democrats. When the Senators come in and vote, there is a check. It is not easy, when, say, there are 50 members of the party and 49 checks are on one side, to vote against the 49, to have your name stand out in marked contrast as a dissenter, but PAUL WELLSTONE did not mind that a bit.

I believe in the history of our country the dissenters are vitally important, sometimes more important than the majority. Oliver Wendell Holmes, a Supreme Court Justice, was a prime example. He did not mind speaking out in dissent. And then he got another Supreme Court Justice, Louis Brandeis, to join him. So then instead of 1 to 8, it was 2 to 7. The brainpower of the 2 was characteristically better than the 7. For that matter, the brainpower of that one, Justice Oliver Wendell Holmes, was greater than the 8 on many occasions.

Plessy v. Ferguson was a decision establishing the principle of separate but equal, having segregation in America, in a decision shortly before the turn of the 20th century, I believe in 1896. John Marshall Harlan was the one dissenter. That dissent became a clarion call for Brown v. Board of Education. Similarly, I think the dissents that Senator WELLSTONE registered have the potential to become a majority point of view.

It was said earlier today, and I think with real meaning, that the legislation to establish parity for mental illness with physical illness would be an appropriate tribute for Senator PAUL WELLSTONE. That legislation came within a hair's breadth of being passed in the spring of 2001 on an appropriations bill.

Technically, we are not supposed to legislate on an appropriations bill, but that rule is honored and then breached very often, maybe not more often than it is observed but it is breached very frequently.

We had passed it through the Labor, Health, Human Services and Education Subcommittee which I had chaired. It was a health bill. Senator DOMENICI was the principal champion on the Republican side, and Senator WELLSTONE was the principal champion on the Democratic side. I was long a cosponsor of the matter. In chairing the conference, we pushed very hard. It came within one vote on the House side—we had the Senate—of getting that legislation passed.

It ought to be passed as a tribute to Senator WELLSTONE. It also ought to be passed for the benefit of the people who suffer from mental illness, which is every bit as debilitating as a physical illness.

On October 25, I was campaigning, as I think most people were. I had just come from a political rally in Reading, PA, where Vice President CHENEY had spoken for Congressman GEKAS who was running in a hotly contested election against Congressman TIM HOLDEN, two incumbents pitted against one another. I turned on the radio at about 1:30 eastern time and was shocked to hear the news that Senator WELLSTONE's plane had gone down. It brought memories of the plane that went down on April 3, 1991, with Senator John Heinz, a vibrant, young Senator who had great potential, as did Senator PAUL WELLSTONE.

Flying small planes is an occupational hazard and everybody in this Chamber, all 100 of us, as well as the 435 Members in the other Chamber, and many other legislators and governmental officials, climb into small airplanes every other day. We all hold our breath as to whether we will be successful on the flight. Regrettably, we fly in bad weather, which sometimes we should not do but there is always a big crowd waiting and always some reason to finish.

It was a great tragedy. PAUL's wife Sheila was with him in the plane. One seldom saw PAUL in the Halls of Congress without Sheila. She was not on the floor of the Senate, but she was with him constantly, holding hands, a very devoted couple. Their daughter Marcia was with them, also devoted in the campaign, a brilliant young woman at the age of 33.

Senator WELLSTONE will be sorely missed in the Senate. There are many PAUL WELLSTONE stories. I will mention one. I was managing the appropriations bill for Labor, Health, Human Services and Education. Senator WELLSTONE was in the Chamber bright and early. We started at 9:30. He had an amendment. Sometimes it is hard to get amendments up onto the floor. His amendment provided that no Member of Congress should have a health insurance policy at Government expense that was superior to what every other American had available to him or her.

When that amendment was brought up, it was through the distinguished senior Senator from Minnesota, who was smiling broadly. It was a very extraordinary amendment to make. It is pretty hard to make an amendment like that stick because it would have made President Clinton's national health insurance policy look entrepreneurial to the nth degree. It did not pass, even though the Democrats controlled the House and the Senate. Senator Mitchell, the majority leader in 1993, was a major proponent of health care, but the Clinton plan with its bureaucracy went down to defeat. To have a requirement that no Member of Congress could have a health plan that was superior in any way to what the Government provided for every citizen was really an extraordinary idea, to characterize it very mildly.

I did not have to debate Senator WELLSTONE for very long before there was an avalanche of Senators who came to the Chamber. He really struck a nerve, and he struck a nerve because many people think that Senators and Members of the House have health insurance which is paid for by the Government, which is not true. We pay for the health service which we have, but we also have additional health service policies, Blue Cross and Blue Shield. To have legislation limiting what a Member could have to that which every other citizen would have at Government expense would be a great inducement to pass a widespread health insurance benefit, and perhaps we ought to do that. That was Senator WELLSTONE's idea. He debated it with fervor and intensity. It was an extraordinary debate. I do not think he got too many votes for his plan, but that did not diminish it in any way. That is the great quality of a dissenter. This Chamber will not be the same without Senator WELLSTONE.

In the absence of any other Senator on the floor, I ask unanimous consent that my comments on homeland security be given as in morning business.

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

(The remarks of Mr. SPECTER are printed in today's RECORD under "Morning Business.")

Mr. SPECTER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, let me begin by thanking all of our colleagues who have already spoken here on the Senate floor this afternoon in tribute to our dear friend, PAUL WELLSTONE. I join in the sentiments and would like to extend my sympathy and my prayers to the entire WELLSTONE family and the families and friends of the crew and staff members who also lost their loved ones just a few short weeks ago.

PAUL WELLSTONE, his wife Sheila, and their daughter Marcia, left quite a legacy. These are family who were working so closely together to help PAUL in his reelection bid. So as we pay tribute to PAUL today we must also, I believe, remember the dedication and the love of his wife and his daughter—his entire family. Each one of us understands our elections are many times a family effort. We see our spouses, we see our daughters and sons go out and campaign and spend time with us and spend time in other parts of our States. So I think we all can relate to this. In a sense, it makes this tragedy even harder for all of us to bear, to think this was not just a loss of PAUL, but also of his wife and his daughter.

The great English poet Alfred Tennyson wrote of a dear friend who died suddenly:

> God's finger touched him, and he slept.

Recently God's hand touched our friend PAUL WELLSTONE. Now he sleeps and now we mourn. The Senate will really never be the same without PAUL WELLSTONE. Not only did we lose a colleague, but we also lost a friend, a good man, an ethical man, a leader, a true champion—a champion of the causes and the issues he believed in so passionately.

As many of my colleagues have expressed already, PAUL had a kind of drive and passion and spirit that was really unequaled in this body. But we will also miss his kindness, his resolve, and his unbelievable energy—energy he brought to every single task he undertook. Whatever it was, PAUL did it with sincerity and he did it with great passion. PAUL got things done. He was effective. That effectiveness came because of his energy, because of his drive, because of his determination, and it came because he understood what he believed in. He understood what he cared about. He understood what was important.

It also came about because he could get along with people from both sides of the aisle. He really transcended politics in that respect. He knew people. He understood them. It was evident he cared about them. You never had any doubt when PAUL WELLSTONE asked you how you were doing, how you were feeling, how your wife was, that he actually meant it. He actually cared.

Arthur Ashe, the famous athlete, who also died too young, once said: "True heroism is remarkably sober, very undramatic. It is not the urge to surpass all others at whatever cost, but the urge to serve others at whatever cost."

That was PAUL WELLSTONE. That was his mission. No cost was too great in his eyes when it came to protecting the lives of those in this society who could not protect themselves—as he said, "the little people", the poor people, the people who needed someone to help them. He worked so hard and so tirelessly and with such commitment to protect children, the elderly, the mentally ill. I had the privilege of working closely with PAUL on a number of the legislative initiatives he cared so much about—the kind of initiatives that were intended to protect and improve peoples' lives, like job training—the bill he and I spent an awful lot of time working on—and mental health courts bills.

PAUL also cared deeply about the future of America's children. He wanted to ensure that every single child in this country received a quality education.

He was instrumental in making sure that our transition to teaching initiative was included in last year's education reform law. And, in fact, at the time of PAUL's death, he and I were getting ready to introduce a bill to expand the childcare loan forgiveness program to include preschool teachers. I intend to go forward and introduce that bill tomorrow. I know that is what PAUL would have wanted. And, in his memory, I would like to rename that bill "The Paul Wellstone Early Educator Loan Forgiveness Program." This legislation is just one of so many examples of what PAUL stood for and cared so passionately about.

It wasn't too long ago that this Senate lost another friend and colleague. That man was a dear friend of mine. That man was Senator Paul Coverdell. I was recently looking back at the CONGRESSIONAL RECORD at some of those firery and empassioned speeches that PAUL WELLSTONE used to give on this Senate floor, and I came across a speech he gave in tribute to Senator Coverdell following his death.

I was really struck by his remarks, because what he said in those few words about Senator Coverdell really capture today what we in this Senate think about PAUL WELLSTONE.

I would like to take just a moment to read to my colleagues what PAUL WELLSTONE said on this floor on July 19, 2000:

> Mr. President, I want to speak about my colleague, Senator Coverdell. I know other Senators have. I absolutely have nothing rehearsed. There are many Senators who will speak about Senator Coverdell probably in a more profound and moving way than I can.
>
> There is one moment I want to remember about Senator Coverdell because this small story tells a large story. We had had a major debate about the Colombia aid package. Senator Coverdell and I were in a debate. We did not agree. It was a pretty good debate back and forth. I know from time to time during the debate I would reach over and touch his hand and say something to the effect: I just cannot believe you said this; this is wrong—something like that.
>
> At the end of the debate, I said, because I believed it and believe it: Senator Coverdell is a really good Senator.
>
> He smiled and touched my hand and said: Senator Wellstone is a really good Senator.

I do not know if the latter part is true, but the point is that is the way he was. That is the kind of Senator he was.

That is also the kind of Senator Paul Wellstone was.

PAUL WELLSTONE in that tribute went on to say this about our friend, Senator Coverdell:

> We talk about civility. He was just a beautiful person. I really enjoyed him. We need a lot of Senators like Senator Coverdell: Paul, you are wrong on the issues, but you are a really good person.
>
> The Senate has lost a wonderful person and a wonderful Senator, and the United States of America has lost a wonderful person and a wonderful Senator.

To PAUL WELLSTONE today, I say that you, too, were a wonderful person. You were a wonderful Senator.

Today on this floor, we honor what PAUL WELLSTONE stood for, what he believed in, and what he accomplished here in this Senate. As a public servant, PAUL touched the lives of his family, his friends and colleagues in the Senate, his constituents in his home State of Minnesota, and the lives of millions of people throughout the United States.

I will not forget PAUL WELLSTONE—none of us will. He is deeply missed and will always be remembered.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, as we have reconvened today, there is a void in this Chamber. The untimely passing of our friend and colleague, PAUL WELLSTONE, brings a sadness to the entire Senate family.

We are also touched by the loss of PAUL's wife Sheila, his daughter Marcia, members of his campaign staff: Will McLaughlin, Tom Lapic, and Mary McEvoy, and the two pilots: Captains Richard Conry and Michael Guess.

When I heard Senator WELLSTONE's plane had gone down in Minnesota, it was difficult for me to convey my thoughts. I thought of the countless hours I have spent, as a Senator now for 34 years, in small planes, flying around my State on campaigns and on official business.

I recalled the day in December of 1978 when the plane carrying my wife Ann and myself and five friends, coming from Juneau to Anchorage, crashed at the Anchorage Airport. The time that followed was a difficult one for my family. The death of a spouse, a colleague, a loved one, or a friend is never easy, but to lose that person in an accident, particularly one you survive, is worse because you will always know you never said goodbye.

It was an ironic twist when I discovered PAUL WELLSTONE's plane crashed in the same city, Eveleth, MN, where Alaska Congressman Nick Begich was born. As the Senate knows, Representative Begich and the House majority leader, Hale Boggs, were killed when the airplane in which they were flying was lost over Alaska in 1972.

It is safe to say—and I think this is no surprise to anyone—that PAUL WELLSTONE and I did not see eye to eye on much, but I respected PAUL for fighting for what he believed and for his personal toughness that never let physical problems slow him down.

We spent much time together on the subway going back and forth and became great friends. As a matter of fact, PAUL and his wife came over to our home. Catherine and I were pleased to have dinner with him and Sheila on a personal basis.

I admired PAUL's commitment to his causes, particularly to his dedication to mental and physical health parity. As a young boy, I helped raise a cousin who was challenged by mental retardation, and I know the difficulties faced by those in that community. Senator WELLSTONE's compassion and determination has made a difference in many families across our Nation, many lives of people such as my cousin.

Likewise, Senator WELLSTONE's wife Sheila was a great advocate. Her work on behalf of domestic abuse victims helped many women and children begin life anew, with the hope and encouragement that came from Sheila's work.

Catherine and I cannot put into words the sympathy and sorrow we feel for PAUL's family for the loss of their parents, their siblings, and their grandparents.

Mr. President, grief is a process that helps heal the heart. We will always miss PAUL, but we honor his memory by keeping after our business, as he did—testing our ideas on the campaign trail and here on the Senate floor. My friend, PAUL WELLSTONE, would want it that way.

Thank you very much, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President,

Sunset and evening star,
And one clear call for me!
And may there be no moaning of the bar,
When I put out to sea,
But such a tide as moving seems asleep,
Too full for sound and foam,
When that which drew from out the boundless deep
Turns again home.

Twilight and evening bell,
And after that the dark!
And may there be no sadness of farewell,
When I embark;
For tho' from out our bourne of Time and Place
The flood may bear me far,
I hope to see my Pilot face to face
When I have crost the bar.

Mr. President, one of our number has gone from our midst.

I know that by now he has seen his Pilot face to face because PAUL WELLSTONE has crossed the bar. He was not tall; yet mere feet and inches are no measure of a human heart. He could not be cool or aloof, for he knew that it is passion and commitment that drive human progress. He was not without infirmity, but the limitations of the flesh never hold down a robust and tenacious spirit.

PAUL WELLSTONE fairly burned with exuberance for life and for the causes that he cared about. We all heard PAUL WELLSTONE as he spoke about those causes that he cared so much about. He always spoke with passion. A visit to his office is illustrative. Over the entrance to his private office is a huge enlargement of a snapshot of his former, now deceased, chief of staff, Mike Epstein. Most of us remember Mike Epstein, who used to be seen back here on the bench to my left as he sat listening to PAUL and waiting with PAUL. PAUL WELLSTONE did not forget. He did not forget Mike Epstein.

Once inside PAUL'S office, over the doorway three large photos can be seen of the faces of battered women. PAUL WELLSTONE often spoke of those battered women in our population. He did not forget.

On the walls of his private chamber are photos of Hubert Humphrey, John Kennedy, and on his desk is a bust of Martin Luther King. PAUL WELLSTONE did not forget.

PAUL was a man of causes. He was a teacher. He was a man who stayed true to the things in which he believed. I can almost see him back there now beside the flowers that have so thoughtfully been placed on his desk as a token of our remembrance of him. I often heard him use a metaphor. He called it an old Jewish proverb. He would use it again and again, in speech after speech. He would say, "You can't dance at two weddings at the same time." Senator DON NICKLES is on the floor, and he remembers this and has indicated so by a smile. I never quite knew what PAUL WELLSTONE meant when he said that you can't dance at two weddings at the same time. I never tried it, but I never was at two weddings at the same time.

When he said, "You can't dance at two weddings at the same time," he meant that one must not be false. That is the key. One must not be false. He meant that one cannot be all things to all people. He was thinking of the words of Shakespeare, who said: To thine own self be true. Thy can't now then be false to any man.

He meant that one cannot say one thing and then do another. And he meant that one cannot say the same thing to two different people and mean two different things. It is a fundamental lesson and has special application to those of us who toil in the ruined fields of what passes for politics today. You cannot dance at two weddings at the same time.

PAUL WELLSTONE died tragically, but he lived heroically. He ran uphill against the odds and enjoyed and gloried in the experience. He was unique, he was priceless, and he was quite irreplaceable.

I shall miss him, and we all shall miss his courage.

I was most endeared to PAUL WELLSTONE in the last days of his life. One day as we stood in the room together—we Democrats—and discussed the resolution concerning the Iraq war—which may come and which in my present thinking is likely to come—we stood over in the corner room there and the majority leader was there. My Democratic colleagues—most of them—were there; PAUL WELLSTONE was there. We discussed the Iraq resolution. I remember PAUL WELLSTONE as he stood and said to us, his Democratic colleagues:

> You all do what you must, but I am going to vote against the resolution. But don't worry about me. I will explain it to my people. I think I am doing the right thing, and I believe my people will feel also that it is right. But if they don't, they will vote. However that vote comes, whatever that decision is, I will live with it.

I thought that took a great deal of courage. Here was a Senator who was running for reelection and he had already reached a decision in his mind that he was going to take a stand, and that was going to be a principled stand. His future in politics could go one way or another; but regardless PAUL WELLSTONE was going to take that position. He was going to go to the people with it. He was willing to debate it with the people, and he felt that in the final analysis the people would uphold him in the position he had taken.

There were not any ifs, ands, or buts. That was a position he took right over in that room, in the corner, near the elevator on this floor. That, more than anything I saw in PAUL WELLSTONE'S life when he was here in our midst for 12 years, that, more than anything else, impressed me. I thought: Oh, if all Senators were like that. If all public officials were like that, who would take a principled stand, state the reasons for that stand to the electorate, and let them make their choice. Of course, he wanted to come back to the Senate, but he knew very well that particular stand, in the climate in which we find ourselves, might mean he would not be reelected. And in the minds of a lot of people, the likelihood would be perhaps he would not be reelected. He took that stand. That told me something about that man I had never seen before in him.

That is the kind of courage that is found in men and women who are not only willing but are proud to stand up for their convictions and win or lose. They are determined to do it that way because they feel that is for the best interest of their country. That is the way PAUL WELLSTONE felt. But that, more than anything else, watching him and listening to him on that occasion and knowing he was heading out of here in a very close election, which at that point he probably was a little behind—and I think he was. But he went. He made that decision. He voted that way. He went to the people and, from what I can understand, he was winning. His points were going up. He was going up. So the people, even though some of them—many of them—may not have agreed with PAUL, admired a man of conviction. That is the kind of man they wanted in this body.

I will always remember PAUL WELLSTONE for that demonstration of conviction, that demonstration of integrity, that demonstration of courage, that demonstration of character. So his spirit, as long as I am here, will always permeate this Chamber.

I never was close to PAUL WELLSTONE. I cannot say I am close to a great many Senators here. That is not their fault. We are all busy people. But that drew me close to PAUL WELLSTONE.

We owe a great debt to the people of his beloved Minnesota and his wonderful family for sending him to serve with us for a time. I fully believe if PAUL WELLSTONE had lived, he would have won that race. That Senator we would have had back.

I went to that memorial service. I went to Minnesota. I went there when Hubert Humphrey died, and I went to the memorial service for PAUL WELLSTONE. I was at that dreg gathering. I was struck by the size of that tremendous gathering of people singing songs, speaking. I wondered about this man, what kind of hold he must have had on the hearts of the people of Minnesota to draw a huge audience like that in a memorial service.

I also believe in my heart that the memorial service veered off on a path that probably was not intended, and I felt badly about some of the things that happened there—about the treatment, not only impolitic, but the discourteous treatment that was accorded to the minority leader, Mr. LOTT. I did not know about the treatment by which he had been embarrassed. I did not know about that until after it was over. But I felt as time went on that I was in a strange meeting, and I believe that but for the veering off course by that meeting Walter Mondale would have been elected. In any event, that is in the past and cannot be revisited.

We will all miss PAUL WELLSTONE. I do not think that he would have wanted things to happen as they did in that particular meeting, but that being said, I think PAUL WELLSTONE'S spirit will live on.

I regret the strange twist of fate that took his wife and his daughter and the members of his staff to their untimely ends. But as to PAUL, we owe him a great debt. I think I can best say his spirit will live on by repeating the words of Thomas Moore:

> Let fate do her worst, there are relics of joy,
> Bright dreams of the past that she cannot destroy,
> That come in the night-time of sorrow and care,
> And bring back the features that joy used to wear.
> Long be my heart with such memories filled,
> Like the vase in which roses have once been distilled,
> You may break, you may shatter the vase if you will,
> But the scent of the roses will hang round it still.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, it is a sad occasion that we see flowers on the desk of PAUL WELLSTONE memorializing his service to this country and to the Senate.

PAUL WELLSTONE served very ably in the Senate for 12 years. I had the pleasure of working with him, and I had the pleasure of opposing him on many occasions. Many times, I would always say in the heat of the battle that PAUL WELLSTONE had intensity, he had passion, and he had conviction. As Senator BYRD mentioned, those are qualities and traits that are very much needed in the Senate.

October 25, when PAUL WELLSTONE was killed along with his wife Sheila and his daughter Marcia, in addition to three staff members and a couple of pilots, was a real tragedy to the Senate family. Unfortunately, we have lost a lot of Senators through airplane crashes. Many of us have been in planes under questionable circumstances. It is a tragedy we hate to see. I remember receiving the phone call and the words were "oh, no," when it was confirmed.

As many of our colleagues, I went to Minnesota for the memorial service on October 29 to express our condolences and sympathy on the loss of a colleague. We wanted to show support to his family, friends and constituents and say that, yes, he was a valuable Member of the Senate and we hated to lose him. To lose him in such a tragic and unexpected way is really a loss for the entire country.

I remember very well when Senator WELLSTONE made one of his last speeches. It was a tribute to Senator HELMS. Philosophically, they were probably as opposed as they could be, but they were always gentlemen and they always conducted themselves as Senators. Like Senator HELMS, every time we had a debate with Senator WELLSTONE that we disagreed on we always would shake hands, win or lose, and we did both. We won some battles, we lost some battles, but we were always friends and we were all colleagues.

I remember PAUL WELLSTONE being inducted to the National Wrestling Hall of Fame in Stillwater, OK—an outstanding American and a great tribute. This happened in the year 2000, but he was in the class of 2001, a class that is very unique.

Our colleague, Senator John Chafee, also deceased, was inducted into the National Wrestling Hall of Fame, as well as the current Speaker of the House, DENNIS HASTERT. They were a very special class of competitors who competed not only on the wrestling mat but also on the floor of the Senate and in the House of Representatives.

PAUL WELLSTONE earned our respect and our gratitude. We miss him, and we wish to communicate to his family, his friends, his associates, and his staff members, that we respected PAUL WELLSTONE. We appreciate his service to this country, to his State, and to the Senate. PAUL WELLSTONE will be missed by all of us who had the pleasure of calling him our colleague.

I yield the floor.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from New York.

Mrs. CLINTON. Mr. President, I join with my colleagues in taking these few moments to pay tribute to an extraordinary man and a great Senator. It is hard to come back to the Senate floor this afternoon and not be overcome by a sense of loss because this desk behind me, with the flowers, will never again serve as the launching pad for one of PAUL WELLSTONE's memorable and impassioned speeches.

Every American who shared PAUL's determination to make our country all that it should be, all that it can be, all that PAUL thought it must be, felt that same sense of loss. The Americans who only knew PAUL WELLSTONE through tuning into C-SPAN or seeing the evening news, watching that energy flow, those arms flail about, that pacing up and down, may not have known the man but they too saw, as we his colleagues saw, that deep abiding love of our country. That is what motivated PAUL WELLSTONE. He would come on to this floor, sometimes bursting through those doors, having to speak out, making it clear that there was some injustice that had to be righted, some problem that had to be solved, in order for us all to be the best we could be.

That wrestling spirit that never let go really was with him in every encounter. He was a bear hugger. He was a caring, loving man, as well as a great advocate.

His determination to improve our Nation, our education system, our health care system, our employment system, to strengthen civil and human rights and provide opportunities to those who live on the outskirts of American life, was unparalleled. Every one of us who knew him, and the millions who did not, were heartbroken by his untimely death.

I had someone say to me that the voice for the voiceless has been silenced. That is not only a tribute to PAUL but it can also be heard as a rebuke to us. Was there only one among us who spoke for the voiceless, who hurt for those who were hurting, who carried the pain of injustice and exclusion under which so many suffered? One hopes that is not the case, but the only way to prove it is not is to ensure that our voices are heard loudly and clearly.

This floor will seem empty without his words of conviction unless we fill it with our own. The ideals he represented and his steadfast belief that we, the people, through our government, acting together, can be a positive force, literally to change the future for those who might otherwise be left in despair, that commitment motivated every aspect of his daily life.

Our Senate family and the people of Minnesota not only lost Senator PAUL WELLSTONE, but we lost a great advocate in Sheila Wellstone and we lost a great teacher in Marcia Wellstone. His family shared his passion and his drive for justice. His staff were with him every step of the way and some tragically even gave their lives in service. Our thoughts and prayers are certainly with all those, along with the Wellstone family, who lost family members, friends, and colleagues.

Before coming to the Senate, I had the great pleasure of working with both PAUL and Sheila Wellstone. I admired Sheila greatly. Just as her husband, she was made of steel. That little package of energy that propelled her down these corridors and throughout the State of Minnesota looking for ways to help and to shed the spotlight she could bring into the darkest corners of human misery set her apart. She especially became a champion of those women and children who were victims of domestic violence. The stories she heard from women all over Minnesota and America did not stay her property; she told them to anyone. She would come to the White House and button hole me or the President. She would go anywhere to see anyone to make sure that someone whose small cry for help that she heard in St. Paul or Margie would be heard in Washington as well. She believed that the idea of violence-free families should be a reality in every home in our Nation.

She and PAUL, together, believed the diseases, the illnesses of the mind, should no longer be relegated to some back room where they would be brushed aside, ignored because of the stigma, the embarrassment attached to them historically. She encouraged PAUL to join forces with Senator DOMENICI to transform each of their families' experiences into a national campaign to improve the lives of the mentally ill.

Sheila and PAUL were also instrumental in bringing to international awareness the horrific problem of trafficking in human beings, the modern form of slavery by which young women, young girls, are literally sold into bondage, into the sex trade, into domestic servitude. Sheila and PAUL WELLSTONE were absolutely committed that this practice of degradation would end.

When each of us heard the news that the plane carrying PAUL and Sheila and Marcia went down, time seemed to stop. Many did not want to believe it. We kept asking our staff and others how it could be true. How could this have happened? Horrible events, tragedies of this magnitude, have a way of stopping time. But then we have to return. The clocks have to start moving again. We have to continue our journey into the future. But if we remember what that moment in time felt like when we realized our friend, our colleague, a great Senator, would no longer join us for our debates, then perhaps that tragedy can change the tone and landscape of our politics and our debates. Perhaps PAUL's example in life, his legacy in death, will compel all to look inward, to ask ourselves what are we doing today with the same energy, the same good humor, the same fighting spirit that PAUL WELLSTONE embodied to make life a little better for the people we represent, to give voice to the voiceless.

Over the past weeks I have thought a lot about PAUL WELLSTONE. I remember so many incidents and so many of his triumphs. He was there day in and day out. No issue was too small that it did not have his commitment behind it if he thought it would make a difference in someone's life. The Senate passed expanding insurance coverage for the mentally ill. I hope Senator DOMENICI's heartfelt plea and his longtime commitment will help finally to pass his and PAUL's dream into law.

We increased access to child care for the working poor because PAUL WELLSTONE knew what it meant to worry about your children while at work because you did not know the conditions they would be in, whether they would receive the quality of care they should.

One of my favorite PAUL WELLSTONE moments was that PAUL and I were at a hearing he was chairing of the Subcommittee on Employment and Training. We had been receiving reports about a sharp increase in the numbers of unreported deaths and injuries among immigrant workers—many of them illegal, who found their way to our country and were put to work, despite the laws against it, for the cheap labor they provided—who were not given the protection or the support or the respect they should have for the dangerous jobs they were performing.

One of my State's newspapers, NewsDay, ran a powerful investigative report about the conditions in which immigrant workers labored in New York. PAUL read it and contacted me right away. He wanted us to work together to find out what we could do to stop people from dying, literally dying, in New York and around America.

Many who go to hearings around here know that not many people, except the paid lobbyists for the various industries affected, show up for the committee hearings. The lobbyists fill the chairs. They take the notes. They rush out to make the cell phone calls to report to their superiors and employers what is going on. But unfortunately, except on rare occasions, other people do not come.

On that day, to our surprise, hundreds of workers flooded the halls of the Dirksen Building trying to get into our hearing, trying to tell their stories. Unfortunately, we had no idea this would draw such a crowd. The room the hearing was being held in was not big enough to accommodate everyone waiting.

PAUL and I conferred, and PAUL said: I can't believe it. There are all these people outside. Some of them came from miles away. You can see his arms, as you hear those words, going back and forth. What are we going to do?

Before I could answer, he got up, and in that bow-legged wrestler's stance and walk he had, he walked down from the platform, through the crowd, threw open the doors, told the Capitol Police that everyone was coming in and that there would be room. They could sit on the floor, they could sit in the Senators' chairs because he and I were the only Senators there. He would not keep the very people we were having the hearing about out of the hearing room.

That was PAUL. He was a people's Senator. Everyone was welcome. Every door was open. It was an unusual hearing, but it was a memorable one. Afterwards, he greeted each and every person who was there.

It was this passion that got him up and fighting every day, even when he was in such pain, as some of us can remember, seeing him in pain on this floor, remembering how last year the pain was so intense he literally dropped to the floor of the Senate. He later learned that he was not just contending with the aches and pains of a Hall of Fame wrestling career but that he had multiple sclerosis. That did not stop him either.

For any of us who inquired how he was doing, he brushed it off. He was not interested in any way or concerned about his own health. He wanted to talk to you about what we were going to do about unemployment insurance, what we were going to do about education, how we could turn our backs on all these children who would not get the resources they needed.

During the debate on the education bill, PAUL was the only member of our Education Committee to vote against it. We knew why. He warned that focusing our education system solely on improvements in standardized tests without a major increase in Federal funding was wrong. I agreed with that. I said so at the time in our committee. I will vote for this bill, but only if we have the funding.

Here we are, a year later. We got the funding for 1 year and then the administration came in and no more funding. PAUL was right, as the distinguished Senator from West Virginia knows. Trust, but verify, when it comes to such promises.

Senator WELLSTONE always stood by his beliefs. His last big fight, as Senator BYRD has so eloquently reminded us, was over two big issues: Certainly Iraq, what should be done, what will be done, what our obligations as Senators are to hold this administration accountable; and, here at home, the fight for unemployment benefits to be extended. For the life of me and for PAUL WELLSTONE, with whom I spoke about this at length time and time again, it made no sense. How could we turn our backs on people who were out of work through no fault of their own, who needed a little bit of a helping hand? He would come to the floor, he would make that case, and we wouldn't go anywhere with it. We couldn't get our colleagues to support extending unemployment insurance one more time.

Along with what I hope will be a lasting legacy of mental health parity, I truly request our colleagues and the administration to extend unemployment insurance, PAUL WELLSTONE's last domestic battle, for people who will otherwise have nowhere to turn when those benefits are gone.

I want to say also a word about Senator WELLSTONE's staff, because he certainly loved and respected his staff. As Senator BYRD has mentioned, his staff was a loyal, hard-working group who often accompanied Senator WELLSTONE to the floor and sat there watching him, getting energy from his excitement and passion. I want to name some of the names of those men and women who helped him do the work we honor today. Colin McGinnis, his chief of staff, and Brian Ahlberg, his legislative director, are two extraordinary public servants. My staff has enjoyed the privilege of working with them.

My staff and I have also had the opportunity to work with Marge Baker, who led Senator WELLSTONE's efforts on the Subcommittee on Employment and Training, with Jill Morningstar, who was his legislative assistant on education and women's issues, with Rachel Gregg, who led his efforts to assist the working poor, as well as Patti Unruh, Ellen Gerrity, and Richard McKeon, who made up his team of health care advisers.

I offer my condolences to each of his extraordinary staff members and I want them to know how much we appreciate the work they did for PAUL.

On October 15, at the close of his last debate, here is what Senator WELLSTONE said:

> I don't represent the pharmaceutical companies, I don't represent the big oil companies, I don't represent the big health insurance industry, I don't represent the big financial institutions. But you know what, I represent the people of Minnesota.

That may be his most fitting tribute—the honor, the ability, the results he brought to the way he represented the people of Minnesota. He did it with passion and principle. We join in saluting his life and his service and we challenge ourselves to remember the reasons why so many are mourning him today. Each of us, try to live up to the standard PAUL WELLSTONE set.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I compliment the Senator from New York for her gracious and most appropriate words with regard to the service of the Senator from Minnesota, who was such a special person.

I rise to add my words of respect and praise and thanksgiving for the life and leadership of my friend and colleague and, in fact, political hero. PAUL WELLSTONE was a good man who did his very best to do good things—very simply, good things for others. With his wife Sheila, their lives were about service, service and advocacy for others. In fact—I think the Presiding Officer probably knows this—they may well have been the most unselfish people I ever observed. The drive was not to power. It was not to popularity. It certainly was not to wealth. It was to service—service to those without a voice. PAUL WELLSTONE really did believe all men and women are created equal and therefore should be treated accordingly.

As a friend, PAUL was always supportive and full of counsel for a fellow progressive—or should I say liberal. While our paths to the Senate could not have been more different, our paths in the Senate were much alike. He was a pathfinder for me and for many others because of his personal passion and principle with which he was so secure—it was deep in his soul. It gave him vision. His words and deeds were an example for all who seek to lead. As he so often implored, our actions cannot be separate from our words. All men and women are created equal, and he believed our Nation must act, also, accordingly. He fought for that every day on this floor.

We have heard about his principled fight for mental health parity. We have heard about his fight to make sure education was something other than high stakes testing, and to make sure welfare reform was about something other than reducing the numbers on rolls, but was really about reducing poverty levels; on labor rights and defending the right to organize, defending the right of working men and women to have access to the American promise on an equal basis with those who are granted more; and on women's rights, which we have heard so much about, and domestic abuse, in which he carried the words and deeds of his wife so ably; on veterans' care and the homelessness problems of our Vietnam vets. On these and many other issues he really was a man who spoke for those without a voice.

PAUL's passion and vision will be deeply missed. For those honored to have shared his life, it is now our responsibility to pursue his vision. His commitment to equality and justice must not be lost and, with God's will, it will not.

To this challenge, earlier today I heard Senator STABENOW cite great words from Frederick Douglass that bear repeating. When you think about PAUL WELLSTONE you think about how he handled himself in this world. Those words are:

> If there is no struggle, there is no progress. Those who profess to prefer freedom and yet deprecate agitation want crops without plowing up the ground. They want rain without thunder and lightning. They want the ocean without the awful roar of its many waters.

PAUL WELLSTONE led his struggle for freedom with thunder and lightning—his struggle for progress. We will miss him. We will miss his struggle. We must take it up.

All of us pray for his family and the families of the others lost on that tragic day of the crash. Our hearts are saddened. And we, as Senator CLINTON has so ably articulated, commend his loyal and dedicated staff, and those thousands of volunteers who made his voice multiples of what it otherwise would be, through their activism and organization. We say thank you for all of them. Our love goes out. We respect them for what they have done, and their service. We hope they will not turn away from the effort and the fight. We thank them all. They mourn. We mourn. But we must not quit. We will not quit. Our deeds must match his deeds in the days and years ahead.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I rise to pay tribute today to two dear friends, PAUL and Sheila Wellstone. The October 25 plane crash in northern Minnesota which took their lives was an incalculable tragedy. It deprived Minnesota of a brilliant Senator. It deprived my wife Barbara and me of two very dear friends. It deprived the poor and disadvantaged everywhere in this country of a most committed, eloquent, and passionate champion.

If there is one word that I heard perhaps more than any other in the tributes that have been paid to PAUL WELLSTONE, it would be the word "passionate."

Compounding the tragedy, the crash claimed the lives of PAUL and Sheila's daughter, Marcia; three members of his staff: Will McLaughlin, Tom Lapic, and Mary McEvoy; and the plane's two pilots, Captains Richard Conroy and Michael Guess.

Our hearts go out to PAUL's sons and grandchildren, and to all of the families of those whose lives were lost. We think about what might have been. We are reminded of just how ephemeral and precious life is.

It is said that an obituary tells you what a person did and a eulogy tells you who a person was. I would like to talk about who PAUL was.

PAUL WELLSTONE was the patron Senator of lost causes. By "lost," I don't mean wrong. In fact, most of his causes were right. But many of them were at the moment unpopular.

PAUL WELLSTONE devoted his energies to fighting for the disenfranchised and demoralized, the lonely, and the isolated. He saw his mission in the Senate and in life as comforting the afflicted and, when necessary, afflicting the comfortable. In social justice circles, it is called "speaking truth to power."

PAUL knew what it is like to be the underdog. He literally wrestled his way into the University of North Carolina on an athletic scholarship. He overcame learning disabilities to earn a Ph.D. from that distinguished university. The civil rights movement inspired him to become active in politics. In 1990, he ran a seemingly quixotic campaign against an incumbent Senator who outspent him by more than seven to one. And PAUL won. And he won again in 1996.

I think PAUL beat the odds because he gave hope to so many people who have been left behind. PAUL was a friendly and warm person who learned and remembered everybody's name because he genuinely cared about them.

More recently, PAUL battled hip and back injuries and publicly announced that he had multiple sclerosis. When he made that announcement, he said—with characteristic wit and pluck—"I have a strong mind—although there are some who might disagree with that—I have a strong body. I have a strong heart, I have a strong soul." And that he did.

PAUL knew what it was like to be an underdog. So he devoted his life to fighting for the underdog. At Minnesota's Carleton College, where he was a professor, he protested the college's investments in companies doing business with pro-apartheid South Africa. He intervened on behalf of many farmers facing foreclosure. He joined the picket lines at a meat-packing plant. And when Carleton College's custodians went on strike, he taught his classes off-campus because he wasn't going to cross that picket line.

PAUL brought his unabashed idealism to the Senate. He voted against the gulf war in 1991. He voted against the welfare bill in 1996. He led a lonely fight against the bankruptcy bill, saying that it would enrich big credit card companies at the expense of ordinary people suffering "brutal economic circumstances." And the list goes on.

One of his last votes that he cast was for the more multilateral approach relative to our situation in Iraq. During that debate, he argued as follows: "Acting now on our own might be a sign of our power. Acting sensibly and in a measured way, in concert with our allies with bipartisan congressional support, would be a sign of our strength."

PAUL often found himself in small minorities. He was, however, able to move the Senate on occasion through sheer conviction. For instance, he teamed with Senator DOMENICI to require health insurance companies to provide more equitable coverage and benefits to people suffering from mental illness. It was the right thing to do. It was the fair thing to do. And he prevailed.

Life deals everyone setbacks and defeats. And PAUL had more than his share, especially in the Senate. But he never became the least bit cynical as many people do when they suffer life's disappointments. He kept coming back cheerful and committed as ever. He was absolutely guileless. And I think that was the source of his popularity, which extended to people who vehemently disagreed with the policies that he advocated. Everyone admired the fact that he spoke from the heart, and he voted based on his sincere beliefs—not from political expediency. He believed in the power of ideas and causes, and in the power of government to help people. He was a formidable adversary. And he had that unique gift of being able to disagree without being disagreeable.

T.S. Eliot wrote to a friend: "We fight for lost causes because we know that our defeat and dismay may be the preface to our successors' victory, though that victory itself will be temporary; we fight rather to keep something alive than in the expectation that anything will triumph."

That wistful statement, to me, captures some of PAUL WELLSTONE's approach to his duty. With indefatigable goodwill and cheer and sincerity, PAUL always bounced back, always carried on, and always stood on principle—never on expediency. He wasn't afraid to be in the minority, even a minority of one.

A friend of PAUL's, Bill Holm, wrote a touching tribute that appeared in the New York Times the day after PAUL died. I am going to put that column in the RECORD following my remarks, but I wish to quote from it briefly to underscore some of what the column says.

Bill Holm wrote, "Whatever PAUL's height, he was one of the largest men I ever met. He filled rooms when he entered them. Size in a public man is an interior, not an exterior, quality. . . . He thought himself an athlete . . . and I suspect he saw his whole political life in that metaphor. He wrestled with the power of big money, military adventurism and penny-pinching against the poor. He meant to fight fair, but he meant to win."

The great suffragette Anna Howard Shaw remarked, "it does not make so much difference perhaps as to the number of days we live as it does to the manner in which we live the days we do live." She could have been saying that about PAUL WELLSTONE.

PAUL fought the good fight—usually against long odds. I think, because he was a wrestler, he knew it was always possible to snatch victory from the jaws of defeat. Sometimes you can be behind on points but suddenly pin your opponent seconds before the match is over. So he never gave up. He had an infectious optimism. That is why he was such an inspiration.

He certainly lived his life with gusto. He showed that gusto in the way he consumed my wife's stuffed cabbage. We still have some in the freezer which we had preserved for the next dinner we were going to have with the Wellstones.

PAUL WELLSTONE may have stood 5 feet 5 inches tall, but he had the heart of a giant. As we mourn his passing, we celebrate his life. What a gift he gave to us all.

I ask unanimous consent that Bill Holm's column, appearing in the October 26, 2002, edition of the New York Times, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 26, 2002]

A LIBERAL WITH A WRESTLER'S STANCE

(By Bill Holm)

MINNEOTA, MINN.—Paul Wellstone was an unlikely politician in a place like Minnesota—land of walleyes, cornfields and phlegmatic Scandinavians. He was an urban Jew, son of immigrants, a college professor at the fanciest of Minnesota's private colleges. And, probably worst of all for his nontalkative constituents, he was a passionate orator, a skilled rouser of rabble over issues he loved and an unapologetic populist liberal.

How did this man, who was killed yesterday in a plane crash in northern Minnesota, ever manage a triumphantly successful political career in which even many Republicans and conservative Christians quietly scribbled the Wellstone X on their ballots, hoping their neighbors wouldn't catch them behaving like lefties?

When I gave readings of poetry and essays, I often shared a podium with Senator Wellstone at various rural conventions and political gatherings. It was a remarkable experience, and I learned very well to proceed rather than follow him. He worked a house as well as Hubert Humphrey ever did.

I remember a Farmers Union convention in St. Paul: Paul Wellstone, a pugnacious 5-foot-5, stood at the dais between the Farmers Union chairman and me, both 6-foot-5 Scandinavians.

"It's nice to join my Norwegian cousins here in St. Paul," he said. He then proceeded in 20 minutes to bring the audience cheering to its feet. If this had been a monarchy, the farmers would have crowned him.

I was next, with a few small and sensitive rural poems. I had a sinking feeling that a master had bested me.

Whatever Paul's height, he was one of the largest men I ever met. He filled rooms when he entered them. Size in a public man is an interior, not an exterior quality. Paul charmed—and sometimes persuaded—even those hostile to his unashamed liberal ideas by listening with great courtesy and attention to unfriendly questions. He answered without dissembling, without backing down from his own principles, but with a civil regard for the dignity of the questioner.

And he had the politician's great gift: an amazing memory for names. I saw him once pluck a vote with this gift. He answered questions for 45 minutes in a room full of ordinary citizens whom he'd never seen before. He began hs last answer this way: "Your question reminds me of Mary's concern." Mary, in the back row, was 45 minutes ago. Mary, likely a rock-ribbed Republican, blushed a little and smiled. One more vote.

Even those who continued to disagree with Paul did not question the sincerity of his idealism. He was sometimes attacked for naïveté (as in his brave vote against authorizing the president to go to war with Iraq), but never for dishonesty. He voted, as he spoke, from the heart.

It's often forgotten that Paul, nearing 60 with a bad back and a respectable batch of grandchildren whom he treasured, began his rise in the world with a college wrestling scholarship. His working-class parents had no money for school, so wrestling earned him a doctorate.

He preserved a wrestler's sensibility in both his academic and political life. In 1998 I met Paul at a reception at the Governor's Mansion just before Jesse Ventura, a professional wrestler by trade, first occupied that house. How curious, I told Paul, that the two most interesting politicians in Minnesota at the moment should both be wrestlers. He replied with a wry smile: "But I'm a real one."

He thought himself an athlete, not an entertainer, and I suspect he saw his whole political life in that metaphor. He wrestled with the power of big money, military adventurism and penny-pinching against the poor. He meant to fight fair, but he meant to win.

Not only Minnesota, but the whole country will feel the absence of his voice and his bravely combative spirit. We say with Walt Whitman: Salud, Camerado. We look for you again under our boot-soles.

Mr. LEVIN. I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. STABENOW). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Madam President, liberal? Worse, The London Economist called Senator WELLSTONE the most "left wing" Senator in the U.S. Senate. Yet, as the most conservative Senator, I found myself time and again fighting at his side.

The year started with the Bush seduction of Senator TED KENNEDY on education. Senator KENNEDY looked at the amount—$7 billion. President Bush looked at the thrust—prove that public education was a failure so that private education could be financed by the Government. Testing. Somehow the billions being spent by the States on testing was not enough. A Federal test was necessary.

Failing schools would be closed. Failing students would be tutored. But most likely, the student failing for the lack of a competent teacher could find no competent tutor. For all this testing, the education bill provided no help for the student to pass the test. And for this, Senator WELLSTONE ranted and raved. But nobody listened. Senator WELLSTONE was liberal, but as a conservative I knew he was right. We both voted no.

Next was the Bush tax cut. No doubt Senator WELLSTONE, the liberal, was the target for this initiative. For the purpose of Voodoo II, or Bush's Reaganomics, was to eliminate the resources of Government so that without the money there would be no programs. But in reality, programs persevered, with a horrific debt, and the devastating waste of interest costs. Senator WELLSTONE, the liberal, was for programs. I, the conservative, was for putting Government on a pay-as-you-go path. We both voted no.

Then there was jobs. Fast Track—this was a device that Presidents use to control trade agreements. With it, the agreement submitted by the President could not be amended. Congress was required to vote it up or down, and, of course, no agreement was ever submitted until the White House had the vote fixed.

To get NAFTA approved, President Clinton bought the vote with numerous favors not related to the agreement, such as defense contracts, cultural centers, and golf rounds in California and Arkansas. One could readily see that the intent was to create jobs south of the border. Sure enough, we lost 700,000 textile jobs alone. So, when fast track expired, we refused to renew it for President Clinton. Again, Senator WELLSTONE and I both opposed giving fast track authority to President Bush.

"Liberal." "Conservative." Wrong references. Adlai Stevenson used to say it's not whether one is liberal or one is conservative, but whether one is headed in the right direction.

Adam Nagourney of the New York Times writes of the "homogenization" of American politics. Politics has changed. Triangulation has taken over so that every party compromises, or triangulates, the other party's issues. Both are for tax cuts. Both are for saving Social Security. Both are for defense. Both are for the war with Iraq. Both are for homeland security. Both are against corporate corruption. Worse, money locks in this triangulation so that we are back to George Wallace's, "There's not a dime's bit of difference between the parties."

But there is a fundamental difference. The Republicans know to campaign. The Democrats know to govern. PAUL WELLSTONE came to Washington to govern. He could see the crying needs of the country: schools, health care, jobs, infrastructure, et cetera. And he was determined to do something to provide for these needs. But with the Democrats in control by only one vote, we abandoned governing. The needs of the country were abandoned and both parties went into high gear to campaign, with money controlling the issues. Y2K, free trade, corporate reform—money controlled with a refusal to even cancel the principal corruption: stock options. The Congress danced around the fire of intelligence failures, terrorism insurance, seaport security, rail security, energy policy, pension reform, prescription drugs—but no governing.

PAUL WELLSTONE was a fighter. The shortest fellow in the Congress, most of us couldn't touch his shoes. Today, there are no fighters in Washington, just campaigners.

Mr. COCHRAN. Madam President, the tragic death of our colleague, PAUL WELLSTONE of Minnesota, was such a sudden shock to all of us. It was hard to believe he had died. PAUL was so full of life, and full of energy and enthusiasm. It was so incongruous, so unbelievable, that his life could be needed so abruptly.

But, it was, and we continue to grieve and to miss him.

PAUL and I were friends. We also collaborated on legislation to help farmers and to find a cure for Parkinson's Disease and Duchenne Muscular Dystrophy.

We often talked about our strategy for accelerating the research that is so important to the effort to conquer these threats to human life.

He traveled to my State to see for himself the plight of the poor in the Mississippi Delta. He was sincerely interested in helping alleviate the burdens and problems faced by the poor people who lived in the Delta. I told him about the initiatives we had started and let him know I shared his concerns and that we were trying some new approaches such as the Delta Regional Initiative.

Senator WELLSTONE will always be appreciated for the efforts he made to help those who needed help the most.

Mr. FRIST. Madam President, the Senate has been a unique institution since its inception. We take great pride in our deliberative nature. Debate may take time, but it is time well spent. It is always better to pursue the right—rather than the rushed—course of action. This style of governance has served the American people well for more than two centuries.

This does not mean the Senate is not a dynamic body. It is full of the same vibrancy that marks this great experiment called American democracy. For within this Chamber have echoed some of the most lively and spirited debates in our Nation's history. And outside this Chamber as well—in committee rooms and caucus meetings and other public forums.

On Friday the Senate lost one of its most animated Members in PAUL WELLSTONE. He was a proverbial "true believer." Conviction was not something about which he simply spoke at opportune moments; he showed it time and again with his unabated enthusiasm for being a United States Senator. PAUL WELLSTONE's beliefs rose from a deep and impenetrable well of principle.

Indeed, PAUL was a proud and unabashed voice for liberalism. His votes often landed him not only on the other side of Republicans, but on the other side of his fellow Democrats, as well. He was a man who simply did not blink in the face of political pressure. He stared it down without regard to price. Even if you did not agree with him, you admired him and the courage he so frequently displayed.

I saw this first hand on the Health, Education, Labor and Pensions Committee. There PAUL and I served together on the Subcommittee on Public Health and the Subcommittee on Children and Families. We shared a common concern for the health of women and children and the mentally ill. He spoke out often on their behalf. He fought hard for them. And his passion for their well-being will be missed.

PAUL WELLSTONE was one of a kind. We were blessed to have him, his wife, Sheila, and his daughter, Marcia, as members of the Senate family. And the people of Minnesota and the United States were blessed to have him in their service. May we keep PAUL and Sheila's sons and grandchildren and the families of all those who lost loved ones in our thoughts and prayers in the coming weeks.

Mrs. FEINSTEIN. Madam President, several days after this terrible tragedy, the loss of our beloved colleague, PAUL WELLSTONE, his wife Sheila, his daughter Marcia, three loyal members of his staff and two pilots, we still remain in a state of shocked disbelief.

We have lost a unique and gifted man, who embodied not only the independent spirit of his home state, but one that resides at the very heart of the American soul.

A few years ago, when speaking on this floor about the loss of his legislative director, PAUL claimed that "sometimes the only realists are the dreamers. . . ."

In many ways he could have been referring to himself, the cerebral political science professor willing to stand alone, when necessary, for what he believed.

He had the common touch, and was an impassioned speaker, noted as much for his big heart as for his sharp mind.

Elected as the only new Senator in 1990, PAUL's crusading voice would not have had the same impact in the House of Representatives as it did in this Chamber.

Only in the Senate could he have helped to lead the successful opposition, in 1991, to an energy bill that would have opened the Arctic National Wildlife Refuge to oil exploration, or five years later force a vote on a minimum wage increase.

For two terms he fought tirelessly for increased funding for education at every level, healthcare that was accessible and affordable for all Americans, sweeping campaign finance reform, and farm legislation that sought to protect the small farmers.

While he was, on the one hand, an ideological liberal, willing to speak with his conscience, PAUL was also able to work with Republican colleagues on many occasions, and he was responsible for passing important bipartisan legislation, most notably the expanded insurance coverage for mental illnesses, with Senator DOMENICI.

But PAUL WELLSTONE's commitment to social justice did not stop at our borders. He was an outspoken champion of the poor and the powerless around the world, in Latin America, Asia and Africa.

I remember when, back in 1996, I voiced concern over the plight of women and girls under the reactionary rule of the Taliban, PAUL was one of the few who was receptive to the need for the United States to respond to such violations.

In 1999, PAUL and I introduced the "International Trafficking of Women and Children Victim Protection Act," which established an interagency task force to monitor and combat trafficking, provided assistance to other countries that met minimum international standards, and withheld U.S. non-humanitarian assistance to countries that failed to meet these standards.

To his eternal credit, it is worth noting that PAUL had originally introduced his own bill, which contained much tougher criminal provisions and stronger protections for victims.

He was a leading advocate for Tibetan autonomy, able to work closely with his ideological nemesis, JESSE HELMS. In fact, the last time I worked with PAUL was in cosponsoring an act to safeguard the cultural, religious, and ethnic identity of the Tibetan people and to encourage further dialog between the Dalai Lama and the Chinese Government.

We must not forget that the world has also lost Sheila, PAUL's wonderful wife of almost 40 years, and a passionate campaigner against domestic violence, and for the need to create violence-free families. Hers was a noble cause, a critical fight, that must be continued.

Minnesota has produced some of America's most eloquent, committed, and honorable leaders. Hubert Humphrey, Harold Stassen, Eugene McCarthy, and Walter Mondale come quickly to mind.

Even if he had not met such a tragic and untimely end, PAUL WELLSTONE would have surely earned his place among this distinguished group. The fact that he has left us so abruptly, and left all of us so sad, will not diminish his achievements, nor weaken his message.

To quote PAUL:

> I still believe that government can be a force of good in people's lives.

We in the Senate should take these words to heart, just as we were truly honored to have had him among us. We are all the better to have known him and worked with him. He will be sorely missed.

Mr. DAYTON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

The Senator from Minnesota is recognized.

Mr. DAYTON. Madam President, it has been a very moving afternoon in the Chamber listening to my colleagues speak so eloquently about my good friend, the senior Senator from Minnesota. The words of my colleagues were very moving. It was touching to hear of their respect and their affection and their admiration for PAUL WELLSTONE.

I spoke earlier this afternoon about the Senator, my dear friend, and because others were waiting to speak I abbreviated my remarks. I wanted to close by noting, as others have so well, that PAUL's remarkable achievements were not his alone.

He was one of those people who, in his greatness, was able to attract great people to his side. He had extraordinarily dedicated men and women who worked for him, worked with him, gave of their time and their energy, their hearts and their souls to his work: Colin McGinnis and his staff here in Washington; Connie Lewis, Minnesota State director, and her staff in Minnesota were always with PAUL and Sheila and extraordinarily dedicated.

Of course, if you wanted to make a difference in Washington, if you wanted to try to move mountains and you were young and idealistic, who better to work for than PAUL WELLSTONE?

Many of his former students at Carleton College in Northfield, MN, went on to be his key staff aides. I used to tease PAUL and say that is what he was doing during his time there; he was recruiting the best and the brightest to work on his campaigns and organize the State and to work in Washington and in Minnesota on behalf of the many causes he championed—Jeff Blodgett, who was managing his campaign for the third time and doing so with great skill, and according to the last published polls, with very successful results, and others in Minnesota who gave up their careers, family life, and set it aside to one more time bring the man they loved and in whom they believed to victory.

Kari Moe, who was involved with Senator WELLSTONE's Washington office, was his chief of staff for years before. They are incredibly dedicated people each in their own right.

Tom Lapic tragically was on the plane with PAUL and lost his life in service to his friend and his country. Tom was the deputy Minnesota director. Several hundred friends and family came to his memorial service a week after his death. He was a man who touched people deeply, as did PAUL. His wife Trudy and others shared their recollections, the wonderful qualities Tom had that complemented PAUL, his calmness, virtually unflappable under any circumstances. Like PAUL, he was astute and eloquent, and he and PAUL collaborated on many of the words that PAUL used in speeches. Tom was always by PAUL'S side offering his guidance and perspective.

Will McLaughlin was on PAUL'S campaign staff. He was just starting his political career at the age of 23 in Minnesota. But everybody could see he was destined to be a star, a Governor or a Senator, something special someday. He already had been elected President of his fraternity at the University of Minnesota. Politics was in Will's blood or maybe even in his genetic code. His father Mike McLaughlin was a long time Fourth District chair of the Minnesota Democratic Party, and he collaborated with the greats of the previous generation—Hubert Humphrey, Fritz Mondale, Eugene McCarthy, Joe Karth, Bruce Vento. Will's mother Judy McLaughlin was a close associate of the former speaker of the Minnesota House of Representatives. He will be missed by his mother Judy and his siblings and his friends and those in Minnesota who never had a chance to get to know him.

Thousands of Minnesotans knew Mary McEvoy who was on the plane as staff in name but really as a friend of PAUL'S and Sheila's. She was one of Sheila Wellstone's very closest friends. Sheila flew with PAUL because he loathed it, and Mary flew with Sheila because she loathed it. It was beyond tragedy, beyond words that Mary had taken a leave of absence from the University of Minnesota where she was a full professor, where she chaired the department, where she had her own very distinguished career in her field, so she could help her friend Sheila and her friend PAUL during their time of need. She had a service where over 1,500 Minnesotans, friends, and family came to pay their respects. She was associate chair of the DFL Party. She was a leader. She was a colleague. She was a mother of three beautiful children, and she had her husband Jamie. She will be terribly missed by all of us in the life of Minnesota.

Of course, the linchpin of PAUL'S staff, his unpaid and most important staff person was his wife Sheila who, unlike some campaign and political spouses, was beloved by PAUL'S staff and gratefully welcomed to the office for her ability to run interference when necessary with her husband and his life and his schemes.

I remember once it was said it took a lot of money to keep Mahatma Gandhi in poverty because of the people around him necessary to help him carry out his mission. It took a lot of really remarkable and talented people to keep PAUL WELLSTONE on the brink of disorganization. He had so much energy and was doing so many things, often simultaneously. Sheila was the linchpin and a formidable political activist in her own right. She was born and raised in the coal country of West Virginia, a hard-scrabble upbringing. She and PAUL were married when they were 19 years old. For 39 years they were each other's best friend, colleagues, mates, spouses.

Many talk about and preach family values. That was a wonderful marriage and a wonderful family. They had three children of whom they were enormously proud. Marcia Wellstone, tragically on the plane, was a future political star in her own right. She loved campaigning, loved being out with the people of Minnesota. She was a wonderful teacher in the White Bear School District, beloved by her students, liked by her colleagues. She also leaves a gap with her family and friends that can never be filled.

They had two sons who fortunately were not on the plane that day, David and Mark, of whom PAUL and Sheila were also enormously proud. I hope and I trust they will, in this time of terrible loss and grief, be consoled a little by the words that were expressed today, by the words that have been expressed by people all over the country. They had extraordinary parents, very hard parents to lose, but ones who will be with them in spirit always and gave them the best upbringing that any two fine men could wish for.

PAUL was a family man from the beginning. That was always foremost in his priorities. I remember not more than 6 weeks ago I happened to come to the Senate Chamber one afternoon, just around the lunch hour. Much to my surprise, the Senate was in recess. There was PAUL with his 7-year-old grandson named Joshua, Marcia's child, who was evidently on an outing that afternoon with his grandfather.

PAUL was showing him around the empty Chamber and pointing out where his desk was, as well as others. I think PAUL was convinced that he had Josh quite impressed with this great Chamber and all it represents to all of us until Josh looked up at him kind of wistfully and said: Grandpa, are we going to go someplace soon? You promised that we were going to go someplace this afternoon.

For once, PAUL seemed almost at a loss for words. He looked up at the ceiling and then looked forlornly at me, looked over to Josh and said: This is someplace.

I close by saying, yes, PAUL, this is some place that you reached, without any of the advantages some of us have enjoyed, and Sheila Wellstone with none at all. They met at age 19. He came to Northfield, MN, built a career as a college professor, she as a housewife raising their children. To come to some place like this is a phenomenal American success story.

I recounted earlier today about how PAUL was elected in 1990. He ran an extraordinary campaign, a David versus Goliath, come from nowhere, miraculous victory that is a tribute to the kind of indefatigable courage and willingness to follow his dream and bring people along with him. He stood for what he believed in and won by doing so. That should be in every political textbook in this country for decades to come.

He served in the Senate for 12 years and made those stands again and again. Whether they were popular, whether he had the votes or not, he knew usually with great insight whether he was going to be successful. He knew when he lost he had no alternative but to stand behind what he believed in, to stand with his conscience and his convictions. He trusted in the people of Minnesota to give him the opportunity to serve, which they did twice, and he was going back to seek their support for a third term.

As others have pointed out, he was facing one of the most difficult votes of his career, as some would say, at an inopportune time, which was the resolution to authorize the use of force in Iraq by the President, at his discretion. PAUL began his Senate career with that kind of vote with the Persian Gulf resolution and some believe because of his stands over the years that if he were to oppose a popular President, if he were to express a different perspective and, as Senator LEVIN, the chairman of the Senate Armed Services Committee, pointed out, vote for an alternative resolution, one that committed the United States to multilateral action with other countries of the world, that he would pay a political price for that in Minnesota.

PAUL never really agonized about his decision in this matter because compromising his convictions was not something PAUL ever considered doing. In fact, in my 2 years in the Senate, the one time I saw PAUL angry was when a staff person—not his own staff, he did not know who made the comment—was reported in the Washington Post as saying the Senate Democratic Caucus was trying to find some alternative resolution to provide cover for PAUL WELLSTONE who was facing a difficult reelection. PAUL was furious that anyone would accuse him of looking for cover from a tough vote. He said in one of our meetings that is what he had to take back to the people of Minnesota, that they knew he would never seek cover to avoid a tough decision or a tough vote; he would do what he believed was right and he was willing to go back to the Minnesota electorate and take their judgment.

I believe if he had been able to bring that to the Tuesday election that judgment would again have been in the affirmative. That is PAUL WELLSTONE's legacy to all of us. That is his legacy to the country. Whether one would agree with everything PAUL believed is not the point. There are those who can have sincere convictions on the other side of the issue. That is the greatness of our country and our democracy, that we can have those disagreements, honest, different points of view, and we are a better institution and we are a better country for our ability, through our political process, to embrace and incorporate those differences.

He stood for what he believed in, would risk everything, his political career, his opportunity to serve, everything he believed and everything he wanted, on a matter of principle. He would do so willingly, courageously, and emphatically. That is something I will take with me throughout the rest of my life, and I would commend it to everyone else in this body and across this country.

I yield the floor.

The PRESIDING OFFICER. The Chair, in her capacity as the Senator from Michigan, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRINTING OF SENATE DOCUMENT

Mr. REID. I ask unanimous consent that tributes to PAUL WELLSTONE, the late Senator from Minnesota, be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I also ask that Members have until 12 noon, Tuesday, December 3, to submit such tributes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SAFETY OF THE TRANS-ALASKA OIL PIPELINE

Mr. MURKOWSKI. Madam President, I am not sure of what the remainder of the Senate schedule might be for this week, but my own tenure in this body is somewhat limited as a consequence of my election to the Governorship in the State of Alaska. So with the permission of the Presiding Officer—and I have checked with the Parliamentarian—we have the opportunity to address matters in our short remaining time.

I would like to share with my colleagues an earthquake that occurred in my State of Alaska just a little over a week ago. It registered 7.9 on the Richter Scale, which is a very high earthquake.

My wife and I happened to be at mass during the earthquake, and not only did the chandeliers move from side to side, but the crucifix, hanging by a brass chain, began to move very dramatically, and it was almost as if the sign of the cross was moving across the agenda.

It happened to be a Korean service in a Catholic Church in Anchorage, and I must say, the magnitude of the earthquake was matched by the magnitude of the Korean priest who did not break stride in his sermon. On the other hand, it was in Korean, and my Korean is a little rusty. But no one moved from the church. Heads went down. And I admired the priest.

My purpose in bringing this matter up is to share with you a recognition of concern that has been expressed in this body for some time; and that is the safety of the Trans-Alaska oil pipeline which covers some 800 miles from the North Slope of Prudhoe Bay to the city of Valdez where the oil is shipped in U.S. tankers and moved down the west coast.

The significance of this earthquake along this 800-mile pipeline was that no damage was done in spite of the 7.9 magnitude. Dealing with the potential for earthquakes in the design was a consideration some 30 years ago, that the line itself should be designed to withstand an 8.0 magnitude earthquake. I want my colleagues to know that the line held a 7.9 tremor quite nicely. As a matter of fact, immediately after the quake rocked interior Alaska, the pipeline from Prudhoe Bay to Valdez was shut down as a precaution and inspected.

The massive quake did do some damage. There were a few supports which were quickly repaired. The line slowly was refilled and put back into service. But the significance was that there were no breaks. In fact, the damage was minimal for the size of the quake which did destroy some roads, damage some bridges, other structures. But the best news is not one cup of oil was spilled, despite the magnitude of the quake—not one single cupful.

There are those who claim the line has been poorly maintained; those who say it is dangerously old, beyond its prime. I hope they will reconsider, recognizing what happened under a real test.

What can they say? The line performed as it was designed and engineered to perform. It is quite timely as this comes at a time when we have in the House and Senate conference the issue of opening up ANWR to oil exploration. It has been a significant issue among the environmentalists. It has pitted Republican against Democrat and Republican against Republican, Democrat against Democrat. As we contemplate action in Iraq, we should reflect on the realization that we have done a pretty good job of producing energy here at home and, given the opportunity, we can do much better if we are fortunate enough to get an energy bill and get ANWR included in that.

This comes at a time when Alaskans' dreams of opening the Arctic National Wildlife Refuge to oil exploration are being rekindled by huge Republican gains nationally in Tuesday's elections.

The GOP is in control of the House and the Senate, and Democrats who are beholden to environmentalists and have blocked ANWR will have a more difficult time turning their backs on U.S. energy independence and national security.

I hope as I leave this body in the next few days that my State of Alaska will get a fair hearing on the ANWR issue because people in my State for years have been saying oil exploration and development can be done and in an environmentally safe and responsible manner. Prudhoe Bay and other North Slope oilfields' records provide the best proof that the assertion is true that we can develop these resources safely here at home. I think Sunday's earthquake was further evidence.

HOMELAND SECURITY

Mr. SPECTER. The issue of homeland security, I believe, is one of great urgency. I believe that September 11, 2001, could have been prevented had we had all of the so-called dots on the board about warnings which had been received. I do not agree with CIA Director George Tenet that another September 11 is imminent. CIA Director Tenet made that statement about a month ago.

We had a lot of warning signals about 9/11. There was an FBI report in July of 2001 about a suspicious man taking flight training in Phoenix, that he had a big picture of Osama bin Laden in his apartment, which never got to headquarters. That warning was mired in FBI bureaucracy.

There was information that two al-Qaida members from Kuala Lumpur were planning to come to the United States; that it was known to the CIA but never told to the FBI or the INS, the Immigration and Naturalization Service. They came in unimpeded and were two of the pilots on the suicide missions on September 11.

Then there was the effort by the Minneapolis office of the FBI to secure a warrant under the Foreign Intelligence Surveillance Act for Zacarias Moussaoui which had the wrong standard. Had the FBI gotten into Moussaoui's computer, there was a treasure trove of information about potential attack.

Then there was the warning to the National Security Agency on September 10 about something to happen the next day. It was not translated until September 12, but it was too late. Then an al-Qaida man named Murak confessed in 1996 of plans by al-Qaida to fly a plane loaded with explosives into the CIA headquarters. We already had the attack on the Trade Center in 1993. Osama bin Laden was under indictment for killing Americans in Mogadishu in 1993, and under indictment for the Embassy bombings in Africa in 1998. Osama bin Laden was on record as declaring a worldwide jihad against the United States.

We had a lot of warnings, and had all of those dots been put on the board, I think there was a veritable blueprint and I said as much when FBI Director Mueller came to testify before the Judiciary Committee last June.

We had the homeland security bill on the floor for a full month. We started debating it on September 3. We did not finish until October 1, and it was never ever passed. When President Bush came to Pennsylvania back in late October, I urged the President to call a special session of Congress to pass homeland security. It seems to me that is our job.

The President is emphatic that the first thing he does every day is to review the intelligence briefings. There is grave concern that there could be another attack. I am glad that the President is insistent that Congress pass homeland security before we go out of this lame duck session. While it is important to pass homeland security, it is important that it be enacted with the appropriate provisions. One provision that I have discussed at some length is to have the Secretary be able to direct the intelligence agencies which will all be under one umbrella. The idea to have the intelligence agencies under one umbrella, I think, has been generally agreed upon. This is not a new idea; it has been proposed for a long time.

I was chairman of the Senate Intelligence Committee in 1995 and 1996. I saw the turf wars between the CIA and the FBI, the NSA and Defense Intelligence, et cetera. Legislation was introduced by this Senator to bring everything under one umbrella of the Central Intelligence Agency, and that legislation has languished. Mine was not the only idea; it has been proposed by others over the years. The turf battles have precluded it. Now, with an Office of Homeland Security, we have a chance to get it under one umbrella.

It is vital the Secretary be able to direct these analytical departments to work together. Otherwise, the turf battles will go on. I am not saying the CIA Director should lose control over his agents around the world or the FBI Director should lose control over FBI agents in the United States or abroad, or any other Department should lose control over their agents. But when you pull the analysis and bring all the analysts under one umbrella, there is the point that there has to be direction so all the dots are placed on one screen.

The language is very simple. It is:

> On behalf of the Secretary, subject to disapproval by the President, to direct the agencies described under subsection (f)(2) to provide intelligence information, analysis of intelligence information, and such other intelligence-regulated information, as the Assistant Secretary for Information Analysis determines necessary.

That is the operative language. The other parts of the bill contain an enumeration of all of the agencies which will be under one umbrella for analysis.

There has been considerable argument and disagreement over labor-management provisions. This has been discussed at some length by this Senator and others in colloquies. Part of the controversy arose because of initial confusion as to whether the two paragraphs added by the amendment by Senator NELSON of Nebraska—that is the other Senator NELSON, Mr. President; may the RECORD show that Senator BILL NELSON is presiding at the moment—whether they were in addition to or in place of. And if they were in place of, that would have eliminated the President's national security waiver which is indispensable and should not be eliminated.

In colloquy with Senator LIEBERMAN, it was agreed to that these provisions would be in addition to. So that asked that collective bargaining in current law would stand, which provides in subsection A:

> (A) the agency or subdivision has a primary function intelligence, counterintelligence, investigative or national security work, and
>
> (B) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

Then the Nelson amendment would have added the language:

(1) the mission and responsibilities of the agency or subdivision materially change; and

(2) a majority of such employees within such agency or subdivision have—as their primary duty—intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

I believe that language would be satisfactory to all parties.

Then with respect to the flexibility which the President has sought as to the other five chapters, that format would be followed so that, in essence, where we have intelligence, counterintelligence, or investigative work, there would be the flexibility for a national security waiver as determined by the President.

Now I have just come from a meeting with Republican leadership with the President, and there has been work over the past weekend on this issue. As yet, we do not know precisely what provisions have been agreed to. It is my hope that the language which I had suggested in September and which has been before all of the Senators who were working on the final analysis, plus this language, will be incorporated in the final bill. I will be in touch with the officials in the administration yet this afternoon to try to see to it that these provisions which are agreeable to all sides—both labor and management, to solve the labor-management controversy—can be made part of the bill, and that the language which would give the Secretary the authority to direct the analysis sections will also be included in the bill.

I ask unanimous consent that the text of the language giving the Secretary of Homeland Defense authority to direct the analytical agencies be printed in the RECORD at the conclusion of my remarks along with the language both as to collective bargaining and the flexibility in the other five divisions of labor-management.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

On page 24, strike line 4 and insert the following:

(19) On behalf of the Secretary, subject to disapproval by the President, to direct the agencies described under subsection (f)(2) to provide intelligence information, analyses of intelligence information, and such other intelligence-related information as the Assistant Secretary for Information Analysis determines necessary.

(20) To perform such other duties relating to

(A) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

(B) the provision of this chapter [5 USCS §§7101 et. seq.] cannot be applied to that agency or subdivision in a matter of consistent with national security requirements and considerations.

In addition to the requirements of sub-sections (A) and (B) the President may issue an order excluding any agency or subdivision thereof from coverage under this chapter [5 USCS §§7101 et seq.] if the President determines that—

(1) the mission and responsibilities of the agency or subdivision materially change; and

(2) a majority of such employees within such agency or subdivision have—as their primary duty—intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

Notwithstanding any other provision, the authority of the President under Section 9701 on establishment of a human resources management system shall require that the President determines that:

(A) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

(B) the provisions of chapter 43, 51, 53, 71, 75 or 77 cannot be applied to that agency or subdivision in a matter consistent with national security requirements and considerations.

In addition to the requirements of sub-sections (A) and (B) the President may issue an order providing for waiver of the provisions of chapters 43, 51, 53, 71, 75 or 77 if the President determines that—

(1) the mission and responsibilities of the agency or subdivision materially change; and

(2) a majority of such employees within such agency or subdivisions have—as their primary duty—intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

IN REMEMBRANCE OF BRIGADIER GENERAL VORLEY (MIKE) REXROAD

Mr. THURMOND. Madam President, I rise to pay tribute to Brigadier General Vorley (Mike) Rexroad, USAF (Retired), who died on October 12, 2002, after a life of distinguished service to the Military Health System, the Uniformed Services University of the Health Sciences (USUHS), and our Nation.

Vorley (Mike) Rexroad, a native West Virginian born on April 6, 1915, earned his Bachelor of Arts Degree from Glenville State College, Glenville, West Virginia in 1938 and his Masters in American Government at the University of New Mexico in 1948. Mike Rexroad joined the Army Air Corps on December 9, 1941, and began 61 years of service to his Nation and dedication to military medicine. In 1944, following both air flight and commando training, Lieutenant Rexroad was assigned to the British 14th Army Headquarters in Burma. At the conclusion of World War II in 1945, Captain Rexroad led the first American task force into the prisoner of war camp in Thailand. His task force included physicians and medical corpsmen; it was during this emotion-packed time when Mike Rexroad developed his sincere appreciation for military medicine.

After his release from active duty, Mike Rexroad accepted a faculty appointment at New York University, NY, however, in June of 1950, with the onset of the Korean War, Rexroad was called to active duty by the Air Force and assigned to the Office of Special Investigations/Counterintelligence.

When the war ended, Major Rexroad was selected to head one of the debriefing and interview teams for some 500 Air Force prisoners of war following their release from the North Korean prison camps. This experience reinforced Mike Rexroad's appreciation of military medicine's critical requirements for continuity and leadership. From 1955 through 1976, Mike Rexroad served as a professional staff member on Capitol Hill; he first served on the staff of Senator Dennis Chavez of New Mexico who was the chairman of the Subcommittee for the Department of Defense. Next he was selected by Senator John C. Stennis of Mississippi to serve as the senior staff member for the Subcommittee on Military Construction; and, continued to serve in that capacity for Senator Alan Bible of Nevada. From 1965 to 1976, he was appointed by Senator Mike Mansfield of Montana, Majority Leader of the Senate and chairman of the Subcommittee on Military Construction, to serve as the senior staff member for the subcommittee.

Following his service in both World War II and the Korean War, his review of the medical capabilities during the Vietnam War for the U.S. Senate, and 20 years as a senior member of Senate Committee Staffs, Mike Rexroad became dedicated to preserving the lessons learned in military medicine; he concurred with Congressman F. Edward Hebert's philosophy that America needed an academic home for military medicine. In the early 1970s, Rexroad prepared documentation and memoranda for presentation to the Senate Appropriations Committee to justify the establishment of USUHS and the need for continuity and leadership in military medicine. Following the passage of Public Law 92-426, the Uniformed Services Health Professions Revitalization Act of 1972, the senior administration of USUHS worked directly with Mike Rexroad to coordinate the construction requirements for USUHS.

In 1977, when closure threatened USUHS, the now-retired Mike Rexroad again volunteered to raise Congressional support for the University. At that time, no funding had been appropriated for USUHS. On March 21, 1977 due to Rexroad's intervention, the Chairman of the Select Committee on Aging, Congressman Claude Pepper, testified on behalf of USUHS and strongly endorsed the continuation of the University; the Members of the House of Representatives voted to retain USUHS with of vote of 264 to 142. The Honorable David Packard, first chairman of the USUHS Board of Regents, succinctly described Mike Rexroad's vital role in two letters to Rexroad dated July 12, 1976 and May 10, 1977: "It is no exaggeration to say that without your assistance USUHS could and would not have been established (1976). Without your help, it is questionable whether the school would have continued to enjoy the support of the Congress (1977).” From 1993 through 1997, Rexroad was once more called upon to raise congressional support for the University. In May of 1996, the Members of the House of Representatives once more voted on the retention of USUHS. This time, with the tremendous support and coordination of the military retired associations, the vote to retain USUHS was 343 to 82. By November of 1997, the Secretary of Defense determined that USUHS should remain open; on December 11, 2000, the Honorable William S. Cohen, the Secretary of Defense, awarded the Joint Meritorious Unit Award to the University; and, on March 22, 2001, the Honorable Donald Rumsfeld, Secretary of Defense, wrote the following to the Chair of the USUHS Board of Regents:

> The Department takes great pride in the fact that the USUHS graduates have become the backbone for our Military Health System. The training they receive in combat and peacetime medicine is essential to providing superior force health protection and improving the quality of life for our service members, retirees, and families. All of us in the Office of the Secretary of Defense place great emphasis on the retention of quality physicians in the military. The USUHS ensures those goals are met.” In addition, the Association of American Medical Colleges Reporter pointed out in the December issues of both 1998 and 2001, that USUHS is the one medical school where students have been, and continue to be, trained in the medical response to weapons of mass destruction (WMD). “Today, while the other medical schools are in the process of initiating programs and training in WMD, USUHS has been providing such education since its first School of Medicine (SOM) Class of 1980; 3,265 SOM graduates and 157 advanced practice nurses have now had this training. The USUHS SOM graduates currently represent 22 percent of the physicians on active duty in the Military Health System; thus ensuring continuity and leadership for military medicine.

During his many years of support for USUHS, Mike Rexroad constantly acted upon his personal knowledge of what can go wrong when continuity and leadership are not ensured for military medicine. USUHS became a part of his overall commitment to the preservation of the hard-won knowledge of the battlefield, the absolute priorities of preventive medicine, the tremendous achievements of uniformed research, and the need for an academic home for military medicine. At the USUHS Commencement Exercises on May 15, 1998, Mike Rexroad received the Doctor of Medical Humanities, Honoris Causa; the honorary degree recognized his unfailing, consistent, and dynamic advocacy for USUHS and military medicine. Through his 87th year, there was no request from his military medical family for which he did not volunteer his time and effort; he played an essential role in making continuity and leadership a reality for military medicine.

Brigadier General Vorley (Mike) Rexroad USAF, (Retired), was an extremely gifted, resourceful, and dedicated American. The citizens of our Nation have immeasurably benefitted by his splendid record of accomplishments and commitment to military medicine. I extend my deepest sympathy to his wife, Ruth Cutlip Rexroad, formerly of New Mexico; his son, Michael David Rexroad, a state prosecuting attorney in Howard County, Maryland; his daughter-in-law, Linda; and, his two grandchildren, Michael and Laurie, on their great loss.

THE GREAT LAKES LEGACY ACT

Mr. LEVIN. Madam President, I want to thank all of my colleagues in the Senate, Senator DEWINE, Senator STABENOW, Senator VOINOVICH, Senator CLINTON, Senator DURBIN, Senator DAYTON, and Senator WELLSTONE, as well as Representative VERN EHLERS for their leadership in passing the Great Lakes Legacy Act which is now on its way to the President. I want to thank Chairman JEFFORDS and the Environment and Public Works Committee. I also want to thank the Lake Michigan Federation, Sierra Club, the Northeast-Midwest Institute, the Great Lakes Commission, and the Council of Great Lakes Industry for their contributions to the successes of this bill.

I am particularly pleased that H.R. 1070 includes several of the legislative improvements contained in my companion legislation, S. 2544. As a result of the Senate amendments, H.R. 1070 now authorizes the Great Lakes National Program Office to carry out a public information program to provide information about the contaminated sediments and activities to cleanup the site. The Great Lakes National Program Office is reauthorized and may receive up to $25 million per year which is $14 million higher than the expired authorization. H.R. 1070 also responds to the GAO report released in May by requiring the EPA to submit a report to Congress on the actions, time periods, and resources which are necessary to fulfill the duties of the EPA relating to oversight of Remedial Action Plans at Areas of Concern. Lastly, the legislation has the flexibility to allow both cash and in-kind contributions to be used to meet the non-Federal cost-share requirement.

The Great Lakes Legacy Act is needed to address a problem that has been plaguing the Great Lakes for many decades. The region's industrial past unfortunately created a legacy of contaminated sediments, PCBs, heavy metals and other toxic substances in the lakes and tributaries that feed into the Great Lakes.

These pollutants, which are degrading the health of both humans and wildlife, settled at the bottom of the tributaries and harbors where they were dumped and contaminated the sediment or material on the bottom. Contaminated sediment is a major environmental problem in our region, and it is critical that some of these concentrated deposits of contaminated sediment be addressed now, because the longer we wait to cleanup the contamination, the longer we will see fish advisories in the Great Lakes. Cleanup delays also mean a greater likelihood that the sediment will be transported into the open waters of the Great Lakes where cleanup is virtually impossible.

We have taken steps under the Great Lakes Water Quality Agreement to limit the amount of toxic pollutants entering the Great Lakes ecosystem, and some progress has been made in removing contaminated sediments from our regional waters. Based on information that was gathered in 1999 by the EPA, over 1.7 million cubic yards of contaminated sediment have been removed or treated at a cost of over $300 million at the 32 Areas of Concern in the Great Lakes.

However, the General Accounting Office and others have reported that cleanup progress has been slow. With this legislation, EPA can aggressively deal with contaminants that were deposited into the sediments decades ago.

This bill authorizes up to $50 million per year to EPA's Great Lakes National Program Office in order to cleanup contaminated Areas of Concern. This includes monitoring and evaluating sites, cleaning up contaminated sediment or preventing further contamination. Projects identified in a Remedial Action Plan would be given priority for this funding. The EPA is required to submit to Congress a report on the actions, time and resources necessary to fulfill the duties of the EPA relating to oversight of Remedial Action Plans at Areas of Concern. Under this legislation, funding will be made available for innovative research to improve our cleanup technology. Additionally, this legislation allows EPA to give money to local groups, States, or tribal groups for outreach and education efforts.

Again, I am very pleased that the Congress has taken this critical step for the Great Lakes, and I look forward to the President signing this legislation.

Mr. DEWINE. Madam President, I am pleased to join my colleague from Michigan and fellow Great Lakes Task Force Co-Chair, Senator LEVIN, in announcing that the Great Lakes Legacy has passed Congress. This legislation is vital in our efforts to address the slow progress in restoring the Areas of Concern, AOC, throughout the Great Lakes.

In 1987, the United States and Canada made a commitment under the Great Lakes Water Quality Agreement to cleanup AOCs, but as the General Accounting Office and others have reported, cleanup has been slow. The

EPA reported in 1999 that over 1.7 million cubic yards of contaminated sediment have been removed or treated at 32 Areas of Concern in the Great Lakes, all at a cost of over $300 million. However, none of the 26 AOCs that are entirely in the United States have been restored to their beneficial use, approximately half of the sites have abandoned the remedial action planning process agreed to under the Great Lakes Water Quality Agreement, and the EPA does not know how long cleanup will take nor how expensive cleanup will be.

The cleanup of these Areas of Concern is important both to human health, as well as the health of the ecosystem. With the legislation Congress recently passed, the EPA can aggressively deal with contaminants that were deposited into the sediments decades ago. Our bill authorizes up to $50 million per year to the EPA's Great Lakes National Program Office to cleanup contaminated AOCs. This includes monitoring and evaluating sites, cleaning up contaminated sediment, or preventing further contamination.

Under our bill, the EPA will be required to submit to Congress a report on the actions, time, and resources necessary to fulfill the duties of the EPA relating to oversight of Remedial Action Plans at Areas of Concern. Furthermore, funding will be made available for innovative research to improve our cleanup technology. Additionally, this legislation allows EPA to give money to local organizations, States, or tribal groups for outreach and education efforts.

In closing, I want to thank Senators LEVIN, VOINOVICH, STABENOW, CLINTON, DURBIN, DAYTON, and WELLSTONE, as well as Representative VERN EHLERS and the other co-sponsors in the House for their leadership. I also wish to thank the Lake Michigan Federation, the Sierra Club, the Northeast-Midwest Institute, the Great Lakes Commission, and the Council of Great Lakes Industry for their contributions to drafting and passing this bill. It will have a lasting, positive impact on the future of our Great Lakes.

REMEDIAL ALTERNATIVES

Mr. LEVIN. Madam President, I want to thank my friend and chairman of the Environment and Public Works Committee for his leadership on restoring some of the Nation's great waters. H.R. 1070, the Great Lakes Legacy Act, will allow the TPA to fund cleanup of contaminated sediments at Areas of Concern in the Great Lakes. Because this contamination poses a significant human health risk, it is important that before cleanup may begin at an Area of Concern using funds under this act, there must be consideration of remedial alternatives and their short and long-term effects on human health and the environment.

Mr. JEFFORDS. I agree with my colleague from Michigan, and the bill requires the EPA to review the short-term and long-term effects of the proposed cleanup strategy before the project may be carried out.

Mr. LEVIN. Is my colleague aware that the current Remedial Action Plan process and the PA's Contaminated Sediment Management Strategy both consider an evaluation of the heath risks posed by contaminated sites and the cleanup alternatives and that many Remedial Action Plans already include such an evaluation of the health risks?

Mr. JEFFORDS. I am aware that the current Remedial Action Plan and other processes consider an evaluation of the effects of cleanup alternatives and that many Remedial Action Plans already include such an evaluation. Additional evaluation is not required when the Remedial Action Plan has already evaluated the short and long term effects of remedial alternatives on human health and the environment.

Mr. LEVIN. Would my colleague agree that the evaluation that must be conducted under this bill is not meant to be a redundant task upon the EPA?

Mr. JEFFORDS. I agree.

BAKERS CREEK TRAGEDY

Mr. SPECTER. Madam President, I have sought recognition today to honor the forty U.S. soldiers who tragically perished in Bakers Creek, Queensland, Australia on June 14, 1943. Their deaths came as a result of the crash of a B–17C Flying Fortress, which proved to be the worst aviation disaster of the Southwest Pacific theater during World War II. More soldiers died on that plane from my home State of Pennsylvania—six—than from any other State. These six were as follows: Pvt. James E. Finney; T/Sgt. Alfred H. Frezza; Sgt. Donald B. Kyper; Pfc. Frank S. Penksa; Sgt. Anthony Rudnick; and Cpl. Raymond H. Smith.

I understand that members of the Bakers Creek Memorial Association, USA, based in Orrtanna, PA, have located the families of Pvt. Finney, T/Sgt. Frezza, and Sgt. Kyper. However, the Association continues to search for the relatives of Pfc. Penska, Sgt. Rudnick, and Cpl. Smith to notify them of the specifics surrounding their loved ones' deaths. Only recently has the Air Force officially recognized this tragedy.

The aircraft that crashed had been operated by the United States Army Air Force 46th Transport Carrier Squadron, 317th Troop Carrier Group, 5th Air Force Division. The plane was one of the many B–17 bomber aircraft that had been removed from combat status and converted into transport aircraft. Shortly after takeoff from the Mackay airport in Bakers Creek, the B–17 lost altitude, fell to the earth in a slow and steady bank, and crashed in a ball of flames. The forty lost onboard included six crew members and thirty-five soldiers returning to their posts after being on leave in Australia.

Next June will mark the 60th anniversary of the Bakers Creek crash. I understand that Major General, Retired, Robert H. Appleby, former Commander of the Pennsylvania Army National Guard, plans to lead a contingent of victims' families to Australia in observance of the anniversary. I applaud the members of the Bakers Creek Memorial Association, USA, including General Appleby and Mr. Robert S. Cutler, for undertaking this and other initiatives which keep the memory of the fallen heroes of Bakers Creek alive and well.

THANKING AREA LAW ENFORCEMENT AGENCIES

Mr. SARBANES. Madam President, I rise today to commend the Maryland, Virginia, and Federal law enforcement agencies on the capture and arrest of the snipers who terrorized our region. For the citizens of Maryland, Virginia, and the District of Columbia, life slowly returned to normal after the 23 days of sniper shootings in October, but life will never return to normal for the families of the victims who were killed, and those who are still recovering from their injuries. I would like to extend my sympathies to those families and to say that our hearts go out to them in this difficult time.

Thanks to the hard work and dedication of the police forces in our region, the sniper attacks were stopped before they could do more harm. An unprecedented level of cooperation and coordination among the different jurisdictions involved, as well as among the Federal, State, and local law enforcement agencies, led to the capture of the two individuals now charged in the sniper attacks. The task force created during the sniper attacks did an excellent and effective job of sharing information, working together, and putting the safety of our citizens first. I thank all of the men and women who worked so tirelessly to apprehend the suspects and commend them for a job well done.

The Federal Government also played an important role in the investigation. The FBI provided support to State and local police forces in conducting the manhunt, the ATF helped track and research the guns and bullets used by the snipers, and the Department of Defense provided planes to monitor the region from the air. On October 8, I wrote a letter to Attorney General Ashcroft stating my support for Montgomery County Police Chief Charles Moose's request for Federal aid in the investigation, and I am extremely grateful that Federal aid was granted.

While it is impossible to thank all of those involved, I would like to acknowledge by name the resolve, extraordinary dedication and performance of Montgomery County, Maryland

Police Chief Charles Moose and County Executive Doug Duncan, FBI Special Agent Gary Bald, and ATF agent Mike Bouchard, who became the public face of the crisis and the investigation for people all across the country. Their leadership, calm determination, and obvious skill in the most trying and tragic of circumstances, without precedent in our area, helped inform and assure the public that everything possible was being done.

Now that this multistate manhunt is over, the States involved must deal with the financial costs of the investigation. In order to assist area States in paying for these costs, I joined with Senators MIKULSKI, WARNER and ALLEN in a letter to the Department of Justice requesting Federal reimbursement for the enormous costs of the investigation. I am confident that these suspects will be brought to justice and that this may provide some small measure of comfort for those who lost loved ones in these attacks.

The 23 days in October were a trying time for our area and the uncertainty of the sniper attacks unnerved residents of the region. The weight of this concern has been lifted, thanks to the hard work of our area law enforcement agencies. But for the families of those killed in the attacks, their loss will never be remedied and for them the weight will never be lifted.

We must move forward and reflect on the lessons learned from these tragic attacks. All jurisdictions involved, as well as the expanding number of jurisdictions in which these two suspects allegedly committed crimes, must now focus on preparedness. We have learned how effective the coordination of law enforcement agencies can be, and we must plan for such coordination in the future. And we in Congress can take steps to help States improve preparedness, coordinate law enforcement agencies, and use tools such as ballistic fingerprinting to prevent this from ever happening again.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred June 5, 2001 in El Monte, CA. Three Latino men were accused of a hate crime after beating an African-American teen at a party and using racial epithets. The victim, who was dancing with a Latina woman at the time of the attack, suffered cuts to the mouth; a friend who came to his aid received abrasions to the face. One of the assailants fired a gun into the air before fleeing the party.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

RECOGNIZING THE 227TH BIRTHDAY OF THE UNITED STATES MARINE CORPS

Mr. LUGAR. Madam President, on November 10th, we honored the 227th birthday of the U.S. Marine Corps. For more than two centuries, the U.S. Marine Corps has exemplified the highest virtues of commitment, service, and sacrifice. From the Barbary Coast to the far reaches of the Pacific, in the jungles of Vietnam and across the vast expanse of the Arabian desert, America's Marines have lived up to their motto: "Semper Fidelis."

Through the long march of our history, the U.S. Marine Corps has built a proud tradition. The smallest of the four service branches, they have typically been the "tip of the spear" of American military might. U.S. Marines have been among the first troops dispatched to international crises over the past century. Always apace with world dynamics, they have expanded their expertise to encompass the entire spectrum of conflict from humanitarian assistance to major theater war. Amphibious Forces have demonstrated—in times of crisis and frequently on very short notice—that they possess a capable and formidable "package" of ships and Marines to meet the threat across the full spectrum of modern conflict.

Our Marines have protected America's interests, struggled against foes that meant harm to our national security and that of our allies, and remained at the forefront of our Nation's efforts to maintain global peace and stability. From Lebanon to Bangladesh to Somalia, Marines restored and maintained order, aided people in distress, provided protection for the weak, and upheld the values that have come to define our country on the world stage. Many also made the ultimate sacrifice in the service of their country, and we honor their memory.

America's Amphibious Forces remain the force of choice in responding to crises in this uncertain world. When, in the early part of this year, this nation resolved to liberate Afghanistan from an oppressive regime and take action upon terrorist aggressors, it was again the United States Marine Corps who got the call—and responded valiantly. Despite Afghanistan's isolation, the first sustained U.S. military operation ashore was conducted by the 15th and 26th Marine Expeditionary Units, an expeditionary force that was deployed, organized and launched from the USS *Peleliu* and USS *Bataan* Amphibious Ready Groups. These two MEU's seized and established the first in-country staging base (Rhino, nearly 400 nautical miles inland), secured the Kandahar airport (another 200 miles) and established a base from which quick-reaction operations could be conducted to further track down Taliban and al-Qaida forces.

Amphibious ships with embarked Marine forces are one of the most formidable power projection capabilities in the world and represent our Nation's only sustainable forcible-entry capability. In peace and in war, their value has been ever-present.

Always faithful, our Marines are men and women of greatness. Tough and dedicated, they are truly the best America has to offer. For 227 years, they have stood for all that is great about this Nation. Their values, sense of courage and steadfast character remain timeless and valuable commodities for an age in which our Nation faces considerable new threats.

Today, not unlike 227 years ago, the importance of our Marine Corps is immutable. The razor-sharp readiness of the U.S. Marine Corps reassures our friends and warns our enemies, promising swift action, decisive victories and a firm adherence to tradition.

As our U.S. Marine Corps celebrates another anniversary of its proud birth on November 10th, 1775 in Philadelphia's Tun Tavern, I stand with my colleagues in the Senate in saluting all who have worn the eagle, globe and anchor, and to their families who also serve by supporting them.

RECOGNIZING OUR NATION'S VETERANS

Mr. ROCKEFELLER. Madam President, we convene again today after a national holiday set aside to honor one of America's greatest treasures, its veterans.

This important holiday, originally called Armistice Day, began as a commemoration of the historic ending of World War I at the eleventh hour of the eleventh day of the eleventh month of 1918. Armistice Day became primarily a day of remembrance for those who served during World War I; indeed, Americans hoped World War I would be "the war to end all wars."

Then, during World War II, 16 million Americans again answered the call to service on behalf of our Nation. After the war ended, Americans saw the need to honor all those who served in the United States Armed Forces, during times of war and peace, and through all periods of our history. On June 1, 1954, Armistice Day became Veterans Day.

I know that many of my colleagues joined me yesterday in taking the Veterans Day holiday to celebrate the soldiers, sailors, marines and airmen who wore this Nation's uniform and served honorably. That is a start, but we must do more.

As the crisis with Iraq heightens, it is especially appropriate to make certain that we keep the promise of care and support made to young men and women who made great sacrifices on behalf of this Nation. We must remember the pledge of Abraham Lincoln, "to care for him who shall have borne the battle, and for his widow and his orphan." As Chairman of the Committee on Veterans' Affairs, I have fought hard for improvements in benefits and services for our Nation's veterans. We have made progress in fulfilling Abraham Lincoln's pledge this year, but we must never waiver in our commitment to provide our veterans with benefits and services that reflect their changing needs.

For example, our Nation's rapidly aging veterans have a critical need for long-term care. There can be no doubt that such care requires great resources, but it is our responsibility to answer the call to provide a continuum of quality health care for veterans, as they once answered the call to preserve our freedoms.

I am honored to represent the State of West Virginia, which has one of the highest veteran populations per capita of any State. The service of the over 202,000 living West Virginia veterans inspires me each day in my role as Chairman of the Committee on Veterans' Affairs, where I have the privilege to serve not only the veterans of West Virginia, but those living throughout this Nation.

America's 25 million living veterans deserve to be honored and respected every day, and not merely on the national holiday set aside for the commemoration of their service. It would be shameful if veterans were made to feel forgotten every day except for this one day each year. There should be no ambivalence toward those who have served our Nation in the armed forces.

I urge my colleagues to join me, not only to remember the sacrifices of our veterans, but to renew our commitment to them and to keep the promises that we made to them in the spirit of Abraham Lincoln. The men and women who served this Nation deserve no less.

Mrs. HUTCHISON. Madam President, I rise today to pay tribute to our Nation's devoted Veterans. It is these men and women, past and present, who embody the ideals of freedom, liberty and justice, which are the foundation of our great Nation.

Veterans Day is a time to recognize those Americans who gave what President Abraham Lincoln once called "the last full measure of devotion." While we reflect on the deeds of these heroes and stand grateful for their service and sacrifice, we must also ponder the ongoing actions of our soldiers, sailors, airmen, and marines.

Ours is a great Nation of free people who call our finest men and women to stand guard and protect the liberty that all Americans enjoy. To this end, all of those who have donned the uniform of our Armed Forces have consciously given a piece of themselves. Whether during peacetime or a time of conflict; at home or abroad; in the active component, the reserves or the national guard; their service has been characterized by selflessness and a sense of a greater purpose.

Throughout our history, they have answered the call. Whether that call to service sent them to a distant land full of turmoil, or to the flight line at a base in the Midwest, they have served with dignity and honor.

I am proud that my home State of Texas has a rich tradition of military leadership. Our young men and women have signed up to serve their Nation and are stationed throughout the United States and in all corners of the globe. More Marines join the Corps from Texas per capita than any other State. And we are home to more Army and Air Force bases than any State.

As these men and women have sacrificed, so too has a far less recognized segment of our Veteran population—their spouses. For each displaced serviceman, there is often a husband or wife left behind. These silent patriots have kissed their loved ones goodbye and sent them off to serve this country. They diligently run their households while their mate provides security at an airport in another part of the country or serves on a foreign base halfway around the globe. They have often put their career on hold and patiently moved the family to the next in a long series of new bases and new communities. Whatever accolades we bestow upon our Veterans, we must also remember the parallel sacrifice of their heroic spouses.

Today our troops are answering the call to duty in locations around the world. The war on terrorism is being waged by America's finest, from Afghanistan to the Philippines. Soldiers in South Korea continue to keep watch on the communist regime to their North. Air Force pilots continue to patrol the skies over Iraq as the world contemplates the future of the region. Reservists and National Guardsmen continue to serve, at the expense of their civilian vocations, on extended active duty for a year or more. Some of our military patriots continue to serve well beyond the date they were to leave active service because the Nation continues to need their expertise.

On this Veterans Day, we express our heartfelt gratitude to our Nation's veterans and to their spouses. We have incurred a debt to them that can never be fully repaid. Today we remember those who have gone before and honor tomorrow's veterans who serve our country today.

SUPPORTING LEGISLATION TO PROVIDE MORE BANKRUPTCY JUDGES FOR MARYLAND

Mr. SARBANES. Madam President, I rise today in strong support of legislation to provide more bankruptcy judges for several States, including three additional bankruptcy judgeships for my own State of Maryland. This legislation was introduced by Senator BIDEN and is being cosponsored by Senators CARPER, EDWARDS, FEINSTEIN, and SCHUMER.

This bill represents a significant step forward in our efforts to strengthen Maryland's Federal bankruptcy court. I have long been involved in this effort, and I commend Senator BIDEN for his efforts in this area. We have been working for several years to get these additional judgeships approved, yet no legislation has been passed that would authorize them. With such inaction, the problem facing Maryland's sitting bankruptcy judges has grown, and Maryland has remained without the additional judgeships it so desperately needs to make our bankruptcy system work.

Maryland's four sitting bankruptcy judges continue to show remarkable dedication given the extraordinary burdens placed upon them. However, additional judgeships remain essential to the fair and timely administration of the bankruptcy code for all of the businesses and individuals that come before the Maryland District.

Since 1992, we have been requesting additional judgeships for the District of Maryland; thus far none has been approved. In 1992, there were approximately 15,000 bankruptcy filings in the District of Maryland. From 1998 to 2001, there were over 30,000 bankruptcy filings per year in Maryland. The caseload has doubled for the sitting bankruptcy judges in the past 10 years, and they still do their work with only 4 sitting bankruptcy judges. This dire need for additional judgeships in Maryland has yet to be remedied by the Congress.

This legislation provides three additional judgeships for Maryland. These three additional judgeships would help reduce the overwhelming workload of the four sitting bankruptcy judges. However, a September 2002 recommendation from the U.S. Judicial Conference calls for the creation of four additional judgeships in our State. And while the District of Maryland will be pleased to get three additional judges, the recommendation of the Judicial Conference for four additional bankruptcy judgeships demonstrates just how critical the situation is. As of June 30, 2002, the national weighted filing average for bankruptcy judges was

1,641. The weighted filing per judge for Maryland's 4 bankruptcy judges was 3,030 almost twice the national average.

Mr. President, I urge my colleagues to support S. 3074, which would provide much needed help on the bankruptcy courts in Maryland and across the Nation.

INTENT OF TAA HEALTH INSURANCE TAX CREDIT PROVISIONS

Mr. BAUCUS. Madam President, as I have said on numerous occasions, I am extremely pleased with the health care provisions in the Trade Act of 2002. The advanceable, refundable 65 percent tax credit toward the purchase of health insurance premiums for TAA workers and PBGC retirees represents a monumental precedent. It is an important precedent for Democrats because, for the first time, the federal government will extend assistance for health coverage to laid-off workers. And the provisions are also important for Republicans and others who believe that the best way to help the uninsured is through tax credits for the purchase of health insurance. This program is an important test case, if you will, to determine whether this approach is viable and workable.

It is the viability and workability of the tax credit that I wish to address today.

Our negotiations on the Trade Act health credits were really a continuation of discussions that started around this time last year—during the debate over economic stimulus. Democrats had proposed including a 75 percent subsidy for COBRA premiums coupled with Medicaid expansions as part of our economic stimulus package. Republicans initially proposed a limited block grant for health care assistance and later altered their package to include individual tax credits for health insurance.

It goes without saying that Republicans preferred a tax credit approach rather than a subsidy approach, and the Democrats expressed a strong preference for group-based insurance over individual insurance.

The resulting compromise that was reached as part of the trade deal truly was a delicately-crafted bipartisan effort. Democrats moved from a premium subsidy to a tax credit, dropped the Medicaid expansion, and yielded on the issue of requiring those eligible for COBRA to purchase only COBRA coverage. Republicans got their tax credit, but it does not allow new individual market policies to be purchased with the tax credit except for those who had such coverage while they were working.

The health insurance options available to TAA workers and PBGC retirees include COBRA and state-based COBRA, as well as:

state high risk pools;

state employee benefit plans—or comparable programs established by a state;

direct purchasing arrangements between states and insurers;

a state-operated health plan;

coverage purchased through a private purchasing pool; and

coverage under a spouse's employer group plan.

In other words, eligible workers and retirees will be given a wide range of health insurance choices—depending on which options their state has adopted. Having a number of choices is important to Republicans and will be appreciated by TAA workers and PBGC retirees as well.

I understand that some might try to read the legislative language regarding these options in a way that would allow broader access to insurance purchased in the individual market. That was not our intention. As I mentioned above, the Senate bill and conference report explicitly agreed to include individual health insurance as qualified health insurance, but only for individuals who had such coverage for one month prior to separation from employment. We did not intend to allow states to enter into arrangements with individual insurers through the state-based coverage options.

The second point I would like to make addresses the insurance protection provisions—guaranteed issue, a bar against pre-existing condition limitations, and premium and benefit protections. This language was part of the Senate bill, only we applied the protections to all of the state pooling options.

The conference report required workers to have had three months of previous health care coverage in order for these important protections to apply. The language is vague, however, and does not specify when the three months of aggregate coverage had to occur. I'd like to clarify here that this coverage should occur for three months prior to employment separation necessary to attain eligibility for assistance under this law.

A more narrow reading of the three-month coverage requirement would disqualify those who have had lapses of coverage between the loss of job-based or retiree coverage and application or eligibility determination for assistance under this program. After all, the goal of the health provisions was to ensure access to coverage and to prevent the loss of health coverage.

On that same point, the language on premium protections could be read to allow insurers to charge different rates to individuals participating in the TAA program. That was not our intention. The Senate language was intended to mean that TAA workers, as a group, should be charged the same premiums when states choose to enroll these individuals in existing insurance arrangements—for example in state employee health plans. Individual workers should not be charged higher premiums based on their health status in these plans.

And, if a State elects to create a new insurance pooling arrangement—in which case it is not possible to compare premiums for TAA workers to anyone else—we had intended that States would not allow premium rating on an individual basis but rather as a group.

To make my views known to the agencies that will administer the new tax credit, last week I sent letters to the Treasury Department, the Department of Labor, and the Department of Health and Human services regarding congressional intent in the TAA health insurance tax credit.

It is my sincere hope that we can bring the same willingness to work together and compromise to other important health care issues.

I ask unanimous consent that letters I previously referred to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

October 17, 2002.

PAUL H. O'NEILL,
Secretary, U.S. Department of Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC.

DEAR SECRETARY O'NEILL: In a few short weeks, the health insurance assistance provisions of the Trade Act of 2002 will take effect. The passage and enactment of the historical Act was the result of a delicately-crafted bipartisan effort. I was proud to play a role in this significant achievement, and I will continue to work with you to ensure its successful implementation and operation. To that end, I am writing to ensure that the Act's critically-important health insurance protections are implemented consistent with the intent and the letter of the law.

As you know, for many of the supporters of the Trade Act, the health assistance was the single most important factor in overcoming concerns about the effects of enhanced trade negotiating authority on American jobs. These provisions were designed to assure American workers that the potential loss of work does not equal the loss of health coverage. Protecting health coverage is especially important now. We recently learned that an additional 1.4 million Americans became uninsured in 2001. Successful implementation of this new law can make a difference in preventing additional workers and their families from losing health coverage.

As you implement this law, there are three issues that I particularly want to emphasize. First, members of the Conference Committee explicitly agreed to include individual health insurance as qualified health insurance, but only for those qualifying individuals who had such coverage for one month prior to separation from employment (see section (35)(e)(1)(J)). We did not intend to allow states to enter into arrangements with individual insurers through the state-based coverage options, and I believe that this objective is clear in the conference report. Any other interpretation of the law would be a violation of the intent of its authors.

Second, for those without access to employer-based coverage, we included strong consumer protections. To prevent discriminatory premiums and substandard benefits, we linked the premiums and benefits offered to qualifying individuals to those of "similarly situated individuals" (see sections (35)(e)(2)(A)(iii and iv)). In plain English, this means that individuals eligible for this tax credit should neither be charged premiums or offered benefits that apply only to this group nor pay higher premiums based on their own health status or history.

In addition, the law provides guaranteed issue to qualifying individuals (see section (35)(e)(2)(A)(i)). "Guaranteed issue" has the same meaning in this law that it has in state regulation of insurance. Specifically, to be qualified health insurance, each plan must ensure access to each qualified individual who meets the other criteria for this coverage. It does not mean that an issuer of health insurance can accept some but not all qualifying individuals so long as there is an alternative that accepts the denied individuals (e.g., a high-risk pool).

Third, since the goal of this provision is preventing loss of health coverage, the Conference Committee agreed that eligible individuals must also have been previously insured for three months (see section (35)(e)(3)(B)). The law does not specify when this aggregate of three months of creditable coverage had to occur. To clarify, we intended that this coverage should occur for three months prior to employment separation necessary to attain eligibility for assistance under this law (e.g., termination due to trade in the case of displaced workers eligible for trade adjustment assistance and retirement in the case of Pension Benefit Guaranty Corporation (PBGC) eligible individuals). The three-month coverage requirement should not disqualify those who had or have lapses of coverage between the loss of job-based or retiree coverage and application or eligibility determination for assistance to this program. Indeed, these individuals have a special need for access to affordable health insurance and should not be penalized due to delays in passing, implementing, and operating this law.

I make these clarifications to underscore their importance in successfully implementing the health provisions of the Trade Act. I know that the President shares our mutual commitment to make this an effective program that preserves health insurance for this set of American workers and retirees. I look forward toward a continued collaboration in implementing, monitoring, and, if successful, expanding these important health policies.

Sincerely,

MAX BAUCUS.

OCTOBER 17, 2002.

ELAINE L. CHAO,
Secretary, U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC.

DEAR SECRETARY CHAO: In a few short weeks, the health insurance assistance provisions of the Trade Act of 2002 will take effect. The passage and enactment of the historical Act was the result of a delicately-crafted bipartisan effort. I was proud to play a role in this significant achievement, and I will continue to work with you to ensure its successful implementation and operation. To that end, I am writing to ensure that the Act's critically-important health insurance protections are implemented consistent with the intent and the letter of the law.

As you know, for many of the supporters of the Trade Act, the health assistance was the single most important factor in overcoming concerns about the effects of enhanced trade negotiating authority on American jobs. These provisions were designed to assure American workers that the potential loss of work does not equal the loss of health coverage. Protecting health coverage is especially important now. We recently learned that an additional 1.4 million Americans became uninsured in 2001. Successful implementation of this new law can make a difference in preventing additional workers and their families from losing health coverage.

As you implement this law, there are three issues that I particularly want to emphasize. First, members of the Conference Committee explicitly agreed to include individual health insurance as qualified health insurance, but only for those qualifying individuals who had such coverage for one month prior to separation from employment (see section (35)(e)(1)(J)). We did not intend to allow states to enter into arrangements with individual insurers through the state-based coverage options, and I believe that this objective is clear in the conference report. Any other interpretation of the law would be a violation of the intent of its authors.

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Sincerely,

MAX BAUCUS.

OCTOBER 17, 2002.

TOMMY G. THOMPSON,
Secretary, U.S. Department of Health and Human Services, Washington, DC.

DEAR SECRETARY THOMPSON: In a few short weeks, the health insurance assistance provisions of the Trade Act of 2002 will take effect. The passage and enactment of the historical Act was the result of a delicately-crafted bipartisan effort. I was proud to play a role in this significant achievement, and I will continue to work with you to ensure its successful implementation and operation. To that end, I am writing to ensure that the Act's critically-important health insurance protections are implemented consistent with the intent and the letter of the law.

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As you implement this law, there are three issues that I particularly want to emphasize. First, members of the Conference Committee explicitly agreed to include individual health insurance as qualified health insurance, but only for those qualifying individuals who had such coverage for one month prior to separation from employment (see section (35)(e)(1)(J)). We did not intend to allow states to enter into arrangements with individual insurers through the state-based coverage options, and I believe that this objective is clear in the conference report. Any other interpretation of the law would be a violation of the intent of its authors.

Second, for those without access to employer-based coverage, we included strong consumer protections. To prevent discriminatory premiums and substandard benefits, we linked the premiums and benefits offered to qualifying individuals to those of "similarly situated individuals" (see sections (35)(e)(2)(A)(iii and iv)). In plain English, this means that individuals eligible for this tax credit should neither be charged premiums or offered benefits that apply only to this group nor pay higher premiums based on their own health status or history.

In addition, the law provides guaranteed issue to qualifying individuals (see section (35)(e)(2)(A)(i)). "Guaranteed issue" has the same meaning in this law that is has in state regulation of insurance. Specifically, to be qualified health insurance, each plan must ensure access to each qualified individual who meets the other criteria for this coverage. It does not mean that an issuer of health insurance can accept some but not all qualifying individuals so long as there is an alternative that accepts the denied individuals (e.g., a high-risk pool).

Third, since the goal of this provision is preventing loss of health coverage, the Conference Committee agreed that eligible individuals must also have been previously insured for three months (see section (35)(e)(3)(B)). The law does not specify when this aggregate of three months of creditable coverage had to occur. To clarify, we intended that this coverage should occur for three months prior to employment separation necessary to attain eligibility for assistance under this law (e.g., termination due to trade in the case of displaced workers eligible for trade adjustment assistance and retirement in the case of Pension Benefit Guaranty Corporation (PBGC) eligible individuals). The three-month coverage requirement should not disqualify those who had or have lapses of coverage between the loss of job-based or retiree coverage and application or eligibility determination for assistance to this program. Indeed, these individuals have a special need for access to affordable health insurance and should not be penalized due to delays in passing, implementing, and operating this law.

I make these clarifications to underscore their importance in successfully implementing the health provisions of the Trade Act. I know that the President shares our mutual commitment to make this an effective program that preserves health insurance for this set of American workers and retirees. I look forward toward a continued collaboration in implementing, monitoring, and, if successful, expanding these important health policies.

Sincerely,

MAX BAUCUS.

COMPLIANCE OF IMMIGRATION LAWS PROVISION OF THE CYBER SECURITY RESEARCH AND DEVELOPMENT ACT

Mr. HOLLINGS. Madam President, I would like to engage in a brief colloquy with the ranking member of the Judiciary Committee, Senator ORRIN HATCH, regarding H.R. 3394, the Cyber Security Research and Development Act, which was passed by the Senate in October and is set for consideration by the House of Representatives today. Section 16 of the bill is intended to ensure that Federal grants and fellowships for cyber security research and development are not awarded to individuals violating the terms of his or her immigration status, individuals from States sponsoring terrorism, or institutions that are not in compliance with appropriate record keeping requirements for immigrant students.

Mr. HATCH. Section 16 of H.R. 3394 would ensure that the authorized funding in the bill for research purposes does not support individuals in violation of U.S. immigration laws. The intent of this section is to prevent any funding, directly or indirectly, of any individual who may pose a threat to our national security, or of any higher education institution, nonprofit institution, or consortia thereof that is not in compliance with the immigration laws. This section does not provide any new or additional authority to the Immigration and Naturalization Service or any other federal agency.

Mr. HOLLINGS. The ranking member is correct. Our intent with this provision is not to create new immigration laws or grant new authority. Rather, this provision merely makes compliance with existing immigration laws a requirement for grant eligibility. We also recognize that this section cannot take effect until regulations are issued under 8 U.S.C. 1372(c)(1).

Mr. HATCH. I agree with the chairman of the Commerce Committee. I also want to thank him, Senator ALLEN and Senator WYDEN for working with me to include these provisions in the act.

Mr. HOLLINGS. I thank Senator HATCH. Section 16 will ensure that our national security is protected while increasing critical research and development cyber-security programs.

ADDITIONAL STATEMENTS

IN HONOR OF SAFE KIDS

• Mr. HOLLINGS. Madam President, I want to commend the Children's Hospital, of the Greenville, SC, Hospital System, for being honored by the National SAFE KIDS campaign as the best of the best in the Nation.

Today, the No. 1 killer of children ages 14 and under is unintentional injury. Whether it is caused by children not wearing a helmet when riding a bike, or accidentally swallowing poison, or not buckling seat belts, or playing with matches—the National SAFE KIDS movement is taking every measure possible to educate American families to prevent such injuries.

There are some 370 local SAFE KIDS coalitions in America and abroad working on this issue, and for Greenville to be named the 2002 SAFE KIDS Coalition of the Year is quite an honor. Greenville also was recognized for having the best national SAFE KIDS week in the Nation. Each year, Greenville hosts the event at a local mall, bringing together 800 volunteers to reach 5,000 children.

I thank Greenville's Linda Brees, Musette Stern, Kathy Harper, and their network of community volunteers for making the safety of children a No. 1 priority in my home state.•

IN MEMORY OF RUSS PETERSON

• Mr. LUGAR. Madam President, I have recently received news that Mr. Russ Peterson, a fellow Hoosier and an outstanding American, has passed away. I rise today to offer my condolences to the Peterson family and share with my colleagues a few words regarding his lifetime of service and achievement.

Mr. Peterson embodied all of the characteristics of an outstanding leader. He served as President of Porter Advertising, a firm based in Richmond, Indiana. Mr. Peterson was a remarkable community business leader whose vision and determination created jobs and generated economic growth across Indiana. He also served, nationally, in leadership positions for the Outdoor Advertising Association of America.

While his entrepreneurial achievements are impressive, I admire his countless contributions to the community of Richmond, Indiana. He was a music afficionado and enthusiast, who used his talents and leadership positions to encourage and support local performance arts and music. In addition, he was a performer and sang in the Central United Methodist Church choir, a local symphony chorus, various operas, and even a barbershop quartet many years ago.

Mr. President, I am pleased to have this opportunity to pay tribute to the life of Russ Peterson. I express my most solemn condolences to his wife of nearly 50 years, Joan Porter Peterson, and his entire family.•

IN MEMORY OF FRANCES HUMPHREY HOWARD

• Mr. HOLLINGS. Madam President, last month our extended Senate family suffered a great loss with the passing of Frances Humphrey Howard. I know her brother, our former colleague from Minnesota, Hubert Humphrey, would appreciate this body recognizing the important role she played.

Frances Howard was always a trend setter. When few women went to college, she graduated with a master's degree. She worked for Eleanor Roosevelt. She was a foreign service officer for the State Department at a time when mostly men were in the foreign service. She worked for the National Institutes of Health as a liaison officer, developing programs for medical libraries. She sat on the board of several companies involved with the arts and social activism. And when her colleagues retired at 65, Frances worked until she was 85.

Senator Humphrey adored his younger sister, and for good reason. He would not have been the warrior he was without his chief supporter, chief confidant, and chief campaigner. All of the important bills Senator Humphrey sponsored on civil rights, on Medicare, on the Peace Corps, and on the Food Stamp program were influenced by her concern for minorities, the elderly, the sick, and the hungry. She was a great advocate for laws that make a real difference in the lives of the neediest in this country.

Frances' role was behind the scenes, but today, instead of always quitting her good job to help Senator Humphrey in his campaigns, she'd have run herself—and won. If Hubert were here we might be listening to all the stories, but they can be summed up in one sentence: During her sixty years as an activist in Washington, Frances Humphrey Howard truly made a difference.

I know all of my colleagues, and especially our spouses, will miss Frances. My wife, Peatsy, joins me in extending our gratitude for her untiring efforts and our deepest sympathy to her children, Anne and William, and to the entire Humphrey family.●

TRIBUTE TO BARBARA SNELLING

● Mr. JEFFORDS. Madam President, today I congratulate and thank the Honorable Barbara W. Snelling from Shelburne, VT on her lifetime of service to Vermont citizens, young and old.

Back in Vermont, Barbara is being honored by the Vermont Chamber of Commerce as the 2002 Citizen of the Year. In my home state, the Snelling name is synonymous with public service, commitment to community, personal integrity and leadership.

Barbara ran for public office in 1991, shortly after the untimely death of her husband, Gov. Richard A. Snelling. Her list of achievements is long: two-term Lieutenant Governor; two-term State Senator; president of a consulting firm for 14 years; trustee for her alma mater, Radcliffe College; and current member of the United States Peace Institute, an appointment made by former President Clinton. She has also held seemingly endless titles in her community, from Girl Scout Troop leader to United Way Board member.

Her life work is a testament to the meaning of public service that few individuals are capable of achieving. Barbara's endless devotion and commitment to the people of Vermont uniquely qualifies her as a key advisor to her daughter, Diane Snelling, who now serves as a Vermont State Senator.

Barbara has become a symbol of the strength in spirit and courage to overcome adversity. In 1996, during her bid for Governor, she suffered a cerebral hemorrhage and lapsed into a coma. Her determination and drive led to a miraculous recovery.

In her work at the Vermont State House, Barbara used the legislative process for the benefit of all and detriment to none. Each day, Barbara works tirelessly for Vermont, and for this we must all thank her. We owe a great deal to this courageous and determined stateswoman.

Congratulations, Barbara. Your leadership and grace are legendary to the people of Vermont. We are all extremely proud of you and your accomplishments.●

60TH WEDDING ANNIVERSARY

● Mr. SMITH of Oregon. Madam President, today I congratulate George and Gertrude Lewis on the occasion of their 60th wedding anniversary. They have been residents of Oregon for most of their lives, first in Medford and now in Lake Oswego.

George Lewis was born May 8, 1920 in Takilma, OR. Gertrude Lewis was born July 22, 1920 in Lambert, MT.

George and Gertrude met in the fall of 1939 when they were both pursuing undergraduate studies at the University of Washington in Seattle, WA. They began dating in the spring of 1941 and were married November 11, 1942. November 11, 2002 marks their 60th wedding anniversary.

George joined the Army Air Force, and he left to join allied forces in Europe in February of 1943. On April 5, 1943, his plane was shot down and he became a Prisoner of War until he was liberated on May 8, 1945. He has received a Purple Heart for his service to his country.

George and Gertrude's first child, Diane, was born on October 13, 1943 while George was still a POW. He didn't meet his daughter until he returned from the war in 1945. They then moved to Medford, OR, where George worked for United Airlines as a passenger agent. On April 22, 1946, their second child Stephen was born.

In 1950, George and Gertrude opened their own business, Rogue Valley Travel, a travel agency in Medford, OR. They ran the company together until they sold it and retired in 1980. Gertrude remembers that one of the best times of their lives was in 1952 when they were able to afford their first trip to New York City and Europe, where they visited London and Paris. Since that time, they have traveled all over the world, to Europe, Asia, Africa and more. George's and Gertrude's grandchildren will always remember a map kept in the garage in their home in Medford with pins of all the cities they had been to.

In 1999, George and Gertrude moved to Lake Oswego, OR, where they live today.

Their two children, six grandchildren and two great grandchildren, are proud to help them celebrate their 60th wedding anniversary and work to live by the great example they have set.●

TRIBUTE TO DR. STANLEY F. TODD SR.

● Mr. MCCONNELL. Madam President, I rise today to pay tribute to my friend and hero, the late Dr. Stanley E. Todd Sr. I would also like to extend my most heartfelt condolences to his daughter Becky Todd York, his son Stanley E. Todd Jr., his twin sister Hazel Bush, and his grandchildren.

As a World War II veteran, Dr. Todd possessed a great deal of courage and patriotism that deserves to be recognized and commended. He served as a nose gunner on a B–24 bomber, an endeavor that nearly cost him his life. At one point during his time in the service, Dr. Todd's plane was shot down over Austria and he became a German prisoner of war.

Though the trials Dr. Todd endured contributed to the person he became, he did not let his harrowing experiences have an adverse affect on his life. Instead, he learned never to take a single moment for granted, a paradigm that rings true and serves as an example to all of us he leaves behind.

After completing his service in the military and marrying Esta Newman, Dr. Todd enrolled in the University of Louisville School of Dentistry. He practiced dentistry in Richmond, Ky., for 33 years. Also in Richmond, Dr. Todd helped found the Richmond Health and Rehabilitation Center, a facility that has provided care to residents since 1968.

Even after retiring in 1982, Dr. Todd continued to maintain an active lifestyle. He served Richmond as a city commissioner and also as chairman of the Richmond Housing Authority. Additionally, he was a former chairman of the board of the Kentucky Heart Association, and served on the board of the Kentucky River Foothills Development Corporation. An elder of Richmond's First Christian church, Dr. Todd provided missionary dental work in Haiti and helped found a local clothing bank. He was also instrumental in the organization of Richmond Little League baseball, and the founding of Stanton Woodcraft in Richmond.

I am certain that the legacy that Dr. Stanley E. Todd Sr., left behind will continue on. Indeed, he possessed a tremendous personal story that serves as a testament to the strength of his spirit and his faith and God. His faith, valor and strength of character should serve as an inspiration to us all. On behalf of myself and my colleagues in the Senate, I offer my deepest condolences to Dr. Todd's friends and loved ones, and express my gratitude for all he contributed to the Commonwealth of Kentucky and to our great Nation.●

TRIBUTE TO TED POSNER

● Mr. BAUCUS. Madam President, I rise today to thank Ted Posner, who has worked for me for a year-and-a-half as Trade Counsel for the Senate Finance Committee.

Ted joined my staff in April 2001 after working for 2 years for Congressman SANDY LEVIN, who is the Ranking Democrat on the Ways and Means Subcommittee on International Trade. There, Ted established himself as a nuts-and-bolts expert on trade laws. He earned the respect not only of his colleagues in the House and Senate, but also in the business community, and in the environmental and labor communities.

Perhaps Ted's biggest achievement in the House was his work to help pass permanent Normal Trade Relations for

China. Most people are aware of the strong efforts of the House Democrats to forge a compromise that would help pass this important legislation. But few recognize the behind-the-scenes efforts of staff. Ted's work on this issue was tireless, and all who support trade with China owe Ted their gratitude.

Here in the Senate, Ted has continued his outstanding work—and helped us pass the most comprehensive trade bill in more than 14 years. The Trade Act of 2002, as most people know, included not only Trade Promotion Authority and Trade Adjustment Assistance, but also an extension and expansion of the Andean Trade Preference Act and the Generalized System of Preferences.

Ted worked on most of these issues, but his work on the Andean trade bill and the provisions in TPA dealing with investor-state dispute settlement deserve particular mention. Especially on the issue of investment, Ted deserves great praise. This is a complicated and divisive issue. And Ted worked with all parties to come up with ideas that could win bipartisan support.

Like many staff on Capitol Hill, Ted is an extraordinarily hard worker. But the consistent thread in all of Ted's work that separates him from so many is that he constantly strives for perfection. That is something that is rare, and it is something that has earned him my great respect.

Now Ted is moving on to the office of the U.S. Trade Representative, where he will be Associate General Counsel. I have no doubt that Ted will be a great litigator, and I have full confidence in his representing the United States at the World Trade Organization.

I thank Ted for his efforts and wish him good luck in the future.●

IN RECOGNITION OF MRS. SISEL KLURMAN

• Mr. LIEBERMAN. Madam President, I rise today to congratulate and recognize Mrs. Sisel Klurman for being honored by the Florida Friends of Bar-Ilan University and setting the standards for "Women and Entrepreneurship: From Adversity to Achievement."

Bar-Ilan, Israel's largest university, is a leading academic institution with over 30,000 students and extensive disciplines. Mrs. Klurman is a founder of the Rabbi Emanuel Rackman International Center for Women and has been a benefactor to the University. Her affiliation with Bar-Ilan University is based on the University's philosophy that blends its unique formula of tradition with modern technologies and scholarship.

Mrs. Klurman was raised with a true love and appreciation for her Jewish culture and tradition by her parents and grandparents. In 1944 she and her husband, Shmuel Aba, opened a way to safely smuggle Holocaust survivors from Poland to Chernowitz and, ultimately, to Israel. During the next few years, Sisel and Sam worked intensely with underground organizations fighting for the liberation of Israel and working with new immigrants. Their drive and inspiration led them to focus on perpetuating the importance of Jewish identity and education. They began to support many causes, with broad outreach, in support of Jewish education.

Today, Mrs. Klurman supports Jewish education, health and welfare throughout the United States and Israel. She serves on may national boards, including Bar-Ilan University.

As a businesswomen, Mrs. Klurman is President of Ganot Corporation, a real estate and development company, and president of AG Holdings, Inc., operators of nursing and rehabilitation centers. Founded by her late husband, both companies have flourished under her leadership.

With all of her accomplishments and achievements, Mrs. Klurman is most proud of her family. Her four daughters, six grandchildren and their spouses, and five great grandchildren bring her endless pride and joy.

Mrs. Klurman has proven that adversity can embody accomplishment. Her drive, commitment and leadership are a motivation to all women.●

COMMENDING MR. OTOK BEN-HVAR

• Mr. SMITH of New Hampshire. Madam President, I rise today to commend and honor New Hampshire resident Mr. Otok Ben-Hvar for his achievement in serving his country and spreading the message of patriotism and unity in the United States and throughout the world.

As a retired U.S. Army, 82nd Airborne Division paratrooper, Mr. Ben-Hvar has served as an ambassador of American goodwill for more than 25 years. He has traveled throughout the world to deliver toys and trinkets to poor, young children, many of whom are victims of war. During the Balkan War, Mr. Ben-Hvar spent months in Bosnia and Croatia delivering toys, food, clothing and medical supplies to those in need. His tireless effort, while on the front lines of battle, earned him status as the first American to receive honorary citizenship in Croatia. He has been nicknamed "America's Santa to the World," and I can think of no more appropriate title to match his kind and heroic deeds.

Mr. Ben-Hvar has returned to embark on a mission to plant America's first National Tree. Collecting and using the native soil of every American state, territory and commonwealth, as well as Washington, D.C., Mr. Ben-Hvar planted and nurtured the seed of his 'American Tree'. Since its planning in 1999. Mr. Ben-Hvar has escorted the tree, a sugar maple, to each of the states and territories from whence its soil came—a trip of 103,928 miles, taking close to three years.

The tree brings with it a great message of national harmony, and has been treasured by those who see it. This gesture of patriotism and unity from Mr. Ben-Hvar truly deserves to be honored—which is why I am sharing his effort with the Senate today, and asking the President to respond to his request to have the tree permanently planted on the White House lawn. This tree will stand as a testament to the great strength and character of our nation.

My home state of New Hampshire is renowned for its forested beauty. However, Mr. Ben-Hvar's tree indeed belongs to the entire United States. It is my distinct honor to represent Mr. Otok Ben-Hvar in the United States Senate and to recognize him now for his tribute to our country.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

NOTICE STATING THAT THE EMERGENCY DECLARED WITH RESPECT TO THE GOVERNMENT OF IRAN ON NOVEMBER 14, 1979 IS TO CONTINUE BEYOND NOVEMBER 14, 2002—PM 118

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency declared by Executive Order 12170 on November 14, 1979, is to continue in effect beyond November 14, 2002, to the Federal Register for publication. The most recent notice continuing this emergency was published in the Federal Register on November 13, 2001, (66 FR 59666).

Our relations with Iran have not yet returned to normal, and the process of implementing the January 19, 1981, agreements with Iran is still underway. For these reasons, I have determined that it is necessary to continue the national emergency declared on November 14, 1979, with respect to Iran, beyond November 14, 2002.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 12, 2002.*

REPORT RELATIVE TO THE CONTINUATION OF THE EMERGENCY REGARDING WEAPONS OF MASS DESTRUCTION—PM 119

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency posed by the proliferation of weapons of mass destruction and their delivery systems declared by Executive Order 12938 on November 14, 1994, as amended, is to continue in effect beyond November 14, 2002, to the Federal Register for publication. The most recent notice continuing this emergency was published in the Federal Register on November 13, 2001 (66 FR 56965).

The proliferation of weapons of mass destruction and the means of delivering them continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. Therefore, I have determined the national emergency previously declared must continue in effect beyond November 14, 2002.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 6, 2002.*

PERIODIC REPORT RELATIVE TO THE NATIONAL EMERGENCY WITH RESPECT TO IRAN WHICH WAS DECLARED IN EXECUTIVE ORDER NO. 12170—PM 120

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report prepared by my Administration on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 12, 2002.*

MESSAGE FROM THE HOUSE

At 1:04 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5603. An Act to amend the Internal Revenue Code of 1986 to suspend the tax-exempt status of designated terrorist organizations, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on November 4, 2002, she had presented to the President of the United States the following enrolled bills:

S. 1210. An act to reauthorize the Native American Housing Assistance and Self-Determination Act of 1996.

S. 2690. An act to reaffirm the references to one Nation under God in the Pledge of Allegiance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–9395. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–9396. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, certification for the fiscal year 2003 that no United Nations Agency or affiliate promotes or condones the legalization of pedophilia; to the Committee on Foreign Relations.

EC–9397. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles to Pakistan; to the Committee on Foreign Relations.

EC–9398. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of 50,000,000 or more to France; to the Committee on Foreign Relations.

EC–9399. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Visas: Removal of Visa and Passport Waiver for Certain Permanent Residents of Canada and Bermuda" (22 CFR Part 41); to the Committee on Foreign Relations.

EC–9400. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Visas: Documentation of Nonimmigrants under the Immigration and Nationality Act, As Amended: Transitional Foreign Student Monitoring Program" (22 CFR part 41) received on October 9, 2002; to the Committee on Foreign Relations.

EC–9401. A communication from the Assistant Administrator for Procurement, National Aeronautic and Space Administration, transmitting, pursuant to law, the report of a rule to change NASA Federal Acquisition Regulation Supplement" (48 CRF Part 1804) received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9402. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna; Increase of Atlantic bluefin tuna General category daily retention limit" (I.D. 083002D) received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9403. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna; Atlantic bluefin tuna retention limit adjustments" (I.D. 091302A) received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9404. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of the Pacific cod fishery by vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the Gulf of Alaska" received on October 15, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9405. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Closure of the Pacific cod fishery in the offshore component of the Western Regulatory Area of the Gulf of Alaska" received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9406. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska—Closes Directed Fishing for Pollock in Statistical Area 630, Gulf of Alaska" received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9407. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "NMFS is reallocating the projected unused amount of Pacific cod from vessels using trawl and jig gear to vessels using hook-and-line or pot gear in the BSAI. These actions are necessary to allow the 2002 total allowable catch (TAC) of Pacific cod to be harvested." Received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9408. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska—Closes D Season Allowance of Pollock for Statistical Area 610, Gulf of Alaska" received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9409. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a interim rule to change the Alternate Hull Examination Program for Certain Passenger Vessels, and Underwater Surveys for Passenger, Nautical School, and Sailing School Vessels ((RIN2115–AF95) (2002–0001)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9410. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule "Great Lakes Maritime Academy—Eligibility of Certain Graduates for Unrestricted Third-Mate Licenses; direct final rule; request for comments" (RIN2115–AG43) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9411. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations; Passaics River, NJ" ((RIN 2115–AE47) (2002–0088)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9412. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; M/V ROY A JODREY Shipwreck , Wellesley Island, New York ((RIN 2115–AA97) (2002–0198)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9413. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Captain of the Port Chicago Zone, Lake Michigan" ((RIN2115–AA97) (2002–0195)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9414. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Seabrook Nuclear Power Plant, Seabrook, New Hampshire" ((RIN2115–AA97) (2002–0197)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9415. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations; Delaware Bay and River" ((2115–AA97) (2002–0196)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9416. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations (Including 3 regulations) [COPT Corpus Christi 02–003] [COPT Houston-Galveston 02–0101] [COPT St. Louis 02–005]" ((RIN2115–AA97) (2002–0194)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9417. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Final Rule to implement Amendment 7 to the Stone Crab Fishery of the Gulf of Mexico" (RIN0648–AN10) received October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9418. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Magnuson Act Provisions; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specification; Pacific Whiting" ((RIN 0648–AP85) (I.D. 032502A)) received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9419. A communication from the Deputy Assistant Administrator for Operations, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Final Rule to implement the Deep-sea Red Crab Fishery Management Plan" (RIN 0648–AP76) received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9420. A communication from the Trail Attorney of the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Reimbursement Prior to Recall" (RIN 2127–AI28) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9421. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Galveston, TX" (MB 02–142, RM–10436) received on October 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9422. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Hammond, LA" (MB Docket No. 02–131) received on October 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9423. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Reliance, SD (MB Docket No. 02–101) received on October 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9424. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Fort Wayne, IN" (MB Docket No. 01–302) received on October 7, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9425. A communication from the Senior Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Reporting of Information About Foreign Safety Recalls and Campaigns Related to Potential Defects" (RIN2127–AI26) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9426. a communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report of a rule entitled "Airworthiness Directives: Raytheon Aircraft Company Model 390 Airplanes" ((RIN2120–AA64) (2002–0436)) received on October 21 2002: to the Committee on Commerce, Science, and Transportation.

EC–9427. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report of a rule entitled "Airworthiness Directives: Boeing, Model 737–600, 700, 700C, 800 and 900 Series Airplanes Model 747 Series Airplanes; and Model 757 Series Airplanes" ((RIN2120–AA64) (2002–0437)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9428. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Air Tractor, Inc. Models AT–802, and AT 802A Airplanes" ((RIN 2120–AA64) (2002–0439)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES RECEIVED DURING RECESS

Under the authority of the order of the Senate of October 17, 2002, the following reports of committees were submitted on November 4, 2002:

By Mr. INOUYE, from the Committee on Indian Affairs, without amendment:

S. 343: A bill to establish a demonstration project to authorize the integration and coordination of Federal funding dedicated to the community, business, and economic development of Native American communities. (Rept. No. 107-324).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

S. 2975: A bill to authorize the project for hurricane and storm damage reduction, Morganza, Louisiana, to the Gulf of Mexico, Mississippi River and Tributaries. (Rept. No. 107-325).

S. 2978: A bill to modify the project for flood control, Little Calumet River, Indiana. (Rept. No. 107-326).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment:

S. 2983: A bill to authorize a project for navigation, Chickamauga Lock and Dam, Tennessee. (Rept. No. 107-327).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

S. 2984: A bill to authorize a project for environmental restoration at Smith Island, Maryland. (Rept. No. 107-328).

S. 2999: A bill to authorize the project for environmental restoration, Pine Flat Dam, Fresno County, California. (Rept. No. 107-329).

By Mr. LIEBERMAN, from the Committee on Governmental Affairs:

Report to accompany S. 1651, a bill to establish the United States Consensus Council to provide for a consensus building process in addressing national public policy issues, and for other purposes. (Rept. No. 107-330).

Report to accompany S. 2644, a bill to amend chapter 35 of title 31, United States Code, to expand the types of Federal agencies that are required to prepare audited financial statements. (Rept. No. 107-331).

Report to accompany S. 3044, a bill to authorize the Court Services and Offender Supervision Agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation, and supervised release. (Rept. No. 107-332).

Report to accompany H.R. 4878, to provide for estimates and reports of improper payments by Federal agencies. (Rept. No. 107-333).

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 2513, a bill to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence. (Rept. No. 107-334).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1746: A bill to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to strengthen security at sensitive nuclear facilities. (Rept. No. 107-335).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

S. 2715: A bill to provide an additional extension of the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief, an Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001. (Rept. No. 107-336).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 2969: A bill to provide for improvement of Federal education research, statistics, evaluation, information, and dissemination, and for other purposes. (Rept. No. 107-337).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

S. 2730: A bill to modify certain water resources projects for the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida and Alabama. (Rept. No. 107-338).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute and an amendment to the title:

S. 2332: A bill to designate the Federal building and United States courthouse to be constructed at 10 East Commerce Street in Youngstown, Ohio, as the "Nathaniel R. Jones Federal Building and United States Courthouse".

NOMINATION DISCHARGED

Pursuant to a unanimous consent agreement of January 5, 2001, the Committee on Governmental Affairs was discharged of the following nomination:

DEPARTMENT OF EDUCATION

John Portman Higgins, of Virginia, to be Inspector General, Department of Education.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SANTORUM (for himself and Mr. BROWNBACK):

S. Con. Res. 155. A concurrent resolution affirming the importance of a national day of prayer and fasting, and expressing the sense of Congress that November 27, 2002, should be designated as a national day of prayer and fasting; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 29

At the request of Mr. BOND, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 326

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 326, a bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services and to permanently increase payments for such services that are furnished in rural areas.

S. 830

At the request of Mr. CHAFEE, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 830, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1248

At the request of Mr. KERRY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1248, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable, housing for low-income families, and for other purposes.

S. 1291

At the request of Mr. HATCH, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1291, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien college-bound students who are long term United States residents.

S. 2008

At the request of Mr. GREGG, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2008, a bill to prohibit certain abortion-related discrimination in governmental activities.

S. 2085

At the request of Ms. COLLINS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2085, a bill to amend title XVIII of the Social Security Act to clarify the definition of homebound with respect to home health services under the medicare program.

S. 2268

At the request of Mr. MILLER, the names of the Senator from Arizona (Mr. KYL) and the Senator from Tennessee (Mr. THOMPSON) were added as cosponsors of S. 2268, a bill to amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce.

S. 2489

At the request of Mrs. CLINTON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2489, a bill to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, and for other purposes.

S. 2573

At the request of Mr. REED, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 2573, a bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes.

S. 2714

At the request of Mrs. CLINTON, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2714, a bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2002.

S. 2826

At the request of Mr. SCHUMER, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 2826, a bill to improve the national instant criminal background check system, and for other purposes.

S. 2903

At the request of Mr. JOHNSON, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 2903, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care.

S. 3018

At the request of Mr. BAUCUS, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 3018, a bill to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program, and for other purposes.

S. 3114

At the request of Mr. LEAHY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 3114, a bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits.

S. 3118

At the request of Mr. ENSIGN, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 3118, a bill to strengthen enforcement of provisions of the Animal Welfare Act relating to animal fighting, and for other purposes.

S. RES. 339

At the request of Mrs. MURRAY, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. Res. 339, a resolution designating November 2002, as "National Runaway Prevention Month".

S. CON. RES. 94

At the request of Mr. WYDEN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. Con. Res. 94, a concurrent resolution expressing the sense of Congress that public awareness and education about the importance of health care coverage is of the utmost priority and that a National Importance of Health Care Coverage Month should be established to promote that awareness and education.

S. CON. RES. 129

At the request of Mr. CRAPO, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Hawaii (Mr. INOUYE), the Senator from Georgia (Mr. CLELAND), the Senator from Utah (Mr. HATCH), the Senator from Ohio (Mr. DEWINE), and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. Con. Res. 129, a concurrent resolution expressing the sense of Congress regarding the establishment of the month of November each year as "Chronic Obstructive Pulmonary Disease Awareness Month".

S. CON. RES. 138

At the request of Mr. REID, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. Con. Res. 138, a concurrent resolution expressing the sense of Congress that the Secretary of Health And Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 155—AFFIRMING THE IMPORTANCE OF A NATIONAL DAY OF PRAYER AND FASTING, AND EXPRESSING THE SENSE OF CONGRESS THAT NOVEMBER 27, 2002, SHOULD BE DESIGNATED AS A NATIONAL DAY OF PRAYER AND FASTING.

Mr. SANTORUM (for himself and Mr. BROWNBACK) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 155

Whereas the President has sought the support of the international community in responding to the threat of terrorism, violent extremist organizations, and states that permit or host organizations that are opposed to democratic ideals;

Whereas a united stance against terrorism and terrorist regimes will likely lead to an increased threat to the armed forces and law enforcement personnel of those states that oppose these regimes of terror and that take an active role in rooting out these enemy forces;

Whereas Congress has aided and supported a united response to acts of terrorism and violence inflicted upon the United States, our allies, and peaceful individuals all over the world;

Whereas President Abraham Lincoln, at the outbreak of the Civil War, proclaimed that the last Thursday in September 1861 should be designated as a day of humility, prayer, and fasting for all people of the Nation;

Whereas it is appropriate and fitting to seek guidance, direction, and focus from God in times of conflict and in periods of turmoil;

Whereas it is through prayer, self-reflection, and fasting that we can better examine those elements of our lives that can benefit from God's wisdom and love;

Whereas prayer to God and the admission of human limitations and frailties begins the process of becoming both stronger and closer to God;

Whereas becoming closer to God helps provide direction, purpose, and conviction in those daily actions and decisions we must take;

Whereas our Nation, tested by civil war, military conflicts, and world wars, has always benefited from the grace and benevolence bestowed by God; and

Whereas dangers and threats to our Nation persist and in this time of peril, it is appropriate that the people of the United States, leaders and citizens alike, seek guidance, strength, and resolve through prayer and fasting: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) November 27, 2002, should be designated as a day for humility, prayer, and fasting for all people of the United States; and

(2) all people of the United States should—

(A) observe this day as a day of prayer and fasting;

(B) seek guidance from God to achieve greater understanding of our own failings;

(C) learn how we can do better in our everyday activities; and

(D) gain resolve in how to confront those challenges which we must confront.

PRIVILEGE OF THE FLOOR

Mr. DASCHLE. Madam President, I ask unanimous consent that the privilege of the floor be granted to staff members of the late Senator PAUL WELLSTONE during today's session.

The PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 5005

Mr. REID. Madam President, I ask unanimous consent that at 2:45 p.m. on Wednesday, November 13, the motion to proceed to the motion to reconsider be agreed to, the motion to reconsider be agreed to, and without further intervening action or debate the Senate proceed to vote on the motion to invoke cloture on the Gramm amendment, No. 4738, to H.R. 5005, the homeland security legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 1052, 1088, 1089, 1090, 1091, 1092, 1093, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1103, 1104 through 1112, 1114, 1115, 1117 through 1121, 1123 through 1129; that the nominations be confirmed, the motions to reconsider be laid on the table, the President of the United States be immediately notified of the Senate's action, any statements be printed in the RECORD, and the Senate then resume legislative session, with the preceding all occurring without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

DEPARTMENT OF DEFENSE

Charles S. Abell, of Virginia, to be Deputy Under Secretary of Defense for Personnel and Readiness.

DEPARTMENT OF JUSTICE

Carol Chine-Hua Lam, of California, to be United states Attorney for the Southern District of California for the term of four years.

Glenn T. Suddaby, of New York, to be United States Attorney for the Northern District of New York for the term of four years.

Johnny Mack Brown, of South Carolina, to be United States Marshal for the District of South Carolina for the term of four years.

John Francis Clark, of Virginia, to be United States Marshal for the Eastern District of Virginia for the term of four years.

Robert Maynard Grubbs, of Michigan, to be United States Marshal for the Eastern District of Michigan for the term of four years.

Joseph R. Guccione, of New York, to be United States Marshal for the Southern District of New York for the term of four years.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Alberto Faustino Trevino, of California, to be an Assistant Secretary of Housing and Urban Development.

Carolyn Y. Peoples, of Maryland, to be an Assistant Secretary of Housing and Urban Development.

SECURITIES INVESTOR PROTECTION CORPORATION

Armando J. Bucelo, Jr., of Florida, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 2002.

Armando J. Bucelo, Jr., of Florida, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 2005.

Deborah Doyle McWhinney, of California, to be a Director of the Securities Investor Protection corporation for a term expiring December 31, 2004.

NATIONAL CONSUMER COOPERATIVE BANK

Rafael Cuellar, of New Jersey, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years.

Michael Scott, of North Carolina, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years.

FEDERAL DEPOSIT INSURANCE CORPORATION

John M. Reich, of Virginia, to be Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.

DEPARTMENT OF STATE

John R. Dawson, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Peru.

Gene B. Christy, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and plenipotentiary of the United States of America to Brunei Darussalam.

Charles Aaron Ray, of Texas, as Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Cambodia.

David L. Lyon, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Fiji, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Nauru, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Tonga, and Ambassador Extraordinary and Plenipotentiary of the United States of America to Tuvalu.

Linda Ellen Watt, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Panama.

Richard Allan Roth, of Michigan, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

Antonio O. Garza, Jr., of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

Joseph Huggins, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

Grover Joseph Rees, of Louisiana, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of East Timor.

Robin Renee Sanders, of New York, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Congo.

Francis X. Taylor, of Maryland, to be Director of the Office of Foreign Missions, and to have the rank of Ambassador during his tenure of service, vice David G. Carpenter.

Francis X. Taylor, of Maryland, to be an Assistant Secretary of State (Diplomatic Security).

INTERNATIONAL MONETARY FUND

Nancy P. Jacklin, of New York, to be United States Executive Director of the International Monetary Fund for a term of two years.

BROADCASTING BOARD OF GOVERNORS

Seth Cropsey, of the District of Columbia, to be Director of the International Broadcasting Bureau, Broadcasting Board of Governors. (New Position)

Steven J. Simmons, of Connecticut, to be Member of the Broadcasting Board of Governors for the remainder of the term expiring August 13, 2003.

Joaquin F. Blaya, of Florida, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2005. (Reappointment)

D. Jeffrey Hirschberg, of Wisconsin, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2004.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Wendy Jean Chamberlin, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Diane M. Ruebling, of California, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2002.

C. William Swank, of Ohio, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2002.

Samuel E. Ebbesen, of the Virgin Islands, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2003.

Ned L. Siegel, of Florida, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2003.

POSTAL RATE COMMISSION

Tony Hammond, of Virginia, to be a Commissioner of the Postal Rate Commission for the remainder of the term expiring October 14, 2004.

Ruth Y. Goldway, of California, to be a Commissioner of the Postal Rate Commission for the term expiring November 22, 2008. (Reappointment)

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 107–18

Mr. REID. Madam President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on November 12, 2002, by the President of the United States: Inter-American Convention Against Terrorism, Treaty Document No. 107–18.

I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith, the Inter-American Convention Against Terrorism, adopted at the Thirty-Second Regular Session of the OAS General Assembly meeting in Bridgetown, Barbados, on June 3, 2002, and opened for signature on that date. At that time it was signed by 30 of the 33 members attending the meeting, including the United States. It has subsequently been signed by another two member states, leaving only two states that have not yet signed. In addition, I transmit herewith, for the information of the Senate, the report of the Department of State.

The negotiation of the inter-American Convention Against Terrorism (the "Convention") was a direct response to the terrorist attacks on the United States on September 11, 2001. At that time, the OAS was meeting in Lima, Peru, to adopt a Democratic Charter uniting all 34 democracies in the hemisphere. The OAS member states expressed their strong commitment to assist the United States in preventing such incidents from occurring again anywhere in our hemisphere. Within 10 days, the foreign ministers of the OAS member states, meeting in Washington, D.C., endorsed the idea of drafting a regional convention against terrorism. Argentina, Peru, Chile, and Mexico played particularly important roles in the development and negotiation of the Convention.

The Convention will advance important United States Government interests and enhance hemispheric security by improving regional cooperation in the fight against terrorism. The forms of enhanced cooperation include exchanges of information, exchanges of experience and training, technical cooperation, and mutual legal assistance. The Convention is consistent with, and builds upon previous counterterrorism instruments and U.N. Security Council Resolution 1373, which mandates certain measures to combat terrorism.

The Convention provides for regional use of a variety of legal tools that have proven effective against terrorism and transnational organized crime in recent years. Since fighting terrorist financing has been identified as an essential part of the fight against terrorism, the Convention addresses crucial financial regulatory, as well as criminal law, aspects. Existing Federal authority is sufficient to discharge the obligations of the United States under this Convention, and therefore no implementing legislation will be required.

In particular, the Convention mandates the establishment of financial intelligence units for the collection, analysis, and dissemination of terrorist financing information and the establishment and enhancement of channels of communication between law enforcement authorities for secure and rapid exchange of information concerning all aspects of terrorist offenses; the exchange of information to improve border and customs control measures to detect and prevent movement of terrorists and terrorist-related materials; and technical cooperation and training programs.

The Convention also provides measures relating to the denial of refugee or asylum status. In addition, the Convention provides that terrorist acts may not be considered "political" offenses for which extradition or mutual legal assistance requests can be denied, and provides for other mechanisms to facilitate mutual legal assistance in criminal matters.

In sum, the Convention is in the interests of the United States and represents an important step in the fight against terrorism. I therefore recommend that the Senate give prompt and favorable consideration to the Convention, subject to the understandings that are described in the accompanying report of the Department of State, and give its advice and consent to ratification.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 12, 2002.*

APPOINTMENTS

Mr. REID. Madam President, I ask unanimous consent that the announcement at the desk of the appointments which were made over the recent adjournment of the Senate appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The appointments are as follows:

Pursuant to the provisions of Public Law 93-642, on behalf of the Vice President, the appointment of the Senator from Missouri (Mrs. CARNAHAN) to the Board of Trustees of the Harry S Truman Scholarship Foundation.

Pursuant to the provisions of Public Law 99-498, on behalf of the President pro tempore, and upon the recommendation of the Majority Leader, the appointment of Clare Cotton of Massachusetts to the Advisory Committee on Student Financial Assistance.

ORDERS FOR TOMORROW, NOVEMBER 13, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m., Wednesday, November 13; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 12:30, with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the two leaders or their designees; that the Senate recess from 12:30 to 2:15 p.m. for the weekly party conferences; that at 2:15 p.m. there be a period of morning business until 2:45 p.m., with the time equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Madam President, at 2:45, as the Chair previously ordered, the majority leader will be recognized.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:52 p.m., adjourned until Wednesday, November 13, 2002, at 11 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, November 12, 2002*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. CULBERSON).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 12, 2002.

I hereby appoint the Honorable JOHN ABNEY CULBERSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. RAMSTAD) for 5 minutes.

TRIBUTE TO SENATOR PAUL AND SHEILA WELLSTONE

Mr. RAMSTAD. Mr. Speaker, I rise today to pay tribute to Senator PAUL WELLSTONE and his wife, Sheila Wellstone. As we all know, the Wellstones perished in a tragic plane crash, along with their daughter Marcia, three staff members and two pilots on October 25, 2002.

It has been 18 days since that terrible day, and I am still overwhelmed by sadness at the tragic death of our dear friends whose plane went down in a northern Minnesota wetland near Eveleth.

I continue to join all Minnesotans in mourning our great loss. Minnesota has lost two compassionate and caring public servants. Both PAUL and Sheila will be sorely missed by all of us who knew and loved them.

As the Wellstones' son, David, said, "The words that come to mind about my dad are integrity, passion, fairness and intensity. When the going got rough, there was no one else you wanted in your corner." And about his mother, Sheila, David Wellstone said, "The words that come to mind are selfless, caring, loving, tenacious, proud and strong. She gave of herself like you would not believe."

Mr. Speaker, we all know that nobody fought harder or with greater passion for the underdog than PAUL and Sheila WELLSTONE. Senator WELLSTONE dedicated his life to serving others, and he was a tireless advocate for people in need. PAUL WELLSTONE was a person of absolute integrity and was often willing to "go it alone" to stand up for what he believed was right.

Sheila Wellstone was a true champion for battered women and their families, and I was privileged to work with her on many important causes like the Violence Against Women Act and securing funding for Cornerstone, an emergency shelter for women and their children who are victims of domestic violence in the Twin Cities of Minnesota.

Senator WELLSTONE's best friend, Rick Kahn of Minnetonka, tells how PAUL used to say to him, "It is not enough to cling to principles, no matter how noble they may be, unless we are truly willing to risk everything."

While Senator WELLSTONE and I had our disagreements on many policy issues, there is no disagreeing that I lost my partner in the fight for people with chemical addiction. I will always, always be grateful to Senator WELLSTONE for his tireless and principled efforts to provide chemical dependency treatment for more Americans, and PAUL WELLSTONE was the Senate sponsor of our legislation to provide parity for chemical dependency treatment.

Even though we encountered strenuous resistance from special interests, Senator WELLSTONE was always truly willing to risk everything for our cause to help people with addiction. He was absolutely relentless in his efforts to push for parity, both for people with chemical addiction, and those suffering from mental illness. PAUL would call me frequently, and usually late at night, to breathlessly relay his progress in securing another cosponsor for our bill or to ask for advice; or usually to give advice. I came to absolutely cherish those late night phone calls from my friend.

As William Cope Moyers, vice president of the Hazelden Foundation in Minnesota, the world-renowned treatment center for chemically dependent people, put it, "Senator WELLSTONE was a passionate champion of what we do at Hazelden, and his loss is immeasurable."

Not only did we lose two deeply committed champions for battered women and people with addiction, and so many other Americans, I lost two of my dearest friends in that plane crash. I have been asked many times since the crash to share personal stories about the Wellstones. It has been absolutely heart warming to share personal memories about PAUL and Sheila with people throughout Minnesota.

And as we all know, in this body as well as the other body, PAUL WELLSTONE took his job very seriously, but he never, ever took himself too seriously. He had a great ability to poke fun at himself and bring people together. Even when he had policy disagreements with people, he always disagreed in an agreeable way, flashing that contagious Wellstone smile and slapping the person on the back in a warm, loving way.

Mr. Speaker, I ask unanimous consent to finish this eulogy to our departed comrade and friend.

The SPEAKER pro tempore. The Chair cannot entertain that request. The gentleman has been recognized for 5 minutes. The Chair would entertain a request from the gentleman to revise and extend his remarks in the CONGRESSIONAL RECORD. The gentleman may complete his oral thought, and conclude his remarks.

Mr. RAMSTAD. Mr. Speaker, one of my favorite recollections of PAUL was the time he was considering a campaign for President. Before he got on the airplane for our weekly commute back to Minnesota, I instructed all of the regular commuters to start humming "Hail to the Chief" as soon as PAUL got on the plane.

On cue, the passengers struck up a cord of "Hail to the Chief," and PAUL saw me sitting in the back and came right over to me and said "Ramstad, do not forget. I might be only 5 feet 5 and you are 6 feet 3, but don't ever forget I was a wrestler and you were only a basketball player."

That was PAUL WELLSTONE, always in good humor, always flashing that contagious smile that reflected his love for all people.

Mr. Speaker, in conclusion, PAUL WELLSTONE was a person of great courage. Who can forget Senator WELLSTONE painfully walking around the Capitol bent nearly double from the back injuries he had sustained as a wrestler and from his struggles with multiple sclerosis, but always the first to run back into the kitchen of the Senate Dining Room to thank the cooks and dishwashers for his meals.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, I ask all in this body to pause for a silent moment to pay our respects to PAUL and Sheila WELLSTONE, their daughter Marcia, and to the others who perished in that plane crash, Tom Lapic, Mary McEvoy, Will McLaughlin, Richard Conry and Michael Guess. My heart goes out to the family members left behind and to PAUL's dedicated staff. May you rest in peace, dear friends. Amen.

The SPEAKER pro tempore. Without objection, it is ordered that the gentleman's written extension of his remarks will be included in the CONGRESSIONAL RECORD.

There was no objection.

REPUBLICANS HAVE HEAVY RESPONSIBILITY

The SPEAKER pro tempore. Pursuant to the order of the House of January 23, 2002, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, the election is over and we know the results: The Republicans retained the majority in the House of Representatives and actually will now have the majority in the Senate; in fact, will control the Presidency and both Houses of Congress for quite a while.

I want to congratulate the Republican Party and the President, but I want to also point out that now that they are in charge of everything in Washington, they have a heavy responsibility, and one of the responsibilities they have is on an issue I talked about a great deal here on the floor of the House of Representatives and that is on health care reform.

There is absolutely no question that during the course of the campaign, and well before that, that I heard from my constituents about the need for a Medicare prescription drug benefit, about the fact that so many who now have health care insurance are losing their insurance and are afraid even if they have a job about whether or not that health insurance will continue to be affordable. And I also heard from a number of my constituents, and I know my colleagues did as well, about the need for HMO reform and a Patients' Bill of Rights.

I must say it disturbed me that during the course of the campaign that the Republicans, in talking about some of these issues, I think have done a spin on the issues in a fashion that was not completely honest about what their agenda was on some of these very important issues, particularly the need to provide a prescription drug benefit and the need to make sure that the costs of prescription drugs would not continue to climb.

I want to point out in particular the effort on the part of the drug manufacturers, the prescription drug manufacturers, to influence the election, to spend a tremendous amount of money trying to convince the electorate that Republicans were really going to effectively address the issue of affordable prescription drugs. I think that much of it was advertising, trying to convince the public that the Republican plan was a good one when in fact it was not.

I have a clip that was in my local newspaper by the Associated Press on Saturday, November 9, and it says, "Drugmakers Glad for GOP Wins."

"Experts say the pharmaceutical industry's heavy spending in the election paid off in a Republican Congress that will certainly be more sympathetic to its views."

There is a quote that says, "'The pharmaceutical companies spent a lot of money and they are going to be looking for a payback,' said Stephen Schondelmeyer, director of the Pharmaceutical Research in Management Economics, or PRIME."

The article continues, "Investors are also optimistic. Pharmaceutical stocks rose an average of 2.25 percent in the 2 days following the election compared with a 1.12 percent increase in the overall market, according to Morningstar.com."

The problem is that the Republicans were also funneling money into so-called senior groups that were nothing more than a front for the pharmaceutical industry. The pharmaceutical industry was the ninth largest political contributor during the 2002 election; 73 percent of the $18.1 million it doled out went to Republican candidates, according to the Center for Responsible Politics. It also reportedly funneled $16 million to two senior citizen groups that ran ads supporting Republican candidates.

There is another article in the New York Times from Sunday, October 20, that talks about United Seniors Association, a conservative group, that acknowledges it receives financing from the drug industry's major trade group, and they ran ads in various districts, mostly saying Republicans had the right answers to the prescription drug problem facing seniors.

Now I say that the Republican answer to prescription drugs is basically to privatize Medicare. They wanted to give some money to seniors on the theory that they would take that money and go out and buy drug insurance in the private market.

The Democrats talked during the campaign, and continue to talk, about the need to just expand the existing Medicare program to provide a prescription drug benefit the same way we do with doctors' bills: Pay $25 a month, get 80 percent of the costs of prescription drugs covered by the Federal Government through Medicare. There is a $100 deductible and a 20 percent copayment.

I would hate to see the Republicans take the election results as a mandate to say they should not have a Medicare prescription drug benefit and instead should move towards a private scheme. Frankly, I do not think that is what the average senior wants. I do not think that is what the average senior thinks that the Republican Party stands for.

The problem is that the Republican Party, through the pharmaceutical industry, spent so much money convincing the electorate that this is the way to go, I do not think that the public really understands what the Republican proposal for prescription drug benefit is all about.

The same is true with regard to the need for health insurance and also with HMOs, and we will get into that another time. But I am simply saying to my colleagues on the Republican side, if they want to see progress on health care reform, sit down with the Democrats and work with us because this is something that must be addressed on a bipartisan basis in the next Congress.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 44 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, all religious traditions exhort disciples of faith to open their minds, their hearts, and any door with the gracious gift of hospitality. You ask Your people to be considerate to every stranger and every visitor. Bless today this House of Representatives as we welcome the newly-elected to orientation and receive again visitors from across this country and from other nations. May all who come here find in congressional Members, staff, the Capitol Police, official guides and all who work here, people of Your own making, who are gracious in manner, kind in word, generous in time, and open to every question and need of a guest.

In the midst of the primary tasks You set before this Congress, may we all find in this place a rich experience of America's great gifts of freedom, equal justice, productivity, and true happiness. Bless us here and bless America now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. CULBERSON) come forward and lead the House in the Pledge of Allegiance.

Mr. CULBERSON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Ms. Evans, one of his secretaries.

COMMUNICATION FROM CASEWORK DIRECTOR/OFFICE AND SYSTEMS ADMINISTRATOR OF HON. JOHN M. McHUGH, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from Joann E. Humphries, Casework Director/Office and Systems Administrator of the Hon. JOHN M. MCHUGH, Member of Congress:

> NOVEMBER 7, 2002.
>
> Hon. J. DENNIS HASTERT,
> *Speaker, House of Representatives,*
> *Washington, DC.*
>
> DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule VIII of the Rules of the House, that I have been served with a trial subpoena for testimony and documents issued by the U.S. District Court for the Northern District of New York.
>
> After consultation with the Office of General Counsel, I have determined that compliance with the subpoenas is consistent with the precedents and privileges of the House.
>
> Sincerely,
> JOANN E. HUMPHRIES,
> *Casework Director/*
> *Office and Systems Administrator.*

PRAISING THE FIVE HIGGINS BROTHERS FROM SOUTH CAROLINA

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, with yesterday marking Veterans Day, I rise to commend the valiant service of all of the men and women who have served America in the armed forces. In particular, I want to recognize the Higgins family of Columbia, South Carolina who had 5 sons serving our Nation during World War II.

Elliott Higgins served as a Captain with Army Intelligence under General George Patton in Germany; Harold Higgins served as a Sergeant with the Army Air Corps in Europe; John Higgins served as a Corporal with the Army on stateside assignments; Patrick Higgins enlisted with the Merchant Marines in the North Atlantic; and the youngest, Ross Higgins, at age 17 joined the Navy and served in the Pacific Theater.

We should also remember the five Sullivan brothers from Iowa who died together on the USS Juneau after the Japanese torpedoed their ship. After their deaths, President Roosevelt began a policy that brothers should serve in different branches of the Armed Forces.

This enabled the 5 Higgins brothers to serve our Nation with honor, and we will always be indebted to the sacrifices made for our country by veterans and their families.

TIME FOR CONGRESS TO ADDRESS THE ECONOMY

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, during morning hour and once again, I want to thank or congratulate, I should say, the Republicans on their election victories last Tuesday, but I would say that now that they will control both the House and the other body, as well as the presidency, they have the obligation to address the Nation's economic woes. They cannot continue to mask the economic slump that we face.

During the last week, there was news, this is in the International Herald Tribune from November 2 to 3 of this year, and it says, "Indications that the United States may be headed for a renewed slump have piled up over the last week, with weakness spreading from manufacturing to employment to consumer spending. The bad news culminated Friday with reports of a rising jobless rate and softness in a variety of other indicators.

"The government reported that the unemployment rate rose last month to 5.7 percent from 5.6 percent the previous month.

"In yet another bit of bad news, a survey that tracks activity of corporate purchasing managers, a key gauge of manufacturing strength, showed another drop. The Institute for Supply Management said its manufacturing index fell once again."

The Republicans are in the majority now and soon in both Houses. They have to address the economy. It is their obligation to do so, Mr. Speaker.

PROUD TO BE AN AMERICAN

(Mr. EHLERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EHLERS. Mr. Speaker, as we return and we begin session once again, I want to rise and express my appreciation for this country and for this institution.

We all have experienced elections. What is interesting is that throughout the Nation, the elections have been remarkably close in many cases. I am proud of that, because I would not want to live in a country where we have a dictator that gets 99 percent of the vote in a rigged election. We are in a country where we present our ideas and ourselves to the country and to its people, and those people, on the basis of what we say and what we do, elect us. That is precisely the way the system is supposed to work. That is what the founders of this Nation wanted, and that is what they put in place 225 years ago.

In addition to that, yesterday we celebrated Veteran's Day and recognized all those who have given the supreme sacrifice and those who have sacrificed parts of their lives to the service of this country. Once again, a date to remember, a date in which we honor people in our country.

I am so proud to be an American. I am so very, very proud of our country, and I am delighted to be an American.

A TRIBUTE OF GRATITUDE TO COLONEL PETE "CLARK" BUNCE

(Mr. HANSEN asked and was given permission to address the House for 1 minute.)

Mr. HANSEN. Mr. Speaker, I rise on this day after Veterans Day to salute one of the many brave men and women who serve all of us in our great military. I rise today to pay tribute to and offer my personal thanks to Colonel Pete "Clark" Bunce, United States Air Force, for a job well done.

Many of us know Colonel Bunce who, for the past 2 years, has led the House Office of Legislative Liaison for the Air Force. I have had the pleasure of traveling with Pete on several occasions, and each time his professionalism and personal attention to detail were the keys to a smooth and successful CODEL.

Before coming to the Hill, Colonel Bunce was an accomplished leader and command pilot with over 3,000 hours in F–15 and A–10 fighter aircraft. He has commanded at the squadron and group levels and served overseas in Germany and Southeast Asia.

While I have relied upon Colonel Bunce's military advice, I have valued Pete's friendship even more. Pete, Mrs. Hansen and I, and I know many of my colleagues here, wish you the very best of luck in whatever your future holds, and thank you for your service to our great Nation.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken tomorrow.

NATIONAL SEA GRANT COLLEGE PROGRAM ACT AMENDMENTS OF 2002

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 3389), an Act to reauthorize the National Sea Grant College Program Act, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Sea Grant College Program Act Amendments of 2002".

SEC. 2. AMENDMENTS TO FINDINGS.

Section 202(a)(6) of the National Sea Grant College Program Act (33 U.S.C. 1121(a)(6)) is amended by striking the period at the end and inserting ", including strong collaborations between Administration scientists and scientists at academic institutions.".

SEC. 3. REQUIREMENTS APPLICABLE TO NATIONAL SEA GRANT COLLEGE PROGRAM.

(a) Quadrennial Strategic Plan.—Section 204 (c)(1) of the National Sea Grant College Program Act (33 U.S.C. 1123 (c)(1)) is amended to read as follows:

"(1) The Secretary, in consultation with the panel, sea grant colleges, and sea grant institutes, shall develop at least every 4 years a strategic plan that establishes priorities for the national sea grant college program, provides an appropriately balanced response to local, regional, and national needs, and is reflective of integration with the relevant portions of the strategic plans of the Department of Commerce and of the Administration.".

(b) Program Evaluation and Rating.—

(1) Evaluation and rating requirement.—Section 204(d)(3)(A) of the National Sea Grant College Program Act (33 U.S.C. 1123(d)(3)(A)) is amended to read as follows:

"(A)(i) evaluate the performance of the programs of sea grant colleges and sea grant institutes, using the priorities, guidelines, and qualifications established by the Secretary under subsection (c), and determine which of the programs are the best managed and carry out the highest quality research, education, extension, and training activities; and

"(ii) rate the programs according to their relative performance (as determined under clause (i)) into no less than 5 categories, with each of the 2 best-performing categories containing no more than 25 percent of the programs;".

(2) Review of evaluation and rating process.—(A) After 3 years after the date of the enactment of this Act, the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, shall contract with the National Academy of Sciences—

(i) to review the effectiveness of the evaluation and rating system under the amendment made by paragraph (1) in determining the relative performance of programs of sea grant colleges and sea grant institutes;

(ii) to evaluate whether the sea grant programs have improved as a result of the evaluation process; and

(iii) to make appropriate recommendations to improve the overall effectiveness of the evaluation process.

(B) The National Academy of Sciences shall submit a report to the Congress on the findings and recommendations of the panel under subparagraph (A) by not later than 4 years after the date of the enactment of this Act.

(c) Allocation of Funding.—Section 204(d)(3)(B) of the National Sea Grant College Program Act (33 U.S.C. 1123(d)(3)(B)) is amended by striking "and" after the semicolon at the end of clause (ii) and by adding at the end the following:

"(iv) encourage and promote coordination and cooperation between the research, education, and outreach programs of the Administration and those of academic institutions; and".

SEC. 4. COST SHARE.

Section 205(a) of the National Sea Grant College Program Act (33 U.S.C. 1124(a)) is amended by striking "section 204(d)(6)" and inserting "section 204(c)(4)(F)".

SEC. 5. FELLOWSHIPS.

(a) Ensuring Equal Access.—Section 208(a) of the National Sea Grant College Program Act (33 U.S.C. 1127(a)) is amended by adding at the end the following: "The Secretary shall strive to ensure equal access for minority and economically disadvantaged students to the program carried out under this subsection. Not later than 1 year after the date of the enactment of the National Sea Grant College Program Act Amendments of 2002, and every 2 years thereafter, the Secretary shall submit a report to the Congress describing the efforts by the Secretary to ensure equal access for minority and economically disadvantaged students to the program carried out under this subsection, and the results of such efforts.".

(b) Postdoctoral Fellows.—Section 208(c) of the National Sea Grant College Program Act (33 U.S.C. 1127(c)) is repealed.

SEC. 6. TERMS OF MEMBERSHIP FOR SEA GRANT REVIEW PANEL.

Section 209(c)(2) of the National Sea Grant College Program Act (33 U.S.C. 1128(c)(2)) is amended by striking the first sentence and inserting the following: "The term of office of a voting member of the panel shall be 3 years for a member appointed before the date of enactment of the National Sea Grant College Program Act Amendments of 2002, and 4 years for a member appointed or reappointed after the date of enactment of the National Sea Grant College Program Act Amendments of 2002. The Director may extend the term of office of a voting member of the panel appointed before the date of enactment of the National Sea Grant College Program Act Amendments of 2002 by up to 1 year.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Subsections (a), (b), and (c) of section 212 of the National Sea Grant College Program Act (33 U.S.C. 1131) are amended to read as follows:

"(a) Authorization.—

"(1) In general.—There are authorized to be appropriated to the Secretary to carry out this title—

"(A) $60,000,000 for fiscal year 2003;

"(B) $75,000,000 for fiscal year 2004;

"(C) $77,500,000 for fiscal year 2005;

"(D) $80,000,000 for fiscal year 2006;

"(E) $82,500,000 for fiscal year 2007; and

"(F) $85,000,000 for fiscal year 2008.

"(2) Priority activities.—In addition to the amounts authorized under paragraph (1), there are authorized to be appropriated for each of fiscal years 2003 through 2008—

"(A) $5,000,000 for competitive grants for university research on the biology and control of zebra mussels and other important aquatic nonnative species;

"(B) $5,000,000 for competitive grants for university research on oyster diseases, oyster restoration, and oyster-related human health risks;

"(C) $5,000,000 for competitive grants for university research on the biology, prevention, and forecasting of harmful algal blooms, including Pfiesteria piscicida; and

"(D) $3,000,000 for competitive grants for fishery extension activities conducted by sea grant colleges or sea grant institutes to enhance, and not supplant, existing core program funding.

"(b) Limitations.—

"(1) Administration.—There may not be used for administration of programs under this title in a fiscal year more than 5 percent of the lesser of—

"(A) the amount authorized to be appropriated under this title for the fiscal year; or

"(B) the amount appropriated under this title for the fiscal year.

"(2) Use for other offices or programs.—Sums appropriated under the authority of subsection (a)(2) shall not be available for administration of this title by the National Sea Grant Office, for any other Administration or department program, or for any other administrative expenses.

"(c) Distribution of Funds.—In any fiscal year in which the appropriations made under subsection (a)(1) exceed the amounts appropriated for fiscal year 2003 for the purposes described in such subsection, the Secretary shall distribute any excess amounts (except amounts used for the administration of the sea grant program) to any combination of the following:

"(1) sea grant programs, according to their rating under section 204(d)(3)(A);

"(2) national strategic investments authorized under section 204(b)(4);

"(3) a college, university, institution, association, or alliance for activities that are necessary for it to be designated as a sea grant college or sea grant institute;

"(4) a sea grant college or sea grant institute designated after the date of enactment of the National Sea Grant College Program Act Amendments of 2002 but not yet evaluated under section 204(d)(3)(A).".

SEC. 8. ANNUAL REPORT ON PROGRESS IN BECOMING DESIGNATED AS SEA GRANT COLLEGES AND SEA GRANT INSTITUTES.

Section 207 of the National Sea Grant College Program Act (16 U.S.C. 1126) is amended by adding at the end the following:

"(e) Annual Report on Progress.—

"(1) Report requirement.—The Secretary shall report annually to the Committee on Resources and the Committee on Science of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, on efforts and progress made by colleges, universities, institutions, associations, and alliances to become designated under this section as sea grant colleges or sea grant institutes, including efforts and progress made by sea grant institutes in being designated as sea grant colleges.

"(2) Territories and freely associated States.—The report shall include description of—

"(A) efforts made by colleges, universities, associations, institutions, and alliances in United States territories and freely associated States to develop the expertise necessary to be designated as a sea grant institute or sea grant college;

"(B) the administrative, technical, and financial assistance provided by the Secretary to those entities seeking to be designated; and

"(C) the additional actions or activities necessary for those entities to meet the qualifications for such designation under subsection (a)(1).".

SEC. 9. COORDINATION.

Not later than February 15 of each year, the Under Secretary of Commerce for Oceans and Atmosphere and the Director of the National Science Foundation shall jointly submit to the Committees on Resources and Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on how the oceans and coastal research activities of the National Oceanic and Atmospheric Administration, including the Coastal Ocean Program and the National Sea Grant College Program, and of the National Science Foundation will be coordinated during the fiscal year following the fiscal year in which the report is submitted. The report shall describe in detail any overlapping ocean and coastal research interests between the agencies and specify how such research interests will be pursued by the programs in a complementary manner.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present to the House H.R. 3389, the National Sea Grant College Program Act Amendments, a bill introduced last fall by the gentleman from Maryland (Mr. GILCHREST) with 113 cosponsors. The Committee on Resources, the House Committee on Science, and the Senate Committee on Commerce have worked together to thoroughly review the Sea Grant College Program Act and thoughtfully crafted changes to strengthen and improve the authority. The bill reauthorizes Sea Grant for 5 years within the National Oceanic and Atmospheric Administration and makes some minor improvements to the program.

Sea Grant Colleges were envisioned as the Land-Grant colleges of the sea, and in 1966, Congress established Sea Grant as an academic/industry/government partnership by passing the National Sea Grant College Act. Since then, Sea Grant colleges have developed and sponsored research that improves conservation and management of coastal and marine resources for the benefit of future generations.

Today, there are 30 Sea Grant College programs representing a network of researchers, educators, and marine advisory agents at over 300 academic institutions. Although America's inland sea, the Great Salt Lake, is not under the purview of the Sea Grant institutions, I am still a strong supporter of the Sea Grant Program, not only because of the importance of marine and coastal issues, but also because these institutions are held to the highest standards of excellence and a rigorous peer review process to ensure the quality of their research.

This bill strengthens the act by calling for an increase in collaboration between other ocean research funding entities and the National Sea Grant College Program to limit duplication of efforts and enhance related research. It increases authorization levels that have stagnated over the past number of years and ensures that the quality of research and management within the Sea Grant College system is rewarded through competitive merit-based disbursements of funds.

On June 19 of this year, we passed H.R. 3389 out of the House and sent it to the Senate. They have recently, bless their hearts, passed their version of the bill containing minor technical modifications to our bill. We concur with and support those changes.

Sea Grant is important to the country and the reauthorization of its underlying authority is necessary. We have improved the act through this process, and I urge my colleagues to vote "aye" on H.R. 3389.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. PALLONE. Mr. Speaker, as a former Sea Grant extension agent, I am pleased to rise in support of H.R. 3389, a bill to reauthorize the National Sea Grant College Program Act. There is little more that I can add to the summary of the legislation provided by the chairman of the Committee on Resources, the gentleman from Utah (Mr. HANSEN).

However, I wanted to say that this final version of H.R. 3389 reflects a fair and noncontroversial compromise between legislation passed by the House in June by a 407 to 2 vote and the companion legislation passed by the other body.

Certainly the higher authorized levels for program appropriations, revised rating and evaluation procedures, and new requirements to enhance cooperation and coordination between Federal agencies and Sea Grant programs will help ensure that the National Sea Grant Program stays on the cutting edge of applied marine research, technology transfer, education, and outreach.

Perhaps most important, Mr. Speaker, this legislation represents a clear repudiation by the Congress of the administration's ill-advised budget proposal to transfer the National Sea Grant Program from NOAA, the National Oceanic and Atmospheric Administration, to the National Science Foundation.

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While I approve and respect NSF's mission and scientists, and while I continue to support full funding for NSF, I, like many other Members, believe that the national interest is best served by keeping Sea Grant in NOAA. This legislation unequivocally reaffirms that commitment. Let us also hope that it puts this misbegotten issue to rest once and for all.

Mr. Speaker, I urge all Members to support passage of this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of H.R. 3389, which was referred to the Committee on Science, as well as the Committee on Resources. I wanted to thank the Committee on Resources, and especially the chairman of the Subcommittee on Fisheries Conservation, Wildlife, and Oceans, my good friend, the gentleman from Maryland (Mr. GILCHREST), for working so cooperatively with us on this measure.

I also want to acknowledge the gentleman from Michigan (Mr. EHLERS), the chairman of the Subcommittee on Environment, Technology, and Standards, who shepherded this bill through our committee.

Mr. Speaker, this bill took a little bit of work to get through the process because we were not satisfied with simply reauthorizing the program, or even with simply increasing its funding, although that is an important part of the bill. We wanted to make sure that an excellent program would become even better, and we took seriously the administration's interest in making the funding for the program more competitive, even as we rejected moving the program to the National Science Foundation.

As a result, this bill will make some changes in the Sea Grant program. The State programs will now be subject to a competitive evaluation and ranking, and new monies will be distributed based on those rankings. New money can also be used for national initiatives and for new entrants in the Sea Grant program. We hope and expect that this new approach to Sea Grant so common elsewhere in the scientific community will spur the program to new heights.

The bill includes a review of how the new evaluation system is working, so we are not just going to assume that our idea will pan out, but we will put it to the test.

I am very pleased that we were able to develop a bill that recognizes the great contributions of the Sea Grant program, retains it within NOAA, provides additional funds, and challenges it to be more competitive.

I want to thank the staff who worked so hard on this bill, particularly Eric Webster on the Committee on Science and John Rayfield on the Committee on Resources. This is a cooperative, bipartisan effort, and I urge its approval.

Mr. HANSEN. Mr. Speaker, I yield 4½ minutes to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding time to me.

I want to join in praise of the gentleman from Utah (Mr. HANSEN) for his work on this bill, and for his longtime work on this committee. He has done yeoman's work, and we can be very thankful for all the good work he has done for the Congress and for the people on this particular committee over the years.

I rise today in strong support of H.R. 3389, which reauthorizes the National Sea Grant College Program. This final version of H.R. 3389 resolves the few minor differences between the House and Senate while maintaining the provisions to strengthen the merit review component of the program, and to interject more competition for additional funding.

This bill will make an important marine research and outreach program even better. The National Sea Grant Program is unique in connecting research results to coastal communities through a combination of research, extension and education. In this way, it is somewhat similar to the land grant program we developed for universities and agriculture extension many years ago. Of course, it is not as well-funded as that program, but this is a very good start.

Currently, there are 30 Sea Grant College Programs which fund and incorporate research from hundreds of universities throughout the country. I am especially proud of my home State program, the Michigan Sea Grant Program. It plays a vital role in enhancing our Nation's knowledge and understanding of Great Lakes issues.

While the administration has proposed to transfer the National Sea Grant Program from the National Oceanic and Atmospheric Administration to the National Science Foundation in its fiscal year 2003 budget proposal, we determined it was best to keep the program in NOAA. However, the administration did raise some legitimate concerns with the program which we have addressed in the final version of H.R. 3389.

First, the legislation ensures that Sea Grant will better coordinate its activities with other programs within NOAA and with NSF. To this end, the bill requires NOAA to provide a strategic plan that establishes the priorities for the National Sea Grant College Program and jointly submit a report with NSF about how the oceans and coastal research activities of both agencies will be coordinated. This will reduce duplication and should increase the overall breadth of Federal marine research.

Secondly, we acknowledge the unfair nature of how Federal funding is allocated to the State programs, which appears to be based mostly on historical averages rather than merit or need. Therefore, H.R. 3389 will require that any monies appropriated above the fiscal year 2003 levels shall be distributed to the State Sea Grant Programs on a merit review competitive basis or distributed to national strategic initiatives. This will ensure the State programs can continue their vital outreach efforts while increasing the level of competition among the State programs, and providing the National Sea Grant Office the flexibility to use some of the additional money to address national problems as they arise.

In addition, we added a review of this new evaluation system to ensure that it works as we intend it. In other words, what we are trying to do in this bill is to make certain that the peer review mechanism applies very stringently to the research that is done, but that the States will be able to continue their educational and extension programs as they have in the past.

H.R. 3389 also provides much needed increases in overall funding levels for Sea Grant. The authorization gradually increases from a total of $78 million for fiscal year 2003 to $103 million for fiscal year 2008. Included in that amount is $18 million a year specifically for research into aquatic nuisance species, harmful algae blooms, oysters, and fisheries outreach activities.

Finally, I wanted to thank the gentleman from Maryland (Mr. GILCHREST) as well as the gentleman from Utah (Mr. HANSEN) for their work in introducing H.R. 3389, and thank the gentleman from Maryland (Mr. GILCHREST) for his leadership in these areas.

I am particularly pleased that our two committees, the Committee on Science and the Committee on Resources, were able to work so well together throughout this process. I look forward to working with the gentleman from Maryland (Mr. GILCHREST) and his staff on similar joint ventures in the next Congress.

Mr. Speaker, I urge my colleagues to vote in favor of H.R. 3389. Our Nation's coasts, oceans, and Great Lakes will benefit from this legislation.

Mr. PALLONE. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Speaker, I thank the gentleman from New Jersey for yielding time to me.

Mr. Speaker, I rise today in strong support of H.R. 3389, the bill to reauthorize the National Sea Grant College Program and to make important amendments. These vital marine research programs provide money to academic institutions to study marine ecosystems. The work made possible by the Sea Grant program has led to greater understanding of the ocean world, vitally important to our fishing communities like Astoria, Oregon, and to the long-term health of our marine ecosystems.

In Oregon, the vast majority of marine research is done out of the excellent College of Oceanic and Atmospheric Sciences at Oregon State University. With the help of funding through Sea Grant funds, OSU has been able to fund important research initiatives, including the Marine Resource Management Program, which focuses on the effective management of marine and coastal ecosystems. Research initiatives like these are important for long-term, responsible stewardship of our oceans.

To help our hard-hit fishing communities, we need to design better management strategies that allow for sustainable and economically productive fishing.

In addition, I would like to say that better understanding of our marine ecosystems and better understanding of our marine world is a fundamental need of expanding our base of knowledge about the world in which we live. Furthermore, as someone who wanted originally to be a marine biologist when I was in high school, had there been more programs like this funding for our national universities, who knows, I might have found a more constructive thing to do with my life.

Mr. Speaker, during consideration of this bill in the Committee on Science, I enjoyed working with my colleagues to keep Sea Grant and the Coastal Ocean Program, another marine research program, as two distinct programs with separate missions and scopes.

I would also like to recognize the sponsor of this bill, my good friend, the gentleman from Maryland (Mr. GILCHREST), and thank him for his leadership on this bill.

In closing, I urge my colleagues to support H.R. 3389.

Mr. PALLONE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOEHLERT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and concur in the Senate amendment to H.R. 3389.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

CYBER SECURITY RESEARCH AND DEVELOPMENT ACT

Mr. BOEHLERT. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 3394) an Act to authorize funding for computer and network security research and development and research fellowship programs, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cyber Security Research and Development Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Revolutionary advancements in computing and communications technology have interconnected government, commercial, scientific, and educational infrastructures—including critical infrastructures for electric power, natural gas and petroleum production and distribution, telecommunications, transportation, water supply, banking and finance, and emergency and government services—in a vast, interdependent physical and electronic network.

(2) Exponential increases in interconnectivity have facilitated enhanced communications, economic growth, and the delivery of services critical to the public welfare, but have also increased the consequences of temporary or prolonged failure.

(3) A Department of Defense Joint Task Force concluded after a 1997 United States information warfare exercise that the results "clearly demonstrated our lack of preparation for a coordinated cyber and physical attack on our critical military and civilian infrastructure".

(4) Computer security technology and systems implementation lack—

(A) sufficient long term research funding;

(B) adequate coordination across Federal and State government agencies and among government, academia, and industry; and

(C) sufficient numbers of outstanding researchers in the field.

(5) Accordingly, Federal investment in computer and network security research and development must be significantly increased to—

(A) improve vulnerability assessment and technological and systems solutions;

(B) expand and improve the pool of information security professionals, including researchers, in the United States workforce; and

(C) better coordinate information sharing and collaboration among industry, government, and academic research projects.

(6) While African-Americans, Hispanics, and Native Americans constitute 25 percent of the total United States workforce and 30 percent of the college-age population, members of these minorities comprise less than 7 percent of the United States computer and information science workforce.

SEC. 3. DEFINITIONS.

In this Act:

(1) Director.—The term "Director" means the Director of the National Science Foundation.

(2) Institution of higher education.—The term "institution of higher education" has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

SEC. 4. NATIONAL SCIENCE FOUNDATION RESEARCH.

(a) Computer and Network Security Research Grants.—

(1) In general.—The Director shall award grants for basic research on innovative approaches to the structure of computer and network hardware and software that are aimed at enhancing computer security. Research areas may include—

(A) authentication, cryptography, and other secure data communications technology;

(B) computer forensics and intrusion detection;

(C) reliability of computer and network applications, middleware, operating systems, control systems, and communications infrastructure;

(D) privacy and confidentiality;

(E) network security architecture, including tools for security administration and analysis;

(F) emerging threats;

(G) vulnerability assessments and techniques for quantifying risk;

(H) remote access and wireless security; and

(I) enhancement of law enforcement ability to detect, investigate, and prosecute cyber-crimes, including those that involve piracy of intellectual property.

(2) Merit review; competition.—Grants shall be awarded under this section on a merit-reviewed competitive basis.

(3) Authorization of appropriations.—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

(A) $35,000,000 for fiscal year 2003;

(B) $40,000,000 for fiscal year 2004;

(C) $46,000,000 for fiscal year 2005;

(D) $52,000,000 for fiscal year 2006; and

(E) $60,000,000 for fiscal year 2007.

(b) Computer and Network Security Research Centers.—

(1) In general.—The Director shall award multiyear grants, subject to the availability of appropriations, to institutions of higher education, nonprofit research institutions, or consortia thereof to establish multidisciplinary Centers for Computer and Network Security Research. Institutions of higher education, nonprofit research institutions, or consortia thereof receiving such grants may partner with 1 or more government laboratories or for-profit institutions, or other institutions of higher education or nonprofit research institutions.

(2) Merit review; competition.—Grants shall be awarded under this subsection on a merit-reviewed competitive basis.

(3) Purpose.—The purpose of the Centers shall be to generate innovative approaches to computer and network security by conducting cutting-edge, multidisciplinary research in computer and network security, including the research areas described in subsection (a)(1).

(4) Applications.—An institution of higher education, nonprofit research institution, or consortia thereof seeking funding under this subsection shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the research projects that will be undertaken by the Center and the contributions of each of the participating entities;

(B) how the Center will promote active collaboration among scientists and engineers from different disciplines, such as computer scientists, engineers, mathematicians, and social science researchers;

(C) how the Center will contribute to increasing the number and quality of computer and network security researchers and other professionals, including individuals from groups historically underrepresented in these fields; and

(D) how the center will disseminate research results quickly and widely to improve cyber security in information technology networks, products, and services.

(5) Criteria.—In evaluating the applications submitted under paragraph (4), the Director shall consider, at a minimum—

(A) the ability of the applicant to generate innovative approaches to computer and network security and effectively carry out the research program;

(B) the experience of the applicant in conducting research on computer and network security and the capacity of the applicant to foster new multidisciplinary collaborations;

(C) the capacity of the applicant to attract and provide adequate support for a diverse group of undergraduate and graduate students and postdoctoral fellows to pursue computer and network security research; and

(D) the extent to which the applicant will partner with government laboratories, for-profit entities, other institutions of higher education, or nonprofit research institutions, and the role the partners will play in the research undertaken by the Center.

(6) Annual meeting.—The Director shall convene an annual meeting of the Centers in order to foster collaboration and communication between Center participants.

(7) Authorization of appropriations.—There are authorized to be appropriated for the National Science Foundation to carry out this subsection—

(A) $12,000,000 for fiscal year 2003;

(B) $24,000,000 for fiscal year 2004;

(C) $36,000,000 for fiscal year 2005;

(D) $36,000,000 for fiscal year 2006; and

(E) $36,000,000 for fiscal year 2007.

SEC. 5. NATIONAL SCIENCE FOUNDATION COMPUTER AND NETWORK SECURITY PROGRAMS.

(a) Computer and Network Security Capacity Building Grants.—

(1) In general.—The Director shall establish a program to award grants to institutions of higher education (or consortia thereof) to establish or improve undergraduate and master's degree programs in computer and network security, to increase the number of students, including the number of students from groups historically underrepresented in these fields, who pursue undergraduate or master's degrees in fields related to computer and network security, and to provide students with experience in government or industry related to their computer and network security studies.

(2) Merit review.—Grants shall be awarded under this subsection on a merit-reviewed competitive basis.

(3) Use of funds.—Grants awarded under this subsection shall be used for activities that enhance the ability of an institution of higher education (or consortium thereof) to provide high-quality undergraduate and master's degree programs in computer and network security and to recruit and retain increased numbers of students to such programs. Activities may include—

(A) revising curriculum to better prepare undergraduate and master's degree students for careers in computer and network security;

(B) establishing degree and certificate programs in computer and network security;

(C) creating opportunities for undergraduate students to participate in computer and network security research projects;

(D) acquiring equipment necessary for student instruction in computer and network security, including the installation of testbed networks for student use;

(E) providing opportunities for faculty to work with local or Federal Government agencies, private industry, nonprofit research institutions, or other academic institutions to develop new expertise or to formulate new research directions in computer and network security;

(F) establishing collaborations with other academic institutions or academic departments that seek to establish, expand, or enhance programs in computer and network security;

(G) establishing student internships in computer and network security at government agencies or in private industry;

(H) establishing collaborations with other academic institutions to establish or enhance a web-based collection of computer and network security courseware and laboratory exercises for sharing with other institutions of higher education, including community colleges;

(I) establishing or enhancing bridge programs in computer and network security between community colleges and universities; and

(J) any other activities the Director determines will accomplish the goals of this subsection.

(4) SELECTION PROCESS.—

(A) APPLICATION.—An institution of higher education (or a consortium thereof) seeking funding under this subsection shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(i) a description of the applicant's computer and network security research and instructional capacity, and in the case of an application from a consortium of institutions of higher education, a description of the role that each member will play in implementing the proposal;

(ii) a comprehensive plan by which the institution or consortium will build instructional capacity in computer and information security;

(iii) a description of relevant collaborations with government agencies or private industry that inform the instructional program in computer and network security;

(iv) a survey of the applicant's historic student enrollment and placement data in fields related to computer and network security and a study of potential enrollment and placement for students enrolled in the proposed computer and network security program; and

(v) a plan to evaluate the success of the proposed computer and network security program, including post-graduation assessment of graduate school and job placement and retention rates as well as the relevance of the instructional program to graduate study and to the workplace.

(B) AWARDS.—(i) The Director shall ensure, to the extent practicable, that grants are awarded under this subsection in a wide range of geographic areas and categories of institutions of higher education, including minority serving institutions.

(ii) The Director shall award grants under this subsection for a period not to exceed 5 years.

(5) ASSESSMENT REQUIRED.—The Director shall evaluate the program established under this subsection no later than 6 years after the establishment of the program. At a minimum, the Director shall evaluate the extent to which the program achieved its objectives of increasing the quality and quantity of students, including students from groups historically underrepresented in computer and network security related disciplines, pursuing undergraduate or master's degrees in computer and network security.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

(A) $15,000,000 for fiscal year 2003;

(B) $20,000,000 for fiscal year 2004;

(C) $20,000,000 for fiscal year 2005;

(D) $20,000,000 for fiscal year 2006; and

(E) $20,000,000 for fiscal year 2007.

(b) SCIENTIFIC AND ADVANCED TECHNOLOGY ACT OF 1992.—

(1) GRANTS.—The Director shall provide grants under the Scientific and Advanced Technology Act of 1992 (42 U.S.C. 1862i) for the purposes of section 3(a) and (b) of that Act, except that the activities supported pursuant to this subsection shall be limited to improving education in fields related to computer and network security.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

(A) $1,000,000 for fiscal year 2003;

(B) $1,250,000 for fiscal year 2004;

(C) $1,250,000 for fiscal year 2005;

(D) $1,250,000 for fiscal year 2006; and

(E) $1,250,000 for fiscal year 2007.

(c) GRADUATE TRAINEESHIPS IN COMPUTER AND NETWORK SECURITY RESEARCH.—

(1) IN GENERAL.—The Director shall establish a program to award grants to institutions of higher education to establish traineeship programs for graduate students who pursue computer and network security research leading to a doctorate degree by providing funding and other assistance, and by providing graduate students with research experience in government or industry related to the students' computer and network security studies.

(2) MERIT REVIEW.—Grants shall be provided under this subsection on a merit-reviewed competitive basis.

(3) USE OF FUNDS.—An institution of higher education shall use grant funds for the purposes of—

(A) providing traineeships to students who are citizens, nationals, or lawfully admitted permanent resident aliens of the United States and are pursuing research in computer or network security leading to a doctorate degree;

(B) paying tuition and fees for students receiving traineeships under subparagraph (A);

(C) establishing scientific internship programs for students receiving traineeships under subparagraph (A) in computer and network security at for-profit institutions, nonprofit research institutions, or government laboratories; and

(D) other costs associated with the administration of the program.

(4) TRAINEESHIP AMOUNT.—Traineeships provided under paragraph (3)(A) shall be in the amount of $25,000 per year, or the level of the National Science Foundation Graduate Research Fellowships, whichever is greater, for up to 3 years.

(5) SELECTION PROCESS.—An institution of higher education seeking funding under this subsection shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the instructional program and research opportunities in computer and network security available to graduate students at the applicant's institution; and

(B) the internship program to be established, including the opportunities that will be made available to students for internships at for-profit institutions, nonprofit research institutions, and government laboratories.

(6) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (5), the Director shall consider—

(A) the ability of the applicant to effectively carry out the proposed program;

(B) the quality of the applicant's existing research and education programs;

(C) the likelihood that the program will recruit increased numbers of students, including students from groups historically underrepresented in computer and network security related disciplines, to pursue and earn doctorate degrees in computer and network security;

(D) the nature and quality of the internship program established through collaborations with government laboratories, nonprofit research institutions, and for-profit institutions;

(E) the integration of internship opportunities into graduate students' research; and

(F) the relevance of the proposed program to current and future computer and network security needs.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

(A) $10,000,000 for fiscal year 2003;

(B) $20,000,000 for fiscal year 2004;

(C) $20,000,000 for fiscal year 2005;

(D) $20,000,000 for fiscal year 2006; and

(E) $20,000,000 for fiscal year 2007.

(d) GRADUATE RESEARCH FELLOWSHIPS PROGRAM SUPPORT.—Computer and network security shall be included among the fields of specialization supported by the National Science Foundation's Graduate Research Fellowships program under section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869).

(e) CYBER SECURITY FACULTY DEVELOPMENT TRAINEESHIP PROGRAM.—

(1) IN GENERAL.—The Director shall establish a program to award grants to institutions of higher education to establish traineeship programs to enable graduate students to pursue academic careers in cyber security upon completion of doctoral degrees.

(2) MERIT REVIEW; COMPETITION.—Grants shall be awarded under this section on a merit-reviewed competitive basis.

(3) APPLICATION.—Each institution of higher education desiring to receive a grant under this subsection shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

(4) USE OF FUNDS.—Funds received by an institution of higher education under this paragraph shall—

(A) be made available to individuals on a merit-reviewed competitive basis and in accordance with the requirements established in paragraph (7);

(B) be in an amount that is sufficient to cover annual tuition and fees for doctoral study at an institution of higher education for the duration of the graduate traineeship, and shall include, in addition, an annual living stipend of $25,000; and

(C) be provided to individuals for a duration of no more than 5 years, the specific duration of each graduate traineeship to be determined by the institution of higher education, on a case-by-case basis.

(5) REPAYMENT.—Each graduate traineeship shall—

(A) subject to paragraph (5)(B), be subject to full repayment upon completion of the doctoral degree according to a repayment schedule established and administered by the institution of higher education;

(B) be forgiven at the rate of 20 percent of the total amount of the graduate traineeship assistance received under this section for each academic year that a recipient is employed as a full-time faculty member at an institution of higher education for a period not to exceed 5 years; and

(C) be monitored by the institution of higher education receiving a grant under this subsection to ensure compliance with this subsection.

(6) EXCEPTIONS.—The Director may provide for the partial or total waiver or suspension of any service obligation or payment by an individual under this section whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be unconscionable.

(7) ELIGIBILITY.—To be eligible to receive a graduate traineeship under this section, an individual shall—

(A) be a citizen, national, or lawfully admitted permanent resident alien of the United States;

(B) demonstrate a commitment to a career in higher education.

(8) CONSIDERATION.—In making selections for graduate traineeships under this paragraph, an institution receiving a grant under this subsection shall consider, to the extent possible, a diverse pool of applicants whose interests are of an interdisciplinary nature, encompassing the social scientific as well as the technical dimensions of cyber security.

(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the

National Science Foundation to carry out this paragraph $5,000,000 for each of fiscal years 2003 through 2007.

SEC. 6. CONSULTATION.

In carrying out sections 4 and 5, the Director shall consult with other Federal agencies.

SEC. 7. FOSTERING RESEARCH AND EDUCATION IN COMPUTER AND NETWORK SECURITY.

Section 3(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking "Congress." in paragraph (7) and inserting "Congress ; and"; and

(3) by adding at the end the following:

"(8) to take a leading role in fostering and supporting research and education activities to improve the security of networked information systems.".

SEC. 8. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY PROGRAMS.

(a) RESEARCH PROGRAM.—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) by moving section 22 to the end of the Act and redesignating it as section 32;

(2) by inserting after section 21 the following new section:

"SEC. 22. RESEARCH PROGRAM ON SECURITY OF COMPUTER SYSTEMS

"(a) ESTABLISHMENT.—The Director shall establish a program of assistance to institutions of higher education that enter into partnerships with for-profit entities to support research to improve the security of computer systems. The partnerships may also include government laboratories and nonprofit research institutions. The program shall—

"(1) include multidisciplinary, long-term research;

"(2) include research directed toward addressing needs identified through the activities of the Computer System Security and Privacy Advisory Board under section 20(f); and

"(3) promote the development of a robust research community working at the leading edge of knowledge in subject areas relevant to the security of computer systems by providing support for graduate students, post-doctoral researchers, and senior researchers.

"(b) FELLOWSHIPS.—

"(1) POST-DOCTORAL RESEARCH FELLOWSHIPS.—The Director is authorized to establish a program to award post-doctoral research fellowships to individuals who are citizens, nationals, or lawfully admitted permanent resident aliens of the United States and are seeking research positions at institutions, including the Institute, engaged in research activities related to the security of computer systems, including the research areas described in section 4(a)(1) of the Cyber Security Research and Development Act.

"(2) SENIOR RESEARCH FELLOWSHIPS.—The Director is authorized to establish a program to award senior research fellowships to individuals seeking research positions at institutions, including the Institute, engaged in research activities related to the security of computer systems, including the research areas described in section 4(a)(1) of the Cyber Security Research and Development Act. Senior research fellowships shall be made available for established researchers at institutions of higher education who seek to change research fields and pursue studies related to the security of computer systems.

"(3) ELIGIBILITY.—

"(A) IN GENERAL.—To be eligible for an award under this subsection, an individual shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(B) STIPENDS.—Under this subsection, the Director is authorized to provide stipends for post-doctoral research fellowships at the level of the Institute's Post Doctoral Research Fellowship Program and senior research fellowships at levels consistent with support for a faculty member in a sabbatical position.

"(c) AWARDS; APPLICATIONS.—

"(1) IN GENERAL.—The Director is authorized to award grants or cooperative agreements to institutions of higher education to carry out the program established under subsection (a). No funds made available under this section shall be made available directly to any for-profit partners.

"(2) ELIGIBILITY.—To be eligible for an award under this section, an institution of higher education shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

"(A) the number of graduate students anticipated to participate in the research project and the level of support to be provided to each;

"(B) the number of post-doctoral research positions included under the research project and the level of support to be provided to each;

"(C) the number of individuals, if any, intending to change research fields and pursue studies related to the security of computer systems to be included under the research project and the level of support to be provided to each; and

"(D) how the for-profit entities, nonprofit research institutions, and any other partners will participate in developing and carrying out the research and education agenda of the partnership.

"(d) PROGRAM OPERATION.—

"(1) MANAGEMENT.—The program established under subsection (a) shall be managed by individuals who shall have both expertise in research related to the security of computer systems and knowledge of the vulnerabilities of existing computer systems. The Director shall designate such individuals as program managers.

"(2) MANAGERS MAY BE EMPLOYEES.—Program managers designated under paragraph (1) may be new or existing employees of the Institute or individuals on assignment at the Institute under the Intergovernmental Personnel Act of 1970, except that individuals on assignment at the Institute under the Intergovernmental Personnel Act of 1970 shall not directly manage such employees.

"(3) MANAGER RESPONSIBILITY.—Program managers designated under paragraph (1) shall be responsible for—

"(A) establishing and publicizing the broad research goals for the program;

"(B) soliciting applications for specific research projects to address the goals developed under subparagraph (A);

"(C) selecting research projects for support under the program from among applications submitted to the Institute, following consideration of—

"(i) the novelty and scientific and technical merit of the proposed projects;

"(ii) the demonstrated capabilities of the individual or individuals submitting the applications to successfully carry out the proposed research;

"(iii) the impact the proposed projects will have on increasing the number of computer security researchers;

"(iv) the nature of the participation by for-profit entities and the extent to which the proposed projects address the concerns of industry; and

"(v) other criteria determined by the Director, based on information specified for inclusion in applications under subsection (c); and

"(D) monitoring the progress of research projects supported under the program.

"(4) REPORTS.—The Director shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science annually on the use and responsibility of individuals on assignment at the Institute under the Intergovernmental Personnel Act of 1970 who are performing duties under subsection (d).

"(e) REVIEW OF PROGRAM.—

"(1) PERIODIC REVIEW.—The Director shall periodically review the portfolio of research awards monitored by each program manager designated in accordance with subsection (d). In conducting those reviews, the Director shall seek the advice of the Computer System Security and Privacy Advisory Board, established under section 21, on the appropriateness of the research goals and on the quality and utility of research projects managed by program managers in accordance with subsection (d).

"(2) COMPREHENSIVE 5-YEAR REVIEW.—The Director shall also contract with the National Research Council for a comprehensive review of the program established under subsection (a) during the 5th year of the program. Such review shall include an assessment of the scientific quality of the research conducted, the relevance of the research results obtained to the goals of the program established under subsection (d)(3)(A), and the progress of the program in promoting the development of a substantial academic research community working at the leading edge of knowledge in the field. The Director shall submit to Congress a report on the results of the review under this paragraph no later than 6 years after the initiation of the program.

"(f) DEFINITIONS.—In this section:

"(1) COMPUTER SYSTEM.—The term 'computer system' has the meaning given that term in section 20(d)(1).

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).".

(b) AMENDMENT OF COMPUTER SYSTEM DEFINITION.—Section 20(d)(1)(B)(i) of National Institute of Standards and Technology Act (15 U.S.C. 278g–3(d)(1)(B)(i)) is amended to read as follows:

"(i) computers and computer networks;".

(c) CHECKLISTS FOR GOVERNMENT SYSTEMS.—

(1) IN GENERAL.—The Director of the National Institute of Standards and Technology shall develop, and revise as necessary, a checklist setting forth settings and option selections that minimize the security risks associated with each computer hardware or software system that is, or is likely to become, widely used within the Federal government.

(2) PRIORITIES FOR DEVELOPMENT; EXCLUDED SYSTEMS.—The Director of the National Institute of Standards and Technology may establish priorities for the development of checklists under this paragraph on the basis of the security risks associated with the use of the system, the number of agencies that use a particular system, the usefulness of the checklist to Federal agencies that are users or potential users of the system, or such other factors as the Director determines to be appropriate. The Director of the National Institute of Standards and Technology may exclude from the application of paragraph (1) any computer hardware or software system for which the Director of the National Institute of Standards and Technology determines that the development of a checklist is inappropriate because of the infrequency of use of the system, the obsolescence of the system, or the inutility or impracticability of developing a checklist for the system.

(3) DISSEMINATION OF CHECKLISTS.—The Director of the National Institute of Standards and Technology shall make any checklist developed under this paragraph for any computer

hardware or software system available to each Federal agency that is a user or potential user of the system.

(4) AGENCY USE REQUIREMENTS.—The development of a checklist under paragraph (1) for a computer hardware or software system does not—

(A) require any Federal agency to select the specific settings or options recommended by the checklist for the system;

(B) establish conditions or prerequisites for Federal agency procurement or deployment of any such system;

(C) represent an endorsement of any such system by the Director of the National Institute of Standards and Technology; nor

(D) preclude any Federal agency from procuring or deploying other computer hardware or software systems for which no such checklist has been developed.

(d) FEDERAL AGENCY INFORMATION SECURITY PROGRAMS.—

(1) IN GENERAL.—In developing the agency-wide information security program required by section 3534(b) of title 44, United States Code, an agency that deploys a computer hardware or software system for which the Director of the National Institute of Standards and Technology has developed a checklist under subsection (c) of this section—

(A) shall include in that program an explanation of how the agency has considered such checklist in deploying that system; and

(B) may treat the explanation as if it were a portion of the agency's annual performance plan properly classified under criteria established by an Executive Order (within the meaning of section 1115(d) of title 31, United States Code).

(2) LIMITATION.—Paragraph (1) does not apply to any computer hardware or software system for which the National Institute of Standards and Technology does not have responsibility under section 20(a)(3) of the National Institute of Standards and Technology Act (15 U.S.C.278g-3(a)(3)).

SEC. 9. COMPUTER SECURITY REVIEW, PUBLIC MEETINGS, AND INFORMATION.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) is amended by adding at the end the following new subsection:

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $1,060,000 for fiscal year 2003 and $1,090,000 for fiscal year 2004 to enable the Computer System Security and Privacy Advisory Board, established by section 21, to identify emerging issues, including research needs, related to computer security, privacy, and cryptography and, as appropriate, to convene public meetings on those subjects, receive presentations, and publish reports, digests, and summaries for public distribution on those subjects.".

SEC. 10. INTRAMURAL SECURITY RESEARCH.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3), as amended by this Act, is further amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following:

"(e) INTRAMURAL SECURITY RESEARCH.—As part of the research activities conducted in accordance with subsection (b)(4), the Institute shall—

"(1) conduct a research program to address emerging technologies associated with assembling a networked computer system from components while ensuring it maintains desired security properties;

"(2) carry out research associated with improving the security of real-time computing and communications systems for use in process control; and

"(3) carry out multidisciplinary, long-term, high-risk research on ways to improve the security of computer systems.".

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce for the National Institute of Standards and Technology—

(1) for activities under section 22 of the National Institute of Standards and Technology Act, as added by section 8 of this Act—

(A) $25,000,000 for fiscal year 2003;
(B) $40,000,000 for fiscal year 2004;
(C) $55,000,000 for fiscal year 2005;
(D) $70,000,000 for fiscal year 2006;
(E) $85,000,000 for fiscal year 2007; and

(2) for activities under section 20(f) of the National Institute of Standards and Technology Act, as added by section 10 of this Act—

(A) $6,000,000 for fiscal year 2003;
(B) $6,200,000 for fiscal year 2004;
(C) $6,400,000 for fiscal year 2005;
(D) $6,600,000 for fiscal year 2006; and
(E) $6,800,000 for fiscal year 2007.

SEC. 12. NATIONAL ACADEMY OF SCIENCES STUDY ON COMPUTER AND NETWORK SECURITY IN CRITICAL INFRASTRUCTURES.

(a) STUDY.—Not later than 3 months after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall enter into an arrangement with the National Research Council of the National Academy of Sciences to conduct a study of the vulnerabilities of the Nation's network infrastructure and make recommendations for appropriate improvements. The National Research Council shall—

(1) review existing studies and associated data on the architectural, hardware, and software vulnerabilities and interdependencies in United States critical infrastructure networks;

(2) identify and assess gaps in technical capability for robust critical infrastructure network security and make recommendations for research priorities and resource requirements; and

(3) review any and all other essential elements of computer and network security, including security of industrial process controls, to be determined in the conduct of the study.

(b) REPORT.—The Director of the National Institute of Standards and Technology shall transmit a report containing the results of the study and recommendations required by subsection (a) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science not later than 21 months after the date of enactment of this Act.

(c) SECURITY.—The Director of the National Institute of Standards and Technology shall ensure that no information that is classified is included in any publicly released version of the report required by this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for the National Institute of Standards and Technology for the purposes of carrying out this section, $700,000.

SEC. 13. COORDINATION OF FEDERAL CYBER SECURITY RESEARCH AND DEVELOPMENT

The Director of the National Science Foundation and the Director of the National Institute of Standards and Technology shall coordinate the research programs authorized by this Act or pursuant to amendments made by this Act. The Director of the Office of Science and Technology Policy shall work with the Director of the National Science Foundation and the Director of the National Institute of Standards and Technology to ensure that programs authorized by this Act or pursuant to amendments made by this Act are taken into account in any government-wide cyber security research effort.

SEC. 14. OFFICE OF SPACE COMMERCIALIZATION.

Section 8(a) of the Technology Administration Act of 1998 (15 U.S.C. 1511e(a)) is amended by inserting "the Technology Administration of" after "within".

SEC. 15. TECHNICAL CORRECTION OF NATIONAL CONSTRUCTION SAFETY TEAM ACT.

Section 2(c)(1)(d) of the National Construction Safety Team Act is amended by striking "section 8;" and inserting "section 7;".

SEC. 16. GRANT ELIGIBILITY REQUIREMENTS AND COMPLIANCE WITH IMMIGRATION LAWS.

(a) IMMIGRATION STATUS.—No grant or fellowship may be awarded under this Act, directly or indirectly, to any individual who is in violation of the terms of his or her status as a nonimmigrant under section 101(a)(15)(F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (M), or (J)).

(b) ALIENS FROM CERTAIN COUNTRIES.—No grant or fellowship may be awarded under this Act, directly or indirectly, to any alien from a country that is a state sponsor of international terrorism, as defined under section 306(b) of the Enhanced Border Security and VISA Entry Reform Act (8 U.S.C. 1735(b)), unless the Secretary of State determines, in consultation with the Attorney General and the heads of other appropriate agencies, that such alien does not pose a threat to the safety or national security of the United States.

(c) NON-COMPLYING INSTITUTIONS.—No grant or fellowship may be awarded under this Act, directly or indirectly, to any institution of higher education or non-profit institution (or consortia thereof) that has—

(1) materially failed to comply with the recordkeeping and reporting requirements to receive nonimmigrant students or exchange visitor program participants under section 101(a)(15)(F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (M), or (J)), or section 641 of the Illegal Immigration Reform and Responsibility Act of 1996 (8 U.S.C. 1372), as required by section 502 of the Enhanced Border Security and VISA Entry Reform Act (8 U.S.C. 1762); or

(2) been suspended or terminated pursuant to section 502(c) of the Enhanced Border Security and VISA Entry Reform Act (8 U.S.C 1762(c)).

SEC. 17. REPORT ON GRANT AND FELLOWSHIP PROGRAMS.

Within 24 months after the date of enactment of this Act, the Director, in consultation with the Assistant to the President for National Security Affairs, shall submit to Congress a report reviewing this Act to ensure that the programs and fellowships are being awarded under this Act to individuals and institutions of higher education who are in compliance with the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) in order to protect our national security.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. BOEHLERT) and the gentleman from Washington (Mr. BAIRD) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BOEHLERT).

GENERAL LEAVE

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 3394.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BOEHLERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring H.R. 3394, the Cyber Security Research and Development Act, before the House again, this time for final passage.

Back in February, the House passed the bill 400 to 12, a sign of the widely recognized need for this legislation. The Senate, by unanimous consent, has now returned the bill to us entirely intact, with a few negotiated noncontroversial additions. These additions include an additional fellowship program, greater efforts to approve the security of Federal computers, language to ensure that existing rules concerning foreign students are being enforced, and a technical correction to the bill we passed in response to the collapse of the World Trade Center.

With this background, no one should be surprised that I expect this bill to be signed shortly by the President. That is as it should be. H.R. 3394 will provide a targeted solution to a serious but largely overlooked problem: cyber security.

Cyber security is a problem that is even worse than it first appears. That is because not only are our Nation's computers and networks vulnerable to attack, and not only could a cyber attack disrupt our economy and threaten public health and safety, but we simply do not know enough about how to design computers and networks to make them less vulnerable.

For too long, cyber security has just not been a research priority. The private sector was much more focused on making computers cheaper, faster, and easier to use. The market did not put a premium on security. Government similarly turned its attention elsewhere.

As a result, computers have become omnipresent. We are more and more at their mercy, without becoming any more secure. In an age of terrorism, such willful ignorance about cyber security has got to come to an end.

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We received yet another reminder of that monumental fact last month when the servers that run the Internet in the United States were subject to a concerted attack from overseas.

H.R. 3394 is designed quite simply, to usher in a new era in cyber security research. Cyber security research will no longer be a backwater, but rather will become a priority at two of our premier research agencies, the National Science Foundation and the National Institute of Standards and Technology, and through them, a priority in academia and industry.

And the programs created by H.R. 3394 are designed not only to spur new thinking about how to safeguard computers and networks in both the short and long run, but to make sure that we have a cadre of experts who will devote their careers to improving cyber security. The bill includes incentives for researchers to turn their attention to cyber security, and incentives to attract students to the field at the undergraduate, graduate and post-doctoral levels.

In short, this bill is a targeted but comprehensive attempt to ensure that the Nation's best minds are focused on improving cyber security. That is what it will take to stave off a cyber attack.

I want to thank the many people inside and outside Congress who helped us bring this bill to fruition. Bill Wulf, the president of the National Academy of Engineering, is really the godfather of this bill, bringing the problem and potential solutions to our attention, and he has always been available to bounce ideas off of. Industry groups have been enormously helpful and supportive, including the Information Technology Association of America and the National Association of Manufacturers.

This bill has been a bipartisan effort from its inception. I want to thank the gentleman from Texas (Mr. HALL), the ranking member, and the other Members of the minority, including the gentleman from Washington (Mr. BAIRD), who have helped shape this bill. We have had similar partnership in the other body led by Senators WYDEN and ALLEN.

In short, H.R. 3394 is a bipartisan approach to a very real but very solvable problem. I urge its final passage, not just because it is needed, but because it will reflect the fine efforts of so many dedicated people on the staff of both the Republican and Democrat side. This bill has been bicameral, and has the private sector working in partnership with government. That is the way it should be. We are addressing a very serious problem, and trying to get ahold of it before it gets out of hand, and I am optimistic we are moving in the right direction.

Mr. Speaker, I urge final passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BAIRD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3394, the Cyber Security Research and Development Act. I thank the gentleman from New York (Chairman BOEHLERT) for his outstanding leadership on this bill, and commend the gentleman from Texas (Mr. HALL) for his leadership as well.

I am tremendously honored that H.R. 3316, a computer security bill that I authored along with the gentleman from New York (Mr. BOEHLERT), are included in today's bill.

Essentially, H.R. 3394 is the same as the version that was passed by the House back in February. This legislation will address the long-term needs to secure the Nation's information infrastructure, as well as strengthening the security of the nonclassified computer systems of our Federal agencies.

Since September 11, attention has been focused in an unprecedented way on increasing our security against terrorism. Today, security has to mean more than locking doors and installing metal detectors. In addition to physical security, virtual information systems that are vital to our Nation's security and economy must be protected. Telecommunications and computer technologies are vulnerable to attack from far away by enemies who can remain anonymous, hidden in the vast maze of the Internet.

Examples of systems that rely on computer networks include our electric power grid, rail networks and financial transaction networks. The gentleman from New York (Mr. BOEHLERT) and the gentlewoman from Maryland (Mrs. MORELLA), the former chairman of the subcommittee, have had the foresight to begin hearings on this matter, even well before September 11. It is that kind of forward thinking that we need to protect our Nation's security and to secure our information infrastructure from cyber attacks.

Our vulnerability to Internet-based computer viruses, denial of service attacks, and defaced websites is well known to the general public. Such widely reported and indeed widely experienced events have increased in frequency over time. These attacks disrupt business and government activities, sometimes resulting in significant recovery costs.

While we have yet to face a catastrophic cyber attack thus far, Richard Clarke, the chair of the President's Critical Infrastructure Protection Board, has said that the government must make cyber security a priority or we face the possibility of what he termed a digital Pearl Harbor.

Potentially vulnerable computer systems are largely owned and operated by the private sector, but the government has an important role in supporting the research and development activities that provide the tools for protecting information systems. An essential component for ensuring improved information security is a vigorous and creative basic research effort focused on the security of networked information systems.

Witnesses at our Committee on Science hearings last year noted the anemic level of funding for research on computer and network security. Such lack of funding has resulted in the lack of a critical mass of researchers in the field and has severely limited the focus of research. The witnesses at the hearings advocated increased and sustained research funding from the Federal Government to support both expanded training and research on a long-term basis.

H.R. 3394 meets those needs. It authorizes $903 million over 5 years to create new cyber security programs within the National Science Foundation and the National Institute of Standards and Technology. Under the bill, the NSF will create new cyber security research centers, undergraduate grants, community college grants, and fellowships.

The legislation also includes language I authored pertaining to NIST. The bill requires NIST to create new program grants for partnerships between academia and industry, new post-doctoral students, and a new program to encourage senior researchers in other fields to work on computer security.

I believe the legislation before us today will provide the resources necessary to ensure the security of business networks and the safety of America's computer infrastructure. I thank the staff of the Committee on Science for their tireless work on H.R. 3394, and I urge all members to support this important measure.

Mr. Speaker, I invite the chairman of the Committee on Science to enter into a brief colloquy to ask for two brief points of clarification.

Section 16(c) forbids the NSF from awarding grants or fellowships to institutions of higher education or nonprofit institutions that materially fail to comply with record-keeping requirements under certain sections of the Immigration and Nationality Act and the Illegal Immigration Reform and Responsibility Act. This section does not have an effective date at present. Many of these record-keeping requirements have yet to be written or promulgated. Therefore, the effective date for this subsection cannot be the date of enactment. In bringing the bill forward for consideration by the House, what is the gentleman's intent concerning the effective date for this provision?

Mr. BOEHLERT. Mr. Speaker, will the gentleman yield?

Mr. BAIRD. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Speaker, the gentleman from Washington makes a very important point. Neither the Immigration and Naturalization Service nor the Department of State have provided final guidance to enable universities to participate in the new Student Exchange Visitor Information System, which provides tracking, monitoring, and access to accurate and current information on nonimmigration students and exchange visas.

It is not possible to be materially out of compliance with these requirements until the final guidance and an appropriate time for implementation have been provided to the university research community.

Mr. BAIRD. Mr. Speaker, my second question deals with Section 17 that requires the Director, 24 months after the date of enactment of this act, to submit a report to Congress reviewing this act to ensure that awards under the act are made to individuals and institutions that are in compliance with the Immigration and Nationality Act. I assume this is a simple reporting requirement similar to other reports to Congress by the NSF and that it is not meant to require the Director to enforce our Nation's immigration laws?

Mr. BOEHLERT. Mr. Speaker, if the gentleman would continue to yield, the gentleman is correct. Enforcement of the immigration laws is the responsibility of the INS and the State Department. Section 17 requires that NSF report to Congress on information it obtains from institutions of higher education, State and INS. This section does not require the NSF Director to commission a duplicative study to secure information that should be readily obtainable from the State Department and INS.

Mr. BAIRD. Mr. Speaker, I thank the gentleman for that clarification, and thank the gentleman for his leadership on this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentleman from Michigan (Mr. EHLERS) for purposes of control.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BAIRD. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Speaker, I rise in strong support of H.R. 3394, the Cyber Security Research and Development Act. We have become increasingly reliant on the Internet and computer technology. And unfortunately, with this reliance comes increased vulnerability to cyber attacks on our network systems and infrastructure. America's network infrastructure is increasingly exposed to both benign and destructive disruptions, including defacement of web sites, denial of service, virus infections throughout the computer networks, and unauthorized intrusions and sabotage of systems and networks.

Past attacks show the types of danger and potential disruption cyber attacks can have on our Nation's infrastructure. The cyber threats to this country are significant and getting more sophisticated as time goes by.

A recent survey found that 85 percent of respondents experienced computer intrusions. Moreover, Carnegie Mellon University's CERT Coordination Center, which serves as a reporting center for Internet security problems, received almost six times the number of vulnerability reports in 2001 as it did just 2 years earlier. Similarly, the number of specific incidents reported to CERT exploded from 9.589 in 1999 to 52,658 in 2001. Even more alarming is CERT's estimates that these statistics may only represent 20 percent of the incidents that actually occurred.

The Cyber Security Research and Development Act will play a major role in fostering greater research in methods to prevent future cyber attacks and design more secure networks. This legislation will harness and link the intellectual power of the National Science Foundation, the National Institute of Science and Technology, universities, and private industry to develop new computer cryptography authentication, firewalls, forensics, intrusion detection, wireless security and systems management.

In addition, this bill is designed to draw more college undergraduate and graduate students into the field of cyber security. It establishes programs to use internships, research opportunities and better equipment to engage students in this field.

America is a leader in computer hardware and software development. In order to preserve America's technologic edge and our security, we must have a continuous pipeline of new students in computer science and research.

I strongly support this legislation and I am proud to support this important bill as it moved through the Committee on Science and again as it passed the House earlier this February. I commend the leadership of the gentleman from Washington (Mr. BAIRD), Senator WYDEN from Oregon, and the chairman of the Committee on Science, the gentleman from New York (Mr. BOEHLERT), for their leadership in moving this bill. I am confident that the Federal investment for long-term projects outlined in this legislation will enhance the security of our cyber homeland.

Mr. EHLERS. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, I thank all Members who worked on this, but certainly commend the gentleman from Texas (Mr. HALL), the ranking member, and the gentleman from New York (Chairman BOEHLERT) for having the foresight and commitment to initiate and advance this legislation that I would suggest is very important.

As chairman of the Subcommittee on Research, I am proud to have worked on this bill and to be a prime sponsor. This act establishes programs at both the National Science Foundation and NIST, the National Institute for Standards and Technology, to advance research and, perhaps most importantly, develop a talented workforce of cyber security researchers and professionals.

While the focus in information technology has largely been to build it faster, build it smaller, and build it less expensive, perhaps now more than ever we need to know how to build it safer and more secure.

The programs authorized by this act provide much needed support for the research that will help us understand just how to do that. By supporting undergraduate and graduate post-doctoral students, as well as senior researchers who wish to focus some of their research efforts on cyber security, we will train the experts who make sure the appropriate safeguards are in place to protect us from malicious cyber attacks.

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It is a huge challenge. It is not going to come cheaply and it is not going to come easily.

There are some unique features of this bill that will make it particularly effective in fostering innovative research and education in cyber security. For example, this act will establish a program at the National Science Foundation to help institutions of higher education purchase the equipment that they need so that students can learn how to prevent cyber attacks without risking the integrity of the college's own computer network. Another program established by this act at the National Institute of Standards and Technology will support the kind of high-risk, high-payoff research that is necessary to make great advances in cyber security but that is unlikely to get funded under the traditional peer-review process that tends to favor more conservative approaches to research questions. In addition, in recognition of the fact that effective cyber security will rely largely on the expertise of computer technicians, this bill amends the Scientific and Advanced Technology Act of 1992 to provide the National Science Foundation funding to 2-year colleges to make sure that graduates of technical programs are properly trained in cyber security.

Just a few weeks ago, an electronic attack crippled 13 computer servers that manage Internet traffic. While this hour-long attack went nearly unnoticed by routine computer users, a longer attack could cripple communication, infrastructure operations and even national security efforts. This country more than any other country in the world has come to depend on our software and our computer technology, from how we run our financial services to how we move our railroads to certainly our airlines and transportation down to how we transfer electrical power throughout the United States, not to mention our national security and our military efforts. We cannot allow these kinds of attacks to happen.

In conclusion, as we move forward in our war against terrorism, it is going to be as important for us to secure cyber space as it will be for us to secure homeland security against malicious attack. I look forward to working with the National Science Foundation as they implement the programs authorized by this act.

Mr. EHLERS. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. I thank the gentleman from Michigan for yielding me this time.

Mr. Speaker, I support the Senate amendment to H.R. 3394, the Cyber Security Research and Development Act. Earlier this year, a federally funded research center operated by Carnegie Mellon University reported that breaches in security of computer systems more than doubled from 2000 to 2001. More than 52,000 incidents were reported in 2001, up from 22,000 in 2000.

Last spring the Committee on the Judiciary's Subcommittee on Crime, Terrorism and Homeland Security that I chair held a series of hearings on cyber crime. We heard testimony from local, State and Federal officials and also from the private sector. A common observation emerged: The demand for highly trained and skilled personnel to investigate computer crimes is tremendous. This problem is compounded by the rapid advances in technology which make continued training an absolute necessity. We must have training both for a new generation of cyber warriors whose most important weapon is not a gun but a laptop and for private sector companies that must protect their Internet presence.

This bill seeks to expand what many States and cities are already doing, investing in cyber security training activities. In my hometown, the University of Texas at San Antonio has established the Center for Information Assurance and Security, known as CIAS. The CIAS will be the hub of a city initiative to research, develop and address computer protection mechanisms to prevent and detect intrusions on computer networks. With funding provided in this bill, UTSA and dozens of other universities will be able to train the next generation of cyber warriors, cyber defenders and "white hat netizens." This legislation supports the work at UTSA and other universities for students who want to pursue computer security studies.

While the benefits of the digital age are obvious, the Internet also has fostered an environment where hackers retrieve private data for amusement, individuals distribute software illegally, and viruses circulate with the sole purpose of debilitating computers. A well-trained and highly skilled force of cyber protectors is urgently needed in America today.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

It is my pleasure to see this bill reach the floor for final passage and on its way to the President. I certainly agree with all the comments that have been made and I will not repeat them, but I did want to point out that in passing this legislation, both the House and the Senate have recognized the important role that the National Institute of Standards and Technology plays in cyber security. This is very important to note, because in the original proposal for the homeland security bill that particular activity would have been transferred out of the National Institute of Standards and Technology and placed in the Department of Homeland Security. I think that would have been very disruptive to the activity, but the important thing to recognize is that this group at the National Institute of Standards and Technology is the leading group in doing the basic research necessary to solve our cyber security problems. Members of the House and of the Senate working on the homeland security legislation should embrace this role as well. While there have been proposals to transfer NIST's cyber security division into the new department, this legislation clearly identifies the role that NIST should play in cyber security. As such, the proposals to move this responsibility elsewhere do not meet the test. Any conference agreement should recognize this as well by keeping NIST's cyber security division within NIST.

Let me also add that to most individuals in this land, cyber security means not having someone steal their credit card number. That is a very important function. But there is much more at stake here, as we have heard. That is the Nation's security. Two years ago, I wrote a report for the NATO parliamentary assembly, which is the legislative body relating to NATO, that discussed and studied information warfare. Much of what I said in that report is pertinent to this discussion today.

Mr. Speaker, I include that report at this point in the proceedings.

INFORMATION WARFARE AND INTERNATIONAL SECURITY

I. INTRODUCTION

1. The importance of Information Technology (IT) to the functioning of our societies is evident in virtually every human activity. Computers are involved in and often control everything from government operations to transportation, from energy to finance, from telecommunications to water management. Every day an enormous amount of information is exchanged or stored by electronic means and trillions of dollars travel throughout the world electronically. Information technology has become even more pervasive with the widespread dispersion of personal computers. According to projections of the US Computer Industry Almanac, by the year 2000 there will be more than 550 million PCs in the world, 230 million of which will be connected to the Internet (92 million in the United States alone).

2. The pace of technological change and our increasing reliance on technology are even more impressive. Five years ago, a computer chip could carry the equivalent of 1.1

million transistors. Now the number has increased to 120 million and engineers believe they can reach 400 million and even 1 billion. Capable of 256 billion multiplications per second, the latest desktop computers have acquired the speed of yesterday's supercomputers. This has accelerated the dispersion and use of the Internet. To achieve mass-user status, it took radio 35 years, television 13 years and the Internet only 4 years. Microsoft experts assert that Internet traffic doubles every 100 days and, according to other estimates, one billion people (one-sixth of humanity) will be on-line by 2005.

3. The reliance of our societies on computers and the fact that many critical infrastructures are electronically interconnected poses evident security problems. Although computer experts have been working on these problems for years, only in the mid-1990s did Western defence analysts begin to pay serious attention to them. In a variety of studies and reports, a strategic catch phrase emerged to define a new concept: Information Warfare. In a 1997 Report, the NAA Science and Technology Committee provided a first assessment of Information Warfare, analysing most of the available sources on the subject. The threat of possible attacks on information systems and the potential risks for our military and civilian infrastructures were outlined in that Report. (1)

4. In the last two years technological advances as well as governmental and international actions have changed the world of information security. As a consequence, the subject of information warfare has been extensively discussed and analysed, both within and outside the information technology and defence communities. This report analyses these new developments, starting with some new definitions of information warfare, assesses the effective strategic threats, and reports about the US and other governments' initiatives to counter them. It is also our intention to consider the concerns expressed by the science and technology community about the possible overstatement of such threats, especially with reference to some cases of media hyperbole.

II. WHAT IS INFORMATION WARFARE?

A. Definitions

5. The cited 1997 STC Report emphasised the distinction between the use of information in warfare and the newer concept of information warfare, the first being recognised since ancient times and referring basically to tactical and strategic deception, war propaganda, and destruction of command and control systems. In the current conceptualisation, information warfare "extends far beyond the traditional battlefield, and its possible perpetrators and victims are by no means confined to the military". A few definitions were reported then, to which your Rapporteur would like to add some new ones. The first is proposed by the Institute for the Advanced Study of Information Warfare: "Information warfare is the offensive and defensive use of information and information systems to exploit, corrupt, or destroy an adversary's information and information systems, while protecting one's own. Such actions are designed to achieve advantages over military or business adversaries." (2)

6. The International Centre for Security Analysis of King's College, London suggests that information warfare "is about struggles for control over information activities" and distinguishes three levels or categories: ideational struggle for the mind of an opponent, struggle for information dominance, and attacks on, and defence of, information flows and activities. The first, highest level "encompasses the whole range of psychological, media, diplomatic and military techniques for influencing the mind of an opponent, whether that opponent is a military commander or a whole population". The second level could be assimilated with the Revolution in Military Affairs (RMA), whose theorists and advocates see, as the future evolution of armed forces, the goal of dominating the "information spectrum". The ultimate objective of this level of information warfare would be to render physical conflict "either unnecessary or at worst short, sharp and successful". At the third level the focus is on any kind of electronic attack upon military or civilian information infrastructures, including criminal hacking (or cracking), data disruption, illegal systems penetration, and also physical destruction, deception and psychological operations. (3)

7. The Washington based Center for Strategic and International Studies (CSIS) recently published a comprehensive study on these issues and admitted that so many different activities have been classified under the label "information warfare" that it is now difficult to understand exactly what it is. Nonetheless, this study classifies information warfare activities according to the source, the form, and the tactical objectives of the attack. Thus, information warfare can be viewed as a combination of these three dimensions.

8. First, an attack could originate either from outside or from within the targeted organisation or system. Second, four categories of attack can be identified:

Data attacks are conducted by inserting data into a system to make it malfunction.

Software attacks, similar to data attacks, are conducted by penetrating systems with software causing failure or making them perform functions different from those intended.

Hacking or cracking is seizing or attempting to seize control of an information system (or a vital part of it) to disrupt, deny use, steal resources or data, or cause any other kind of harm.

Physical attacks are the traditional form of attack (bombing, assaulting, and destroying) directed against information systems. An electromagnetic pulse (EMP) produced by nuclear explosions can also be included in this kind of attack.

9. All these different forms of information warfare attack can be categorised by their goals or tactical objectives: they could be aimed at exploitation, deception, disruption or destruction of information systems. (4)

10. The French Ministry of Defence has also offered an interesting definition of information warfare. It has singled out three types:

War for information (guerre pour l'information): to obtain information about the enemy's means, capabilities and strategies in order to defend ourselves;

War against information (guerre contre l'information): at the same time to protect our information systems and to disrupt or destroy the enemy's.

War through information (guerre par l'information): to conduct misinformation or deception operations against the enemy in order to achieve "information dominance". (5)

11. All the above are accurate and acceptable definitions, but for the sake of clarity we can try to summarise them into a simpler and more limited formula. Information warfare could be then defined as defensive and offensive operations, conducted by individuals or structured organisations with specific political and strategic goals, for the exploitation, disruption or destruction of data contained in computers or transmitted over the Internet and other networked information systems. (6)

B. Assessing the Threat

12. In general terms, a threat can be defined as the combination of a capability and a hostile intent. According to many analysts, the reason for concern about attacks upon information systems, or information warfare, is that the means of offence are widely available, inexpensive and easy to use. In a world where even governments and the military tend to rely on computer hardware and software available commercially off-the-shelf (COTS), virtually anybody with a computer and the technical skills could become a cracker or a cyberterrorist. Moreover, the progress in information technology makes the electronic tools available to conduct such attacks more sophisticated every day and, through the Internet and the interlinked computer world, easier to acquire. But the most potentially dangerous feature of information warfare is that it can be conducted from anywhere in the world and the possibilities of discovering the attack's origin, or even its presence, are extremely difficult.

13. Who can conduct such attacks? A recent analysis has listed the potential "enemies" according to the levels of threat. At the lower level are the crackers, or "hackers with malicious intentions", sometimes highly knowledgeable in technical matters and very determined, but often isolated and without a clear political agenda. Then we have some pressure groups, organisations that fight for specific political causes and might decide to acquire the technology in order to attack the information systems of other organisations or even of states. Terrorists come next in the scale: some groups are becoming increasingly sophisticated in the use of technology and can conduct strategic offensive information warfare. At the highest level are the states, many of which now have access to extremely sophisticated technology and can acquire the necessary organisational infrastructure to conduct both offensive and defensive information warfare. In fact, some experts doubt the effectiveness, capability, or even willingness of the non-state actors to conduct attacks that can seriously threaten other nations' security. (7)

14. In the last fifteen years, both the private and public sectors' information systems have been subjected to attacks that have substantially increased with the growth of the Internet. Computer viruses have been a primary concern of information security experts. These are generally very small programmes, often with destructive capabilities, designed to invade computer systems or individual PCs by attaching themselves to other bits of executable programme codes. Created by hackers, computer science students or disgruntled programmers, these viruses have been extremely destructive to many computers and networks, but have not proved to be particularly effective as weapons to date. Because of their non-professional origins, the viruses often contain errors and, moreover, their authors are often incapable of envisioning the complexity and variety of the systems they are attacking.

15. Of course, it is still possible that a state or a terrorist group can assemble a team of experts capable of creating malicious viruses and using them to conduct information warfare attacks. But computer viruses are extremely unpredictable and far from precise

in their behaviour, and they might eventually damage the attacker as much as the victim. In addition, the international anti-virus industry is mature and is well positioned to create necessary antidotes to almost any new virus.

16. Other, more dangerous attacks on information systems have been conducted by criminal hacking intruders. Private corporations, particularly in the financial sector, are regularly penetrated by cybercriminals: the FBI estimates that these electronic intrusions cause yearly losses of about $10 billion in the United States alone. This is probably only the tip of the iceberg. In fact, concerns about protecting shareholder value and customer confidence may keep many firms from reporting all the attacks to law enforcement agencies.

17. Electronic intrusions into the military information infrastructure cause deep concern in the United States. According to the CSIS, probe attacks against the Pentagon number in the tens of thousands every year. John J. Hamre, Deputy Secretary of Defense, recently stated that from January to mid-November 1998, the National Security Agency (NSA) recorded more than 3,800 incidents of intrusion attempts against the Defense Department's unclassified computer systems and networks. Over 100 of these attacks reached root-level access and many were even able to break down some kinds of service. This reflects only what has been reported to NSA, but "the actual number of intrusions probably is considerably higher". (8)

18. The literature and the chronicles are full of examples of successful network intrusions at the US Department of Defense (DoD) and other Western defence institutions. One of the most interesting is the break-in at the Air Force's Laboratories in the town of Rome, in New York State, when two British boys hacked into the system with the help of what is called a "sniffer" programme, able to capture passwords and user log-ins to the network. The case served as a learning experience for the Air Force Information Warfare Center, which then developed the advanced technical skills to counter these intrusions. Similar hacker intrusions are regularly experienced by all other US military services and government agencies.

19. While most of the attacks in the last few years were generally conducted by individuals or by small groups of intruders, with little or no political purpose, recently some cases suggested the possibility of state-sponsored hacking or cracking. Additionally, some anti-state, politically motivated activity has occurred. In October 1998, China launched a new website to publicise its efforts in human rights. A few days later, hackers replaced the home page of that site with a message condemning Beijing for its poor record in human rights. (9)

20. Another, more revealing case occurred in Ireland, where refugees from East Timor had set up a website to protest against the occupation of their country by Indonesia. The Irish Internet provider even created a new domain name ".tp", as if East Timor were an independent country. In January 1999, a concerted attack against the East Timorese server started, originating from 18 different places as far apart as Australia, the United States, Japan, the Netherlands and Canada. The attackers managed to render the web server useless and forced the Irish provider to disconnect its entire system. Clearly, this was not an ordinary cracker intrusion, though many doubt that the Indonesian government had the capability to conduct such a concerted information warfare action. The most probable culprit is a group of politicised hackers sympathetic with the Indonesian position. (10)

21. The NATO information system was also indirectly threatened in October 1998, when a Serbian group of hackers known as Black Hand penetrated a Kosovo Albanian web server and threatened to sabotage the Alliance's information system. The organisation temporarily closed all foreign access to its web server and its web site was down for two days. Realising that the electronic defences of the NATO web server were extremely weak, experts took some countermeasures, which proved to be insufficient in the light of subsequent events. (11)

22. During the Kosovo crisis, hackers attacked the NATO web site, causing a line saturation of the server by using a "bombardment strategy". The organisation had to defend itself from macro viruses from FRY trying to corrupt its e-mail system, which was also being saturated by one individual sending 2,000 messages a day. These attacks were possible because NATO was using the same server for the e-mail system and its web-pages. When these tasks are done by separate servers, as is now the case at NATO, the threat is reduced. Allied governments' web sites have also been targeted during the war, and according to US Air Force sources the attacks came not only from FRY, but also from Russia and China. It is unclear, however, whether these attacks were state-sponsored or the work of groups of hackers. Conversely, FRY's information systems were severely damaged by NATO bombings and electronic operations—although Belgrade itself dismantled communication systems to deprive its people of outside information. In addition, thousands of Western civilian hackers conducted online attacks against the FRY government's web servers. (12)

23. Such cases might not prove the existence of state-sponsored information warfare or cyberterrorism, but they offer good examples of what could happen if the capability is coupled with a hostile intent. The subsequent question is: could a group of state-sponsored terrorists or individual crackers damage the information infrastructure of another nation so as to cause a major strategic disruption? The US Department of Defense seems to think so.

24. In the summer of 1997, a simulation exercise called "Eligible Receiver" was conducted at the Pentagon, ordered by the Joint Chiefs of Staff, to test the ability of the nation's military and civilian infrastructure to resist a concerted information warfare attack. A team of fictional hackers, the Red Team, was allowed to use only COTS materiel and information available on the Web and had to act within the US law. So far, the results of this exercise remain strictly "top secret". Nonetheless, many officials have referred to it in public declarations and some have partially revealed the outcome. James Adams, a journalist based in Washington DC, claimed in a book to have interviewed senior officials about "Eligible Receiver": "The [simulated] attacks focused on three main areas: the national information infrastructure, the military leadership and the political leadership. In each of these three areas, the hackers found it exceptionally easy to penetrate apparently well-defended systems. Air traffic control systems were taken down, power grids made to fail, oil refineries stopped pumping—all initially apparent incidents. At the same time, in response to a hypothetical international crisis, the Defense department was moving to deploy forces overseas and the logistics network was swinging into action. It proved remarkably easy to disrupt that network by changing orders and interrupt[ing] the logistics flow. The hackers began to feed false news reports into the decision-making process so that the politicians faced a lack of public will about prosecuting a potential conflict and lacked detailed and accurate information." (13)

25. In conclusion, according to Adams' sources, a team of skilled hackers, using standard equipment and publicly available information and playing by the rules, was able to cause a "serious degradation of the Pentagon's ability to deploy and to fight". In other words, they demonstrated that an "electronic Pearl Harbor" was possible.

26. Many things have changed in the last two years due to the fast pace of progress in information technology. Moreover, the policies and actions taken by the US government may have reduced the vulnerability of the nation's infrastructure. Nonetheless, if technology is helping Western governments establish better defences, it also helps potential enemies improve their capabilities to attack. A recently announced new breed of hacker software, that can learn and adapt to the network environment it attacks, may represent a new threat. According to information technology experts, the new programmes can change their mode of operation, or their targets, based on external stimulants. Pre-programmed to search for specific types of files common to most networks, such software, once in the system, can target data or files of interest to the intruders, even those marked secure or for internal use only. (14)

27. In addition, many nations are trying to acquire the capabilities needed to conduct information warfare operations and new terrorist groups like Osama bin Laden's are known to use computers and satellite telecommunications. China has recently intensified its information warfare programmes, both to protect its own military infrastructures and to enable the People's Liberation Army to conduct electronic attacks. According to James Mulvenon, a defence specialist at Rand Corporation, Beijing "is seeking the ability both to interfere with Taiwan's command system, and ultimately to 'hack' into US military networks which control deployment in the Asian region." (15)

28. A serious physical threat to information systems can be posed by the effects of the electro-magnetic pulse (EMP) produced by nuclear explosions. The immediate energy release from a detonated nuclear device produces intense, rapidly varying electric and magnetic fields that can extend for considerable distances and severely affect all electronic equipment and electrical or radar transmissions even to the point of destroying equipment circuits, microprocessors, and other components. Therefore, a single, very high-altitude nuclear blast above Europe or the United States, which may cause no physical damage to structures or people, could disable or disrupt all non-hardened information systems. While few nations currently have both nuclear weapons and the missiles capable of delivering them in space, the increasing number of "rogue" nations with nuclear weapons that are also developing or acquiring long-range missiles may present an extremely serious EMP threat in the near future.

29. EMP effects from nuclear explosions and non-nuclear weapons, such as HERP (High-Energy Radio Frequency) guns or EMP/T (Electro-Magnetic Pulses Transformer) bombs, may be much more dangerous for civilian information systems than

for military ones, most of which are now EMP hardened. Shielding of iron or other materials such as copper mesh or non-magnetic metals is generally available only for the protection of sensitive military technology.

III. RESPONSES TO THE THREAT

30. Efforts to respond to the threat of attacks to information systems, or information warfare, have been made by many nations. Generally, the military and defence "think tanks" have been the first to address the issue, but now most Western governments have taken steps towards more co-ordinated and structured responses.

31. In the United States, different panels, commissions and study groups have been examining these issues since the early 1990s and the government has taken several important measures. Congressional Committees have held hearings to investigate the nature of the information warfare threat. The National Defense University has extensively worked on the issue since the early 1990s. However, the most comprehensive appraisal of the nation's vulnerabilities in the field of information technology has been provided by the Presidential Commission on Critical Infrastructure Protection, created in 1996, involving officials from the energy, defence, commerce and law enforcement areas, as well as representatives of the private sector. After 15 months of study, the Commission published an extensive report highlighting the vulnerabilities of the US infrastructure and the weakness of the information systems, which proved to be a potentially easy target for any concerted attack. The report also indicated that government and industry do not efficiently share information that might give warning of an electronic attack and that the federal R&D budget does not include the analysis of the threats to the information systems in the infrastructure. (16)

32. The work of the Presidential Commission resulted in the issuing in May 1998 of two Presidential Decision Directives, 62 and 63, on Critical Infrastructure Protection. The provisions of these Directives included:

Interagency co-ordination for critical infrastructure protection;

Definition of the roles and responsibilities of US agencies in fighting terrorism;

Improvements in capabilities for protecting the national information structure, the most important of which is the creation of a National Infrastructure Protection Center (NIPC) in the FBI;

Promotion of partnerships with industry and other private players to enhance computer security;

Study of plans for minimising damage and recovering rapidly from attacks to its vital infrastructures.

33. Some experts criticised the US administration decisions, claiming that the above provisions underestimated the realities of the information warfare threat. Nonetheless this is the most comprehensive and complete initiative taken so far by any Western government to respond to the risks of attacks on information systems.

34. Moreover, the DoD, actively participating in the government initiatives, has recently created a Joint Task Force for Computer Network Defense (JTF-CND) to co-ordinate all the activities in this field and direct the Pentagon's response to computer network attacks. The JTF-CND will plan defensive measures, leverage existing capabilities and develop procedures for the military commanders-in-chief, services and agencies, as well as provide strategic focus at all levels. Fully operational in the summer of 1999, the JTF-CND will also develop relationships with intelligence and law enforcement agencies, the NIPC and the private sector. (17)

35. Among European nations, France appears to have developed a coherent strategy to deal with attacks on information systems. In the absence of a general programme for infrastructure protection, such as that in the United States, the Délegation générale pour l'armement (DGA) of the Ministry of Defence has concentrated technical activities in the field of information warfare at the Centre d'électronique de l'armement (CELAR). This centre employs some 900 experts in many scientific and technological areas, and has resources and capabilities with probably no equal on the continent. All CELAR activities are related to information warfare (guerre de l'information), defensive and offensive, and are divided into five tasks: weapon systems for electronic warfare, information security, information systems, telecommunications, and electronic components. CELAR analyses the threats, establishes the needs, and tests the proficiency and the limits of the systems and equipment. In particular, within the information security field of CELAR, the Centre de l'armement pour la sécurité des systémes d'information (CASSI), is responsible for the development of all security programmes and strategies in the Ministry of Defence and acts as a consultant for other ministries and governmental agencies. (18)

36. In Germany, the efforts of the Government and the Bundestag to address the problem of security in information technology led to the creation, in 1991, of a Federal Agency for Security in Information Technology (Bundesamt für Sicherheit in der Informationstechnik, or BSI). The BSI is responsible for assessing the risks and developing the criteria, tools and procedures to assure the security of vital information systems. However, according to German officials, the BSI has concentrated its work on the non-military aspects of information warfare. In other words, it has considered the possibility of attacks to information systems only in the civilian field. At the same time, the German military has conducted some studies on information warfare and has recently initiated a new one, called "2020", which will consider the future evolution of the topic. Recently, a working group has been created at a federal level to draft a policy paper on "Information Warfare and IT Security", aimed at reaching a better co-ordination within the civilian and military fields.

37. The UK Ministry of Defence has addressed, in various areas, the problems related to information warfare, recognising that "the potential vulnerabilities and risks arising from 'information warfare' go much wider than the Armed Forces and the defence infrastructure" (19). The MoD is therefore known to be working with other areas of Government, allies and suppliers of key services to co-ordinate security policies and find technical solutions to protect the nation's infrastructure.

38. Other countries, such as Finland, Norway, Sweden and Switzerland have taken initiatives similar to those of the United States. Australia, Canada and Israel are investing in studies of defensive measures and approaches (20). NATO has recently analysed the threats of information warfare attacks and given indications to member states. For the moment, the most relevant studies conducted by the Alliance on the subject are classified.

IV. INFORMATION WARFARE OR SIMPLY INFORMATION SECURITY?

39. As it is often the case with extensively debated issues, some defence analysts and information security experts are doubting the actual size of the information warfare threat as it is presented by the media and even by some official reports. They contend that newspapers and magazines report stories about dangerous viruses, violated military websites and crackers penetrating corporate information systems in distorted and exaggerated ways. Some also list errors and overstatements included in official documents and defence studies. Fairness demands that we also consider these points of view, and below we summarise the most salient issues.

40. In 1997, for instance, a US government commission, that included former directors of the CIA and the National Reconnaissance Office, warned against a virus contained in an e-mail message entitled "Penpal Greetings". According to the commission's report, the virus "could infect the hard-drive and destroy all data present". Moreover, the virus was reportedly "self-replicating" and "would automatically forward itself to any e-mail address stored in the recipient's in-box." According to many computer security analysts, the report was wrong and the Penpal virus was in fact a hoax. However, more recently several viruses spreading by e-mail could nonetheless perform extremely destructive actions. (21)

41. In March 1999, a type of macro virus propagating by e-mail called Melissa damaged, according to many journalistic sources, more than 100,000 computers. Hidden within a file of a popular word processing software, Melissa affected its security settings, rendering personal computers vulnerable to further attacks. While some defence leaders, experts on terrorism, lawmen and software executives hailed "another warning siren of the vulnerability of our networks" or even "a demonstration of what an electronic Pearl Harbor might look like", most computer security people defined Melissa as "just another dangerous virus", no more sophisticated than prior ones using the identical modus operandi. Moreover, they contended, Melissa (although very costly to many businesses) had no noticeable effect on Internet use or stock markets or electronic commerce. They also noted that most persons using the web on a regular basis would not open an unknown file attachment received by e-mail, especially if reportedly it contained a list of pornographic websites. (22)

42. But computer scientists and IT security experts are not only highlighting general misinformation and myths about viruses. They contest as well the alarming figures suggesting that the Pentagon and other US vital infrastructures are under almost permanent attack by crackers or cyberterrorists. They admit that malefactors can break into military and civilian web servers, and maybe even cause serious damage, but that it is far from representing an "electronic Pearl Harbor" for the United States. As Kevin Ziese, the computer scientist who led the Rome Laboratories investigation, and other experts put it, these break-ins can be defined as the virtual equivalent of a "kid walking into the Pentagon cafeteria." (23)

43. Equating computer viruses and hacker software with weapons of mass destruction, many analysts insist, is overreaching. And classifying them as such would be like considering teen hackers or virus creators equivalent to terrorists or "rogue" states. The recent attacks on the Alliance's information system during the Kosovo crisis, according to these sources, might have proved

just that. In fact, they report that computer security experts in the US Department of Defense were "completely unimpressed by whatever it was Serbian hackers did during the Yugoslavian war. The worst it did is make the NATO administrator of the site work a little harder. It didn't have any impact on the Yugoslavian war at all." (24)

44. With regard to the supposedly frightening results of the "Eligible Receiver" exercise, which are still considered "sensitive information" by the Pentagon, many object that they should be opened up to an independent audit. Until then, computer scientists declare that they will remain extremely sceptical. Moreover, they say the Pentagon's position is in stark contrast to the wide-open discussions of computer security vulnerabilities that reign on the Internet.

45. According to William M. Arkin, an army veteran, defence analyst and editor of US Military Online, the excessive secrecy in the Pentagon's attitude towards information security reflects a basic misjudgement of the power of the Internet and the ability of the military to control it. A directive issued on 24 September 1998 by Deputy Defense Secretary John Hamre instructed all military services and agencies to "ensure national security is not compromised or personnel placed at risk" by information available on military websites. In fact, the Pentagon has for years had policies that required just that, and therefore only unclassified information has ever been made available on the Internet. John Pike of the Federation of American Scientists agrees with Arkin that the DoD issued this new policy out of "a desire to show vigilance, coupled with a profound lack of understanding of information and computer security", rather than because of any new threats coming from the Internet. (25)

46. Many experts and scientists are critical of the approach taken by some of the Pentagon leaders not because they believe there are no threats coming from cyberspace, but because they feel those threats might have been overstated or mystified through what they call "info-warrior rhetoric". Computer security analysts, who have been working on these problems for years, have the impression that "information warfare" might just be old wine in new bottles. In fact, many of the activities now classified under this definition could be traditional intelligence work, intelligence analyses through the Internet or psychological operations and deception. For instance, the US Air Force Information Warfare Center (AFIWC, part of the Air Intelligence Agency) in San Antonio and other similar organisations are the equivalent of computer emergency response teams, and the military and civilians employed in them are all computer security specialists.

47. In spite of these reservations, it is clear that there are many serious threats. In sum, according to George Smith, editor of The Crypt Newsletter, an Internet publication dealing with computer security for computer analysts: "It is far from proven that the country [i.e., the United States] is at the mercy of possible devastating computerized attacks. On the other hand, even the small number of examples of malicious behaviour demonstrate that computer security issues in our increasingly technological world will be of primary concern well into the foreseeable future."

V. CONCLUSION

48. It is clear, even from the words of the most sceptical analysts, that the security of information systems must be a high priority for any nation. With the increasing dependence on information technologies, all our vital infrastructures are potentially vulnerable to some sort of external attack. Even if experts disagree on the extent and the nature of the threat, we need nonetheless to adopt measures to strengthen the protection of our information systems.

49. The first priority should be to seek objectivity in the assessment of the real threats. An independent group should be set up to provide such assessment, maybe at the international level. An example is provided by the G–8 High Tech Crime Group, a multilateral forum seeking to enhance transnational co-operation in investigating and prosecuting criminal misuse and exploitation of information systems. Parliaments and governments, as well as the industry, the scientific community and computer security experts should work within a similar group focused on information warfare threats in order to share their knowledge and competence and analyse the subject from different perspectives. A serious evaluation of the claims of computer security software and hardware producers could be the first task of such a group.

50. Programmes to raise public awareness and encourage education in the field of computer security and infrastructure protection would be extremely useful, and they should cover all possible audiences. They should include conferences, university studies, presentations at industry associations and professional societies, and sponsorship of graduate studies and programmes. In addition, research efforts are needed to both substantially improve and deploy more widely the existing technology. In particular, new capabilities for detection and identification of intrusion and improved simulation and modelling capability to understand the effects upon interconnected and interdependent infrastructures would be beneficial.

51. The law has to keep pace with the development of new technologies. Parliaments can play an important role in reconsidering and readapting the laws regulating infrastructure protection and information systems assurance. The United States can provide some good examples in terms of both statutes and case law and the Justice Department has a section devoted to this area. However, due to the open and global nature of the Internet, this effort should involve computer security experts and legislators internationally. In fact, creating a specific international set of rules or conventions is an essential prerequisite for establishing a credible and efficient Internet economy.

52. Intelligence can also contribute to a clearer understanding of the new threats of the information age in terms of actors, motives, and capabilities. Of course, the traditional intelligence work and organisation, developed during the Cold War, must be adapted to the new environment. Intelligence officials in all nations must reconsider their methods for information acquisition and rely on new sources. National agencies must also start recruiting special talents familiar with the new threats, such as skilled computer analysts with a direct experience of hacking methods.

53. Since most experts agree that commercial information systems are now more vulnerable to external attacks, it is essential to foster public-private co-operation. Much of the information that private companies need to protect their information systems may be available from the defence, intelligence and law enforcement communities. Often the private sector can better identify, understand and evaluate the threats. In many countries, co-operation between industries and their governments could be extremely helpful to share "information and techniques related to risk management assessment, including incident reports, identification of weak spots, plans and technology to prevent attacks and disruptions, and plans for how to recover from them." Of course, public-private collaboration also has its limits, such as classified and secret materials or proprietary and competitively sensitive information.

54. Finally, in most Western countries, but particularly in the United States, the military should address many questions concerning the effective role of the information warfare programmes in their general policy. Programmes like those going under the definition of "Revolution in Military Affairs" (RMA) have already tried to assess the future impact that the use of information technology could have on weapon systems and on military organisation and strategy. However, the US military still needs to clarify its policy about the options for deterring an attack on vital information systems and the possible use of offensive information warfare. The link between information warfare and other military strategies should be better articulated: for instance, would it be possible to respond to an information warfare attack with conventional forces? Moreover, the possibility that the United States (or any other Western country) would develop and deploy offensive information warfare techniques has not been adequately discussed in public forums. This can be essential in order to build a national and possibly international consensus about the role of offensive information warfare and to clearly define its policies of use.

Notes and References

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2. Definition found on the website of the Institute for the Advanced Study of Information Warfare, self-defined "a virtual non-governmental organisation", http://www.psycom.net/iwar.1.html

3. Dr. Andrew Rathmell, "Information Warfare: Implications for Arms Control", Bulletin of Arms Control, No. 29, April 1998, on the web page of King's College London, http://www.kcl.ac.uk/orgs/icsa/cds.html. With regard to the Revolution of Military Affairs, see the STC 1998 General Report on the subject [AR 299 STC (98) 6]

4. Cybercrime-Cyberterrorism-Cyberwarfare, Averting an Electronic Waterloo, CSIS Task Force Report, Center for Strategic and International Studies, Washington DC, 1998, pp. 9–11.

5. Col Jean-Luc Moliner, "La guerre de l'information vue par un opérationnel français", L'Armement, No. 60, Dec. 1997–Jan. 1998, p. 11

6. Information warfare should be limited to "specific political and strategic goals" to avoid confusion with cybercrime or industrial espionage. Attacks to private corporations (see para.16) might be included only if conducted as part of political or strategic offensive. The limit to "Internet and other networked information systems" helps avoid confusion with espionage cases involving the use (or misuse) of restricted or secret information systems and/or data bases (such as recent alleged espionage at DOE weapons laboratories). Lorenzo Valeri, "Information requirements for Information Warfare: the

need for a multidisciplinary approach", presentation prepared for the 1999 InfoWar Conference, 27 May 1999, London; and George Ballantyne, "www.terrorism.now", RUSI Newsbrief, April 1999, p.31. From letter by John J. Hamre published in Issues in Science and Technology, Winter 1998–99, pp.10–11

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8. Niall McKay, "Indonesia, Ireland in Info War?" Wired News, 27 January 1999, at the website http://www.wired.com/news/; Michelle Knott, "Virtual Warfare", New Scientist, 27 February 1999, p.51

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19. Quoted in George Smith, "Truth is the first casualty of cyberwar", The Wall Street Journal, 8 September 1998

20. Kurt Kleiner, Matt Walker, "Melissa's mayhem", New Scientist, 10 April 1999, p.4; "The Melissa media hangover", The Crypt Newsletter, available on the Web at http://sun.soci.niu.edu/~crypt/

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22. David Ruppe, "Cyber Scare", ABC News, 4 August 1999, available on the Web at http://www.abcnews.go.com/

23. Daniel G. Dupont, "Out of Site", Scientific American, January 1999, p.26

24. G. Smith, "An Electronic Pearl Harbor? Not Likely", Issues in Science and Technology, Fall 1998

25. C. Paul Robinson, Joan B. Woodard, Samuel G. Varnado, "Critical Infrastructure: Interlinked and Vulnerable", Issues in Science and Technology, Fall 1998, p. 63

In summary, then, this is a very important issue, something that we must address not only for security for individuals' privacy, not only for privacy and security and integrity in business communications, but also as a means of national security. I urge a "yes" vote on this bill. I look forward to the President signing this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BAIRD. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank the gentleman from Michigan (Mr. EHLERS) for his leadership on this issue and on so many issues on the Committee on Science. He has been one of those voices that sees problems before they present themselves to the rest of the country and has been an outstanding leader on this and many other issues.

I also want to reiterate my thanks to Chairman BOEHLERT, Ranking Member HALL, the committee staff and my own staff member, Chris Schloesser, for their good work on this.

Coincidentally, a few weeks ago I was messing around with my own computer system and I took the hardware firewall off that I have. I also have a software firewall. During a brief 15-minute period, five attacks from outside were recorded. I say that to mention that it is not just government doing its part to provide increased funds, the general public will need to increase their level of security and awareness that if they have permanent on-line connections and as broadband becomes more readily available, the general public has an important role to play because those who wish to do our country harm will try to get to our secure infrastructure through just average citizens' systems and through the network there.

I also want to underscore what the gentleman from Michigan (Mr. EHLERS) said about the cost of this legislation. It may sound expensive, and indeed it is, but the cost of a coordinated attack on our information infrastructure would be vast indeed. I would ask people to entertain the possibility of what might happen were there to be not only an attack from terrorists such as we saw on September 11 but if that were coordinated with a cyber attack on our air traffic control system or on our emergency communication systems. In an instance like that where information flow would be critical and would mean the life or death of thousands of Americans, a cyber attack would amplify exponentially the cost of a more traditional terrorist kind of attack. This money will be well spent. By spending it today, we will prepare our country for the kinds of risks we may face tomorrow.

I again urge passage of H.R. 3394. I commend those who have worked so hard to achieve this point. I thank the gentleman for his leadership.

Mr. Speaker, I yield back the balance of my time.

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

In response, I want to thank the gentleman from Washington for his very perceptive comments on this issue. One important additional point to note is that the country with the most sophisticated computer systems is also the most vulnerable to information attacks and cyber attacks. Therefore, we have the most to gain by engaging in studies of cyber security to protect our extremely advanced systems.

Mr. HALL of Texas. Mr. Speaker, I rise in support of the Cyber Security Research and Development Act, H.R. 3394. The bill is substantially the same as the version which was developed in a bipartisan manner by the Science Committee and passed by the House early in the current session.

H.R. 3394 fills an important gap in current information technology research programs—namely, the need for improved security for our computers and digital communication networks.

I want to congratulate Science Committee Chairman BOEHLERT for his leadership and thank him for working with me in developing the bill.

I also want to acknowledge my colleague, Mr. BAIRD, for his important contribution to this legislation. The provisions pertaining to the National Institute of Standards and Technology originated in his bill, H.R. 3316.

Many systems that are vital to the Nation, such as transportation, the electric power grid, and financial services, rely on the transfer of information through computer networks. The trend in recent years of interconnecting computer networks has had the unintended consequence of making access to these critical systems easier for criminals, and potentially for terrorists.

As a result, there have been an increased number of assaults on network systems. Computer viruses, attacks by computer hackers, and electronic identification theft have become commonplace.

The tragic events of last year have made us realize just how vulnerable we are to attack. We are beginning to understand the critical need to protect the Nation's physical and electronic infrastructure.

Testimony before the Science Committee has highlighted a serious obstacle to achieving this goal: there are too few scientists and engineers engaged in research on information security and too little funding for security research. And as federal agencies and private industry have found, there are few people with specialized computer security skills.

H.R. 3394 establishes substantial new research programs at the National Science Foundation and the National Institute of Standards and Technology. The goal of both these multi-year programs is not only to advance computer security research, but also to expand the community of computer security researchers.

These programs will support graduate students, post-doctoral researchers, and senior researchers, while encouraging stronger ties between universities and industry. This industry linkage will provide a reality check for research priorities and will facilitate transfer of research results into new products and services.

The research and education programs at the two agencies will be reinforcing rather than duplicative. Each agency will use a different approach for the competitive review of research applications and for managing its research program. NSF and NIST have complementary linkages to the academic and industrial research communities, which will ensure a broad and varied research portfolio between the two programs.

Finally, the bill tasks the two agencies to formally coordinate their activities, and directs the Office of Science and Technology Policy to ensure that all the research activities supported under the bill are coordinated with any government-wide cyber security research effort.

Before I close, I would like to make a few comments about Sections 16 and 17, which were added to this legislation by the Senate. While I don't disagree with the objectives of these provisions, I am concerned about the procedures and the haste with which they were added to this bill. There was little consultation about the inclusion of Sec. 16 and Sec. 17 among the Members involved in drafting this legislation. In addition, there was no consultation with the university research community or the National Science Foundation, which will be affected by these provisions. The haste with which these provisions were drafted has resulted in language that is vague and unclear.

Section 16 could be interpreted as forbidding the National Science Foundation from awarding grants or fellowships to institutions of higher education or non-profit institutions that materially fail to comply with the record-keeping requirements under the Immigration and Nationality Act and the Illegal Immigration Reform and Responsibility Act. However, the record-keeping requirements for these laws have not yet been promulgated. Therefore, the effective date for this section cannot be the date of enactment. If the research performed under these grants is crucial to enhanced information security, the grants program should commence immediately; the compliance requirements should take effect only after the date of promulgation of the reporting and record-keeping requirements and after appropriate notice has been given to the affected institutions.

Section 17 requires the Director of the National Science Foundation to submit a report to Congress ensuring that awards made under this Act are given to individuals and institutions that are in compliance with the Immigration and Nationality Act. The National Science Foundation has neither the expertise nor responsibilities related to compliance with the Immigration and Nationality Act. I assume that the Department of State and the Immigration and Naturalization Service will ultimately certify compliance with the Act. Therefore, section 17 should only require the NSF report to Congress on information it obtains from State and INS. This section should not require the NSF Director to commission a duplicative study to secure information already held by State and INS.

I have discussed these issues with Chairman BOEHLERT and we are in agreement in our interpretation of these provisions and the process.

Mr. Speaker, the key to ensuring information security for the long-term is to establish a vigorous, creative and sustained basic research effort focused on the security of networked information systems. H.R. 3394 will make a major contribution toward accomplishing this goal. I commend this measure to my colleagues and ask for their support for its final passage by the House.

Mr. EHLERS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from New York (Mr. BOEHLERT) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 3394.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GREAT LAKES AND LAKE CHAMPLAIN ACT OF 2002

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 1070) to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to carry out projects and conduct research for remediation of sediment contamination in areas of concern in the Great Lakes, and for other purposes.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Great Lakes and Lake Champlain Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GREAT LAKES

Sec. 101. Short title.
Sec. 102. Report on remedial action plans.
Sec. 103. Remediation of sediment contamination in areas of concern in the Great Lakes.
Sec. 104. Relationship to Federal and State authorities.
Sec. 105. Authorization of appropriations.
Sec. 106. Research and development program.

TITLE II—LAKE CHAMPLAIN

Sec. 201. Short title.
Sec. 202. Lake Champlain Basin Program.

TITLE III—MISCELLANEOUS

Sec. 301. Phase II storm water program.
Sec. 302. Preservation of reporting requirements.
Sec. 303. Repeal.
Sec. 304. Cross Harbor Freight Movement Project EIS, New York City.
Sec. 305. Center for Brownfields Excellence.
Sec. 306. Louisiana Highway 1026 Project, Louisiana.

TITLE I—GREAT LAKES

SEC. 101. SHORT TITLE.

This title may be cited as the "Great Lakes Legacy Act of 2002".

SEC. 102. REPORT ON REMEDIAL ACTION PLANS.

Section 118(c)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(3)) is amended by adding at the end the following:

"(E) REPORT.—Not later than 1 year after the date of enactment of this subparagraph, the Administrator shall submit to Congress a report on such actions, time periods, and resources as are necessary to fulfill the duties of the Agency relating to oversight of Remedial Action Plans under—

"(i) this paragraph; and

"(ii) the Great Lakes Water Quality Agreement.".

SEC. 103. REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN IN THE GREAT LAKES.

Section 118(c) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)) is amended by adding at the end the following:

"(12) REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN.—

"(A) IN GENERAL.—In accordance with this paragraph, the Administrator, acting through the Program Office, may carry out projects that meet the requirements of subparagraph (B).

"(B) ELIGIBLE PROJECTS.—A project meets the requirements of this subparagraph if the project is to be carried out in an area of concern located wholly or partially in the United States and the project—

"(i) monitors or evaluates contaminated sediment;

"(ii) subject to subparagraph (D), implements a plan to remediate contaminated sediment; or

"(iii) prevents further or renewed contamination of sediment.

"(C) PRIORITY.—In selecting projects to carry out under this paragraph, the Administrator shall give priority to a project that—

"(i) constitutes remedial action for contaminated sediment;

"(ii)(I) has been identified in a Remedial Action Plan submitted under paragraph (3); and

"(II) is ready to be implemented;

"(iii) will use an innovative approach, technology, or technique that may provide greater environmental benefits, or equivalent environmental benefits at a reduced cost; or

"(iv) includes remediation to be commenced not later than 1 year after the date of receipt of funds for the project.

"(D) LIMITATION.—The Administrator may not carry out a project under this paragraph for remediation of contaminated sediments located in an area of concern—

"(i) if an evaluation of remedial alternatives for the area of concern has not been conducted, including a review of the short-term and long-term effects of the alternatives on human health and the environment; or

"(ii) if the Administrator determines that the area of concern is likely to suffer significant further or renewed contamination from existing sources of pollutants causing sediment contamination following completion of the project.

"(E) NON-FEDERAL SHARE.—

"(i) IN GENERAL.—The non-Federal share of the cost of a project carried out under this paragraph shall be at least 35 percent.

"(ii) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of a project carried out under this paragraph may include the value of in-kind services contributed by a non-Federal sponsor.

"(iii) NON-FEDERAL SHARE.—The non-Federal share of the cost of a project carried out under this paragraph—

"(I) may include monies paid pursuant to, or the value of any in-kind service performed under, and administrative order on consent or judicial consent decree; but

"(II) may not include any funds paid pursuant to, or the value of any in-kind service performed under, a unilateral administrative order or court order.

"(iv) OPERATION AND MAINTENANCE.—The non-Federal share of the cost of the operation

and maintenance of a project carried out under this paragraph shall be 100 percent.

"(F) MAINTENANCE OF EFFORT.—The Administrator may not carry out a project under this paragraph unless the non-Federal sponsor enters into such agreements with the Administrator as the Administrator may require to ensure that the non-Federal sponsor will maintain its aggregate expenditures from all other sources for remediation programs in the area of concern in which the project is located at or above the average level of such expenditures in the 2 fiscal years preceding the date on which the project is initiated.

"(G) COORDINATION.—In carrying out projects under this paragraph, the Administrator shall coordinate with the Secretary of the Army, and with the Governors of States in which the projects are located, to ensure that Federal and State assistance for remediation in areas of concern is used as efficiently as practicable.

"(H) AUTHORIZATION OF APPROPRIATIONS.—

"(i) IN GENERAL.—In addition to other amounts authorized under this section, there is authorized to be appropriated to carry out this paragraph $50,000,000 for each of fiscal years 2004 through 2008.

"(ii) AVAILABILITY.—Funds made available under clause (i) shall remain available until expended.

"(13) PUBLIC INFORMATION PROGRAM.—

"(A) IN GENERAL.—The Administrator, acting through the Program Office and in coordination with States, Indian tribes, local governments, and other entities, may carry out a public information program to provide information relating to the remediation of contaminated sediment to the public in areas of concern that are located wholly or partially in the United States.

"(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $1,000,000 for each of fiscal years 2004 through 2008.".

SEC. 104. RELATIONSHIP TO FEDERAL AND STATE AUTHORITIES.

Section 118(g) of the Federal Water Pollution Control Act (33 U.S.C. 1268(g)) is amended—

(1) by striking "construed to affect" and inserting the following: "construed—

"(1) to affect";

(2) by striking the period at the end and inserting "or"; and

(3) by adding at the end the following:

"(2) to affect any other Federal or State authority that is being used or may be used to facilitate the cleanup and protection of the Great Lakes.".

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

Section 118(h) of the Federal Water Pollution Control Act (33 U.S.C. 1268(h)) is amended—

(1) by striking the second sentence; and

(2) in the first sentence—

(A) by striking "not to exceed $11,000,000" and inserting "not to exceed—

"(1) $11,000,000";

(B) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(2) such sums as are necessary for each of fiscal years 1992 through 2003; and

"(3) $25,000,000 for each of fiscal years 2004 through 2008.".

SEC. 106. RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—In coordination with other Federal, State, and local officials, the Administrator of the Environmental Protection Agency may conduct research on the development and use of innovative approaches, technologies, and techniques for the remediation of sediment contamination in areas of concern that are located wholly or partially in the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts authorized under other laws, there is authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2004 through 2008.

(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.

TITLE II—LAKE CHAMPLAIN

SEC. 201. SHORT TITLE.

This title may be cited as the "Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002".

SEC. 202. LAKE CHAMPLAIN BASIN PROGRAM.

Section 120 of the Federal Water Pollution Control Act (33 U.S.C. 1270) is amended—

(1) by striking the section heading and all that follows through "There is established" in subsection (a) and inserting the following:

"SEC. 120. LAKE CHAMPLAIN BASIN PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established";

(2) in subsection (a) (as amended by paragraph (1)), by adding at the end the following:

"(2) IMPLEMENTATION.—The Administrator—

"(A) may provide support to the State of Vermont, the State of New York, and the New England Interstate Water Pollution Control Commission for the implementation of the Lake Champlain Basin Program; and

"(B) shall coordinate actions of the Environmental Protection Agency under subparagraph (A) with the actions of other appropriate Federal agencies.";

(3) in subsection (d), by striking "(1)";

(4) in subsection (e)—

(A) in paragraph (1), by striking "(hereafter in this section referred to as the 'Plan')"; and

(B) in paragraph (2)—

(i) in subparagraph (D), by striking "and" at the end;

(ii) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(F) be reviewed and revised, as necessary, at least once every 5 years, in consultation with the Administrator and other appropriate Federal agencies.";

(5) in subsection (f)—

(A) in paragraph (1), by striking "the Management Conference," and inserting "participants in the Lake Champlain Basin Program,"; and

(B) in paragraph (2), by striking "development of the Plan" and all that follows and inserting "development and implementation of the Plan.";

(6) in subsection (g)—

(A) by striking "(g)" and all that follows through "the term" and inserting the following:

"(g) DEFINITIONS.—In this section:

"(1) LAKE CHAMPLAIN BASIN PROGRAM.—The term 'Lake Champlain Basin Program' means the coordinated efforts among the Federal Government, State governments, and local governments to implement the Plan.

"(2) LAKE CHAMPLAIN DRAINAGE BASIN.—The term";

(B) in paragraph (2) (as designated by subparagraph (A))—

(i) by inserting "Hamilton," after "Franklin,"; and

(ii) by inserting "Bennington," after "Rutland,"; and

(C) by adding at the end the following:

"(3) PLAN.—The term 'Plan' means the plan developed under subsection (e).";

(7) by striking subsection (h) and inserting the following:

"(h) NO EFFECT ON CERTAIN AUTHORITY.—Nothing in this section—

"(1) affects the jurisdiction or powers of—

"(A) any department or agency of the Federal Government or any State government; or

"(B) any international organization or entity related to Lake Champlain created by treaty or memorandum to which the United States is a signatory;

"(2) provides new regulatory authority for the Environmental Protection Agency; or

"(3) affects section 304 of the Great Lakes Critical Programs Act of 1990 (Public Law 101–596; 33 U.S.C. 1270 note)."; and

(8) in subsection (i)—

(A) by striking "section $2,000,000" and inserting "section—

"(1) $2,000,000";

(B) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(2) such sums as are necessary for each of fiscal years 1996 through 2003; and

"(3) $11,000,000 for each of fiscal years 2004 through 2008.".

TITLE III—MISCELLANEOUS

SEC. 301. PHASE II STORM WATER PROGRAM.

Notwithstanding any other provision of law, for fiscal year 2003, funds made available to a State to carry out nonpoint source management programs under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) may, at the option of the State, be used to carry out projects and activities in the State relating to the development or implementation of phase II of the storm water program of the Environmental Protection Agency established by the rule entitled "National Pollutant Discharge Elimination System—Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges", promulgated by the Administrator of the Environmental Protection Agency on December 8, 1999 (64 Fed. Reg. 68722).

SECTION 302. PRESERVATION OF REPORTING REQUIREMENTS.

(a) IN GENERAL.—Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note; Public Law 104–66) does not apply to any report required to be submitted under any of the following provisions of law:

(1) EFFECTS OF POLLUTION ON ESTUARIES OF THE UNITED STATES.—Section 104(n)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1254(n)(3)).

(2) IMPLEMENTATION OF GREAT LAKES WATER QUALITY AGREEMENT OF 1978.—Section 118(c)(10) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(10)).

(3) COMPREHENSIVE CONSERVATION AND MANAGEMENT PLAN FOR LONG ISLAND SOUND.—Section 119(c)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1269(c)(7)).

(4) LEVEL B PLAN ON ALL RIVER BASINS.—Section 209(b) of the Federal Water Pollution Control Act (33 U.S.C. 1289(b)).

(5) STATE REPORTS ON WATER QUALITY OF ALL NAVIGABLE WATERS.—Section 305(b) of the Federal Water Pollution Control Act (33 U.S.C. 1315(b)).

(6) EXEMPTIONS FROM WATER POLLUTION CONTROL REQUIREMENTS FOR EXECUTIVE AGENCIES.—Section 313(a) of the Federal Water Pollution Control Act (33 U.S.C. 1323(a)).

(7) STATUS OF WATER QUALITY IN UNITED STATES LAKES.—Section 314(a) of the Federal Water Pollution Control Act (33 U.S.C. 1324(a)).

(8) NATIONAL ESTUARY PROGRAM ACTIVITIES.—Section 320(j)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1330(j)(2)).

(9) REPORTS ON CONTRACTS ENTERED INTO RELATING TO PROCUREMENT FROM VIOLATORS OF WATER QUALITY STANDARDS.—Section 508(e) of the Federal Water Pollution Control Act (33 U.S.C. 1368(e)).

(10) NATIONAL REQUIREMENTS AND COSTS OF WATER POLLUTION CONTROL.—Section 516 of the Federal Water Pollution Control Act (33 U.S.C. 1375).

(b) OTHER REPORTS.—

(1) IN GENERAL.—Effective November 10, 1998, section 501 of the Federal Reports Elimination Act of 1998 (Public Law 105–362; 112 Stat. 3283) is amended by striking subsections (a), (b), (c), and (d).

(2) APPLICABILITY.—The Federal Water Pollution Control Act (33 U.S.C. 1254(n)(3)) shall be applied and administered on and after the date of enactment of this Act as if the amendments made by subsections (a), (b), (c), and (d) of section 501 of the Federal Reports Elimination Act of 1998 (Public Law 105–362; 112 Stat. 3283) had not enacted.

SEC. 303. REPEAL.

Title VII of Public Law 105–78 (20 U.S.C. 50 note; 111 Stat. 1524) (other than section 702) is repealed.

SEC. 304. CROSS HARBOR FREIGHT MOVEMENT PROJECT EIS, NEW YORK CITY.

Section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 305) is amended in item number 1320 of the table by striking "Reconstruct 79th Street Traffic Circle, New York City" and inserting "Cross Harbor Freight Movement Project EIS, New York City".

SEC. 305. CENTER FOR BROWNFIELDS EXCELLENCE.

"(a) IN GENERAL.—To demonstrate the transfer of technology and expertise from the Federal Government to the private sector, and to demonstrate the effectiveness of the reuse by the private sector of properties and assets that the Federal Government has determined, through applicable statutes and processes, that it no longer needs, the Administrator of the Environmental Protection Agency shall make a grant to not less than one eligible sponsor to establish and operate a center for Brownfields Excellence.

"(b) RESPONSIBILITIES OF CENTER.—The responsibilities of a center established under this section shall include the transfer of technology and expertise in the redevelopment of abandoned or underutilized property that may have environmental contamination and the dissemination of information regarding successful models for such redevelopment.

"(c) PRIORITY.—In carrying out this section, the Administrator shall give priority consideration to a grant application submitted by an eligible sponsor that meets the following criteria:

(1) Demonstrated ability to facilitate the return of property that may have environmental contamination to productive use.

(2) Demonstrated ability to facilitate public-private partnerships and regional cooperation.

(3) Capability to provide leadership in making both national and regional contributions to addressing the problem of underutilized or abandoned properties.

(4) Demonstrated ability to work with Federal departments and agencies to facilitate reuse by the private sector of properties and assets no longer needed by the Federal Government.

"(d) ELIGIBLE SPONSOR DEFINED.—In this section, the term "eligible sponsor" means a regional nonprofit community redevelopment organization assisting an area that—

(1) has jobs due to the closure of a private sector of Federal installation; and

(2) as a result, has an underemployed workforce and underutilized or abandoned properties.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000.

SEC. 306. LOUISIANA HIGHWAY 1026 PROJECT, LOUISIANA.

Section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 272) is amended in item number 426 of the table by striking "Louisiana Highway 16" and inserting the following: "Louisiana Highway 1026".]

Amend the title so as to read: "An Act to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to provide assistance for remediation of sediment contamination in areas of concern, to authorize assistance for research and development of innovative technologies for such remediation, and to amend the Federal Water Pollution Control Act and the Water Resources Development Act of 2000 to modify provisions relating to the Lake Champlain basin, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge all Members to concur in the Senate amendment to H.R. 1070, the Great Lakes Legacy Act of 2002. On September 4 of this year, the House passed H.R. 1070 by voice vote. On October 17, the Senate passed this bill, with an amendment, by unanimous consent.

Title I of the Senate amendment is the House-passed version of the Great Lakes Legacy Act of 2002 with a few minor and technical changes. Industrialization over the past 200 years has contaminated sediments in the Great Lakes. This sediment contamination can limit some uses of the lakes, particularly fishing, when contaminants get into the food chain. As a result, many of the Great Lakes are under advisories warning people not to eat the fish that they catch. Unfortunately, 200 years of contamination is difficult to reverse and sediment cleanups can be very controversial. Little progress has thus been made.

The Great Lakes Legacy Act will help overcome the obstacles to cleanup by encouraging voluntary, consensus-based cleanup actions that will be carried out by the EPA in partnership with non-Federal sponsors. The Great Lakes Legacy Act also will help reduce the controversy surrounding sediment cleanups by ensuring that any cleanup actions funded by this legislation will truly benefit human health and the environment. As noted in the report of the Committee on Transportation and Infrastructure accompanying H.R. 1070, projects should be selected in accordance with a risk management strategy. In addition, the legislation requires the EPA to make sure that the short- and long-term effects of remedial alternatives have been evaluated before selecting a cleanup project. This requirement will help give the public confidence that a cleanup action will not cause more harm than good. For example, if a cleanup alternative involves dredging, we can be confident that the EPA has considered whether dredging at that site will stir up contaminants, causing more harm than good to human health and the environment.

I want to commend the gentleman from Michigan (Mr. EHLERS) and his colleagues for working with various stakeholders from the Great Lakes. They have reached a great compromise on this that has kept everyone happy and thus has been able to advance this consensus approach to Great Lakes remediation.

Title II of the Senate amendment authorizes assistance to State and local governments to improve the quality of Lake Champlain. Lack Champlain is not one of the Great Lakes and is not eligible for assistance under title I of H.R. 1070. Current law authorizes the EPA to help State and local governments develop a plan for the restoration of Lake Champlain. Title II of H.R. 1070 expands this existing authority to allow the EPA to also provide assistance to implement projects recommended under the plan.

□ 1500

Nothing in this title provides any assistance for the regulatory activities of any agency or provides any new regulatory authority for the EPA. We expect the Lake Champlain Basin Program to be a model of community-based environmental restoration, giving local governments and other local entities the maximum input into the projects and activities that are carried out with assistance provided under this legislation.

Finally, title III of the Senate amendment includes miscellaneous provisions, including language that will reinstate several important Clean Water Act reports that help Congress oversee this program.

This is very important legislation, affecting one of the greatest and largest bodies of freshwater in this world, and I urge all Members to support the Senate amendment.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 1070, the Great Lakes and Lake Champlain Act of 2002, and I acknowledge with great gratitude the splendid leadership of the gentleman from Tennessee (Mr. DUNCAN), the subcommittee chairman, who is always judicious, thoughtful, considerate, supportive, has a grasp of the issues, and proceeds with great confidence and vigor in pursuing the committee's work. I also want to acknowledge the splendid and persistent initiative of the gentleman from Michigan (Mr. EHLERS), who always brings his scientific bent to the work of the committee and particularly the work of the Subcommittee on Water Resources and Environment, and for whose great commitment to cleaning up the waters of the Great Lakes and keeping them clean I have sincere admiration and appreciation.

As the gentleman from Tennessee (Mr. DUNCAN) already indicated, we have worked out relatively minor differences that existed between the

House version and the version of the other body, and our approval today clears the bill for the President.

I grew up in the watershed of the Great Lakes, not along the shores of Lake Superior but along the waters that drain into Lake Superior, and much of my service in the Congress has been concerned with both my work as a staff director for my predecessor and staff director of the then Committee on Public Works and Transportation, and as a member, I have made protecting this extraordinary resource of freshwater one of my very top priorities and commitments.

We have to remember that the Great Lakes, all five of them, represent one-fifth of all the available freshwater on the face of the Earth. We do not count the frozen freshwater at the poles. And the magnitude of Lake Superior is such that the bottom 125 feet of Lake Superior are 125 feet below sea level. That is an immense body of water. It turns over once in 500 years. Whatever we put into that lake is going to be there for a long time. We have to be careful, extremely careful, not only about what directly goes into Lake Superior because it then goes into all the other lakes but Lake Michigan, because the effect will be so persistent and so long lasting.

We also have to be careful about what comes in from the air. Air depositions into Lake Superior come from as far away as Central America. DDT can be found on the shores of Lake Superior and other Great Lakes carried by the upper atmospheric winds, as can Toxaphene, which is used as an agent to suppress the boll weevils in cotton country, and that atmospheric deposition has been found in a lake on Isle Royale above the level of the waters of Lake Superior.

I mentioned these because the persistent toxic substances that are found in the Great Lakes, both in the bottom sediments, in the plants, taken up by the benthic organisms, eaten by the fish, then consumed by people, those toxic substances move up the food chain, and it is simply a tragedy that 100 percent of the near shore waters of the Great Lakes and their connecting tributaries are under fish consumption advisories for PCBs, dioxins, mercury. Studies continue to show, as they did years ago when I chaired the Subcommittee on Investigations and Oversight and held hearings on the U.S.-Canada Great Lakes Water Quality Agreement and the Great Lakes Water Quality Act, that if one lives anywhere in America, one probably has five parts per billion PCBs in their body, but if one lives within 20 miles of one of the Great Lakes and eat fish once a week, they most likely have 440 parts per billion PCBs in their body. That is 20 times the average outside of the Great Lakes.

Dr. Waylon Swain, researcher at the University of Michigan, the home State of the gentleman from Michigan (Mr. EHLERS), testified at hearings that I held reporting on tests he conducted on his 16-year-old daughter. He analyzed her fatty tissue, calculated the level of PCBs, and then did a computer projection on her progeny to determine how long it would take just for natural processes without further introduction of PCBs into the food chain of that daughter and her offspring. It would take six generations for the PCBs to disappear from the bloodline. That is such a sobering thought that as we go about taking action on this legislation, this should not be considered just another bill that we pass. This is legislation we are passing that fully applied, vigorously enforced, vigorously carried out, will vastly improve quality of life for future generations.

Twenty years ago we, the U.S. and Canada, identified 43 areas of concern in the Great Lakes. Thirty-one of those are wholly or mostly in U.S. waters. And even though we have removed 1,300,000 cubic yards of bottom sediment, mostly from the harbors, those are mostly harbors, and have remediated that sedimentation, the challenge is still there. The challenge is huge. We have not resolved the problem yet. And there are 36 million people living along the waters of the Great Lakes and in the watershed; therefore, far more responsibility on us to be more careful with these waters and with the bottom sediments.

I was very encouraged when then President Clinton included in his budget request $50 million for remediation of contaminated sediments, and I introduced legislation to authorize a program to vigorously advance the remediation. Unfortunately the 50 million did not get appropriated, the bill did not pass. What we have today is an advanced version of that legislation for which again I am very appreciative of the gentlemen from Michigan and of Tennessee. We do in this legislation provide that $50 million annual authorization for EPA to carry out projects to address sediment contamination. Priority will go to projects that actively address contaminated sediments that have been identified in the remedial action plans for those areas of concern and for innovative approaches, technologies, and techniques for dealing with contaminated sediments. I have been very keenly interested in one that has been used on the bottom sediments in the Duluth harbor using mining technique in nonmagnetic ore beneficiation. A process is used called media flotation where the nonferrous material settles out and the lesser material is carried off, they can do this work for on the order of a dollar to $2 a cubic yard. Early prices on remediation of bottom sediments in the Great Lakes centered around $400 to $600 a cubic yard. I thought if we could bring mining and environmental technology together, we could make an advance and in fact did. It is not the dollar or $2 a cubic yard but $30 or $40 which is still a factor of 10 less than early estimates. We have now succeeded in cleaning up large volumes of toxic substance-containing sediment, and this cleaned material is now being used for parkland and for beach nourishment and is being used in reclaiming areas along the waterfront in Duluth for other activities that are in fact environmentally friendly.

I expect this project to continue with great success as more is learned about the mechanics of separating toxic substances out from bottom sediments, and I have no doubt that the legislation before us will move vigorously in the direction that we appointed with this bill and that EPA should have no reticence whatever in moving ahead so long as we provide the appropriation to follow up on the funding authority.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

I had the privilege of chairing the Subcommittee on Aviation for 6 years under the gentleman from Pennsylvania (Mr. SHUSTER) and now the Subcommittee on Water Resources and Environment for 2 years under the gentleman from Alaska (Mr. YOUNG). Both have been great, great leaders for our committee, really outstanding chairmen, and we have many wonderful members. But I always am so very impressed, in fact at times even amazed at the knowledge that the gentleman from Minnesota (Mr. OBERSTAR) our ranking member, has on the issues that come before our committee, and I think there are very few Members in this body who are more dedicated to the work that comes out of a committee than the gentleman is to the work that comes out of the Committee on Transportation and Infrastructure, and I just wanted to express once again, as I have before, my very deep appreciation and respect and admiration for him, and he has shown that once again on this bill. And I do agree with him. He is correct in saying this is not just another bill. The lack of controversy about this bill should not be any indication of its importance. As I mentioned a moment ago and as the gentleman from Minnesota (Mr. OBERSTAR) mentioned, it has almost one-fifth of the surface freshwater in the world in the Great Lakes and I think 95 percent of the U.S. surface freshwater. But this bill would not be before us today if it were not for the great and dedicated work of the gentleman from Michigan (Mr. EHLERS).

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I thank the gentleman from Tennessee (Mr. DUNCAN) for yielding me this time. I thank the gentleman from Minnesota (Mr. OBERSTAR) for his very generous comments and his erudite display of knowledge.

I agree with the gentleman from Tennessee's (Mr. DUNCAN) comments about the gentleman from Minnesota's (Mr. OBERSTAR) interest and his vast scope of knowledge. I would like to think that is a trait of people from Minnesota since I was born in Minnesota myself.

□ 1515

The gentleman from Tennessee has done an outstanding job of chairing the Subcommittee on Water Resources and Environment, and we have gotten some very good legislation out this year, not just this bill, but other bills relating to this, and I hope they all pass as this bill is doing.

Also I want to thank the gentleman from Alaska (Mr. YOUNG), the chairman of the Committee on Transportation and Infrastructure, for his support, and the excellent staff of the Committee on Transportation and Infrastructure, who have worked very hard, even sometimes late evenings, to get this legislation through the House, over to the Senate, and now back before the House for final consideration.

America is often called the land of plenty, especially when it comes to our natural resources. Few places are blessed more than we are, and the Great Lakes stand out among our many blessings. These lakes provide us with fresh drinking water, habitat for wildlife, food for fisheries, recreation in and on the waterways, water for agriculture, and shipping lanes for economic growth. Millions of people live on the Great Lakes and millions more journey to the Great Lakes to vacation and enjoy all the splendors the lakes provide. Put simply, they are the heart and soul of Michigan.

I would also add to the statistic the gentleman from Minnesota (Mr. OBERSTAR) gave that one-fifth of all the fresh water in the world is contained in the Great Lakes. Even beyond that, the Great Lakes alone contain 20 times more fresh water than all the other lakes and rivers in the United States combined; twenty times more than all the others. That is an immense amount of fresh water.

The legislation before us today is a marriage of two different bills, both of which represent a great step forward in protecting and restoring our environment in the Great Lakes Basin. Title I of the legislation is the Great Lakes Legacy Act of 2002, which I introduced in March 2001. The Senate accepted almost all of the legislation that passed the House on September 5, 2002. This title provides $50 million a year in grants to clean up contaminated sediments at "Areas of Concern" within the Great Lakes. These areas represent a legacy of pollution within the Great Lakes Basin, and it is high time that we clean them up or, in the words of the gentleman from Minnesota (Mr. OBERSTAR), prevent any further contamination of future generations.

In addition, the legislation will foster technology research development by providing the Environmental Protection Agency's Office of Research and Development $2 million a year. With this funding, we can find better, faster, cheaper ways to clean up these toxic hot spots.

In carrying out this program, the Great Lakes National Program Office, which is ultimately responsible for making these grants, should coordinate with the Office of Research and Development to ensure that grants are focused on technologies that will, in fact, improve the way we clean up these sites.

We also accepted some changes the Senate made to the Legacy Act that passed by the House. We have added a new public information program which is funded at $1 million a year. This will ensure that the public is informed about the progress, or lack of, in cleaning up areas of concern.

Lastly, we have added a provision that requires the Environmental Protection Agency to report back to Congress on what the Agency needs in order to oversee and implement the remedial action plans for Areas of Concern and other plans mandated by the Great Lakes Water Quality Agreement. These plans represent the steps that must be taken in order to restore the water quality of a polluted site.

Recently, the GAO reported that the EPA has not done an adequate job of overseeing the implementation of these plans by State and local entities. GAO pointed out that this lack of oversight has led to confusion and delays in getting cleanup actions underway.

Title II of the legislation was added by the Senate in order to continue and expand a program for Lake Champlain that was established under the Clean Water Act. Current law authorizes the EPA to help State and local governments develop a plan for the restoration of Lake Champlain. Title II expands this authority to allow EPA to also provide assistance to implement projects recommended under the plan. The ultimate goal of this plan, like the Legacy Act, is to improve water quality in the Great Lakes Basin.

We as a country have spent many years cleaning up our rivers and lakes on the surface, and we have made very significant progress. Now it is time to turn our attention to the bottoms of rivers and lakes and clean up the toxic sediments that are steadily leaching into the Great Lakes. The Great Lakes and Lake Champlain Act will give this problem the attention it deserves.

I thank the chairman, his staff and the ranking member for their assistance. I also thank groups that helped on this legislation, the Lake Michigan Federation, the Sierra Club and the Council of Great Lakes Industries. I also want to thank Susan Bodine, currently on the staff, who spent endless hours working with us on this issue over the past few years. Also I want to thank Ben Grumbles, who as a committee staffer worked on this legislation. Currently he is at the EPA working in their Office of Water. I am sure he will take great pleasure in implementing this bill.

I appreciate the support of all these individuals, and I urge all of my colleagues to support this bill.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again I express my appreciation to the gentleman from Tennessee for his kind, thoughtful remarks, and to the gentleman from Michigan for his thoughtful comments as well, and to say that this is the finest example of how legislation ought to be done, where two parties get together and put aside partisanship and do things that are good for the country. We have a great tradition of doing so in our committee, and I look forward to continuing that tradition in the balance of this session and in the coming Congress.

I reexpress my appreciation to the chairman of the full committee, the gentleman from Alaska (Chairman YOUNG). Probably he is happy to see this bill passed so we stop badgering him about getting it to the floor and getting it moving.

I do want to join in observing that the additions made by the other body dealing with Lake Champlain and its cleanup are very important and very useful, but it should be emphasized that Lake Champlain is a good lake, it is not a Great Lake, with all respect to our colleagues in the other body who at one time tried to make it one of the Great Lakes by legislation. Now, that is kind of a reverse on the marriage injunction, that what God has joined together, let no man put asunder. Let no man create what God has not done. In this respect, we are happy to help out with Lake Champlain, and it is important, more important historically, I think, than geologically.

But this is good legislation. Let us now all resolve to work together to make sure we get the appropriations to carry out this legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I am very pleased that today we will send H.R. 1070, the Great Lakes Legacy Act of 2002, to President Bush to be enacted into law.

The Great Lakes are a vital resources for both the United States and Canada, but have been adversely impacted by over 200 years of development and industrialization.

This is not a situation that can be addressed by pointing fingers and suing people under the Superfund law or other liability statutes.

The solution provided by the Great Lakes Legacy Act is to address sediment contamination through cooperative efforts and public-private partnerships.

Cleanup activities funded by this bill can be carried out as separate projects or in conjunction with other efforts to clean up sediments—including efforts being carried out under consent decrees or consent orders authorized by other environmental laws and efforts of the Army Corps of Engineers.

This approach is supported by both industrial and environmental groups in the Great Lakes Basin.

The Senate amendments that is before the House today consists of the House text of H.R. 1070, as title I. Accordingly, the report of the Transportation and Infrastructure Committee provides the relevant legislative history for this title.

The Senate amendment also includes, as title II, a limited authorization to EPA to support activities proposed by State and local governments to help restore Lake Champlain.

Finally, the Senate amendment includes, as title III, some miscellaneous items, including the restoration of various Clean Water Act reports to help my Committee's oversight of Clean Water Act programs.

I urge all members to support the Senate Amendment to H.R. 1070.

Mr. OBERSTAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and concur in the Senate amendments to H.R. 1070.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1070.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

REAL INTERSTATE DRIVER EQUITY ACT OF 2001

Mr. PETRI. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 2546) to amend title 49, United States Code, to prohibit States from requiring a license or fee on account of the fact that a motor vehicle is providing interstate pre-arranged ground transportation service, and for other purposes.

The Clerk read as follows:

Senate amendments: Page 3, strike out lines 1 through 7 and insert:

"(i) transportation by the motor carrier from one State, including intermediate stops, to a destination in another State; or

"(ii) transportation by the motor carrier from one State, including intermediate stops in another State, to a destination in the original State.

"(2) INTERMEDIATE STOP DEFINED.—In this section, the term 'intermediate stop', with respect to transportation by a motor carrier, means a pause in the transportation in order for one or more passengers to engage in personal or business activity, but only if the driver providing the transportation to such passenger or passengers does not, before resuming the transportation of such passenger (or at least 1 of such passengers), provide transportation to any other person not included among the passengers being transported when the pause began.

Page 3, line 8, strike out "(2)" and insert *"(3)"*

Page 3, line 18, strike out "require" and insert *"require, in a nondiscriminatory manner,"*.

Page 3, line 22, after "to" insert *"pre-licensing drug testing or"*

Page 3, line 24, strike out all after "domiciled," down to and including "or" in line 25.

Page 4, line 2, after "service," insert *"or by the motor carrier providing such service,"*.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Real Interstate Driver Equity Act of 2001, known as H.R. 2546, was introduced by our colleague the gentleman from Missouri (Mr. BLUNT). This legislation is needed to solve a problem that arises when a for-hire vehicle, usually a limousine or sedan, travels across a state line in interstate commerce.

As the law is written today, State and local jurisdictions can require for-hire vehicles to be licensed in multiple States. In some cases, if they do not pay for additional licenses, the for-hire vehicle can only drop its passenger in another State. They cannot make incidental stops or return the same passenger to his original departing State.

For example, a traveler might arrange to be picked up at an airport. On the way home to another State, a common occurrence in Washington, D.C. and in many other communities, the traveler might wish to stop and have dinner within the State he arrived in. This sounds reasonable. What could be the objection? Unfortunately, that stopover could result in the for-hire car being towed, ticketed and impounded. The traveler would be stranded, the car service is left without a vehicle and faces hundreds or even thousands of dollars in fines and in fees.

This is not a fair practice, and H.R. 2546 corrects the problem. For-hire car services providing prearranged ground transportation should be able to engage in interstate commerce. However, some restrictions currently in place would still apply. For example, this legislation does not allow a carrier to operate in another jurisdiction with new clients that were not pre-arranged as though they were licensed within that jurisdiction. The bill also protects the right of transportation terminal operators to provide preferential access and for States to require criminal background checks.

This bill does not provide any direct financial relief for the hard-hit ground transportation industry. However, it does reduce an unnecessary burden and will increase choice, sufficiency and convenience for consumers.

The bill was reported by the House Committee on Transportation and Infrastructure on November 7, 2001, and passed the House on November 13 of that year. Last month the Senate amended the bill slightly by more specifically defining intermediate stops and making some other minor technical corrections. These changes are agreeable to the House sponsors of the legislation and to the Committee on Transportation and Infrastructure, and I urge the House to pass H.R. 2546 today.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. OBERSTAR. Mr. Speaker, I express my great appreciation to the distinguished gentleman from Wisconsin (Mr. PETRI) for moving this legislation, and, of course, to the Chair of the full committee for moving the bill through subcommittee, the full committee and getting it to the floor today.

This legislation bears a rather disarming title, the Real Interstate Driver Equity Act. The title itself belies the rather intense feelings that accompany this legislation and generated it, in fact, and that we are able to bring the bill to the floor today is something of a marvel in itself, because it really has meant bridging some very serious differences among States.

The gentleman from Wisconsin (Mr. PETRI), the chairman of the subcommittee; the gentleman from Pennsylvania (Mr. BORSKI), the ranking member; the gentleman from New Jersey (Mr. PASCRELL) and the gentlewoman from Nevada (Ms. BERKLEY), all have had a role, as has the gentleman from New Jersey (Mr. MENENDEZ) and the gentleman from New York (Mr. NADLER), all of whom have had a hand in resolving this issue.

Under current law, for-hire limousines can be regulated by numerous local jurisdictions while operating in pre-arranged interstate commerce. Service usually involves short distance transportation between neighboring States.

To avoid unnecessary duplication, the bill prohibits a State, a local government or an interstate agency, from enacting or enforcing any rule, whether a law or regulation, that requires a license or a fee on a motor vehicle with a seating capacity not to exceed 15 passengers, including driver, in providing prearranged ground transportation services.

However, the State or local jurisdiction is not prohibited from requiring a criminal background investigation prior to the driver picking up a passenger within its jurisdiction. That was one of the points of contention I am glad we were able to get resolved, particularly in this era of concern about terrorism.

□ 1530

The gentlewoman from Nevada (Ms. BERKLEY) raised an important issue during committee consideration of the bill. To meet those concerns, nothing in the bill will restrict the rights of a State or locality from regulating limousine operators who enter competition with local taxicab operators. States and localities retain the right to regulate those kinds of operations. The bill provides that at intermediate stops, interstate limousine drivers must not perform any transportation service for an additional passenger or group of passengers while waiting to carry their first passenger to his or her destination.

There are other provisions to reflect the Senate amendment that adds clarifying language consistent with the legislative intent in the House report.

Mr. Speaker, I rise in support of H.R. 2546, the Real Interstate Driver Equity Act of 2001. I want to thank the chairman of our full committee, Mr. YOUNG, the Chairman and Ranking Member of our Subcommittee, Mr. PETRI and Mr. BORSKI, the gentleman from New Jersey, Mr. PASCRELL, and the gentlewoman from Nevada, Ms. BERKLEY, for their support of this legislation. The committee worked on this bill for well over 2 years and, finally, we have an agreement that has the support of Members on both sides of the Capitol.

Under current law, for-hire limousines can be regulated by multiple local jurisdictions while operating in prearranged interstate commerce. This service generally involves short distance transportation between neighboring states, and dual regulation has created confusion and difficulties for the operators. To avoid unnecessary duplication of regulation of these operations, this bill prohibits a State, local government, or interstate agency from enacting or enforcing any rule, whether it is a law or regulation, that requires a license or fee on a motor vehicle with a seating capacity not exceeding 15 passengers, including the driver, that is providing prearranged interstate ground transportation service. However, a state or local government may not be prohibited from requiring a criminal background investigation prior to any driver picking up passengers within its jurisdiction for interstate transportation. I believe that this is a sound approach, and I support the bill.

The gentlelady from Nevada, Ms. BERKLEY, raised an important issue during committee consideration of the bill. To meet her concerns, nothing in the bill restricts the rights of a State or locality from regulating limousine operators who enter into competition with local taxicab operators. States and localities retain the right to regulate these kinds of operations. The bill provides that at intermediate stops, interstate limousine drivers must not perform any transportation service for an additional passenger, or group of passengers, while waiting to transport the first passenger to his or her destination.

To deal with other concerns that have been raised, the bill does not prohibit airport, train, or bus terminal operators from providing preferential access or facilities to one or more providers of pre-arranged ground transportation service. In addition, the bill makes it clear that taxicab services in a vehicle having a capacity of not more than 8 passengers, including the driver, are exempt from the economic and minimum liability regulations of the Federal Government.

The Senate amendment to the bill primarily adds clarifying language consistent with the legislative intent expressed in the House report. The only major substantive change involves pre-licensing drug testing. The House passed bill reserves the right of a State or local government to require a criminal background check of the driver. The Senate amendments adds pre-licensing drug testing of drivers to the same provision and provides that both are to be conducted by the State where the driver is licensed, or by the motor carrier providing the service.

Mr. Speaker, I believe the Senate amendments improve the bill, and I urge my colleagues to support final passage.

Mr. Speaker, I yield back the balance of my time.

Mr. PETRI. Mr. Speaker, I thought I would have another speaker in the form of the gentleman from Missouri (Mr. BLUNT), who is the author of this bill, but he is at the White House at an important meeting, and I am sure he will insert remarks in the RECORD outlining his support for this legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of the Real Interstate Driver Equity Act of 2001, H.R. 2546, as amended by the Senate.

This legislation has been under consideration for more than 3 years now, and I am glad that we have been able to find a fair and agreeable solution in the waning days of the 107th Congress.

I want to especially recognize my colleague from Missouri, Mr. BLUNT, who sponsored this bill and has championed the cause of for-hire motor carriers. I believe this legislation will remove barriers to passenger choice and effective management of transportation services.

Mr. ANDREWS. Mr. Speaker, let me begin by thanking the gentleman from Missouri Mr. BLUNT, without whom this legislation would not have gotten on the floor; his legislative skill and his partnership in this effort are truly appreciated, and I thank the gentleman for his work.

I also want to thank my friend and constituent Don Kensey who first brought this to my attention several years ago in my office in New Jersey with various members of the National Limousine Association and the South Jersey Limousine Association.

I am extremely pleased to see that the other body has favorably passed H.R. 2546. The Real Interstate Driver Equity Act, REAL Act, embodies the tireless efforts of many interested parties in upholding Congress' longstanding commitment to the free-flow of goods and services across this Nation. The unnecessary burdens of interstate restrictions on the sedan and limousine industry, of which over 80 percent are small businesses, will now be removed with the passage of H.R. 2546.

In a time where there is much uncertainty about the state of our economy, this legislation provides small business owners with a chance to compete on a fair playing field. Fairness, that is long overdue.

Again, I would like to extend my many thanks to the gentleman from Missouri, Mr. BLUNT, other colleagues and my constituents for their underlying help in bringing the REAL Act to the House floor today. I urge my colleagues to give an affirmative vote and pass this legislation.

Mr. BLUNT. Mr. Speaker, traveling by limousine is increasingly popular among business travelers who appreciate the security and predictability that come with pre-arranged limousine and sedan service. Women are increasingly turning to these services because they provide a measure of safety and security that is not always found by hailing a cab in a strange city.

A substantial portion of their service occurs interstate. Limousine and other prearranged ground transportation service providers are frequently assessed registration and licensing fees by these other states. Enforcement of these requirements, including vehicle impoundment and heavy fines, has caused tremendous hardship to drivers and owners of these businesses, many of which are small, single vehicle operations, over 80 percent, are 1- to 3-car operators grossing less than $500,000 a year.

H.R. 2546 rectifies this burden. It prohibits states other than a home licensing state from enacting or enforcing a law requiring a fee or some other payment requirements on vehicles that provide prearranged ground transportation service.

H.R. 2546 prohibits States or localities from restricting limousine or sedan services if: (1) the service is registered with the Department of Transportation as an interstate carrier; (2) the company meets all the requirements of the state in which they are domicile or do business; and (3) the limousine or sedan service is engaged in providing pre-arranged transportation from one state to another, including round trips.

Mr. PETRI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). The question is on the motion offered by the gentleman from Wisconsin (Mr. PETRI) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 2546.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PETRI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2546.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

IMPROPER PAYMENTS INFORMATION ACT OF 2002

Mr. HORN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4878) to provide for estimates and reports of improper payments by Federal agencies.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Improper Payments Information Act of 2002".

SEC. 2. ESTIMATES OF IMPROPER PAYMENTS AND REPORTS ON ACTIONS TO REDUCE THEM.

(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—The head of each agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget, annually review all programs and activities that it administers and identify all such programs and activities that may be susceptible to significant improper payments.

(b) ESTIMATION OF IMPROPER PAYMENT.—With respect to each program and activity identified under subsection (a), the head of the agency concerned shall—

(1) estimate the annual amount of improper payments; and

(2) submit those estimates to Congress before March 31 of the following applicable year, with all agencies using the same method of reporting, as determined by the Director of the Office of Management and Budget.

(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—With respect to any program or activity of an agency with estimated improper payments under subsection (b) that exceed $10,000,000, the head of the agency shall provide with the estimate under subsection (b) a report on what actions the agency is taking to reduce the improper payments, including—

(1) a discussion of the causes of the improper payments identified, actions taken to correct those causes, and results of the actions taken to address those causes;

(2) a statement of whether the agency has the information systems and other infrastructure it needs in order to reduce improper payments to minimal cost-effective levels;

(3) if the agency does not have such systems and infrastructure, a description of the resources the agency has requested in its budget submission to obtain the necessary information systems and infrastructure; and

(4) a description of the steps the agency has taken to ensure that agency managers (including the agency head) are held accountable for reducing improper payments.

(d) DEFINITIONS.—For the purposes of this section:

(1) AGENCY.—The term "agency" means an executive agency, as that term is defined in section 102 of title 31, United States Code.

(2) IMPROPER PAYMENT.—The term "improper payment"—

(A) means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(B) includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, payments for services not received, and any payment that does not account for credit for applicable discounts.

(3) PAYMENT.—The term "payment" means any payment (including a commitment for future payment, such as a loan guarantee) that is—

(A) made by a Federal agency, a Federal contractor, or a governmental or other organization administering a Federal program or activity; and

(B) derived from Federal funds or other Federal resources or that will be reimbursed from Federal funds or other Federal resources.

(e) APPLICATION.—This section—

(1) applies with respect to the administration of programs, and improper payments under programs, in fiscal years after fiscal year 2002; and

(2) requires the inclusion of estimates under subsection (b)(2) only in annual budget submissions for fiscal years after fiscal year 2003.

(f) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—Not later than 6 months after the date of enactment of this Act, the Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HORN) and the gentlewoman from Illinois (Ms. SCHAKOWSKY) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HORN).

GENERAL LEAVE

Mr. HORN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4878.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, each year the Federal Government wastes countless billions of dollars on improper payments. I say "countless billions" because we do not know the magnitude of the problem. Incredible as it might seem, Federal agencies are not required by law to calculate how much money they spend improperly.

What we do know is that improper payments are a very serious problem in the Federal Government, based on the few voluntary estimates that some agencies submit for a handful of programs. The General Accounting Office, headed by the Comptroller General of the United States, who is very impartial and utilizes a nonpartisan, neutral approach, they looked at them and he says that there is $20 billion in improper payments annually. The Office of Management and Budget recently updated the annual figure to about $33 billion of improper payments.

Staggering as these amounts are, they likely represent only the tip of a very enormous iceberg.

For example, the Department of Health and Human Services reported making improper payments of more than $12 billion in its Medicare fee-for-service program last year, but the Department does not even attempt to estimate improper payments made in the Medicaid program.

The obvious first step toward reducing this outrageous waste of taxpayers' money is to understand the extent of the problem. We must find out which programs are at risk and the causes of those risks. Only then can we develop cost-effective solutions.

Mr. Speaker, H.R. 4878, the "Improper Payments Information Act of 2002," takes this important first step. The bill requires Federal agencies to estimate the improper payments made in their programs. The bill also requires agencies to tell Congress and the American taxpayers what steps they are going to take to reduce those improper payments.

The Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations, which I chair, has held numerous hearings over the years on various aspects of improper payments. These hearings have demonstrated the overwhelming need for H.R. 4878.

The administration strongly supports this legislation, H.R. 4878, and the bill has achieved broad bipartisan support in Congress. Our subcommittee's ranking member, the gentlewoman from Illinois (Ms. SCHAKOWSKY), is a cosponsor of this legislation. So is our chairman of the full Committee on Government Reform, the gentleman from Indiana (Mr. BURTON), and also my colleague, the gentleman from California (Mr. OSE).

On July 9, the House passed H.R. 4878 by voice vote under suspension of the rules. On October 15, the Senate passed an amended version of this bill by unanimous consent.

The Senate then added the amendments which tightened up the bill in several ways. They imposed an annual March 31 deadline for agencies to report their estimated improper payments to Congress. The amendments also require that the reports include the root causes of the improper payments and the results of any action agencies have taken to correct the problem. In addition, the Senate amendments require the Office of Management and Budget to provide guidelines to implement the bill within 6 months of its enactment.

In one respect, the Senate amendments are less stringent than the House bill, than the original bill. The amended bill requires agencies to report on their actions to reduce improper payments for any program in which the annual improper payments are estimated at $10 million or more.

The House-approved bill had a lower threshold. However, I believe the Senate's amended threshold is excellent and reasonable.

Mr. Speaker, I would point out that the bill's threshold is simply the minimum requirement for reporting at less than the $10 million amount. It does not or should not prevent agencies from voluntarily reporting on significant improper payments, even if they do not rise to the bill's minimum requirement.

Mr. Speaker, I urge my colleagues to concur with the Senate amendments and send this bill to the President.

Mr. Speaker, I would like to thank the people on the staff on our side, Bonnie Heald, the Staff Director of the subcommittee; Henry Wray, Senior Counsel who did most of the work; Dan Daly, Counsel; and we thank a lot Hank Savage, Assistant Counsel from the Office of Legislative Counsel.

Mr. Speaker, I reserve the balance of my time.

Ms. SCHAKOWSKY. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to again be on the floor with the gentleman from California (Mr. HORN) to move this bill on improper payments. We worked together to move this bill through the House last July and we are here today to accept the changes made by the Senate.

The Senate has asked that the reports on improper payments be limited to agencies where the aggregate amount is $10 million or more, rather than the $1 million in the original House bill. In addition, the Senate has clarified the timing of the reports coming to Congress. I concur with these changes.

There was one change proposed by the Senate following advice from the General Accounting Office that I found perplexing. The GAO proposed that agencies could avoid reporting on improper payments if the agency concluded that the cost of estimating the level of improper payments was not "cost beneficial." In other words, if an agency does not know how many improper payments it is making, it can somehow conclude that it is not worth knowing how many improper payments it is making. I was concerned that the provision simply created another loophole for agencies to avoid addressing this problem, and I am pleased that the Senate chose not to include this provision.

Finally, Mr. Speaker, I would like to reiterate a point I made last July. In programs that provide payments directly to the poor, improper payments often result from the complexities of the program rules or from errors in administering the program. These kinds of errors should not become another burden on the poor. I hope these agencies will take the opportunity created by this bill to find ways to avoid these kinds of errors and, if they occur, to consider the impact on the needy recipient and assure that any negative impact is minimized.

I thank the gentleman from California (Mr. HORN) for his hard work on this bill and for working in such a collegial manner throughout the process of passing this legislation. I would also like to end in the gentleman's tradition by thanking the professional democratic staff David McMillan for his work on the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. HORN. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HORN) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4878.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 4628, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mr. ROEMER. Mr. Speaker, pursuant to clause 7(c) of rule XXII, I hereby notify the House of my intention to offer a motion to instruct conferees tomorrow on H.R. 4628, the Intelligence Authorization bill, which has been in conference since October 3, 2002. The form of the motion is as follows:

> I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 4628, be instructed to take such actions as may be appropriate to ensure that a conference report is filed on the bill prior to November 14, 2002.

Mr. Speaker, this motion simply instructs the conferees on the Intelligence Authorization bill to complete their work and file a conference report prior to Thursday, November 14, 2002.

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO THE 1979 IRANIAN EMERGENCY AND ASSETS BLOCKING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–278)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report prepared by my Administration on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 12, 2002.*

CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–279)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmit to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency declared by Executive Order 12170 on November 14, 1979, is to continue in effect beyond November 14, 2002, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on November 13, 2001, (66 FR 56966).

Our relations with Iran have not yet returned to normal, and the process of implementing the January 19, 1981, agreements with Iran is still underway. For these reasons, I have determined that it is necessary to continue the national emergency declared on November 14, 1979, with respect to Iran, beyond November 14, 2002.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 12, 2002.*

CONTINUATION OF EMERGENCY REGARDING WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–280)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the emergency posed by the proliferation of weapons of mass destruction and their delivery systems declared by Executive Order 12938 on November 14, 1994, as amended, is to continue in effect beyond November 14, 2002, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on November 13, 2001 (66 FR 56965).

The proliferation of weapons of mass destruction and the means of delivering them continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. Therefore, I have determined the national emergency previous declared must continue in effect beyond November 14, 2002.

GEORGE W. BUSH.
THE WHITE HOUSE, *November 6, 2002.*

☐ 1545

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF THE HONORABLE PAUL D. WELLSTONE, SENATOR FROM THE STATE OF MINNESOTA

Mr. OBERSTAR. Mr. Speaker, I offer a privileged resolution (H. Res. 598) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 598

Resolved, That the House has heard with profound sorrow of the death of the Honorable Paul D. Wellstone, a Senator from the State of Minnesota.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased Senator.

The SPEAKER pro tempore (Mr. KOLBE). The gentleman from Minnesota (Mr. OBERSTAR) is recognized for 1 hour.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 20 years ago I had returned to Minnesota from a human rights inquiry trip with the Unitarian Universalist Service Committee in El Salvador, where we inquired into abuses of human rights visited upon Salvadorans and the four American women, three church women and one lay woman.

We visited the blood-spattered streets of San Antonio Abad, the site of La Matanza, the massacre outside of San Salvador. We met with numerous victims of violence by the government and resolved to take action in the Congress on our return to the United States.

On my return, I was asked by the President of the student body of Carleton College in Northfield, Minnesota, to come and address the students on the experience that I had just encountered.

It was an overwhelming response. The place for the meeting was filled to overflowing, and students wanted to gather afterward. They asked me if I would come and join them at the home of one of the professors, which I did.

Of course, at that meeting, it was very animated and intense questioning that came from the host, a young professor, who impressed me with his deep sense of caring, his feeling about this issue, his desire to do justice. I was not quite sure of his name, and I asked again: PAUL WELLSTONE.

I said, Professor, you ought to think about running for public office. He said, indeed, I am. I am considering running for State auditor. Well, that was hardly a place from which to make statewide policy, but it was something that he wanted to do to get into the public arena, and he felt there was a message that he could convey. As was later revealed, however, his dyslexia prevented him from really grasping numbers in the way that other folks do.

Nonetheless, he conducted a spirited campaign, and lost to a gentleman named Arnie Carlson, who served as auditor for several years, and then later ran for Governor and won in the same year that PAUL WELLSTONE ran for Senator and won: 1990.

In between those two dates was a very high level of spirited activism by PAUL WELLSTONE, most notable of which was leading the resistance to construction of a power line across the State of Minnesota to be built by a generation power company of the rural electrification system which had really lost touch with its member cooperatives and the people that the co-op was to serve.

PAUL WELLSTONE called them to accountability, called them and mounted a movement across the State to hold hearings, to have public sessions to explain the necessity for this power line running through the backyard of homes and through farms, and what possible adverse side effects there might be from the construction of this power line. It was characteristic of PAUL WELLSTONE's role in public service that when people got too big, when organizations got too big for their own good, he called them to account.

In Scripture, I find the roots of PAUL WELLSTONE's drive for public service. The prophet Isaiah, Chapter 11, Verse 4, under the rubric "the Rule of Immanuel" writes "But he shall judge the poor with justice;" and again, in Chapter 12, Verse 1, "Woe to those who enact unjust statutes and who write oppressive decrees depriving the needy of judgment and robbing my people's poor of their rights."

Nothing disturbed, distressed, angered PAUL WELLSTONE more or motivated him more to action than unjust statutes, oppressive decrees depriving the needy of their day in court, so to speak, or robbing the poor of their rights.

Whether we read into those verses of Scripture the Legal Services Act, redlining in urban housing, the need for surveying the homeless, providing adequate housing for poor and middle-income Americans, or food stamps or Meals on Wheels, we read the keystone of PAUL WELLSTONE's career of public service: A burning mission, anchored in Scripture, expressed in public acts to improve the lives of the least among us; to be a stirring voice for those who either have none, or who have lost their voice.

At the memorial service honoring Senator WELLSTONE in Virginia, Minnesota, in my district a young campaign worker, Ida Rukavine, spoke of the inspiration that young people felt about PAUL WELLSTONE, saying that her classmates, her contemporaries, were looking for someone to be a role model.

At a time when, as Ida implied, young people are indeed looking for role models, I would pin this image on our hearts: PAUL and his wife, Sheila, walking wherever they went hand-in-hand in all that they did, wherever they traveled. We should take their hands symbolically and take each other's hands and feel the strength of the spirit of PAUL WELLSTONE that still moves among us.

There were two votes that I would characterize as bookends for PAUL WELLSTONE's career of public service, both of which I discussed with him at some length. The first was early in 1991, when we were voting in the Congress on whether to approve military action against Iraq, and the last was the most recent vote in the Congress, again to approve of a resolution giving authority to the President to use force at a time of his choosing of his determination against Iraq.

PAUL's no vote was recognized as a vote of courage, a vote of principle, a vote that marked his character in public service and all that he stood for. It was my vote, but it was his vote of deep conviction unashamedly expressed, unabashedly carried out; a role model for young people. Whether one agreed with the vote or not, one had to agree that this was indeed a man of great strength, personal character, and of deep conviction.

Mr. Speaker, I yield such time as he may consume to my dear friend and colleague, the gentleman from Minnesota (Mr. SABO).

Mr. SABO. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the resolution and in memory of our colleague, PAUL WELLSTONE. The gentleman from Minnesota (Mr. OBERSTAR) and I had the unique opportunity of serving with PAUL for 12 years. But when I think of PAUL, I think of him primarily not in his role as a member of the U.S. Senate but as a person, a person who, when we saw PAUL, we expected to see Sheila. They were exceptionally close, and they were exceptionally close to their family; to Marsha, who unfortunately was on the plane with them; and to their sons, David and Mark, and to their grandchildren. They were an incredibly close family. PAUL was so proud of his kids and his grandkids, and wanted to spend as much time as he could with them.

I also think of PAUL as someone who really connected with people for really two reasons. One, he liked people. He met them with a flourish and enthusiasm. Secondly, he really had empathy for problems that impacted people.

□ 1600

All he said and did in politics was not about theory, but about how what we do here impacts people in their daily lives. PAUL, the elected official, was a person who always saw himself as primarily representing the underdog, the underrepresented in society, and he did that with compassion and intelligence and enthusiasm and incredibly hard work. So Americans, those that struggle day to day in life, lost a true friend, a true advocate.

We remember his boys and his grandchildren today, they carry on a remarkable family, and we offer them our sympathy and our thoughts in the days and weeks and months ahead, but our State and our country suffered a real loss in that plane accident.

Mr. OBERSTAR. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I rise in support of the resolution and in gratitude to my colleague for offering it.

I have a big hole in my heart, and I think it is reflective of the hole that is left now in the political landscape, a space that was occupied uniquely by PAUL WELLSTONE. I feel great sorrow and great gratitude; sorrow for the loss of a close friend and colleague, and gratitude for having had the opportunity to know and work with PAUL WELLSTONE and his wife, his life-long partner, Sheila Wellstone.

PAUL and Sheila Wellstone touched many, many lives; literally tens of thousands of Americans considered themselves to be their close friends and partners in the effort to make America better. My husband and I enjoyed spending time with PAUL, listening to his stories and jokes and planning strategy and organizing. PAUL and Sheila were always open and friendly, and always eager to act on their beliefs.

In Chicago this weekend, we will hold a memorial service to honor their lives. Similar memorial services are being held in towns and cities across this country. PAUL WELLSTONE was the people's Senator, not just Minnesota's Senator, the one you could always count on to push for economic and social justice.

PAUL used to talk frequently about the concerns raised by people eating in the cafes and diners in Minnesota. He brought those concerns to the floor of the Senate, speaking for his constituents and for families everywhere. He knew what it was like to deal with mental illness and discrimination in the health care system. He made it his job to end inequality in care and pass comprehensive mental health parity. He knew what it was like to lack health care coverage and to be unable to afford medical treatment for a child or grandparent, and so he made it his job to win universal access to affordable and quality health care.

He listened to family farmers struggling to survive in the shadow of agribusiness, and he made it his job to speak for those farmers. He heard about discrimination and lack of opportunity, and he made it a priority to break down barriers to give every person the right to be productive and secure and to protect the rights of working men and women.

He listened to Sheila about the horrors of domestic violence, and together they worked to reauthorize the Violence Against Women Act and to stop the abuse that threatens women and children.

As a teacher, PAUL focused on the power of education to improve our lives. He fought for better teachers and better schools from early childhood development through the university level. He embraced these weighty issues with joy and exuberance. He was called the happy warrior. He was never apologetic or defensive, always bold and clear and, to many of us, thrilling.

Above all, PAUL was proud to be an organizer. He believed with every fiber of his being in the power of people to make change and to win social and economic justice. He taught us to strive for the very best in ourselves and in our communities. He inspired us to do more than we thought was possible because his vision of what was achievable was so powerful. He showed us that we can listen to our consciences, do what is right and take courageous stands on issues from welfare to Iraq and still win elections.

The people of Minnesota respected him and loved him and mourn him because he lived and voted his values. PAUL WELLSTONE changed lives. He changed thousands of lives, young people and old people alike. He empowered people. He was a friend, and I want to end with PAUL WELLSTONE as a friend.

I have two friends in my district who loved PAUL with all their hearts; Harvey and Norma Mader were good friends of PAUL and Sheila Wellstone. For a long time before PAUL was elected to Congress, Harvey and Norma Mader were their friends. They live in my district, but they were prepared to go to Minnesota for the election as senior citizen advocates. Their lives very much revolve around progressive politics, and PAUL WELLSTONE was their hero and friend.

And PAUL would call them up on the telephone and say, How is Norma, how is she feeling? How are things going, Harvey? It was common for PAUL on a regular basis just to check in with his friends. And when I was at that memorial service in Minnesota, I talked to a number of people who said PAUL called me last week. He heard that my son was sick or he heard that I was having a test at the hospital, and he just called to see how I was.

I realize that so many of us who get so busy with our work here and the weightiness of our work here sometimes sacrifice ordinary friendships, but PAUL WELLSTONE managed to do it all. He managed to maintain those friendships all over the country. That is what I heard. It meant so much to Harvey and Norma Mader, it meant so much to all of the people that he cared so much about, and I think that says something so special about what kind of person that he was.

Although PAUL and Sheila are no longer here physically, the partnership that we have with them will continue. Through our commitment to their vision of America, PAUL and Sheila will always have an enormous impact on our Nation and on our future.

Mr. OBERSTAR. Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me this time, and for coming forward to offer this resolution. I recognize that a number of Members are not here today because we do not have votes, but I am very pleased that the gentleman was able to get the time so some of us who felt so deeply about losing PAUL WELLSTONE would have an opportunity to express those views publicly.

We always on the floor from time to time are admonished not to refer to the other body. Well, this afternoon we are referring to an unforgettable Member of the other body. He was not a Member of this body, but PAUL WELLSTONE's presence was felt even in this body. In fact, this is the kind of man whose presence could not help but be felt.

The loss of PAUL, Sheila, his wife, and his daughter Marcia is deeply felt here. In no small part, these three were doing public business. They were all trying to get PAUL back to the Senate so he could engage in the business of the public.

Why is PAUL WELLSTONE so admired by Republicans and Democrats alike in the Senate? We have heard about Republicans who cried when they heard that PAUL had been killed. In no small part I think it is because PAUL believed in something, and he believed in being more than a Senator. Beyond that, if I try to focus on what made him so beloved to so many, particularly to those who worked with him, I come time and again to the fact that he took risks for what he believed in.

Members of the House and the Senate always admire that. Regardless of where we stand on the issues, the notion that somebody is willing to step forward and take political risks is something to be admired; and, of course, PAUL WELLSTONE was willing even to risk his political life.

That is another way of saying that PAUL WELLSTONE came to the Senate in order to stand for principle. The gentleman from Minnesota (Mr. OBERSTAR) spoke of character. That is what character is all about. When the rubber meets the road and a Member needs to decide whether to take a risk on an issue, I think first of the principle that I stood for. That is not what the political business is all about. Sure, those of us from safe districts get to do that all the time. I hope we are not patting ourselves on the back. We are doing it for principle, but many are doing it also because the people who live in our district want us to do it. PAUL WELLSTONE had to think about whether what he was doing was what his constituents wanted him to do, and whether it was the right thing to do according to his own sense of principle.

So standing for principle in a real sense was a kind of trademark of PAUL WELLSTONE and indicia of character. I do not mean to say if a Member does not always stand for principle, they do not have any character. But politicians particularly admire Members who are willing to take risks, ignoring the political consequences.

Now, let us not forget that PAUL WELLSTONE was a most unlikely candidate. It was unlikely that he would get to the Senate at all. Let us be clear; he was a Ph.D. college professor; and, indeed, a tenured college professor. I can tell Members this is not a place where one expects academics to come. I am myself an academic who never expected and never intended to come to the House. I am a tenured academic who still teaches at Georgetown Law Center. And I can tell Members, those of us who spend our lives trying to get tenure do not think of another career. It is harder to get tenure than it is to get elected. Tenured professors do not go around trying to get another job.

One needs to think what in the world got into PAUL WELLSTONE, tenure at a very good liberal arts college. Again, I go back to principle. At the bottom he was an organizer, and he had done all he could do organizing, and so he thought I guess I will go to the Senate and see if I can organize there. I am sure that is the way he thought.

If he was an unlikely candidate when he got here, he took on unlikely issues. He stuck with health care when everybody else backed off because the Democrats tried very hard in the early 1990s and got pressed back.

And again I can go down a lexicon of issues. Here is another unlikely one, mental health coverage as a part of ordinary health coverage, and he got that very far along.

Those issues speak to two abilities: One is the ability as an organizer. He never lost that passion, never lost that understanding that is the way to operate. Senator LIEBERMAN tells a funny story that one day PAUL was discussing an amendment on the floor. PAUL walks into the Senate, PAUL is pressing his amendment. He does not even think he has Members on his side, much less Republicans, so he held up a piece a paper for Senator LIEBERMAN to see that said "DLC votes yes," meaning Democratic Leadership Conference votes yes because Senator LIEBERMAN was in a conference that was in another spectrum of the Democratic Party. Senator LIEBERMAN just laughed. PAUL was so funny and laughed all the time.

□ 1615

PAUL was so collegial. Even those who could not possibly vote the way PAUL voted had to love him. I think of our former colleague SAM BROWNBACK, who made common cause with PAUL on a bill to prevent international sex trafficking of women and girls. Together, this conservative Republican and this liberal Democrat pressed that bill through the floor. If you look at PAUL's record, this one-man progressive force was always looking for allies, especially people who were more conservative than he. He was not content to stand on principle alone. He wanted to stand on principle and then get it enacted into law and so he reached out to see how he could do that.

Finally, Mr. Speaker, I will tell the quintessential PAUL story about a principle. At the height of the wonderful economy of the late 1990s, when everybody was doing well, I mean, I was going around bragging that more African Americans own homes, highest median income in history, more rising out of poverty, at the height of this economy when all boats were being lifted, PAUL called me up and said he wanted me to cosponsor a bill, then he wanted to go to a church here in the District to have a press conference about it. The bill was called the Strategic Transitional Employment Program. We should understand that unemployment was down to something like 3 percent, way down from where I regret to say it is now. This bill was about the millions who had been left behind. PAUL was tired of hearing how all of us were doing so well, even the poor. PAUL knew that there was a horrific gap between the larger number of people who were doing better and the millions who were not benefitting from that wonderful economy.

I do not think PAUL particularly believed this bill had a ghost of a chance, but he did believe that if you were one of those millions still unemployed, still living in a community that did not have investment, still living in rural or urban America where jobs were not being made out of the dot-coms and all of the wonderful work that the economy was doing, if you were in a manufacturing job still waiting to be called back, PAUL knew that nobody was talking to you and had acted as if you had floated off the planet. PAUL did not believe you should stand up for those who did not have only when the economy was the way it is now, down and not doing well at all. PAUL believed you should stand up when you had not brought the great American dream to all, especially when there were millions upon millions upon millions who thought nobody even spoke to their issues or spoke to them any longer because so many people were doing so well. That to me is the quintessential PAUL.

Mr. Speaker, Senators, not to mention House Members, come and go, but some rise to a special level. That is the level of being simply irreplaceable. That is the level to which PAUL WELLSTONE has risen to Members across the line in both parties. I again thank the gentleman for not only yielding to me but for bringing PAUL WELLSTONE to this body.

Mr. OBERSTAR. I thank the gentlewoman for those wonderful remarks.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Speaker, yesterday was Veterans Day, November 11. As I woke up in the morning, I thought, well, I am getting on a plane today and I am going to be heading off to Washington, a different type of Veterans Day than I was used to spending. See, I used to spend Veterans Day at veterans hospitals and cemeteries remembering those who had given their lives, remembering those who came home injured, whether it be physically or emotionally. I remembered those days because I spent them with Senator PAUL WELLSTONE. PAUL and I would often be at veterans hospitals, cameras long gone, with veterans from all over the United States, and we would sit and we would talk and we would have very personal conversations with some veterans who had not heard from family members in a long time and who were alone. PAUL would be on a plane as he was the last time I flew out to Washington and he would be with Sheila. His back would bother him or his legs would be bothering him and he could not sit still for very long, so especially after they changed the flight time where we have to spend the last 30 minutes sitting on the plane, not moving as we approached Washington National since September 11, PAUL would be on the plane walking up and down the aisles, talking to elderly people, talking to children, it did not make any difference whether or not they lived in Minnesota, asking them what was going on in their lives, what they were studying, how they were doing in school. Sheila would be sitting there reading, working on something to help Minnesota, to help our country, to help our Nation, women of domestic violence, children of domestic violence.

We have heard testimony from Members here of what a great legislator PAUL was, and he was truly a magnificent Senator. But he was all those things because he was a good teacher. He was a good father. He was a good friend. Sheila and PAUL never forgot family and their family went beyond their children. Their family campaigned together. Marcia, who was a teacher, was on the plane. Over the last couple of weeks, I have met students of Marcia's. PAUL was a good father, he was a good teacher, and he passed that on to his children.

Mary McEvoy was also on the plane. Mary was a dear friend. Mary believed in the issues that PAUL worked on, helping children succeed, helping children to be literate. Mary and PAUL and Sheila together would work on those issues and make them a reality in the everyday lives of everyday children. But we all know and I know better than ever having served in this body of Congress that our staff is important. Just as we are judged by the friends we keep, I think legislatively we can be judged by the staff we work with. To the Chief of Staff, Colin McGuiness and the Washington staff, to State Director Connie Lewis, to all the staff in Senator WELLSTONE's office, he was so very proud of you and you in the work that you did made us proud of PAUL. To Mark and David, our loss is different than yours. Yours is beyond my imagination right now having lost so many family members. You shared your grief with our State and with our Nation.

November 11 will never be the same. I will never drive by a veterans cemetery or go by a veterans hospital without thinking of all the work that PAUL did for the veterans in this country. I will never go in another grade school and not think of all the work that he did for children and education with those around him. I will carry on a women's domestic abuse roundtable that we are having with people in the Fourth District and Fifth District, St. Paul and Minneapolis, without Sheila's presence. There will be students in White Bear Lake who will always remember Marcia. And Mary is so deep in the hearts of many of us. But, Tom and Will, you also made an impact by allowing PAUL to do the work that he did and we are blessed for having you all in our lives.

Minnesota will never be the same. Minnesota will always remember what happened on the tragic Friday of October 25, where they were, what they were doing, when we all stopped and paused and remembered our blessings in having had such a special Senator.

PAUL, I will miss you in Washington and I will miss you at home.

Mr. OBERSTAR. Mr. Speaker, I thank the gentlewoman for those truly heartfelt, heart rending remarks.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. PELOSI), the minority whip.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time and extend to him and the entire Minnesota delegation the deepest sympathy of my family and my constituents.

I have known PAUL and Sheila for a very long time, long before either of us were in Congress, he in the Senate, going back to our days in the Democratic Party in the early 1980s. I have known of his passion for the issues and for working families in our country and his interest in making a difference for them in our country.

I rise today to honor Senator PAUL WELLSTONE, Sheila Wellstone, the sadness of their losing their daughter at the same time and to offer my sympathy to the families of those who were lost in that terrible tragedy. To the families of staffers Will McLaughlin, Tom Lapic and Mary McEvoy, Mary was a person of so many credentials and all of them much heralded in these sad days, and of the Captains Richard Conroy and Michael Guess, I pray that you can take some comfort in the fact that your loved ones lost their lives in service to our country. To take part in the political process, the process of educating voters about their choices, is indeed a great service to democracy.

To David and Mark Wellstone, thank you for sharing your wonderful family with all of us and with the American people. In this era of polls and pundits, PAUL WELLSTONE was that increasingly rare breed, a politician with the courage of his convictions. We see a lot of that here in Congress, but the public is not aware of that. He fought for what he believed in. He voted for what he thought was right regardless of whether it was popular. He stood for something, and he stood his ground. In doing so, he gave voice to the many millions of Americans who cannot afford to make campaign donations and who are struggling just to pay their rent and feed their families.

When PAUL WELLSTONE took the floor of the United States Senate, you knew you were going to hear something quite different from what had come before and what was likely to follow. You would hear passion and compassion and sometimes anger. You would hear talk about issues that do not get a great deal of attention these days, social justice, poverty and the responsibility of government to improve the lives of citizens. This was a responsibility that PAUL WELLSTONE lived and breathed, to the good of millions of America's children and families.

PAUL and Sheila left us not only a memory but a legacy. His legacy of good works will live throughout the country. Sheila's work in terms of domestic violence and so many other issues are being made known to the American people now more generally, but anyone who knew them knew of her commitment and the difference she made in that area. Losing Marcia is another tragedy, leaving her family behind seems to be the saddest of all, but I hope again it is a comfort to those families that so many people mourn their loss and are praying for them at this time.

To us in Congress, PAUL WELLSTONE left a special legacy. We can keep his spirit alive and that legacy glowing by standing strong for what we believe in and by bringing both passion and compassion to everything we do. He did that but he brought a great intellect, a great knowledge, a plan of action. He was a great person. Sheila and PAUL were a great team.

Mr. Speaker, we have already had a service in San Francisco honoring the memory of Sheila and PAUL WELLSTONE, Marcia and the others who perished. I bring from that service, attended by hundreds of people, the sympathy and condolences of my community to the people of Minnesota. I am so sorry.

Mr. OBERSTAR. Mr. Speaker, I thank the gentlewoman for those remarks. I again want to express my appreciation to our Democratic whip for her call immediately following the tragedy expressing her deep sympathy and condolences through me to the family and to the close friends of PAUL WELLSTONE. It is characteristic of the gentlewoman from California that she would call and express that profound feeling. I am grateful that she mentioned the memorial service. I know that the family will be most appreciative.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to first of all thank the gentleman from Minnesota for yielding me this time and for taking out this special order. I recall a poet once saying, "Some people see things that are and ask why." But then he said, "I dream of things that have never been and ask why not." It seems to me that such was the life, such was the career, such was the being of Senator PAUL WELLSTONE, a man who had an uncanny way of penetrating.

□ 1630

Notice that many people say "PAUL WELLSTONE," and that is because they felt a level of intimacy with him even though they were not personal friends, even though they had not traveled with him on the airplane, even though they did not live in his neighborhood or come from his district. He had a way of connecting, and so we would think of him as PAUL WELLSTONE, Senator WELLSTONE, full of power, dynamite.

I knew that PAUL could not sit still, but I did not know it had anything to do with his legs. I thought it just had to do with the level of energy and excitement that he brought to everything that he did. I was pleased to spend time with him in many small groups of people where there were no television cameras, there were no headlines, small groups of labor organizers, small groups of college students, small groups of low-income people, and he was asking the question then why not a livable wage so that low-income people can enjoy a level of the goodness and the greatness of this Nation? Why not health care for everybody no matter where they come from or no matter where they are going? But he also believed in giving a lot, understanding that if we put something in, we get something out. Always organizing, knowing that life can be greater and better than what it is.

It seems to me that another poet summed up his life when he said that whatever one puts into it, that is what he will get out of it. He said "I bargained with life for a penny and life would pay no more; however, I begged at evening time when I counted my scanty store, but I found that life is a just employer, he gives you what you ask, but once you have set the wages, then you must bear the task. I worked for a menial's hire only to learn dismay, whatever price I had asked of life, life would have willingly paid."

PAUL WELLSTONE put a great deal into it, and he got a great deal out of it. It has been a pleasure to know you, sir. Condolences to your family and all of those who shared your dream and your vision and went with you as you left.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for those stirring heartfelt, powerful remarks.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, I thank my friend from Minnesota (Mr. OBERSTAR), and I do not want to go on at great length about PAUL WELLSTONE because so much has been said already, but I believe I knew PAUL WELLSTONE longer than anyone in this Chamber, going back to, I believe, 1969, when I was in my last year at Carleton College and Paul Wellstone was in his first year on the faculty there. He was even then a dynamic, passionate person who cut a bigger swath than his stature might have led one to believe.

So much has been said about how dynamic, how passionate he has been in speaking out for farmers, for workers, for people of all sorts, and what joy he brought to his campaigning, to his political activity. He has been described as a man of convictions, someone who spoke clearly and directly, someone who is never criticized for hiding his opinions, for shifting his opinions, for pulling his punches. So it might sound to some people that we are describing a cocksure, arrogant idealogue. It could not be further from the truth. In my many interactions with PAUL WELLSTONE when he was a junior faculty member, when he was an activist going from town to town around Minnesota, when he was a friend with discussions in the evening, when he was a mentor to me when I arrived on Capitol Hill a couple of terms ago, in every instance what characterized PAUL WELLSTONE was not cocksure opinions but questions. He was one of the best questioners I have ever known, and one left each discussion with him with a sense of having some doors opened through his questioning, some understanding gained through his questioning, and a sense of purpose gained from his questioning. What a loss.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from New Jersey (Mr. HOLT) for those heartfelt remarks and thoughtful comments.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding me this time.

I do not claim to know the late Senator WELLSTONE very well. We had very little interaction, but I had a deep interest in him because my home State was Minnesota. That was the State of my birth, and I have watched Minnesota politics with great interest over the years and I also watched Mr. WELLSTONE with great interest. And although his politics and his political views were quite different from those of mine, I admire several things about him.

In the go-along-to-get-along atmosphere we often encounter in politics, he stood out as someone who stood for his beliefs. He fought passionately for his beliefs, and he sought to extend those beliefs into action, and I admire that in any individual, whether in the House or the Senate or the political arena in general, to have a stance that they take, to have a passion for what they believe is right, and to fight passionately for what they believe is right I think is an admirable trait in any individual, and Mr. WELLSTONE certainly exhibited that during his brief career in the political arena.

So I just wanted to add those comments to the record, and I thank the gentleman from Minnesota (Mr. OBERSTAR) for having this session so we can each express our opinions about what Mr. WELLSTONE has added to the Senate and to our Nation.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Michigan (Mr. EHLERS) for those thoughtful comments. They were much appreciated, and I know that the Wellstone children will be most grateful and again for his ever academic and thoughtful presentation.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

I would conclude by observing that PAUL WELLSTONE was more than a Senator, more than an advocate for ideas, for issues, for causes. PAUL WELLSTONE was himself a movement, a movement for justice. I pray that his movement will continue in the spirit in which he lived his life of public service.

Mr. GEORGE MILLER of California. Mr. Speaker, I was deeply saddened by the tragic death of Senator PAUL WELLSTONE, his family members and staff, and I have prayed for the families of all the victims of this accident.

I rise today to support this resolution honoring the short but powerful life of PAUL WELLSTONE, the people's senator. I will miss PAUL, a good friend, a good person, and an invaluable and courageous colleague.

PAUL and I joined together on many occasions to fight for legislation to help those who have so little power in our society. Most recently, we co-authored a bill to provide mental health and substance abuse treatment to juvenile offenders. PAUL understood that many young offenders suffer from problems that are treatable and that contribute to their troubles, but for which they rarely receive effective treatment. It was not a bill written for the powerful or wealthy interests. It was not a bill written because it would be popular in the press.

It was just one of the many examples of PAUL's genuine desire to help people and demonstrated his understanding of his role as a representative in government.

PAUL WELLSTONE fought for working families, for better schools, and for a cleaner environment. He was a dedicated public servant who was passionate about his work and who was proud to fight for progressive causes. His loss is a loss for all of America and for all those Americans who so desperately need champions on their side. PAUL was a man of principle, courage, and great intellect. Sadly, he will not be easily replaced in our society and we will miss him deeply.

Mr. EVANS. I rise to recognize the accomplishments of my good friend, the late Senator PAUL WELLSTONE of Minnesota. Many have come before me to praise the character and actions of this faithful public servant who left us all too early last month. Many have lauded his commitment to the underdog, to those who lacked a voice, to the "little guy." I speak of his commitment and passion for veterans.

During his 12 years on the Senate Veterans' Affairs Committee, PAUL was an active and committed member whose heart-felt concern about veteran's issues was often unmatched. PAUL has been remembered for his courageous stands, in both Bush Administrations, against sanctioning military action in Iraq. At one time, PAUL was criticized for making his views on this known at the Vietnam Veterans Memorial in Washington. Even though the gesture may have been misinterpreted, to me, it was symbolic of his constant realization that war has consequences. We must be ever-cognizant of the often painful realities of putting our sons and daughters in harm's way and resort to force only as the last recourse.

But PAUL also consistently demonstrated that he believed part of the cost of war was being ready to assist those that were willing to put themselves on the line for their country. For his advocacy he was honored by numerous veterans' service organizations, including Vietnam Veterans of America, the Minnesota chapter of the Paralyzed Veterans of America, the Military Order of the Purple Heart and the Minnesota Veterans of Foreign Wars.

One of the things that drew people to PAUL was his willingness to listen. I was impressed that the Senator rarely missed an opportunity to hear directly from veterans at their annual joint legislative hearings held here in the House. He would often bring the veterans to their feet exhorting them to fight for their rights.

Last year, PAUL introduced the Senate companion to my bill, Heather French Henry Homeless Veterans Assistance Act, S. 739. This bill addressed so many of the constituencies Paul held dear—and men and women without homes, individuals with mental illness, and veterans. I am proud to say, with PAUL's help in the Senate, we enacted Public Law 107–95.

PAUL also got things done for "atomic" veterans. During his tenure, Congress identified many new diseases which were presumed connected to veterans who were exposed to ionizing radiation.

Veterans could count on PAUL as an ally in the budget process—he consistently put forth initiatives to increase funding for veterans health care. I believe my friend PAUL would agree that we owe our veterans a great debt and he was already prepared to pay the bill.

PAUL and I also shared a chronic disability as a common foe. He dealt with his MS without complaint pushing himself to act when lesser men might have faltered. That is part of the personal courage he demonstrated on behalf of himself, his ideals, and the constituents who entrusted him with an office he used to its best advantage every day.

PAUL, you were a cherished friend to me, to veterans of this great Nation, and to every American who needed a voice, I will miss you.

Mr. REYES. Mr. Speaker, the Congress, the State of Minnesota, and the nation tragically lost a great public servant. The sudden death of Senator PAUL WELLSTONE, his wife Sheila, daughter Marcia, three staffers, and two pilots in an airplane crash last month, saddens us all. I extend my heartfelt sympathy and support to their family and friends as they deal with this tremendous loss.

This is also a devastating loss for our nation. As Chairman of the Congressional Hispanic Caucus, I was fortunate to work with Senator WELLSTONE on many issues, such as the reauthorization of the Elementary and Secondary Education Act. Personally, I worked closely with him on many veterans benefits issues.

PAUL had a true passion for people, civil service, and veterans that is matched by very few. PAUL's commitment to helping people, his warm sense of humor, and positive attitude made him both a great Senator and an excellent friend. His leadership and friendship will be dearly missed by me, members of the CHC and all members of the U.S. Congress. Our thoughts and prayers remain with PAUL's family and loved ones, and the family and friends of his staff and the pilots.

Mr. OBERSTAR. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 40 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1827

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHOOD) at 6 o'clock and 27 minutes p.m.

CONFERENCE REPORT ON H.R. 4546, BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mr. HUNTER submitted the following conference report and statement on the bill (H.R. 4546) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes:

CONFERENCE REPORT (H. REPT. 107–772)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 4546), to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Bob Stump National Defense Authorization Act for Fiscal Year 2003".

(b) FINDINGS.—Congress makes the following findings:

(1) Representative Bob Stump of Arizona was elected to the House of Representatives in 1976 for service in the 95th Congress, after serving in the Arizona legislature for 18 years and serving as President of the Arizona State Senate from 1975 to 1976, and he has been reelected to each subsequent Congress.

(2) A World War II combat veteran, Representative Stump entered service in the United States Navy in 1943, just after his 16th birthday, and served aboard the USS LUNGA POINT and the USS TULAGI, which participated in the invasions of Luzon, Iwo Jima, and Okinawa.

(3) Representative Stump was elected to the Committee on Armed Services in 1978 and has served on nearly all of its subcommittees and panels during 25 years of distinguished service on the committee. He has served as chairman of the committee during the 107th Congress and has championed United States national security as the paramount function of the Federal Government.

(4) Also serving on the Committee on Veterans' Affairs of the House of Representatives, chairing that committee from 1995 to 2000, and serving on the Permanent Select Committee on Intelligence of the House of Representatives, including service as the ranking minority member in 1985 and 1986, Representative Stump has dedicated his entire congressional career to steadfastly supporting America's courageous men and women in uniform both on and off the battlefield.

(5) Representative Stump's tireless efforts on behalf of those in the military and veterans have been recognized with numerous awards for outstanding service from active duty and reserve military, veterans' service, military retiree, and industry organizations.

(6) During his tenure as chairman of the Committee on Armed Services of the House of Representatives, Representative Stump has—

(A) overseen the largest sustained increase to defense spending since the Reagan administration;

(B) led efforts to improve the quality of military life, including passage of the largest military pay raise since 1982;

(C) supported military retirees, including efforts to reverse concurrent receipt law and to save the Armed Forces Retirement Homes;

(D) championed military readiness by defending military access to critical training facilities such Vieques, Puerto Rico, expanding the National Training Center at Ft. Irwin, California, and working to restore balance between environmental concerns and military readiness requirements;

(E) reinvigorated efforts to defend America against ballistic missiles by supporting an increase in fiscal year 2002 of nearly 50 percent above the fiscal year 2001 level for missile defense programs; and

(F) honored America's war heroes by expanding Arlington National Cemetery, establishing a site for the Air Force Memorial, and assuring construction of the World War II Memorial.

(7) In recognition of his long record of accomplishments in enhancing the national security of the United States and his legislative victories on behalf of active duty service members, reservists, guardsmen, and veterans, it is altogether fitting and proper that this Act be named in honor of Representative Bob Stump of Arizona, as provided in subsection (a).

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; findings.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. Defense Inspector General.
Sec. 106. Chemical Agents and Munitions Destruction, Defense.
Sec. 107. Defense health programs.

Subtitle B—Army Programs

Sec. 111. Pilot program on sales of manufactured articles and services of certain Army industrial facilities without regard to availability from domestic sources.
Sec. 112. Report on impact of Army aviation modernization plan on the Army National Guard.
Sec. 113. Family of Medium Tactical Vehicles.

Subtitle C—Navy Programs

Sec. 121. Extension of multiyear procurement authority for DDG–51 class destroyers.
Sec. 122. Sense of Congress on scope of conversion program for Ticonderoga-class cruisers.
Sec. 123. Continuation of contract for operation of Champion-class T–5 fuel tanker vessels.

Subtitle D—Air Force Programs

Sec. 131. Multiyear procurement authority for C–130J aircraft program.
Sec. 132. Pathfinder programs.
Sec. 133. Leases for tanker aircraft under multiyear aircraft-lease pilot program.

Subtitle E—Other Programs

Sec. 141. Destruction of existing stockpile of lethal chemical agents and munitions.
Sec. 142. Report on unmanned aerial vehicle systems.
Sec. 143. Global Information Grid system.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.
Sec. 203. Defense health programs.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. RAH–66 Comanche aircraft program.
Sec. 212. Extension of requirements relating to management responsibility for naval mine countermeasures programs.
Sec. 213. Revised requirements for plan for Manufacturing Technology Program.
Sec. 214. Advanced SEAL Delivery System.
Sec. 215. Army experimentation program regarding design of the objective force.
Sec. 216. Program to provide Army with self-propelled Future Combat Systems non-line-of-sight cannon indirect fire capability for the objective force.
Sec. 217. Prohibition on transfer of Medical Free Electron Laser program.
Sec. 218. Littoral combat ship program.

Subtitle C—Ballistic Missile Defense

Sec. 221. Report requirements relating to ballistic missile defense programs.
Sec. 222. Responsibility of Missile Defense Agency for research, development, test, and evaluation related to system improvements of programs transferred to military departments.
Sec. 223. Limitation on obligation of funds for Theater High Altitude Area Defense Program pending submission of required life-cycle cost information.
Sec. 224. Provision of information on flight testing of Ground-based Midcourse National Missile Defense system.
Sec. 225. References to new name for Ballistic Missile Defense Organization.
Sec. 226. One-year limitation on use of funds for nuclear armed interceptors.

Subtitle D—Improved Management of Department of Defense Test and Evaluation Facilities

Sec. 231. Department of Defense Test Resource Management Center.
Sec. 232. Objective for institutional funding of test and evaluation facilities.
Sec. 233. Uniform financial management system for Department of Defense test and evaluation facilities.
Sec. 234. Test and evaluation workforce improvements.
Sec. 235. Compliance with testing requirements.

Subtitle E—Other Matters

Sec. 241. Pilot programs for revitalizing Department of Defense laboratories.
Sec. 242. Technology Transition Initiative.
Sec. 243. Defense Acquisition Challenge Program.
Sec. 244. Encouragement of small businesses and nontraditional defense contractors to submit proposals potentially beneficial for combating terrorism.
Sec. 245. Vehicle fuel cell program.
Sec. 246. Defense nanotechnology research and development program.
Sec. 247. Activities of the Defense Experimental Program to Stimulate Competitive Research.
Sec. 248. Four-year extension of authority of DARPA to award prizes for advanced technology achievements and additional authority of military departments and Defense Agencies to award prizes for achievements in promoting education.
Sec. 249. Plan for five-year program for enhancement of measurement and signatures intelligence capabilities of the United States through incorporation of results of basic research on sensors.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Grant to National Guard Youth Foundation.

Subtitle B—Environmental Provisions

Sec. 311. Enhancement of authority on cooperative agreements for environmental purposes.
Sec. 312. Single point of contact for policy and budgeting issues regarding unexploded ordnance, discarded military munitions, and munitions constituents.
Sec. 313. Authority to carry out construction projects for environmental responses.
Sec. 314. Procurement of environmentally preferable procurement items.
Sec. 315. Incidental taking of migratory birds during military readiness activities.

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

Sec. 321. Authority for each military department to provide base operating support to Fisher Houses.
Sec. 322. Use of commissary stores and MWR retail facilities by members of National Guard serving in national emergency.
Sec. 323. Uniform funding and management of morale, welfare, and recreation programs.
Sec. 324. Rebate agreements under the special supplemental food program.

Subtitle D—Workplace and Depot Issues

Sec. 331. Notification requirements in connection with required studies for conversion of commercial or industrial type functions to contractor performance.
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Sec. 3628. Availability of funds.
Sec. 3629. Transfer of defense environmental management funds.
Sec. 3630. Transfer of weapons activities funds.
Sec. 3631. Funds available for all national security programs of the Department of Energy.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

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Sec. 111. Pilot program on sales of manufactured articles and services of certain Army industrial facilities without regard to availability from domestic sources.
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Sec. 141. Destruction of existing stockpile of lethal chemical agents and munitions.
Sec. 142. Report on unmanned aerial vehicle systems.
Sec. 143. Global Information Grid system.

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Army as follows:

(1) For aircraft, $2,186,296,000.

(2) For missiles, $1,152,299,000.

(3) For weapons and tracked combat vehicles, $2,276,751,000.

(4) For ammunition, $1,229,533,000.

(5) For other procurement, $5,857,814,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Navy as follows:

(1) For aircraft, $8,979,275,000.

(2) For weapons, including missiles and torpedoes, $2,375,349,000.

(3) For shipbuilding and conversion, $9,111,023,000.

(4) For other procurement, $4,494,754,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Marine Corps in the amount of $1,355,491,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement of ammunition for the Navy and the Marine Corps in the amount of $1,170,750,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Air Force as follows:

(1) For aircraft, $12,676,505,000.

(2) For missiles, $3,504,139,000.

(3) For ammunition, $1,290,764,000.

(4) For other procurement, $10,846,048,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2003 for Defense-wide procurement in the amount of $3,691,604,000.

SEC. 105. DEFENSE INSPECTOR GENERAL.

'Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Inspector General of the Department of Defense in the amount of $2,000,000.

SEC. 106. CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.

There is hereby authorized to be appropriated for fiscal year 2003 the amount of $1,490,199,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

SEC. 107. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the Department of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $278,742,000.

Subtitle B—Army Programs

SEC. 111. PILOT PROGRAM ON SALES OF MANUFACTURED ARTICLES AND SERVICES OF CERTAIN ARMY INDUSTRIAL FACILITIES WITHOUT REGARD TO AVAILABILITY FROM DOMESTIC SOURCES.

(a) EXTENSION OF PROGRAM.—Subsection (a) of section 141 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 4543 note) is amended by striking "through 2002" in the first sentence and inserting "through 2004".

(b) USE OF OVERHEAD FUNDS MADE SURPLUS BY SALES.—Such section is further amended—

(1) by striking subsection (d);

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection (c):

"(c) TRANSFER OF CERTAIN SUMS.—For each Army industrial facility participating in the pilot program that sells manufactured articles and services in a total amount in excess of $20,000,000 in any fiscal year, the amount equal to one-half of one percent of such total amount shall be transferred from the sums in the Army Working Capital Fund for unutilized plant capacity to appropriations available for the following fiscal year for the demilitarization of conventional ammunition by the Army.".

(c) UPDATE OF INSPECTOR GENERAL'S REVIEW.—The Inspector General of the Department of Defense shall review the experience under the pilot program carried out under such section 141 and, not later than July 1, 2003, submit to Congress a report on the results of the review. The report shall contain the views, information, and recommendations called for under subsection (d) of such section (as redesignated by subsection (b)(2)). In carrying out the review and preparing the report, the Inspector General shall take into consideration the report submitted to Congress under such subsection (as so redesignated).

SEC. 112. REPORT ON IMPACT OF ARMY AVIATION MODERNIZATION PLAN ON THE ARMY NATIONAL GUARD.

(a) REPORT BY CHIEF OF THE NATIONAL GUARD BUREAU.—The Chief of the National Guard Bureau shall submit to the Chief of Staff of the Army a report on the requirements for Army National Guard aviation. The report shall include the following:

(1) An analysis of the impact of the Army Aviation Modernization Plan on the ability of the Army National Guard to conduct its aviation missions.

(2) The plan under that aviation modernization plan for the transfer of aircraft from the

active component of the Army to the Army reserve components, including a timeline for those transfers.

(3) The progress, as of January 1, 2003, in carrying out the transfers under the plan referred to in paragraph (2).

(4) An evaluation of the suitability and cost effectiveness of existing Commercial Off The Shelf light utility helicopters for performance of Army National Guard utility aviation missions.

(b) COMMENTS AND RECOMMENDATIONS BY CHIEF OF STAFF OF THE ARMY.—Not later than February 1, 2003, the Chief of Staff of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the report received under subsection (a), together with any comments and recommendations that the Chief of Staff considers appropriate on the matters covered in the report.

SEC. 113. FAMILY OF MEDIUM TACTICAL VEHICLES.

(a) MULTIYEAR PROCUREMENT AUTHORITY.—Beginning with the fiscal year 2003 program year, the Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract for the procurement of vehicles under the Family of Medium Tactical Vehicles program, subject to subsection (b).

(b) LIMITATION.—The Secretary of the Army may not enter into a multiyear contract for the procurement of vehicles in the Family of Medium Tactical Vehicles authorized by subsection (a) until the Secretary submits to the congressional defense committees a written certification that—

(1) all key performance parameters required in the initial operational test and evaluation for that program have been met; and

(2) the total cost through the use of such multiyear contract of the procurement of the number of vehicles to be procured under such contract is at least 10 percent less than the total cost of the procurement of the same number of such vehicles through the use of successive one-year contracts.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive subsection (b)(2) if the Secretary—

(1) determines that using a multiyear contract for the procurement of vehicles under the Family of Medium Tactical Vehicles program is in the national security interests of the United States;

(2) certifies that the Army cannot achieve the savings specified in subsection (b)(2); and

(3) submits to the congressional defense committees, in writing, a notification of the waiver together with a report describing the reasons why the use of a multiyear contract for such procurement is in the national security interests of the United States and why the Army cannot achieve a 10 percent savings of the total anticipated costs of carrying out the program through a multiyear contract.

Subtitle C—Navy Programs

SEC. 121. EXTENSION OF MULTIYEAR PROCUREMENT AUTHORITY FOR DDG–51 CLASS DESTROYERS.

Section 122(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2446), as amended by section 122 of Public Law 106–65 (113 Stat. 534) and section 122(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–24), is further amended by striking "October 1, 2005" in the first sentence and inserting "October 1, 2007".

SEC. 122. SENSE OF CONGRESS ON SCOPE OF CONVERSION PROGRAM FOR TICONDEROGA-CLASS CRUISERS.

It is the sense of Congress that the Secretary of the Navy should maintain the scope of the conversion program for the Ticonderoga class of cruisers so that the program—

(1) covers all 27 ships in that class of cruisers; and

(2) provides for modernizing each of those ships to include an appropriate mix of upgrades to ships' capabilities for theater missile defense, naval fire support, and air dominance.

SEC. 123. CONTINUATION OF CONTRACT FOR OPERATION OF CHAMPION-CLASS T–5 FUEL TANKER VESSELS.

The Department of the Navy contract in effect on the date of the enactment of this Act for the operation of five Champion-class T–5 fuel tanker vessels shall continue in effect with respect to the operation of each such vessel until the completion of the term of the contract or, if sooner for any such vessel, until the vessel is no longer used for purposes of the Military Sealift Command or any other Navy purpose.

Subtitle D—Air Force Programs

SEC. 131. MULTIYEAR PROCUREMENT AUTHORITY FOR C–130J AIRCRAFT PROGRAM.

(a) MULTIYEAR AUTHORITY.—Beginning with the fiscal year 2003 program year, the Secretary of the Air Force may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract for procurement of up to 40 C–130J aircraft in the CC–130J configuration and up to 24 C–130J aircraft in the KC–130J configuration. Notwithstanding subsection (k) of such section, such a contract may be for a period of six program years.

(b) LIMITATION.—The Secretary of the Air Force may not enter into a contract authorized by subsection (a) until—

(1) testing of the CC–130J aircraft for qualification for use in assault operations has been completed by the Air Force Flight Test Center; and

(2) Block 5.3 software upgrades have been installed on all C–130J and CC–130J aircraft in the inventory of the Air Force.

SEC. 132. PATHFINDER PROGRAMS.

(a) PATHFINDER PROGRAMS.—Not later than February 1, 2003, the Secretary of the Air Force shall submit to the congressional defense committees a list of Air Force programs that the Secretary has designated as acquisition reform pathfinder programs (hereinafter in this section referred to as "pathfinder programs").

(b) OVERSIGHT OF PATHFINDER PROGRAMS.—The Secretary of Defense shall ensure that the Under Secretary of Defense for Acquisition, Technology and Logistics, the Director of Operational Test and Evaluation, and the Joint Requirements Oversight Council maintain oversight over each pathfinder program that qualifies as a major defense acquisition program under section 2430 of title 10, United States Code.

(c) REPORT ON PATHFINDER PROGRAMS.—(1) Not later than March 15, 2003, the Secretary of the Air Force shall submit to the congressional defense committees a report on pathfinder programs. For each such program, the report shall include a description of the following:

(A) The management approach for that program and how that approach will result in a disciplined, affordable and well-managed acquisition program.

(B) The acquisition strategy for that program and how that acquisition strategy responds to approved operational requirements.

(C) The test and evaluation plan for that program and how that plan will provide adequate assessment of each pathfinder program.

(D) The manner in which the acquisition plan for that program considers cost, schedule, and technical risk.

(E) The manner in which any innovative business practices developed as a result of participation in the program could be applied to other acquisition programs, and any impediments to application of such practices to other programs.

(2) For each such program, the report shall also set forth the following:

(A) The manner in which the Under Secretary of Defense for Acquisition, Technology, and Logistics will be involved in the development, oversight, and approval of the program's management approach, acquisition strategy, and acquisition approach.

(B) The manner in which the Director of Operational Test and Evaluation will be involved in the development, oversight, and approval of the program's test and evaluation plan.

(C) The manner in which an independent cost estimate for the program will be developed by the Office of the Secretary of Defense.

(d) APPLICABILITY OF SPIRAL DEVELOPMENT SECTION.—Nothing in this section shall be construed to exempt any pathfinder program from the application of any provision of section 803(c).

SEC. 133. LEASES FOR TANKER AIRCRAFT UNDER MULTIYEAR AIRCRAFT-LEASE PILOT PROGRAM.

The Secretary of the Air Force may not enter into a lease for the acquisition of tanker aircraft for the Air Force under section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2284; 10 U.S.C. 2401a note) until—

(1) the Secretary submits the report specified in subsection (c)(6) of such section; and

(2) either—

(A) authorization and appropriation of funds necessary to enter into such lease are provided by law; or

(B) a new start reprogramming notification for the funds necessary to enter into such lease has been submitted in accordance with established procedures.

Subtitle E—Other Programs

SEC. 141. DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS.

(a) PROGRAM MANAGEMENT.—The Secretary of Defense shall ensure that the program for destruction of the United States stockpile of lethal chemical agents and munitions is managed as a major defense acquisition program (as defined in section 2430 of title 10, United States Code) in accordance with the essential elements of such programs as may be determined by the Secretary.

(b) REQUIREMENT FOR UNDER SECRETARY OF DEFENSE (COMPTROLLER) ANNUAL CERTIFICATION.—Beginning with respect to the budget request for fiscal year 2004, the Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees on an annual basis a certification that the budget request for the chemical agents and munitions destruction program has been submitted in accordance with the requirements of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521).

SEC. 142. REPORT ON UNMANNED AERIAL VEHICLE SYSTEMS.

(a) REPORT.—Not later than January 1, 2003, the Secretary of Defense shall submit to Congress a report on unmanned aerial vehicle systems of the Department of Defense.

(b) MATTERS TO BE INCLUDED CONCERNING UNMANNED AERIAL VEHICLE SYSTEMS.—The Secretary shall include in the report under subsection (a) the following, shown for each system referred to in that subsection:

(1) A description of the infrastructure that the Department of Defense has (or is planning) for the system.

(2) A description of the operational requirements document (ORD) for the system.

(3) A description of the physical infrastructure of the Department for training and basing.

(4) A description of the manner in which the Department is interfacing with the industrial base.

(5) A description of the acquisition plan for the system.

(6) A description of the process by which the Department will ensure that any unmanned aerial vehicle program proceeding past the science and technology stage does so only as part of an integrated, overall Office of the Secretary of Defense strategy for acquisition of unmanned aerial vehicles, such as that provided in the approved Office of the Secretary of Defense unmanned aerial vehicle roadmap.

(c) SUGGESTIONS FOR CHANGES IN LAW.—The Secretary shall also include in the report under subsection (a) such suggestions as the Secretary considers appropriate for changes in law that would facilitate the way the Department acquires unmanned aerial vehicle systems.

SEC. 143. GLOBAL INFORMATION GRID SYSTEM.

None of the funds authorized to be appropriated by this Act for the Department of Defense system known as the Global Information Grid may be obligated until the Secretary of Defense submits to the congressional defense committees a plan to provide that, as part of the bandwidth expansion efforts for the system, the system will be designed and configured so as to ensure that information transmitted within the system is secure and protected from unauthorized access.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.
Sec. 203. Defense health programs.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. RAH-66 Comanche aircraft program.
Sec. 212. Extension of requirements relating to management responsibility for naval mine countermeasures programs.
Sec. 213. Revised requirements for plan for Manufacturing Technology Program.
Sec. 214. Advanced SEAL Delivery System.
Sec. 215. Army experimentation program regarding design of the objective force.
Sec. 216. Program to provide Army with self-propelled Future Combat Systems non-line-of-sight cannon indirect fire capability for the objective force.
Sec. 217. Prohibition on transfer of Medical Free Electron Laser program.
Sec. 218. Littoral combat ship program.

Subtitle C—Ballistic Missile Defense

Sec. 221. Report requirements relating to ballistic missile defense programs.
Sec. 222. Responsibility of Missile Defense Agency for research, development, test, and evaluation related to system improvements of programs transferred to military departments.
Sec. 223. Limitation on obligation of funds for Theater High Altitude Area Defense Program pending submission of required life-cycle cost information.
Sec. 224. Provision of information on flight testing of Ground-based Midcourse National Missile Defense system.
Sec. 225. References to new name for Ballistic Missile Defense Organization.
Sec. 226. One-year limitation on use of funds for nuclear armed interceptors.

Subtitle D—Improved Management of Department of Defense Test and Evaluation Facilities

Sec. 231. Department of Defense Test Resource Management Center.
Sec. 232. Objective for institutional funding of test and evaluation facilities.
Sec. 233. Uniform financial management system for Department of Defense test and evaluation facilities.
Sec. 234. Test and evaluation workforce improvements.
Sec. 235. Compliance with testing requirements.

Subtitle E—Other Matters

Sec. 241. Pilot programs for revitalizing Department of Defense laboratories.
Sec. 242. Technology Transition Initiative.
Sec. 243. Defense Acquisition Challenge Program.
Sec. 244. Encouragement of small businesses and nontraditional defense contractors to submit proposals potentially beneficial for combating terrorism.
Sec. 245. Vehicle fuel cell program.
Sec. 246. Defense nanotechnology research and development program.
Sec. 247. Activities of the Defense Experimental Program to Stimulate Competitive Research.
Sec. 248. Four-year extension of authority of DARPA to award prizes for advanced technology achievements and additional authority of military departments and Defense Agencies to award prizes for achievements in promoting education.
Sec. 249. Plan for five-year program for enhancement of measurement and signatures intelligence capabilities of the United States through incorporation of results of basic research on sensors.

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $7,158,256,000.

(2) For the Navy, $13,244,164,000.

(3) For the Air Force, $18,337,078,000.

(4) For Defense-wide activities, $17,970,653,000, of which $311,554,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECHNOLOGY.

(a) FISCAL YEAR 2003.—Of the amounts authorized to be appropriated by section 201, $10,384,658,000 shall be available for the Defense Science and Technology Program, including basic research, applied research, and advanced technology development projects.

(b) BASIC RESEARCH, APPLIED RESEARCH, AND ADVANCED TECHNOLOGY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research, applied research, and advanced technology development" means work funded in program elements for defense research and development under Department of Defense category 6.1, 6.2, or 6.3.

SEC. 203. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the Department of Defense for research, development, test, and evaluation for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $67,214,000.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. RAH-66 COMANCHE AIRCRAFT PROGRAM.

(a) REPORTS REQUIRED.—Not later than the end of each fiscal quarter of fiscal year 2003, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the progress of the restructured engineering and manufacturing development phase of the RAH-66 Comanche aircraft program.

(b) CONTENT.—The report shall include, at a minimum, the information relating to the program that the program manager provides to the Assistant Secretary of the Army for Acquisition, Logistics, and Technology with respect to—

(1) cost, including funding and contracts;

(2) schedule;

(3) performance;

(4) which goals are being met and which are not being met;

(5) milestones events accomplished; and

(6) significant events accomplished.

SEC. 212. EXTENSION OF REQUIREMENTS RELATING TO MANAGEMENT RESPONSIBILITY FOR NAVAL MINE COUNTERMEASURES PROGRAMS.

(a) IN GENERAL.—Section 216 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1317), as most recently amended by section 211 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1946), is amended—

(1) in subsection (a), by striking "through 2003" and inserting "through 2008";

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) the responsibilities of the Joint Requirements Oversight Council under subsections (b) and (d) of section 181 of title 10, United States Code, have been carried out with respect to the updated mine countermeasures master plan, the budget resources for mine countermeasures for that fiscal year, and the future years defense program for mine countermeasures; and"; and

(3) by adding at the end the following new subsection:

"(c) NOTIFICATION OF PROPOSED CHANGES.—Upon certifying under subsection (b) with respect to a fiscal year, the Secretary may not carry out any change to the naval mine countermeasures master plan or the budget resources for mine countermeasures with respect to that fiscal year until after the Under Secretary of Defense for Acquisition, Technology, and Logistics submits to the congressional defense committees a notification of the proposed change. Such notification shall describe the nature of the proposed change, the effect of the proposed change on the naval mine countermeasures program or related programs with respect to that fiscal year, and the effect of the proposed change on the validity of the decision to certify under subsection (b) with respect to that fiscal year.".

(b) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by striking "Under Secretary of Defense for Acquisition and Technology" and inserting "Under Secretary of Defense for Acquisition, Technology, and Logistics"; and

(2) in subsection (b)(2)—

(A) by striking "multiyear" and inserting "future years"; and

(B) by striking "section 114a" and inserting "section 221".

SEC. 213. REVISED REQUIREMENTS FOR PLAN FOR MANUFACTURING TECHNOLOGY PROGRAM.

(a) STREAMLINED CONTENTS OF PLAN.—Subsection (e) of section 2521 of title 10, United States Code, is amended by striking "prepare a five-year plan" in paragraph (1) and all that follows through the end of subparagraph (B) of paragraph (2) and inserting the following: "prepare and maintain a five-year plan for the program.

"(2) The plan shall establish the following:

"(A) The overall manufacturing technology objectives, milestones, priorities, and investment strategy for the program.

"(B) The specific objectives of, and funding for the program by, each military department and each Defense Agency participating in the program.".

(b) BIENNIAL REPORT.—Such subsection is further amended in paragraph (3)—

(1) by striking "annually" and inserting "biennially"; and

(2) by striking "for a fiscal year" and inserting "for each even-numbered fiscal year".

SEC. 214. ADVANCED SEAL DELIVERY SYSTEM.

(a) TRANSFER OF FUNDS.—To the extent provided in appropriations Acts, the amount described in subsection (b) shall be transferred to amounts available for fiscal year 2003 for research, development, test, and evaluation, Defense-Wide, and shall be available only for research, development, test, and evaluation relating to the Advanced SEAL Delivery System.

(b) AMOUNT TO BE TRANSFERRED.—The amount referred to in subsection (a) is the amount of $13,700,000 that was authorized and appropriated for fiscal year 2002 for procurement of the Advanced SEAL Delivery System within amounts for Procurement, Defense-Wide.

(c) TRANSFER AUTHORITY IN ADDITION TO OTHER AUTHORITY.—The transfer authority provided by this section is in addition to any other transfer authority provided by law.

SEC. 215. ARMY EXPERIMENTATION PROGRAM REGARDING DESIGN OF THE OBJECTIVE FORCE.

(a) REQUIREMENT FOR REPORT.—Not later than March 31, 2003, the Secretary of the Army shall submit to Congress a report on the experimentation program regarding design of the objective force that is required by subsection (g) of section 113 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as added by section 113 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1029).

(b) BUDGET DISPLAY.—Amounts provided for the experimentation program in the budget for fiscal year 2004 that is submitted to Congress under section 1105(a) of title 31, United States Code, shall be displayed as a distinct program element in that budget and in the supporting documentation submitted to Congress by the Secretary of Defense.

SEC. 216. PROGRAM TO PROVIDE ARMY WITH SELF-PROPELLED FUTURE COMBAT SYSTEMS NON-LINE-OF-SIGHT CANNON INDIRECT FIRE CAPABILITY FOR THE OBJECTIVE FORCE.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program to provide the Army, not later than fiscal year 2008, with a self-propelled Future Combat Systems non-line-of-sight cannon indirect fire capability to equip the objective force.

(b) REPORT.—(1) The Secretary shall submit to the congressional defense committees, at the same time that the President submits the budget for a fiscal year referred to in paragraph (2) to Congress under section 1105(a) of title 31, United States Code, a report on the investments proposed to be made with respect to non-line-of-sight indirect fire programs for the Army. The report shall—

(A) identify the amount proposed for expenditures for the Crusader artillery system program for that fiscal year in the future-years defense program that was submitted to Congress in 2002 under section 221 of title 10, United States Code; and

(B) specify—

(i) the manner in which the amount provided in that budget would be expended for improved non-line-of-sight indirect fire capabilities for the Army; and

(ii) the extent to which expending such amount in such manner would improve such capabilities for the Army.

(2) The requirement to submit a report under paragraph (1) shall apply with respect to budgets for fiscal years 2004, 2005, 2006, 2007, and 2008.

(c) OBJECTIVE FORCE DEFINED.—In this section, the term "objective force" has the meaning given such term in section 113(f)(2) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–24).

(d) FUNDING.—Of the amount authorized to be appropriated by section 201(1) for the Army for research, development, test, and evaluation, $368,500,000 shall be used only to develop and field a self-propelled Future Combat Systems non-line-of-sight cannon indirect fire artillery system and a resupply vehicle with respect to such system.

SEC. 217. PROHIBITION ON TRANSFER OF MEDICAL FREE ELECTRON LASER PROGRAM.

The Medical Free Electron Laser Program (PE 0602227D8Z) may not be transferred from the Department of Defense to the National Institutes of Health, or to any other department or agency of the Federal Government.

SEC. 218. LITTORAL COMBAT SHIP PROGRAM.

(a) AMOUNT FOR PROGRAM.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation, Navy, $4,000,000 may be available in program element 0603563N, relating to Ship Concept Advanced Design, for requirements development for the littoral combat ship.

(b) LIMITATION ON OBLIGATION OF FUNDS.—The Secretary of the Navy may not obligate any funds for the construction of a littoral combat ship until after the Secretary submits the report required by subsection (c).

(c) REPORT ON MILESTONE A PLAN AND SCHEDULE.—(1) The Secretary of the Navy shall submit to the congressional defense committees, at the same time that the President submits the budget for fiscal year 2004 to Congress under section 1105(a) of title 31, United States Code, a report on development of the littoral combat ship.

(2) The report shall address the plan and schedule for fulfilling the requirements of Department of Defense Instruction 5000-series for a major defense acquisition Milestone A decision for initiation of concept and technology development for the littoral combat ship, including the following such requirements:

(A) Consideration of technology issues.

(B) Market research.

(C) Validated mission need statement.

(D) Analysis of multiple concepts.

(E) Test and evaluation master plan (evaluation strategy only).

(F) Exit criteria.

(G) Acquisition decision memorandum.

(3) The report shall include a discussion of the Secretary's acquisition strategy for development of the littoral combat ship.

(d) REQUIREMENTS FOR ACQUISITION STRATEGY.—The Secretary shall ensure that the acquisition strategy for development of the littoral combat ship includes the following:

(1) A concept and technology demonstration phase that is robust and, in a manner and on a schedule that will inform the Navy's decisions on the concepts, technologies, and capabilities to be incorporated into the initial design of the littoral combat ship and into follow-on designs, capitalizes upon ongoing and planned experiments, demonstrations, and evaluations of—

(A) existing, prototype, and experimental hull forms and platforms, including the hull forms and platforms relating to—

(i) the Coastal Waters Interdiction Platform;

(ii) the Hybrid Deep Vee Demonstrator;

(iii) the Littoral Support Craft (Experimental);

(iv) the High Speed Vessel;

(v) surface effects ships;

(vi) Research Vessel Triton;

(vii) the SLICE ship;

(viii) other existing, prototype, and experimental craft that the Secretary considers to be appropriate; and

(ix) other existing ships capable of carrying the desired payload packages;

(B) ship and combat systems components;

(C) command, control, and communications systems;

(D) intelligence, surveillance, and reconnaissance systems;

(E) weapons systems; and

(F) support systems.

(2) A description of the experiments, demonstrations, and evaluations that are needed for support of design and development decisionmaking for mission modules to be employed on the littoral combat ship, including the mission modules for—

(A) anti-submarine warfare;

(B) mine countermeasures;

(C) anti-ship defense; and

(D) any other missions that may be envisioned for the ship.

(3) An identification of the experiments, demonstrations, and evaluations that would need to be accomplished during the concept and technology demonstration phase and those that would need to be accomplished during the system development and demonstration phase (after a major defense acquisition Milestone B decision to enter that phase).

(4) A description of the potential trade-offs between program requirements and capabilities, and the methodology (including life cycle cost as an independent variable, speed as an independent variable, and other applicable program attributes), needed to arrive at a design for a littoral combat ship that can be approved (pursuant to a major defense acquisition Milestone B decision) for entry into the system development and demonstration phase.

(5) An analysis of the adequacy of existing and planned platforms to test the littoral ship concept prior to construction of a littoral combat ship.

Subtitle C—Ballistic Missile Defense

SEC. 221. REPORT REQUIREMENTS RELATING TO BALLISTIC MISSILE DEFENSE PROGRAMS.

(a) ANNUAL SUBMISSION OF CURRENT PERFORMANCE GOALS AND DEVELOPMENT BASELINES.—(1) The Secretary of Defense shall submit to the congressional defense committees each year the performance goals and development baselines—

(A) for those ballistic missile defense systems under development by the Missile Defense Agency that could be fielded; and

(B) for any other ballistic missile defense program or project that has been designated by Congress as a special interest item.

(2) Such performance goals and development baselines shall be provided for each block of each such system.

(3) The performance goals and development baselines under paragraph (1) shall be included annually with the defense budget justification materials submitted in support of the President's budget submitted to Congress under section 1105 of title 31, United States Code.

(b) RDT&E BUDGET JUSTIFICATION MATERIALS.—The budget justification materials submitted to Congress for any fiscal year in support of a request for the authorization and appropriation of funds for research, development, test, and evaluation for ballistic missile defense systems shall include a funding profile for each block of each such system that could be fielded *that reflects the development baseline submitted pursuant to subsection (a) for that fiscal year.*

(c) REVIEW OF MDA CRITERIA IN RELATION TO MILITARY REQUIREMENTS.—(1) The Joint Requirements Oversight Council established under section 181 of title 10, United States Code, shall review cost, schedule, and performance criteria for missile defense programs of the Missile Defense Agency in order to assess the validity of those criteria in relation to military requirements.

(2) The Secretary shall include the results of such review with the first annual statement of program goals submitted to the congressional defense committees under section 232(c) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 2431 note) after the date of the enactment of this Act.

SEC. 222. RESPONSIBILITY OF MISSILE DEFENSE AGENCY FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION RELATED TO SYSTEM IMPROVEMENTS OF PROGRAMS TRANSFERRED TO MILITARY DEPARTMENTS.

Section 224(e) of title 10, United States Code, is amended—

(1) by striking "before a" and inserting "for each";

(2) by striking "is"; and

(3) by striking "roles and responsibilities" and all that follows through the period at the end and inserting "responsibility for research, development, test, and evaluation related to system improvements for that program remains with the Director.".

SEC. 223. LIMITATION ON OBLIGATION OF FUNDS FOR THEATER HIGH ALTITUDE AREA DEFENSE PROGRAM PENDING SUBMISSION OF REQUIRED LIFE-CYCLE COST INFORMATION.

(a) LIMITATION PENDING SUBMISSION OF CERTIFICATION.—Not more than 85 percent of the amount specified in subsection (b) may be obligated until the Secretary of Defense submits to the congressional defense committees the estimated total life-cycle cost of the Theater High Altitude Area Defense (THAAD) program as required for programs in engineering and manufacturing development by section 232(d) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 2431 note).

(b) FUNDS SUBJECT TO LIMITATION.—Subsection (a) applies to the amount authorized to be appropriated for fiscal year 2003 for the Missile Defense Agency for the Theater High Altitude Area Defense (THAAD) program.

SEC. 224. PROVISION OF INFORMATION ON FLIGHT TESTING OF GROUND-BASED MIDCOURSE NATIONAL MISSILE DEFENSE SYSTEM.

(a) INFORMATION TO BE FURNISHED TO CONGRESSIONAL COMMITTEES.—The Director of the Missile Defense Agency shall provide to the congressional defense committees information on the results of each flight test of the Ground-based Midcourse national missile defense system.

(b) CONTENT.—Information provided under subsection (a) on the results of a flight test shall include the following matters:

(1) A thorough discussion of the content and objectives of the test.

(2) For each such test objective, a statement regarding whether or not the objective was achieved.

(3) For any such test objective not achieved—

(A) a thorough discussion describing the reasons that the objective was not achieved; and

(B) a discussion of any plans for future tests to achieve that objective.

SEC. 225. REFERENCES TO NEW NAME FOR BALLISTIC MISSILE DEFENSE ORGANIZATION.

(a) IN GENERAL.—Any reference to the Ballistic Missile Defense Organization in any provision of law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Missile Defense Agency.

(b) CONFORMING AMENDMENTS.—(1) Title 10, United States Code, is amended as follows:

(A) Sections 203, 223, and 224 are each amended by striking "Ballistic Missile Defense Organization" each place it appears and inserting "Missile Defense Agency".

(B)(i) The heading for section 203 is amended to read as follows:

"§203. Director of Missile Defense Agency".

(ii) The item relating to section 203 in the table of sections at the beginning of subchapter II of chapter 8 is amended to read as follows:

"203. Director of Missile Defense Agency.".

(2) The National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) is amended as follows:

(A) Sections 232 (115 Stat. 1037; 10 U.S.C. 2431 note), 233 (115 Stat. 1039), and 235 (115 Stat. 1041) are each amended by striking "Ballistic Missile Defense Organization" each place it appears and inserting "Missile Defense Agency".

(B) The heading for section 232 is amended to read as follows:

"SEC. 232. PROGRAM ELEMENTS FOR MISSILE DEFENSE AGENCY.".

(3) Section 3132 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–455; 10 U.S.C. 2431 note) is amended—

(A) by striking "Ballistic Missile Defense Organization" each place it appears and inserting "Missile Defense Agency";

(B) in subsection (c), by striking "BMDO" and inserting "MDA"; and

(C) by amending the heading to read as follows:

"SEC. 3132. ENHANCED COOPERATION BETWEEN NATIONAL NUCLEAR SECURITY ADMINISTRATION AND MISSILE DEFENSE AGENCY.".

(4) The following provisions are each amended by striking "Ballistic Missile Defense Organization" each place it appears and inserting "Missile Defense Agency":

(A) Section 233 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 223 note).

(B) Section 243 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2431 note).

SEC. 226. ONE-YEAR LIMITATION ON USE OF FUNDS FOR NUCLEAR ARMED INTERCEPTORS.

(a) LIMITATION.—None of the funds described in subsection (b) may be obligated for research, development, test, or evaluation, or for procurement, of a nuclear armed interceptor as a component of a missile defense system.

(b) COVERED FUNDS.—Subsection (a) applies to funds made available to the Department of Defense pursuant to an authorization of appropriations in this title or title I or to the Department of Energy pursuant to an authorization of appropriations in title XXXI.

Subtitle D—Improved Management of Department of Defense Test and Evaluation Facilities

SEC. 231. DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.

(a) ESTABLISHMENT.—(1) Subchapter I of chapter 8 of title 10, United States Code, is amended by adding at the end the following new section:

"§196. Department of Defense Test Resource Management Center

"(a) ESTABLISHMENT AS DEPARTMENT OF DEFENSE FIELD ACTIVITY.—The Secretary of Defense shall establish within the Department of Defense under section 191 of this title a Department of Defense Test Resource Management Center (hereinafter in this section referred to as the 'Center'). The Secretary shall designate the Center as a Department of Defense Field Activity.

"(b) DIRECTOR AND DEPUTY DIRECTOR.—(1) At the head of the Center shall be a Director, selected by the Secretary from among commissioned officers of the armed forces on active duty. The Director, while so serving, holds the grade of lieutenant general or, in the case of an officer of the Navy, vice admiral.

"(2) There shall be a Deputy Director of the Center, selected by the Secretary from among senior civilian officers and employees of the Department of Defense who have substantial experience in the field of test and evaluation. The Deputy Director shall act for, and exercise the powers of, the Director when the Director is disabled or the position of Director is vacant.

"(c) DUTIES OF DIRECTOR.—The Director shall have the following duties:

"(1) To review and provide oversight of proposed Department of Defense budgets and expenditures for—

"(A) the test and evaluation facilities and resources of the Major Range and Test Facility Base of the Department of Defense; and

"(B) all other test and evaluation facilities and resources within and outside of the Department of Defense.

"(2) To complete and maintain the strategic plan required by subsection (d).

"(3) To review proposed budgets under subsection (e) and submit reports and certifications required by such subsection.

"(4) To administer the Central Test and Evaluation Investment Program and the program of the Department of Defense for test and evaluation science and technology.

"(d) STRATEGIC PLAN FOR DEPARTMENT OF DEFENSE TEST AND EVALUATION RESOURCES.—(1) Not less often than once every two fiscal years, the Director, in coordination with the Director of Operational Test and Evaluation, the Secretaries of the military departments, and the heads of Defense Agencies with test and evaluation responsibilities, shall complete a strategic plan reflecting the needs of the Department of Defense with respect to test and evaluation facilities and resources. Each such strategic plan shall cover the period of ten fiscal years beginning with the fiscal year in which the plan is submitted under paragraph (3). The strategic plan shall be based on a comprehensive review of the test and evaluation requirements of the Department and the adequacy of the test and evaluation facilities and resources of the Department to meet those requirements.

"(2) The strategic plan shall include the following:

"(A) An assessment of the test and evaluation requirements of the Department for the period covered by the plan.

"(B) An identification of performance measures associated with the successful achievement of test and evaluation objectives for the period covered by the plan.

"(C) An assessment of the test and evaluation facilities and resources that will be needed to meet such requirements and satisfy such performance measures.

"(D) An assessment of the current state of the test and evaluation facilities and resources of the Department.

"(E) An itemization of acquisitions, upgrades, and improvements necessary to ensure that the test and evaluation facilities and resources of the Department are adequate to meet such requirements and satisfy such performance measures.

"(F) An assessment of the budgetary resources necessary to implement such acquisitions, upgrades, and improvements.

"(3) Upon completing a strategic plan under paragraph (1), the Director shall submit to the Secretary of Defense a report on that plan. The report shall include the plan and a description of the review on which the plan is based.

"(4) Not later than 60 days after the date on which the report is submitted under paragraph (3), the Secretary of Defense shall transmit to the Committee on Armed Services and Committee on Appropriations of the Senate and the Committee on Armed Services and Committee on Appropriations of the House of Representatives the report, together with any comments with respect to the report that the Secretary considers appropriate.

"(e) CERTIFICATION OF BUDGETS.—(1) The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall require that the Secretary of each military department, the Director of Operational Test and Evaluation, and the head of each Defense Agency with test and evaluation responsibilities transmit such Secretary's, Director's, or head's proposed budget for test and evaluation activities for a fiscal year to the Director of the Center for review under paragraph (2) before submitting such proposed budget to the Under Secretary of Defense (Comptroller).

"(2)(A) The Director of the Center shall review each proposed budget transmitted under paragraph (1) and shall, not later than January 31 of the year preceding the fiscal year for which such budgets are proposed, submit to the Secretary of Defense a report containing the comments of the Director with respect to all such proposed budgets, together with the certification of the Director as to whether such proposed budgets are adequate.

"(B) The Director shall also submit, together with such report and such certification, an additional certification as to whether such proposed budgets provide balanced support for such strategic plan.

"(3) The Secretary of Defense shall, not later than March 31 of the year preceding the fiscal year for which such budgets are proposed, submit to Congress a report on those proposed budgets which the Director has not certified under paragraph (2)(A) to be adequate. The report shall include the following matters:

"(A) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets.

"(B) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

"(f) SUPERVISION OF DIRECTOR BY UNDER SECRETARY.—The Director of the Center shall be subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics. The Director shall report directly to the Under Secretary, without the interposition of any other supervising official.

"(g) ADMINISTRATIVE SUPPORT OF CENTER.—The Secretary of Defense shall provide the Director with administrative support adequate for carrying out the Director's responsibilities under this section. The Secretary shall provide the support out of the headquarters activities of the Department or any other activities that the Secretary considers appropriate.

"(h) DEFINITION.—In this section, the term 'Major Range and Test Facility Base' means the test and evaluation facilities and resources that are designated by the Director of Operational Test and Evaluation as facilities and resources comprising the Major Range and Test Facility Base.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"196. Department of Defense Test Resource Management Center.".

(b) FIRST STRATEGIC PLAN.—The first strategic plan required to be completed under subsection (d)(1) of section 196 of title 10, United States Code (as added by subsection (a)), shall be completed not later than six months after the date of the enactment of this Act.

(c) ADMINISTRATION OF CTEIP AND DOD T&E S&T PROGRAMS.—The duty of the Director of the Department of Defense Test Resource Management Center to administer the programs specified in subsection (c)(4) of section 196 of title 10, United States Code (as added by subsection (a)), shall take effect, and such programs shall be placed under control of such Director, upon the beginning of the first fiscal year that begins after the report on the first strategic plan referred to subsection (b) is transmitted to the congressional committees required by subsection (d)(4) of such section 196.

SEC. 232. OBJECTIVE FOR INSTITUTIONAL FUNDING OF TEST AND EVALUATION FACILITIES.

(a) FUNDING OBJECTIVE.—The Secretary of Defense shall establish the objective of ensuring that, by fiscal year 2006—

(1) the institutional and overhead costs of a facility or resource of a military department or Defense Agency that is within the Major Range and Test Facility Base are fully funded through the major test and evaluation investment accounts of the military department or Defense Agency, the account of the Central Test and Evaluation Investment Program of the Department of Defense, and other appropriate accounts of the military department or Defense Agency; and

(2) the charge to an element of the Department of Defense for a use by that element of such a facility or resource for testing under a particular program is not more than the amount equal to the direct costs of such use by that element.

(b) DEFINITIONS.—In this section:

(1) The term "Major Range and Test Facility Base" means the test and evaluation facilities and resources that are designated by the Director of Operational Test and Evaluation as facilities and resources comprising the Major Range and Test Facility Base.

(2) The term "institutional and overhead costs", with respect to a facility or resource within the Major Range Test and Facility Base—

(A) means the costs of maintaining, operating, upgrading, and modernizing the facility or resource; and

(B) does not include any incremental cost of operating the facility or resource that is attributable to the use of the facility or resource for testing under a particular program.

(3) The term "direct costs", with respect to a facility or resource within the Major Range and Test Facility Base, means those costs that are directly attributable to the use of the facility or resource for testing under a particular program, over and above the institutional and overhead costs with respect to the facility or resource.

SEC. 233. UNIFORM FINANCIAL MANAGEMENT SYSTEM FOR DEPARTMENT OF DEFENSE TEST AND EVALUATION FACILITIES.

(a) REQUIREMENT FOR SYSTEM.—The Secretary of Defense shall implement a single financial management and accounting system for all test and evaluation facilities of the Department of Defense. The Secretary shall implement such system as soon as practicable, and shall establish the objective that such system be implemented not later than September 30, 2006.

(b) SYSTEM FEATURES.—The system required by subsection (a) shall be designed to achieve, at a minimum, the following functional objectives:

(1) Enable managers within the Department of Defense to compare the costs of carrying out test and evaluation activities in the various facilities of the military departments.

(2) Enable the Secretary of Defense—

(A) to make prudent investment decisions; and

(B) to reduce the extent to which unnecessary costs of owning and operating test and evaluation facilities of the Department of Defense are incurred.

(3) Enable the Department of Defense to track the total cost of test and evaluation activities.

(4) Comply with the financial management architecture established by the Secretary.

SEC. 234. TEST AND EVALUATION WORKFORCE IMPROVEMENTS.

(a) REPORT ON CAPABILITIES.—Not later than March 15, 2003, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to Congress a report on the capabilities of the test and evaluation workforce of the Department of Defense. The Under Secretary shall consult with the Under Secretary of Defense for Personnel and Readiness and the Director of Operational Test and Evaluation in preparing the report.

(b) REQUIREMENT FOR PLAN.—(1) The report shall contain a plan for taking the actions necessary to ensure that the test and evaluation workforce of the Department of Defense is of sufficient size and has the expertise necessary to timely and accurately identify issues of military suitability and effectiveness of Department of Defense systems through testing of the systems.

(2) The plan shall set forth objectives for the size, composition, and qualifications of the workforce, and shall specify the actions (including recruitment, retention, and training) and milestones for achieving the objectives.

(c) ADDITIONAL MATTERS.—The report shall also include the following matters:

(1) An assessment of the changing size and demographics of the test and evaluation workforce, including the impact of anticipated retirements among the most experienced personnel over the period of five fiscal years beginning with fiscal year 2003, together with a discussion of the management actions necessary to address the changes.

(2) An assessment of the anticipated workloads and responsibilities of the test and evaluation workforce over the period of ten fiscal years beginning with fiscal year 2003, together with the number and qualifications of military and civilian personnel necessary to carry out such workloads and responsibilities.

(3) The Under Secretary's specific plans for using the demonstration authority provided in section 4308 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 10 U.S.C. 1701 note) and other special personnel management authorities of the Under Secretary to attract and retain qualified personnel in the test and evaluation workforce.

(4) Any recommended legislation or additional special authority that the Under Secretary considers appropriate for facilitating the recruitment and retention of qualified personnel for the test and evaluation workforce.

(5) Any other matters that are relevant to the capabilities of the test and evaluation workforce.

SEC. 235. COMPLIANCE WITH TESTING REQUIREMENTS.

(a) ANNUAL OT&E REPORT.—Subsection (g) of section 139 of title 10, United States Code, is amended by inserting after the fourth sentence the following: "The report for a fiscal year shall also include an assessment of the waivers of and deviations from requirements in test and evaluation master plans and other testing requirements that occurred during the fiscal year, any concerns raised by the waivers or deviations, and the actions that have been taken or are planned to be taken to address the concerns.".

(b) REORGANIZATION OF PROVISION.—Subsection (g) of such section, as amended by subsection (a), is further amended—

(1) by inserting "(1)" after "(g)";

(2) by designating the second sentence as paragraph (2);

(3) by designating the third sentence as paragraph (3);

(4) by designating the matter consisting of the fourth and fifth sentences as paragraph (4); and

(5) by designating the sixth sentence as paragraph (5).

Subtitle E—Other Matters

SEC. 241. PILOT PROGRAMS FOR REVITALIZING DEPARTMENT OF DEFENSE LABORATORIES.

(a) ADDITIONAL PILOT PROGRAM.—(1) The Secretary of Defense may carry out a pilot program to demonstrate improved efficiency in the performance of research, development, test, and evaluation functions of the Department of Defense.

(2) Under the pilot program, the Secretary of Defense shall provide the director of one science and technology laboratory, and the director of one test and evaluation laboratory, of each military department with authority for the following:

(A) To use innovative methods of personnel management appropriate for ensuring that the selected laboratories can—

(i) employ and retain a workforce appropriately balanced between permanent and temporary personnel and among workers with appropriate levels of skills and experience; and

(ii) effectively shape workforces to ensure that the workforces have the necessary sets of skills and experience to fulfill their organizational missions.

(B) To develop or expand innovative methods of entering into and expanding cooperative relationships and arrangements with private sector organizations, educational institutions (including primary and secondary schools), and State and local governments to facilitate the training of a future scientific and technical workforce that will contribute significantly to the accomplishment of organizational missions.

(C) To develop or expand innovative methods of establishing cooperative relationships and arrangements with private sector organizations and educational institutions to promote the establishment of the technological industrial base in areas critical for Department of Defense technological requirements.

(D) To waive any restrictions not required by law that apply to the demonstration and implementation of methods for achieving the objectives set forth in subparagraphs (A), (B), and (C).

(3) The Secretary may carry out the pilot program under this subsection at each selected laboratory for a period of three years beginning not later than March 1, 2003.

(b) RELATIONSHIP TO FISCAL YEARS 1999 AND 2000 REVITALIZATION PILOT PROGRAMS.—The pilot program under this section is in addition to, but may be carried out in conjunction with, the fiscal years 1999 and 2000 revitalization pilot programs.

(c) REPORTS.—(1) Not later than January 1, 2003, the Secretary shall submit to Congress a report on the experience under the fiscal years 1999 and 2000 revitalization pilot programs in exercising the authorities provided for the administration of those programs. The report shall include a description of—

(A) barriers to the exercise of the authorities that have been encountered;

(B) the proposed solutions for overcoming the barriers; and

(C) the progress made in overcoming the barriers.

(2) Not later than September 1, 2003, the Secretary of Defense shall submit to Congress a report on the implementation of the pilot program under subsection (a) and the fiscal years 1999 and 2000 revitalization pilot programs. The report shall include, for each such pilot program, the following:

(A) Each laboratory selected for the pilot program.

(B) To the extent practicable, a description of the innovative methods that are to be tested at each laboratory.

(C) The criteria to be used for measuring the success of each method to be tested.

(3) Not later than 90 days after the expiration of the period for the participation of a laboratory in a pilot program referred to in paragraph (2), the Secretary of Defense shall submit to Congress a final report on the participation of that laboratory in the pilot program. The report shall include the following:

(A) A description of the methods tested.

(B) The results of the testing.

(C) The lessons learned.

(D) Any proposal for legislation that the Secretary recommends on the basis of the experience at that laboratory under the pilot program.

(d) EXTENSION OF AUTHORITY FOR OTHER REVITALIZATION PILOT PROGRAMS.—(1) Section 246(a)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1956; 10 U.S.C. 2358 note) is amended by striking "a period of three years" and inserting "up to six years".

(2) Section 245(a)(4) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 553; 10 U.S.C. 2358 note) is amended by striking "a period of three years" and inserting "up to five years".

(e) PARTNERSHIPS UNDER PILOT PROGRAM.—(1) The Secretary of Defense may authorize one or more laboratories and test centers participating in the pilot program under subsection (a) or in one of the fiscal years 1999 and 2000 revitalization pilot programs to enter into a cooperative arrangement (in this subsection referred to as a "public-private partnership") with entities in the private sector and institutions of higher education for the performance of work.

(2) A competitive process shall be used for the selection of entities outside the Government to participate in a public-private partnership.

(3)(A) Not more than one public-private partnership may be established as a limited liability company.

(B) An entity participating in a limited liability company as a party to a public-private partnership under the pilot program may contribute funds to the company, accept contributions of funds for the company, and provide materials, services, and use of facilities for research, technology, and infrastructure of the company, if it is determined under regulations prescribed by the Secretary of Defense that doing so will improve the efficiency of the performance of research, test, and evaluation functions of the Department of Defense.

(f) FISCAL YEARS 1999 AND 2000 REVITALIZATION PILOT PROGRAMS DEFINED.—In this section, the term "fiscal years 1999 and 2000 revitalization pilot programs" means—

(1) the pilot programs authorized by section 246 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1955; 10 U.S.C. 2358 note); and

(2) the pilot programs authorized by section 245 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 552; 10 U.S.C. 2358 note).

SEC. 242. TECHNOLOGY TRANSITION INITIATIVE.

(a) ESTABLISHMENT AND CONDUCT.—(1) Chapter 139 of title 10, United States Code, is amended by inserting after section 2359 the following new section:

"§2359a. Technology Transition Initiative

"(a) INITIATIVE REQUIRED.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall carry out an initiative, to be known as the Technology Transition Initiative (hereinafter in this section referred to as the 'Initiative'), to facilitate the rapid transition of new technologies from science and technology programs of the Department of Defense into acquisition programs of the Department for the production of such technologies.

"(b) OBJECTIVES.—The objectives of the Initiative are as follows:

"(1) To accelerate the introduction of new technologies into operational capabilities for the armed forces.

"(2) To successfully demonstrate new technologies in relevant environments.

"(c) MANAGEMENT OF INITIATIVE.—(1) The Under Secretary shall designate a senior official of the Department of Defense (hereinafter in this section referred to as the 'Manager') to manage the Initiative.

"(2) In managing the Initiative, the Manager shall—

"(A) report directly to the Under Secretary; and

"(B) obtain advice and other assistance from the Technology Transition Council established under subsection (g).

"(3) The Manager shall—

"(A) in consultation with the Technology Transition Council established under subsection (g), identify promising technology transition projects that can contribute to meeting Department of Defense technology goals and requirements;

"(B) identify potential sponsors in the Department of Defense to manage such projects; and

"(C) provide funds under subsection (f) for those projects that are selected under subsection (d)(2).

"(d) SELECTION OF PROJECTS.—(1) The science and technology and acquisition executives of each military department and each appropriate Defense Agency and the commanders of the unified and specified combatant commands may nominate technology transition projects for implementation under subsection (e) and shall submit a list of the projects so nominated to the Manager.

"(2) The Manager, in consultation with the Technology Transition Council established under subsection (g), shall select projects for implementation under subsection (e) from among the projects on the lists submitted under paragraph (1).

"(e) IMPLEMENTATION OF PROJECTS.—For each project selected under subsection (d)(2), the Manager shall designate a military department or Defense Agency to implement the project.

"(f) FUNDING OF PROJECTS.—(1) From funds made available to the Manager for the Initiative, the Manager shall, subject to paragraphs (2) and (3), provide funds for each project selected under subsection (d)(2) in an amount determined by mutual agreement between the Manager and the acquisition executive of the military department or Defense Agency concerned.

"(2) The amount of funds provided to a project under paragraph (1) shall be not less than the amount equal to 50 percent of the total cost of the project.

"(3) A project shall not be provided funds under this subsection for more than four fiscal years.

"(g) TECHNOLOGY TRANSITION COUNCIL.—(1) There is a Technology Transition Council in the Department of Defense. The Council is composed of the following members:

"(A) The science and technology executive of each military department and each Defense Agency.

"(B) The acquisition executive of each military department.

"(C) The members of the Joint Requirements Oversight Council.

"(2) The duty of the Council shall be to provide advice and assistance to the Manager under this section.

"(3) The Council shall meet not less often than semiannually to carry out its duty under paragraph (2).

"(h) REPORT.—Not later than March 31 of each year, the Under Secretary shall submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report on the activities carried out by the Initiative during the preceding fiscal year.

"(i) DEFINITION.—In this section, the term 'acquisition executive', with respect to a military department or Defense Agency, means the official designated as the senior procurement executive for that military department or Defense Agency for the purposes of section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2359 the following new item:

"2359a. Technology Transition Initiative.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated under section 201(4), $25,430,000 may be available in program element 0603826D8Z for technology transition activities of the Department of Defense, including the Technology Transition Initiative required by section 2359a of title 10, United States Code (as added by subsection (a)), the Defense Acquisition Challenge Program required by section 2359b of title 10, United States Code (as added by section 243), and Quick Reaction Special Projects.

SEC. 243. DEFENSE ACQUISITION CHALLENGE PROGRAM.

(a) IN GENERAL.—Chapter 139 of title 10, United States Code, is amended by inserting after section 2359a (as added by section 242) the following new section:

"§2359b. Defense Acquisition Challenge Program

"(a) PROGRAM REQUIRED.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall carry out a program to provide opportunities for the increased introduction of innovative and cost-saving technology in acquisition programs of the Department of Defense.

"(2) The program, to be known as the Defense Acquisition Challenge Program (hereinafter in this section referred to as the 'Challenge Program'), shall provide any person or activity within or outside the Department of Defense with the opportunity to propose alternatives, to be known as challenge proposals, at the component, subsystem, or system level of an existing Department of Defense acquisition program that would result in improvements in performance, affordability, manufacturability, or operational capability of that acquisition program.

"(b) PANELS.—The Under Secretary shall establish one or more panels of highly qualified scientists and engineers (hereinafter in this section referred to as 'Panels') to provide preliminary evaluations of challenge proposals under subsection (c).

"(c) PRELIMINARY EVALUATION BY PANELS.—(1) Under procedures prescribed by the Under Secretary, a person or activity within or outside the Department of Defense may submit challenge proposals to a Panel, through the unsolicited proposal process or in response to a broad agency announcement.

"(2) The Under Secretary shall establish procedures pursuant to which appropriate officials of the Department of Defense may identify proposals submitted through the unsolicited proposal process as challenge proposals. The procedures shall provide for the expeditious referral of such proposals to a Panel for preliminary evaluation under this subsection.

"(3) The Under Secretary shall issue on an annual basis not less than one such broad agency announcement inviting interested parties to submit challenge proposals. Such announcements may also identify particular technology areas and acquisition programs that will be given priority in the evaluation of challenge proposals.

"(4) Under procedures established by the Under Secretary, a Panel shall carry out a preliminary evaluation of each challenge proposal submitted in response to a broad agency announcement, or submitted through the unsolicited proposal process and identified as a challenge proposal in accordance with paragraph (2), to determine each of the following:

"(A) Whether the challenge proposal has merit.

"(B) Whether the challenge proposal is likely to result in improvements in performance, affordability, manufacturability, or operational capability at the component, subsystem, or system level of an acquisition program.

"(C) Whether the challenge proposal could be implemented in the acquisition program rapidly, at an acceptable cost, and without unacceptable disruption to the acquisition program.

"(5) The Under Secretary may establish procedures to ensure that the Challenge Program does not become an avenue for the repetitive submission of proposals that have been previously reviewed and found not to have merit.

"(6) If a Panel determines that a challenge proposal satisfies each of the criteria specified in paragraph (4), the person or activity submitting that challenge proposal shall be provided an opportunity to submit such challenge proposal for a full review and evaluation under subsection (d).

"(d) FULL REVIEW AND EVALUATION.—(1) Under procedures prescribed by the Under Secretary, for each challenge proposal submitted for a full review and evaluation as provided in subsection (c)(6), the office carrying out the acquisition program to which the proposal relates shall, in consultation with the prime system contractor carrying out such program, conduct a full review and evaluation of the proposal.

"(2) The full review and evaluation shall, independent of the determination of a Panel under subsection (c)(4), determine each of the matters specified in subparagraphs (A), (B), and (C) of such subsection. The full review and evaluation shall also include—

"(A) an assessment of the cost of adopting the challenge proposal and implementing it in the acquisition program; and

"(B) consideration of any intellectual property issues associated with the challenge proposal.

"(e) ACTION UPON FAVORABLE FULL REVIEW AND EVALUATION.—(1) Under procedures prescribed by the Under Secretary, each challenge proposal determined under a full review and evaluation to satisfy each of the criteria specified in subsection (c)(4) with respect to an acquisition program shall be considered by the office carrying out the applicable acquisition program and the prime system contractor for incorporation into the acquisition program as a new technology insertion at the component, subsystem, or system level.

"(2) The Under Secretary shall encourage the adoption of each challenge proposal referred to in paragraph (1) by providing suitable incentives to the office carrying out the acquisition program and the prime system contractor carrying out such program.

"(f) ACCESS TO TECHNICAL RESOURCES.—(1) Under procedures established by the Under Secretary, the technical resources of the laboratories, research, development, and engineering centers, test and evaluation activities, and other elements of the Department may be called upon to support the activities of the Challenge Program.

"(2) Funds available to carry out this program may be used to compensate such laboratories, centers, activities, and elements for technical assistance provided to a Panel pursuant to paragraph (1).

"(g) ELIMINATION OF CONFLICTS OF INTEREST.—In carrying out each preliminary evaluation under subsection (c) and full review under subsection (d), the Under Secretary shall ensure the elimination of conflicts of interest.

"(h) LIMITATION ON USE OF FUNDS.—Funds made available for the Challenge Program may be used only for activities authorized by this section, and not for implementation of challenge proposals.

"(i) ANNUAL REPORT.—The Under Secretary shall submit an annual report on the Challenge Program to Congress. The report shall be submitted at the same time as the President submits the budget for a fiscal year to Congress under section 1105(a) of title 31, and shall cover the conduct of the Challenge Program for the preceding fiscal year. The report shall include the number and scope of challenge proposals submitted, preliminarily evaluated, subjected to full review and evaluation, and adopted. No report is required for a fiscal year in which the Challenge Program is not carried out.

"(j) TERMINATION OF AUTHORITY.—The Secretary may not carry out the Challenge Program under this section after September 30, 2007.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2359a (as added by section 242) the following new item:

"2359b. Defense Acquisition Challenge Program.".

SEC. 244. ENCOURAGEMENT OF SMALL BUSINESSES AND NONTRADITIONAL DEFENSE CONTRACTORS TO SUBMIT PROPOSALS POTENTIALLY BENEFICIAL FOR COMBATING TERRORISM.

(a) ESTABLISHMENT OF OUTREACH PROGRAM.—During fiscal years 2003, 2004, and 2005, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall carry out a program of outreach to small businesses and nontraditional defense contractors for the purpose set forth in subsection (b).

(b) PURPOSE.—The purpose of the outreach program is to provide a process for reviewing and evaluating research activities of, and new technologies being developed by, small businesses and nontraditional defense contractors that have the potential for meeting a defense requirement or technology development goal of the Department of Defense that relates to the mission of the Department of Defense to combat terrorism.

(c) GOALS.—The goals of the outreach program are as follows:

(1) To increase efforts within the Department of Defense to survey and identify research activities and new technologies described in subsection (b).

(2) To provide the Under Secretary of Defense for Acquisition, Technology, and Logistics with a source of expert advice on new technologies for combating terrorism.

(3) To increase efforts to educate nontraditional defense contractors on Department of Defense acquisition processes, including regulations, procedures, funding opportunities, military needs and requirements, and technology

transfer so as to encourage such contractors to submit proposals regarding research activities and new technologies described in subsection (b).

(4) To increase efforts to provide timely response by the Department of Defense to acquisition proposals (including unsolicited proposals) submitted to the Department by small businesses and by nontraditional defense contractors regarding research activities and new technologies described in subsection (b), including through the use of electronic transactions to facilitate the processing of such proposals.

(d) REVIEW PANEL.—(1) The Secretary shall appoint, under the outreach program, a panel for the review and evaluation of acquisition proposals described in subsection (c)(4).

(2) The panel shall be composed of qualified personnel from the military departments, relevant Defense Agencies, industry, academia, and other private sector organizations.

(3) Under procedures prescribed by the Under Secretary of Defense for Acquisition, Technology, and Logistics, a small business or nontraditional defense contractor may submit acquisition proposals for consideration under the program through the unsolicited proposal process or in response to a broad agency announcement. The Under Secretary shall issue on an annual basis not less than one such broad agency announcement inviting parties to submit proposals.

(4) Under procedures prescribed by the Under Secretary, the panel shall review and evaluate acquisition proposals selected by the panel. An acquisition proposal shall be selected for review and evaluation if the panel determines that the acquisition proposal may present a unique and valuable approach for meeting a defense requirement or technology development goal of the Department of Defense that relates to the mission of the Department of Defense to combat terrorism. In carrying out its duties under this paragraph, the panel may act through representatives designated by the panel.

(5) The panel shall—

(A) not later than 60 days after the date on which the panel receives an acquisition proposal described in subsection (c)(4), transmit to the small business or nontraditional defense contractor that submitted the proposal a notification regarding whether the acquisition proposal has been selected under paragraph (4) for review and evaluation;

(B) to the maximum extent practicable, complete the review and evaluation of each selected acquisition proposal not later than 120 days after the date on which such proposal is selected under paragraph (4); and

(C) after completing the review and evaluation of an acquisition proposal, transmit the results of that review and evaluation to the small business or nontraditional defense contractor that submitted the proposal.

(6) The Secretary shall ensure that the panel, in reviewing and evaluating acquisition proposals under this subsection, has the authority to obtain assistance, to a reasonable extent, from the appropriate technical resources of the laboratories, research, development, and engineering centers, test and evaluation activities, and other elements of the Department of Defense.

(7) If, after completing review and evaluation of an acquisition proposal, the panel determines that such proposal represents a unique and valuable approach for meeting a defense requirement or technology development goal of the Department of Defense that relates to the mission of the Department of Defense to combat terrorism, the panel shall submit that determination to the Under Secretary of Defense for Acquisition, Technology, and Logistics, together with any recommendations that the panel considers appropriate regarding such proposal.

(8) The Under Secretary of Defense for Acquisition, Technology, and Logistics may provide funding for acquisition proposals with respect to which the panel has submitted a determination under paragraph (7) through appropriate accounts of the military departments, Defense Agencies, the Small Business Innovative Research program, or any other acquisition program.

(9) The Secretary of Defense shall ensure that a member of the panel has no conflict of interest with respect to the review and evaluation of an acquisition proposal by the panel.

(e) NONTRADITIONAL DEFENSE CONTRACTOR DEFINED.—In this section, the term "nontraditional defense contractor" means an entity that has not, for at least one year prior to the date of the enactment of this Act, entered into, or performed with respect to, any contract described in paragraph (1) or (2) of section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note).

SEC. 245. VEHICLE FUEL CELL PROGRAM.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program for the development of vehicle fuel cell technology.

(b) GOALS AND OBJECTIVES.—The goals and objectives of the program shall be as follows:

(1) To identify and support technological advances that are necessary for the development of fuel cell technology for use in vehicles of types to be used by the Department of Defense.

(2) To ensure that critical technology advances are shared among the various fuel cell technology programs within the Federal Government.

(3) To maximize the leverage of Federal funds that are used for the development of fuel cell technology.

(c) CONTENT OF PROGRAM.—The program shall include—

(1) development of vehicle propulsion technologies and fuel cell auxiliary power units, together with pilot projects for the demonstration of such technologies, as appropriate; and

(2) development of technologies necessary to address critical issues with respect to vehicle fuel cells, such as issues relating to hydrogen storage and hydrogen fuel infrastructure.

(d) COOPERATION WITH INDUSTRY.—(1) The Secretary shall carry out the program in cooperation with companies selected by the Secretary. The Secretary shall select such companies from among—

(A) companies in the automobile and truck manufacturing industry;

(B) companies in the business of supplying systems and components to that industry; and

(C) companies in any other industries that the Secretary considers appropriate.

(2) The Secretary may enter into a cooperative agreement with one or more companies selected under paragraph (1) to establish an entity for carrying out activities required by subsection (c).

(3) The Secretary shall ensure that companies referred to in paragraph (1) collectively contribute, in cash or in kind, not less than one-half of the total cost of carrying out the program under this section.

(e) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall carry out the program using a coordinating mechanism for sharing information and resources with the Department of Energy and other Federal agencies.

(f) INITIAL FUNDING.—Of the funds authorized to be appropriated by section 201(4), $10,000,000 shall be available for the program required by this section.

SEC. 246. DEFENSE NANOTECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Defense shall carry out a defense nanotechnology research and development program.

(b) PURPOSES.—The purposes of the program are as follows:

(1) To ensure United States global superiority in nanotechnology necessary for meeting national security requirements.

(2) To coordinate all nanoscale research and development within the Department of Defense, and to provide for interagency cooperation and collaboration on nanoscale research and development between the Department of Defense and other departments and agencies of the United States that are involved in nanoscale research and development.

(3) To develop and manage a portfolio of fundamental and applied nanoscience and engineering research initiatives that is stable, consistent, and balanced across scientific disciplines.

(4) To accelerate the transition and deployment of technologies and concepts derived from nanoscale research and development into the Armed Forces, and to establish policies, procedures, and standards for measuring the success of such efforts.

(5) To collect, synthesize, and disseminate critical information on nanoscale research and development.

(c) ADMINISTRATION.—In carrying out the program, the Secretary shall act through the Director of Defense Research and Engineering, who shall supervise the planning, management, and coordination of the program. The Director, in consultation with the Secretaries of the military departments and the heads of participating Defense Agencies and other departments and agencies of the United States, shall—

(1) prescribe a set of long-term challenges and a set of specific technical goals for the program;

(2) develop a coordinated and integrated research and investment plan for meeting the long-term challenges and achieving the specific technical goals that builds upon the Department's increased investment in nanotechnology research and development and the National Nanotechnology Initiative; and

(3) develop memoranda of agreement, joint funding agreements, and other cooperative arrangements necessary for meeting the long-term challenges and achieving the specific technical goals.

(d) ANNUAL REPORT.—Not later than March 1 of each of 2004, 2005, 2006, and 2007, the Director of Defense Research and Engineering shall submit to the congressional defense committees a report on the program. The report shall contain the following matters:

(1) A review of—

(A) the long-term challenges and specific technical goals of the program; and

(B) the progress made toward meeting those challenges and achieving those goals.

(2) An assessment of current and proposed funding levels, including the adequacy of such funding levels to support program activities.

(3) A review of the coordination of activities within the Department of Defense, with other departments and agencies, and with the National Nanotechnology Initiative.

(4) An assessment of the extent to which effective technology transition paths have been established as a result of activities under the program.

(5) Recommendations for additional program activities to meet emerging national security requirements.

SEC. 247. ACTIVITIES OF THE DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

Subsection (c) of section 257 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 2358 note) is amended—

(1) in paragraph (1), by striking "research grants" and inserting "grants for research and instrumentation to support such research"; and

(2) by adding at the end the following new paragraph:

"(3) Any other activities that are determined necessary to further the achievement of the objectives of the program.".

SEC. 248. FOUR-YEAR EXTENSION OF AUTHORITY OF DARPA TO AWARD PRIZES FOR ADVANCED TECHNOLOGY ACHIEVEMENTS AND ADDITIONAL AUTHORITY OF MILITARY DEPARTMENTS AND DEFENSE AGENCIES TO AWARD PRIZES FOR ACHIEVEMENTS IN PROMOTING EDUCATION.

(a) EXTENSION.—Section 2374a(f) of title 10, United States Code, is amended by striking "September 30, 2003" and inserting "September 30, 2007".

(b) REPORT ON ADMINISTRATION OF PROGRAM.—(1) Not later than December 31, 2002, the Director of the Defense Advanced Research Projects Agency shall submit to the congressional defense committees a report on the proposal of the Director for the administration of the program to award prizes for advanced technology achievements under section 2374a of title 10, United States Code.

(2) The report shall include the following:

(A) The results of consultations by the Director with officials of the military departments regarding the technology areas for which competitive prizes would be established.

(B) A description of the proposed goals of the competitions that would be established under the program, including the technology areas to be promoted by the competitions and the relationship of such areas to military missions of the Department of Defense.

(C) The proposed rules for the competitions that would be established under the program and a description of the proposed management of the competitions.

(D) A description of the manner in which the amounts of the cash prizes awarded and claimed under the program would be allocated among the accounts of the Defense Advanced Research Projects Agency for recording as obligations and expenditures.

(E) For each competition that would be established under the program, a statement of the reasons why the competition is a preferable means of promoting basic, advanced, and applied research, advanced technology development, or prototype projects, rather than other means of promoting such activities, including contracts, grants, cooperative agreements, and other transactions.

(c) ADDITIONAL AUTHORITY TO AWARD CASH PRIZES FOR PROMOTING EDUCATION IN SUPPORT OF DOD MISSIONS.—(1) Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§2374b. Prizes for achievements in promoting science, mathematics, engineering, or technology education

"(a) AUTHORITY.—The Secretaries of the military departments and the heads of defense agencies may each carry out a program to award cash prizes in recognition of outstanding achievements that are designed to promote science, mathematics, engineering, or technology education in support of the missions of the Department of Defense.

"(b) COMPETITION REQUIREMENTS.—Each program under subsection (a) shall use a competitive process for the selection of recipients of cash prizes.

"(c) LIMITATION.—For any single program under subsection (a), the total amount made available for award of cash prizes in a fiscal year may not exceed $1,000,000.

"(d) RELATIONSHIP TO OTHER AUTHORITY.—The program under subsection (a) may be carried out in conjunction with or in addition to the exercise of any other authority to acquire, support, or stimulate basic and applied research, advanced technology development, or prototype development projects.

"(e) ANNUAL REPORT.—Promptly after the end of each fiscal year, each Secretary of a military department and each head of a defense agency carrying out a program under subsection (a) shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of that program for that fiscal year.

"(f) PERIOD OF AUTHORITY.—The authority to award prizes under subsection (a) shall terminate at the end of September 30, 2006.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2374b. Prizes for achievements in promoting science, mathematics, engineering, or technology education.".

SEC. 249. PLAN FOR FIVE-YEAR PROGRAM FOR ENHANCEMENT OF MEASUREMENT AND SIGNATURES INTELLIGENCE CAPABILITIES OF THE UNITED STATES THROUGH INCORPORATION OF RESULTS OF BASIC RESEARCH ON SENSORS.

(a) CONGRESSIONAL FINDING.—Congress finds that the national interest will be served by the rapid exploitation of basic research on sensors for purposes of enhancing the measurement and signatures intelligence (MASINT) capabilities of the United States.

(b) PLAN FOR RESEARCH PROGRAM.—(1) Not later than March 31, 2003, the Secretary of Defense shall submit to Congress a plan for a five-year program of research intended to provide for the incorporation of the results of basic research on sensors into the measurement and signatures intelligence systems of the United States, to the extent the results of such research is applicable to such systems. Such program shall include the review and assessment of basic research on sensors for purpose of such incorporation, including both basic research on sensors conducted by the Government and basic research on sensors conducted by non-governmental entities.

(2) The plan submitted under paragraph (1) shall provide that the activities to be carried out under the program provided for in the plan shall be carried out by a consortium consisting of such governmental and non-governmental entities as the Secretary considers appropriate for purposes of incorporating the broadest practicable range of sensor capabilities into the systems referred to in paragraph (1). The consortium may include national laboratories, universities, and private sector entities.

(3) The plan shall include a proposal for the funding of activities under the five-year program provided for in the plan, including cost-sharing by non-governmental participants in the consortium under paragraph (2).

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Grant to National Guard Youth Foundation.

Subtitle B—Environmental Provisions

Sec. 311. Enhancement of authority on cooperative agreements for environmental purposes.
Sec. 312. Single point of contact for policy and budgeting issues regarding unexploded ordnance, discarded military munitions, and munitions constituents.
Sec. 313. Authority to carry out construction projects for environmental responses.
Sec. 314. Procurement of environmentally preferable procurement items.
Sec. 315. Incidental taking of migratory birds during military readiness activities.

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

Sec. 321. Authority for each military department to provide base operating support to Fisher Houses.
Sec. 322. Use of commissary stores and MWR retail facilities by members of National Guard serving in national emergency.
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Sec. 324. Rebate agreements under the special supplemental food program.

Subtitle D—Workplace and Depot Issues

Sec. 331. Notification requirements in connection with required studies for conversion of commercial or industrial type functions to contractor performance.
Sec. 332. Temporary authority for contractor performance of security-guard functions to meet increased requirements since September 11, 2001.
Sec. 333. Repeal of obsolete provision regarding depot-level maintenance and repair workloads that were performed at closed or realigned military installations.
Sec. 334. Exclusion of certain expenditures from limitation on private sector performance of depot-level maintenance.

Subtitle E—Defense Dependents Education

Sec. 341. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 342. Housing benefits for unaccompanied teachers required to live at Guantanamo Bay Naval Station, Cuba.
Sec. 343. Options for funding dependent summer school programs.
Sec. 344. Impact aid eligibility for local educational agencies affected by privatization of military housing.
Sec. 345. Comptroller General study of adequacy of compensation provided for teachers in the Department of Defense Overseas Dependents' Schools.

Subtitle F—Information Technology

Sec. 351. Annual submission of information regarding information technology capital assets.
Sec. 352. Policy regarding acquisition of information assurance and information assurance-enabled information technology products.
Sec. 353. Installation and connection policy and procedures regarding Defense Switch Network.

Subtitle G—Other Matters

Sec. 361. Distribution of monthly reports on allocation of funds within operation and maintenance budget subactivities.
Sec. 362. Continuation of arsenal support program initiative.
Sec. 363. Extension of work safety demonstration program.
Sec. 364. Condition on authority of Defense Security Service to impose fees on fee-for-service basis.
Sec. 365. Logistics support and services for weapon systems contractors.

Sec. 366. Training range sustainment plan, Global Status of Resources and Training System, and training range inventory.

Sec. 367. Engineering study and environmental analysis of road modifications in vicinity of Fort Belvoir, Virginia.

Sec. 368. Reauthorization of warranty claims recovery pilot program.

Sec. 369. Expanded eligibility for loan, gift, or exchange of documents, historical artifacts, and condemned or obsolete combat materiel.

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $23,922,251,000.

(2) For the Navy, $29,264,939,000.

(3) For the Marine Corps, $3,559,636,000.

(4) For the Air Force, $27,419,488,000.

(5) For Defense-wide activities, $14,145,310,000.

(6) For the Army Reserve, $1,985,110,000.

(7) For the Naval Reserve, $1,233,759,000.

(8) For the Marine Corps Reserve, $189,532,000.

(9) For the Air Force Reserve, $2,160,604,000.

(10) For the Army National Guard, $4,155,067,000.

(11) For the Air National Guard, $4,104,810,000.

(12) For the Defense Inspector General, $155,165,000.

(13) For the United States Court of Appeals for the Armed Forces, $9,614,000.

(14) For Environmental Restoration, Army, $395,900,000.

(15) For Environmental Restoration, Navy, $256,948,000.

(16) For Environmental Restoration, Air Force, $389,773,000.

(17) For Environmental Restoration, Defense-wide, $23,498,000.

(18) For Environmental Restoration, Formerly Used Defense Sites, $252,102,000.

(19) For Overseas Humanitarian, Disaster, and Civic Aid programs, $58,400,000.

(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, $859,907,000.

(21) For the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, $25,000,000.

(22) For Defense Health Program, $14,123,038,000.

(23) For Cooperative Threat Reduction programs, $416,700,000.

(24) For Support for International Sporting Competitions, Defense, $19,000,000.

(25) For overseas contingency operations transfer fund, $17,844,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $387,156,000

(2) For the National Defense Sealift Fund, $934,129,000.

(3) For the Defense Commissary Agency Working Capital Fund, $969,200,000.

(4) For the Pentagon Reservation Maintenance Revolving Fund, $328,000,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2003 from the Armed Forces Retirement Home Trust Fund the sum of $69,921,000 for the operation of the Armed Forces Retirement Home.

SEC. 304. GRANT TO NATIONAL GUARD YOUTH FOUNDATION.

Of the amount authorized to be appropriated by section 301(5) for administrative and service-wide activities for civil-military programs, the Secretary of Defense may use up to $2,500,000 to make a grant to the National Guard Youth Foundation to support the efforts of the Foundation to mobilize individuals, groups, and organizations to build and strengthen the character and competence of youth in the United States.

Subtitle B—Environmental Provisions

SEC. 311. ENHANCEMENT OF AUTHORITY ON COOPERATIVE AGREEMENTS FOR ENVIRONMENTAL PURPOSES.

Section 2701(d) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraph (3)";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) CROSS-FISCAL YEAR AGREEMENTS.—An agreement with an agency under paragraph (1) may be for a period that begins in one fiscal year and ends in another fiscal year so long as the period of the agreement does not exceed two years.".

SEC. 312. SINGLE POINT OF CONTACT FOR POLICY AND BUDGETING ISSUES REGARDING UNEXPLODED ORDNANCE, DISCARDED MILITARY MUNITIONS, AND MUNITIONS CONSTITUENTS.

Section 2701 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(k) UXO PROGRAM MANAGER.—(1) The Secretary of Defense shall establish a program manager who shall serve as the single point of contact in the Department of Defense for policy and budgeting issues involving the characterization, remediation, and management of explosive and related risks with respect to unexploded ordnance, discarded military munitions, and munitions constituents at defense sites (as such terms are defined in section 2710 of this title) that pose a threat to human health or safety.

"(2) The authority to establish the program manager may be delegated to the Secretary of a military department, who may delegate the authority to the Under Secretary of that military department. The authority may not be further delegated.

"(3) The program manager may establish an independent advisory and review panel that may include representatives of the National Academy of Sciences, nongovernmental organizations with expertise regarding unexploded ordnance, discarded military munitions, or munitions constituents, the Environmental Protection Agency, States (as defined in section 2710 of this title), and tribal governments. If established, the panel shall report annually to Congress on progress made by the Department of Defense to address unexploded ordnance, discarded military munitions, or munitions constituents at defense sites and make such recommendations as the panel considers appropriate.".

SEC. 313. AUTHORITY TO CARRY OUT CONSTRUCTION PROJECTS FOR ENVIRONMENTAL RESPONSES.

(a) RESTATEMENT AND MODIFICATION OF AUTHORITY.—Chapter 160 of title 10, United States Code, is amended—

(1) by redesignating section 2707 as section 2700 and transferring such section to appear immediately after the table of sections at the beginning of such chapter; and

(2) by inserting after section 2706 the following new section 2707:

"§2707. Environmental restoration projects for environmental responses

"(a) ENVIRONMENTAL RESTORATION PROJECTS AUTHORIZED.—The Secretary of Defense or the Secretary of a military department may carry out an environmental restoration project if that Secretary determines that the project is necessary to carry out a response under this chapter or CERCLA.

"(b) TREATMENT OF PROJECT.—Any construction, development, conversion, or extension of a structure, and any installation of equipment, that is included in an environmental restoration project under this section may not be considered military construction (as that term is defined in section 2801(a) of this title).

"(c) SOURCE OF FUNDS.—Funds authorized for deposit in an account established by section 2703(a) of this title shall be the only source of funds to conduct an environmental restoration project under this section.

"(d) ENVIRONMENTAL RESTORATION PROJECT DEFINED.—In this section, the term 'environmental restoration project' includes any construction, development, conversion, or extension of a structure, or installation of equipment, in direct support of a response.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2810 of such title is repealed.

(c) CONFORMING AMENDMENTS.—Chapter 160 of such title is further amended—

(1) in section 2700 (as redesignated by subsection (a))—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(B) by inserting after "In this chapter:" the following new paragraph:

"(1) The term 'CERCLA' means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.)."; and

(2) in section 2701(a)(2), by striking "the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this chapter referred to as 'CERCLA') (42 U.S.C. 9601 et seq.)" and inserting "CERCLA".

(d) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 160 of such title is amended—

(A) by inserting before the item relating to section 2701 the following new item:

"2700. Definitions."; and

(B) by striking the item relating to section 2707 and inserting the following new item:

"2707. Environmental restoration projects for environmental responses.".

(2) The table of sections at the beginning of chapter 169 of such title is amended by striking the item relating to section 2810.

SEC. 314. PROCUREMENT OF ENVIRONMENTALLY PREFERABLE PROCUREMENT ITEMS.

(a) TRACKING SYSTEM.—The Secretary of Defense shall develop and implement an effective and efficient tracking system to identify the extent to which the Defense Logistics Agency procures environmentally preferable procurement items or procurement items made with recovered material. The system shall provide for the separate tracking, to the maximum extent practicable, of the procurement of each category of procurement items that, as of the date of the enactment of this Act, has been determined to be environmentally preferable or made with recovered material.

(b) ASSESSMENT OF TRAINING AND EDUCATION.—The Secretary of Defense shall assess

the need to establish a program, or enhance existing programs, for training and educating Department of Defense procurement officials to ensure that they are aware of any Department requirements, preferences, or goals for the procurement of environmentally preferable procurement items or procurement items made with recovered material.

(c) Reporting Requirement.—Not later than March 1, 2004, and each March 1 thereafter through 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report detailing the results obtained from the tracking system developed under subsection (a).

(d) Relation to Other Laws.—Nothing in this section shall be construed to alter the requirements of the Solid Waste Disposal Act (40 U.S.C. 6901 et seq.).

(e) Definitions.—In this section:

(1) The term "environmentally preferable", in the case of a procurement item, means that the item has a lesser or reduced effect on human health and the environment when compared with competing products that serve the same purpose. The comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product.

(2) The terms "procurement item" and "recovered material" have the meanings given such terms in section 1004 of the Solid Waste Disposal Act (40 U.S.C. 6903).

SEC. 315. INCIDENTAL TAKING OF MIGRATORY BIRDS DURING MILITARY READINESS ACTIVITIES.

(a) Interim Authority for Incidental Takings.—During the period described in subsection (c), section 2 of the Migratory Bird Treaty Act (16 U.S.C. 703) shall not apply to the incidental taking of a migratory bird by a member of the Armed Forces during a military readiness activity authorized by the Secretary of Defense or the Secretary of the military department concerned.

(b) Identification of Measures to Minimize Impact of Activities.—During the periods described in subsections (c) and (d), the Secretary of Defense shall, in consultation with the Secretary of the Interior, identify measures—

(1) to minimize and mitigate, to the extent practicable, any adverse impacts of authorized military readiness activities on affected species of migratory birds; and

(2) to monitor the impacts of such military readiness activities on affected species of migratory birds.

(c) Period of Application for Interim Authority.—The period described in this subsection is the period beginning on the date of the enactment of this Act and ending on the date on which the Secretary of the Interior publishes in the Federal Register a notice that—

(1) regulations authorizing the incidental taking of migratory birds by members of the Armed Forces have been prescribed in accordance with the requirements of subsection (d);

(2) all legal challenges to the regulations and to the manner of their promulgation (if any) have been exhausted as provided in subsection (e); and

(3) the regulations have taken effect.

(d) Incidental Takings After Interim Period.—(1) Not later than the expiration of the one-year period beginning on the date of the enactment of this Act, the Secretary of the Interior shall exercise the authority of that Secretary under section 3(a) of the Migratory Bird Treaty Act (16 U.S.C. 704(a)) to prescribe regulations to exempt the Armed Forces for the incidental taking of migratory birds during military readiness activities authorized by the Secretary of Defense or the Secretary of the military department concerned.

(2) The Secretary of the Interior shall exercise authority under paragraph (1) with the concurrence of the Secretary of Defense.

(e) Limitation on Judicial Review.—An action seeking judicial review of regulations prescribed pursuant to this section or of the manner of their promulgation must be filed in the appropriate Federal court by not later than the expiration of the 120-day period beginning on the date on which such regulations are published in the Federal Register. Upon the expiration of such period and the exhaustion of any legal challenges to the regulations pursuant to any action filed in such period, there shall be no further judicial review of such regulations or of the manner of their promulgation.

(f) Military Readiness Activity.—(1) In this section the term "military readiness activity" includes—

(A) all training and operations of the Armed Forces that relate to combat; and

(B) the adequate and realistic testing of military equipment, vehicles, weapons, and sensors for proper operation and suitability for combat use.

(2) The term does not include—

(A) the routine operation of installation operating support functions, such as administrative offices, military exchanges, commissaries, water treatment facilities, storage facilities, schools, housing, motor pools, laundries, morale, welfare, and recreation activities, shops, and mess halls;

(B) the operation of industrial activities; or

(C) the construction or demolition of facilities used for a purpose described in subparagraph (A) or (B).

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

SEC. 321. AUTHORITY FOR EACH MILITARY DEPARTMENT TO PROVIDE BASE OPERATING SUPPORT TO FISHER HOUSES.

Section 2493(f) of title 10, United States Code, is amended to read as follows:

"(f) Base Operating Support.—The Secretary of a military department may provide base operating support for Fisher Houses associated with health care facilities of that military department.".

SEC. 322. USE OF COMMISSARY STORES AND MWR RETAIL FACILITIES BY MEMBERS OF NATIONAL GUARD SERVING IN NATIONAL EMERGENCY.

(a) Additional Basis for Authorized Use.—Section 1063a of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "or national emergency" after "federally declared disaster"; and

(2) in subsection (c), by adding at the end the following new paragraph:

"(3) National Emergency.—The term 'national emergency' means a national emergency declared by the President or Congress.".

(b) Clerical Amendments.—(1) The heading of such section is amended to read as follows:

"§1063a. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster or national emergency".

(2) The table of sections at the beginning of chapter 54 of such title is amended by striking the item relating to section 1063a and inserting the following new item:

"1063a. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster or national emergency.".

SEC. 323. UNIFORM FUNDING AND MANAGEMENT OF MORALE, WELFARE, AND RECREATION PROGRAMS.

(a) In General.—Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§2494. Uniform funding and management of morale, welfare, and recreation programs

"(a) Authority for Uniform Funding and Management.—Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense and available for morale, welfare, and recreation programs may be treated as nonappropriated funds and expended in accordance with laws applicable to the expenditures of nonappropriated funds. When made available for morale, welfare, and recreation programs under such regulations, appropriated funds shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

"(b) Conditions on Availability.—Funds appropriated to the Department of Defense may be made available to support a morale, welfare, or recreation program only if the program is authorized to receive appropriated fund support and only in the amounts the program is authorized to receive.

"(c) Conversion of Employment Positions.—(1) The Secretary of Defense may identify positions of employees in morale, welfare, and recreation programs within the Department of Defense who are paid with appropriated funds whose status may be converted from the status of an employee paid with appropriated funds to the status of an employee of a nonappropriated fund instrumentality.

"(2) The status of an employee in a position identified by the Secretary under paragraph (1) may, with the consent of the employee, be converted to the status of an employee of a nonappropriated fund instrumentality. An employee who does not consent to the conversion may not be removed from the position because of the failure to provide such consent.

"(3) The conversion of an employee from the status of an employee paid by appropriated funds to the status of an employee of a nonappropriated fund instrumentality shall be without a break in service for the concerned employee. The conversion shall not entitle an employee to severance pay, back pay or separation pay under subchapter IX of chapter 55 of title 5, or be considered an involuntary separation or other adverse personnel action entitling an employee to any right or benefit under such title or any other provision of law or regulation.

"(4) In this subsection, the term 'an employee of a nonappropriated fund instrumentality' means an employee described in section 2105(c) of title 5.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2494. Uniform funding and management of morale, welfare, and recreation programs.".

SEC. 324. REBATE AGREEMENTS UNDER THE SPECIAL SUPPLEMENTAL FOOD PROGRAM.

(a) Applicability to Navy Exchange Markets.—Paragraph (1)(A) of section 1060a(e) of title 10, United States Code, is amended by inserting "or Navy Exchange Markets" after "commissary stores".

(b) Increased Maximum Period of Agreement.—Paragraph (3) of such section is amended by striking "subsection may not exceed one year" in the first sentence and inserting "subsection, including any period of extension of the contract by modification of the contract, exercise of an option, or other cause, may not exceed three years".

Subtitle D—Workplace and Depot Issues

SEC. 331. NOTIFICATION REQUIREMENTS IN CONNECTION WITH REQUIRED STUDIES FOR CONVERSION OF COMMERCIAL OR INDUSTRIAL TYPE FUNCTIONS TO CONTRACTOR PERFORMANCE.

Subsection (c) of section 2461 of title 10, United States Code, is amended to read as follows:

"(c) SUBMISSION OF ANALYSIS RESULTS.—(1) Upon the completion of an analysis of a commercial or industrial type function described in subsection (a) for possible change to performance by the private sector, the Secretary of Defense shall submit to Congress a report containing the results of the analysis, including the results of the examinations required by subsection (b)(3).

"(2) The report shall also contain the following:

"(A) The date when the analysis of the function was commenced.

"(B) The Secretary's certification that the Government calculation of the cost of performance of the function by Department of Defense civilian employees is based on an estimate of the most cost effective manner for performance of the function by Department of Defense civilian employees.

"(C) The number of Department of Defense civilian employees who were performing the function when the analysis was commenced and the number of such employees whose employment was or will be terminated or otherwise affected by changing to performance of the function by the private sector or by implementation of the most efficient organization of the function.

"(D) The Secretary's certification that the factors considered in the examinations performed under subsection (b)(3), and in the making of the decision regarding changing to performance of the function by the private sector or retaining performance in the most efficient organization of the function, did not include any predetermined personnel constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees.

"(E) A statement of the potential economic effect of implementing the decision regarding changing to performance of the function by the private sector or retaining performance in the most efficient organization of the function on each affected local community, as determined in the examination under subsection (b)(3)(B)(ii).

"(F) A schedule for completing the change to performance of the function by the private sector or implementing the most efficient organization of the function.

"(G) In the case of a commercial or industrial type function performed at a Center of Industrial and Technical Excellence designated under section 2474(a) of this title or an Army ammunition plant, a description of the effect that the manner of performance of the function, and administration of the resulting contract if any, will have on the overhead costs of the center or ammunition plant, as the case may be.

"(H) The Secretary's certification that the entire analysis is available for examination.

"(3)(A) If a decision is made to change the commercial or industrial type function that was the subject of the analysis to performance by the private sector, the change of the function to contractor performance may not begin until after the submission of the report required by paragraph (1).

"(B) Notwithstanding subparagraph (A), in the case of a commercial or industrial type function performed at a Center of Industrial and Technical Excellence designated under section 2474(a) of this title or an Army ammunition plant, the change of the function to contractor performance may not begin until at least 60 days after the submission of the report.".

SEC. 332. TEMPORARY AUTHORITY FOR CONTRACTOR PERFORMANCE OF SECURITY-GUARD FUNCTIONS TO MEET INCREASED REQUIREMENTS SINCE SEPTEMBER 11, 2001.

(a) CONTRACT AUTHORITY.—The Secretary of Defense or the Secretary of a military department may enter into a contract for any increased performance of security-guard functions at a military installation or facility under the jurisdiction of the Secretary undertaken in response to the terrorist attacks on the United States on September 11, 2001, and may waive the prohibition under section 2465(a) of title 10, United States Code, with respect to such contract, if—

(1) without the contract, members of the Armed Forces are or would be used to perform the increased security-guard functions; and

(2) the Secretary concerned determines that—

(A) the recruiting and training standards for the personnel who are to perform the security-guard functions at the installation or facility under the contract are comparable to the recruiting and training standards for the personnel of the Department of Defense who perform security-guard functions at military installations and facilities under the jurisdiction of the Secretary;

(B) the contractor personnel performing such functions under the contract will be effectively supervised, reviewed, and evaluated; and

(C) the performance of such functions by the contractor personnel will not result in a reduction in the security of the installation or facility.

(b) INCREASED PERFORMANCE DEFINED.—In this section, the term "increased performance", with respect to security-guard functions at a military installation or facility, means—

(1) in the case of an installation or facility where no security-guard functions were performed as of September 10, 2001, the entire scope or extent of the performance of security-guard functions at the installation or facility after such date; and

(2) in the case of an installation or facility where security-guard functions were performed within a lesser scope of requirements or to a lesser extent as of September 10, 2001, than after such date, the increment of the performance of security-guard functions at the installation or facility that exceeds such lesser scope of requirements or extent of performance.

(c) EXPIRATION OF AUTHORITY.—The authority for contractor performance of security-guard functions under this section shall terminate at the end of the three-year period beginning on the date of the enactment of this Act. The term of any contract entered into using the authority provided by this section may not extend beyond the end of such period.

(d) NEEDS ASSESSMENT AND PLAN.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) identify any requirements for the performance of security-guard functions at military installations and facilities under the jurisdiction of the Secretary or the Secretary of a military department that are expected to continue for more than three years after the date of the enactment of this Act and, in the absence of further action by the Secretary or Congress, would otherwise be performed by members of the Armed Forces; and

(2) submit to the congressional defense committees a plan for meeting those requirements on a long-term basis.

SEC. 333. REPEAL OF OBSOLETE PROVISION REGARDING DEPOT-LEVEL MAINTENANCE AND REPAIR WORKLOADS THAT WERE PERFORMED AT CLOSED OR REALIGNED MILITARY INSTALLATIONS.

(a) REPEAL.—Section 2469a of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 146 of such title is amended by striking the item relating to section 2469a.

SEC. 334. EXCLUSION OF CERTAIN EXPENDITURES FROM LIMITATION ON PRIVATE SECTOR PERFORMANCE OF DEPOT-LEVEL MAINTENANCE.

Section 2474(f) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "Amounts expended out of funds described in paragraph (2) for the performance of a depot-level maintenance and repair workload by non-Federal Government personnel at a Center of Industrial and Technical Excellence" and inserting "Amounts expended for the performance of a depot-level maintenance and repair workload by non-Federal Government personnel at a Center of Industrial and Technical Excellence under any contract entered into during fiscal years 2003 through 2006";

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

Subtitle E—Defense Dependents Education

SEC. 341. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 2003.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $30,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 2003, the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 2003 of—

(1) that agency's eligibility for the assistance; and

(2) the amount of the assistance for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) DEFINITIONS.—In this section:

(1) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 342. HOUSING BENEFITS FOR UNACCOMPANIED TEACHERS REQUIRED TO LIVE AT GUANTANAMO BAY NAVAL STATION, CUBA.

Section 7 of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 905) is amended by adding at the end the following new subsection:

"(f)(1) A teacher assigned to teach at Guantanamo Bay Naval Station, Cuba, who is not accompanied at such station by any dependent shall be offered for lease any available military family housing at such station that is suitable for occupancy by the teacher and is not needed to house members of the armed forces and dependents accompanying them or other civilian personnel and any dependents accompanying them.

"(2) For any period for which military family housing is leased under paragraph (1) to a teacher described in such paragraph, the teacher shall receive a quarters allowance in the *amount determined under subsection (b). The teacher is entitled to such quarters allowance without regard to whether other Government furnished quarters are available for occupancy by the teacher without charge to the teacher.".*

SEC. 343. OPTIONS FOR FUNDING DEPENDENT SUMMER SCHOOL PROGRAMS.

Section 1402(d)(2) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921(d)(2)) is amended to read as follows:

"(2) The Secretary shall provide any summer school program under this subsection on the same financial basis as programs offered during the regular school year, except that the Secretary may charge reasonable fees for all or portions of such summer school programs to the extent that the Secretary determines appropriate.".

SEC. 344. IMPACT AID ELIGIBILITY FOR LOCAL EDUCATIONAL AGENCIES AFFECTED BY PRIVATIZATION OF MILITARY HOUSING.

Section 8003(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)) is amended by adding at the end the following:

"(H) Eligibility for heavily impacted local educational agencies affected by privatization of military housing.—

"(i) Eligibility.—For any fiscal year beginning with fiscal year 2003, a heavily impacted local educational agency that received a basic support payment under subparagraph (A) for the prior fiscal year, but is ineligible for such payment for the current fiscal year under subparagraph (B) or (C), as the case may be, by reason of the conversion of military housing units to private housing described in clause (iii), shall be deemed to meet the eligibility requirements under subparagraph (B) or (C), as the case may be, for the period during which the housing units are undergoing such conversion.

"(ii) Amount of payment.—The amount of a payment to a heavily impacted local educational agency for a fiscal year by reason of the application of clause (i), and calculated in accordance with subparagraph (D) or (E) (as the case may be), shall be based on the number of children in average daily attendance in the schools of such agency for the fiscal year.

"(iii) Conversion of military housing units to private housing described.—For purposes of clause (i), 'conversion of military housing units to private housing' means the conversion of military housing units to private housing units pursuant to subchapter IV of chapter 169 of title 10, United States Code, or pursuant to any other related provision of law.".

SEC. 345. COMPTROLLER GENERAL STUDY OF ADEQUACY OF COMPENSATION PROVIDED FOR TEACHERS IN THE DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS.

(a) Additional Consideration for Study.—Subsection (b) of section 354 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1064) is amended by inserting after paragraph (2) the following new paragraph:

"(3) Whether the process for setting teacher compensation is efficient and cost effective.".

(b) Extension of Time for Reporting.—Subsection (c) of such section is amended by striking "May 1, 2002" and inserting "December 12, 2002".

Subtitle F—Information Technology

SEC. 351. ANNUAL SUBMISSION OF INFORMATION REGARDING INFORMATION TECHNOLOGY CAPITAL ASSETS.

(a) Requirement To Submit Information.—Not later than 30 days after the date on which the President submits the budget for a fiscal year to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress information on the following information technology capital assets, including information technology capital assets that are a national security system, of the Department of Defense:

(1) Information technology capital assets not covered by paragraph (2) that have an estimated total cost for the fiscal year for which the budget is submitted in excess of $10,000,000.

(2) Information technology capital assets that have an estimated total cost for the fiscal year for which the budget is submitted in excess of $30,000,000 and an estimated total life cycle cost (as computed in fiscal year 2003 constant dollars) in excess of $120,000,000.

(b) Required Information For Low-Threshold Assets.—With respect to each information technology capital asset described in subsection (a)(1), the Secretary of Defense shall include the following information:

(1) The name of the information technology capital asset.

(2) The function of the asset.

(3) The total cost of the asset for the fiscal year for which the budget is submitted, the current fiscal year, and the preceding fiscal year.

(c) Required Information For High-Threshold Assets.—With respect to each information technology capital asset described in subsection (a)(2), the Secretary of Defense shall include the following information:

(1) The name and identifying acronym of the information technology capital asset.

(2) The date of initiation of the asset.

(3) A summary of performance measurements and metrics.

(4) The total amount of funds, by appropriation account, appropriated and obligated for prior fiscal years, with a specific breakout of such information for the two preceding fiscal years.

(5) The funds, by appropriation account, requested for the next fiscal year.

(6) The name of each prime contractor and the work to be performed.

(7) Program management and management oversight information.

(8) The original baseline cost and most current baseline information.

(9) Information regarding compliance with the provisions of law enacted or amended by the Government Performance Results Act of 1993 (Public Law 103–62; 107 Stat. 285) and the Clinger–Cohen Act of 1996 (divisions D and E of Public Law 104–106; 110 Stat. 642).

(d) Total Cost Determinations.—In estimating the total cost for a fiscal year or total life cycle cost of an information technology capital asset, the Secretary of Defense shall consider research and development costs, procurement costs, and operation and maintenance costs related to the information technology capital asset.

(e) Definitions.—In this section:

(1) The term "information technology" has the meaning given that term in section 11101 of title 40, United States Code.

(2) The term "capital asset" has the meaning given that term in Office of Management and Budget Circular A–11.

(3) The term "national security system" has the meaning given that term in section 11103 of title 40, United States Code.

SEC. 352. POLICY REGARDING ACQUISITION OF INFORMATION ASSURANCE AND INFORMATION ASSURANCE-ENABLED INFORMATION TECHNOLOGY PRODUCTS.

(a) Establishment of Policy.—The Secretary of Defense shall establish a policy to limit the acquisition of information assurance and information assurance-enabled information technology products to those products that have been evaluated and validated in accordance with appropriate criteria, schemes, or programs.

(b) Waiver.—As part of the policy, the Secretary of Defense shall authorize specified officials of the Department of Defense to waive the limitations of the policy upon a determination in writing that application of the limitations to the acquisition of a particular information assurance or information assurance-enabled information technology product would not be in the national security interest of the United States.

(c) Implementation.—The Secretary of Defense shall ensure that the policy is uniformly implemented throughout the Department of Defense.

SEC. 353. INSTALLATION AND CONNECTION POLICY AND PROCEDURES REGARDING DEFENSE SWITCH NETWORK.

(a) Establishment of Policy and Procedures.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall establish clear and uniform policy and procedures, applicable to the military departments and Defense Agencies, regarding the installation and connection of telecom switches to the Defense Switch Network.

(b) Elements of Policy and Procedures.—The policy and procedures shall address at a minimum the following:

(1) Clear interoperability and compatibility requirements for procuring, certifying, installing, and connecting telecom switches to the Defense Switch Network.

(2) Current, complete, and enforceable testing, validation, and certification procedures needed to ensure the interoperability and compatibility requirements are satisfied.

(c) Exceptions.—(1) The Secretary of Defense may specify certain circumstances in which—

(A) the requirements for testing, validation, and certification of telecom switches may be waived; or

(B) interim authority for the installation and connection of telecom switches to the Defense Switch Network may be granted.

(2) Only the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence may approve a waiver or grant of interim authority under paragraph (1). The authority to approve such a waiver or grant of interim authority may not be delegated.

(3) The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence shall consult with the Chairman of the Joint Chiefs of Staff before approving a waiver or grant of interim authority under paragraph (1).

(d) Inventory of Defense Switch Network.—The Secretary of Defense shall prepare and maintain an inventory of all telecom switches that, as of the date on which the Secretary issues the policy and procedures—

(1) are installed or connected to the Defense Switch Network; but

(2) have not been tested, validated, and certified by the Defense Information Systems Agency (Joint Interoperability Test Center).

(e) Interoperability Risks.—On an ongoing basis, the Secretary of Defense shall—

(1) identify and assess the interoperability risks that are associated with the installation or connection of uncertified switches to the Defense Switch Network and the maintenance of such switches on the Defense Switch Network; and

(2) develop and implement a plan to eliminate or mitigate such risks as identified.

(f) Telecom Switch Defined.—In this section, the term "telecom switch" means hardware or software designed to send and receive voice, data, or video signals across a network that provides customer voice, data, or video equipment access to the Defense Switch Network or public switched telecommunications networks.

Subtitle G—Other Matters

SEC. 361. DISTRIBUTION OF MONTHLY REPORTS ON ALLOCATION OF FUNDS WITHIN OPERATION AND MAINTENANCE BUDGET SUBACTIVITIES.

(a) DESIGNATION OF RECIPIENTS.—Subsection (a) of section 228 of title 10, United States Code, is amended by striking "to Congress" and inserting "to the congressional defense committees".

(b) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—Subsection (e) of such section is amended—

(1) by striking "(e) O&M BUDGET ACTIVITY DEFINED.—For purposes of this section, the" and inserting the following:

"(e) DEFINITIONS.—In this section:

"(1) The"; and

(2) by adding at the end the following new paragraph:

"(2) The term 'congressional defense committees' means the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.".

SEC. 362. CONTINUATION OF ARSENAL SUPPORT PROGRAM INITIATIVE.

(a) EXTENSION THROUGH FISCAL YEAR 2004.—Subsection (a) of section 343 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–65) is amended by striking "and 2002" and inserting "through 2004".

(b) REPORTING REQUIREMENTS.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking "2002" and inserting "2004"; and

(2) in paragraph (2), by striking the first sentence and inserting the following new sentence: "Not later than July 1, 2003, the Secretary of the Army shall submit to the congressional defense committees a report on the results of the demonstration program since its implementation, including the Secretary's views regarding the benefits of the program for Army manufacturing arsenals and the Department of the Army and the success of the program in achieving the purposes specified in subsection (b).".

SEC. 363. EXTENSION OF WORK SAFETY DEMONSTRATION PROGRAM.

(a) EXTENSION.—Section 1112 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–313) is amended—

(1) in subsection (d), by striking "September 30, 2002" and inserting "September 30, 2003"; and

(2) in subsection (e)(2), by striking "December 1, 2002" and inserting "December 1, 2003".

(b) REVISION OF REPORTING REQUIREMENTS.—Subsection (e)(2) of such section is further amended by striking "fiscal year 2002" both places it appears and inserting "fiscal years 2002 and 2003".

SEC. 364. CONDITION ON AUTHORITY OF DEFENSE SECURITY SERVICE TO IMPOSE FEES ON FEE-FOR-SERVICE BASIS.

The Secretary of Defense may not authorize the Defense Security Service to impose fees on a fee-for-service basis for the investigative services provided by the Defense Security Service unless the Secretary certifies in advance to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate that the Defense Security Service has the financial systems in place to determine accurately the cost of such services.

SEC. 365. LOGISTICS SUPPORT AND SERVICES FOR WEAPON SYSTEMS CONTRACTORS.

(a) AUTHORITY.—The Secretary of Defense may make available logistics support and logistics services to a contractor in support of the performance by the contractor of a contract for the construction, modification, or maintenance of a weapon system that is entered into by an official of the Department of Defense.

(b) SUPPORT CONTRACTS.—Any logistics support and logistics services to be provided under this section to a contractor in support of the performance of a contract described in subsection (a) shall be provided under a separate contract that is entered into by the Director of the Defense Logistics Agency with that contractor. The requirements of section 2208(h) of title 10, United States Code, and the regulations prescribed pursuant to such section shall apply to the contract between the Director of the Defense Logistics Agency and the contractor.

(c) SCOPE OF SUPPORT AND SERVICES.—The logistics support and logistics services that may be provided under this section in support of the performance of a contract described in subsection (a) are the distribution, disposal, and cataloging of materiel and repair parts necessary for the performance of that contract.

(d) LIMITATIONS.—(1) The number of contracts described in subsection (a) for which the Secretary of Defense makes logistics support and logistics services available under the authority of this section may not exceed five contracts. The total amount of the estimated costs of all such contracts for which logistics support and logistics services are made available under this section may not exceed $100,000,000.

(2) No contract entered into by the Director of the Defense Logistics Agency under subsection (b) may be for a period in excess of five years, including periods for which the contract is extended under options to extend the contract.

(e) REGULATIONS.—Before exercising the authority under this section, the Secretary of Defense shall prescribe in regulations such requirements, conditions, and restrictions as the Secretary determines appropriate to ensure that logistics support and logistics services are provided under this section only when it is in the best interests of the United States to do so. The regulations shall include, at a minimum, the following:

(1) A requirement for the authority under this section to be used only for providing logistics support and logistics services in support of the performance of a contract that is entered into using competitive procedures (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)).

(2) A requirement for the solicitation of offers for a contract described in subsection (a), for which logistics support and logistics services are to be made available under this section, to include—

(A) a statement that the logistics support and logistics services are to be made available under the authority of this section to any contractor awarded the contract, but only on a basis that does not require acceptance of the support and services; and

(B) a description of the range of the logistics support and logistics services that are to be made available to the contractor.

(3) A requirement for the rates charged a contractor for logistics support and logistics services provided to a contractor under this section to reflect the full cost to the United States of the resources used in providing the support and services, including the costs of resources used, but not paid for, by the Department of Defense.

(4) With respect to a contract described in subsection (a) that is being performed for a department or agency outside the Department of Defense, a prohibition, in accordance with applicable contracting procedures, on the imposition of any charge on that department or agency for any effort of Department of Defense personnel or the contractor to correct deficiencies in the performance of such contract.

(5) A prohibition on the imposition of any charge on a contractor for any effort of the contractor to correct a deficiency in the performance of logistics support and logistics services provided to the contractor under this section.

(f) RELATIONSHIP TO TREATY OBLIGATIONS.—The Secretary shall ensure that the exercise of authority under this section does not conflict with any obligation of the United States under any treaty or other international agreement.

(g) TERMINATION OF AUTHORITY.—(1) The authority provided in this section shall expire on September 30, 2007.

(2) The expiration of the authority under this section does not terminate—

(A) any contract that was entered into by the Director of the Defense Logistics Agency under subsection (b) before the date specified in paragraph (1) or any obligation to provide logistics support and logistics services under that contract; or

(B) any authority to enter into a contract described in subsection (a) for which a solicitation of offers was issued in accordance with the regulations prescribed pursuant to subsection (e)(2) before the date specified in paragraph (1) or to provide logistics support and logistics services to the contractor with respect to that contract in accordance with this section.

SEC. 366. TRAINING RANGE SUSTAINMENT PLAN, GLOBAL STATUS OF RESOURCES AND TRAINING SYSTEM, AND TRAINING RANGE INVENTORY.

(a) PLAN REQUIRED.—(1) The Secretary of Defense shall develop a comprehensive plan for using existing authorities available to the Secretary of Defense and the Secretaries of the military departments to address training constraints caused by limitations on the use of military lands, marine areas, and airspace that are available in the United States and overseas for training of the Armed Forces.

(2) As part of the preparation of the plan, the Secretary of Defense shall conduct the following:

(A) An assessment of current and future training range requirements of the Armed Forces.

(B) An evaluation of the adequacy of current Department of Defense resources (including virtual and constructive training assets as well as military lands, marine areas, and airspace available in the United States and overseas) to meet those current and future training range requirements.

(3) The plan shall include the following:

(A) Proposals to enhance training range capabilities and address any shortfalls in current Department of Defense resources identified pursuant to the assessment and evaluation conducted under paragraph (2).

(B) Goals and milestones for tracking planned actions and measuring progress.

(C) Projected funding requirements for implementing planned actions.

(D) Designation of an office in the Office of the Secretary of Defense and in each of the military departments that will have lead responsibility for overseeing implementation of the plan.

(4) At the same time as the President submits to Congress the budget for fiscal year 2004, the Secretary of Defense shall submit to Congress a report describing the progress made in implementing this subsection, including—

(A) the plan developed under paragraph (1);

(B) the results of the assessment and evaluation conducted under paragraph (2); and

(C) any recommendations that the Secretary may have for legislative or regulatory changes to address training constraints identified pursuant to this section.

(5) At the same time as the President submits to Congress the budget for each of fiscal years 2005 through 2008, the Secretary shall submit to Congress a report describing the progress made

in implementing the plan and any additional actions taken, or to be taken, to address training constraints caused by limitations on the use of military lands, marine areas, and airspace.

(b) READINESS REPORTING IMPROVEMENT.—Not later than June 30, 2003, the Secretary of Defense, using existing measures within the authority of the Secretary, shall submit to Congress a report on the plans of the Department of Defense to improve the Global Status of Resources and Training System to reflect the readiness impact that training constraints caused by limitations on the use of military lands, marine areas, and airspace have on specific units of the Armed Forces.

(c) TRAINING RANGE INVENTORY.—(1) The Secretary of Defense shall develop and maintain a training range inventory for each of the Armed Forces—

(A) to identify all available operational training ranges;

(B) to identify all training capacities and capabilities available at each training range; and

(C) to identify training constraints caused by limitations on the use of military lands, marine areas, and airspace at each training range.

(2) The Secretary of Defense shall submit an initial inventory to Congress at the same time as the President submits the budget for fiscal year 2004 and shall submit an updated inventory to Congress at the same time as the President submits the budget for fiscal years 2005 through 2008.

(d) GAO EVALUATION.—The Secretary of Defense shall transmit copies of each report required by subsections (a) and (b) to the Comptroller General. Within 60 days after receiving a report, the Comptroller General shall submit to Congress an evaluation of the report.

(e) ARMED FORCES DEFINED.—In this section, the term "Armed Forces" means the Army, Navy, Air Force, and Marine Corps.

SEC. 367. ENGINEERING STUDY AND ENVIRONMENTAL ANALYSIS OF ROAD MODIFICATIONS IN VICINITY OF FORT BELVOIR, VIRGINIA.

(a) STUDY AND ANALYSIS.—(1) The Secretary of the Army shall conduct a preliminary engineering study and environmental analysis to evaluate the feasibility of establishing a connector road between Richmond Highway (United States Route 1) and Telegraph Road in order to provide an alternative to Beulah Road (State Route 613) and Woodlawn Road (State Route 618) at Fort Belvoir, Virginia, which were closed as a force protection measure.

(2) It is the sense of Congress that the study and analysis should consider as one alternative the extension of Old Mill Road between Richmond Highway and Telegraph Road.

(b) CONSULTATION.—The study required by subsection (a) shall be conducted in consultation with the Department of Transportation of the Commonwealth of Virginia and Fairfax County, Virginia.

(c) REPORT.—The Secretary shall submit to Congress a summary report on the study and analysis required by subsection (a). The summary report shall be submitted together with the budget justification materials in support of the budget of the President for fiscal year 2006 that is submitted to Congress under section 1105(a) of title 31, United States Code.

(d) FUNDING.—Of the amount authorized to be appropriated by section 301(a)(1) for the Army for operation and maintenance, $5,000,000 may be made available for the study and analysis required by subsection (a).

SEC. 368. REAUTHORIZATION OF WARRANTY CLAIMS RECOVERY PILOT PROGRAM.

Section 391 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 2304 note), as amended by section 364 of Public Law 107–107 (115 Stat. 1068), is further amended—

(1) in subsection (f), by striking "September 30, 2003" and inserting "September 30, 2004"; and

(2) by striking subsection (g).

SEC. 369. EXPANDED ELIGIBILITY FOR LOAN, GIFT, OR EXCHANGE OF DOCUMENTS, HISTORICAL ARTIFACTS, AND CONDEMNED OR OBSOLETE COMBAT MATERIEL.

Section 2572(a)(3) of title 10, United States Code, is amended by inserting before the period the following: "or a nonprofit military aviation heritage foundation or association incorporated in a State".

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent end strength minimum levels.
Sec. 403. Expanded authority for administrative increases in statutory active-duty end strengths.
Sec. 404. General and flag officer management.
Sec. 405. Extension of certain authorities relating to management of numbers of general and flag officers in certain grades.
Sec. 406. Increase in authorized strengths for Marine Corps officers on active duty in the grade of colonel.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2003 limitation on nondual status technicians.

Subtitle C—Authorization of Appropriations

Sec. 421. Authorization of appropriations for military personnel.

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2003, as follows:

(1) The Army, 480,000.

(2) The Navy, 375,700.

(3) The Marine Corps, 175,000.

(4) The Air Force, 359,000.

SEC. 402. REVISION IN PERMANENT END STRENGTH MINIMUM LEVELS.

(a) REVISED END STRENGTH FLOORS.—Subsection (b) of section 691 of title 10, United States Code, is amended—

(1) in paragraph (2), by striking "376,000" and inserting "375,700";

(2) in paragraph (3), by striking "172,600" and inserting "175,000"; and

(3) in paragraph (4), by striking "358,800" and inserting "359,000".

(b) REPEAL OF SECRETARY OF DEFENSE FLEXIBILITY AUTHORITY.—Subsection (e) of such section is repealed.

SEC. 403. [H403]. EXPANDED AUTHORITY FOR ADMINISTRATIVE INCREASES IN STATUTORY ACTIVE-DUTY END STRENGTHS.

(a) SECRETARY OF DEFENSE AUTHORITY.—Subsection (c)(1) of section 115 of title 10, United States Code, is amended by striking "2 percent" and inserting "3 percent".

(b) SERVICE SECRETARY AUTHORITY.—Such section is further amended by inserting after subsection (e) the following new subsection:

"(f) Upon determination by the Secretary of a military department that such action would enhance manning and readiness in essential units or in critical specialties or ratings, the Secretary may increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for the armed force under the jurisdiction of that Secretary or, in the case of the Secretary of the Navy, for any of the armed forces under the jurisdiction of that Secretary. Any such increase for a fiscal year—

"(1) shall be by a number equal to not more than 2 percent of such authorized end strength; and

"(2) shall be counted as part of the increase for that armed force for that fiscal year authorized under subsection (c)(1).".

SEC. 404. GENERAL AND FLAG OFFICER MANAGEMENT.

(a) EXCLUSION OF SENIOR MILITARY ASSISTANT TO THE SECRETARY OF DEFENSE FROM LIMITATION ON ACTIVE DUTY OFFICERS IN GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL.—Effective on the date specified in subsection (d), section 525(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(8) An officer while serving in a position designated by the Secretary of Defense as Senior Military Assistant to the Secretary of Defense, if serving in the grade of lieutenant general or vice admiral, is in addition to the number that otherwise would be permitted for that officer's armed force for that grade under paragraph (1) or (2). Only one officer may be designated as Senior Military Assistant to the Secretary of Defense for purposes of this paragraph.".

(b) INCREASE IN NUMBER OF LIEUTENANT GENERALS AUTHORIZED FOR THE MARINE CORPS.—Paragraph (2)(B) of such section is amended by striking "16.2 percent" and inserting "17.5 percent".

(c) REVIEW OF ACTIVE DUTY AND RESERVE GENERAL AND FLAG OFFICER AUTHORIZATIONS.—(1) The Secretary of Defense shall submit to Congress a report containing any recommendations of the Secretary (together with the rationale of the Secretary for the recommendations) concerning the following:

(A) Revision of the limitations on general and flag officer grade authorizations and distribution in grade prescribed by sections 525, 526, and 12004 of title 10, United States Code.

(B) Statutory designation of the positions and grades of any additional general and flag officers in the commands specified in chapter 1006 of title 10, United States Code, and the reserve component offices specified in sections 3038, 5143, 5144, and 8038 of such title.

(2) The provisions of subsection (b) through (e) of section 1213 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2694) shall apply to the report under paragraph (1) in the same manner as they applied to the report required by subsection (a) of that section.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the receipt by Congress of the report required by subsection (c).

SEC. 405. EXTENSION OF CERTAIN AUTHORITIES RELATING TO MANAGEMENT OF NUMBERS OF GENERAL AND FLAG OFFICERS IN CERTAIN GRADES.

(a) SENIOR JOINT OFFICER POSITIONS.—Section 604(c) of title 10, United States Code, is amended by striking "September 30, 2003" and inserting "December 31, 2004".

(b) DISTRIBUTION OF OFFICERS ON ACTIVE DUTY IN GENERAL AND FLAG OFFICER GRADES.—Section 525(b)(5)(C) of such title is amended by striking "September 30, 2003" and inserting "December 31, 2004".

(c) AUTHORIZED STRENGTH FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.—Section 526(b)(3) of such title is amended by striking "October 1, 2002" and inserting "December 31, 2004".

SEC. 406. INCREASE IN AUTHORIZED STRENGTHS FOR MARINE CORPS OFFICERS ON ACTIVE DUTY IN THE GRADE OF COLONEL.

The table in section 523(a)(1) of title 10, United States Code, is amended by striking the figures under the heading "Colonel" in the portion of the table relating to the Marine Corps and inserting the following:

"571
632
653
673
694
715
735".

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2003, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Naval Reserve, 87,800.

(4) The Marine Corps Reserve, 39,558.

(5) The Air National Guard of the United States, 106,600.

(6) The Air Force Reserve, 75,600.

(7) The Coast Guard Reserve, 9,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2003, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 24,562.

(2) The Army Reserve, 14,070.

(3) The Naval Reserve, 14,572.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 11,727.

(6) The Air Force Reserve, 1,498.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2003 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army National Guard of the United States, 24,102.

(2) For the Army Reserve, 6,599.

(3) For the Air National Guard of the United States, 22,495.

(4) For the Air Force Reserve, 9,911.

SEC. 414. FISCAL YEAR 2003 LIMITATION ON NON-DUAL STATUS TECHNICIANS.

(a) ARMY.—The number of non-dual status technicians employed by the reserve components of the Army as of September 30, 2003, may not exceed the following:

(1) For the Army Reserve, 995.

(2) For the Army National Guard of the United States, 1,600, to be counted within the limitation specified in section 10217(c)(2) of title 10, United States Code.

(b) AIR FORCE.—The number of non-dual status technicians employed by the reserve components of the Army and the Air Force as of September 30, 2003, may not exceed the following:

(1) For the Air Force Reserve, 90.

(2) For the Air National Guard of the United States, 350, to be counted within the limitation specified in section 10217(c)(2) of title 10, United States Code.

(c) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term "non-dual status technician" has the meaning given that term in section 10217(a) of title 10, United States Code.

(d) TECHNICAL AMENDMENTS.—Section 10217(c)(2) of title 10, United States Code, is amended—

(1) in the first sentence, by striking "Effective October 1, 2002, the" and inserting "The"; and

(2) in the second sentence, by striking "after the preceding sentence takes effect".

Subtitle C—Authorization of Appropriations

SEC. 421. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2003 a total of $93,829,525,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2003.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Extension of good-of-the-service waiver authority for officers appointed to a Reserve Chief or Guard Director position.
Sec. 502. Exclusion of certain officers from limitation on authority to grant a waiver of required completion or sequencing for joint professional military education.
Sec. 503. Extension and codification of authority for recall of retired aviators to active duty.
Sec. 504. Grades for certain positions.
Sec. 505. Reinstatement of authority to reduce three-year time-in-grade requirement for retirement in grade for officers in grades above major and lieutenant commander.
Sec. 506. Authority to require that an officer take leave pending review of a recommendation for removal by a board of inquiry.

Subtitle B—Reserve Component Management

Sec. 511. Reviews of National Guard strength accounting and management and other issues.
Sec. 512. Courts-martial for the National Guard when not in Federal service.
Sec. 513. Fiscal year 2003 funding for military personnel costs of reserve component Special Operations Forces personnel engaged in humanitarian assistance activities relating to clearing of landmines.
Sec. 514. Use of Reserves to perform duties relating to defense against terrorism.
Sec. 515. Repeal of prohibition on use of Air Force Reserve AGR personnel for Air Force base security functions.

Subtitle C—Reserve Component Officer Personnel Policy

Sec. 521. Eligibility for consideration for promotion to grade of major general for certain reserve component brigadier generals who do not otherwise qualify for consideration for promotion under the one-year rule.
Sec. 522. Authority for limited extension of medical deferment of mandatory retirement or separation of reserve component officers.

Subtitle D—Enlistment, Education, and Training Programs

Sec. 531. Enlistment incentives for pursuit of skills to facilitate national service.
Sec. 532. Authority for phased increase to 4,400 in authorized strengths for the service academies.
Sec. 533. Enhancement of reserve component delayed training program.
Sec. 534. Review of Armed Forces programs for preparation for, participation in, and conduct of athletic competitions.
Sec. 535. Repeal of bar to eligibility of Army College First program participants for benefits under student loan repayment program.

Subtitle E—Decorations, Awards, and Commendations

Sec. 541. Waiver of time limitations for award of Army Distinguished-Service Cross to certain persons.
Sec. 542. Option to convert award of Armed Forces Expeditionary Medal awarded for Operation Frequent Wind to Vietnam Service Medal.
Sec. 543. Korea Defense Service Medal.
Sec. 544. Commendation of military chaplains.

Subtitle F—Administrative Matters

Sec. 551. Staffing and funding for Defense Prisoner of War/Missing Personnel Office.
Sec. 552. Three-year freeze on reductions of personnel of agencies responsible for review and correction of military records.
Sec. 553. Authority for acceptance of voluntary services of individuals as proctors for administration of Armed Services Vocational Aptitude Battery test.
Sec. 554. Extension of temporary early retirement authority.

Subtitle G—Matters Relating to Minorities and Women in the Armed Forces

Sec. 561. Surveys of racial and ethnic issues and of gender issues in the Armed Forces.
Sec. 562. Annual report on status of female members of the Armed Forces.
Sec. 563. Wear of abayas by female members of the Armed Forces in Saudi Arabia.

Subtitle H—Benefits

Sec. 571. Department of Defense support for persons participating in military funeral honors details.
Sec. 572. Emergency leave of absence program.
Sec. 573. Enhanced flexibility in medical loan repayment program.
Sec. 574. Destinations authorized for Government paid transportation of enlisted personnel for rest and recuperation absence upon extending duty at designated locations overseas.

Sec. 575. Vehicle storage in lieu of transportation when member is ordered to a nonforeign duty station outside continental United States.

Subtitle I—Reports

Sec. 581. Quadrennial quality of life review.
Sec. 582. Report on desirability and feasibility of consolidating separate courses of basic instruction for judge advocates.
Sec. 583. Reports on efforts to resolve status of Captain Michael Scott Speicher, United States Navy.
Sec. 584. Report on volunteer services of members of the reserve components in emergency response to the terrorist attacks of September 11, 2001.

Subtitle A—Officer Personnel Policy

SEC. 501. EXTENSION OF GOOD-OF-THE-SERVICE WAIVER AUTHORITY FOR OFFICERS APPOINTED TO A RESERVE CHIEF OR GUARD DIRECTOR POSITION.

(a) WAIVER OF REQUIREMENT FOR SIGNIFICANT JOINT DUTY EXPERIENCE.—Sections 3038(b)(4), 5143(b)(4), 5144(b)(4), 8038(b)(4), and 10506(a)(3)(D) of title 10, United States Code, are each amended by striking "October 1, 2003" and inserting "December 31, 2004".

(b) REPORT ON FUTURE IMPLEMENTATION OF REQUIREMENT.—Not later than May 1, 2003, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report—

(1) setting forth the steps that have been taken by the Secretary, the Secretaries of the military departments, and the Chairman of the Joint Chiefs of Staff to ensure that Reserve and National Guard officers receive significant joint duty experience; and

(2) specifying the date by which no further extension of the waiver authority under the sections amended by subsection (a) will be required.

SEC. 502. EXCLUSION OF CERTAIN OFFICERS FROM LIMITATION ON AUTHORITY TO GRANT A WAIVER OF REQUIRED COMPLETION OR SEQUENCING FOR JOINT PROFESSIONAL MILITARY EDUCATION.

(a) EXCLUSION FROM LIMITATION.—There shall be excluded from counting for purposes of the 10-percent limitation set forth in the last sentence of section 661(c)(3)(D) of title 10, United States Code (limiting the authority to grant waivers related to sequencing or completion of program of joint professional military education), any officer selected for the joint specialty who—

(1) on December 28, 2001, met the requirements of section 661(c) of such title for nomination for the joint specialty, but who had not been nominated for that specialty before that date by the Secretary of the military department concerned; and

(2) before the date of the enactment of this Act was automatically nominated for the joint specialty as a result of section 661(b)(2) of such title.

(b) TERMINATION.—The provisions of subsection (a) shall terminate on October 1, 2006.

(c) CROSS-REFERENCE CORRECTION.—Section 661(c)(3)(E) of title 10, United States Code, is amended by striking "subparagraph" and inserting "paragraph".

SEC. 503. EXTENSION AND CODIFICATION OF AUTHORITY FOR RECALL OF RETIRED AVIATORS TO ACTIVE DUTY.

(a) IN GENERAL.—(1) Chapter 39 of title 10, United States Code, is amended by inserting after section 688 the following new section:

"§688a. Retired aviators: temporary authority to order to active duty

"(a) AUTHORITY.—The Secretary of a military department may order to active duty a retired officer having expertise as an aviator to fill staff positions normally filled by aviators on active duty. Any such order may be made only with the consent of the officer ordered to active duty and in accordance with an agreement between the Secretary and the officer.

"(b) DURATION.—The period of active duty of an officer under an order to active duty under subsection (a) shall be specified in the agreement entered into under that subsection.

"(c) LIMITATION.—No more than a total of 500 officers may be on active duty at any time under subsection (a).

"(d) RELATIONSHIP TO OTHER AUTHORITY.—The authority to order a retired officer to active duty under this section is in addition to the authority under section 688 of this title or any other provision of law authorizing the Secretary concerned to order a retired member to active duty.

"(e) INAPPLICABILITY OF CERTAIN PROVISIONS.—Officers ordered to active duty under subsection (a) shall not be counted for purposes of section 688 or 690 of this title.

"(f) EXPIRATION OF AUTHORITY.—An officer may not be ordered to active duty under this section after September 30, 2008.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 688 the following new item:

"688a. Retired aviators: temporary authority to order to active duty.".

(b) GRADE IN WHICH ORDERED TO ACTIVE DUTY AND UPON RELEASE FROM ACTIVE DUTY.—(1) Section 689 of such title is amended by inserting "or 688a" after "section 688" each place it appears.

(2) The provisions of section 689(d) of title 10, United States Code, shall apply with respect to an officer ordered to active duty under section 501 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 589) before the date of the enactment of this Act in the same manner as such provisions apply to an officer ordered to active duty under section 688 of such title.

(c) TRANSITION PROVISION.—Any officer ordered to active duty under section 501 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 589) who continues on active duty under such order to active duty after the date of the enactment of this Act shall be counted for purposes of the limitation under subsection (c) of section 688a of title 10, United States Code, as added by subsection (a).

SEC. 504. GRADES FOR CERTAIN POSITIONS.

(a) HEADS OF NURSE CORPS.—(1) Section 3069(b) of title 10, United States Code, is amended by striking "brigadier general" in the second sentence and inserting "major general".

(2) The first sentence of section 5150(c) of such title is amended—

(A) by inserting "rear admiral, in the case of an officer in the Nurse Corps, or" after "for promotion to the grade of"; and

(B) by inserting ", in the case of an officer in the Medical Service Corps" after "rear admiral (lower half)".

(3) Section 8069(b) of such title is amended by striking "brigadier general" in the second sentence and inserting "major general".

(b) CHIEF OF VETERINARY CORPS OF THE ARMY.—(1) Chapter 307 of such title is amended by adding at the end the following new section:

"§3084. Chief of Veterinary Corps; grade

"The Chief of the Veterinary Corps of the Army serves in the grade of brigadier general. An officer appointed to that position who holds a lower grade shall be appointed in the grade of brigadier general.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3084. Chief of Veterinary Corps: grade.".

(c) CHIEF OF LEGISLATIVE LIAISON OF THE ARMY.—(1)(A) Chapter 303 of such title is amended by adding at the end the following new section:

"§3023. Chief of Legislative Liaison

"(a) There is a Chief of Legislative Liaison in the Department of the Army. An officer assigned to that position shall be an officer in the grade of major general.

"(b) The Chief of Legislative Liaison shall perform legislative affairs functions as specified for the Office of the Secretary of the Army by section 3014(c)(1)(F) of this title.".

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3023. Chief of Legislative Liaison.".

(2) Section 3014(b) of such title is amended—

(A) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(B) by inserting after paragraph (5) the following new paragraph (6):

"(6) The Chief of Legislative Liaison.".

(d) LEGISLATIVE AFFAIRS POSITIONS OF THE NAVY AND MARINE CORPS.—(1)(A) Chapter 503 of such title is amended by adding at the end the following new section:

"§5027. Chief of Legislative Affairs

"(a) There is a Chief of Legislative Affairs in the Department of the Navy. An officer assigned to that position shall be an officer in the grade of rear admiral.

"(b) The Chief of Legislative Affairs shall perform legislative affairs functions as specified for the Office of the Secretary of the Navy by section 5014(c)(1)(F) of this title.".

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5027. Chief of Legislative Affairs.".

(2) Section 5014(b) of such title is amended—

(A) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(B) by inserting after paragraph (5) the following new paragraph (6):

"(6) The Chief of Legislative Affairs.".

(3)(A) Chapter 506 of such title is amended by adding at the end the following new section:

"§5047. Legislative Assistant to the Commandant

"There is in the Marine Corps a Legislative Assistant to the Commandant. An officer assigned to that position shall be in a grade above colonel.".

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5047. Legislative Assistant to the Commandant.".

(e) CHIEF OF LEGISLATIVE LIAISON OF THE AIR FORCE.—(1)(A) Chapter 803 of such title is amended by adding at the end the following new section:

"§8023. Chief of Legislative Liaison

"(a) There is a Chief of Legislative Liaison in the Department of the Air Force. An officer assigned to that position shall be an officer in the grade of major general.

"(b) The Chief of Legislative Liaison shall perform legislative affairs functions as specified for the Office of the Secretary of the Air Force by section 8014(c)(1)(F) of this title.".

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"8023. Chief of Legislative Liaison.".

(2) Section 8014(b) of such title is amended—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following new paragraph (5):

"(5) The Chief of Legislative Liaison.".

(f) TECHNICAL AMENDMENT TO PROVIDE CORRECT STATUTORY TITLE OF GRADE.—Section 5022(a)(2) of such title is amended by striking "(upper half)".

SEC. 505. REINSTATEMENT OF AUTHORITY TO REDUCE THREE-YEAR TIME-IN-GRADE REQUIREMENT FOR RETIREMENT IN GRADE FOR OFFICERS IN GRADES ABOVE MAJOR AND LIEUTENANT COMMANDER.

(a) OFFICERS ON ACTIVE DUTY.—Subsection (a)(2) of section 1370 of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking "during the period beginning on October 1, 1990, and ending on December 31, 2001" and inserting "during the period beginning on October 1, 2002, and ending on December 31, 2003";

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (D) and (E), respectively; and

(3) by inserting after subparagraph (A) the following new subparagraphs (B) and (C):

"(B) In the case of an officer to be retired in a general or flag officer grade, authority provided by the Secretary of Defense to the Secretary of a military department under subparagraph (A) may be exercised with respect to that officer only if approved by the Secretary of Defense or another civilian official in the Office of the Secretary of Defense appointed by the President, by and with the advice and consent of the Senate.

"(C) Authority provided by the Secretary of Defense to the Secretary of a military department under subparagraph (A) may be delegated within that military department only to a civilian official of that military department appointed by the President, by and with the advice and consent of the Senate.".

(b) RESERVE OFFICERS.—Subsection (d) of such section is amended—

(1) by designating the second sentence of paragraph (5) as paragraph (6) and in that paragraph by striking "this paragraph" and inserting "paragraph (5)"; and

(2) in paragraph (5)—

(A) by inserting "(A)" after "(5)";

(B) by striking "in the case of retirements effective during the period beginning on October 17, 1998, and ending on December 31, 2001" and inserting "in the case of transfers to the Retired Reserve and discharges of retirement-qualified officers effective during the period beginning on October 1, 2002, and ending on December 31, 2003"; and

(C) by adding at the end (before paragraph (6) as designated by paragraph (1) of this subsection) the following new subparagraphs:

"(B) In the case of a person who, upon transfer to the Retired Reserve or discharge, is to be credited with satisfactory service in a general or flag officer grade under paragraph (1), authority provided by the Secretary of Defense to the Secretary of a military department under subparagraph (A) may be exercised with respect to that person only if approved by the Secretary of Defense or another civilian official in the Office of the Secretary of Defense appointed by the President, by and with the advice and consent of the Senate.

"(C) Authority provided by the Secretary of Defense to the Secretary of a military department under subparagraph (A) may be delegated within that military department only to a civilian official of that military department appointed by the President, by and with the advice and consent of the Senate.".

(c) ADVANCE NOTICE TO CONGRESS.—Such section is further amended by adding at the end the following new subsection:

"(e) ADVANCE NOTICE TO CONGRESSIONAL COMMITTEES.—(1) In the case of an officer to be retired in a grade that is a general or flag officer grade who is eligible to retire in that grade only by reason of an exercise of authority under paragraph (2) of subsection (a) to reduce the three-year service-in-grade requirement otherwise applicable under that paragraph, the Secretary of Defense, before the officer is retired in that grade, shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of the exercise of authority under that paragraph with respect to that officer.

"(2) In the case of a person to be credited under subsection (d) with satisfactory service in a grade that is a general or flag officer grade who is eligible to be credited with such service in that grade only by reason of an exercise of authority under paragraph (5) of that subsection to reduce the three-year service-in-grade requirement otherwise applicable under paragraph (3)(A) of that subsection, the Secretary of Defense, before the person is credited with such satisfactory service in that grade, shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of the exercise of authority under paragraph (5) of that subsection with respect to that officer.

"(3) In the case of an officer to whom subsection (c) applies, the requirement for notification under paragraph (1) is satisfied if the notification is included in the certification submitted with respect to that officer under paragraph (1) of such subsection.".

SEC. 506. AUTHORITY TO REQUIRE THAT AN OFFICER TAKE LEAVE PENDING REVIEW OF A RECOMMENDATION FOR REMOVAL BY A BOARD OF INQUIRY.

(a) REQUIREMENT.—Section 1182(c) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) Under regulations prescribed by the Secretary concerned, an officer as to whom a board of inquiry makes a recommendation under paragraph (1) that the officer not be retained on active duty may be required to take leave pending the completion of the officer's case under this chapter. The officer may be required to begin such leave at any time following the officer's receipt of the report of the board of inquiry, including the board's recommendation for removal from active duty, and the expiration of any period allowed for submission by the officer of a rebuttal to that report. The leave may be continued until the date on which action by the Secretary concerned on the officer's case is completed or may be terminated at any earlier time.".

(b) PAYMENT FOR MANDATORY EXCESS LEAVE UPON DISAPPROVAL OF CERTAIN INVOLUNTARY SEPARATION RECOMMENDATIONS.—Chapter 40 of such title is amended by inserting after section 707 the following new section:

"§707a. Payment upon disapproval of certain board of inquiry recommendations for excess leave required to be taken

"(a) An officer—

"(1) who is required to take leave under section 1182(c)(2) of this title, any period of which is charged as excess leave under section 706(a) of this title, and

"(2) whose recommendation for removal from active duty in a report of a board of inquiry is not approved by the Secretary concerned under section 1184 of this title,

shall be paid, as provided in subsection (b), for the period of leave charged as excess leave.

"(b)(1) An officer entitled to be paid under this section shall be deemed, for purposes of this section, to have accrued pay and allowances for each day of leave required to be taken under section 1182(c)(2) of this title that is charged as excess leave (except any day of accrued leave for which the officer has been paid under section 706(b)(1) of this title and which has been charged as excess leave).

"(2) The officer shall be paid the amount of pay and allowances that is deemed to have accrued to the officer under paragraph (1), reduced by the total amount of his income from wages, salaries, tips, other personal service income, unemployment compensation, and public assistance benefits from any Government agency during the period the officer is deemed to have accrued pay and allowances. Except as provided in paragraph (3), such payment shall be made within 60 days after the date on which the Secretary concerned decides not to remove the officer from active duty.

"(3) If an officer is entitled to be paid under this section, but fails to provide sufficient information in a timely manner regarding the officer's income when such information is requested under regulations prescribed under subsection (c), the period of time prescribed in paragraph (2) shall be extended until 30 days after the date on which the member provides the information requested.

"(c) This section shall be administered under uniform regulations prescribed by the Secretaries concerned. The regulations may provide for the method of determining an officer's income during any period the officer is deemed to have accrued pay and allowances, including a requirement that the officer provide income tax returns and other documentation to verify the amount of the officer's income.".

(c) CONFORMING AMENDMENTS.—(1) Section 706 of such title is amended—

(A) by inserting "or 1182(c)(2)" after "section 876a" in subsections (a), (b)(1), (b)(2), and (c); and

(B) by striking "section 707" in subsection (b)(2) and inserting "sections 707 and 707a".

(2) The heading for such section is amended to read as follows:

"§706. Administration of leave required to be taken".

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 40 of such title is amended—

(1) by striking the item relating to section 706 and inserting the following:

"706. Administration of leave required to be taken.";

and

(2) by inserting after the item relating to section 707 the following new item:

"707a. Payment upon disapproval of certain board of inquiry recommendations for excess leave required to be taken.".

Subtitle B—Reserve Component Management

SEC. 511. REVIEWS OF NATIONAL GUARD STRENGTH ACCOUNTING AND MANAGEMENT AND OTHER ISSUES.

(a) COMPTROLLER GENERAL ASSESSMENTS.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on management of the National Guard. The report shall include the following:

(1) The Comptroller General's assessment of the effectiveness of the implementation of Department of Defense plans for improving management and accounting for personnel strengths

in the National Guard, including an assessment of the process that the Department of Defense, the National Guard Bureau, the Army National Guard and State-level National Guard leadership, and leadership in the other reserve components have for identifying and addressing in a timely manner specific units in which nonparticipation rates are significantly in excess of the established norms.

(2) The Comptroller General's assessment of the effectiveness of the process for Federal recognition of senior National Guard officers and recommendations for improvement to that process.

(3) The Comptroller General's assessment of the process for, and the nature and extent of, the administrative or judicial corrective action taken by the Secretary of Defense, the Secretary of the Army, and the Secretary of the Air Force as a result of Inspector General investigations or other investigations in which allegations against senior National Guard officers are substantiated in whole or in part.

(4) The Comptroller General's determination of the effectiveness of the Federal protections provided for members or employees of the National Guard who report allegations of waste, fraud, abuse, or mismanagement and the nature and extent to which corrective action is taken against those in the National Guard who retaliate against such members or employees.

(b) SECRETARY OF DEFENSE REPORT ON DIFFERENT ARMY AND AIR FORCE PROCEDURES.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the differing Army and Air Force policies for taking adverse administrative actions against National Guard officers in a State status. The report shall include the Secretary's determination as to whether changes should be made in those policies.

SEC. 512. COURTS-MARTIAL FOR THE NATIONAL GUARD WHEN NOT IN FEDERAL SERVICE.

(a) MANNER OF PRESCRIBING PUNISHMENTS.—Section 326 of title 32, United States Code, is amended by adding at the end the following new sentence: "Punishments shall be as provided by the laws of the respective States and Territories, Puerto Rico, and the District of Columbia.".

(b) CONVENING AUTHORITY.—Section 327 of such title is amended to read as follows:

"§327. Courts-martial of National Guard not in Federal service: convening authority

"(a) In the National Guard not in Federal service, general, special, and summary courts-martial may be convened as provided by the laws of the respective States and Territories, Puerto Rico, and the District of Columbia.

"(b) In the National Guard not in Federal service—

"(1) general courts-martial may be convened by the President;

"(2) special courts-martial may be convened—

"(A) by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where members of the National Guard are on duty; or

"(B) by the commanding officer of a division, brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command; and

"(3) summary courts-martial may be convened—

"(A) by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where members of the National Guard are on duty; or

"(B) by the commanding officer of a division, brigade, regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment.

"(c) The convening authorities provided under subsection (b) are in addition to the convening authorities provided under subsection (a).".

(c) REPEAL OF SUPERSEDED AND OBSOLETE PROVISIONS.—(1) Sections 328, 329, 330, 331, 332, and 333 of title 32, United States Code, are repealed.

(2) The provisions of law repealed by paragraph (1) shall continue to apply with respect to courts-martial convened in the National Guard not in Federal service before the date of the enactment of this Act.

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 3 of such title is amended by striking the items relating to sections 327, 328, 329, 330, 331, 332, and 333 and inserting the following:

"327. Courts-martial of National Guard not in Federal service: convening authority.".

(e) MODELS FOR STATE CODE OF MILITARY JUSTICE AND STATE MANUAL FOR COURTS-MARTIAL.—(1) The Secretary of Defense shall prepare a model State code of military justice and a model State manual for courts-martial to recommend to the States for use with respect to the National Guard not in Federal service. Both such models shall be consistent with the recommendations contained in the report that was issued in 1998 by the Department of Defense Panel to Study Military Justice in the National Guard not in Federal Service.

(2) The Secretary shall ensure that adequate support for the preparation of the model State code of military justice and the model State manual for courts-martial (including the detailing of attorneys and other personnel) is provided by the General Counsel of the Department of Defense, the Secretary of the Army, the Secretary of the Air Force, and the Chief of the National Guard Bureau.

(3) If the funds available to the Chief of the National Guard Bureau are insufficient for paying the cost of the National Guard Bureau support required under paragraph (2) (including increased costs of pay of members of the National Guard for additional active duty necessitated by such requirement and increased cost of detailed attorneys and other staff, allowances, and travel expenses related to such support), the Secretary shall, upon request made by the Chief of the Bureau, provide such additional funding as the Secretary determines necessary to satisfy the requirement for such support.

(4) Not later than one year after the date of the enactment of this Act, the Secretary shall submit a report on the actions taken to carry out this subsection to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The report shall include proposals in final form of both the model State code of military justice and the model State manual for courts-martial required by paragraph (1), together with a discussion of the efforts being made to present those proposals to the States for their consideration for enactment or adoption, respectively.

(5) In this subsection, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

SEC. 513. FISCAL YEAR 2003 FUNDING FOR MILITARY PERSONNEL COSTS OF RESERVE COMPONENT SPECIAL OPERATIONS FORCES PERSONNEL ENGAGED IN HUMANITARIAN ASSISTANCE ACTIVITIES RELATING TO CLEARING OF LANDMINES.

(a) USE OF RESERVE COMPONENT MILITARY PERSONNEL FUNDS.—Fiscal year 2003 reserve component military personnel funds may be used for military personnel expenses of reserve component Special Operations forces that are incurred during fiscal year 2003 in connection with landmine clearance assistance, notwithstanding section 401(c)(1) of title 10, United States Code.

(b) REIMBURSEMENT REQUIREMENT.—Fiscal year 2003 reserve component military personnel funds shall be reimbursed from fiscal year 2003 landmine clearance assistance funds for all military personnel expenses of reserve component Special Operations forces that are incurred during fiscal year 2003 in connection with landmine clearance assistance. Such reimbursement shall be made in each instance to the reserve component military personnel account that incurred the expense.

(c) LIMITATION.—The amount of reserve component military personnel expenses incurred during fiscal year 2003 for landmine clearance assistance may not exceed 10 percent of the amount of fiscal year 2003 landmine clearance assistance funds.

(d) DEFINITIONS.—For purposes of this section:

(1) LANDMINE CLEARANCE ASSISTANCE.—The term "landmine clearance assistance" means humanitarian and civic assistance provided under section 401 of title 10, United States Code, that is described in subsection (e)(5) of that section.

(2) FISCAL YEAR 2003 LANDMINE CLEARANCE ASSISTANCE FUNDS.—The term "fiscal year 2003 landmine clearance assistance funds" means the total amount appropriated for fiscal year 2003 in operations and maintenance accounts of the Department of Defense that is provided for landmine clearance assistance.

(3) FISCAL YEAR 2003 RESERVE COMPONENT MILITARY PERSONNEL FUNDS.—The term "fiscal year 2003 reserve component military personnel funds" means amounts appropriated for fiscal year 2003 for military personnel expenses of a reserve component of the Department of Defense.

(4) MILITARY PERSONNEL EXPENSES.—The term "military personnel expenses" means expenses properly chargeable to a military personnel account of the Department of Defense.

(e) LEGISLATIVE PROPOSAL.—The Secretary of Defense shall submit to Congress, as part of the budget request of the Department of Defense for fiscal year 2004, a legislative proposal that would ensure that military personnel expenses for both active and reserve component military personnel providing landmine clearance assistance are specified in detail and are budgeted to be authorized and appropriated from the appropriate military personnel accounts.

SEC. 514. USE OF RESERVES TO PERFORM DUTIES RELATING TO DEFENSE AGAINST TERRORISM.

(a) USE OF RESERVES TO PERFORM DUTIES RELATING TO DEFENSE AGAINST TERRORISM.—Section 12304(b) of title 10, United States Code, is amended by striking "involving" and all that follows and inserting "involving—

"(1) a use or threatened use of a weapon of mass destruction; or

"(2) a terrorist attack or threatened terrorist attack in the United States that results, or could result, in catastrophic loss of life or property.".

(b) CONFORMING AMENDMENT RELATING TO FULL-TIME SUPPORT OF GUARD AND RESERVE PERSONNEL.— Section 12310(c)(1) of such title is amended by striking "involving" and all that follows and inserting "involving—

"(A) the use of a weapon of mass destruction (as defined in section 12304(i)(2) of this title); or

"(B) a terrorist attack or threatened terrorist attack in the United States that results, or could result, in catastrophic loss of life or property.".

SEC. 515. REPEAL OF PROHIBITION ON USE OF AIR FORCE RESERVE AGR PERSONNEL FOR AIR FORCE BASE SECURITY FUNCTIONS.

(a) REPEAL.—Section 12551 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1215 of such title is amended by striking the item relating to section 12551.

Subtitle C—Reserve Component Officer Personnel Policy

SEC. 521. ELIGIBILITY FOR CONSIDERATION FOR PROMOTION TO GRADE OF MAJOR GENERAL FOR CERTAIN RESERVE COMPONENT BRIGADIER GENERALS WHO DO NOT OTHERWISE QUALIFY FOR CONSIDERATION FOR PROMOTION UNDER THE ONE-YEAR RULE.

Section 14301(g) of title 10, United States Code, is amended to read as follows:

"(g) BRIGADIER GENERALS.—(1) An officer who is a reserve component brigadier general of the Army or the Air Force who is not eligible for consideration for promotion under subsection (a) because the officer is not on the reserve active status list (as required by paragraph (1) of that subsection for such eligibility) is nevertheless eligible for consideration for promotion to the grade of major general by a promotion board convened under section 14101(a) of this title if—

"(A) as of the date of the convening of the promotion board, the officer has been in an inactive status for less than one year; and

"(B) immediately before the date of the officer's most recent transfer to an inactive status, the officer had continuously served on the reserve active status list or the active-duty list (or a combination of the reserve active status list and the active-duty list) for at least one year.

"(2) An officer who is a reserve component brigadier general of the Army or the Air Force who is on the reserve active status list but who is not eligible for consideration for promotion under subsection (a) because the officer's service does not meet the one-year-of-continuous-service requirement under paragraph (2) of that subsection is nevertheless eligible for consideration for promotion to the grade of major general by a promotion board convened under section 14101(a) of this title if—

"(A) the officer was transferred from an inactive status to the reserve active status list during the one-year period preceding the date of the convening of the promotion board;

"(B) immediately before the date of the officer's most recent transfer to an active status, the officer had been in an inactive status for less than one year; and

"(C) immediately before the date of the officer's most recent transfer to an inactive status, the officer had continuously served for at least one year on the reserve active status list or the active-duty list (or a combination of the reserve active status list and the active-duty list).".

SEC. 522. AUTHORITY FOR LIMITED EXTENSION OF MEDICAL DEFERMENT OF MANDATORY RETIREMENT OR SEPARATION OF RESERVE COMPONENT OFFICERS.

(a) AUTHORITY.—Chapter 1407 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 14519. Deferment of retirement or separation for medical reasons

"(a) AUTHORITY.—If, in the case of an officer required to be retired or separated under this chapter or chapter 1409 of this title, the Secretary concerned determines that the evaluation of the physical condition of the officer and determination of the officer's entitlement to retirement or separation for physical disability require hospitalization or medical observation and that such hospitalization or medical observation cannot be completed with confidence in a manner consistent with the officer's well being before the date on which the officer would otherwise be required to retire or be separated, the Secretary may defer the retirement or separation of the officer.

"(b) PERIOD OF DEFERMENT.—A deferral of retirement or separation under subsection (a) may not extend for more than 30 days after the completion of the evaluation requiring hospitalization or medical observation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"14519. Deferment of retirement or separation for medical reasons.".

Subtitle D—Enlistment, Education, and Training Programs

SEC. 531. ENLISTMENT INCENTIVES FOR PURSUIT OF SKILLS TO FACILITATE NATIONAL SERVICE.

(a) AUTHORITY.—(1) Chapter 31 of title 10, United States Code, is amended by inserting after section 509 the following new section:

"§ 510. Enlistment incentives for pursuit of skills to facilitate national service

"(a) ENLISTMENT INCENTIVE PROGRAM.—The Secretary of Defense shall carry out an enlistment incentive program in accordance with this section under which a person who is a National Call to Service participant shall be entitled to one of the incentives specified in subsection (e). The program shall be carried out during the period ending on December 31, 2007, and may be carried out after that date.

"(b) NATIONAL CALL TO SERVICE PARTICIPANT.—In this section, the term 'National Call to Service participant' means a person who has not previously served in the armed forces who enters into an original enlistment pursuant to a written agreement with the Secretary of a military department (in such form and manner as may be prescribed by that Secretary) under which the person agrees to perform a period of national service as specified in subsection (c).

"(c) NATIONAL SERVICE.—The total period of national service to which a National Call to Service participant is obligated under the agreement under this section shall be specified in the agreement. Under the agreement, the participant shall—

"(1) upon completion of initial entry training (as prescribed by the Secretary of Defense), serve on active duty in a military occupational specialty designated by the Secretary of Defense under subsection (d) for a period of 15 months;

"(2) upon completion of the period of active duty specified in paragraph (1) and without a break in service, serve either (A) an additional period of active duty as determined by the Secretary of Defense, or (B) a period of 24 months in an active status in the Selected Reserve; and

"(3) upon completion of the period of service specified in paragraph (2), and without a break in service, serve the remaining period of obligated service specified in the agreement—

"(A) on active duty in the armed forces;

"(B) in the Selected Reserve;

"(C) in the Individual Ready Reserve;

"(D) in the Peace Corps, Americorps, or another national service program jointly designated by the Secretary of Defense and the head of such program for purposes of this section; or

"(E) in any combination of service referred to in subparagraphs (A) through (D) that is approved by the Secretary of the military department concerned pursuant to regulations prescribed by the Secretary of Defense and specified in the agreement.

"(d) DESIGNATED MILITARY OCCUPATIONAL SPECIALTIES.—The Secretary of Defense shall designate military occupational specialties for purposes of subsection (c)(1). Such military occupational specialties shall be military occupational specialties that, as determined by the Secretary, will facilitate pursuit of national service by National Call to Service participants.

"(e) INCENTIVES.—The incentives specified in this subsection are as follows:

"(1) Payment of a bonus in the amount of $5,000.

"(2) Payment in an amount not to exceed $18,000 of outstanding principal and interest on qualifying student loans of the National Call to Service participant.

"(3) Entitlement to an allowance for educational assistance at the monthly rate equal to the monthly rate payable for basic educational assistance allowances under section 3015(a)(1) of title 38 for a total of 12 months.

"(4) Entitlement to an allowance for educational assistance at the monthly rate equal to 50 percent of the monthly rate payable for basic educational assistance allowances under section 3015(b)(1) of title 38 for a total of 36 months.

"(f) ELECTION OF INCENTIVE.—A National Call to Service participant shall elect in the agreement under subsection (b) which incentive under subsection (e) to receive. An election under this subsection is irrevocable.

"(g) PAYMENT OF BONUS AMOUNTS.—(1) Payment to a National Call to Service participant of the bonus elected by the National Call to Service participant under subsection (e)(1) shall be made in such time and manner as the Secretary of Defense shall prescribe.

"(2)(A) Payment of outstanding principal and interest on the qualifying student loans of a National Call to Service participant, as elected under subsection (e)(2), shall be made in such time and manner as the Secretary of Defense shall prescribe.

"(B) Payment under this paragraph of the outstanding principal and interest on the qualifying student loans of a National Call to Service participant shall be made to the holder of such student loans, as identified by the National Call to Service participant to the Secretary of the military department concerned for purposes of such payment.

"(3) Payment of a bonus or incentive in accordance with this subsection shall be made by the Secretary of the military department concerned.

"(h) COORDINATION WITH MONTGOMERY GI BILL BENEFITS.—(1)(A) Subject to subparagraph (B), a National Call to Service participant who elects an incentive under paragraph (3) or (4) of subsection (e) is not entitled to additional educational assistance under chapter 1606 of this title or to basic educational assistance under subchapter II of chapter 30 of title 38.

"(B) If a National Call to Service participant meets all eligibility requirements specified in chapter 1606 of this title or chapter 30 of title 38 for entitlement to allowances for educational assistance under either such chapter, the participant may become eligible for allowances for educational assistance benefits under either such chapter up to the maximum allowance provided less the total amount of allowance paid under paragraph (3) or (4) of subsection (e).

"(2)(A) The Secretary of Defense shall, to the maximum extent practicable, administer the receipt by National Call to Service participants of incentives under paragraph (3) or (4) of subsection (e) as if such National Call to Service participants were, in receiving such incentives, receiving educational assistance for members of the Selected Reserve under chapter 1606 of this title.

"(B) The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, prescribe regulations for purposes of subparagraph (A). Such regulations shall, to the maximum extent practicable, take into account the administrative provisions of chapters 30 and 36 of title 38 that are specified in section 16136 of this title.

"(3)(A) Except as provided in paragraph (1), nothing in this section shall prohibit a National Call to Service participant who satisfies through service under subsection (c) the eligibility requirements for educational assistance under

chapter 1606 of this title or basic educational assistance under chapter 30 of title 38 from an entitlement to such educational assistance under chapter 1606 of this title or basic educational assistance under chapter 30 of title 38, as the case may be.

"(B)(i) A participant who made an election not to receive educational assistance under either such chapter at the applicable time specified under law or who was denied the opportunity to make an election may revoke that election or make an initial election, as the case may be, at such time and in such manner as the Secretary concerned may specify. A revocation or initial election under the preceding sentence is irrevocable.

"(ii) The participant making a revocation or initial election under clause (i) shall be eligible for educational assistance under either such chapter at such time as the participant satisfies through service the applicable eligibility requirements under either such chapter.

"(i) REPAYMENT.—(1) If a National Call to Service participant who has entered into an agreement under subsection (b) and received or benefited from an incentive under subsection (e)(1) or (e)(2) fails to complete the total period of service specified in such agreement, the National Call to Service participant shall refund to the United States the amount that bears the same ratio to the amount of the incentive as the uncompleted part of such service bears to the total period of such service.

"(2) Subject to paragraph (3), an obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) The Secretary concerned may waive, in whole or in part, a reimbursement required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

"(4) A discharge in bankruptcy under title 11 that is entered into less than five years after the termination of an agreement entered into under subsection (b) does not discharge the person signing the agreement from a debt arising under the agreement or under paragraph (1).

"(j) FUNDING.—Amounts for payment of incentives under subsection (e), including payment of allowances for educational assistance under that subsection, shall be derived from amounts available to the Secretary of the military department concerned for payment of pay, allowances, and other expenses of the members of the armed force concerned.

"(k) REGULATIONS.—The Secretary of Defense and the Secretaries of the military departments shall prescribe regulations for purposes of the program under this section.

"(l) DEFINITIONS.—In this section:

"(1) The term 'Americorps' means the Americorps program carried out under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).

"(2) The term 'qualifying student loan' means a loan, the proceeds of which were used to pay any part or all of the cost of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll)) at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

"(3) The term 'Secretary of a military department' includes, with respect to matters concerning the Coast Guard when it is not operating as a service in the Navy, the Secretary of the Department in which the Coast Guard is operating.".

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 509 the following new item:

"510. Enlistment incentives for pursuit of skills to facilitate national service.".

(b) COMMENCEMENT OF PROGRAM.—The Secretary of Defense shall prescribe the date on which the program provided for section 510 of title 10, United States Code, as added by subsection (a), shall commence. Such date shall be not later than October 1, 2003.

(c) CONFORMING REPEAL.—Section 3264 of title 10, United States Code, is repealed. The table of sections at the beginning of chapter 333 of such title is amended by striking the item relating to section 3264.

(d) IMPLEMENTATION REPORT.—Not later than March 31, 2003, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the Secretary's plans for implementation of section 510 of title 10, United States Code, as added by subsection (a).

(e) EFFECTIVENESS REPORTS.—Not later than March 31, 2005, and March 31, 2007, the Secretary of Defense shall submit to the committees specified in subsection (d) reports on the effectiveness of the program under section 510 of title 10, United States Code, as added by subsection (a), in attracting new recruits to national service.

SEC. 532. AUTHORITY FOR PHASED INCREASE TO 4,400 IN AUTHORIZED STRENGTHS FOR THE SERVICE ACADEMIES.

(a) MILITARY ACADEMY.—Section 4342 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting before the period at the end of the first sentence the following: "or such higher number as may be prescribed by the Secretary of the Army under subsection (j)"; and

(2) by adding at the end the following new subsection:

"(j)(1) Beginning with the 2003–2004 academic year, the Secretary of the Army may prescribe annual increases in the cadet strength limit in effect under subsection (a). For any academic year, any such increase shall be by no more than 100 cadets or such lesser number as applies under paragraph (3) for that year. Such annual increases may be prescribed until the cadet strength limit is 4,400. However, no increase may be prescribed for any academic year after the 2007–2008 academic year.

"(2) Any increase in the cadet strength limit under paragraph (1) with respect to an academic year shall be prescribed not later than the date on which the budget of the President is submitted to Congress under section 1105 of title 31 for the fiscal year beginning in the same year as the year in which that academic year begins. Whenever the Secretary prescribes such an increase, the Secretary shall submit to Congress a notice in writing of the increase. The notice shall state the amount of the increase in the cadet strength limit and the new cadet strength limit, as so increased, and the amount of the increase in Senior Army Reserve Officers' Training Corps enrollment under each of sections 2104 and 2107 of this title.

"(3) The amount of an increase under paragraph (1) in the cadet strength limit for an academic year may not exceed the increase (if any) for the preceding academic year in the total number of cadets enrolled in the Army Senior Reserve Officers' Training Corps program under chapter 103 of this title who have entered into an agreement under section 2104 or 2107 of this title.

"(4) In this subsection, the term 'cadet strength limit' means the authorized maximum strength of the Corps of Cadets of the Academy.".

(b) NAVAL ACADEMY.—Section 6954 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting before the period at the end of the first sentence the following: "or such higher number as may be prescribed by the Secretary of the Navy under subsection (h)"; and

(2) by adding at the end the following new subsection:

"(h)(1) Beginning with the 2003–2004 academic year, the Secretary of the Navy may prescribe annual increases in the midshipmen strength limit in effect under subsection (a). For any academic year, any such increase shall be by no more than 100 midshipmen or such lesser number as applies under paragraph (3) for that year. Such annual increases may be prescribed until the midshipmen strength limit is 4,400. However, no increase may be prescribed for any academic year after the 2007–2008 academic year.

"(2) Any increase in the midshipmen strength limit under paragraph (1) with respect to an academic year shall be prescribed not later than the date on which the budget of the President is submitted to Congress under section 1105 of title 31 for the fiscal year beginning in the same year as the year in which that academic year begins. Whenever the Secretary prescribes such an increase, the Secretary shall submit to Congress a notice in writing of the increase. The notice shall state the amount of the increase in the midshipmen strength limit and the new midshipmen strength limit, as so increased, and the amount of the increase in Senior Navy Reserve Officers' Training Corps enrollment under each of sections 2104 and 2107 of this title.

"(3) The amount of an increase under paragraph (1) in the midshipmen strength limit for an academic year may not exceed the increase (if any) for the preceding academic year in the total number of midshipmen enrolled in the Navy Senior Reserve Officers' Training Corps program under chapter 103 of this title who have entered into an agreement under section 2104 or 2107 of this title.

"(4) In this subsection, the term 'midshipmen strength limit' means the authorized maximum strength of the Brigade of Midshipmen.".

(c) AIR FORCE ACADEMY.—Section 9342 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting before the period at the end of the first sentence the following: "or such higher number as may be prescribed by the Secretary of the Air Force under subsection (j)"; and

(2) by adding at the end the following new subsection:

"(j)(1) Beginning with the 2003–2004 academic year, the Secretary of the Air Force may prescribe annual increases in the cadet strength limit in effect under subsection (a). For any academic year, any such increase shall be by no more than 100 cadets or such lesser number as applies under paragraph (3) for that year. Such annual increases may be prescribed until the cadet strength limit is 4,400. However, no increase may be prescribed for any academic year after the 2007–2008 academic year.

"(2) Any increase in the cadet strength limit under paragraph (1) with respect to an academic year shall be prescribed not later than the date on which the budget of the President is submitted to Congress under sections 1105 of title 31 for the fiscal year beginning in the same year as the year in which that academic year begins. Whenever the Secretary prescribes such an increase, the Secretary shall submit to Congress a notice in writing of the increase. The notice shall state the amount of the increase in the cadet strength limit and the new cadet strength limit, as so increased, and the amount of the increase in Senior Air Force Reserve Officers' Training Corps enrollment under each of sections 2104 and 2107 of this title.

"(3) The amount of an increase under paragraph (1) in the cadet strength limit for an academic year may not exceed the increase (if any) for the preceding academic year in the total

number of cadets enrolled in the Air Force Senior Reserve Officers' Training Corps program under chapter 103 of this title who have entered into an agreement under section 2104 or 2107 of this title.

"(4) In this subsection, the term 'cadet strength limit' means the authorized maximum strength of Air Force Cadets of the Academy.".

(d) Target for Increases in Number of ROTC Scholarship Participants.—Section 2107 of such title is amended by adding at the end the following new subsection:

"(i) The Secretary of each military department shall seek to achieve an increase in the number of agreements entered into under this section so as to achieve an increase, by the 2006–2007 academic year, of not less than 400 in the number of cadets or midshipmen, as the case may be, enrolled under this section, compared to such number enrolled for the 2002–2003 academic year. In the case of the Secretary of the Navy, the Secretary shall seek to ensure that not less than one-third of such increase in agreements under this section are with students enrolled (or seeking to enroll) in programs of study leading to a baccalaureate degree in nuclear engineering or another appropriate technical, scientific, or engineering field of study.".

(e) Repeal of Limit on Number of ROTC Scholarships.—Section 2107 of such title is further amended by striking the first sentence of subsection (h)(1).

(f) Repeal of Obsolete Language.—Section 4342(i) of such title is amended by striking "(beginning with the 2001–2002 academic year)".

SEC. 533. ENHANCEMENT OF RESERVE COMPONENT DELAYED TRAINING PROGRAM.

(a) Increase in Time Following Enlistment for Commencement of Initial Period of Active Duty for Training.—Section 12103(d) of title 10, United States Code, is amended by striking "270 days" in the last sentence and inserting "one year".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to enlistments under section 12103(d) of title 10, United States Code, after the end of the 90-day period beginning on the date of the enactment of this Act.

(c) Transition.—In the case of a person who enlisted under section 12103(d) of title 10, United States Code, before the date of the enactment of this Act and who as of such date has not commenced the required initial period of active duty for training under that section, the amendment made by subsection (a) may be applied to that person, but only with the agreement of that person and the Secretary concerned.

SEC. 534. REVIEW OF ARMED FORCES PROGRAMS FOR PREPARATION FOR, PARTICIPATION IN, AND CONDUCT OF ATHLETIC COMPETITIONS.

(a) Requirement for Review.—The Secretary of Defense shall conduct a comprehensive review of the programs of the active and reserve components of the Armed Forces for preparation for, participation in, and conduct of athletic competitions.

(b) Consideration of Funding.—The matters reviewed under subsection (a) shall include the funding sources that are currently available for the programs referred to in such subsection and any relevant limitations on the use of such funding sources.

(c) Report.—Not later than March 3, 2003, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the Secretary's findings and conclusions resulting from the review. The report shall include the following matters:

(1) The Secretary's views on the adequacy of the existing funding sources for the programs referred to in subsection (a).

(2) Any recommendations that the Secretary may have regarding limitations on the use of such funding sources or any inadequacies in the funding for such programs.

(3) An assessment of the issues related to, and recommendations of the Secretary for, achieving consistent funding and policy treatment with regard to participation by active and reserve component personnel in athletic competitions.

(4) Any recommended legislation that the Secretary considers appropriate regarding such programs.

SEC. 535. REPEAL OF BAR TO ELIGIBILITY OF ARMY COLLEGE FIRST PROGRAM PARTICIPANTS FOR BENEFITS UNDER STUDENT LOAN REPAYMENT PROGRAM.

Subsection (e) of section 573 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 513 note) is repealed.

Subtitle E—Decorations and Awards

SEC. 541. WAIVER OF TIME LIMITATIONS FOR AWARD OF ARMY DISTINGUISHED-SERVICE CROSS TO CERTAIN PERSONS.

(a) Waiver.—Any limitation established by law or policy for the time within which a recommendation for the award of a military decoration or award must be submitted shall not apply to awards of decorations described in subsection (b), the award of each such decoration having been determined by the Secretary of the Army to be warranted in accordance with section 1130 of title 10, United States Code.

(b) Distinguished-Service Cross of the Army.—Subsection (a) applies to the award of the Distinguished-Service Cross of the Army as follows:

(1) To Henry Johnson of Albany, New York, for extraordinary heroism in France during the period of May 13 to 15, 1918, while serving as a member of the Army.

(2) To Hilliard Carter of Jackson, Mississippi, for extraordinary heroism in actions near Troung Loung, Republic of Vietnam, on September 28, 1966, while serving as a member of the Army.

(3) To Albert C. Welch of Florrisant, Colorado, for extraordinary heroism in actions in Ong Thanh, Binh Long Province, Republic of Vietnam, on October 17, 1967, while serving as a member of the Army.

SEC. 542. OPTION TO CONVERT AWARD OF ARMED FORCES EXPEDITIONARY MEDAL AWARDED FOR OPERATION FREQUENT WIND TO VIETNAM SERVICE MEDAL.

(a) In General.—The Secretary of the military department concerned shall, upon the application of an individual who is an eligible Vietnam evacuation veteran, award that individual the Vietnam Service Medal, notwithstanding any otherwise applicable requirements for the award of that medal. Any such award shall be made in lieu of the Armed Forces Expeditionary Medal awarded the individual for participation in Operation Frequent Wind.

(b) Eligible Vietnam Evacuation Veteran.—For purposes of this section, the term "eligible Vietnam evacuation veteran" means a member or former member of the Armed Forces who was awarded the Armed Forces Expeditionary Medal for participation in military operations designated as Operation Frequent Wind arising from the evacuation of Vietnam on April 29 and 30, 1975.

SEC. 543. KOREA DEFENSE SERVICE MEDAL.

(a) Findings.—Congress makes the following findings:

(1) More than 40,000 members of the United States Armed Forces have served in the Republic of Korea or the waters adjacent thereto each year since the signing of the cease-fire agreement in July 1953 ending the Korean War.

(2) An estimated 1,200 members of the United States Armed Forces have died as a direct result of their service in Korea since the cease-fire agreement in July 1953.

(b) Army.—(1) Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

"§3755. Korea Defense Service Medal

"(a) The Secretary of the Army shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Army served in the Republic of Korea or the waters adjacent thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).

"(b) In this section, the term 'KDSM eligibility period' means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.

"(c) The Secretary of the Army shall prescribe service requirements for eligibility for the Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award of that medal is authorized.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3755. Korea Defense Service Medal.".

(c) Navy and Marine Corps.—(1) Chapter 567 of title 10, United States Code, is amended by adding at the end the following new section:

"§6257. Korea Defense Service Medal

"(a) The Secretary of the Navy shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Navy or Marine Corps served in the Republic of Korea or the waters adjacent thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).

"(b) In this section, the term 'KDSM eligibility period' means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.

"(c) The Secretary of the Navy shall prescribe service requirements for eligibility for the Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award of that medal is authorized.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6257. Korea Defense Service Medal.".

(d) Air Force.—(1) Chapter 857 of title 10, United States Code, is amended by adding at the end the following new section:

"§8755. Korea Defense Service Medal

"(a) The Secretary of the Air Force shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Air Force served in the Republic of Korea or the waters adjacent thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).

"(b) In this section, the term 'KDSM eligibility period' means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.

"(c) The Secretary of the Air Force shall prescribe service requirements for eligibility for the

Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award of that medal is authorized.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''8755. Korea Defense Service Medal.''.

(e) Award for Service Before Date of Enactment.—The Secretary of the military department concerned shall take appropriate steps to provide in a timely manner for the issuance of the Korea Defense Service Medal, upon application therefor, to persons whose eligibility for that medal is by reason of service in the Republic of Korea or the waters adjacent thereto before the date of the enactment of this Act.

SEC. 544. COMMENDATION OF MILITARY CHAPLAINS.

(a) Findings.—Congress finds the following:

(1) Military chaplains have served with those who fought for the cause of freedom since the founding of the Nation.

(2) Military chaplains and religious support personnel of the Armed Forces have served with distinction as uniformed members of the Armed Forces in support of the Nation's defense missions during every conflict in the history of the United States.

(3) 400 United States military chaplains have died in combat, some as a result of direct fire while ministering to fallen Americans, while others made the ultimate sacrifice as a prisoner of war.

(4) Military chaplains currently serve in humanitarian operations, rotational deployments, and in the war on terrorism.

(5) Religious organizations make up the very fabric of religious diversity and represent unparalleled levels of freedom of conscience, speech, and worship that set the United States apart from any other nation on Earth.

(6) Religious organizations have richly blessed the uniformed services by sending clergy to comfort and encourage all persons of faith in the Armed Forces.

(7) During the sinking of the USS Dorchester in February 1943 during World War II, four chaplains (Reverend Fox, Reverend Poling, Father Washington, and Rabbi Goode) gave their lives so that others might live.

(8) All military chaplains aid and assist members of the Armed Forces and their family members with the challenging issues of today's world.

(9) The current war against terrorism has brought to the shores of the United States new threats and concerns that strike at the beliefs and emotions of Americans.

(10) Military chaplains must, as never before, deal with the spiritual well-being of the members of the Armed Forces and their families.

(b) Commendation.—Congress, on behalf of the Nation, expresses its appreciation for the outstanding contribution that all military chaplains make to the members of the Armed Forces and their families.

(c) Presidential Proclamation.—The President is authorized and requested to issue a proclamation calling on the people of the United States to recognize the distinguished service of the Nation's military chaplains.

Subtitle F—Administrative Matters

SEC. 551. STAFFING AND FUNDING FOR DEFENSE PRISONER OF WAR/MISSING PERSONNEL OFFICE.

(a) Requirement for Staffing and Funding at Levels Required for Performance of Full Range of Missions.—Subsection (a) of section 1501 of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(5)(A) The Secretary of Defense shall ensure that the office is provided sufficient military and civilian personnel, and sufficient funding, to enable the office to fully perform the complete range of missions of the office. The Secretary shall ensure that Department of Defense programming, planning, and budgeting procedures are structured so as to ensure compliance with the preceding sentence for each fiscal year.

''(B) For any fiscal year, the number of military and civilian personnel assigned or detailed to the office may not be less than the number requested in the President's budget for fiscal year 2003, unless a level below such number is expressly required by law.

''(C) For any fiscal year, the level of funding allocated to the office within the Department of Defense may not be below the level requested for such purposes in the President's budget for fiscal year 2003, unless such a level of funding is expressly required by law.''.

(b) Name of Office.—Such subsection is further amended by inserting after the first sentence of paragraph (1) the following new sentence: ''Such office shall be known as the Defense Prisoner of War/Missing Personnel Office.''.

SEC. 552. THREE-YEAR FREEZE ON REDUCTIONS OF PERSONNEL OF AGENCIES RESPONSIBLE FOR REVIEW AND CORRECTION OF MILITARY RECORDS.

(a) In General.—Chapter 79 of title 10, United States Code, is amended by adding at the end the following new section:

''§1559. Personnel limitation

''(a) Limitation.—During fiscal years 2003, 2004, and 2005, the Secretary of a military department may not carry out any reduction in the number of military and civilian personnel assigned to duty with the service review agency for that military department below the baseline number for that agency until—

''(1) the Secretary submits to Congress a report that—

''(A) describes the reduction proposed to be made;

''(B) provides the Secretary's rationale for that reduction; and

''(C) specifies the number of such personnel that would be assigned to duty with that agency after the reduction; and

''(2) a period of 90 days has elapsed after the date on which the report is submitted.

''(b) Baseline Number.—The baseline number for a service review agency under this section is—

''(1) for purposes of the first report with respect to a service review agency under this section, the number of military and civilian personnel assigned to duty with that agency as of January 1, 2002; and

''(2) for purposes of any subsequent report with respect to a service review agency under this section, the number of such personnel specified in the most recent report with respect to that agency under this section.

''(c) Service Review Agency Defined.—In this section, the term 'service review agency' means—

''(1) with respect to the Department of the Army, the Army Review Boards Agency;

''(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

''(3) with respect to the Department of the Air Force, the Air Force Review Boards Agency.''.

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''1559. Personnel limitation.''.

SEC. 553. AUTHORITY FOR ACCEPTANCE OF VOLUNTARY SERVICES OF INDIVIDUALS AS PROCTORS FOR ADMINISTRATION OF ARMED SERVICES VOCATIONAL APTITUDE BATTERY TEST.

Section 1588(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(6) Voluntary services as a proctor for administration to secondary school students of the test known as the 'Armed Services Vocational Aptitude Battery'.''.

SEC. 554. EXTENSION OF TEMPORARY EARLY RETIREMENT AUTHORITY.

Effective January 1, 2002, section 4403(i) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1293 note) is amended by striking ''December 31, 2001'' and inserting ''September 1, 2002''.

Subtitle G—Matters Relating to Minorities and Women in the Armed Forces

SEC. 561. SURVEYS OF RACIAL AND ETHNIC ISSUES AND OF GENDER ISSUES IN THE ARMED FORCES.

(a) Division of Annual Survey Into Four Quadrennial Surveys.—(1) Section 481 of title 10, United States Code, is amended to read as follows:

''§481. Racial and ethnic issues; gender issues: surveys

''(a) In General.—(1) The Secretary of Defense shall carry out four quadrennial surveys (each in a separate year) in accordance with this section to identify and assess racial and ethnic issues and discrimination, and to identify and assess gender issues and discrimination, among members of the armed forces. Each such survey shall be conducted so as to identify and assess the extent (if any) of activity among such members that may be seen as so-called 'hate group' activity.

''(2) The four surveys shall be as follows:

''(A) To identify and assess racial and ethnic issues and discrimination among members of the armed forces serving on active duty.

''(B) To identify and assess racial and ethnic issues and discrimination among members of the armed forces in the reserve components.

''(C) To identify and assess gender issues and discrimination among members of the armed forces serving on active duty.

''(D) To identify and assess gender issues and discrimination members of the armed forces in the reserve components.

''(3) The surveys under this section relating to racial and ethnic issues and discrimination shall be known as the 'Armed Forces Workplace and Equal Opportunity Surveys'. The surveys under this section relating to gender issues and discrimination shall be known as the 'Armed Forces Workplace and Gender Relations Surveys'.

''(4) Each survey under this section shall be conducted separately from any other survey conducted by the Department of Defense.

''(b) Armed Forces Workplace and Equal Opportunity Surveys.—The Armed Forces Workplace and Equal Opportunity Surveys shall be conducted so as to solicit information on racial and ethnic issues, including issues relating to harassment and discrimination, and the climate in the armed forces for forming professional relationships among members of the armed forces of various racial and ethnic groups. Both such surveys shall be conducted so as to solicit information on the following:

''(1) Indicators of positive and negative trends for professional and personal relationships among members of all racial and ethnic groups.

''(2) The effectiveness of Department of Defense policies designed to improve relationships among all racial and ethnic groups.

''(3) The effectiveness of current processes for complaints on and investigations into racial and ethnic discrimination.

"(c) ARMED FORCES WORKPLACE AND GENDER RELATIONS SURVEYS.—The Armed Forces Workplace and Gender Relations Surveys shall be conducted so as to solicit information on gender issues, including issues relating to gender-based harassment and discrimination, and the climate in the armed forces for forming professional relationships between male and female members of the armed forces. Both such surveys shall be conducted so as to solicit information on the following:

"(1) Indicators of positive and negative trends for professional and personal relationships between male and female members of the armed forces.

"(2) The effectiveness of Department of Defense policies designed to improve professional relationships between male and female members of the armed forces.

"(3) The effectiveness of current processes for complaints on and investigations into gender-based discrimination.

"(d) SURVEYS TO BE CONDUCTED IN DIFFERENT YEARS.—Each of the four quadrennial surveys conducted under this section shall be conducted in a different year from any other survey conducted under this section, so that one such survey is conducted during each year.

"(e) REPORTS TO CONGRESS.—Upon the completion of a survey under this section, the Secretary shall submit to Congress a report containing the results of the survey.

"(f) INAPPLICABILITY TO COAST GUARD.—This section does not apply to the Coast Guard.".

(2) The item relating to such section in the table of sections at the beginning of chapter 23 of such title is amended to read as follows:

"481. Racial and ethnic issues; gender issues: surveys.".

(b) EFFECTIVE DATE.—The first survey under section 481 of title 10, United States Code, as amended by subsection (a)(1), shall be carried out during 2003.

SEC. 562. ANNUAL REPORT ON STATUS OF FEMALE MEMBERS OF THE ARMED FORCES.

(a) REQUIREMENT FOR REPORT.—The Secretary of Defense shall submit to Congress, for each of fiscal years 2002 through 2006, a report on the status of female members of the Armed Forces. Information in the annual report shall be shown for the Department of Defense as a whole and separately for each of the Army, Navy, Air Force, and Marine Corps.

(b) MATTERS TO BE INCLUDED.—The report for a fiscal year under subsection (a) shall include the following information:

(1) The positions, weapon systems, and fields of skills for which, by policy, female members are not eligible for assignment, as follows:

(A) In the report for fiscal year 2002—

(i) an identification of each position, weapon system, and field of skills for which, by policy, female members are not eligible; and

(ii) the rationale for the applicability of the policy to each such position, weapon system, and field.

(B) In the report for each fiscal year after fiscal year 2002, the positions, weapon systems, and fields for which policy on the eligibility of female members for assignment has changed during that fiscal year, including a discussion of how the policy has changed and the rationale for the change.

(2) Information on joint spouse assignments, as follows:

(A) The number of cases in which members of the Armed Forces married to each other are in assignments to which they were jointly assigned during that fiscal year, as defined in the applicable Department of Defense and military department personnel assignment policies.

(B) The number of cases in which members of the Armed Forces married to each other are in assignments to which they were assigned during that fiscal year, but were not jointly assigned (as so defined).

(3) Promotion selection rates for female members, for male members, and for all personnel in the reports submitted by promotion selection boards in that fiscal year for promotion to grades E–7, E–8, and E–9, and, in the case of commissioned officers, promotion to grades O–4, O–5, and O–6.

(4) Retention rates for female members in each grade and for male members in each grade during that fiscal year.

(5) Selection rates for female members and for male members for assignment to grade O–6 and grade O–5 command positions in reports of command selection boards that were submitted during that fiscal year.

(6) Selection rates for female members and for male members for attendance at intermediate service schools (ISS) and, separately, for attendance at senior service schools (SSS) in reports of selection boards that were submitted during that fiscal year.

(7) The extent of assignments of female members during that fiscal year in each field in which at least 80 percent of the Armed Forces personnel assigned in the field are men.

(8) The incidence of sexual harassment complaints made during that fiscal year, stated as the number of cases in which complaints of sexual harassment were filed under procedures of military departments that are applicable to the submission of sexual harassment complaints, together with the number and percent of the complaints that were substantiated.

(9) Satisfaction (based on surveys) of female active-duty members, female dependents of active-duty members, and female dependents of nonactive duty members entitled to health care provided by the Department of Defense with access to, and quality of, women's health care benefits provided by the Department of Defense.

(c) TIME FOR REPORT.—The report for a fiscal year under this section shall be submitted not later than 120 days after the end of that fiscal year.

SEC. 563. WEAR OF ABAYAS BY FEMALE MEMBERS OF THE ARMED FORCES IN SAUDI ARABIA.

(a) PROHIBITION RELATING TO WEAR OF ABAYAS.—No member of the Armed Forces having authority over a member of the Armed Forces and no officer or employee of the United States having authority over a member of the Armed Forces may require or encourage that member to wear the abaya garment or any part of the abaya garment while the member is in the Kingdom of Saudi Arabia pursuant to a permanent change of station or orders for temporary duty.

(b) INSTRUCTION.—(1) The Secretary of Defense shall provide each female member of the Armed Forces ordered to a permanent change of station or temporary duty in the Kingdom of Saudi Arabia with instruction regarding the prohibition in subsection (a). Such instruction shall be provided immediately upon or not more than 48 hours prior to the arrival of the member at a United States military installation within the Kingdom of Saudi Arabia. The instruction shall be presented orally and in writing. The written instruction shall include the full text of this section.

(2) In carrying out paragraph (1), the Secretary shall act through the Commander in Chief, United States Central Command and Joint Task Force Southwest Asia, and the commanders of the Army, Navy, Air Force, and Marine Corps components of the United States Central Command and Joint Task Force Southwest Asia.

(c) PROHIBITION ON USE OF FUNDS FOR PROCUREMENT OF ABAYAS.—Funds appropriated or otherwise made available to the Department of Defense may not be used to procure abayas for regular or routine issuance to members of the Armed Forces serving in the Kingdom of Saudi Arabia or for any personnel of contractors accompanying the Armed Forces in the Kingdom of Saudi Arabia in the performance of contracts entered into by the United States with such contractors.

Subtitle H—Benefits

SEC. 571. DEPARTMENT OF DEFENSE SUPPORT FOR PERSONS PARTICIPATING IN MILITARY FUNERAL HONORS DETAILS.

Section 1491(d) of title 10, United States Code, is amended—

(1) by striking "To provide a" after "SUPPORT.—" and inserting "(1) To support a";

(2) by redesignating paragraph (1) as subparagraph (A) and amending such subparagraph, as so redesignated, to read as follows:

"(A) For a person who participates in a funeral honors detail (other than a person who is a member of the armed forces not in a retired status or an employee of the United States), either transportation (or reimbursement for transportation) and expenses or the daily stipend prescribed under paragraph (2).";

(3) by redesignating paragraph (2) as subparagraph (B) and in that subparagraph—

(A) by striking "Materiel, equipment, and training for" and inserting "For"; and

(B) by inserting before the period at the end "and for members of the armed forces in a retired status, materiel, equipment, and training";

(4) by redesignating paragraph (3) as subparagraph (C) and in that subparagraph—

(A) by striking "Articles of clothing for" and inserting "For"; and

(B) by inserting ", articles of clothing" after "subsection (b)(2)"; and

(5) by adding at the end the following new paragraphs:

"(2) The Secretary of Defense shall prescribe annually a flat rate daily stipend for purposes of paragraph (1)(A). Such stipend shall be set at a rate so as to encompass typical costs for transportation and other miscellaneous expenses for persons participating in funeral honors details who are members of the armed forces in a retired status and other persons who are not members of the armed forces or employees of the United States.

"(3) A stipend paid under this subsection to a member of the armed forces in a retired status is in addition to any compensation to which the member is entitled under section 435(a)(2) of title 37 and any other compensation to which the member may be entitled.".

SEC. 572. EMERGENCY LEAVE OF ABSENCE PROGRAM.

(a) IN GENERAL.—Chapter 40 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 709. Emergency leave of absence

"(a) EMERGENCY LEAVE OF ABSENCE.—The Secretary concerned may grant a member of the armed forces emergency leave of absence for a qualifying emergency.

"(b) LIMITATIONS.—An emergency leave of absence under this section—

"(1) may be granted only once for any member;

"(2) may be granted only to prevent the member from entering unearned leave status or excess leave status; and

"(3) may not extend for a period of more than 14 days.

"(c) QUALIFYING EMERGENCY.—In this section, the term 'qualifying emergency', with respect to a member of the armed forces, means a circumstance that—

"(1) is due to—

"(A) a medical condition of a member of the immediate family of the member; or

"(B) any other hardship that the Secretary concerned determines appropriate for purposes of this section; and

"(2) is verified to the Secretary's satisfaction based upon information or opinion from a source in addition to the member that the Secretary considers to be objective and reliable.

"(d) MILITARY DEPARTMENT REGULATIONS.—Regulations prescribed under this section by the Secretaries of the military department shall be as uniform as practicable and shall be subject to approval by the Secretary of Defense.

"(e) DEFINITIONS.—In this section:

"(1) The term 'unearned leave status' means leave approved to be used by a member of the armed forces that exceeds the amount of leave credit that has been accrued as a result of the member's active service and that has not been previously used by the member.

"(2) The term 'excess leave status' means leave approved to be used by a member of the armed forces that is unearned leave for which a member is unable to accrue leave credit during the member's current term of service before the member's separation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"709. Emergency leave of absence.".

SEC. 573. ENHANCED FLEXIBILITY IN MEDICAL LOAN REPAYMENT PROGRAM.

(a) ELIGIBLE PERSONS.—Subsection (d) of section 2173 of title 10, United States Code, is amended by striking "Participants" and all that follows through "and students" and inserting "Students".

(b) LOAN REPAYMENT AMOUNTS.—Subsection (e)(2) of such section is amended by striking the last sentence.

SEC. 574. DESTINATIONS AUTHORIZED FOR GOVERNMENT PAID TRANSPORTATION OF ENLISTED PERSONNEL FOR REST AND RECUPERATION ABSENCE UPON EXTENDING DUTY AT DESIGNATED LOCATIONS OVERSEAS.

(a) EXPANSION OF BENEFITS.—Subsection (b)(2) of section 705 of title 10, United States Code, is amended by inserting before the period at the end the following: ", or to an alternative destination and return at a cost not to exceed the cost of round-trip transportation from the location of the extended tour of duty to such nearest port".

(b) CHANGE IN TERMINOLOGY.—(1) Subsection (b) of such section is further amended by striking "recuperative" in paragraphs (1) and (2) and inserting "recuperation".

(2)(A) The heading of such section is amended to read as follows:

"§ 705. Rest and recuperation absence: qualified enlisted members extending duty at designated locations overseas".

(B) The item relating to such section in the table of sections at the beginning of chapter 40 of such title is amended to read as follows:

"705. Rest and recuperation absence: qualified enlisted members extending duty at designated locations overseas.".

SEC. 575. VEHICLE STORAGE IN LIEU OF TRANSPORTATION WHEN MEMBER IS ORDERED TO A NONFOREIGN DUTY STATION OUTSIDE CONTINENTAL UNITED STATES.

(a) STORAGE COSTS AUTHORIZED.—Subsection (b) of section 2634 of title 10, United States Code, is amended by striking paragraphs (1) and (2) and inserting the following:

"(b)(1) When a member receives a vehicle storage qualifying order, the member may elect to have a motor vehicle described in subsection (a) stored at the expense of the United States at a location approved by the Secretary concerned. In the case of a vehicle storage qualifying order that is to make a change of permanent station, such storage is in lieu of transportation authorized by subsection (a).

"(2) In this subsection, the term 'vehicle storage qualifying order' means any of the following:

"(A) An order to make a change of permanent station to a foreign country in a case in which the laws, regulations, or other restrictions imposed by the foreign country or by the United States either—

"(i) preclude entry of a motor vehicle described in subsection (a) into that country; or

"(ii) would require extensive modification of the vehicle as a condition to entry.

"(B) An order to make a change of permanent station to a nonforeign area outside the continental United States in a case in which the laws, regulations, or other restrictions imposed by that area or by the United States either—

"(i) preclude entry of a motor vehicle described in subsection (a) into that area; or

"(ii) would require extensive modification of the vehicle as a condition to entry.

"(C) An order under which a member is transferred or assigned in connection with a contingency operation to duty at a location other than the permanent station of the member for a period of more than 30 consecutive days but which is not considered a change of permanent station.".

(b) NONFOREIGN AREA OUTSIDE THE CONTINENTAL UNITED STATES DEFINED.—Subsection (h) of such section is amended by adding at the end the following new paragraph:

"(3) The term 'nonforeign area outside the continental United States' means any of the following: the States of Alaska and Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and any possession of the United States.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to orders to make a change of permanent station to a nonforeign area outside the continental United States (as such term is defined in subsection (h)(3) of section 2634 of title 10, United States Code, as added by subsection (b)) that are issued on or after the date of the enactment of this Act.

Subtitle I—Reports

SEC. 581. QUADRENNIAL QUALITY OF LIFE REVIEW.

(a) REQUIREMENT FOR REVIEW.—(1) Chapter 2 of title 10, United States Code, is amended by inserting after section 118 the following new section:

"§ 118a. Quadrennial quality of life review

"(a) REVIEW REQUIRED.—(1) The Secretary of Defense shall every four years conduct a comprehensive examination of the quality of life of the members of the armed forces (to be known as the 'quadrennial quality of life review'). The review shall include examination of the programs, projects, and activities of the Department of Defense, including the morale, welfare, and recreation activities.

"(2) The quadrennial quality of life review shall be designed to result in determinations, and to foster policies and actions, that reflect the priority given the quality of life of members of the armed forces as a primary concern of the Department of Defense leadership.

"(b) CONDUCT OF REVIEW.—Each quadrennial quality of life review shall be conducted so as—

"(1) to assess quality of life priorities and issues consistent with the most recent National Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

"(2) to identify actions that are needed in order to provide members of the armed forces with the quality of life reasonably necessary to encourage the successful execution of the full range of missions that the members are called on to perform under the national security strategy; and

"(3) to identify other actions that have the potential for improving the quality of life of the members of the armed forces.

"(c) CONSIDERATIONS.—The Secretary shall consider addressing the following matters as part of the quadrennial quality of life review:

"(1) Infrastructure.

"(2) Military construction.

"(3) Physical conditions at military installations and other Department of Defense facilities.

"(4) Budget plans.

"(5) Adequacy of medical care for members of the armed forces and their dependents.

"(6) Adequacy of housing and the basic allowance for housing and basic allowance for subsistence.

"(7) Housing-related utility costs.

"(8) Educational opportunities and costs.

"(9) Length of deployments.

"(10) Rates of pay and pay differentials between the pay of members and the pay of civilians.

"(11) Retention and recruiting efforts.

"(12) Workplace safety.

"(13) Support services for spouses and children.

"(14) Other elements of Department of Defense programs and Government policies and programs that affect the quality of life of members.

"(d) SUBMISSION TO CONGRESSIONAL COMMITTEES.—(1) The Secretary shall submit a report on each quadrennial quality of life review to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The report shall include the following:

"(A) The assumptions used in the review.

"(B) The results of the review, including a comprehensive discussion of how the quality of life of members of the armed forces affects the national security strategy of the United States.

"(2) The report shall be submitted in the year following the year in which the review is conducted, but not later than the date on which the President submits the budget for the next fiscal year to Congress under section 1105(a) of title 31.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 118 the following new item:

"118a. Quadrennial quality of life review.".

(b) FIRST QUADRENNIAL QUALITY OF LIFE REVIEW.—The first quadrennial quality of life review under section 118a of title 10, United States Code, as added by subsection (a), shall be conducted during 2003, and the report on that review required to be submitted to Congress under subsection (d) of such section shall be submitted not later than the date on which the President submits the budget for fiscal year 2005 to Congress.

SEC. 582. REPORT ON DESIRABILITY AND FEASIBILITY OF CONSOLIDATING SEPARATE COURSES OF BASIC INSTRUCTION FOR JUDGE ADVOCATES.

Not later than February 1, 2003, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the desirability and feasibility of consolidating the separate Army, Navy, and Air Force courses of basic instruction for judge advocates into a single course to be conducted at a single location. The report shall include—

(1) an assessment of the advantages and disadvantages of such a consolidation;

(2) a recommendation as to whether such a consolidation is desirable and feasible; and

(3) any proposal for legislative action that the Secretary considers appropriate for carrying out such a consolidation.

SEC. 583. REPORTS ON EFFORTS TO RESOLVE STATUS OF CAPTAIN MICHAEL SCOTT SPEICHER, UNITED STATES NAVY.

(a) Reports.— Not later than 90 days after the date of the enactment of this Act, and every 120 days thereafter, the Secretary of Defense shall submit to Congress a report on the efforts of the United States Government to determine the status of Captain Michael Scott Speicher, United States Navy, whose aircraft was shot down over Iraq on the night of January 17, 1991. Each such report shall be prepared in consultation with the Secretary of State and the Director of Central Intelligence.

(b) Period Covered by Reports.—The first report under subsection (a) shall cover efforts described in that subsection from the time that Michael Scott Speicher's aircraft was shot down over Iraq until the date of the report, and each subsequent report shall cover efforts described in that subsection since the last such report.

(c) Report Elements.—Each report under subsection (a) shall describe, for the period covered by such report, the following:

(1) All direct and indirect contacts by the United States Government with the Government of Iraq regarding the status of Michael Scott Speicher.

(2) Any request made by the United States Government to the government of another country, including the intelligence service of such country, for assistance in resolving the status of Michael Scott Speicher, including the response to such request.

(3) Each current lead on the status of Michael Scott Speicher, including an assessment of the utility of such lead in resolving the status of Michael Scott Speicher.

(4) Any cooperation with nongovernmental organizations or international organizations in resolving the status of Michael Scott Speicher, including the results of such cooperation.

(d) Form of Reports.—Each report under subsection (a) shall be submitted in classified or unclassified form. To the extent submitted in classified form, such report shall include an unclassified summary.

(e) Duration.—The requirement to submit reports under this section shall cease to be effective upon a final determination regarding the status of Michael Scott Speicher by the Secretary of Defense.

SEC. 584. REPORT ON VOLUNTEER SERVICES OF MEMBERS OF THE RESERVE COMPONENTS IN EMERGENCY RESPONSE TO THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001.

(a) Requirement for Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on volunteer services described in subsection (b) that were provided by members of the reserve components of the Armed Forces, while not in a duty status pursuant to orders, during the period of September 11 through September 14, 2001. The report shall include a discussion of any recognition that the Secretary considers appropriate for those members regarding the provision of such services.

(b) Covered Volunteer Services.—The volunteer services referred to in subsection (a) are volunteer services of a military-unique nature that were provided—

(1) in the vicinity of the site of the World Trade Center, New York, New York, in support of emergency response to the terrorist attack on the World Trade Center on September 11, 2001;

(2) in the vicinity of the Pentagon, Arlington, Virginia, in support of emergency response to the terrorist attack on the Pentagon on September 11, 2001; or

(3) in the vicinity of Shanksville, Pennsylvania, in support of emergency response to the terrorist-caused crash of United Airlines Flight 93 in Shanksville, Pennsylvania, on September 11, 2001.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in basic pay for fiscal year 2003.

Sec. 602. Basic allowance for housing in cases of low-cost or no-cost moves.

Sec. 603. Rate of basic allowance for subsistence for enlisted personnel occupying single Government quarters without adequate availability of meals.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. One-year extension of certain bonus and special pay authorities for reserve forces.

Sec. 612. One-year extension of certain bonus and special pay authorities for certain health care professionals.

Sec. 613. One-year extension of special pay and bonus authorities for nuclear officers.

Sec. 614. One-year extension of other bonus and special pay authorities.

Sec. 615. Increase in maximum rates for certain special pays, bonuses, and financial assistance for health care professionals.

Sec. 616. Assignment incentive pay.

Sec. 617. Increase in maximum rates for prior service enlistment bonus.

Sec. 618. Retention incentives for health care professionals qualified in a critical military skill.

Subtitle C—Travel and Transportation Allowances

Sec. 621. Extension of leave travel deferral period for members performing consecutive overseas tours of duty.

Sec. 622. Transportation of motor vehicles for members reported missing.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 631. Permanent reduction from eight to six in number of years of reserve service required for eligibility for retired pay for non-regular service.

Sec. 632. Increased retired pay for enlisted Reserves credited with extraordinary heroism.

Sec. 633. Elimination of possible inversion in retired pay cost-of-living adjustment for initial COLA computation.

Sec. 634. Technical revisions to so-called "forgotten widows" annuity program.

Sec. 635. Expansion of authority of Secretary of Defense to waive time limitations on claims against the Government for military personnel benefits.

Sec. 636. Special compensation for certain combat-related disabled uniformed services retirees.

Subtitle E—Montgomery GI Bill

Sec. 641. Time limitation for use of Montgomery GI Bill entitlement by members of the Selected Reserve.

Sec. 642. Repayment requirements under Reserve Component Montgomery GI Bill arising from failure to participate satisfactorily in military service to be considered debts owed to the United States.

Sec. 643. Technical adjustments to authority for certain members to transfer educational assistance under Montgomery GI Bill to dependents.

Subtitle F—Other Matters

Sec. 651. Payment of interest on student loans.

Sec. 652. Additional authority to provide assistance for families of members of the Armed Forces.

Sec. 653. Repeal of authority for acceptance of honoraria by personnel at certain Department of Defense schools.

Sec. 654. Addition of definition of continental United States in title 37.

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2003.

(a) Waiver of Section 1009 Adjustment.—The adjustment to become effective during fiscal year 2003 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) Increase in Basic Pay.—Effective on January 1, 2003, the rates of monthly basic pay for members of the uniformed services within each pay grade are as follows:

COMMISSIONED OFFICERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–10[2]	$0.00	$0.00	$0.00	$0.00	$0.00
O–9	0.00	0.00	0.00	0.00	0.00
O–8	7,474.50	7,719.30	7,881.60	7,927.20	8,129.40
O–7	6,210.90	6,499.20	6,633.00	6,739.20	6,930.90
O–6	4,603.20	5,057.10	5,388.90	5,388.90	5,409.60
O–5	3,837.60	4,323.00	4,622.40	4,678.50	4,864.80
O–4	3,311.10	3,832.80	4,088.70	4,145.70	4,383.00
O–3[3]	2,911.20	3,300.30	3,562.20	3,883.50	4,069.50
O–2[3]	2,515.20	2,864.70	3,299.40	3,410.70	3,481.20
O–1[3]	2,183.70	2,272.50	2,746.80	2,746.80	2,746.80
	Over 8	Over 10	Over 12	Over 14	Over 16
O–10[2]	$0.00	$0.00	$0.00	$0.00	$0.00
O–9	0.00	0.00	0.00	0.00	0.00
O–8	8,468.70	8,547.30	8,868.90	8,961.30	9,238.20
O–7	7,120.80	7,340.40	7,559.40	7,779.00	8,468.70
O–6	5,641.20	5,672.10	5,672.10	5,994.60	6,564.30
O–5	4,977.00	5,222.70	5,403.00	5,635.50	5,991.90
O–4	4,637.70	4,954.50	5,201.40	5,372.70	5,471.10
O–3[3]	4,273.50	4,405.80	4,623.30	4,736.10	4,736.10
O–2[3]	3,481.20	3,481.20	3,481.20	3,481.20	3,481.20
O–1[3]	2,746.80	2,746.80	2,746.80	2,746.80	2,746.80
	Over 18	Over 20	Over 22	Over 24	Over 26
O–10[2]	$0.00	$12,077.70	$12,137.10	$12,389.40	$12,829.20
O–9	0.00	10,563.60	10,715.70	10,935.60	11,319.60
O–8	9,639.00	10,008.90	10,255.80	10,255.80	10,255.80
O–7	9,051.30	9,051.30	9,051.30	9,051.30	9,096.90
O–6	6,898.80	7,233.30	7,423.50	7,616.10	7,989.90
O–5	6,161.70	6,329.10	6,519.60	6,519.60	6,519.60
O–4	5,528.40	5,528.40	5,528.40	5,528.40	5,528.40
O–3[3]	4,736.10	4,736.10	4,736.10	4,736.10	4,736.10
O–2[3]	3,481.20	3,481.20	3,481.20	3,481.20	3,481.20
O–1[3]	2,746.80	2,746.80	2,746.80	2,746.80	2,746.80

[1] *Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for commissioned officers in pay grades 0–7 through O–10 may not exceed the rate of pay for level III of the Executive Schedule and the actual rate of basic pay for all other officers may not exceed the rate of pay for level V of the Executive Schedule.*

[2] *Subject to the preceding footnote, the rate of basic pay for an officer in this grade while serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard is $14,155.50, regardless of cumulative years of service computed under section 205 of title 37, United States Code.*

[3] *This table does not apply to commissioned officers in pay grade O–1, O–2, or O–3 who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.*

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–3E	$0.00	$0.00	$0.00	$3,883.50	$4,069.50
O–2E	0.00	0.00	0.00	3,410.70	3,481.20
O–1E	0.00	0.00	0.00	2,746.80	2,933.70
	Over 8	Over 10	Over 12	Over 14	Over 16
O–3E	$4,273.50	$4,405.80	$4,623.30	$4,806.30	$4,911.00
O–2E	3,591.90	3,778.80	3,923.40	4,031.10	4,031.10
O–1E	3,042.00	3,152.70	3,261.60	3,410.70	3,410.70
	Over 18	Over 20	Over 22	Over 24	Over 26
O–3E	$5,054.40	$5,054.40	$5,054.40	$5,054.40	$5,054.40
O–2E	4,031.10	4,031.10	4,031.10	4,031.10	4,031.10
O–1E	3,410.70	3,410.70	3,410.70	3,410.70	3,410.70

WARRANT OFFICERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	3,008.10	3,236.10	3,329.10	3,420.60	3,578.10
W–3	2,747.10	2,862.00	2,979.30	3,017.70	3,141.00
W–2	2,416.50	2,554.50	2,675.10	2,763.00	2,838.30
W–1	2,133.90	2,308.50	2,425.50	2,501.10	2,662.50
	Over 8	Over 10	Over 12	Over 14	Over 16
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	3,733.50	3,891.00	4,044.60	4,203.60	4,356.00
W–3	3,281.70	3,467.40	3,580.50	3,771.90	3,915.60
W–2	2,993.10	3,148.50	3,264.00	3,376.50	3,453.90
W–1	2,782.20	2,888.40	3,006.90	3,085.20	3,203.40
	Over 18	Over 20	Over 22	Over 24	Over 26
W–5	$0.00	$5,169.30	$5,346.60	$5,524.50	$5,703.30
W–4	4,512.00	4,664.40	4,822.50	4,978.20	5,137.50
W–3	4,058.40	4,201.50	4,266.30	4,407.00	4,548.00
W–2	3,579.90	3,705.90	3,831.00	3,957.30	3,957.30
W–1	3,320.70	3,409.50	3,409.50	3,409.50	3,409.50

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[1] *Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for warrant officers may not exceed the rate of pay for level V of the Executive Schedule.*

ENLISTED MEMBERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26
E–9[2]	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$3,564.30	$3,645.00	$3,747.00	$3,867.00	$3,987.30	$4,180.80	$4,344.30	$4,506.30	$4,757.40
E–8	0.00	0.00	0.00	0.00	0.00	2,975.40	3,061.20	3,141.30	3,237.60	3,342.00	3,530.10	3,625.50	3,787.50	3,877.50	4,099.20
E–7	2,068.50	2,257.80	2,343.90	2,428.20	2,516.40	2,667.90	2,753.40	2,838.30	2,990.40	3,066.30	3,138.60	3,182.70	3,331.50	3,427.80	3,671.40
E–6	1,770.60	1,947.60	2,033.70	2,117.10	2,204.10	2,400.90	2,477.40	2,562.30	2,636.70	2,663.10	2,709.60	2,709.60	2,709.60	2,709.60	2,709.60
E–5	1,625.40	1,733.70	1,817.40	1,903.50	2,037.00	2,151.90	2,236.80	2,283.30	2,283.30	2,283.30	2,283.30	2,283.30	2,283.30	2,283.30	2,283.30
E–4	1,502.70	1,579.80	1,665.30	1,749.30	1,824.00	1,824.00	1,824.00	1,824.00	1,824.00	1,824.00	1,824.00	1,824.00	1,824.00	1,824.00	1,824.00
E–3	1,356.90	1,442.10	1,528.80	1,528.80	1,528.80	1,528.80	1,528.80	1,528.80	1,528.80	1,528.80	1,528.80	1,528.80	1,528.80	1,528.80	1,528.80
E–2	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00
E–1	[3] 1,150.80	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80

[1] *Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for enlisted members may not exceed the rate of pay for level V of the Executive Schedule.*

[2] *Subject to the preceding footnote, the rate of basic pay for an enlisted member in this grade while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, basic pay is $5,732.70, regardless of cumulative years of service computed under section 205 of title 37, United States Code.*

[3] *In the case of members in pay grade E–1 who have served less than 4 months on active duty, the rate of basic pay is $1,064.70.*

SEC. 602. BASIC ALLOWANCE FOR HOUSING IN CASES OF LOW-COST OR NO-COST MOVES.

Section 403 of title 37, United States Code, is amended—

(1) by transferring paragraph (7) of subsection (b) to the end of the section; and

(2) in such paragraph—

(A) by striking "(7)" and all that follows through "circumstances of which make it necessary that the member be" and inserting "(o) Treatment of Low-Cost and No-Cost Moves as Not Being Reassignments.—In the case of a member who is assigned to duty at a location or under circumstances that make it necessary for the member to be"; and

(B) by inserting "for the purposes of this section" after "may be treated".

SEC. 603. RATE OF BASIC ALLOWANCE FOR SUBSISTENCE FOR ENLISTED PERSONNEL OCCUPYING SINGLE GOVERNMENT QUARTERS WITHOUT ADEQUATE AVAILABILITY OF MEALS.

Section 402(d) of title 37, United States Code, is amended to read as follows:

"(d) Special Rate for Enlisted Members Occupying Single Quarters Without Adequate Availability of Meals.—The Secretary of Defense, and the Secretary of the department in which the Coast Guard is operating, may pay an enlisted member the basic allowance for subsistence under this section at a monthly rate that is twice the amount in effect under subsection (b)(2) while—

"(1) the member is assigned to single Government quarters which have no adequate food storage or preparation facility in the quarters; and

"(2) there is no Government messing facility serving those quarters that is capable of making meals available to the occupants of the quarters.".

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) Selected Reserve Reenlistment Bonus.—Section 308b(f) of title 37, United States Code, is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(b) Selected Reserve Enlistment Bonus.—Section 308c(e) of such title is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(c) Special Pay for Enlisted Members Assigned to Certain High Priority Units.—Section 308d(c) of such title is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(d) Selected Reserve Affiliation Bonus.—Section 308e(e) of such title is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(e) Ready Reserve Enlistment and Reenlistment Bonus.—Section 308h(g) of such title is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(f) Prior Service Enlistment Bonus.—Section 308i(f) of such title is amended by striking "December 31, 2002" and inserting "December 31, 2003".

SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS.

(a) Nurse Officer Candidate Accession Program.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(b) Repayment of Education Loans for Certain Health Professionals Who Serve in the Selected Reserve.—Section 16302(d) of such title is amended by striking "January 1, 2003" and inserting "January 1, 2004".

(c) Accession Bonus for Registered Nurses.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(d) Incentive Special Pay for Nurse Anesthetists.—Section 302e(a)(1) of such title is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(e) Special Pay for Selected Reserve Health Professionals in Critically Short Wartime Specialties.—Section 302g(f) of such title is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(f) Accession Bonus for Dental Officers.—Section 302h(a)(1) of such title is amended by striking "December 31, 2002" and inserting "December 31, 2003".

SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

(a) Special Pay for Nuclear-Qualified Officers Extending Period of Active Service.—Section 312(e) of title 37, United States Code, is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(b) Nuclear Career Accession Bonus.—Section 312b(c) of such title is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(c) Nuclear Career Annual Incentive Bonus.—Section 312c(d) of such title is amended

by striking "December 31, 2002" and inserting "December 31, 2003".

SEC. 614. ONE-YEAR EXTENSION OF OTHER BONUS AND SPECIAL PAY AUTHORITIES.

(a) Aviation Officer Retention Bonus.—Section 301b(a) of title 37, United States Code, is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(b) Reenlistment Bonus for Active Members.—Section 308(g) of such title is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(c) Enlistment Bonus for Active Members.—Section 309(e) of such title is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(d) Retention Bonus for Members With Critical Military Skills.—Section 323(i) of such title is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(e) Accession Bonus for New Officers in Critical Skills.—Section 324(g) of such title is amended by striking "December 31, 2002" and inserting "December 31, 2003".

SEC. 615. INCREASE IN MAXIMUM RATES FOR CERTAIN SPECIAL PAYS, BONUSES, AND FINANCIAL ASSISTANCE FOR HEALTH CARE PROFESSIONALS.

(a) Retention Bonus for Medical Officers.—Section 301d(a)(2) of title 37, United States Code, is amended by striking "$14,000" and inserting "$50,000".

(b) Retention Bonus for Dental Officers.—Section 301e(a)(2) of such title is amended by striking "$14,000" and inserting "$50,000".

(c) Incentive Special Pay for Medical Officers.—Section 302(b)(1) of such title is amended by striking the second sentence and inserting the following new sentence: "The amount of incentive special pay paid to an officer under this subsection may not exceed $50,000 for any 12-month period.".

(d) Retention Special Pay Optometrists.—Section 302a(b)(1) of such title is amended by striking "$6,000" and inserting "$15,000".

(e) Accession Bonus for Registered Nurses.—Section 302d(a)(2) of such title is amended by striking "$5,000" and inserting "$30,000".

(f) Incentive Special Pay for Nurse Anesthetists.—Section 302e(a)(1) of such title is amended by striking "$15,000" and inserting "$50,000".

(g) Retention Special Pay for Pharmacy Officers.—Section 302i of such title is amended—

(1) in subsections (a) and (b), by striking "special pay at the rates specified in subsection (d)" both places it appears and inserting "retention special pay under this section";

(2) in subsection (c), by striking "Limitation.—" and inserting "Limitation on Eligibility for Special Pay.—"; and

(3) by striking subsection (d) and inserting the following new subsection:

"(d) Limitation on Amount of Special Pay.—The amount of retention special pay paid to an officer under this section may not exceed $15,000 for any 12-month period.".

(h) Financial Assistance for Nurse Officer Candidates.—Section 2130a(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "$5,000" in the first sentence and inserting "$10,000" and by striking "$2,500" in the second sentence and inserting "$5,000"; and

(2) in paragraph (2), by striking "$500" and inserting "$1,000".

(i) Application of Increase.—In the case of an amendment made by this section to increase the maximum amount of a special pay or bonus that may be paid during any 12-month period, the amended limitation shall apply to 12-month periods beginning after September 30, 2002.

SEC. 616. ASSIGNMENT INCENTIVE PAY.

(a) Authority.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 307 the following new section:

"§ 307a. Special pay: assignment incentive pay

"(a) Authority.—The Secretary concerned may pay monthly incentive pay under this section to a member of a uniformed service who performs service, while entitled to basic pay, in an assignment designated by the Secretary concerned.

"(b) Written Agreement.—The period for which incentive pay will be provided under this section and the monthly rate of the incentive pay for a member shall be specified in a written agreement between the Secretary concerned and the member. Agreements entered into by the Secretary of a military department shall require the concurrence of the Secretary of Defense.

"(c) Maximum Rate.—The maximum monthly rate of incentive pay payable to a member under this section is $1,500.

"(d) Relationship to Other Pay and Allowances.—Incentive pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

"(e) Status Not Affected by Temporary Duty or Leave.—The service of a member in an assignment referred to in subsection (a) shall not be considered discontinued during any period that the member is not performing service in the assignment by reason of temporary duty performed by the member pursuant to orders or absence of the member for authorized leave.

"(f) Termination of Authority.—No agreement under this section may be entered into after December 31, 2005.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 307 the following new item:

"307a. Special pay: assignment incentive pay.".

(b) Annual Report.—Not later than February 28, 2004, and February 28, 2005, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the use of the authority provided under section 307a of title 37, United States Code, as added by subsection (a), including an assessment of the utility of that authority.

SEC. 617. INCREASE IN MAXIMUM RATES FOR PRIOR SERVICE ENLISTMENT BONUS.

Section 308i(b)(1) of title 37, United States Code, is amended—

(1) in subparagraph (A), by striking "$5,000" and inserting "$8,000";

(2) in subparagraph (B), by striking "$2,500" and inserting "$4,000"; and

(3) in subparagraph (C), by striking "$2,000" and inserting "$3,500".

SEC. 618. RETENTION INCENTIVES FOR HEALTH CARE PROFESSIONALS QUALIFIED IN A CRITICAL MILITARY SKILL.

(a) Exception to Limitation on Maximum Bonus Amount.—Subsection (d) of section 323 of title 37, United States Code, is amended—

(1) by inserting "(1)" before "A member"; and

(2) by adding at the end the following new paragraph:

"(2) The limitation in paragraph (1) on the total bonus payments that a member may receive under this section does not apply with respect to an officer who is assigned duties as a health care professional.".

(b) Exception to Years of Service Limitation.—Subsection (e) of such section is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" before "A retention"; and

(3) by adding at the end the following new paragraph:

"(2) The limitations in paragraph (1) do not apply with respect to an officer who is assigned duties as a health care professional during the period of active duty for which the bonus is being offered.".

Subtitle C—Travel and Transportation Allowances

SEC. 621. EXTENSION OF LEAVE TRAVEL DEFERRAL PERIOD FOR MEMBERS PERFORMING CONSECUTIVE OVERSEAS TOURS OF DUTY.

(a) Authorized Deferral Period.—Section 411b of title 37, United States Code is amended by inserting after subsection (a) the following new subsection:

"(b) Authority to Defer Travel; Limitations.—(1) Under the regulations referred to in subsection (a), a member may defer the travel for which the member is paid travel and transportation allowances under this section until any time before the completion of the consecutive tour at the same duty station or the completion of the tour of duty at the new duty station under the order involved, as the case may be.

"(2) If a member is unable to undertake the travel before expiration of the deferral period under paragraph (1) because of duty in connection with a contingency operation, the member may defer the travel until not more than one year after the date on which the member's duty in connection with the contingency operation ends.".

(b) Conforming and Clerical Amendments.—Such section is further amended—

(1) in subsection (a)—

(A) by striking "(a)(1)" and inserting "(a) Allowances Authorized.—"; and

(B) by striking paragraph (2); and

(2) by striking "(b) The allowances" and inserting "(c) Limitation on Allowance Rate.—The allowances".

(c) Application of Amendment.—Subsection (b) of section 411b of title 37, United States Code, as added by subsection (a), shall apply with respect to members of the uniformed services in a deferred leave travel status under such section as of the date of the enactment of this Act or becomes entitled to travel and transportation allowances under such section on or after that date.

SEC. 622. TRANSPORTATION OF MOTOR VEHICLES FOR MEMBERS REPORTED MISSING.

(a) Authority To Ship Two Motor Vehicles.—Subsection (a) of section 554 of title 37, United States Code, is amended by striking "one privately owned motor vehicle" both places it appears and inserting "two privately owned motor vehicles".

(b) Payments for Late Delivery.—Subsection (i) of such section is amended by adding at the end the following new sentence: "In a case in which two motor vehicles of a member (or the dependent or dependents of a member) are transported at the expense of the United States, no reimbursement is payable under this subsection unless both motor vehicles do not arrive at the authorized destination of the vehicles by the designated delivery date.".

(c) Applicability.—The amendments made by subsection (a) shall apply with respect to members whose eligibility for benefits under section 554 of title 37, United States Code, commences on or after the date of the enactment of this Act.

Subtitle D—Retired Pay and Survivor Benefits

SEC. 631. PERMANENT REDUCTION FROM EIGHT TO SIX IN NUMBER OF YEARS OF RESERVE SERVICE REQUIRED FOR ELIGIBILITY FOR RETIRED PAY FOR NON-REGULAR SERVICE.

(a) Reduction in Requirement for Years of Reserve Component Service Before Retired

PAY ELIGIBILITY.—Subsection (a)(3) of section 12731 of title 10, United States Code, is amended—

(1) by striking "eight years" and inserting "six years"; and

(2) by inserting before the semicolon ", except that in the case of a person who completed the service requirements of paragraph (2) before October 5, 1994, the number of years of such qualifying service under this paragraph shall be eight".

(b) CONFORMING AMENDMENT.—Subsection (f) of such section is repealed.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2002. No benefit shall accrue to any person for any period before that date by reason of the enactment of those amendments.

SEC. 632. INCREASED RETIRED PAY FOR ENLISTED RESERVES CREDITED WITH EXTRAORDINARY HEROISM.

(a) AUTHORITY.—Section 12739 of title 10, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) If a person entitled to retired pay under this chapter has been credited by the Secretary concerned with extraordinary heroism in the line of duty and if the highest grade held satisfactorily by that person at any time in the armed forces is an enlisted grade, the person's retired pay shall be increased by 10 percent of the amount determined under subsection (a). The Secretary's determination as to extraordinary heroism is conclusive for all purposes.".

(b) CONFORMING AMENDMENT.—Subsection (c) of such section, as redesignated by subsection (a)(1), is amended by striking "amount computed under subsection (a)" and inserting "total amount of the monthly retired pay computed under subsections (a) and (b)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2002, and shall apply with respect to retired pay for months beginning on or after that date.

SEC. 633. ELIMINATION OF POSSIBLE INVERSION IN RETIRED PAY COST-OF-LIVING ADJUSTMENT FOR INITIAL COLA COMPUTATION.

(a) ELIMINATION OF POSSIBLE COLA INVERSION.—Section 1401a of title 10, United States Code, is amended—

(1) in subsections (c)(1), (d), and (e), by inserting "but subject to subsection (f)(2)" after "Notwithstanding subsection (b)";

(2) in subsection (c)(2), by inserting "(subject to subsection (f)(2) as applied to other members whose retired pay is computed on the current rates of basic pay in the most recent adjustment under this section)" after "shall be increased"; and

(3) in subsection (f)—

(A) by designating the text after the subsection heading as paragraph (1), indenting that text two ems, and inserting "PREVENTION OF RETIRED PAY INVERSIONS.—" before "Notwithstanding"; and

(B) by adding at the end the following new paragraph:

"(2) PREVENTION OF COLA INVERSIONS.—The percentage of the first adjustment under this section in the retired pay of any person, as determined under subsection (c)(1), (c)(2), (d), or (e), may not exceed the percentage increase in retired pay determined under subsection (b)(2) that is effective on the same date as the effective date of such first adjustment.".

(b) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (d), by inserting "or on or after August 1, 1986, if the member or former member did not elect to receive a bonus under section 322 of title 37" after "August 1, 1986,"; and

(2) in subsection (e), by inserting "and elected to receive a bonus under section 322 of title 37" after "August 1, 1986,".

SEC. 634. TECHNICAL REVISIONS TO SO-CALLED "FORGOTTEN WIDOWS" ANNUITY PROGRAM.

(a) CLARIFICATION OF ELIGIBILITY.—Subsection (a)(1) of section 644 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 1448 note) is amended—

(1) in subparagraph (A), by inserting after "(A)" the following: "became entitled to retired or retainer pay before September 21, 1972,"; and

(2) in subparagraph (B), by striking "was a member of a reserve component of the Armed Forces" and inserting "died".

(b) CLARIFICATION OF INTERACTION WITH OTHER BENEFITS.—(1) Subsection (a)(2) of such section is amended by striking "and who" and all that follows through "note)".

(2) Subsection (b)(2) of such section is amended to read as follows:

"(2) The amount of an annuity to which a surviving spouse is entitled under this section for any period shall be reduced (but not below zero) by any amount paid to that surviving spouse for the same period under any of the following provisions of law:

"(A) Section 1311(a) of title 38, United States Code (relating to dependency and indemnity compensation payable by the Secretary of Veterans Affairs).

"(B) Chapter 73 of title 10, United States Code.

"(C) Section 4 of Public Law 92–425 (10 U.S.C. 1448 note).".

(c) CLARIFICATION OF DEFINITION OF SURVIVING SPOUSE.—Subsection (d)(2) of such section is amended by striking "the terms" and all that follows through "and (8)" and inserting "such term in paragraph (9)".

(d) SPECIFICATION IN LAW OF CURRENT BENEFIT AMOUNT.—Subsection (b) of such section is amended—

(1) in paragraph (1), by striking "$165" and inserting "$185.58"; and

(2) in paragraph (3)—

(A) by striking "the date of the enactment of this Act" and inserting "May 1, 2002,"; and

(B) by striking the last sentence.

(e) SPECIFICATION OF ENACTMENT MONTH.—Subsection (e) of such section is amended—

(1) in paragraph (1), by striking "the month in which this Act is enacted" and inserting "November 1997"; and

(2) in paragraph (2), by striking "the first month that begins after the month in which this Act is enacted" and inserting "December 1997".

SEC. 635. EXPANSION OF AUTHORITY OF SECRETARY OF DEFENSE TO WAIVE TIME LIMITATIONS ON CLAIMS AGAINST THE GOVERNMENT FOR MILITARY PERSONNEL BENEFITS.

(a) AUTHORITY FOR WAIVER OF TIME LIMITATIONS.—Paragraph (1) of section 3702(e) of title 31, United States Code, is amended by striking "a claim" and all that follows through "title 10" and inserting "a claim referred to in subsection (a)(1)(A)".

(b) TECHNICAL AMENDMENTS.—(1) Such paragraph is further amended—

(A) by striking "Upon the request" and all that follows through "the Secretary of Defense" and inserting "The Secretary of Defense";

(B) by striking "and, subject to paragraph (2), settle the claim"; and

(C) by adding at the end the following new sentence: "In the case of a claim by or with respect to a member of the uniformed services who is not under the jurisdiction of the Secretary of a military department, such a waiver may be made only upon the request of the Secretary concerned (as defined in section 101 of title 37).".

(2) Paragraph (2) of such section is amended—

(A) by striking "under paragraph (1)' and inserting "under subsection (a)(1)(A)"; and

(B) by inserting before the period at the end the following: ", except that in the case of a claim for retired pay or survivor benefits, if the obligation claimed would have been paid from a trust fund if timely paid, the payment of the claim shall be made from that trust fund".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to claims against the United States presented to the Secretary of Defense under section 3702 of title 31, United States Code, on or after the date of the enactment of this Act.

SEC. 636. SPECIAL COMPENSATION FOR CERTAIN COMBAT-RELATED DISABLED UNIFORMED SERVICES RETIREES.

(a) AUTHORITY.—(1) Chapter 71 of title 10, United States Code, is amended by inserting after section 1413 the following new section:

"§1413a. Special compensation for certain combat-related disabled uniformed services retirees

"(a) AUTHORITY.—The Secretary concerned shall pay to each eligible combat-related disabled uniformed services retiree who elects benefits under this section a monthly amount for the combat-related disability of the retiree determined under subsection (b).

"(b) AMOUNT.—

"(1) DETERMINATION OF MONTHLY AMOUNT.—Subject to paragraphs (2) and (3), the monthly amount to be paid an eligible combat-related disabled uniformed services retiree for a combat-related disability under subsection (a) is the monthly amount of compensation to which the retiree would be entitled solely for the combat-related disability consistent with chapter 11 of title 38.

"(2) MAXIMUM AMOUNT.—The amount paid to an eligible combat-related disabled uniformed services retiree for any month under paragraph (1) may not exceed the amount of the reduction in retired pay that is applicable to the retiree for that month under sections 5304 and 5305 of title 38.

"(3) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—In the case of an eligible combat-related disabled uniformed services retiree who is retired under chapter 61 of this title, the amount of the payment under paragraph (1) for any month shall be reduced by the amount (if any) by which the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

"(c) ELIGIBLE RETIREES.—For purposes of this section, an eligible combat-related disabled uniformed services retiree referred to in subsection (a) is a member of the uniformed services entitled to retired pay who—

"(1) has completed at least 20 years of service in the uniformed services that are creditable for purposes of computing the amount of retired pay to which the member is entitled; and

"(2) has a qualifying combat-related disability.

"(d) PROCEDURES.—The Secretary of Defense shall prescribe procedures and criteria under which a disabled uniformed services retiree may apply to the Secretary of a military department to be considered to be an eligible combat-related disabled uniformed services retiree. Such procedures shall apply uniformly throughout the Department of Defense.

"(e) QUALIFYING COMBAT-RELATED DISABILITY.—In this section, the term 'qualifying combat-related disability' means either of the following:

"(1) A disability that—

"(A) is attributable to an injury for which the member was awarded the Purple Heart; and

"(B) is rated as not less than 10 percent disabling—

"(i) by the Secretary concerned, as of the date on which the member is retired from the uniformed services, under criteria prescribed by the Secretary of Defense; or

"(ii) by the Secretary of Veterans Affairs.

"(2) A service-connected disability that—

"(A) was incurred (as determined under criteria prescribed by the Secretary of Defense)—

"(i) as a direct result of armed conflict;

"(ii) while engaged in hazardous service;

"(iii) in the performance of duty under conditions simulating war; or

"(iv) through an instrumentality of war; and

"(B) is rated as not less than 60 percent disabling—

"(i) by the Secretary concerned, as of the date on which the member is retired from the uniformed services, under criteria prescribed by the Secretary of Defense; or

"(ii) by the Secretary of Veterans Affairs.

"(f) CONSTRUCTION WITH SPECIAL COMPENSATION FOR SEVERELY DISABLED UNIFORMED SERVICES RETIREES.—

"(1) SINGLE SOURCE OF COMPENSATION.—An individual who is paid special compensation under this section may not receive special compensation under section 1413 of this title.

"(2) ELECTION OF SOURCE.—An individual who is eligible for special compensation under this section and special compensation under section 1413 of this title shall elect which special compensation to receive.

"(3) REGULATIONS.—The Secretary of Defense shall prescribe in regulations the manner and form of an election under this subsection.

"(g) STATUS OF PAYMENTS.—Payments under this section are not retired pay.

"(h) SOURCE OF PAYMENTS.—Payments under this section for any fiscal year shall be paid out of funds appropriated for pay and allowances payable by the Secretary concerned for that fiscal year.

"(i) OTHER DEFINITIONS.—In this section:

"(1) The term 'service-connected' has the meaning given such term in section 101 of title 38.

"(2) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.".

(2) Section 1413a of title 10, United States Code, as added by paragraph (1), shall take effect not later than 180 days after the date of the enactment of this Act.

(3) The table of sections at the beginning of chapter 71 of such title is amended by inserting after the item relating to section 1413 the following new item:

"1413a. Special compensation for certain combat-related disabled uniformed services retirees.".

(b) SPECIAL COMPENSATION FOR CERTAIN SEVERELY DISABLED UNIFORMED SERVICES RETIREES.—Section 1413 of title 10, United States Code, is amended—

(1) by redesignating subsections (e), (f) and (g) as subsections (f), (g), and (h), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e) CONSTRUCTION WITH SPECIAL COMPENSATION FOR COMBAT-DISABLED UNIFORMED SERVICES RETIREES.—(1) An individual who is paid special compensation under this section may not receive special compensation under section 1413a of this title.

"(2) An individual who is eligible for special compensation under this section and special compensation under section 1413a of this title shall elect which special compensation to receive.

"(3) The Secretary of Defense shall prescribe in regulations the manner and form of an election under this subsection.".

Subtitle E—Montgomery GI Bill

SEC. 641. TIME LIMITATION FOR USE OF MONTGOMERY GI BILL ENTITLEMENT BY MEMBERS OF THE SELECTED RESERVE.

(a) EXTENSION OF LIMITATION PERIOD.—Section 16133(a)(1) of title 10, United States Code, is amended by striking "10-year" and inserting "14-year".

(b) EFFECTIVE DATE AND APPLICABILITY.—The amendment made by subsection (a) shall take effect on October 1, 2002, and shall apply with respect to periods of entitlement to educational assistance under chapter 1606 of title 10, United States Code, that begin on or after October 1, 1992.

SEC. 642. REPAYMENT REQUIREMENTS UNDER RESERVE COMPONENT MONTGOMERY GI BILL ARISING FROM FAILURE TO PARTICIPATE SATISFACTORILY IN MILITARY SERVICE TO BE CONSIDERED DEBTS OWED TO THE UNITED STATES.

Section 16135 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) Subject to subsection (a)(2), an obligation to pay a refund to the United States under subsection (a)(1)(B) in an amount determined under subsection (b) is, for all purposes, a debt owed to the United States.

"(2) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an enlistment or other agreement under this section does not discharge the person signing such enlistment or other agreement from a debt arising under the enlistment or agreement, respectively, under this subsection.".

SEC. 643. TECHNICAL ADJUSTMENTS TO AUTHORITY FOR CERTAIN MEMBERS TO TRANSFER EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL TO DEPENDENTS.

(a) CLARIFICATION OF RATE OF EDUCATIONAL ASSISTANCE FOR DEPENDENTS TO WHOM ENTITLEMENT IS TRANSFERRED.—Section 3020(h) of title 38, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking "paragraphs (4) and (5)" and inserting "paragraphs (5) and (6)"; and

(B) by striking "and at the same rate";

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3)(A) Subject to subparagraph (B), the monthly rate of educational assistance payable to a dependent to whom entitlement is transferred under this section shall be the monthly amount payable under sections 3015 and 3022 of this title to the individual making the transfer.

"(B) The monthly rate of assistance payable to a dependent under subparagraph (A) shall be subject to the provisions of section 3032 of this title, except that the provisions of subsection (a)(1) of that section shall not apply even if the individual making the transfer to the dependent under this section is on active duty during all or any part of enrollment period of the dependent in which such entitlement is used.".

(b) SOURCE OF FUNDS FROM INCREASED USAGE.—Section 3035(b) of such title is amended—

(1) in paragraph (1), by striking "paragraphs (2) and (3) of this subsection" and inserting "paragraphs (2), (3), and (4)"; and

(2) by adding at the end the following new paragraph:

"(4) Payments attributable to the increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of this title shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.".

(c) EFFECTIVE DATE.—(1) The amendments made by subsection (a) shall take effect as if included in the enactment of section 3020 of title 38, United States Code, by section 654(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1153).

(2) The amendments made by subsection (b) shall take effect as if made by section 654 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1153).

Subtitle F—Other Matters

SEC. 651. PAYMENT OF INTEREST ON STUDENT LOANS.

(a) AUTHORITY.—(1) Chapter 109 of title 10, United States Code, is amended by adding at the end the following new section:

"§2174. Interest payment program: members on active duty

"(a) AUTHORITY.—(1) The Secretary concerned may pay in accordance with this section the interest and any special allowances that accrue on one or more student loans of an eligible member of the armed forces.

"(2) The Secretary of a military department may exercise the authority under paragraph (1) only if approved by the Secretary of Defense and subject to such requirements, conditions, and restrictions as the Secretary of Defense may prescribe.

"(b) ELIGIBLE MEMBERS.—A member of the armed forces is eligible for the benefit under subsection (a) while the member—

"(1) is serving on active duty in fulfillment of the member's first enlistment in the armed forces or, in the case of an officer, is serving on active duty and has not completed more than three years of service on active duty;

"(2) is the debtor on one or more unpaid loans described in subsection (c); and

"(3) is not in default on any such loan.

"(c) STUDENT LOANS.—The authority to make payments under subsection (a) may be exercised with respect to the following loans:

"(1) A loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.).

"(2) A loan made under part D of such title (20 U.S.C. 1087a et seq.).

"(3) A loan made under part E of such title (20 U.S.C. 1087aa et seq.).

"(d) MAXIMUM BENEFIT.—The months for which interest and any special allowance may be paid on behalf of a member of the armed forces under this section are any 36 consecutive months during which the member is eligible under subsection (b).

"(e) FUNDS FOR PAYMENTS.—Appropriations available for the pay and allowances of military personnel shall be available for payments under this section.

"(f) COORDINATION.—(1) The Secretary of Defense and, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of the Department in which the Coast Guard is operating shall consult with the Secretary of Education regarding the administration of the authority under this section.

"(2) The Secretary concerned shall transfer to the Secretary of Education the funds necessary—

"(A) to pay interest and special allowances on student loans under this section (in accordance with sections 428(o), 455(l), and 464(j) of the Higher Education Act of 1965 (20 U.S.C. 1078(o), 1087e(l), and 1087dd(j)); and

"(B) to reimburse the Secretary of Education for any reasonable administrative costs incurred

by the Secretary in coordinating the program under this section with the administration of the student loan programs under parts B, D, and E of title IV of the Higher Education Act of 1965.

"(g) SPECIAL ALLOWANCE DEFINED.—In this section, the term 'special allowance' means a special allowance that is payable under section 438 of the Higher Education Act of 1965 (20 U.S.C. 1087-1).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2174. Interest payment program: members on active duty.".

(b) FEDERAL FAMILY EDUCATION LOANS AND DIRECT LOANS.—(1) Subsection (c)(3) of section 428 of the Higher Education Act of 1965 (20 U.S.C. 1078) is amended—

(A) in clause (i) of subparagraph (A)—

(i) by striking "or" at the end of subclause (II);

(ii) by inserting "or" at the end of subclause (III); and

(iii) by adding at the end the following new subclause:

"(IV) is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10, United States Code, and, pursuant to that eligibility, the interest is being paid on such loan under subsection (o);";

(B) in clause (ii)(II) of subparagraph (A), by inserting "or (IV)" after "clause (i)(II)"; and

(C) by striking subparagraph (C) and inserting the following:

"(C) shall contain provisions that specify that—

"(i) the form of forbearance granted by the lender pursuant to this paragraph, other than subparagraph (A)(i)(IV), shall be temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled; and

"(ii) the form of forbearance granted by the lender pursuant to subparagraph (A)(i)(IV) shall be the temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (o); and".

(2) Section 428 of such Act is further amended by adding at the end the following new subsection:

"(o) ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM.—

"(1) AUTHORITY.—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, for the payment of interest and any special allowance on a loan to a member of the Armed Forces that is made, insured, or guaranteed under this part, the Secretary shall pay the interest and special allowance on such loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest or any special allowance on such a loan out of any funds other than funds that have been so transferred.

"(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the lender shall grant the borrower forbearance in accordance with the guaranty agreement under subsection (c)(3)(A)(i)(IV).

"(3) SPECIAL ALLOWANCE DEFINED.—For the purposes of this subsection, the term 'special allowance', means a special allowance that is payable with respect to a loan under section 438.".

(c) FEDERAL DIRECT LOANS.—Section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e) is amended by adding at the end the following new subsection:

"(l) ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM.—

"(1) AUTHORITY.—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

"(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the Secretary shall grant the borrower forbearance, in the form of a temporary cessation of all payments on the loan other than the payments of interest on the loan that are made under that paragraph.".

(d) FEDERAL PERKINS LOANS.—Section 464 of the Higher Education Act of 1965 (20 U.S.C. 1087dd) is amended—

(1) in subsection (e)—

(A) by striking "or" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(3) the borrower is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10, United States Code, and, pursuant to that eligibility, the interest on such loan is being paid under subsection (j), except that the form of a forbearance under this paragraph shall be a temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (j)."; and

(2) by adding at the end the following new subsection:

"(j) ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM.—

"(1) AUTHORITY.—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

"(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the institution of higher education shall grant the borrower forbearance in accordance with subsection (e)(3).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest, and any special allowance under section 438 of the Higher Education Act of 1965, that accrue for months beginning on or after October 1, 2003, on student loans described in subsection (c) of section 2174 of title 10, United States Code (as added by subsection (a)), that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of title 10, United States Code) on or after that date.

SEC. 652. ADDITIONAL AUTHORITY TO PROVIDE ASSISTANCE FOR FAMILIES OF MEMBERS OF THE ARMED FORCES.

(a) AUTHORITY.—(1) Subchapter I of chapter 88 of title 10, United States Code, is amended by adding at the end the following new section:

"§1788. Additional family assistance

"(a) AUTHORITY.—The Secretary of Defense may provide for the families of members of the armed forces serving on active duty, in addition to any other assistance available for such families, any assistance that the Secretary considers appropriate to ensure that the children of such members obtain needed child care, education, and other youth services.

"(b) PRIMARY PURPOSE OF ASSISTANCE.—The assistance authorized by this section should be directed primarily toward providing needed family support, including child care, education, and other youth services, for children of members of the Armed Forces who are deployed, assigned to duty, or ordered to active duty in connection with a contingency operation.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"1788. Additional family assistance.".

(b) EFFECTIVE DATE.—Section 1788 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2002.

SEC. 653. REPEAL OF AUTHORITY FOR ACCEPTANCE OF HONORARIA BY PERSONNEL AT CERTAIN DEPARTMENT OF DEFENSE SCHOOLS.

(a) REPEAL OF EXEMPTION.—Section 542 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2413; 10 U.S.C. prec. 2161 note) is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply with respect to appearances made, speeches presented, and articles published on or after October 1, 2002.

SEC. 654. ADDITION OF DEFINITION OF CONTINENTAL UNITED STATES IN TITLE 37.

(a) DEFINITION.—Section 101(1) of title 37, United States Code, is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) The term 'continental United States' means the 48 contiguous States and the District of Columbia.".

(b) CONFORMING AMENDMENTS.—Title 37, United States Code, is amended as follows:

(1) Section 314(a)(3) is amended by striking "the 48 contiguous States and the District of Columbia" and inserting "the continental United States".

(2) Section 403b(i) is amended by striking paragraph (6).

(3) Section 409 is amended by striking subsection (e).

(4) Section 411b(a) is amended by striking "the 48 contiguous States and the District of Columbia" both places it appears and inserting "the continental United States".

(5) Section 411d is amended by striking subsection (d).

(6) Section 430 is amended by striking subsection (f) and inserting the following new subsection (f):

"(f) DEFINITIONS.—In this section:

"(1) The term 'formal education' means the following:

"(A) A secondary education.

"(B) An undergraduate college education.

"(C) A graduate education pursued on a full-time basis at an institution of higher education.

"(D) Vocational education pursued on a full-time basis at a postsecondary vocational institution.

"(2) The term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

"(3) The term 'postsecondary vocational institution' has the meaning given that term in section 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1002(c)).".

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Program Improvements

Sec. 701. Elimination of requirement for TRICARE preauthorization of inpatient mental health care for medicare-eligible beneficiaries.

Sec. 702. Continued TRICARE eligibility of dependents residing at remote locations after departure of sponsors for unaccompanied assignments and eligibility of dependents of reserve component members ordered to active duty.
Sec. 703. Eligibility of surviving dependents for TRICARE dental program benefits after discontinuance of former enrollment.
Sec. 704. Department of Defense Medicare-Eligible Retiree Health Care Fund.
Sec. 705. Approval of medicare providers as TRICARE providers.
Sec. 706. Technical corrections relating to transitional health care for members separated from active duty.
Sec. 707. Extension of temporary authority to enter into personal services contracts for the performance of health care responsibilities at locations other than military medical treatment facilities.
Sec. 708. Access to health care services for beneficiaries eligible for TRICARE and Department of Veterans Affairs health care.
Sec. 709. Disclosure of information on Project 112 to Department of Veterans Affairs.

Subtitle B—Reports

Sec. 711. Claims information.
Sec. 712. Comptroller General report on provision of care under the TRICARE program.
Sec. 713. Repeal of report requirement.

Subtitle C—Department of Defense-Department of Veterans Affairs Health Resources Sharing

Sec. 721. Revised coordination and sharing guidelines.
Sec. 722. Health care resources sharing and coordination project.
Sec. 723. Report on improved coordination and sharing of health care and health care resources following domestic acts of terrorism or domestic use of weapons of mass destruction.
Sec. 724. Interoperability of Department of Veterans Affairs and Department of Defense pharmacy data systems.
Sec. 725. Joint pilot program for providing graduate medical education and training for physicians.
Sec. 726. Repeal of certain limits on Department of Veterans Affairs resources.

Subtitle A—Health Care Program Improvements

SEC. 701. ELIMINATION OF REQUIREMENT FOR TRICARE PREAUTHORIZATION OF INPATIENT MENTAL HEALTH CARE FOR MEDICARE-ELIGIBLE BENEFICIARIES.

(a) ELIMINATION OF REQUIREMENT.—Section 1079(i)(3) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(3)";

(2) by striking "Except in the case of an emergency," and inserting "Except as provided in subparagraph (B),"; and

(3) by adding at the end the following new subparagraphs:

"(B) Preadmission authorization for inpatient mental health services is not required under subparagraph (A) in the following cases:

"(i) In the case of an emergency.

"(ii) In a case in which any benefits are payable for such services under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), subject to subparagraph (C).

"(C) In a case of inpatient mental health services to which subparagraph (B)(ii) applies, the Secretary shall require advance authorization for a continuation of the provision of such services after benefits cease to be payable for such services under such part A.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect October 1, 2003.

SEC. 702. CONTINUED TRICARE ELIGIBILITY OF DEPENDENTS RESIDING AT REMOTE LOCATIONS AFTER DEPARTURE OF SPONSORS FOR UNACCOMPANIED ASSIGNMENTS AND ELIGIBILITY OF DEPENDENTS OF RESERVE COMPONENT MEMBERS ORDERED TO ACTIVE DUTY.

Section 1079(p) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "dependents referred to in subsection (a) of a member of the uniformed services referred to in section 1074(c)(3) of this title who are residing with the member" and inserting "dependents described in paragraph (3)";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) This subsection applies with respect to a dependent referred to in subsection (a) who—

"(A) is a dependent of a member of the uniformed services referred to in section 1074(c)(3) of this title and is residing with the member;

"(B) is a dependent of a member who, after having served in a duty assignment described in section 1074(c)(3) of this title, has relocated without the dependent pursuant to orders for a permanent change of duty station from a remote location described in subparagraph (B)(ii) of such section where the member and the dependent resided together while the member served in such assignment, if the orders do not authorize dependents to accompany the member to the new duty station at the expense of the United States and the dependent continues to reside at the same remote location, or

"(C) is a dependent of a reserve component member ordered to active duty for a period of more than 30 days and is residing with the member, and the residence is located more than 50 miles, or approximately one hour of driving time, from the nearest military medical treatment facility adequate to provide the needed care.".

SEC. 703. ELIGIBILITY OF SURVIVING DEPENDENTS FOR TRICARE DENTAL PROGRAM BENEFITS AFTER DISCONTINUANCE OF FORMER ENROLLMENT.

Section 1076a(k)(2) of title 10, United States Code, is amended by striking "if the dependent is enrolled on the date of the death of the member in a dental benefits plan established under subsection (a)" and inserting "if, on the date of the death of the member, the dependent is enrolled in a dental benefits plan established under subsection (a) or is not enrolled in such a plan by reason of a discontinuance of a former enrollment under subsection (f)".

SEC. 704. DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND.

(a) SOURCE OF FUNDS FOR MONTHLY ACCRUAL PAYMENTS INTO THE FUND.—Section 1116(c) of title 10, United States Code, is amended by striking "health care programs" and inserting "pay of members".

(b) MANDATORY PARTICIPATION OF OTHER UNIFORMED SERVICES.—Section 1111(c) of such title is amended—

(1) in the first sentence, by striking "may enter into an agreement with any other administering Secretary" and inserting "shall enter into an agreement with each other administering Secretary"; and

(2) in the second sentence, by striking "Any such" and inserting "The".

SEC. 705. APPROVAL OF MEDICARE PROVIDERS AS TRICARE PROVIDERS.

(a) IN GENERAL.—Section 1079 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(q) Subject to subsection (a), a physician or other health care practitioner who is eligible to receive reimbursement for services provided under medicare (as defined in section 1086(d)(3)(C) of this title) shall be considered approved to provide medical care authorized under this section and section 1086 of this title unless the administering Secretaries have information indicating medicare, TRICARE, or other Federal health care program integrity violations by the physician or other health care practitioner.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to any contract under the TRICARE program entered into on or after the date of the enactment of this Act.

SEC. 706. TECHNICAL CORRECTIONS RELATING TO TRANSITIONAL HEALTH CARE FOR MEMBERS SEPARATED FROM ACTIVE DUTY.

(a) CONTINUED APPLICABILITY TO DEPENDENTS.—Subsection (a)(1) of section 736 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1172) is amended to read as follows:

"(1) in paragraph (1), by striking 'paragraph (2), a member' and all that follows through 'of the member),' and inserting 'paragraph (3), a member of the armed forces who is separated from active duty as described in paragraph (2) (and the dependents of the member)';".

(b) CLARIFICATION REGARDING THE COAST GUARD.—Subsection (b)(2) of such section is amended to read as follows:

"(2) in subsection (e)—

"(A) by striking the first sentence; and

"(B) by striking 'the Coast Guard' in the second sentence and inserting 'the members of the Coast Guard and their dependents'.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of December 28, 2001, and as if included in the National Defense Authorization Act for Fiscal Year 2002 as enacted.

SEC. 707. EXTENSION OF TEMPORARY AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS FOR THE PERFORMANCE OF HEALTH CARE RESPONSIBILITIES AT LOCATIONS OTHER THAN MILITARY MEDICAL TREATMENT FACILITIES.

Section 1091(a)(2) of title 10, United States Code, is amended by striking "December 31, 2002" and inserting "December 31, 2003".

SEC. 708. ACCESS TO HEALTH CARE SERVICES FOR BENEFICIARIES ELIGIBLE FOR TRICARE AND DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE.

(a) REQUIREMENT TO ESTABLISH PROCESS.—(1) The Secretary of Defense shall prescribe in regulations a process for resolving issues relating to patient safety and continuity of care for covered beneficiaries who are concurrently entitled to health care under the TRICARE program and eligible for health care services provided by the Department of Veterans Affairs. The Secretary shall—

(A) ensure that the process provides for coordination of, and access to, health care from the two sources in a manner that prevents diminution of access to health care from either source; and

(B) in consultation with the Secretary of Veterans Affairs, prescribe a clear definition of an "episode of care" for use in the resolution of patient safety and continuity of care issues under such process.

(2) Not later than May 1, 2003, the Secretary shall submit to the Committees on Armed Services of the Senate and of the House of Representatives a report describing the process prescribed under paragraph (1).

(3) While prescribing the process under paragraph (1) and upon completion of the report under paragraph (2), the Secretary shall provide to the Comptroller General information that would be relevant in carrying out the study required by subsection (b).

(b) Comptroller General Study and Report.—(1) The Comptroller General shall conduct a study of the health care issues of covered beneficiaries described in subsection (a). The study shall include the following:

(A) An analysis of whether covered beneficiaries who seek services through the Department of Veterans Affairs are receiving needed health care services in a timely manner from the Department of Veterans Affairs, as compared to the timeliness of the care available to covered beneficiaries under TRICARE Prime (as set forth in access to care standards under TRICARE program policy that are applicable to the care being sought).

(B) An evaluation of the quality of care for covered beneficiaries who do not receive needed services from the Department of Veterans Affairs within a time period that is comparable to the time period provided for under such access to care standards and who then must seek alternative care under the TRICARE program.

(C) Recommendations to improve access to, and timeliness and quality of, care for covered beneficiaries described in subsection (a).

(D) An evaluation of the feasibility and advisability of making access to care standards applicable jointly under the TRICARE program and the Department of Veterans Affairs health care system.

(E) A review of the process prescribed by the Secretary of Defense under subsection (a) to determine whether the process ensures the adequacy and quality of the health care services provided to covered beneficiaries under the TRICARE program and through the Department of Veterans Affairs, together with timeliness of access to such services and patient safety.

(2) Not later than 60 days after the congressional committees specified in subsection (a)(2) receive the report required under that subsection, the Comptroller General shall submit to those committees a report on the study conducted under this subsection.

(c) Definitions.—In this section:

(1) The term "covered beneficiary" has the meaning provided by section 1072(5) of title 10, United States Code.

(2) The term "TRICARE program" has the meaning provided by section 1072(7) of such title.

(3) The term "TRICARE Prime" has the meaning provided by section 1097a(f) of such title.

SEC. 709. DISCLOSURE OF INFORMATION ON PROJECT 112 TO DEPARTMENT OF VETERANS AFFAIRS.

(a) Plan for Disclosure of Information.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress and the Secretary of Veterans Affairs a comprehensive plan for the review, declassification, and submittal to the Department of Veterans Affairs of all records and information of the Department of Defense on Project 112 that are relevant to the provision of benefits by the Secretary of Veterans Affairs to members of the Armed Forces who participated in that project.

(b) Plan Requirements.—(1) The records and information covered by the plan under subsection (a) shall be the records and information necessary to permit the identification of members of the Armed Forces who were or may have been exposed to chemical or biological agents as a result of Project 112.

(2) The plan shall provide for completion of all activities contemplated by the plan not later than one year after the date of the enactment of this Act.

(c) Identification of Other Projects or Tests.—The Secretary of Defense also shall work with veterans and veterans service organizations to identify other projects or tests conducted by the Department of Defense that may have exposed members of the Armed Forces to chemical or biological agents.

(d) GAO Reports on Plan and Implementation.—(1) Not later than 30 days after submission of the plan under subsection (a), the Comptroller General shall submit to Congress a report reviewing the plan. The report shall include an examination of whether adequate resources have been committed, the timeliness of the information to be released to the Department of Veterans Affairs, and the adequacy of the procedures to notify affected veterans of potential exposure.

(2) Not later than six months after implementation of the plan begins, the Comptroller General shall submit to Congress a report evaluating the progress in the implementation of the plan.

(e) DOD Reports on Implementation.—(1) Not later than six months after the date of the enactment of this Act, and upon completion of all activities contemplated by the plan under subsection (a), the Secretary of Defense shall submit to Congress and the Secretary of Veterans Affairs a report on progress in the implementation of the plan.

(2) Each report under paragraph (1) shall include, for the period covered by such report—

(A) the number of records reviewed;

(B) each test, if any, under Project 112 identified during such review;

(C) for each test so identified—

(i) the test name;

(ii) the test objective;

(iii) the chemical or biological agent or agents involved; and

(iv) the number of members of the Armed Forces, and civilian personnel, potentially effected by such test; and

(D) the extent of submittal of records and information to the Secretary of Veterans Affairs under this section.

(f) Project 112.—For purposes of this section, Project 112 refers to the chemical and biological weapons vulnerability-testing program of the Department of Defense conducted by the Deseret Test Center from 1963 to 1969. The project included the Shipboard Hazard and Defense (SHAD) project of the Navy.

Subtitle B—Reports

SEC. 711. CLAIMS INFORMATION.

(a) Correspondence to Medicare Claims Information Requirements.—Section 1095c of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) Correspondence to Medicare Claims Information Requirements.—The Secretary of Defense, in consultation with the other administering Secretaries, shall limit the information required in support of claims for payment for health care items and services provided under the TRICARE program to that information that is identical to the information that would be required for claims for reimbursement for those items and services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) except for that information, if any, that is uniquely required by the TRICARE program. The Secretary of Defense shall report to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives any information that is excepted under this provision, and the justification for that exception.".

(b) Applicability.—The Secretary of Defense, in consultation with the other administering Secretaries referred to in section 1072(3) of title 10, United States Code, shall apply the limitations required under subsection (d) of section 1095c of such title (as added by subsection (a)) with respect to contracts entered into under the TRICARE program on or after October 1, 2002.

(c) Comptroller General Report on TRICARE Claims Processing.—Not later than March 31, 2003, the Comptroller General shall submit to Congress an evaluation of the continuing impediments to cost effective claims processing under the TRICARE program. The evaluation shall include a discussion of the following:

(1) The extent of progress implementing improvements in claims processing, particularly regarding the application of best industry practices.

(2) The extent of progress in simplifying claims processing procedures, including the elimination of, or reduction in, the complexity of the Health Care Service Record requirements.

(3) The cost effectiveness of the data collection and fraud prevention capabilities of existing claims processing practices.

(4) Recommendations for improving the claims processing system that will reduce processing and administration costs, create greater competition, and improve fraud-prevention activities.

SEC. 712. COMPTROLLER GENERAL REPORT ON PROVISION OF CARE UNDER THE TRICARE PROGRAM.

Not later than March 31, 2003, the Comptroller General shall submit to Congress an evaluation of the nature of, reasons for, extent of, and trends regarding network provider instability under the TRICARE program, and the effectiveness of efforts by the Department of Defense and managed care support contractors to measure and mitigate such instability. The evaluation shall include a discussion of the following:

(1) The adequacy of measurement tools of TRICARE network instability and their use by the Department of Defense and managed care support contractors to assess network adequacy and stability.

(2) Recommendations for improvements needed in measurement tools or their application.

(3) The relationship of reimbursement rates and administration requirements (including preauthorization requirements) to TRICARE network instability.

(4) The extent of problems under the TRICARE program and likely future trends with and without intervention using existing authority.

(5) Use of existing authority by the Department of Defense and TRICARE managed care support contractors to apply higher reimbursement rates in specific geographic areas.

(6) Recommendations for specific fiscally prudent measures that could mitigate negative trends or improve provider and network stability.

SEC. 713. REPEAL OF REPORT REQUIREMENT.

Notwithstanding subsection (f)(2) of section 712 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A–179), the amendment made by subsection (e) of such section shall not take effect and the paragraph amended by such subsection is repealed.

Subtitle C—Department of Defense-Department of Veterans Affairs Health Resources Sharing

SEC. 721. REVISED COORDINATION AND SHARING GUIDELINES.

(a) In General.—(1) Section 8111 of title 38, United States Code, is amended to read as follows:

"§8111. Sharing of Department of Veterans Affairs and Department of Defense health care resources

"(a) Required Coordination and Sharing of Health Care Resources.—The Secretary of

Veterans Affairs and the Secretary of Defense shall enter into agreements and contracts for the mutually beneficial coordination, use, or exchange of use of the health care resources of the Department of Veterans Affairs and the Department of Defense with the goal of improving the access to, and quality and cost effectiveness of, the health care provided by the Veterans Health Administration and the Military Health System to the beneficiaries of both Departments.

"(b) JOINT REQUIREMENTS FOR SECRETARIES OF VETERANS AFFAIRS AND DEFENSE.—To facilitate the mutually beneficial coordination, use, or exchange of use of the health care resources of the two Departments, the two Secretaries shall carry out the following functions:

"(1) Develop and publish a joint strategic vision statement and a joint strategic plan to shape, focus, and prioritize the coordination and sharing efforts among appropriate elements of the two Departments and incorporate the goals and requirements of the joint sharing plan into the strategic and performance plan of each Department under the Government Performance and Results Act.

"(2) Jointly fund the interagency committee provided for under subsection (c).

"(3) Continue to facilitate and improve sharing between individual Department of Veterans Affairs and Department of Defense health care facilities, but giving priority of effort to initiatives (A) that improve sharing and coordination of health resources at the intraregional and nationwide levels, and (B) that improve the ability of both Departments to provide coordinated health care.

"(4) Establish a joint incentive program under subsection (d).

"(c) DOD–VA HEALTH EXECUTIVE COMMITTEE.—(1) There is established an interagency committee to be known as the Department of Veterans Affairs-Department of Defense Health Executive Committee (hereinafter in this section referred to as the 'Committee'). The Committee is composed of—

"(A) the Deputy Secretary of Veterans Affairs and such other officers and employees of the Department of Veterans Affairs as the Secretary of Veterans Affairs may designate; and

"(B) the Under Secretary of Defense for Personnel and Readiness and such other officers and employees of the Department of Defense as the Secretary of Defense may designate.

"(2)(A) During odd-numbered fiscal years, the Deputy Secretary of Veterans Affairs shall chair the Committee. During even-numbered fiscal years, the Under Secretary of Defense shall chair the Committee.

"(B) The Deputy Secretary and the Under Secretary shall determine the size and structure of the Committee, as well as the administrative and procedural guidelines for the operation of the Committee. The two Departments shall share equally the Committee's cost of personnel and administrative support and services. Support for such purposes shall be provided at a level sufficient for the efficient operation of the Committee, including a permanent staff and, as required, other temporary working groups of appropriate departmental staff and outside experts.

"(3) The Committee shall recommend to the Secretaries strategic direction for the joint coordination and sharing efforts between and within the two Departments under this section and shall oversee implementation of those efforts.

"(4) The Committee shall submit to the two Secretaries and to Congress an annual report containing such recommendations as the Committee considers appropriate.

"(5) In order to enable the Committee to make recommendations in its annual report under paragraph (4), the Committee shall do the following:

"(A) Review existing policies, procedures, and practices relating to the coordination and sharing of health care resources between the two Departments.

"(B) Identify changes in policies, procedures, and practices that, in the judgment of the Committee, would promote mutually beneficial coordination, use, or exchange of use of the health care resources of the two Departments, with the goal of improving the access to, and quality and cost effectiveness of, the health care provided by the Veterans Health Administration and the Military Health System to the beneficiaries of both Departments.

"(C) Identify and assess further opportunities for the coordination and sharing of health care resources between the Departments that, in the judgment of the Committee, would not adversely affect the range of services, the quality of care, or the established priorities for care provided by either Department.

"(D) Review the plans of both Departments for the acquisition of additional health care resources, especially new facilities and major equipment and technology, in order to assess the potential effect of such plans on further opportunities for the coordination and sharing of health care resources.

"(E) Review the implementation of activities designed to promote the coordination and sharing of health care resources between the Departments.

"(6) The Committee chairman, under procedures jointly developed by the two Secretaries, may require the Inspector General of either or both Departments to assist in activities under paragraph (5)(E).

"(d) JOINT INCENTIVES PROGRAM.—(1) Pursuant to subsection (b)(4), the two Secretaries shall carry out a program to identify, provide incentives to, implement, fund, and evaluate creative coordination and sharing initiatives at the facility, intraregional, and nationwide levels. The program shall be administered by the Committee established in subsection (c), under procedures jointly prescribed by the two Secretaries.

"(2) To facilitate the incentive program, effective October 1, 2003, there is established in the Treasury a fund to be known as the 'DOD–VA Health Care Sharing Incentive Fund'. Each Secretary shall annually contribute to the fund a minimum of $15,000,000 from the funds appropriated to that Secretary's Department. Such funds shall remain available until expended.

"(3)(A) For each fiscal year during which the program under this subsection is in effect, the Comptroller General shall conduct a review of the implementation and effectiveness of the incentives program under this subsection. Upon completion of each such annual review, the Comptroller General shall submit to the Committees on Armed Services and Veterans' Affairs of the Senate and House of Representatives a report on the results of that review. Each such report shall be submitted not later than February 28 of the year following the fiscal year covered by the report. In addition, the Comptroller General shall conduct such a review during the first five months of fiscal year 2004 and, not later than February 28, 2004, shall submit to those committees a report on the implementation and effectiveness of the incentives program under this subsection to that date.

"(B) Each report under this paragraph shall describe activities carried out under the program under this subsection during the preceding fiscal year (or, in the case of the first such report, to the date of the submission of the report). Each report shall include at least the following:

"(i) An analysis of the initiatives funded by the Committee, and the funds so expended by such initiatives, from the DOD-VA Health Care Sharing Incentive Fund, including the purposes and effects of those initiatives on improving access to care by beneficiaries, improvements in the quality of care received by those beneficiaries, and efficiencies gained in delivering services to those beneficiaries.

"(ii) Other matters of interest, including recommendations from the Comptroller General for legislative improvements to the program.

"(4) The program under this subsection shall terminate on September 30, 2007.

"(e) GUIDELINES AND POLICIES FOR IMPLEMENTATION OF COORDINATION AND SHARING RECOMMENDATIONS, CONTRACTS, AND AGREEMENTS.—(1) To implement the recommendations made by the Committee under subsection (c)(2), as well as to carry out other health care contracts and agreements for coordination and sharing initiatives as they consider appropriate, the two Secretaries shall jointly issue guidelines and policy directives. Such guidelines and policies shall provide for coordination and sharing that—

"(A) is consistent with the health care responsibilities of the Department of Veterans Affairs under this title and with the health care responsibilities of the Department of Defense under chapter 55 of title 10;

"(B) will not adversely affect the range of services, the quality of care, or the established priorities for care provided by either Department; and

"(C) will not reduce capacities in certain specialized programs of the Department of Veterans Affairs that the Secretary is required to maintain in accordance with section 1706(b) of this title.

"(2) To facilitate the sharing and coordination of health care services between the two Departments, the two Secretaries shall jointly develop and implement guidelines for a standardized, uniform payment and reimbursement schedule for those services. Such schedule shall be implemented no later than October 1, 2003, and shall be revised periodically as necessary. The two Secretaries, following implementation of the schedule, may on a case-by-case basis waive elements of the schedule if they jointly agree that such a waiver is in the best interests of both Departments.

"(3)(A) The guidelines established under paragraph (1) shall authorize the heads of individual Department of Defense and Department of Veterans Affairs medical facilities and service regions to enter into health care resources coordination and sharing agreements.

"(B) Under any such agreement, an individual who is a primary beneficiary of one Department may be provided health care, as provided in the agreement, at a facility or in the service region of the other Department that is a party to the sharing agreement.

"(C) Each such agreement shall identify the health care resources to be shared.

"(D) Each such agreement shall provide, and shall specify procedures designed to ensure, that the availability of direct health care to individuals who are not primary beneficiaries of the providing Department is (i) on a referral basis from the facility or service region of the other Department, and (ii) does not (as determined by the head of the providing facility or region) adversely affect the range of services, the quality of care, or the established priorities for care provided to the primary beneficiaries of the providing Department.

"(E) Each such agreement shall provide that a providing Department or service region shall be reimbursed for the cost of the health care resources provided under the agreement and that the rate of such reimbursement shall be as determined in accordance with paragraph (2).

"(F) Each proposal for an agreement under this paragraph shall be effective (i) on the 46th day after the receipt of such proposal by the

Committee, unless earlier disapproved, or (ii) if earlier approved by the Committee, on the date of such approval.

"(G) Any funds received through such a uniform payment and reimbursement schedule shall be credited to funds that have been allotted to the facility of either Department that provided the care or services, or is due the funds from, any such agreement.

"(f) ANNUAL JOINT REPORT.—(1) At the time the President's budget is transmitted to Congress in any year pursuant to section 1105 of title 31, the two Secretaries shall submit to Congress a joint report on health care coordination and sharing activities under this section during the fiscal year that ended during the previous calendar year.

"(2) Each report under this section shall include the following:

"(A) The guidelines prescribed under subsection (e) (and any revision of such guidelines).

"(B) The assessment of further opportunities identified under subparagraph (C) of subsection (c)(5) for the sharing of health-care resources between the two Departments.

"(C) Any recommendation made under subsection (c)(4) during such fiscal year.

"(D) A review of the sharing agreements entered into under subsection (e) and a summary of activities under such agreements during such fiscal year and a description of the results of such agreements in improving access to, and the quality and cost effectiveness of, the health care provided by the Veterans Health Administration and the Military Health System to the beneficiaries of both Departments.

"(E) A summary of other planning and activities involving either Department in connection with promoting the coordination and sharing of Federal health-care resources during the preceding fiscal year.

"(F) Such recommendations for legislation as the two Secretaries consider appropriate to facilitate the sharing of health-care resources between the two Departments.

"(3) In addition to the matters specified in paragraph (2), the two Secretaries shall include in the annual report under this subsection an overall status report of the progress of health resources sharing between the two Departments as a consequence of subtitle C of title VII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 and of other sharing initiatives taken during the period covered by the report. Such status report shall indicate the status of such sharing and shall include appropriate data as well as analyses of that data. The annual report shall include the following:

"(A) Enumerations and explanations of major policy decisions reached by the two Secretaries during the period covered by the report period with respect to sharing between the two Departments.

"(B) A description of progress made in new ventures or particular areas of sharing and coordination that would be of policy interest to Congress consistent with the intent of such subtitle.

"(C) A description of enhancements of access to care of beneficiaries of both Departments that came about as a result of new sharing approaches brought about by such subtitle.

"(D) A description of proposals for which funds are provided through the joint incentives program under subsection (d), together with a description of their results or status at the time of the report, including access improvements, savings, and quality-of-care enhancements they brought about, and a description of any additional use of funds made available under subsection (d).

"(4) In addition to the matters specified in paragraphs (2) and (3), the two Secretaries shall include in the annual report under this subsection for each year through 2008 the following:

"(A) A description of the measures taken, or planned to be taken, to implement the health resources sharing project under section 722 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 and any cost savings anticipated, or cost sharing achieved, at facilities participating in the project, including information on improvements in access to care, quality, and timeliness, as well as impediments encountered and legislative recommendations to ameliorate such impediments.

"(B) A description of the use of the waiver authority provided by section 722(d)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, including—

"(i) a statement of the numbers and types of requests for waivers under that section of administrative policies that have been made during the period covered by the report and, for each such request, an explanation of the content of each request, the intended purpose or result of the requested waiver, and the disposition of each request; and

"(ii) descriptions of any new administrative policies that enhance the success of the project.

"(5) In addition to the matters specified in paragraphs (2), (3), and (4), the two Secretaries shall include in the annual report under this subsection for each year through 2009 a report on the pilot program for graduate medical education under section 725 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, including activities under the program during the preceding year and each Secretary's assessment of the efficacy of providing education and training under that program.

"(g) DEFINITIONS.—For the purposes of this section:

"(1) The term 'beneficiary' means a person who is a primary beneficiary of the Department of Veterans Affairs or of the Department of Defense.

"(2) The term 'direct health care' means health care provided to a beneficiary in a medical facility operated by the Department of Veterans Affairs or the Department of Defense.

"(3) The term 'head of a medical facility' (A) with respect to a medical facility of the Department of Veterans Affairs, means the director of the facility, and (B) with respect to a medical facility of the Department of Defense, means the medical or dental officer in charge or the contract surgeon in charge.

"(4) The term 'health-care resource' includes hospital care, medical services, and rehabilitative services, as those terms are defined in paragraphs (5), (6), and (8), respectively, of section 1701 of this title, services under sections 1782 and 1783 of this title, any other health-care service, and any health-care support or administrative resource.

"(5) The term 'primary beneficiary' (A) with respect to the Department means a person who is eligible under this title (other than under section 1782, 1783, or 1784 or subsection (d) of this section) or any other provision of law for care or services in Department medical facilities, and (B) with respect to the Department of Defense, means a member or former member of the Armed Forces who is eligible for care under section 1074 of title 10.

"(6) The term 'providing Department' means the Department of Veterans Affairs, in the case of care or services furnished by a facility of the Department of Veterans Affairs, and the Department of Defense, in the case of care or services furnished by a facility of the Department of Defense.

"(7) The term 'service region' means a geographic service area of the Veterans Health Administration, in the case of the Department of Veterans Affairs, and a service region, in the case of the Department of Defense.".

(2) The item relating to that section in the table of sections at the beginning of chapter 81 of title 38, United States Code, is amended to read as follows:

"8111. Sharing of Department of Veterans Affairs and Department of Defense health care resources.".

(b) CONFORMING AMENDMENT.—Section 1104(a) of title 10, United States Code, is amended by striking "may" and inserting "shall".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2003.

SEC. 722. HEALTH CARE RESOURCES SHARING AND COORDINATION PROJECT.

(a) ESTABLISHMENT.—(1) The Secretary of Veterans Affairs and the Secretary of Defense shall conduct a health care resources sharing project to serve as a test for evaluating the feasibility, and the advantages and disadvantages, of measures and programs designed to improve the sharing and coordination of health care and health care resources between the Department of Veterans Affairs and the Department of Defense. The project shall be carried out, as a minimum, at the sites identified under subsection (b).

(2) Reimbursement between the two Departments with respect to the project under this section shall be made in accordance with the provisions of section 8111(e)(2) of title 38, United States Code, as amended by section 721(a).

(b) SITE IDENTIFICATION.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretaries shall jointly identify not less than three sites for the conduct of the project under this section.

(2) For purposes of this section, a site at which the resource sharing project shall be carried out is an area in the United States in which—

(A) one or more military treatment facilities and one or more VA health care facilities are situated in relative proximity to each other, including facilities engaged in joint ventures as of the date of the enactment of this Act; and

(B) for which an agreement to coordinate care and programs for patients at those facilities could be implemented not later than October 1, 2004.

(c) CONDUCT OF PROJECT.—(1) At sites at which the project is conducted, the Secretaries shall provide a test of a coordinated management system for the military treatment facilities and VA health care facilities participating in the project. Such a coordinated management system for a site shall include at least one of the elements specified in paragraph (2), and each of the elements specified in that paragraph must be included in the coordinated management system for at least one of the participating sites.

(2) Elements of a coordinated management system referred to in paragraph (1) are the following:

(A) A budget and financial management system for those facilities that—

(i) provides managers with information about the costs of providing health care by both Departments at the site; and

(ii) allows managers to assess the advantages and disadvantages (in terms of relative costs, benefits, and opportunities) of using resources of either Department to provide or enhance health care to beneficiaries of either Department.

(B) A coordinated staffing and assignment system for the personnel (including contract personnel) employed at or assigned to those facilities, including clinical practitioners of either Department.

(C) Medical information and information technology systems for those facilities that—

(i) are compatible with the purposes of the project;

(ii) communicate with medical information and information technology systems of corresponding elements of those facilities; and

(iii) incorporate minimum standards of information quality that are at least equivalent to those adopted for the Departments at large in their separate health care systems.

(d) Authority To Waive Certain Administrative Policies.—(1)(A) In order to carry out subsection (c), the Secretary of Defense may, in the Secretary's discretion, waive any administrative policy of the Department of Defense otherwise applicable to that subsection that specifically conflicts with the purposes of the project, in instances in which the Secretary determines that the waiver is necessary for the purposes of the project.

(B) In order to carry out subsection (c), the Secretary of Veterans Affairs may, in the Secretary's discretion, waive any administrative policy of the Department of Veterans Affairs otherwise applicable to that subsection that specifically conflicts with the purposes of the project, in instances in which the Secretary determines that the waiver is necessary for the purposes of the project.

(C) The two Secretaries shall establish procedures for resolving disputes that may arise from the effects of policy changes that are not covered by other agreements or existing procedures.

(2) No waiver under paragraph (1) may alter any labor-management agreement in effect as of the date of the enactment of this Act or adopted by either Department during the period of the project.

(e) Use by DOD of Certain Title 38 Personnel Authorities.—(1) In order to carry out subsection (c), the Secretary of Defense may apply to civilian personnel of the Department of Defense assigned to or employed at a military treatment facility participating in the project any of the provisions of subchapters I, III, and IV of chapter 74 of title 38, United States Code, determined appropriate by the Secretary.

(2) For purposes of paragraph (1), any reference in chapter 74 of title 38, United States Code—

(A) to the "Secretary" or the "Under Secretary for Health" shall be treated as referring to the Secretary of Defense; and

(B) to the "Veterans Health Administration" shall be treated as referring to the Department of Defense.

(f) Funding.—From amounts available for health care for a fiscal year, each Secretary shall make available to carry out the project not less than—

(1) $3,000,000 for fiscal year 2003;

(2) $6,000,000 for fiscal year 2004; and

(3) $9,000,000 for each succeeding year during which the project is in effect.

(g) Definitions.—For purposes of this section:

(1) The term "military treatment facility" means a medical facility under the jurisdiction of the Secretary of a military department.

(2) The term "VA health care facility" means a facility under the jurisdiction of the Veterans Health Administration of the Department of Veterans Affairs.

(h) Performance Review.—(1) The Comptroller General shall provide for an annual onsite review at each of the project locations selected by the Secretaries under this section.

(2) Not later than 90 days after completion of the annual review under paragraph (1), the Comptroller General shall submit a report on such review to the Committees on Armed Services and Veterans' Affairs of the Senate and House of Representatives.

(3) Each such report shall include the following:

(A) The strategic mission coordination between shared activities.

(B) The accuracy and validity of performance data used to evaluate sharing performance and changes in standards of care or services at the shared facilities.

(C) A statement that all appropriated funds designated for sharing activities are being used for direct support of sharing initiatives.

(D) Recommendations concerning continuance of the project at each site for the succeeding 12-month period.

(4) Whenever there is a recommendation under paragraph (3)(D) to discontinue a resource sharing project under this section, the two Secretaries shall act upon that recommendation as soon as practicable.

(5) In the initial report under this subsection, the Comptroller General shall validate the baseline information used for comparative analysis.

(i) Termination.—(1) The project, and the authority provided by this section, shall terminate on September 30, 2007.

(2) The two Secretaries jointly may terminate the performance of the project at any site when the performance of the project at that site fails to meet performance expectations of the Secretaries, based on recommendations from the Comptroller General under subsection (h) or on other information available to the Secretaries to warrant such action.

SEC. 723. REPORT ON IMPROVED COORDINATION AND SHARING OF HEALTH CARE AND HEALTH CARE RESOURCES FOLLOWING DOMESTIC ACTS OF TERRORISM OR DOMESTIC USE OF WEAPONS OF MASS DESTRUCTION.

(a) Joint Review.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly review the adequacy of current processes and existing statutory authorities and policy governing the capability of the Department of Defense and the Department of Veterans Affairs to provide health care to members of the Armed Forces following domestic acts of terrorism or domestic use of weapons of mass destruction, both before and after any declaration of national emergency. Such review shall include a determination of the adequacy of current authorities in providing for the coordination and sharing of health care resources between the two Departments in such cases, particularly before the declaration of a national emergency.

(b) Report to Congress.—The two Secretaries shall include a joint report on the review under subsection (a), including any recommended legislative changes, shall be submitted to Congress as part of the fiscal year 2004 budget submission to Congress.

SEC. 724. INTEROPERABILITY OF DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE PHARMACY DATA SYSTEMS.

(a) Interoperability.—The Secretary of Veterans Affairs and the Secretary of Defense shall seek to ensure that on or before October 1, 2004, the Department of Veterans Affairs pharmacy data system and the Department of Defense pharmacy data system (known as the "Pharmacy Data Transaction System") are interoperable for both Department of Defense beneficiaries and Department of Veterans Affairs beneficiaries by achieving real-time interface, data exchange, and checking of prescription drug data of outpatients, and using national standards for the exchange of outpatient medication information.

(b) Alternative Requirement.—If the interoperability specified in subsection (a) is not achieved by October 1, 2004, as determined jointly by the Secretary of Defense and the Secretary of Veterans Affairs, the Secretary of Veterans Affairs shall adopt the Department of Defense Pharmacy Data Transaction System for use by the Department of Veterans Affairs health care system. Such system shall be fully operational not later than October 1, 2005.

(c) Implementation Funding for Alternative Requirement.—The Secretary of Defense shall transfer to the Secretary of Veterans Affairs, or shall otherwise bear the cost of, an amount sufficient to cover three-fourths of the cost to the Department of Veterans Affairs for computer programming activities and relevant staff training expenses related to implementation of subsection (b). Such amount shall be determined in such manner as agreed to by the two Secretaries.

SEC. 725. JOINT PILOT PROGRAM FOR PROVIDING GRADUATE MEDICAL EDUCATION AND TRAINING FOR PHYSICIANS.

(a) In General.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly carry out a pilot program under which graduate medical education and training is provided to military physicians and physician employees of the Department of Defense and the Department of Veterans Affairs through one or more programs carried out in military medical treatment facilities of the Department of Defense and medical centers of the Department of Veterans Affairs. The pilot program shall begin not later than January 1, 2003.

(b) Cost-Sharing Agreement.—The Secretaries shall enter into an agreement for carrying out the pilot program. The agreement shall establish means for each Secretary to assist in paying the costs, with respect to individuals under the jurisdiction of that Secretary, incurred by the other Secretary in providing medical education and training under the pilot program.

(c) Use of Existing Authorities.—To carry out the pilot program, the Secretary of Defense and the Secretary of Veterans Affairs may use authorities provided to them under this subtitle, section 8111 of title 38, United States Code (as amended by section 721(a)), and other laws relating to the furnishing or support of medical education and the cooperative use of facilities.

(d) Termination of Program.—The pilot program under this section shall terminate on July 31, 2008.

(e) Repeal of Superseded Provision.—Section 738 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 1094 note; 115 Stat.1173) is repealed.

SEC. 726. REPEAL OF CERTAIN LIMITS ON DEPARTMENT OF VETERANS AFFAIRS RESOURCES.

(a) Repeal of VA Bed Limits.—Section 8110(a)(1) of title 38, United States Code, is amended—

(1) in the first sentence, by striking "at not more than 125,000 and not less than 100,000";

(2) in the third sentence, by striking "shall operate and maintain a total of not less than 90,000 hospital beds and nursing home beds and"; and

(3) in the fourth sentence, by striking "to enable the Department to operate and maintain a total of not less than 90,000 hospital and nursing home beds in accordance with this paragraph and".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on October 1, 2003.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Policy and Management

Sec. 801. Buy-to-budget acquisition of end items.
Sec. 802. Report to Congress on evolutionary acquisition of major defense acquisition programs.
Sec. 803. Spiral development under major defense acquisition programs.
Sec. 804. Improvement of software acquisition processes.
Sec. 805. Performance goals for procuring services pursuant to multiple award contracts.

Sec. 806. Rapid acquisition and deployment procedures.

Sec. 807. Quick-reaction special projects acquisition team.

Subtitle B—Amendments to General Contracting Authorities, Procedures, and Limitations

Sec. 811. Limitation period for task and delivery order contracts.

Sec. 812. One-year extension of program applying simplified procedures to certain commercial items; report.

Sec. 813. Extension and improvement of personnel demonstration policies and procedures applicable to the civilian acquisition workforce.

Sec. 814. Past performance given significant weight in renewal of procurement technical assistance cooperative agreements.

Sec. 815. Increased maximum amount of assistance for tribal organizations or economic enterprises carrying out procurement technical assistance programs in two or more service areas.

Sec. 816. Extension of contract goal for small disadvantaged businesses and certain institutions of higher education.

Sec. 817. Grants of exceptions to cost or pricing data certification requirements and waivers of cost accounting standards.

Sec. 818. Timing of certification in connection with waiver of survivability and lethality testing requirements.

Sec. 819. Contracting with Federal Prison Industries.

Sec. 820. Revisions to multiyear contracting authority.

Subtitle C—Acquisition-Related Reports and Other Matters

Sec. 821. Evaluation of training, knowledge, and resources regarding negotiation of intellectual property arrangements.

Sec. 822. Independent technology readiness assessments.

Sec. 823. Extension and amendment of requirement for annual report on defense commercial pricing management improvement.

Sec. 824. Assessment of purchases of products and services through contracts with other Federal departments and agencies.

Sec. 825. Repeal of certain requirements and Comptroller General reviews of the requirements.

Sec. 826. Multiyear procurement authority for purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products.

Sec. 827. Multiyear procurement authority for environmental services for military installations.

Sec. 828. Report on effects of Army Contracting Agency.

Sec. 829. Authorization to take actions to correct the industrial resource shortfall for radiation-hardened electronics.

Subtitle A—Acquisition Policy and Management

SEC. 801. BUY-TO-BUDGET ACQUISITION OF END ITEMS.

(a) AUTHORITY.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2307 the following new section:

"§2308. Buy-to-budget acquisition: end items

"(a) AUTHORITY TO ACQUIRE ADDITIONAL END ITEMS.—Using funds available to the Department of Defense for the acquisition of an end item, the head of an agency making the acquisition may acquire a higher quantity of the end item than the quantity specified for the end item in a law providing for the funding of that acquisition if that head of an agency makes each of the following findings:

"(1) The agency has an established requirement for the end item that is expected to remain substantially unchanged throughout the period of the acquisition.

"(2) It is possible to acquire the higher quantity of the end item without additional funding because of production efficiencies or other cost reductions.

"(3) The amount of the funds used for the acquisition of the higher quantity of the end item will not exceed the amount provided under that law for the acquisition of the end item.

"(4) The amount so provided is sufficient to ensure that each unit of the end item acquired within the higher quantity is fully funded as a complete end item.

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section. The regulations shall include, at a minimum, the following:

"(1) The level of approval within the Department of Defense that is required for a decision to acquire a higher quantity of an end item under subsection (a).

"(2) Authority (subject to subsection (a)) to acquire up to 10 percent more than the quantity of an end item approved in a justification and approval of the use of procedures other than competitive procedures for the acquisition of the end item under section 2304 of this title.

"(c) NOTIFICATION OF CONGRESS.—The head of an agency is not required to notify Congress in advance regarding a decision under the authority of this section to acquire a higher quantity of an end item than is specified in a law described in subsection (a), but shall notify the congressional defense committees of the decision not later than 30 days after the date of the decision.

"(d) WAIVER BY OTHER LAW.—A provision of law may not be construed as prohibiting the acquisition of a higher quantity of an end item under this section unless that provision of law—

"(1) specifically refers to this section; and

"(2) specifically states that the acquisition of the higher quantity of the end item is prohibited notwithstanding the authority provided in this section.

"(e) DEFINITIONS.—(1) For the purposes of this section, a quantity of an end item shall be considered specified in a law if the quantity is specified either in a provision of that law or in any related representation that is set forth separately in a table, chart, or explanatory text included in a joint explanatory statement or governing committee report accompanying the law.

"(2) In this section:

"(A) The term 'congressional defense committees' means—

"(i) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(ii) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

"(B) The term 'end item' means a production product assembled, completed, and ready for issue or deployment.

"(C) The term 'head of an agency' means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2307 the following new item:

"2308. Buy-to-budget acquisition: end items.".

(b) TIME FOR ISSUANCE OF FINAL REGULATIONS.—The Secretary of Defense shall issue the final regulations under section 2308(b) of title 10, United States Code (as added by subsection (a)), not later than 120 days after the date of the enactment of this Act.

SEC. 802. REPORT TO CONGRESS ON EVOLUTIONARY ACQUISITION OF MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) REPORT REQUIRED.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the approach that the Secretary plans to take to apply the requirements listed in paragraph (2) to major defense acquisition programs that follow the evolutionary acquisition process.

(2) The requirements referred to in paragraph (1) are—

(A) the requirements of chapter 144 of title 10, United States Code;

(B) sections 139, 181, 2366, 2399, and 2400 of such title;

(C) Department of Defense Directive 5000.1;

(D) Department of Defense Instruction 5000.2;

(E) Chairman of the Joint Chiefs of Staff Instruction 3170.01B; and

(F) other provisions of law and regulations (including successor documents) that are applicable to such programs.

(b) CONTENT OF REPORT.—The report shall, at a minimum, address the following matters:

(1) The manner in which the Secretary plans to establish and approve, for each increment of an evolutionary acquisition process—

(A) operational requirements; and

(B) cost and schedule goals.

(2) The manner in which the Secretary plans, for each increment of an evolutionary acquisition process—

(A) to meet requirements for operational testing and live fire testing;

(B) to monitor cost and schedule performance; and

(C) to comply with laws requiring reports to Congress on results testing and on cost and schedule performance.

(3) The manner in which the Secretary plans to ensure that each increment of an evolutionary acquisition process is designed—

(A) to achieve interoperability within and among United States forces and United States coalition partners; and

(B) to optimize total system performance and minimize total ownership costs by giving appropriate consideration to—

(i) logistics planning;

(ii) manpower, personnel, and training;

(iii) human, environmental, safety, occupational health, accessibility, survivability, operational continuity, and security factors;

(iv) protection of critical program information; and

(v) spectrum management.

(c) DEFINITIONS.—In this section:

(1) The term "evolutionary acquisition process" means a process by which an acquisition program is conducted through discrete phases or blocks, with each phase or block consisting of the planned definition, development, production or acquisition, and fielding of hardware or software that provides operationally useful capability.

(2) The term "increment", with respect to an evolutionary acquisition program, means one of the discrete phases or blocks of such program.

(3) The term "major defense acquisition program" has the meaning given such term in section 139(a)(2)(B) of title 10, United States Code.

SEC. 803. SPIRAL DEVELOPMENT UNDER MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) AUTHORITY.—The Secretary of Defense is authorized to conduct major defense acquisition programs as spiral development programs.

(b) LIMITATION ON SPIRAL DEVELOPMENT PROGRAMS.—A research and development program

for a major defense acquisition program of a military department or Defense Agency may not be conducted as a spiral development program unless the Secretary of Defense approves the spiral development plan for that research and development program in accordance with subsection (c). The Secretary of Defense may delegate authority to approve the plan to the Under Secretary of Defense for Acquisition, Technology, and Logistics, or to the senior acquisition executive of the military department or Defense Agency concerned, but such authority may not be further delegated.

(c) Spiral Development Plans.—A spiral development plan for a research and development program for a major defense acquisition program shall, at a minimum, include the following matters:

(1) A rationale for dividing the research and development program into separate spirals, together with a preliminary identification of the spirals to be included.

(2) A program strategy, including overall cost, schedule, and performance goals for the total research and development program.

(3) Specific cost, schedule, and performance parameters, including measurable exit criteria, for the first spiral to be conducted.

(4) A testing plan to ensure that performance goals, parameters, and exit criteria are met.

(5) An appropriate limitation on the number of prototype units that may be produced under the research and development program.

(6) Specific performance parameters, including measurable exit criteria, that must be met before the major defense acquisition program proceeds into production of units in excess of the limitation on the number of prototype units.

(d) Guidance.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance for the implementation of spiral development programs authorized by this section. The guidance shall include appropriate processes for ensuring the independent validation of exit criteria being met, the operational assessment of fieldable prototypes, and the management of spiral development programs.

(e) Reporting Requirement.—The Secretary shall submit to Congress by September 30 of each of 2003 through 2008 a status report on each research and development program that is a spiral development program. The report shall contain information on unit costs that is similar to the information on unit costs under major defense acquisition programs that is required to be provided to Congress under chapter 144 of title 10, United States Code, except that the information on unit costs shall address projected prototype costs instead of production costs.

(f) Applicability of Existing Law.—Nothing in this section shall be construed to exempt any program of the Department of Defense from the application of any provision of chapter 144 of title 10, United States Code, section 139, 181, 2366, 2399, or 2400 of such title, or any requirement under Department of Defense Directive 5000.1, Department of Defense Instruction 5000.2, or Chairman of the Joint Chiefs of Staff Instruction 3170.01B in accordance with the terms of such provision or requirement.

(g) Definitions.—In this section:

(1) The term "spiral development program", with respect to a research and development program, means a program that—

(A) is conducted in discrete phases or blocks, each of which will result in the development of fieldable prototypes; and

(B) will not proceed into acquisition until specific performance parameters, including measurable exit criteria, have been met.

(2) The term "spiral" means one of the discrete phases or blocks of a spiral development program.

(3) The term "major defense acquisition program" has the meaning given such term in section 139(a)(2)(B) of title 10, United States Code.

SEC. 804. IMPROVEMENT OF SOFTWARE ACQUISITION PROCESSES.

(a) Establishment of Programs.—(1) The Secretary of each military department shall establish a program to improve the software acquisition processes of that military department.

(2) The head of each Defense Agency that manages a major defense acquisition program with a substantial software component shall establish a program to improve the software acquisition processes of that Defense Agency.

(3) The programs required by this subsection shall be established not later than 120 days after the date of the enactment of this Act.

(b) Program Requirements.—A program to improve software acquisition processes under this section shall, at a minimum, include the following:

(1) A documented process for software acquisition planning, requirements development and management, project management and oversight, and risk management.

(2) Efforts to develop appropriate metrics for performance measurement and continual process improvement.

(3) A process to ensure that key program personnel have an appropriate level of experience or training in software acquisition.

(4) A process to ensure that each military department and Defense Agency implements and adheres to established processes and requirements relating to the acquisition of software.

(c) Department of Defense Guidance.—The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall—

(1) prescribe uniformly applicable guidance for the administration of all of the programs established under subsection (a) and take such actions as are necessary to ensure that the military departments and Defense Agencies comply with the guidance; and

(2) assist the Secretaries of the military departments and the heads of the Defense Agencies to carry out such programs effectively by—

(A) ensuring that the criteria applicable to the selection of sources provides added emphasis on past performance of potential sources, as well as on the maturity of the software products offered by the potential sources; and

(B) identifying, and serving as a clearinghouse for information regarding, best practices in software development and acquisition in both the public and private sectors.

(d) Definitions.—In this section:

(1) The term "Defense Agency" has the meaning given the term in section 101(a)(11) of title 10, United States Code.

(2) The term "major defense acquisition program" has the meaning given such term in section 139(a)(2)(B) of title 10, United States Code.

SEC. 805. PERFORMANCE GOALS FOR PROCURING SERVICES PURSUANT TO MULTIPLE AWARD CONTRACTS.

(a) Performance Goals.—Subsection (a) of section 802 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1178; 10 U.S.C. 2330 note) is amended to read as follows:

"(a) Goals.—(1) It shall be an objective of the Department of Defense to achieve efficiencies in procurements of services pursuant to multiple award contracts through the use of—

"(A) performance-based services contracting;

"(B) appropriate competition for task orders under services contracts;

"(C) program review, spending analyses, and improved management of services contracts.

"(2) In furtherance of such objective, the Department of Defense shall have the following goals:

"(A) To increase, as a percentage of all of the individual purchases of services made by or for the Department of Defense under multiple award contracts for a fiscal year (calculated on the basis of dollar value), the volume of the individual purchases of services that are made on a competitive basis and involve receipt of more than one offer from qualified contractors to a percentage as follows:

"(i) For fiscal year 2003, a percentage not less than 40 percent.

"(ii) For fiscal year 2004, a percentage not less than 50 percent.

"(iii) For fiscal year 2011, a percentage not less than 75 percent.

"(B) To increase, as a percentage of all of the individual purchases of services made by or for the Department of Defense under multiple award contracts for a fiscal year (calculated on the basis of dollar value), the use of performance-based purchasing specifying firm fixed prices for the specific tasks to be performed to a percentage as follows:

"(i) For fiscal year 2003, a percentage not less than 25 percent.

"(ii) For fiscal year 2004, a percentage not less than 35 percent.

"(iii) For fiscal year 2005, a percentage not less than 50 percent.

"(iv) For fiscal year 2011, a percentage not less than 70 percent.

"(3) The Secretary of Defense may adjust any percentage goal established in paragraph (2) if the Secretary determines in writing that such a goal is too high and cannot reasonably be achieved. In the event that the Secretary chooses to adjust such a goal, the Secretary shall—

"(A) establish a percentage goal that the Secretary determines would create an appropriate incentive for Department of Defense components to use competitive procedures or performance-based services contracting, as the case may be; and

"(B) submit to the congressional defense committees a report containing an explanation of the reasons for the Secretary's determination and a statement of the new goal that the Secretary has established.".

(b) Extension and Revision of Reporting Requirement.—Subsection (b) of such section is amended—

(1) by striking "March 1, 2006" and inserting "March 1, 2011"; and

(2) by amending paragraph (5) to read as follows:

"(5) Regarding the individual purchases of services that were made by or for the Department of Defense under multiple award contracts in the fiscal year preceding the fiscal year in which the report is required to be submitted, information (determined using the data collection system established under section 2330a of title 10, United States Code) as follows:

"(A) The percentage (calculated on the basis of dollar value) of such purchases that are purchases that were made on a competitive basis and involved receipt of more than one offer from qualified contractors.

"(B) The percentage (calculated on the basis of dollar value) of such purchases that are performance-based purchases specifying firm fixed prices for the specific tasks to be performed.".

(c) Definitions.—Such section is further amended by adding at the end the following new subsection:

"(c) Definitions.—(1) In this section, the terms 'individual purchase' and 'multiple award contract' have the meanings given such terms in section 803(c) of this Act.

"(2) For the purposes of this section, an individual purchase of services is made on a competitive basis only if it is made pursuant to procedures described in paragraphs (2), (3), and (4) of section 803(b) of this Act.".

(d) CONFORMING AMENDMENT.—The heading for such section is amended by striking "**SAVINGS GOALS**" and inserting "**PERFORMANCE GOALS**".

SEC. 806. RAPID ACQUISITION AND DEPLOYMENT PROCEDURES.

(a) REQUIREMENT TO ESTABLISH PROCEDURES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe procedures for the rapid acquisition and deployment of items that are—

(1) currently under development by the Department of Defense or available from the commercial sector; and

(2) urgently needed to react to an enemy threat or to respond to significant and urgent safety situations.

(b) ISSUES TO BE ADDRESSED.—The procedures prescribed under subsection (a) shall include the following:

(1) A process for streamlined communications between the Chairman of the Joint Chiefs of Staff, the acquisition community, and the research and development community, including—

(A) a process for the commanders of the combatant commands and the Joint Chiefs of Staff to communicate their needs to the acquisition community and the research and development community; and

(B) a process for the acquisition community and the research and development community to propose items that meet the needs communicated by the combatant commands and the Joint Chiefs of Staff.

(2) Procedures for demonstrating, rapidly acquiring, and deploying items proposed pursuant to paragraph (1)(B), including—

(A) a process for demonstrating performance and evaluating for current operational purposes the existing capability of an item;

(B) a process for developing an acquisition and funding strategy for the deployment of an item; and

(C) a process for making deployment determinations based on information obtained pursuant to subparagraphs (A) and (B).

(c) TESTING REQUIREMENT.—(1) The process for demonstrating performance and evaluating for current operational purposes the existing capability of an item prescribed under subsection (b)(2)(A) shall include—

(A) an operational assessment in accordance with procedures prescribed by the Director of Operational Test and Evaluation; and

(B) a requirement to provide information about any deficiency of the item in meeting the original requirements for the item (as stated in an operational requirements document or similar document) to the deployment decisionmaking authority.

(2) The process may not include a requirement for any deficiency of an item to be the determining factor in deciding whether to deploy the item.

(d) LIMITATION.—The quantity of items of a system procured using the procedures prescribed pursuant to this section may not exceed the number established for low-rate initial production for the system. Any such items shall be counted for purposes of the number of items of the system that may be procured through low-rate initial production.

SEC. 807. QUICK-REACTION SPECIAL PROJECTS ACQUISITION TEAM.

(a) ESTABLISHMENT.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall establish a team of highly qualified acquisition professionals who shall be available to advise the Under Secretary on actions that can be taken to expedite the acquisition of urgently needed systems.

(b) DUTIES.—The issues on which the team may provide advice shall include the following:

(1) Industrial base issues, including the limited availability of suppliers.

(2) Technology development and technology transition issues.

(3) Issues of acquisition policy, including the length of the acquisition cycle.

(4) Issues of testing policy and ensuring that weapon systems perform properly in combat situations.

(5) Issues of procurement policy, including the impact of socio-economic requirements.

(6) Issues relating to compliance with environmental requirements.

Subtitle B—Amendments to General Contracting Authorities, Procedures, and Limitations

SEC. 811. LIMITATION PERIOD FOR TASK AND DELIVERY ORDER CONTRACTS.

(a) LIMITATION PERIOD.—Section 2306c of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) LIMITATION PERIOD FOR TASK AND DELIVERY ORDER CONTRACTS.—(1) The authority and restrictions of this section, including the authority to enter into contracts for periods of not more than five years, shall apply with respect to task order and delivery order contracts entered into under the authority of section 2304a, 2304b, or 2304c of this title.

"(2) The regulations implementing this subsection shall establish a preference that, to the maximum extent practicable, multi-year requirements for task order and delivery order contracts be met with separate awards to two or more sources under the authority of section 2304a(d)(1)(B) of this title.".

(b) EFFECTIVE DATE.—Subsection (g) of section 2306c of title 10, United States Code, as added by subsection (a), shall apply to all task order and delivery order contracts entered into on or after the date of the enactment of this Act.

(c) COMPTROLLER GENERAL REPORT.—Not later than March 15, 2003, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the contract periods (including any options or extensions) for all single and multiple contract awards entered into under section 2304a(d) of title 10, United States Code, before the effective date in subsection (b).

SEC. 812. ONE-YEAR EXTENSION OF PROGRAM APPLYING SIMPLIFIED PROCEDURES TO CERTAIN COMMERCIAL ITEMS; REPORT.

(a) EXTENSION OF PILOT PROGRAM.—Section 4202 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) is amended in subsection (e) by striking "January 1, 2003" and inserting "January 1, 2004".

(b) REPORT REQUIRED.—(1) Not later than March 15, 2003, the Comptroller General shall submit to Congress a report on the authority to issue solicitations for purchases of commercial items in excess of the simplified acquisition threshold pursuant to the special simplified procedures authorized by section 2304(g)(1) of title 10, United States Code, and section 31(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)).

(2) The report required by paragraph (1) shall address, at a minimum—

(A) the extent to which such authority has been used by the Secretary of Defense;

(B) the benefits realized by the Department of Defense through the use of such authority;

(C) the impact of the use of such authority on competition for contracts with the Department of Defense; and

(D) any recommendations of the Comptroller General for the continuation or modification of such authority.

SEC. 813. EXTENSION AND IMPROVEMENT OF PERSONNEL DEMONSTRATION POLICIES AND PROCEDURES APPLICABLE TO THE CIVILIAN ACQUISITION WORKFORCE.

(a) PLAN REQUIRED.—(1) The Secretary of Defense shall develop a plan for improving the personnel management policies and procedures applicable to the Department of Defense civilian acquisition workforce based on the results of the demonstration project described in section 4308 of the Clinger–Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 1701 note).

(2) Not later than February 15, 2003, the Secretary shall submit to Congress the plan required under paragraph (1) and a report on the plan, including any recommendations for legislative action necessary to implement the plan.

(b) EXTENSION OF DEMONSTRATION PROJECT AUTHORITY.—Section 4308 of the Clinger–Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 1701 note) is amended—

(1) in subsection (b)(2)(C), by striking "subsection (d)(1)(A)" and inserting "subsection (d)(1)";

(2) by amending subparagraph (B) of subsection (b)(3) to read as follows:

"(B) commences before October 1, 2007."; and

(3) by adding at the end the following new subsection:

"(e) TERMINATION OF AUTHORITY.—The authority to conduct a demonstration program under this section shall terminate on September 30, 2012.".

SEC. 814. PAST PERFORMANCE GIVEN SIGNIFICANT WEIGHT IN RENEWAL OF PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENTS.

Section 2413 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) In conducting a competition for the award of a cooperative agreement under subsection (a), and in determining the level of funding to provide under an agreement under subsection (b), the Secretary shall give significant weight to successful past performance of eligible entities under a cooperative agreement under this section.".

SEC. 815. INCREASED MAXIMUM AMOUNT OF ASSISTANCE FOR TRIBAL ORGANIZATIONS OR ECONOMIC ENTERPRISES CARRYING OUT PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS IN TWO OR MORE SERVICE AREAS.

Section 2414(a)(4) of title 10, United States Code, is amended by striking "$300,000" and inserting "$600,000".

SEC. 816. EXTENSION OF CONTRACT GOAL FOR SMALL DISADVANTAGED BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

Section 2323(k) of title 10, United States Code, is amended by striking "2003" both places it appears and inserting "2006".

SEC. 817. GRANTS OF EXCEPTIONS TO COST OR PRICING DATA CERTIFICATION REQUIREMENTS AND WAIVERS OF COST ACCOUNTING STANDARDS.

(a) GUIDANCE FOR EXCEPTIONS IN EXCEPTIONAL CIRCUMSTANCES.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance on the circumstances under which it is appropriate to grant an exceptional case exception or waiver with respect to certified cost and pricing data and cost accounting standards.

(b) DETERMINATION REQUIRED FOR EXCEPTIONAL CASE EXCEPTION OR WAIVER.—The guidance shall, at a minimum, include a limitation that a grant of an exceptional case exception or waiver is appropriate with respect to a contract, subcontract, or (in the case of submission of certified cost and pricing data) modification only upon a determination that—

(1) the property or services cannot reasonably be obtained under the contract, subcontract, or modification, as the case may be, without the grant of the exception or waiver;

(2) the price can be determined to be fair and reasonable without the submission of certified cost and pricing data or the application of cost accounting standards, as the case may be; and

(3) there are demonstrated benefits to granting the exception or waiver.

(c) APPLICABILITY OF NEW GUIDANCE.—The guidance issued under subsection (a) shall apply to each exceptional case exception or waiver that is granted on or after the date on which the guidance is issued.

(d) ANNUAL REPORT ON BOTH COMMERCIAL ITEM AND EXCEPTIONAL CASE EXCEPTIONS AND WAIVERS WITH PRICE OR VALUE GREATER THAN $15,000,000.—(1) The Secretary of Defense shall transmit to the congressional defense committees promptly after the end of each fiscal year a report on commercial item exceptions, and exceptional case exceptions and waivers, described in paragraph (2) that were granted during that fiscal year.

(2) The report for a fiscal year shall include—

(A) with respect to any commercial item exception granted in the case of a contract, subcontract, or contract or subcontract modification that is expected to have a price of $15,000,000 or more, an explanation of the basis for the determination that the products or services to be purchased are commercial items, including an identification of the specific steps taken to ensure price reasonableness; and

(B) with respect to any exceptional case exception or waiver granted in the case of a contract or subcontract that is expected to have a value of $15,000,000 or more, an explanation of the basis for the determination described in subsection (b), including an identification of the specific steps taken to ensure that the price was fair and reasonable.

(e) DEFINITIONS.—In this section:

(1) The term "exceptional case exception or waiver" means either of the following:

(A) An exception pursuant to section 2306a(b)(1)(C) of title 10, United States Code, relating to submission of certified cost and pricing data.

(B) A waiver pursuant to section 26(f)(5)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(5)(B)), relating to the applicability of cost accounting standards to contracts and subcontracts.

(2) The term "commercial item exception" means an exception pursuant to section 2306a(b)(1)(B) of title 10, United States Code, relating to submission of certified cost and pricing data.

SEC. 818. TIMING OF CERTIFICATION IN CONNECTION WITH WAIVER OF SURVIVABILITY AND LETHALITY TESTING REQUIREMENTS.

(a) CERTIFICATION FOR EXPEDITED PROGRAMS.—Paragraph (1) of subsection (c) of section 2366 of title 10, United States Code, is amended to read as follows:

"(1) The Secretary of Defense may waive the application of the survivability and lethality tests of this section to a covered system, munitions program, missile program, or covered product improvement program if the Secretary determines that live-fire testing of such system or program would be unreasonably expensive and impractical and submits a certification of that determination to Congress—

"(A) before Milestone B approval for the system or program; or

"(B) in the case of a system or program initiated at—

"(i) Milestone B, as soon as is practicable after the Milestone B approval; or

"(ii) Milestone C, as soon as is practicable after the Milestone C approval.".

(b) DEFINITIONS.—Subsection (e) of such section is amended by adding at the end the following new paragraphs:

"(8) The term 'Milestone B approval' means a decision to enter into system development and demonstration pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs.

"(9) The term 'Milestone C approval' means a decision to enter into production and deployment pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs.".

SEC. 819. CONTRACTING WITH FEDERAL PRISON INDUSTRIES.

(a) ASSURANCE OF BEST VALUE FOR NATIONAL DEFENSE.—(1) Section 2410n of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by amending the heading to read as follows: "MARKET RESEARCH.—"; and

(ii) by striking "comparable in price, quality, and time of delivery to products available from the private sector" and inserting "comparable to products available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery";

(B) by striking subsection (b) and inserting the following:

"(b) COMPETITION REQUIREMENT.—If the Secretary determines that a Federal Prison Industries product is not comparable in price, quality, or time of delivery to products available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery, the Secretary shall use competitive procedures for the procurement of the product or shall make an individual purchase under a multiple award contract. In conducting such a compeititon or making such a purchase, the Secretary shall consider a timely offer from Federal Prison Industries."; and

(C) by adding at the end the following new subsections:

"(c) IMPLEMENTATION BY SECRETARY OF DEFENSE.—The Secretary of Defense shall ensure that—

"(1) the Department of Defense does not purchase a Federal Prison Industries product or service unless a contracting officer of the Department determines that the product or service is comparable to products or services available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery; and .

"(2) Federal Prison Industries performs its contractual obligations to the same extent as any other contractor for the Department of Defense.

"(d) MARKET RESEARCH DETERMINATION NOT SUBJECT TO REVIEW.—A determination by a contracting officer regarding whether a product or service offered by Federal Prison Industries is comparable to products or services available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery shall not be subject to review pursuant to section 4124(b) of title 18.

"(e) PERFORMANCE AS A SUBCONTRACTOR.—(1) A contractor or potential contractor of the Department of Defense may not be required to use Federal Prison Industries as a subcontractor or supplier of products or provider of services for the performance of a Department of Defense contract by any means, including means such as—

"(A) a contract solicitation provision requiring a contractor to offer to make use of products or services of Federal Prison Industries in the performance of the contract;

"(B) a contract specification requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries in the performance of the contract; or

"(C) any contract modification directing the use of products or services of Federal Prison Industries in the performance of the contract.

"(2) In this subsection, the term 'contractor', with respect to a contract, includes a subcontractor at any tier under the contract.

"(f) PROTECTION OF CLASSIFIED AND SENSITIVE INFORMATION.—The Secretary of Defense may not enter into any contract with Federal Prison Industries under which an inmate worker would have access to—

"(1) any data that is classified;

"(2) any geographic data regarding the location of—

"(A) surface and subsurface infrastructure providing communications or water or electrical power distribution;

"(B) pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or

"(C) other utilities; or

"(3) any personal or financial information about any individual private citizen, including information relating to such person's real property however described, without the prior consent of the individual.

"(g) DEFINITIONS.—In this section:

"(1) The term 'competitive procedures' has the meaning given such term in section 2302(2) of this title.

"(2) The term 'market research' means obtaining specific information about the price, quality, and time of delivery of products available in the private sector through a variety of means, which may include—

"(A) contacting knowledgeable individuals in government and industry;

"(B) interactive communication among industry, acquisition personnel, and customers; and

"(C) interchange meetings or pre-solicitation conferences with potential offerors.".

(2) Paragraph (1) and the amendments made by such paragraph shall take effect as of October 1, 2001.

(b) REGULATORY IMPLEMENTATION.—(1) Proposed revisions to the Department of Defense Supplement to the Federal Acquisition Regulation to implement this section shall be published not later than 90 days after the date of the enactment of this Act, and not less than 60 days shall be provided for public comment on the proposed revisions.

(2) Final regulations shall be published not later than 180 days after the date of the enactment of this Act and shall be effective on the date that is 30 days after the date of the publication.

SEC. 820. REVISIONS TO MULTIYEAR CONTRACTING AUTHORITY.

(a) USE OF PROCUREMENT AND ADVANCE PROCUREMENT FUNDS.—Section 2306b(i) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) The Secretary of Defense may obligate funds for procurement of an end item under a multiyear contract for the purchase of property only for procurement of a complete and usable end item.

"(B) The Secretary of Defense may obligate funds appropriated for any fiscal year for advance procurement under a contract for the purchase of property only for the procurement of those long-lead items necessary in order to meet a planned delivery schedule for complete major end items that are programmed under the contract to be acquired with funds appropriated for a subsequent fiscal year (including an economic order quantity of such long-lead items when authorized by law).".

(b) EFFECTIVE DATE.—(1) Paragraph (4) of section 2306b(i) of title 10, United States Code, as added by subsection (a), shall not apply with respect to any contract awarded before the date of the enactment of this Act.

(2) Nothing in this section shall be construed to authorize the expenditure of funds under any contract awarded before the date of the enactment of this Act for any purpose other than the purpose for which such funds have been authorized and appropriated.

Subtitle C—Acquisition-Related Reports and Other Matters

SEC. 821. EVALUATION OF TRAINING, KNOWLEDGE, AND RESOURCES REGARDING NEGOTIATION OF INTELLECTUAL PROPERTY ARRANGEMENTS.

(a) AVAILABILITY OF TRAINING, KNOWLEDGE, AND RESOURCES.—The Secretary of Defense shall evaluate the training, knowledge, and resources needed by the Department of Defense in order to effectively negotiate intellectual property rights using the principles of the Defense Federal Acquisition Regulation Supplement and determine whether the Department of Defense currently has in place the training, knowledge, and resources available to meet those Departmental needs.

(b) REPORT.—Not later than February 1, 2003, the Secretary of Defense shall submit to Congress a report describing—

(1) the results of the evaluation performed under subsection (a);

(2) to the extent the Department does not have adequate training, knowledge, and resources available, actions to be taken to improve training and knowledge and to make resources available to meet the Department's needs; and

(3) the number of Department of Defense legal personnel trained in negotiating intellectual property arrangements.

SEC. 822. INDEPENDENT TECHNOLOGY READINESS ASSESSMENTS.

Section 804(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1180) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) identify each case in which an authoritative decision has been made within the Department of Defense not to conduct an independent technology readiness assessment for a critical technology on a major defense acquisition program and explain the reasons for the decision.".

SEC. 823. EXTENSION AND AMENDMENT OF REQUIREMENT FOR ANNUAL REPORT ON DEFENSE COMMERCIAL PRICING MANAGEMENT IMPROVEMENT.

Section 803(c)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2082; 10 U.S.C. 2306a note) is amended—

(1) by striking "2000, 2001, and 2002," and inserting "2000 through 2006,";

(2) by inserting after "were conducted" the following: "by the Secretary of each military department and the Director of the Defense Logistics Agency"; and

(3) by inserting after "actions taken" the following: "by each Secretary and the Director".

SEC. 824. ASSESSMENT OF PURCHASES OF PRODUCTS AND SERVICES THROUGH CONTRACTS WITH OTHER FEDERAL DEPARTMENTS AND AGENCIES.

(a) REQUIREMENT FOR ASSESSMENT.—The Secretary of Defense shall carry out an assessment of purchases by the Department of Defense of products and services through contracts entered into with other Federal departments and agencies.

(b) PERIOD COVERED BY ASSESSMENT.—The assessment required by subsection (a) shall cover purchases made during fiscal years 2000 through 2002.

(c) REPORT.—Not later than February 1, 2003, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the assessment conducted under subsection (a). The report shall include the following:

(1) The total amount paid by the Department of Defense as fees for the acquisition of such products and services.

(2) A determination of whether such total amount paid is excessive and should be reduced.

(3) A description of the benefits received by the Department as a result of purchasing such products and services through such contracts.

SEC. 825. REPEAL OF CERTAIN REQUIREMENTS AND COMPTROLLER GENERAL REVIEWS OF THE REQUIREMENTS.

(a) TERMINATION OF AUTHORITY TO TRANSFER FUNDS INTO DEFENSE MODERNIZATION ACCOUNT.—(1) Paragraph (1) of section 912(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 410; 10 U.S.C. 2216 note) is amended by striking "September 30, 2003" and inserting "September 30, 2002".

(2) Section 912(d) of such Act (110 Stat. 410; 10 U.S.C. 2216 note), relating to Comptroller General reviews of the administration of the Defense Modernization Account, is repealed.

(b) REPEAL OF SOLUTIONS-BASED CONTRACTING PILOT PROGRAM.—(1) Section 11522 of title 40, United States Code, is repealed.

(2)(A) Section 11501 of title 40, United States Code, is amended—

*(i) in the section heading, by striking "**PROGRAMS**" and inserting "**PROGRAM**";*

(ii) in subsection (a)(1), by striking "conduct pilot programs" and inserting "conduct a pilot program pursuant to the requirements of section 11521 of this title";

(iii) in subsection (a)(2), by striking "each pilot program" and inserting "the pilot program";

(iv) in subsection (b)—

(I) by striking "LIMITATIONS.—" and all that follows through "pilot programs conducted" and inserting the following: "LIMITATION ON AMOUNT.—The total amount obligated for contracts entered into under the pilot program conducted"; and

(II) by striking "paragraph." and inserting "subsection."; and

(v) in subsection (c)(1), by striking "a pilot" and inserting "the pilot".

(B) The following provisions of chapter 115 of such title are each amended by striking "a pilot" each place it appears and inserting "the pilot":

(i) Section 11502(a).

(ii) Section 11502(b).

(iii) Section 11503(a).

(iv) Section 11504.

(C) Section 11505 of such chapter is amended by striking "programs" and inserting "program".

*(3)(A) The chapter heading for chapter 115 of such title is amended by striking "**PROGRAMS**" and inserting "**PROGRAM**".*

(B) The subchapter heading for subchapter I and for subchapter II of such chapter are each amended by striking "PROGRAMS" and inserting "PROGRAM".

(C) The item relating to subchapter I in the table of sections at the beginning of such chapter is amended to read as follows:

"SUBCHAPTER I—CONDUCT OF PILOT PROGRAM".

(D) The item relating to subchapter II in the table of sections at the beginning of such chapter is amended to read as follows:.

"SUBCHAPTER II—SPECIFIC PILOT PROGRAM".

(E) The item relating to section 11501 in the table of sections at the beginning of such is amended by striking "programs" and inserting "program".

(F) The table of sections at the beginning of such chapter is amended by striking the item relating to section 11522.

(G) The item relating to chapter 115 in the table of chapters for subtitle III of title 40, United States Code, is amended to read as follows:

"115. INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAM 11501".

(c) REPEAL OF ON-LINE MULTIPLE AWARD SCHEDULE CONTRACTING REQUIREMENTS.—(1) Section 11701 of title 40, United States Code, is repealed.

(2) Sections 11702, 11703, and 11704 of such title are redesignated as sections 11701, 11702, and 11703, respectively.

(3) The table of sections for chapter 117 of such title is amended—

(A) by striking the item relating to section 11701; and

(B) by redesignating the items relating to sections 11702, 11703, and 11704 as sections 11701, 11702, and 11703, respectively.

SEC. 826. MULTIYEAR PROCUREMENT AUTHORITY FOR PURCHASE OF DINITROGEN TETROXIDE, HYDRAZINE, AND HYDRAZINE-RELATED PRODUCTS.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2410n the following new section:

"§2410o. Multiyear procurement authority: purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products

"(a) TEN-YEAR CONTRACT PERIOD.—The Secretary of Defense may enter into a contract for a period of up to 10 years for the purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products for the support of a United States national security program or a United States space program.

"(b) EXTENSIONS.—A contract entered into for more than one year under the authority of subsection (a) may be extended for a total of not more than 10 years pursuant to any option or options set forth in the contract.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following item:

"2410o. Multiyear procurement authority: purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products.".

SEC. 827. MULTIYEAR PROCUREMENT AUTHORITY FOR ENVIRONMENTAL SERVICES FOR MILITARY INSTALLATIONS.

(a) AUTHORITY.—Subsection (b) of section 2306c of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) Environmental remediation services for—

"(A) an active military installation;

"(B) a military installation being closed or realigned under a base closure law; or

"(C) a site formerly used by the Department of Defense.".

(b) DEFINITIONS.—Such section, as amended by section 811, is further amended by adding at the end the following new subsection:

"(h) ADDITIONAL DEFINITIONS.—In this section:

"(1) The term 'base closure law' has the meaning given such term in section 2667(h)(2) of this title.

"(2) The term 'military installation' has the meaning given such term in section 2801(c)(2) of this title.".

SEC. 828. REPORT ON EFFECTS OF ARMY CONTRACTING AGENCY.

(a) IN GENERAL.—The Secretary of the Army shall submit a report on the effects of the establishment of an Army Contracting Agency on

small business participation in Army procurements during the first year of operation of such an agency to—

(1) the Committee on Armed Services of the House of Representatives;

(2) the Committee on Armed Services of the Senate;

(3) the Committee on Small Business of the House of Representatives; and

(4) the Committee on Small Business and Entrepreneurship of the Senate.

(b) CONTENT.—The report required under subsection (a) shall include, in detail—

(1) the justification for the establishment of an Army Contracting Agency;

(2) the impact of the creation of an Army Contracting Agency on—

(A) Army compliance with—

(i) Department of Defense Directive 4205.1;

(ii) section 15(g) of the Small Business Act (15 U.S.C. 644(g)); and

(iii) section 15(k) of the Small Business Act (15 U.S.C. 644(k)); and

(B) small business participation in Army procurement of products and services for affected Army installations, including—

(i) the impact on small businesses located near Army installations, including—

(I) the increase or decrease in the total value of Army prime contracting with local small businesses; and

(II) the opportunities for small business owners to meet and interact with Army procurement personnel; and

(ii) any change or projected change in the use of consolidated contracts and bundled contracts; and

(3) a description of the Army's plan to address any negative impact on small business participation in Army procurement, to the extent such impact is identified in the report.

(c) TIME FOR SUBMISSION.—The report under this section shall be submitted 15 months after the date of the establishment of the Army Contracting Agency.

SEC. 829. AUTHORIZATION TO TAKE ACTIONS TO CORRECT THE INDUSTRIAL RESOURCE SHORTFALL FOR RADIATION-HARDENED ELECTRONICS.

Notwithstanding the limitation in section 303(a)(6)(C) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)(6)(C)), action or actions may be taken under section 303 of that Act to correct the industrial resource shortfall for radiation-hardened electronics, if such actions do not cause the aggregate outstanding amount of all such actions to exceed $106,000,000.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Duties and Functions of Department of Defense Officers

Sec. 901. Under Secretary of Defense for Intelligence.
Sec. 902. Reorganization of Office of Secretary of Defense for administration of duties relating to homeland defense and combating terrorism.

Subtitle B—Space Activities

Sec. 911. Oversight of acquisition for defense space programs.
Sec. 912. Report regarding assured access to space for the United States.

Subtitle C—Reports

Sec. 921. Report on establishment of United States Northern Command.
Sec. 922. Time for submittal of report on Quadrennial Defense Review.
Sec. 923. National defense mission of Coast Guard to be included in future Quadrennial Defense Reviews.
Sec. 924. Report on establishment of a Joint National Training Complex and joint opposing forces.

Subtitle D—Other Matters

Sec. 931. Authority to accept gifts for National Defense University.
Sec. 932. Western Hemisphere Institute for Security Cooperation.
Sec. 933. Conforming amendment to reflect disestablishment of Department of Defense Consequence Management Program Integration Office.
Sec. 934. Increase in number of Deputy Commandants of the Marine Corps.

Subtitle A—Duties and Functions of Department of Defense Officers

SEC. 901. UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE.

(a) ESTABLISHMENT OF POSITION.—Chapter 4 of title 10, United States Code, is amended—

(1) by transferring section 137 within such chapter to appear after section 139 and redesignating that section as section 139a; and

(2) by inserting after section 136a the following new section 137:

"§ 137. Under Secretary of Defense for Intelligence

"(a) There is an Under Secretary of Defense for Intelligence, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Intelligence shall perform such duties and exercise such powers as the Secretary of Defense may prescribe in the area of intelligence.

"(c) The Under Secretary of Defense for Intelligence takes precedence in the Department of Defense after the Under Secretary of Defense for Personnel and Readiness.".

(b) CONFORMING AMENDMENTS.—(1) Section 131(b) of such title is amended—

(A) by striking paragraphs (2) through (5) and inserting the following:

"(2) The Under Secretaries of Defense, as follows:

"(A) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

"(B) The Under Secretary of Defense for Policy.

"(C) The Under Secretary of Defense (Comptroller).

"(D) The Under Secretary of Defense for Personnel and Readiness.

"(E) The Under Secretary of Defense for Intelligence."; and

(B) by redesignating paragraphs (6), (7), (8), (9), (10), and (11) as paragraphs (3), (4), (5), (6), (7), and (8), respectively.

(2) The table of sections at the beginning of chapter 4 of such title is amended—

(A) by striking the item relating to section 137 and inserting the following:

"137. Under Secretary of Defense for Intelligence.";

and

(B) by inserting after the item relating to section 139 the following new item:

"139a. Director of Defense Research and Engineering.".

(c) EXECUTIVE LEVEL III.—Section 5314 of title 5, United States Code, is amended by inserting after "Under Secretary of Defense for Personnel and Readiness." the following:

"Under Secretary of Defense for Intelligence.".

(d) RELATIONSHIP TO AUTHORITIES UNDER NATIONAL SECURITY ACT OF 1947.—Nothing in section 137 of title 10, United States Code, as added by subsection (a), shall supersede or modify the authorities of the Secretary of Defense and the Director of Central Intelligence as established by the National Security Act of 1947 (50 U.S.C. 401 et seq.).

(e) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the establishment of the position of Under Secretary of Defense for Intelligence. The report shall set forth the following:

(1) The mission prescribed for that Under Secretary.

(2) The organizational structure established for the office of that Under Secretary.

(3) The relationship of that Under Secretary with the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Under Secretary of Defense for Policy.

(4) The relationship of that Under Secretary with each of the following intelligence components of the Department of Defense: the National Security Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, and the National Reconnaissance Office.

(5) The mission of the position designated, as of the date of the enactment of this Act, as Assistant Secretary of Defense for Command, Control, Communications, and Intelligence and the relationship of that position to the Under Secretary of Defense for Intelligence.

SEC. 902. REORGANIZATION OF OFFICE OF SECRETARY OF DEFENSE FOR ADMINISTRATION OF DUTIES RELATING TO HOMELAND DEFENSE AND COMBATING TERRORISM.

(a) ASSISTANT SECRETARY OF DEFENSE FOR HOMELAND DEFENSE.—Section 138(b) of title 10, United States Code, is amended by inserting after paragraph (2) the following new paragraph:

"(3) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Homeland Defense. He shall have as his principal duty the overall supervision of the homeland defense activities of the Department of Defense.".

(b) TRANSFER TO UNDER SECRETARY OF DEFENSE FOR POLICY OF RESPONSIBILITY FOR COMBATING TERRORISM.—Section 134(b) of such title is amended by adding at the end the following new paragraph:

"(4) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Policy shall have overall direction and supervision for policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for combating terrorism.".

(c) CONFORMING AMENDMENT.—Section 138(b) of such title is amended by striking paragraph (6).

(d) REPEAL OF PREVIOUS CONTINGENT REDUCTION IN NUMBER OF ASSISTANT SECRETARIES OF DEFENSE.—Subsections (c) and (d) of section 901 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1194) are repealed.

Subtitle B—Space Activities

SEC. 911. OVERSIGHT OF ACQUISITION FOR DEFENSE SPACE PROGRAMS.

(a) IN GENERAL.—The Secretary of Defense shall provide for oversight of acquisition for defense space programs through appropriate organizations of the Office of the Secretary of Defense.

(b) REPORT ON OVERSIGHT.—(1) Not later than March 15, 2003, the Secretary of Defense shall submit to the congressional defense committees a detailed plan on how the Office of the Secretary of Defense shall provide oversight of acquisition for defense space programs.

(2) The plan shall set forth the following:

(A) The organizations in the Office of the Secretary of Defense, and the Joint Staff organizations, to be involved in oversight of acquisition for defense space programs.

(B) The process for the review of acquisition for defense space programs by the organizations specified under subparagraph (A).

(C) The process for the provision by such organizations of technical, programmatic, scheduling, and budgetary oversight of acquisition for defense space programs.

(D) The process for the development of independent cost estimates for acquisition for defense space programs, including the organization responsible for developing such cost estimates and when such cost estimates shall be required.

(E) The process by which the military departments, Defense Agencies, and organizations in the Office of the Secretary of Defense develop and coordinate the budgets for acquisition for defense space programs.

(F) The process for the resolution of conflicts among the Department of Defense elements referred to in subparagraphs (A) and (E) regarding acquisition for defense space programs.

(c) DEFENSE SPACE PROGRAM DEFINED.—In this section, the term "defense space program" means a program of the Department of Defense that—

(1) is included in the "virtual major force program" for space activities that was established by the Secretary of Defense and was to have been submitted with the 2003 fiscal year budget for the Department of Defense; or

(2) after the date of the enactment of this Act, is included in a virtual major force program for space categories or in a major force program for space activities established after such date.

SEC. 912. REPORT REGARDING ASSURED ACCESS TO SPACE FOR THE UNITED STATES.

(a) PLAN.—The Secretary of Defense shall—

(1) evaluate all options for sustaining the space launch industrial base of the United States; and

(2) develop an integrated, long-range, and adequately funded plan for assuring access to space by the United States.

(b) REPORT.—Not later than March 1, 2003, the Secretary of Defense shall submit to Congress a report on the plan developed under subsection (a)(2).

Subtitle C—Reports

SEC. 921. REPORT ON ESTABLISHMENT OF UNITED STATES NORTHERN COMMAND.

Not later than March 1, 2003, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report providing an implementation plan for the establishment of the United States Northern Command, which is established effective October 1, 2002. The report shall address the following:

(1) The required budget for standing-up and maintaining that command over the period of the future-years defense program.

(2) The rationale for the selection of Peterson Air Force Base, Colorado, as the headquarters of that command, the criteria used in the selection of Peterson Air Force Base, and the alternative locations considered for that headquarters.

(3) The required military and civilian personnel levels for the headquarters of that command and a specification of the combatant commands and other Department of Defense sources from which such headquarters personnel will be transferred, shown by the number of military and civilian personnel from each such command or other Department of Defense source.

(4) The organization of the command, a justification of any components of the command, and a review of organizations and units permanently assigned or tasked to the command.

(5) The relationship of that command (A) to the Office of Homeland Security, the Department of Homeland Security, the Homeland Security Council, and any other Federal coordinating entity, (B) to other Federal departments and agencies, and (C) to State and local law enforcement agencies.

(6) The relationship of that command with the National Guard Bureau, individual State National Guard Headquarters, and State and local officials the command may be called upon to provide support.

(7) The legal implications of members of the Armed Forces, including the National Guard in both Federal and State status, operating on United States territory pursuant to missions, operations, or activities of that command.

(8) The status of Department of Defense consultations—

(A) with Canada regarding Canada's role in, or relationship with, and any expansion of mission for, the North American Air Defense Command; and

(B) with Mexico regarding Mexico's role in, or relationship with, the United States Northern Command.

(9) The status of United States consultations with the North Atlantic Treaty Organization relating to the position of Supreme Allied Commander, Atlantic, and the new chain of command for that position.

(10) The effect of the creation of the United States Northern Command on the mission, budget, and resource levels of other combatant commands, particularly the United States Joint Forces Command.

SEC. 922. TIME FOR SUBMITTAL OF REPORT ON QUADRENNIAL DEFENSE REVIEW.

Section 118(d) of title 10, United States Code, is amended by striking "not later than September 30 of the year in which the review is conducted" in the second sentence and inserting "in the year following the year in which the review is conducted, but not later than the date on which the President submits the budget for the next fiscal year to Congress under section 1105(a) of title 31".

SEC. 923. NATIONAL DEFENSE MISSION OF COAST GUARD TO BE INCLUDED IN FUTURE QUADRENNIAL DEFENSE REVIEWS.

Section 118(d) of title 10, United States Code, is amended—

(1) by redesignating paragraph (14) as paragraph (15); and

(2) by inserting after paragraph (13) the following new paragraph:

"(14) The national defense mission of the Coast Guard.".

SEC. 924. REPORT ON ESTABLISHMENT OF A JOINT NATIONAL TRAINING COMPLEX AND JOINT OPPOSING FORCES.

(a) REPORT REQUIRED.—The commander of the United States Joint Forces Command shall submit to the Secretary of Defense a report that outlines a plan that would provide for the development and implementation of a joint national training concept together with the establishment of a joint training complex for supporting the implementation of that concept. Such a concept and complex—

(1) may include various training sites, mobile training ranges, public and private modeling and simulation centers, and appropriate joint opposing forces; and

(2) shall be capable of supporting field exercises and experimentation at the operational level of war across a broad spectrum of adversary capabilities.

(b) SUBMISSION OF REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary shall submit the report under subsection (a), together with any comments that the Secretary considers appropriate and any comments that the Chairman of the Joint Chiefs of Staff considers appropriate, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The report may be included in the next annual report submitted under section 485 of title 10, United States Code, after the date of the enactment of this Act or it may be submitted separately.

(c) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) An identification and description of the types of joint training and experimentation that would be conducted at such a joint national training complex, together with a description of how such training and experimentation would enhance accomplishment of the six critical operational goals for the Department of Defense specified at page 30 of the Quadrennial Defense Review Report of the Secretary of Defense issued on September 30, 2001.

(2) A discussion of how establishment of such a complex (including joint opposing forces) would promote innovation and transformation throughout the Department of Defense.

(3) A discussion of how results from training and experiments conducted at such a complex would be taken into consideration in the Department of Defense plans, programs, and budgeting process and by appropriate decision making bodies within the Department of Defense.

(4) A methodology, framework, and options for selecting sites for such a complex, including consideration of current training facilities that would accommodate requirements among all the Armed Forces.

(5) Options for development as part of such a complex of a joint urban warfare training center that could also be used for homeland defense and consequence management training for Federal, State, and local training.

(6) Cost estimates and resource requirements to establish and maintain such a complex, including estimates of costs and resource requirements for the use of contract personnel for the performance of management, operational, and logistics activities for such a complex .

(7) An explanation of the relationship between and among such a complex and the Department of Defense Office of Transformation, the Joint Staff, the United States Joint Forces Command, the United States Northern Command, and each element of the major commands within the separate Armed Forces with responsibility for experimentation and training.

(8) A discussion of how implementation of a joint opposing force would be established, including the feasibility of using qualified contractors for the function of establishing and maintaining joint opposing forces and the role of foreign forces.

(9) A timeline for the establishment of such a complex and for such a complex to achieve (A) initial operational capability, and (B) full operational capability.

Subtitle D—Other Matters

SEC. 931. AUTHORITY TO ACCEPT GIFTS FOR NATIONAL DEFENSE UNIVERSITY.

(a) IN GENERAL.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

"§2612. National Defense University: acceptance of gifts

"(a) The Secretary of Defense may accept, hold, administer, and spend any gift, including a gift from an international organization and a foreign gift or donation (as defined in section 2611(f) of this title), that is made on the condition that it be used in connection with the operation or administration of the National Defense University. The Secretary may pay all necessary expenses in connection with the acceptance of a gift under this subsection.

"(b) There is established in the Treasury a fund to be known as the 'National Defense University Gift Fund'. Gifts of money, and the proceeds of the sale of property, received under subsection (a) shall be deposited in the fund. The Secretary may disburse funds deposited under this subsection for the benefit or use of the National Defense University.

"(c) Subsection (c) of section 2601 of this title applies to property that is accepted under subsection (a) in the same manner that such subsection applies to property that is accepted under subsection (a) of that section.

"(d)(1) Upon request of the Secretary of Defense, the Secretary of the Treasury may—

"(A) retain money, securities, and the proceeds of the sale of securities, in the National Defense University Gift Fund; and

"(B) invest money and reinvest the proceeds of the sale of securities in that fund in securities of the United States or in securities guaranteed as to principal and interest by the United States.

"(2) The interest and profits accruing from those securities shall be deposited to the credit of the fund and may be disbursed as provided in subsection (b).

"(e) In this section:

"(1) the term 'gift' includes a devise of real property or a bequest of personal property and any gift of an interest in real property.

"(2) The term 'National Defense University' includes any school or other component of the National Defense University specified under section 2165(b) of this title.

"(f) The Secretary of Defense shall prescribe regulations to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2612. National Defense University: acceptance of gifts.".

SEC. 932. WESTERN HEMISPHERE INSTITUTE FOR SECURITY COOPERATION.

(a) AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—Section 2166 of title 10, United States Code, is amended—

(1) by redesignating subsections (f), (g), and (h), as subsections (g), (h), and (i), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—(1) The Secretary of Defense may, on behalf of the Institute, accept foreign gifts or donations in order to defray the costs of, or enhance the operation of, the Institute.

"(2) Funds received by the Secretary under paragraph (1) shall be credited to appropriations available for the Department of Defense for the Institute. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Institute for the same purposes and same period as the appropriations with which merged.

"(3) The Secretary of Defense shall notify Congress if the total amount of money accepted under paragraph (1) exceeds $1,000,000 in any fiscal year. Any such notice shall list each of the contributors of such money and the amount of each contribution in such fiscal year.

"(4) For the purposes of this subsection, a foreign gift or donation is a gift or donation of funds, materials (including research materials), property, or services (including lecture services and faculty services) from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country.".

(b) CONTENT OF ANNUAL REPORT TO CONGRESS.—Subsection (i) of such section, as redesignated by subsection (a)(1), is amended by inserting after the first sentence the following: "The report shall include a copy of the latest report of the Board of Visitors received by the Secretary under subsection (e)(5), together with any comments of the Secretary on the Board's report.".

SEC. 933. CONFORMING AMENDMENT TO REFLECT DISESTABLISHMENT OF DEPARTMENT OF DEFENSE CONSEQUENCE MANAGEMENT PROGRAM INTEGRATION OFFICE.

Section 12310(c)(3) of title 10, United States Code, is amended by striking "only—" and all that follows through "(B) while assigned" and inserting "only while assigned".

SEC. 934. INCREASE IN NUMBER OF DEPUTY COMMANDANTS OF THE MARINE CORPS.

Section 5045 of title 10, United States Code, is amended by striking "five" and inserting "six".

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Sec. 1001. Transfer authority.
Sec. 1002. Authorization of supplemental appropriations for fiscal year 2002.
Sec. 1003. United States contribution to NATO common-funded budgets in fiscal year 2003.
Sec. 1004. Development and implementation of financial management enterprise architecture.
Sec. 1005. Accountable officials in the Department of Defense.
Sec. 1006. Uniform standards throughout Department of Defense for exposure of personnel to pecuniary liability for loss of Government property.
Sec. 1007. Improvements in purchase card management.
Sec. 1008. Improvements in travel card management.
Sec. 1009. Clearance of certain transactions recorded in Treasury suspense accounts and resolution of certain check issuance discrepancies.
Sec. 1010. Authorization of funds for ballistic missile defense programs or combating terrorism programs of the Department of Defense.
Sec. 1011. Reduction in overall authorization due to inflation savings.

Subtitle B—Naval Vessels and Shipyards

Sec. 1021. Number of Navy combatant surface vessels in active and reserve service.
Sec. 1022. Annual long-range plan for the construction of naval vessels.
Sec. 1023. Assessment of the feasibility of the expedited equipping of a Navy ship with a version of the 155-millimeter Advanced Gun System.
Sec. 1024. Report on initiatives to increase operational days of Navy ships.
Sec. 1025. Ship combat system industrial base.
Sec. 1026. Sense of Congress concerning aircraft carrier force structure.
Sec. 1027. Conveyance, Navy drydock, Portland, Oregon.

Subtitle C—Strategic Matters

Sec. 1031. Strategic force structure plan for nuclear weapons and delivery systems.
Sec. 1032. Annual report on weapons to defeat hardened and deeply buried targets.
Sec. 1033. Report on effects of nuclear earth-penetrator weapon and other weapons.

Subtitle D—Reports

Sec. 1041. Repeal and modification of various reporting requirements applicable to the Department of Defense.
Sec. 1042. Requirement that Department of Defense reports to Congress be accompanied by electronic version.
Sec. 1043. Annual report on the conduct of military operations conducted as part of Operation Enduring Freedom.
Sec. 1044. Report on efforts to ensure adequacy of fire fighting staffs at military installations.
Sec. 1045. Report on designation of certain Louisiana highway as Defense Access Road.

Subtitle E—Extension of Expiring Authorities

Sec. 1051. Extension of authority for Secretary of Defense to sell aircraft and aircraft parts for use in responding to oil spills.
Sec. 1052. Six-month extension of expiring Governmentwide information security requirements; continued applicability of expiring Governmentwide information security requirements to the Department of Defense.
Sec. 1053. Two-year extension of authority of the Secretary of Defense to engage in commercial activities as security for intelligence collection activities abroad.

Subtitle F—Other Matters

Sec. 1061. Time for transmittal of annual defense authorization legislative proposal.
Sec. 1062. Technical and clerical amendments.
Sec. 1063. Use for law enforcement purposes of DNA samples maintained by Department of Defense for identification of human remains.
Sec. 1064. Enhanced authority to obtain foreign language services during periods of emergency.
Sec. 1065. Rewards for assistance in combating terrorism.
Sec. 1066. Provision of space and services to military welfare societies.
Sec. 1067. Prevention and mitigation of corrosion of military equipment and infrastructure.
Sec. 1068. Transfer of historic DF-9E Panther aircraft to Women Airforce Service Pilots Museum.
Sec. 1069. Increase in amount authorized to be expended for Department of Defense program to commemorate 50th anniversary of the Korean War.

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2003 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of paragraph (1) may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by subsection (a) to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of subsection (a) shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

(e) INCREASE IN AMOUNT OF TRANSFER AUTHORITY AUTHORIZED FOR FY02.—Section 1001 of the National Defense Authorization Act for

Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1201) is amended by striking "$2,000,000,000" and inserting "$2,500,000,000".

SEC. 1002. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2002.

(a) DOD Authorizations.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2002 in the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased (by a supplemental appropriation) or decreased (by a rescission), or both, or are increased by a transfer of funds, pursuant to chapter 3 or chapter 10 of title I of Public Law 107–206 (116 Stat. 835, 878).

(b) NNSA Authorizations.—Amounts authorized to be appropriated to the Department of Energy for fiscal year 2002 in the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased (by a supplemental appropriation) or decreased (by a rescission), or both, or are increased by a transfer of funds, pursuant to chapter 5 of title I of Public Law 107–206 (116 Stat. 848).

(c) Report on Fiscal Year 2002 Transfers.—Not later than January 15, 2003, the Secretary of Defense shall submit to the congressional defense committees a report stating, for each transfer during fiscal year 2002 of an amount provided for the Department of Defense for that fiscal year through a so-called "transfer account", including the Defense Emergency Response Fund or any other similar account, the amount of the transfer, the appropriation account to which the transfer was made, and the specific purpose for which the transferred funds were used.

SEC. 1003. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2003.

(a) Fiscal Year 2003 Limitation.—The total amount contributed by the Secretary of Defense in fiscal year 2003 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) Total Amount.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2002, of funds appropriated for fiscal years before fiscal year 2003 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) Authorized Amounts.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $750,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), $205,623,000 for the Military Budget.

(d) Definitions.—For purposes of this section:

(1) Common-funded budgets of NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) Fiscal year 1998 baseline limitation.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

SEC. 1004. DEVELOPMENT AND IMPLEMENTATION OF FINANCIAL MANAGEMENT ENTERPRISE ARCHITECTURE.

(a) Requirement for Enterprise Architecture and for Transition Plan.—Not later than May 1, 2003, the Secretary of Defense shall develop—

(1) a financial management enterprise architecture for all budgetary, accounting, finance, enterprise resource planning, and mixed information systems of the Department of Defense; and

(2) a transition plan for implementing that financial management enterprise architecture.

(b) Composition of Enterprise Architecture.—(1) The financial management enterprise architecture developed under subsection (a)(1) shall describe an information infrastructure that, at a minimum, would enable the Department of Defense to—

(A) comply with all Federal accounting, financial management, and reporting requirements;

(B) routinely produce timely, accurate, and reliable financial information for management purposes;

(C) integrate budget, accounting, and program information and systems; and

(D) provide for the systematic measurement of performance, including the ability to produce timely, relevant, and reliable cost information.

(2) That enterprise architecture shall also include policies, procedures, data standards, and system interface requirements that are to apply uniformly throughout the Department of Defense.

(c) Composition of Transition Plan.—The transition plan developed under subsection (a)(2) shall include the following:

(1) The acquisition strategy for the enterprise architecture, including specific time-phased milestones, performance metrics, and financial and nonfinancial resource needs.

(2) A listing of the mission critical or mission essential operational and developmental financial and nonfinancial management systems of the Department of Defense, as defined by the Under Secretary of Defense (Comptroller), consistent with budget justification documentation, together with—

(A) the costs to operate and maintain each of those systems during fiscal year 2002; and

(B) the estimated cost to operate and maintain each of those systems during fiscal year 2003.

(3) A listing of the operational and developmental financial management systems of the Department of Defense as of the date of the enactment of this Act (known as "legacy systems") that will not be part of the objective financial and nonfinancial management system, together with the schedule for terminating those legacy systems that provides for reducing the use of those legacy systems in phases.

(d) Conditions for Obligation of Significant Amounts for Financial System Improvements.—An amount in excess of $1,000,000 may be obligated for a defense financial system improvement only if the Under Secretary of Defense (Comptroller) makes a determination regarding that improvement as follows:

(1) Before the date of an approval specified in paragraph (2), a determination that the defense financial system improvement is necessary for either of the following reasons:

(A) To achieve a critical national security capability or address a critical requirement in an area such as safety or security.

(B) To prevent a significant adverse effect (in terms of a technical matter, cost, or schedule) on a project that is needed to achieve an essential capability, taking into consideration in the determination the alternative solutions for preventing the adverse effect.

(2) On and after the date of any approval by the Secretary of Defense of a financial management enterprise architecture and a transition plan that satisfy the requirements of this section, a determination that the defense financial system improvement is consistent with both the enterprise architecture and the transition plan.

(e) Congressional Reports.—Not later than March 15 of each year from 2004 through 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the progress of the Department of Defense in implementing the enterprise architecture and transition plan required by this section. Each report shall include, at a minimum—

(1) a description of the actions taken during the preceding fiscal year to implement the enterprise architecture and transition plan (together with the estimated costs of such actions);

(2) an explanation of any action planned in the enterprise architecture and transition plan to be taken during the preceding fiscal year that was not taken during that fiscal year;

(3) a description of the actions taken and planned to be taken during the current fiscal year to implement the enterprise architecture and transition plan (together with the estimated costs of such actions); and

(4) a description of the actions taken and planned to be taken during the next fiscal year to implement the enterprise architecture and transition plan (together with the estimated costs of such actions).

(f) Comptroller General Review.—Not later than 60 days after the approval of an enterprise architecture and transition plan in accordance with the requirements of subsection (a), and not later than 60 days after the submission of an annual report required by subsection (e), the Comptroller General shall submit to the congressional defense committees an assessment of the extent to which the actions taken by the Department comply with the requirements of this section.

(g) Definitions.—In this section:

(1) The term "defense financial system improvement" means the acquisition of a new budgetary, accounting, finance, enterprise resource planning, or mixed information system for the Department of Defense or a modification of an existing budgetary, accounting, finance, enterprise resource planning, or mixed information system of the Department of Defense. Such term does not include routine maintenance and operation of any such system.

(2) The term "mixed information system" means an information system that supports financial and non-financial functions of the Federal Government as defined in Office of Management and Budget Circular A–127 (Financial management Systems).

(h) Repeal.—(1) Section 2222 of title 10, United States Code, is repealed. The table of sections at the beginning of chapter 131 of such title is amended by striking the item relating to such section.

(2) Section 185(d) of such title is amended by striking "has the meaning given that term in section 2222(c)(2) of this title" and inserting "means an automated or manual system from which information is derived for a financial management system or an accounting system".

SEC. 1005. ACCOUNTABLE OFFICIALS IN THE DEPARTMENT OF DEFENSE.

(a) Accountable Officials Within the Department of Defense.—Chapter 165 of title 10, *United States Code, is amended by inserting after section 2773 the following new section:*

"§2773a. Departmental accountable officials

"(a) DESIGNATION BY SECRETARY OF DEFENSE.—The Secretary of Defense may designate any civilian employee of the Department of Defense or member of the armed forces under the Secretary's jurisdiction who is described in subsection (b) as an employee or member who, in addition to any other potential accountability, may be held accountable through personal monetary liability for an illegal, improper, or incorrect payment made the Department of Defense described in subsection (c). Any such designation shall be in writing. Any employee or member who is so designated may be referred to as a 'departmental accountable official'.

"(b) COVERED EMPLOYEES AND MEMBERS.—An employee or member of the armed forces described in this subsection is an employee or member who—

"(1) is responsible in the performance of the employee's or member's duties for providing to a certifying official of the Department of Defense information, data, or services that are directly relied upon by the certifying official in the certification of vouchers for payment; and

"(2) is not otherwise accountable under subtitle III of title 31 or any other provision of law for payments made on the basis of such vouchers.

"(c) PECUNIARY LIABILITY.—(1) The Secretary of Defense may subject a departmental accountable official to pecuniary liability for an illegal, improper, or incorrect payment made by the Department of Defense if the Secretary determines that such payment—

"(A) resulted from information, data, or services that that official provided to a certifying official and upon which that certifying official directly relies in certifying the voucher supporting that payment; and

"(B) was the result of fault or negligence on the part of that departmental accountable official.

"(2) Pecuniary liability under this subsection shall apply in the same manner and to the same extent as applies to an official accountable under subtitle III of title 31.

"(3) Any pecuniary liability of a departmental accountable official under this subsection for a loss to the United States resulting from an illegal, improper, or incorrect payment is joint and several with that of any other officer or employee of the United States or member of the uniformed services who is pecuniarily liable for such loss.

"(d) CERTIFYING OFFICIAL DEFINED.—In this section, the term 'certifying official' means an employee who has the responsibilities specified in section 3528(a) of title 31.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2773 the following new item:

"2773a. Departmental accountable officials.".

SEC. 1006. UNIFORM STANDARDS THROUGHOUT DEPARTMENT OF DEFENSE FOR EXPOSURE OF PERSONNEL TO PECUNIARY LIABILITY FOR LOSS OF GOVERNMENT PROPERTY.

(a) EXTENSION OF ARMY AND AIR FORCE REPORT-OF-SURVEY PROCEDURES TO NAVY AND MARINE CORPS AND ALL DOD CIVILIAN EMPLOYEES.—(1) Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

"§2787. Reports of survey

"(a) ACTION ON REPORTS OF SURVEY.—Under regulations prescribed pursuant to subsection (c), any officer of the Army, Navy, Air Force, or Marine Corps or any civilian employee of the Department of Defense designated in accordance with those regulations may act upon reports of surveys and vouchers pertaining to the loss, spoilage, unserviceability, unsuitability, or destruction of, or damage to, property of the United States under the control of the Department of Defense.

"(b) FINALITY OF ACTION.—(1) Action taken under subsection (a) is final except as provided in paragraph (2).

"(2) An action holding a person pecuniarily liable for loss, spoilage, destruction, or damage is not final until approved by a person designated to do so by the Secretary of a military department, commander of a combatant command, or Director of a Defense Agency, as the case may be, who has jurisdiction of the person held pecuniarily liable. The person designated to provide final approval shall be an officer of an armed force, or a civilian employee, under the jurisdiction of the official making the designation.

"(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2787. Reports of survey.".

(b) EXTENSION TO MEMBERS OF NAVY AND MARINE CORPS OF PAY DEDUCTION AUTHORITY PERTAINING TO DAMAGE OR REPAIR OF ARMS AND EQUIPMENT.—Section 1007(e) of title 37, United States Code, is amended by striking "Army or the Air Force" and inserting "Army, Navy, Air Force, or Marine Corps".

(c) REPEAL OF SUPERSEDED PROVISIONS.—(1) Sections 4835 and 9835 of title 10, United States Code, are repealed.

(2) The tables of sections at the beginning of chapters 453 and 953 of such title are amended by striking the items relating to sections 4835 and 9835, respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the loss, spoilage, unserviceability, unsuitability, or destruction of, or damage to, property of the United States under the control of the Department of Defense occurring on or after the effective date of regulations prescribed pursuant to section 2787 of title 10, United States Code, as added by subsection (a).

SEC. 1007. IMPROVEMENTS IN PURCHASE CARD MANAGEMENT.

(a) PURCHASE CARD MANAGEMENT IMPROVEMENTS.—Section 2784 of title 10, United States Code, is amended—

(1) in subsection (a), by striking ", acting through the Under Secretary of Defense (Comptroller),"; and

(2) by adding at the end of subsection (b) the following:

"(7) That periodic reviews are performed to determine whether each purchase card holder has a need for the purchase card.

"(8) That the Inspector General of the Department of Defense, the Inspector General of the Army, the Naval Inspector General, and the Inspector General of the Air Force perform periodic audits to identify—

"(A) potentially fraudulent, improper, and abusive uses of purchase cards;

"(B) any patterns of improper card holder transactions, such as purchases of prohibited items; and

"(C) categories of purchases that should be made by means other than purchase cards in order to better aggregate purchases and obtain lower prices.

"(9) That appropriate training is provided to each purchase card holder and each official with responsibility for overseeing the use of purchase cards issued by the Department of Defense.

"(10) That the Department of Defense has specific policies regarding the number of purchase cards issued by various organizations and categories of organizations, the credit limits authorized for various categories of card holders, and categories of employees eligible to be issued purchase cards, and that those policies are designed to minimize the financial risk to the Federal Government of the issuance of the purchase cards and to ensure the integrity of purchase card holders.

"(c) PENALTIES FOR VIOLATIONS.—The regulations prescribed under subsection (a) shall—

"(1) provide for appropriate adverse personnel actions or other punishment to be imposed in cases in which employees of the Department of Defense violate such regulations or are negligent or engage in misuse, abuse, or fraud with respect to a purchase card, including removal in appropriate cases; and

"(2) provide that a violation of such regulations by a person subject to chapter 47 of this title (the Uniform Code of Military Justice) is punishable as a violation of section 892 of this title (article 92 of the Uniform Code of Military Justice).".

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) Section 2784 of such title is further amended—

*(A) in the section heading, by striking "**credit**" and inserting "**purchase**";*

(B) in the heading of subsection (a), by striking "CREDIT" and inserting "PURCHASE"; and

(C) in subsection (a) and paragraphs (1) through (6) of subsection (b), by striking "credit" and inserting "purchase" each place it appears.

(2) The table of sections at the beginning of chapter 165 of such title is amended by striking the item relating to section 2784 and inserting the following:

"2784. Management of purchase cards.".

SEC. 1008. IMPROVEMENTS IN TRAVEL CARD MANAGEMENT.

(a) TRAVEL CARD MANAGEMENT IMPROVEMENTS.—Chapter 165 of title 10, United States Code, is amended by inserting after section 2784 the following new section:

"§2784a. Management of travel cards

"(a) DISBURSEMENT OF TRAVEL ALLOWANCES DIRECTLY TO CREDITORS.—(1) The Secretary of Defense may require that any part of a travel or transportation allowance of an employee of the Department of Defense or a member of the armed forces be disbursed directly to the issuer of a Defense travel card if the amount is disbursed to the issuer in payment of amounts of expenses of official travel that are charged by the employee or member on the Defense travel card.

"(2) For the purposes of this subsection, the travel and transportation allowances referred to in paragraph (1) are amounts to which an employee of the Department of Defense is entitled under section 5702 of title 5 or a member of the armed forces is entitled under section 404 of title 37.

"(b) OFFSETS FOR DELINQUENT TRAVEL CARD CHARGES.—(1) The Secretary of Defense may require that there be deducted and withheld from any basic pay payable to an employee of the Department of Defense or a member of the armed forces any amount that is owed by the employee or member to a creditor by reason of one or more charges of expenses of official travel of the employee or member on a Defense travel card issued by the creditor if the employee or member—

"(A) is delinquent in the payment of such amount under the terms of the contract under which the card is issued; and

"(B) does not dispute the amount of the delinquency.

"(2) The amount deducted and withheld from pay under paragraph (1) with respect to a debt owed a creditor as described in that paragraph shall be disbursed to the creditor to reduce the amount of the debt.

"(3) The amount of pay deducted and withheld from the pay owed to an employee or member with respect to a pay period under paragraph (1) may not exceed 15 percent of the disposable pay of the employee or member for that pay period, except that a higher amount may be deducted and withheld with the written consent of the employee or member.

"(4) The Secretary of Defense shall prescribe procedures for deducting and withholding amounts from pay under this subsection. The procedures shall be substantially equivalent to the procedures under section 3716 of title 31.

"(c) Offsets of Retired Pay.—In the case of a former employee of the Department of Defense or a retired member of the armed forces who is receiving retired pay and who owes an amount to a creditor by reason of one or more charges on a Defense travel card that were made before the retirement of the employee or member, the Secretary may require amounts to be deducted and withheld from any retired pay of the former employee or retired member in the same manner and subject to the same conditions as the Secretary deducts and withholds amounts from basic pay payable to an employee or member under subsection (b).

"(d) Definitions.—In this section:

"(1) The term 'Defense travel card' means a charge or credit card that—

"(A) is issued to an employee of the Department of Defense or a member of the armed forces under a contract entered into by the Department of Defense with the issuer of the card; and

"(B) is to be used for charging expenses incurred by the employee or member in connection with official travel.

"(2) The term 'disposable pay', with respect to a pay period, means the amount equal to the excess of the amount of basic pay or retired pay, as the case may be, payable for the pay period over the total of the amounts deducted and withheld from such pay.

"(3) The term 'retired pay' means—

"(A) in the case of a former employee of the Department of Defense, any retirement benefit payable to that individual, out of the Civil Service Retirement and Disability Fund, based (in whole or in part) on service performed by such individual as a civilian employee of the Department of Defense; and

"(B) in the case of a retired member of the armed forces or member of the Fleet Reserve or Fleet Marine Corps Reserve, retired or retainer pay to which the member is entitled.

"(e) Exclusion of Coast Guard.—This section does not apply to the Coast Guard.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 165 of such title is amended by inserting after the item relating to section 2784 the following new item:

"2784a. Management of travel cards.".

SEC. 1009. CLEARANCE OF CERTAIN TRANSACTIONS RECORDED IN TREASURY SUSPENSE ACCOUNTS AND RESOLUTION OF CERTAIN CHECK ISSUANCE DISCREPANCIES.

(a) Clearance of Certain Suspense Accounts.—(1) In the case of any transaction that was entered into by or on behalf of the Department of Defense before March 1, 2001, that is recorded in the Department of Treasury Budget Clearing Account (Suspense) designated as account F3875, the Unavailable Check Cancellations and Overpayments Account (Suspense) designated as account F3880, or an Undistributed Intergovernmental Payments account designated as account F3885, and for which no appropriation for the Department of Defense has been identified—

(A) any undistributed collection credited to such account in such case shall be deposited to the miscellaneous receipts of the Treasury; and

(B) subject to paragraph (2), any undistributed disbursement recorded in such account in such case shall be canceled.

(2) An undistributed disbursement may not be canceled under paragraph (1)(B) until the Secretary of Defense has made a written determination that the appropriate official or officials of the Department of Defense have attempted without success to locate the documentation necessary to identify which appropriation should be charged with such disbursement and that further efforts to do so are not in the best interests of the United States.

(b) Resolution of Check Issuance Discrepancies.—(1) In the case of any check drawn on the Treasury that was issued by or on behalf of the Department of Defense before October 31, 1998, for which the Secretary of the Treasury has reported to the Department of Defense a discrepancy between the amount paid and the amount of the check as transmitted to the Department of Treasury, and for which no specific appropriation for the Department of Defense can be identified as being associated with the check, the discrepancy shall be canceled, subject to paragraph (2).

(2) A discrepancy may not be canceled under paragraph (1) until the Secretary of Defense has made a written determination that the appropriate official or officials of the Department of Defense have attempted without success to locate the documentation necessary to identify which appropriation should be charged with the amount of the check and that further efforts to do so are not in the best interests of the United States.

(c) Consultation.—The Secretary of Defense shall consult the Secretary of the Treasury in the exercise of the authority granted by subsections (a) and (b).

(d) Duration of Cancellation Authority Following Determination.—(1) A particular undistributed disbursement may not be canceled under paragraph (1)(B) of subsection (a) more than 30 days after the date of the written determination made by the Secretary of Defense under paragraph (2) of such subsection regarding that undistributed disbursement.

(2) A particular discrepancy may not be canceled under paragraph (1) of subsection (b) more than 30 days after the date of the written determination made by the Secretary of Defense under paragraph (2) of such subsection regarding that discrepancy.

(e) Program Termination.—No authority may be exercised under this section after the date that is two years after the date of the enactment of this Act.

SEC. 1010. AUTHORIZATION OF FUNDS FOR BALLISTIC MISSILE DEFENSE PROGRAMS OR COMBATING TERRORISM PROGRAMS OF THE DEPARTMENT OF DEFENSE.

(a) Authorization.—There is hereby authorized to be appropriated for fiscal year 2003 for the military functions of the Department of Defense, in addition to amounts authorized to be appropriated in titles I, II, and III, the amount of $814,300,000, to be available, in accordance with subsection (b), for the following purposes:

(1) Research, development, test, and evaluation for ballistic missile defense programs of the Missile Defense Agency of the Department of Defense.

(2) Activities of the Department of Defense for combating terrorism at home and abroad.

(b) Allocation by President.—(1) The amount authorized to be appropriated by subsection (a) shall be allocated between the purposes stated in paragraphs (1) and (2) of that subsection in such manner as may be determined by the President based upon the national security interests of the United States. The amount authorized in subsection (a) shall not be available for any other purpose.

(2) Upon an allocation of such amount by the President, the amount so allocated shall be transferred to the appropriate regular authorization account under this division in the same manner as provided in section 1001. Transfers under this paragraph shall not be counted for the purposes of section 1001(a)(2).

(3) Not later than 15 days after an allocation is made under this subsection, the Secretary of Defense shall submit to the congressional defense committees a report describing the President's allocation, the basis for the President's determination in making such allocation, and the Secretary's plan for the use by the Department of Defense of the funds made available pursuant to such allocation.

SEC. 1011. REDUCTION IN OVERALL AUTHORIZATION DUE TO INFLATION SAVINGS.

(a) Reduction.—The total amount authorized to be appropriated by titles I, II, and III is the amount equal to the sum of the individual authorizations in those titles reduced by $1,000,000,000.

(b) Source of Savings.—Reductions required in order to comply with subsection (a) shall be derived from savings resulting from lower-than-expected inflation as a result of the midsession review of the budget conducted by the Office of Management and Budget.

(c) Allocation of Reduction.—The Secretary of Defense shall allocate the reduction required by subsection (a) among the accounts in titles I, II, and III to reflect the extent to which net inflation savings are available in those accounts.

Subtitle B—Naval Vessels and Shipyards

SEC. 1021. NUMBER OF NAVY COMBATANT SURFACE VESSELS IN ACTIVE AND RESERVE SERVICE.

(a) Contingent Requirement for Report.—(1) If, on the date of the enactment of this Act, the number of combatant surface vessels of the Navy is less than 116, the Secretary of the Navy shall, not later than 90 days after such date, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the size of the force of combatant surface vessels of the Navy. The report shall include a risk assessment for a force of combatant surface vessels in the number as of the date of the enactment of this Act that is based on the same assumptions as were applied in the QDR 2001 combatant surface force risk assessment.

(2) The definitions in subsection (c) of section 7296 of title 10, United States Code, as added by subsection (b), apply to this subsection.

(b) Number of Combatant Surface Vessels.—(1) Chapter 633 of title 10, United States Code, is amended by inserting after section 7295 the following new section:

"§7296. Combatant surface vessels: notice before reduction in number; preservation of surge capability

"(a) Notice-and-Wait Before Reductions.—(1) A reduction described in paragraph (2) in the number of combatant surface vessels may only be carried out after—

"(A) the Secretary of the Navy submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written notification of the proposed reduction; and

"(B) a period of 90 days has expired after the date on which such notification is received.

"(2) A reduction described in this paragraph in the number of combatant surface vessels is a reduction—

"(A) from 116, or a number greater than 116, to a number less than 116; or

"(B) from a number less than 116 to a lesser number.

"(3) Any notification under paragraph (1)(A) shall include the following:

"(A) The schedule for the proposed reduction.

"(B) The number of vessels that are to comprise the force of combatant surface vessels after the reduction.

"(C) A risk assessment for a force of combatant surface vessels of the number specified under subparagraph (B) that is based on the same assumptions as were applied in the QDR 2001 combatant surface force risk assessment.

"(b) PRESERVATION OF SURGE CAPABILITY.—Whenever the number of combatant surface vessels is less than 116, the Secretary of the Navy shall maintain on the Naval Vessel Register a sufficient number of combatant surface vessels to enable the Navy to regain a force of combatant surface vessels numbering not less than 116 within 120 days after the date of any decision by the President to increase the number of combatant surface vessels.

"(c) DEFINITIONS.—In this section:

"(1) The term 'combatant surface vessels' means cruisers, destroyers, and frigates that are in active service in the Navy or in active reserve service in the Navy.

"(2) The term 'QDR 2001 combatant surface force risk assessment' means the risk assessment associated with a force of combatant surface vessels numbering 116 that is set forth in the report on the quadrennial defense review submitted to Congress on September 30, 2001, under section 118 of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7295 the following new item:

"7296. Combatant surface vessels: notice before reduction in number; preservation of surge capability.".

(c) EFFECTIVE DATE FOR 90-DAY WAITING PERIOD.—The provisions of subparagraph (B) of subsection (a)(1) of section 7296 of title 10, United States Code, as added by subsection (b)(1) of this section, shall apply only with respect to notifications submitted under subparagraph (A) of that subsection on or after January 15, 2003.

SEC. 1022. ANNUAL LONG-RANGE PLAN FOR THE CONSTRUCTION OF NAVAL VESSELS.

(a) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN.—(1) Chapter 9 of title 10, United States Code, is amended by adding at the end the following new section:

"§231. Budgeting for construction of naval vessels: annual plan and certification

"(a) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN AND CERTIFICATION.—The Secretary of Defense shall include with the defense budget materials for a fiscal year—

"(1) a plan for the construction of combatant and support vessels for the Navy developed in accordance with this section; and

"(2) a certification by the Secretary that both the budget for that fiscal year and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding of the construction of naval vessels at a level that is sufficient for the procurement of the vessels provided for in the plan under paragraph (1) on the schedule provided in that plan.

"(b) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN.—(1) The annual naval vessel construction plan developed for a fiscal year for purposes of subsection (a)(1) should be designed so that the naval vessel force provided for under that plan is capable of supporting the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 404a), except that, if at the time such plan is submitted with the defense budget materials for that fiscal year, a national security strategy report required under such section 108 has not been submitted to Congress as required by paragraph (2) or paragraph (3), if applicable, of subsection (a) of such section, then such annual plan should be designed so that the naval vessel force provided for under that plan is capable of supporting the ship force structure recommended in the report of the most recent Quadrennial Defense Review.

"(2) Each such naval vessel construction plan shall include the following:

"(A) A detailed program for the construction of combatant and support vessels for the Navy over the next 30 fiscal years.

"(B) A description of the necessary naval vessel force structure to meet the requirements of the national security strategy of the United States or the most recent Quadrennial Defense Review, whichever is applicable under paragraph (1).

"(C) The estimated levels of annual funding necessary to carry out the program, together with a discussion of the procurement strategies on which such estimated levels of annual funding are based.

"(c) ASSESSMENT WHEN VESSEL CONSTRUCTION BUDGET IS INSUFFICIENT TO MEET APPLICABLE REQUIREMENTS.—If the budget for a fiscal year provides for funding of the construction of naval vessels at a level that is not sufficient to sustain the naval vessel force structure specified in the naval vessel construction plan for that fiscal year under subsection (a), the Secretary shall include with the defense budget materials for that fiscal year an assessment that describes and discusses the risks associated with the reduced force structure of naval vessels that will result from funding naval vessel construction at such level. Such assessment shall be coordinated in advance with the commanders of the combatant commands.

"(d) DEFINITIONS.—In this section:

"(1) The term 'budget', with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

"(2) The term 'defense budget materials', with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

"(3) The term 'Quadrennial Defense Review' means the review of the defense programs and policies of the United States that is carried out every four years under section 118 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"231. Budgeting for construction of naval vessels: annual plan and certification.".

SEC. 1023. ASSESSMENT OF THE FEASIBILITY OF THE EXPEDITED EQUIPPING OF A NAVY SHIP WITH A VERSION OF THE 155-MILLIMETER ADVANCED GUN SYSTEM.

(a) FEASIBILITY ASSESSMENT REQUIRED.—(1) The Secretary of the Navy shall conduct an assessment of the feasibility of the expedited equipping of a Navy ship in active or inactive service with a version of the 155-millimeter Advanced Gun System that is being developed for the DD(X) next generation, multi-mission, land attack surface combatant vessel.

(2) The assessment shall include an analysis of—

(A) the actions required to achieve such equipping and the technical and programmatic risks associated with those actions;

(B) the plan, schedule, and funding required to achieve such equipping; and

(C) the effect (if any) that such equipping might have on the development program and schedule for the DD(X) vessel.

(b) EQUIPPING ON EXPEDITED SCHEDULE.—The schedule to be considered in the assessment under subsection (a) shall provide for equipping of a ship with a version of the 155-millimeter Advanced Gun System on an expedited schedule that is consistent with the achievement of safety of operation, but not later than October 1, 2006.

(c) REPORT REQUIRED.—The Secretary shall submit to the congressional defense committees a report on the results of the assessment under subsection (a). The report shall be submitted at the same time that the President submits the budget for fiscal year 2004 to Congress under section 1105(a) of title 31, United States Code.

SEC. 1024. REPORT ON INITIATIVES TO INCREASE OPERATIONAL DAYS OF NAVY SHIPS.

(a) REQUIREMENT FOR REPORT ON INITIATIVES.—(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on Department of Defense initiatives to increase the number of operational days of Navy ships as described in subsection (b).

(2) The report shall cover the ongoing Department of Defense initiatives as well as any potential initiatives that are under consideration within the Department of Defense.

(b) INITIATIVES WITHIN LIMITS OF EXISTING FLEET AND DEPLOYMENT POLICY.—In the report, the Under Secretary shall assess the feasibility and identify the projected effects of conducting initiatives that have the potential to increase the number of operational days of Navy ships available to the commanders-in-chief of the regional unified combatant commands without increasing the number of Navy ships and without increasing the routine lengths of deployments of Navy ships above six months.

(c) REQUIRED FOCUS AREAS.—The report shall address, at a minimum, the following focus areas:

(1) Assignment of additional ships, including submarines, to home ports closer to the areas of operation for the ships (known as "forward homeporting").

(2) Assignment of ships to remain in a forward area of operations, together with rotation of crews for each ship so assigned.

(3) Retention of ships for use until the end of the full service life, together with investment of the funds necessary to support retention to that extent.

(4) Prepositioning of additional ships with, under normal circumstances, small crews in a forward area of operations.

(d) SHIP MAINTENANCE.—The report shall include an assessment of how routine programmed ship maintenance would be accomplished for Navy ships that would remain in a forward area of operations.

(e) TIME FOR SUBMITTAL.—The report shall be submitted at the same time that the President submits the budget for fiscal year 2004 to Congress under section 1105(a) of title 31, United States Code.

SEC. 1025. SHIP COMBAT SYSTEM INDUSTRIAL BASE.

(a) REVIEW.—The Secretary of Defense shall conduct a review of the effect of the contract award announced on April 29, 2002, for the lead design agent for the DD(X) ship program on the industrial base for ship combat system development, including the industrial base for each of the following: ship systems integration, radar, electronic warfare, and launch systems.

(b) REPORT REQUIRED.—Not later than March 31, 2003, the Secretary shall submit to the congressional defense committees a report based on the review under subsection (a). The report shall include the following:

(1) The Secretary's assessment of the effect of the contract award referred to in that subsection on ship combat system development and on the associated industrial base.

(2) A description of any actions that the Secretary proposes to ensure future competition in the ship combat system development and industrial base.

SEC. 1026. SENSE OF CONGRESS CONCERNING AIRCRAFT CARRIER FORCE STRUCTURE.

(a) FINDINGS.—Congress makes the following findings:

(1) The aircraft carrier has been an integral component in Operation Enduring Freedom and in the homeland defense mission of Operation Noble Eagle beginning on September 11, 2001. The aircraft carriers that have participated in Operation Enduring Freedom, as of May 1, 2002, are the USS Enterprise (CVN–65), the USS Carl Vinson (CVN–70), the USS Kitty Hawk (CV–63), the USS Theodore Roosevelt (CVN–71), the USS John C. Stennis (CVN–74), and the USS John F. Kennedy (CV–67). The aircraft carriers that have participated in Operation Noble Eagle, as of May 1, 2002, are the USS George Washington (CVN–73), the USS John F. Kennedy (CV–67), and the USS John C. Stennis (CVN–74).

(2) Since 1945, the United States has built 172 bases overseas, of which only 24 are currently in use.

(3) The aircraft carrier provides an independent base of operations should no land base be available for aircraft, with carrier air wings providing the United States sea-based forward-deployed offensive strike capability.

(4) The aircraft carrier is an essential component of the Navy.

(5) The naval tactical aircraft modernization programs are proceeding on schedule.

(6) As established by the Navy, the United States requires the service of 15 aircraft carriers to completely fulfill all the naval commitments assigned to the Navy without gapping carrier presence.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the number of aircraft carriers of the Navy in active service should not be less than 12.

(c) OPERATION ENDURING FREEDOM AND OPERATION NOBLE EAGLE COMMENDATION.—Congress hereby commends the military and civilian personnel who have participated in Operation Enduring Freedom and Operation Noble Eagle.

SEC. 1027. CONVEYANCE, NAVY DRYDOCK, PORTLAND, OREGON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may sell Navy Drydock No. YFD–69, located in Portland, Oregon, to Portland Shipyard, LLC, which is the current user of the drydock.

(b) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the purchaser agree to retain the drydock on Swan Island in Portland, Oregon, until at least September 30, 2007.

(c) CONSIDERATION.—As consideration for the conveyance of the drydock under subsection (a), the purchaser shall pay to the Secretary an amount equal to the fair market value of the drydock at the time of the conveyance, as determined by the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Subtitle C—Strategic Matters

SEC. 1031. STRATEGIC FORCE STRUCTURE PLAN FOR NUCLEAR WEAPONS AND DELIVERY SYSTEMS.

(a) PLAN REQUIRED.—The Secretary of Defense and the Secretary of Energy shall jointly prepare a plan for the United States strategic force structure for nuclear weapons and nuclear weapons delivery systems for the period of fiscal years from 2003 through 2012. The plan shall—

(1) define the range of missions assigned to strategic nuclear forces in the national defense strategy consistent with—

(A) the Quadrennial Defense Review dated September 30, 2001, under section 118 of title 10, United States Code;

(B) the Nuclear Posture Review dated December 2001 under section 1041 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–262); and

(C) other relevant planning documents;

(2) delineate a baseline strategic force structure for such weapons and systems over such period consistent with such Nuclear Posture Review;

(3) define sufficient force structure, force modernization and life extension plans, infrastructure, and other elements of the defense program of the United States associated with such weapons and systems that would be required to execute successfully the full range of missions defined under paragraph (1);

(4) identify the budget plan that would be required to provide sufficient resources to execute successfully the full range of missions using such force structure called for in that national defense strategy; and

(5)(A) evaluate options for achieving, prior to fiscal year 2012, a posture under which the United States maintains a number of operationally deployed nuclear warheads at a level of from 1,700 to 2,200 such warheads, as outlined in the Nuclear Posture Review referred to in paragraph (1)(B); and

(B) contain an assessment of the advantages and disadvantages of options for achieving such posture as early as 2007, including effects on cost, the dismantlement workforce, and any other affected matter.

(b) REPORT.—Not later than March 1, 2003, the Secretary of Defense and the Secretary of Energy shall submit a report on the plan to the congressional defense committees.

SEC. 1032. ANNUAL REPORT ON WEAPONS TO DEFEAT HARDENED AND DEEPLY BURIED TARGETS.

(a) ANNUAL REPORT.—Not later than April 1 of each year, the Secretary of Defense, the Secretary of Energy, and the Director of Central Intelligence shall jointly submit to the congressional defense committees, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a report on the research and development, procurement, and other activities undertaken during the preceding fiscal year by the Department of Defense, the Department of Energy, and the intelligence community to develop weapons to defeat hardened and deeply buried targets.

(b) REPORT ELEMENTS.—The report for a fiscal year under subsection (a) shall—

(1) include a discussion of the integration and interoperability of the activities referred to in that subsection that were undertaken during that fiscal year, including a discussion of the relevance of such activities to applicable recommendations by the Chairman of the Joint Chiefs of Staff, assisted under section 181(b) of title 10, United States Code, by the Joint Requirements Oversight Council; and

(2) set forth separately a description of the activities referred to in that subsection, if any, that were undertaken during such fiscal year by each element of—

(A) the Department of Defense;

(B) the Department of Energy; and

(C) the intelligence community.

(c) DEFINITION.—In this section, the term "intelligence community" has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(d) TERMINATION.—No report is required under this section after the submission of the report that is due on April 1, 2007.

SEC. 1033. REPORT ON EFFECTS OF NUCLEAR EARTH-PENETRATOR WEAPON AND OTHER WEAPONS.

(a) NATIONAL ACADEMY OF SCIENCES STUDY.—The Secretary of Defense shall request the National Academy of Sciences to conduct a study and prepare a report on the following:

(1) The anticipated short-term effects and long-term effects of the use by the United States of a nuclear earth-penetrator weapon on the target area, including the effects on civilian populations in proximity to the target area at the time of or after such use and the effects on United States military personnel who after such use carry out operations or battle damage assessments in the target area.

(2) The anticipated short-term and long-term effects on civilian population in proximity to a target area—

(A) if a non-penetrating nuclear weapon is used to attack a hard or deeply-buried target; and

(B) if a conventional high-explosive weapon is used to attack an adversary's facilities for storage or production of weapons of mass destruction and, as a result of such attack, radioactive, nuclear, biological, or chemical weapons materials, agents, or other contaminants are released or spread into populated areas.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress the report under subsection (a), together with any comments the Secretary may consider appropriate on the report. The report shall be submitted in unclassified form to the maximum extent possible, with a classified annex if needed.

Subtitle D—Reports

SEC. 1041. REPEAL AND MODIFICATION OF VARIOUS REPORTING REQUIREMENTS APPLICABLE TO THE DEPARTMENT OF DEFENSE.

(a) PROVISIONS OF TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1)(A) Section 183 is repealed.

(B) The table of sections at the beginning of chapter 7 is amended by striking the item relating to section 183.

(2)(A) Section 230 is repealed.

(B) The table of sections at the beginning of chapter 9 is amended by striking the items relating to section 230.

(3) Section 526 is amended by striking subsection (c).

(4) Section 721(d) is amended—

(A) by striking paragraph (2); and

(B) by striking "(1)" before "If an officer".

(5) Section 1095(g) is amended—

(A) by striking paragraph (2); and

(B) by striking "(1)" after "(g)".

(6) Section 1798 is amended by striking subsection (d).

(7) Section 1799 is amended by striking subsection (d).

(8) Section 2220 is amended—

(A) by striking subsections (b) and (c);

(B) by striking "(1)" after "ESTABLISHMENT OF GOALS.—"; and

(C) by striking "(2) The" and inserting "(b) EVALUATION OF COST GOALS.—The".

(9) Section 2350a(g) is amended by striking paragraph (4).

(10) Section 2350f is amended by striking subsection (c).

(11) Section 2350k is amended by striking subsection (d).

(12) Section 2367(d) is amended by striking "EFFORT.—(1) In the" and all that follows through "(2) After the close of" and inserting "EFFORT.—After the close of".

(13) Section 2391 is amended by striking subsection (c).

(14) Section 2486(b)(12) is amended by striking ", except that" and all that follows and inserting the following: ", except that the Secretary

shall notify Congress of any addition of, or change in, a merchandise category under this paragraph.".

(15) Section 2492 is amended by striking subsection (c) and inserting the following:

"(c) NOTIFICATION OF CONDITIONS NECESSITATING RESTRICTIONS.—The Secretary of Defense shall notify Congress of any change proposed or made to any of the host nation laws or any of the treaty obligations of the United States, and any changed conditions within host nations, if the change would necessitate the use of quantity or other restrictions on purchases in commissary and exchange stores located outside the United States.".

(16) Section 2537(a) is amended by striking "$100,000" and inserting "$10,000,000".

(17) Section 2611 is amended by striking subsection (e).

(18) Section 2667(d) is amended by striking paragraph (3).

(19) Section 4416 is amended by striking subsection (f).

(20) Section 5721(f) is amended—

(A) by striking paragraph (2); and

(B) by striking "(1)" after the subsection heading.

(b) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995.—Section 553(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2772; 10 U.S.C. 4331 note) is amended by striking the last sentence.

(c) BALLISTIC MISSILE DEFENSE ACT OF 1995.—Section 234 of the Ballistic Missile Defense Act of 1995 (subtitle C of title II of Public Law 104–106; 10 U.S.C. 2431 note) is amended by striking subsection (f).

SEC. 1042. REQUIREMENT THAT DEPARTMENT OF DEFENSE REPORTS TO CONGRESS BE ACCOMPANIED BY ELECTRONIC VERSION.

Section 480(a) of title 10, United States Code, is amended by striking "shall, upon request" and all that follows through "(or each" and inserting "shall provide to Congress (or".

SEC. 1043. ANNUAL REPORT ON THE CONDUCT OF MILITARY OPERATIONS CONDUCTED AS PART OF OPERATION ENDURING FREEDOM.

(a) REPORTS REQUIRED.—(1) The Secretary of Defense shall submit to the congressional committees specified in subsection (d) an annual report on the conduct of military operations conducted as part of Operation Enduring Freedom. The first report, which shall include a definition of the military operations carried out as part of Operation Enduring Freedom, shall be submitted not later than June 15, 2003. Subsequent reports shall be submitted not later than June 15 each year, and the final report shall be submitted not later than 180 days after the date (as determined by the Secretary of Defense) of the cessation of hostilities undertaken as part of Operation Enduring Freedom.

(2) Each report under this section shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff, the commander of the United States Central Command, the Director of Central Intelligence, and such other officials as the Secretary considers appropriate.

(3) Each such report shall be submitted in both a classified form and an unclassified form, as necessary.

(b) SPECIAL MATTERS TO BE INCLUDED.—Each report under this section shall include the following:

(1) A discussion of the command, control, coordination, and support relationship between United States special operations forces and Central Intelligence Agency elements participating in Operation Enduring Freedom and any lessons learned from the joint conduct of operations by those forces and elements.

(2) Recommendations to improve operational readiness and effectiveness of these forces and elements.

(c) OTHER MATTERS TO BE INCLUDED.—Each report under this section shall include a discussion, with a particular emphasis on accomplishments and shortcomings, of the following matters with respect to Operation Enduring Freedom:

(1) The political and military objectives of the United States.

(2) The military strategy of the United States to achieve those political and military objectives.

(3) The concept of operations, including any new operational concepts, for the operation.

(4) The benefits and disadvantages of operating with local opposition forces.

(5) The benefits and disadvantages of operating in a coalition with the military forces of allied and friendly nations.

(6) The cooperation of nations in the region for overflight, basing, command and control, and logistic and other support.

(7) The conduct of relief operations both during and after the period of hostilities.

(8) The conduct of close air support (CAS), particularly with respect to the timeliness, efficiency, and effectiveness of such support.

(9) The use of unmanned aerial vehicles for intelligence, surveillance, reconnaissance, and combat support to operational forces.

(10) The use and performance of United States and coalition military equipment, weapon systems, and munitions.

(11) The effectiveness of reserve component forces, including their use and performance in the theater of operations.

(12) The importance and effectiveness of the International Security Assistance Force.

(13) The importance and effectiveness of United States civil affairs forces.

(14) The anticipated duration of the United States military presence in Afghanistan.

(15) The most critical lessons learned that could lead to long-term doctrinal, organizational, and technological changes.

(d) CONGRESSIONAL COMMITTEES.—The committees referred to in subsection (a)(1) are the following:

(1) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

(2) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 1044. REPORT ON EFFORTS TO ENSURE ADEQUACY OF FIRE FIGHTING STAFFS AT MILITARY INSTALLATIONS.

Not later than May 31, 2003, the Secretary of Defense shall submit to Congress a report on the actions being undertaken to ensure that the fire fighting staffs at military installations are adequate under applicable Department of Defense regulations.

SEC. 1045. REPORT ON DESIGNATION OF CERTAIN LOUISIANA HIGHWAY AS DEFENSE ACCESS ROAD.

Not later than March 1, 2003, the Secretary of the Army shall submit to the congressional defense committees a report containing the results of a study on the advisability of designating Louisiana Highway 28 between Alexandria, Louisiana, and Leesville, Louisiana, a road providing access to the Joint Readiness Training Center, Louisiana, and to Fort Polk, Louisiana, as a defense access road for purposes of section 210 of title 23, United States Code.

Subtitle E—Extension of Expiring Authorities

SEC. 1051. EXTENSION OF AUTHORITY FOR SECRETARY OF DEFENSE TO SELL AIRCRAFT AND AIRCRAFT PARTS FOR USE IN RESPONDING TO OIL SPILLS.

(a) FOUR-YEAR EXTENSION.—Section 740 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Public Law 106–181; 114 Stat. 173; 10 U.S.C. 2576 note) is amended—

(1) in subsection (a)(1), by striking ", during the period beginning on the date of the enactment of this Act and ending September 30, 2002,"; and

(2) by adding at the end the following new subsection:

"(i) EXPIRATION OF AUTHORITY.—The authority to sell aircraft and aircraft parts under this section expires on September 30, 2006.".

(b) ADDITIONAL REPORT.—Subsection (f) of such section is amended by striking "March 31, 2002" and inserting "March 31, 2006".

SEC. 1052. SIX-MONTH EXTENSION OF EXPIRING GOVERNMENTWIDE INFORMATION SECURITY REQUIREMENTS; CONTINUED APPLICABILITY OF EXPIRING GOVERNMENTWIDE INFORMATION SECURITY REQUIREMENTS TO THE DEPARTMENT OF DEFENSE.

(a) SIX-MONTH EXTENSION OF EXPIRING GOVERNMENTWIDE REQUIREMENTS.—Section 3536 of title 44, United States Code, is amended to read as follows:

"§3536. Expiration

"This subchapter shall not be in effect after May 31, 2003.".

(b) CONTINUED APPLICABILITY OF EXPIRING GOVERNMENTWIDE REQUIREMENTS TO DEPARTMENT OF DEFENSE.—(1) Chapter 131 of title 10, United States Code, is amended by inserting after section 2224 the following new section:

"§2224a. Information security: continued applicability of expiring Governmentwide requirements to the Department of Defense

"(a) IN GENERAL.—The provisions of subchapter II of chapter 35 of title 44 shall continue to apply through September 30, 2004, with respect to the Department of Defense, notwithstanding the expiration of authority under section 3536 of such title.

"(b) RESPONSIBILITIES.—In administering the provisions of subchapter II of chapter 35 of title 44 with respect to the Department of Defense after the expiration of authority under section 3536 of such title, the Secretary of Defense shall perform the duties set forth in that subchapter for the Director of the Office of Management and Budget.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2224 the following new item:

"2224a. Information security: continued applicability of expiring Governmentwide requirements to the Department of Defense.".

SEC. 1053. TWO-YEAR EXTENSION OF AUTHORITY OF THE SECRETARY OF DEFENSE TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES ABROAD.

Section 431(a) of title 10, United States Code, is amended by striking "December 31, 2002" and inserting "December 31, 2004".

Subtitle F—Other Matters

SEC. 1061. TIME FOR TRANSMITTAL OF ANNUAL DEFENSE AUTHORIZATION LEGISLATIVE PROPOSAL.

(a) IN GENERAL.—Chapter 2 of title 10, United States Code, is amended by inserting after section 113 the following new section:

"§113a. Transmission of annual defense authorization request

"(a) TIME FOR TRANSMITTAL.—The Secretary of Defense shall transmit to Congress the annual defense authorization request for a fiscal year during the first 30 days after the date on which the President transmits to Congress the budget for that fiscal year pursuant to section 1105 of title 31.

"(b) DEFENSE AUTHORIZATION REQUEST DEFINED.—In this section, the term 'defense authorization request', with respect to a fiscal year, means a legislative proposal submitted to Congress for the enactment of the following:

"(1) Authorizations of appropriations for that fiscal year, as required by section 114 of this title.

"(2) Personnel strengths for that fiscal year, as required by section 115 of this title.

"(3) Any other matter that is proposed by the Secretary of Defense to be enacted as part of the annual defense authorization bill for that fiscal year.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 113 the following new item:

"113a. Transmission of annual defense authorization request.".

SEC. 1062. TECHNICAL AND CLERICAL AMENDMENTS.

(a) Title 10, United States Code.—Title 10, United States Code, is amended as follows:

(1) Section 153 is amended—

(A) by inserting "(a) Planning; Advice; Policy Formulation.—" at the beginning of the text; and

(B) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(2) Section 624(d)(1) is amended by striking "subsection (d)(2)" in the second sentence and inserting "paragraph (2)".

(3) Section 661(b)(2) is amended by striking "the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002" and inserting "December 28, 2001,".

(4) Section 662(a)(2) is amended—

(A) in subparagraph (A), by striking "during the three-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002," and inserting "during the period beginning on December 28, 2001, and ending on December 27, 2004,"; and

(B) in subparagraph (B), by striking "after the end of the period specified in subparagraph (A)" and inserting "after December 27, 2004".

(5) Section 663(e)(2) is amended by striking "Armed Forces Staff College" and inserting "Joint Forces Staff College".

(6) Section 1451(c)(3) is amended by striking "section" before "clause".

(7) Section 2162(b)(2) is amended by striking "the date of the enactment of this paragraph" and inserting "December 28, 2001,".

(8) Section 2330(c) is amended by inserting a comma after "a task order".

(9) Section 2399(a)(2) is amended—

(A) in the matter preceding subparagraph (A), by striking "means—" and inserting "means a conventional weapons system that—"; and

(B) in subparagraph (A), by striking "a conventional weapons system that".

(10)(A) Section 2410h is transferred to the end of subchapter IV of chapter 87 and redesignated as section 1747.

(B) The item relating to that section in the table of sections at the beginning of chapter 141 is transferred to the end of the table of sections at the beginning of subchapter IV of chapter 87 and amended to reflect the redesignation made by subparagraph (A).

(11) Section 2676(a) is amended by inserting an open parenthesis before "41 U.S.C.".

(12) Section 2677 is amended by striking subsection (c).

(13) Section 2680(e) is amended by striking "the" after "the Committee on" the first place it appears.

(14) Section 2815(b) is amended by striking "for fiscal year 2003 and each fiscal year thereafter" and inserting "for any fiscal year".

(15) Section 2828(b)(2) is amended by inserting "time" after "from time to".

(16) Sections 3755, 6257, and 8755, as added by section 8143(c) of Public Law 107–248 (116 Stat. 1570), are amended by striking "the date of the enactment of this section" and inserting "October 23, 2002".

(b) Title 14, United States Code.—Title 14, United States Code, is amended as follows:

(1) Section 505, as added by section 8143(c)(4) of Public Law 107–248 (116 Stat. 1571), is amended by striking "the date of the enactment of this section" and inserting "October 23, 2002".

(2) Section 516(c) is amended by striking "his section" and inserting "this section".

(c) Title 37, United States Code.—Title 37, United States Code, is amended as follows:

(1) Section 302j(a) is amended by striking "subsection (c)" and inserting "subsection (d)".

(2) Section 324(b) is amended by striking "(1)" before "The Secretary".

(d) Public Law 107–248.—Section 8118(a) of Public Law 107–248 (116 Stat. 1565) is amended by striking "subsection (i)" and inserting "subsection (j)".

(e) Public Law 107–217.—Effective as if included therein as originally enacted, section 3(b) of Public Law 107–217 is amended—

(1) in paragraph (8) (116 Stat. 1295), by inserting "the second place it appears" before the semicolon; and

(2) in paragraph (34) (116 Stat. 1298), by striking "section 7545(a)" and inserting "section 7545(c)".

(f) Public Law 107–107.—Effective as of December 28, 2001, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) is amended as follows:

(1) Section 602(a)(2) (115 Stat. 1132) is amended by striking "an" in the first quoted matter.

(2) Section 1212(a)(5) (115 Stat. 1249) is amended by inserting "in" after the paragraph designation.

(3) Section 1410(a)(3)(C) (115 Stat. 1266) by inserting "both places it appears" before "and inserting".

(4) Section 3007(d)(1)(C) (115 Stat. 1352) is amended by striking "2905(b)(7)(B)(iv)" and inserting "2905(b)(7)(C)(iv)".

(g) Public Law 106–398.—Effective as of October 30, 2000, and as if included therein as enacted, the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) is amended as follows:

(1) Section 577(b)(2) (114 Stat. 1654A–140) is amended by striking "Federal" in the quoted matter and inserting "Department of Defense".

(2) Section 612(c)(4)(B) (114 Stat. 1654A–150) is amended by striking the comma at the end of the first quoted matter.

(h) Public Law 106–246.—Section 136 of Public Law 106–246 (114 Stat. 520) is amended—

(1) in subsection (d)(7), by striking subparagraphs (B) and (C) and inserting the following new subparagraphs:

"(B) Section 1302 of title 40, United States Code.

"(C) Subtitle I of title 40, United States Code."; and

(2) in subsection (e)(3), by striking subparagraph (B) and inserting the following new subparagraph:

"(B) Subtitle I of title 40, United States Code.".

(i) Public Law 106–181.—Section 740(a)(1) of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (10 U.S.C. 2576 note) is amended by striking "section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483)" and inserting "subchapter II of chapter 5 of title 40, United States Code,".

(j) Public Law 106–65.—The National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) is amended as follows:

(1) Section 573(b) (10 U.S.C. 513 note) is amended by inserting a period at the end of paragraph (2).

(2) Section 1305(6) (22 U.S.C. 5952 note) is amended by striking the first period after "facility".

(k) Public Law 104–307.—Section 2(a)(1) of the Wildfire Suppression Aircraft Transfer Act of 1996 (10 U.S.C. 2576 note) is amended by striking "section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483)" and inserting "subchapter II of chapter 5 of title 40, United States Code,".

(l) Public Law 103–337.—Section 2814 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) is amended by striking "the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.) and the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)" and inserting "chapter 5 or 33 of title 40, United States Code".

(m) Public Law 101–510.—The National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) is amended as follows:

(1) Section 2905(b)(1) (10 U.S.C. 2687 note) is amended—

(A) in subparagraph (A), by striking "section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483)" and inserting "subchapter II of chapter 5 of title 40, United States Code"; and

(B) in subparagraph (B), by striking "section 203 of that Act (40 U.S.C. 484)" and inserting "subchapter III of chapter 5 of title 40, United States Code".

(2) Section 2905(b)(4)(F) is amended by striking "sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484)" and inserting "subchapters II and III of chapter 5 of title 40, United States Code,".

(3) Section 2905(b)(7) is amended by striking "section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k))" in subparagraphs (K)(v), (L)(iv)(V), and (P) and inserting "section 550 of title 40, United States Code,".

(4) Section 2926(d)(2) is amended by striking "title IX of the Federal Property and Administrative Services Act (Public Law 92–582; 40 U.S.C. 541 et seq., as amended)" and inserting "chapter 11 of title 40, United States Code".

(n) Public Law 100–526.—The Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) is amended as follows:

(1) Section 204(b)(1) (10 U.S.C. 2687 note) is amended—

(A) in subparagraph (A), by striking "section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483)" and inserting "subchapter II of chapter 5 of title 40, United States Code"; and

(B) in subparagraph (B), by striking "section 203 of that Act (40 U.S.C. 484)" and inserting "subchapter III of chapter 5 of title 40, United States Code".

(2) Section 204(b)(4)(F) is amended by striking "sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484)" and inserting "subchapters II and III of chapter 5 of title 40, United States Code,".

(o) Other Laws.—(1) Section 502(a) of the National Emergencies Act (50 U.S.C. 1651(a)) is amended by striking paragraph (2) and redesignating paragraphs (3) through (7) as paragraphs (1) through (5), respectively.

(2) Section 10(b)(8) of the Military Selective Service Act (50 U.S.C. App. 460(b)(8)) is amended by striking "Public Law 26" and all that follows through the period at the end of the paragraph and inserting "the Act of March 31, 1947 (50 U.S.C. App. 321 et seq.).".

(3) The Defense Production Act of 1950 is amended in both section 305(i) and section 306(j) (50 U.S.C. App. 2095(i), 2096(j))—

(A) in the first sentence, by striking "the Act entitled" and all that follows through the period at the end of the sentence and inserting "subchapter IV of chapter 31 of title 40, United States Code."; and

(B) in the last sentence, by striking "and section 276(c) of title 40".

SEC. 1063. USE FOR LAW ENFORCEMENT PURPOSES OF DNA SAMPLES MAINTAINED BY DEPARTMENT OF DEFENSE FOR IDENTIFICATION OF HUMAN REMAINS.

(a) IN GENERAL.—Chapter 80 of title 10, United States Code, is amended by inserting after section 1565 the following new section:

"§1565a. DNA samples maintained for identification of human remains: use for law enforcement purposes

"(a) COMPLIANCE WITH COURT ORDER.—(1) Subject to paragraph (2), if a valid order of a Federal court (or military judge) so requires, an element of the Department of Defense that maintains a repository of DNA samples for the purpose of identification of human remains shall make available, for the purpose specified in subsection (b), such DNA samples on such terms and conditions as such court (or military judge) directs.

"(2) A DNA sample with respect to an individual shall be provided under paragraph (1) in a manner that does not compromise the ability of the Department of Defense to maintain a sample with respect to that individual for the purpose of identification of human remains.

"(b) COVERED PURPOSE.—The purpose referred to in subsection (a) is the purpose of an investigation or prosecution of a felony, or any sexual offense, for which no other source of DNA information is reasonably available.

"(c) DEFINITION.—In this section, the term 'DNA sample' has the meaning given such term in section 1565(c) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1565 the following new item:

"1565a. DNA samples maintained for identification of human remains: use for law enforcement purposes.".

SEC. 1064. ENHANCED AUTHORITY TO OBTAIN FOREIGN LANGUAGE SERVICES DURING PERIODS OF EMERGENCY.

(a) NATIONAL FOREIGN LANGUAGE SKILLS REGISTRY.—(1) Chapter 81 of title 10, United States Code, is amended by inserting after section 1596a the following new section:

"§1596b. Foreign language proficiency: National Foreign Language Skills Registry

"(a) ESTABLISHMENT.—(1) The Secretary of Defense may establish and maintain a registry of persons who—

"(A) have proficiency in one or more critical foreign languages;

"(B) are willing to provide linguistic services to the United States in the interests of national security during war or a national emergency; and

"(C) meet the eligibility requirements of subsection (b).

"(2) The registry shall be known as the 'National Foreign Language Skills Registry' (in this section referred to as the 'Registry').

"(b) ELIGIBLE PERSONS.—To be eligible for listing on the Registry, a person—

"(1) must be—

"(A) a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))); or

"(B) an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)));

"(2) shall express willingness, in a form and manner prescribed by the Secretary—

"(A) to provide linguistic services for a foreign language as described in subsection (a); and

"(B) to be listed on the Registry; and

"(3) shall meet such language proficiency and other selection criteria as may be prescribed by the Secretary.

"(c) REGISTERED INFORMATION.—The Registry shall consist of the following:

"(1) The names of eligible persons selected by the Secretary for listing on the Registry.

"(2) Such other information on such persons as the Secretary determines pertinent to the use of such persons to provide linguistic services as described in subsection (a).

"(d) PROTECTION OF PRIVACY.—The Secretary may withhold from public disclosure the information maintained in the Registry in accordance with section 552a of title 5.

"(e) DESIGNATION OF CRITICAL FOREIGN LANGUAGES.—The Secretary shall designate those languages that are critical foreign languages for the purposes of this section. The Secretary shall make such a designation for any foreign language for which there is a shortage of experts in translation or interpretation available to meet requirements of the Secretary or of the head of any other department or agency of the United States for translation or interpretation in the national security interests of the United States.

"(f) LINGUISTIC SERVICES DEFINED.—In this section, the term 'linguistic services' means translation or interpretation of communication in a foreign language.".

(2) The table of sections at the beginning of such chapter is amended by inserting after section 1596a the following new item:

"1596b. Foreign language proficiency: National Foreign Language Skills Registry.".

(b) AUTHORITY TO ACCEPT VOLUNTARY TRANSLATION AND INTERPRETATION SERVICES.—Section 1588(a) of title 10, United States Code, is amended by adding after paragraph (6), as added by section 553, the following new paragraph:

"(7) Voluntary translation or interpretation services offered with respect to a foreign language by a person (A) who is registered for such foreign language on the National Foreign Language Skills Registry under section 1596b of this title, or (B) who otherwise is approved to provide voluntary translation or interpretation services for national security purposes, as determined by the Secretary of Defense.".

SEC. 1065. REWARDS FOR ASSISTANCE IN COMBATING TERRORISM.

(a) AUTHORITY.—Chapter 3 of title 10, United States Code, is amended by inserting after section 127a the following new section:

"§127b. Assistance in combating terrorism: rewards

"(a) AUTHORITY.—The Secretary of Defense may pay a monetary amount, or provide a payment-in-kind, to a person as a reward for providing United States Government personnel with information or nonlethal assistance that is beneficial to—

"(1) an operation or activity of the armed forces conducted outside the United States against international terrorism; or

"(2) force protection of the armed forces.

"(b) LIMITATION.—The amount or value of a reward provided under this section may not exceed $200,000.

"(c) DELEGATION OF AUTHORITY.—(1) The authority of the Secretary of Defense under subsection (a) may be delegated only—

"(A) to the Deputy Secretary of Defense and an Under Secretary of Defense, without further redelegation; and

"(B) to the commander of a combatant command, but only for a reward in an amount or with a value not in excess of $50,000.

"(2) A commander of a combatant command to whom authority to provide rewards under this section is delegated under paragraph (1) may further delegate that authority, but only for a reward in an amount or with a value not in excess of $2,500, except that such a delegation may be made to the commander's deputy commander without regard to such limitation.

"(d) COORDINATION.—(1) The Secretary of Defense shall prescribe policies and procedures for the offering and making of rewards under this section and otherwise for administering the authority under this section. Such polices and procedures shall be prescribed in consultation with the Secretary of State and the Attorney General and shall ensure that the making of a reward under this section does not duplicate or interfere with the payment of a reward authorized by the Secretary of State or the Attorney General.

"(2) The Secretary of Defense shall consult with the Secretary of State regarding the making of any reward under this section in an amount or with a value in excess of $100,000.

"(e) PERSONS NOT ELIGIBLE.—The following persons are not eligible to receive a reward under this section:

"(1) A citizen of the United States.

"(2) An officer or employee of the United States.

"(3) An employee of a contractor of the United States.

"(f) ANNUAL REPORT.—(1) Not later than December 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of the rewards program under this section during the preceding fiscal year.

"(2) Each report for a fiscal year under this subsection shall include the following:

"(A) Information on the total amount expended during that fiscal year to carry out the rewards program under this section during that fiscal year.

"(B) Specification of the amount, if any, expended during that fiscal year to publicize the availability of rewards under this section.

"(C) With respect to each reward provided during that fiscal year—

"(i) the amount or value of the reward and whether the reward was provided as a monetary payment or in some other form;

"(ii) the recipient of the reward; and

"(iii) a description of the information or assistance for which the reward was paid, together with an assessment of the significance and benefit of the information or assistance.

"(3) The Secretary may submit the report in classified form if the Secretary determines that it is necessary to do so.

"(g) DETERMINATIONS BY THE SECRETARY.—A determination by the Secretary under this section is final and conclusive and is not subject to judicial review.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 127a the following new item:

"127b. Assistance in combating terrorism: rewards.".

SEC. 1066. PROVISION OF SPACE AND SERVICES TO MILITARY WELFARE SOCIETIES.

(a) AUTHORITY TO PROVIDE SPACE AND SERVICES.—Chapter 152 of title 10, United States Code, is amended by adding at the end the following new section:

"§2566. Space and services: provision to military welfare societies

"(a) AUTHORITY TO PROVIDE SPACE AND SERVICES.—The Secretary of a military department may provide, without charge, space and services under the jurisdiction of that Secretary to a military welfare society.

"(b) DEFINITIONS.—In this section:

"(1) The term 'military welfare society' means the following:

"(A) The Army Emergency Relief Society.

"(B) The Navy-Marine Corps Relief Society.

"(C) The Air Force Aid Society, Inc.

"(2) The term 'services' includes lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone and other information technology services (including installation of lines and equipment, connectivity, and other associated services), and security systems (including installation and other associated expenses).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2566. Space and services: provision to military welfare societies.".

SEC. 1067. PREVENTION AND MITIGATION OF CORROSION OF MILITARY EQUIPMENT AND INFRASTRUCTURE.

(a) IN GENERAL.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§2228. Military equipment and infrastructure: prevention and mitigation of corrosion

"(a) DESIGNATION OF RESPONSIBLE OFFICIAL OR ORGANIZATION.—The Secretary of Defense shall designate an officer or employee of the Department of Defense, or a standing board or committee of the Department of Defense, as the senior official or organization responsible in the Department to the Secretary of Defense (after the Under Secretary of Defense for Acquisition, Technology, and Logistics) for the prevention and mitigation of corrosion of the military equipment and infrastructure of the Department.

"(b) DUTIES.—(1) The official or organization designated under subsection (a) shall oversee and coordinate efforts throughout the Department of Defense to prevent and mitigate corrosion of the military equipment and infrastructure of the Department. The duties under this paragraph shall include the duties specified in paragraphs (2) through (5).

"(2) The designated official or organization shall develop and recommend any policy guidance on the prevention and mitigation of corrosion to be issued by the Secretary of Defense.

"(3) The designated official or organization shall review the programs and funding levels proposed by the Secretary of each military department during the annual internal Department of Defense budget review process as those programs and funding proposals relate to programs and funding for the prevention and mitigation of corrosion and shall submit to the Secretary of Defense recommendations regarding those programs and proposed funding levels.

"(4) The designated official or organization shall provide oversight and coordination of the efforts within the Department of Defense to prevent or mitigate corrosion during—

"(A) the design, acquisition, and maintenance of military equipment; and

"(B) the design, construction, and maintenance of infrastructure.

"(5) The designated official or organization shall monitor acquisition practices within the Department of Defense—

"(A) to ensure that the use of corrosion prevention technologies and the application of corrosion prevention treatments are fully considered during research and development in the acquisition process; and

"(B) to ensure that, to the extent determined appropriate for each acquisition program, such technologies and treatments are incorporated into that program, particularly during the engineering and design phases of the acquisition process.

"(c) LONG-TERM STRATEGY.—(1) The Secretary of Defense shall develop and implement a long-term strategy to reduce corrosion and the effects of corrosion on the military equipment and infrastructure of the Department of Defense.

"(2) The strategy under paragraph (1) shall include the following:

"(A) Expansion of the emphasis on corrosion prevention and mitigation within the Department of Defense to include coverage of infrastructure.

"(B) Application uniformly throughout the Department of Defense of requirements and criteria for the testing and certification of new corrosion-prevention technologies for equipment and infrastructure with similar characteristics, similar missions, or similar operating environments.

"(C) Implementation of programs, including supporting databases, to ensure that a focused and coordinated approach is taken throughout the Department of Defense to collect, review, validate, and distribute information on proven methods and products that are relevant to the prevention of corrosion of military equipment and infrastructure.

"(D) Establishment of a coordinated research and development program for the prevention and mitigation of corrosion for new and existing military equipment and infrastructure that includes a plan to transition new corrosion prevention technologies into operational systems.

"(3) The strategy shall include, for the matters specified in paragraph (2), the following:

"(A) Policy guidance.

"(B) Performance measures and milestones.

"(C) An assessment of the necessary personnel and funding necessary to accomplish the long-term strategy.

"(d) DEFINITIONS.—In this section:

"(1) The term 'corrosion' means the deterioration of a material or its properties due to a reaction of that material with its chemical environment.

"(2) The term 'military equipment' includes all weapon systems, weapon platforms, vehicles, and munitions of the Department of Defense, and the components of such items.

"(3) The term 'infrastructure' includes all buildings, structures, airfields, port facilities, surface and subterranean utility systems, heating and cooling systems, fuel tanks, pavements, and bridges.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2228. Military equipment and infrastructure: prevention and mitigation of corrosion.".

(b) DEADLINE FOR DESIGNATION OF RESPONSIBLE OFFICIAL OR ORGANIZATION.—The Secretary of Defense shall designate an officer, employee, or standing board or committee of the Department of Defense under subsection (a) of section 2228 of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

(c) INTERIM REPORT.—When the President submits the budget for fiscal year 2004 to Congress pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress a report regarding the actions taken to that date under section 2228 of title 10, United States Code, as added by subsection (a). That report shall include the following:

(1) A description of the organizational structure for the personnel carrying out the responsibilities of the official or organization designated under subsection (a) of that section with respect to the prevention and mitigation of corrosion.

(2) An outline for the long-term strategy for prevention and mitigation of corrosion required by subsection (c) of that section and milestones for development of that strategy.

(d) DEADLINE FOR LONG-TERM STRATEGY.—The Secretary of Defense shall submit to Congress a report setting forth the long-term strategy required under subsection (c) of section 2228 of title 10, United States Code, as added by subsection (a), not later than one year after the date of the enactment of this Act.

(e) GAO REVIEW.—The Comptroller General shall monitor the implementation of the long-term strategy required under subsection (c) of section 2228 of title 10, United States Code, as added by subsection (a), and, not later than 18 months after the date of the enactment of this Act, shall submit to Congress an assessment of the extent to which that strategy has been implemented.

SEC. 1068. TRANSFER OF HISTORIC DF-9E PANTHER AIRCRAFT TO WOMEN AIRFORCE SERVICE PILOTS MUSEUM.

(a) AUTHORITY TO CONVEY.—The Secretary of the Navy may convey, without consideration, to the Women Airforce Service Pilots Museum in Quartzsite, Arizona (in this section referred to as the "W.A.S.P. Museum"), all right, title, and interest of the United States in and to a DF-9E Panther aircraft (Bureau Number 125316). The conveyance shall be made by means of a conditional deed of gift.

(b) CONDITION OF AIRCRAFT.—The aircraft shall be conveyed under subsection (a) in its current unflyable, "as is" condition. The Secretary is not required to repair or alter the condition of the aircraft before conveying ownership of the aircraft.

(c) REVERTER UPON BREACH OF CONDITIONS.—The Secretary shall include in the instrument of conveyance of the aircraft under subsection (a) the following conditions:

(1) The W.A.S.P. Museum may not convey any ownership interest in, or transfer possession of, the aircraft to any other party without the prior approval of the Secretary.

(2) If the Secretary determines at any time that the W.A.S.P. Museum has conveyed an ownership interest in, or transferred possession of, the aircraft to any other party without the prior approval of the Secretary, all right, title, and interest in and to the aircraft, including any repair or alteration of the aircraft, shall revert to the United States, and the United States shall have the right of immediate possession of the aircraft.

(d) CONVEYANCE AT NO COST TO THE UNITED STATES.—The conveyance of the aircraft under subsection (a) shall be made at no cost to the United States. Any costs associated with the conveyance, costs of determining compliance with subsection (b), and costs of operation and maintenance of the aircraft conveyed shall be borne by the W.A.S.P. Museum.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 1069. INCREASE IN AMOUNT AUTHORIZED TO BE EXPENDED FOR DEPARTMENT OF DEFENSE PROGRAM TO COMMEMORATE 50TH ANNIVERSARY OF THE KOREAN WAR.

Section 1083(f)(2) of the National Defense Authorization Act for Fiscal Year 1998 (10 U.S.C. 113 note) is amended by striking "$7,000,000" and inserting "$10,000,000".

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

Sec. 1101. Eligibility of Department of Defense nonappropriated fund employees for long-term care insurance.

Sec. 1102. Extension of Department of Defense authority to make lump-sum severance payments.

Sec. 1103. Continuation of Federal Employee Health Benefits Program eligibility.
Sec. 1104. Certification for Department of Defense professional accounting positions.

SEC. 1101. ELIGIBILITY OF DEPARTMENT OF DEFENSE NONAPPROPRIATED FUND EMPLOYEES FOR LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Section 9001(1) of title 5, United States Code, is amended—

(1) in subparagraph (B), by striking "and";

(2) in subparagraph (C), by striking the comma at the end and inserting "; and"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) an employee of a nonappropriated fund instrumentality of the Department of Defense described in section 2105(c),".

(b) DISCRETIONARY AUTHORITY.—Section 9002 of such title is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) DISCRETIONARY AUTHORITY REGARDING NONAPPROPRIATED FUND INSTRUMENTALITIES.—The Secretary of Defense may determine that a nonappropriated fund instrumentality of the Department of Defense is covered under this chapter or is covered under an alternative long-term care insurance program.".

SEC. 1102. EXTENSION OF DEPARTMENT OF DEFENSE AUTHORITY TO MAKE LUMP-SUM SEVERANCE PAYMENTS.

(a) IN GENERAL.—Section 5595(i)(4) of title 5, United States Code, is amended by striking "2003" and inserting "2006".

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the President shall submit to the Committees on Armed Services and on Governmental Affairs of the Senate and the Committees on Armed Services and on Government Reform of the House of Representatives a report, including recommendations, on whether the authority under section 5595(i) of title 5, United States Code, should be made permanent or expanded to be made Governmentwide.

SEC. 1103. CONTINUATION OF FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM ELIGIBILITY.

Paragraph (4)(B) of section 8905a(d) of title 5, United States Code, is amended—

(1) in clause (i), by striking "2003" and inserting "2006"; and

(2) in clause (ii)—

(A) by striking "2004" and inserting "2007"; and

(B) by striking "2003" and inserting "2006".

SEC. 1104. CERTIFICATION FOR DEPARTMENT OF DEFENSE PROFESSIONAL ACCOUNTING POSITIONS.

(a) IN GENERAL.—(1) Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"§1599d. Professional accounting positions: authority to prescribe certification and credential standards

"(a) AUTHORITY TO PRESCRIBE PROFESSIONAL CERTIFICATION STANDARDS.—The Secretary of Defense may prescribe professional certification and credential standards for professional accounting positions within the Department of Defense. Any such standard shall be prescribed as a Department of Defense regulation.

"(b) WAIVER AUTHORITY.—The Secretary may waive any standard prescribed under subsection (a) whenever the Secretary determines such a waiver to be appropriate.

"(c) APPLICABILITY.—A standard prescribed under subsection (a) shall not apply to any person employed by the Department of Defense before the standard is prescribed.

"(d) REPORT.—The Secretary of Defense shall submit to Congress a report on the Secretary's plans to provide training to appropriate Department of Defense personnel to meet any new professional and credential standards prescribed under subsection (a). Such report shall be prepared in conjunction with the Director of the Office of Personnel Management. Such a report shall be submitted not later than one year after the effective date of any regulations, or any revision to regulations, prescribed pursuant to subsection (a).

"(e) DEFINITION.—In this section, the term 'professional accounting position' means a position or group of positions in the GS–510, GS–511, and GS–505 series that involves professional accounting work.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1599d. Professional accounting positions: authority to prescribe certification and credential standards.".

(b) EFFECTIVE DATE.—Standards established pursuant to section 1599d of title 10, United States Code, as added by subsection (a), may take effect no sooner than 120 days after the date of the enactment of this Act.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

Sec. 1201. Authority to provide administrative services and support for coalition liaison officers.
Sec. 1202. Authority to pay for certain travel of defense personnel of countries participating in NATO Partnership for Peace program.
Sec. 1203. Limitation on funding for Joint Data Exchange Center in Moscow.
Sec. 1204. Support of United Nations-sponsored efforts to inspect and monitor Iraqi weapons activities.
Sec. 1205. Comprehensive annual report to Congress on coordination and integration of all United States nonproliferation activities.
Sec. 1206. Report requirement regarding Russian proliferation to Iran and other countries of proliferation concern.
Sec. 1207. Monitoring of implementation of 1979 agreement between the United States and China on cooperation in science and technology.
Sec. 1208. Extension of certain counterproliferation activities and programs.
Sec. 1209. Semiannual report by Director of Central Intelligence on contributions by foreign persons to efforts by countries of proliferation concern to obtain weapons of mass destruction and their delivery systems.
Sec. 1210. Report on feasibility and advisability of senior officer exchanges between the Armed Forces of the United States and the military forces of Taiwan.
Sec. 1211. Report on United States force structure in the Pacific.

SEC. 1201. AUTHORITY TO PROVIDE ADMINISTRATIVE SERVICES AND SUPPORT FOR COALITION LIAISON OFFICERS.

(a) AUTHORITY.—(1) Chapter 53 of title 10, United States Code, is amended by inserting after section 1051 the following new section:

"§1051a. Coalition liaison officers: administrative services and support; travel, subsistence, and other personal expenses

"(a) AUTHORITY.—The Secretary of Defense may provide administrative services and support for the performance of duties by a liaison officer of another nation involved in a coalition with the United States while the liaison officer is assigned temporarily to the headquarters of a combatant command, component command, or subordinate operational command of the United States in connection with the planning for, or conduct of, a coalition operation.

"(b) TRAVEL AND SUBSISTENCE EXPENSES.—(1) The Secretary may pay the expenses specified in paragraph (2) of a liaison officer of a developing country in connection with the assignment of that officer to the headquarters of a combatant command as described in subsection (a), if the assignment is requested by the commander of the combatant command.

"(2) Expenses of a liaison officer that may be paid under paragraph (1) in connection with an assignment described in that paragraph are the following:

"(A) Travel and subsistence expenses.

"(B) Personal expenses directly necessary to carry out the duties of that officer in connection with that assignment.

"(c) REIMBURSEMENT.—To the extent that the Secretary determines appropriate, the Secretary may provide the services and support authorized by subsection (a) and the expenses authorized by subsection (b) with or without reimbursement from (or on behalf of) the recipients.

"(d) DEFINITIONS.—In this section:

"(1) The term 'administrative services and support' includes base or installation support services, office space, utilities, copying services, fire and police protection, and computer support.

"(2) The term 'coalition' means an ad hoc arrangement between or among the United States and one or more other nations for common action.

"(e) EXPIRATION OF AUTHORITY.—The authority under this section shall expire on September 30, 2005.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1051 the following new item:

"1051a. Coalition liaison officers: administrative services and support; travel, subsistence, and other personal expenses.".

(b) GAO REPORT.—Not later than March 1, 2005, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing an assessment of the implementation of section 1051a of title 10, United States Code, as added by subsection (a). The assessment shall include the following:

(1) A description of the benefits to coalition operations of the authority provided by that section.

(2) A statement of the cost to the Department of Defense of the use of the authority provided by that section.

(3) A summary of activities carried out under the authority provided by that section, including (A) the number of liaison officers for whom administrative services and support or expenses were provided under that authority and their countries of origin, and (B) the type of services, support, and expenses provided.

SEC. 1202. AUTHORITY TO PAY FOR CERTAIN TRAVEL OF DEFENSE PERSONNEL OF COUNTRIES PARTICIPATING IN NATO PARTNERSHIP FOR PEACE PROGRAM.

(a) AUTHORITY FOR USE OF FUNDS.—Section 1051(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of defense personnel of a developing country that is not a member of the North Atlantic Treaty Organization and that is participating in the Partnership for Peace program of the North Atlantic Treaty Organization (NATO), expenses authorized to be paid under subsection (a) may be paid in connection with travel of personnel to the territory of any of the countries participating in the Partnership for Peace program or the territory of any NATO member country.".

(b) Effective Date.—The amendments made by subsection (a) shall apply only with respect to travel performed on or after the date of the enactment of this Act.

SEC. 1203. LIMITATION ON FUNDING FOR JOINT DATA EXCHANGE CENTER IN MOSCOW.

(a) Limitation.—Not more than 50 percent of the funds made available to the Department of Defense for fiscal year 2003 for activities associated with the Joint Data Exchange Center in Moscow, Russia, may be obligated or expended for any such activity until—

(1) the United States and the Russian Federation enter into a cost-sharing agreement as described in subsection (d) of section 1231 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-329);

(2) the United States and the Russian Federation enter into an agreement or agreements exempting the United States and any United States person from Russian taxes, and from liability under Russian laws, with respect to activities associated with the Joint Data Exchange Center;

(3) the Secretary of Defense submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a copy of each agreement referred to in paragraphs (1) and (2); and

(4) a period of 30 days has expired after the date of the final submission under paragraph (3).

(b) Joint Data Exchange Center.—For purposes of this section, the term "Joint Data Exchange Center" means the United States-Russian Federation joint center for the exchange of data to provide early warning of launches of ballistic missiles and for notification of such launches that is provided for in a joint United States-Russian Federation memorandum of agreement signed in Moscow in June 2000.

SEC. 1204. SUPPORT OF UNITED NATIONS-SPONSORED EFFORTS TO INSPECT AND MONITOR IRAQI WEAPONS ACTIVITIES.

(a) Limitation on Amount of Assistance in Fiscal Year 2003.—The total amount of the assistance for fiscal year 2003 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed $15,000,000.

(b) Extension of Authority To Provide Assistance.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking "2002" and inserting "2003".

SEC. 1205. COMPREHENSIVE ANNUAL REPORT TO CONGRESS ON COORDINATION AND INTEGRATION OF ALL UNITED STATES NONPROLIFERATION ACTIVITIES.

Section 1205 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1247) is amended by adding at the end the following new subsection:

"(d) Annual Report on Implementation of Plan.—(1) Not later than January 31, 2003, and each year thereafter, the President shall submit to Congress a report on the implementation of the plan required by subsection (a) during the preceding year.

"(2) Each report under paragraph (1) shall include—

"(A) a discussion of progress made during the year covered by such report in the matters of the plan required by subsection (a);

"(B) a discussion of consultations with foreign nations, and in particular the Russian Federation, during such year on joint programs to implement the plan;

"(C) a discussion of cooperation, coordination, and integration during such year in the implementation of the plan among the various departments and agencies of the United States Government, as well as private entities that share objectives similar to the objectives of the plan; and

"(D) any recommendations that the President considers appropriate regarding modifications to law or regulations, or to the administration or organization of any Federal department or agency, in order to improve the effectiveness of any programs carried out during such year in the implementation of the plan.".

SEC. 1206. REPORT REQUIREMENT REGARDING RUSSIAN PROLIFERATION TO IRAN AND OTHER COUNTRIES OF PROLIFERATION CONCERN.

(a) Report Requirement.—Not later than March 15 of 2003 through 2009, the President shall submit to Congress a report (in unclassified and classified form as necessary) describing in detail Russian proliferation of weapons of mass destruction and ballistic missile goods, technology, expertise, and information, and of dual-use items that may contribute to the development of weapons of mass destruction and ballistic missiles, to Iran and to other countries of proliferation concern during the year preceding the year in which the report is submitted. The report shall include a detailed description of the following, for the year covered by the report:

(1) The number, type, and quality of direct and dual-use weapons of mass destruction and ballistic missile goods, technology, expertise, and information transferred.

(2) The form, location, and manner in which such transfers took place.

(3) The contribution that such transfers could make to the recipient countries' weapons of mass destruction and ballistic missile programs, and an estimate of how soon such countries will test, possess, and deploy weapons of mass destruction and ballistic missiles.

(4) The impact and consequences that such transfers have, and could have over the next 10 years—

(A) on United States national security;

(B) on United States military forces deployed in the region to which such transfers are being made;

(C) on United States allies, friends, and interests in that region; and

(D) on the military capabilities of the country receiving such transfers from Russia.

(5) The policy and strategy that the President intends to employ to halt Russian proliferation, the policy tools that the President intends to use to carry out that policy and strategy, the rationale for employing such tools, and the timeline by which the President expects to see material progress in ending Russian proliferation of direct and dual-use weapons of mass destruction and missile goods, technology, expertise, and information.

(b) Definition.—In this section, the term "country of proliferation concern" means any country identified by the Director of Central Intelligence as having engaged in the acquisition of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) or advanced conventional munitions—

(1) in the most recent report under section 721 of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104-293; 50 U.S.C. 2366); or

(2) in any successor report on the acquisition by foreign countries of dual-use and other technology useful for the development or production of weapons of mass destruction.

SEC. 1207. MONITORING OF IMPLEMENTATION OF 1979 AGREEMENT BETWEEN THE UNITED STATES AND CHINA ON COOPERATION IN SCIENCE AND TECHNOLOGY.

(a) In General.—The Secretary of State shall—

(1) monitor the implementation of the Agreement specified in subsection (c);

(2) keep a systematic account of the protocols to the Agreement;

(3) coordinate the activities of all agencies of the United States Government that carry out cooperative activities under the Agreement; and

(4) ensure that all activities conducted under the Agreement comply with applicable laws and regulations concerning the transfer of militarily sensitive technologies and dual-use technologies.

(b) Responsibilities of the Office of Science and Technology Cooperation.—Except as otherwise provided by the Secretary of State, the functions of the Secretary under this section shall be carried out through the Director of the Office of Science and Technology Cooperation of the Department of State.

(c) Agreement Defined.—For purposes of this section, the term "Agreement" means the agreement between the United States and the People's Republic of China known as the "Agreement between the Government of the United States of America and the Government of the People's Republic of China on Cooperation in Science and Technology", signed in Washington on January 31, 1979, and its protocols.

(d) Biennial Report to Congress.—(1) Not later than April 1 of each even-numbered year, the Secretary of State shall submit to Congress a report on the implementation of the Agreement and on activities under the Agreement. Each such report shall be submitted in both classified and unclassified form, as necessary.

(2) Each report under this subsection shall provide an evaluation of the benefits of the Agreement to the economy, to the military, and to the industrial base of the People's Republic of China and shall include the following:

(A) An accounting of all activities conducted under the Agreement since the previous report (or, in the case of the first report, since the Agreement was entered into) and a projection of activities to be undertaken under the Agreement during the next two years.

(B) An estimate of the costs to the United States to administer the Agreement during the period covered by the report.

(C) An assessment of how the Agreement has influenced the foreign and domestic policies of the People's Republic of China and the policy of the People's Republic of China toward scientific and technological cooperation with the United States.

(D) An analysis by the Director of Central Intelligence of the involvement of military specialists, weapons specialists, and intelligence specialists of the People's Republic of China in the activities of the Joint Commission established under the Agreement and in other activities conducted under the Agreement.

(E) A determination by the Secretary of Defense, developed with the assistance of the Director of Central Intelligence, of the extent to which the activities conducted under the Agreement have enhanced the military and defense industrial base of the People's Republic of China, and an assessment of the effect that projected activities under the Agreement for the

next two years, including the transfer of technology and know-how, could have on the economic and military capabilities of the People's Republic of China.

(F) An assessment by the Inspector General of the Department of Commerce of—

(i) the extent to which programs or activities carried out under the Agreement provide access to technology, information, or know-how that could enhance military capabilities of the People's Republic of China; and

(ii) the extent to which those programs or activities are carried out in compliance with export control laws and regulations of the United States, especially those laws and regulations governing so-called "deemed exports".

(G) Any recommendations of the Secretary of State, Secretary of Defense, or Director of Central Intelligence for improving the monitoring of the activities of the Joint Commission established under the Agreement.

(3) The Secretary of State shall prepare each report under this subsection in consultation with the Secretary of Defense, the Secretary of Energy, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, and the Director of the National Science Foundation.

(e) Interagency Working Group.—The President shall establish an interagency working group to oversee the implementation of the Agreement by departments and agencies of the United States. The working group shall consist of representatives of such departments, agencies, and offices of the executive branch as the President considers appropriate. The working group shall perform the following functions:

(1) Assisting the Secretary of State and other appropriate officials in setting standards under the Agreement for science and technology transfers between the United States and the People's Republic of China.

(2) Monitoring ongoing programs and activities under the Agreement and recommending future programs and activities under the Agreement.

(3) Developing a comprehensive database of all government-to-government programs and United States Government-funded programs under the Agreement.

(4) Coordinating activities under the Agreement between United States Government agencies, including elements of the intelligence community, as appropriate.

SEC. 1208. EXTENSION OF CERTAIN COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.

(a) Extension of Interagency Counterproliferation Program Review Committee.—Section 1605(f) of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended by striking "September 30, 2004" and inserting "September 30, 2008".

(b) Later Deadline for Submission of Annual Report.—Subsection (a) of section 1503 of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2751 note) is amended by striking "February 1 of each year" and inserting "May 1 each year".

(c) Additional Matters To Be Included in Annual Report.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(8) A discussion of the limitations and impediments to the biological weapons counterproliferation efforts of the Department of Defense (including legal, policy, and resource constraints) and recommendations for the removal or mitigation of such impediments and for ways to make such efforts more effective:".

(d) Technical Amendment To Reflect Change in Position Title.—Section 1605(a)(4) of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended by striking "Under Secretary of Defense for Acquisition and Technology" in the first sentence and inserting "Under Secretary of Defense for Acquisition, Technology, and Logisitics".

SEC. 1209. SEMIANNUAL REPORT BY DIRECTOR OF CENTRAL INTELLIGENCE ON CONTRIBUTIONS BY FOREIGN PERSONS TO EFFORTS BY COUNTRIES OF PROLIFERATION CONCERN TO OBTAIN WEAPONS OF MASS DESTRUCTION AND THEIR DELIVERY SYSTEMS.

(a) Content of Semiannual Report.—The Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104–293) is amended by inserting after section 721 (50 U.S.C. 2366) the following new section:

"SEC. 722. SEMIANNUAL REPORT ON CONTRIBUTIONS OF FOREIGN PERSONS TO WEAPONS OF MASS DESTRUCTION AND DELIVERY SYSTEMS EFFORTS OF COUNTRIES OF PROLIFERATION CONCERN.

"(a) Reports.—The Director of Central Intelligence shall submit to Congress a semiannual report identifying each foreign person that, during the period covered by the report, made a material contribution to the research, development, production, or acquisition by a country of proliferation concern of—

"(1) weapons of mass destruction (including nuclear weapons, chemical weapons, or biological weapons); or

"(2) ballistic or cruise missile systems.

"(b) Period of Semiannual Reports.—Semiannual reports under subsection (a) shall be submitted as follows:

"(1) One semiannual report shall cover the first six months of the calendar year and shall be submitted not later than January 1 of the following year.

"(2) The other semiannual report shall cover the second six months of the calendar year and shall be submitted not later than July 1 of the following year.

"(c) Form of Reports.—(1) A report under subsection (a) may be submitted in classified form, in whole or in part, if the Director of Central Intelligence determines that submittal in that form is advisable.

"(2) Any portion of a report under subsection (a) that is submitted in classified form shall be accompanied by an unclassified summary of such portion.

"(d) Definitions.—In this section:

"(1) The term 'foreign person' means any of the following:

"(A) A natural person who is not a citizen of the United States.

"(B) A corporation, business association, partnership, society, trust, or other nongovernmental entity, organization, or group that is organized under the laws of a foreign country or has its principal place of business in a foreign country.

"(C) Any foreign government or foreign governmental entity operating as a business enterprise or in any other capacity.

"(D) Any successor, subunit, or subsidiary of any entity described in subparagraph (B) or (C).

"(2) The term 'country of proliferation concern' means any country identified by the Director of Central Intelligence as having engaged in the acquisition of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) or advanced conventional munitions—

"(A) in the most recent report under section 721; or

"(B) in any successor report on the acquisition by foreign countries of dual-use and other technology useful for the development or production of weapons of mass destruction.".

(b) Effective Date.—Section 722 of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996, as added by subsection (a), shall take effect with the report with respect to the first six months of 2003 required to be submitted under that section not later than January 1, 2004.

SEC. 1210. REPORT ON FEASIBILITY AND ADVISABILITY OF SENIOR OFFICER EXCHANGES BETWEEN THE ARMED FORCES OF THE UNITED STATES AND THE MILITARY FORCES OF TAIWAN.

(a) Presidential Report.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on—

(1) the feasibility and advisability of conducting combined operational training with, and exchanges of general and flag officers between, the Armed Forces of the United States and the military forces of Taiwan; and

(2) the progress being made in meeting United States commitments to the security of Taiwan.

(b) Classification of Report.—The report required by this section shall be submitted in unclassified form and, as necessary, in classified form.

SEC. 1211. REPORT ON UNITED STATES FORCE STRUCTURE IN THE PACIFIC.

(a) Secretary of Defense Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the plans of the Department of Defense to maintain adequate United States force structure in the Pacific, including any efforts (1) to augment current basing arrangements, and (2) to implement the recommendations from the most recent Quadrennial Defense Review to improve United States military capabilities in the Pacific.

(b) Classification of Report.—The report required by this section shall be submitted in unclassified form and, as necessary, in classified form.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Prohibition against use of funds until submission of reports.
Sec. 1304. Report on use of revenue generated by activities carried out under Cooperative Threat Reduction programs.
Sec. 1305. Prohibition against use of funds for second wing of fissile material storage facility.
Sec. 1306. Limited waiver of restrictions on use of funds for threat reduction in states of the former Soviet Union.

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) Specification of CTR Programs.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) Fiscal Year 2003 Cooperative Threat Reduction Funds Defined.—As used in this title, the term "fiscal year 2003 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) Availability of Funds.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) Funding for Specific Purposes.—Of the $416,700,000 authorized to be appropriated to the

Department of Defense for fiscal year 2003 in section 301(23) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $70,500,000.

(2) For strategic nuclear arms elimination in Ukraine, $6,500,000.

(3) For nuclear weapons transportation security in Russia, $19,700,000.

(4) For nuclear weapons storage security in Russia, $40,000,000.

(5) For activities designated as Other Assessments/Administrative Support, $14,700,000.

(6) For defense and military contacts, $18,900,000.

(7) For weapons of mass destruction infrastructure elimination activities in Kazakhstan, $9,000,000.

(8) For weapons of mass destruction infrastructure elimination activities in Ukraine, $8,800,000.

(9) For chemical weapons destruction in Russia, $50,000,000.

(10) For biological weapons proliferation prevention in the former Soviet Union, $55,000,000.

(11) For weapons of mass destruction proliferation prevention in the States of the former Soviet Union, $40,000,000.

(b) Additional Funds Authorized for Certain Purposes.—Of the funds authorized to be appropriated to the Department of Defense for fiscal year 2003 in section 301(23) for Cooperative Threat Reduction programs, $83,600,000 may be obligated for any of the purposes specified in paragraphs (1) through (4) and (9) of subsection (a) in addition to the amounts specifically authorized in such paragraphs.

(c) Report on Obligation or Expenditure of Funds for Other Purposes.—No fiscal year 2003 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (11) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2003 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(d) Limited Authority To Vary Individual Amounts.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2003 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (5) through (10) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

(4) In this section, the term "specific amount authorized" means, with respect to a purpose listed in any paragraph in subsection (a)—

(A) the amount specifically authorized for that purpose in subsection (a), plus

(B) in the case of a purpose listed in paragraph (1), (2), (3), (4), or (9) of subsection (a), any amount obligated under subsection (b) for that purpose.

SEC. 1303. PROHIBITION AGAINST USE OF FUNDS UNTIL SUBMISSION OF REPORTS.

Not more than 50 percent of fiscal year 2003 Cooperative Threat Reduction funds may be obligated or expended until 30 days after the date of the submission of—

(1) the report required to be submitted in fiscal year 2002 under section 1308(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341); and

(2) the update for the multiyear plan required to be submitted for fiscal year 2001 under section 1205 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 22 U.S.C. 5952 note).

SEC. 1304. REPORT ON USE OF REVENUE GENERATED BY ACTIVITIES CARRIED OUT UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) Additional Report Requirements.—Section 1308(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341) is amended by inserting at the end the following new paragraphs:

"(6) To the maximum extent practicable, a description of how revenue generated by activities carried out under Cooperative Threat Reduction programs in recipient States is being utilized, monitored, and accounted for.

"(7) A description of the defense and military activities carried out under Cooperative Threat Reduction programs during the fiscal year ending in the year preceding the year of the report, including—

"(A) the amounts obligated or expended for such activities;

"(B) the purposes, goals, and objectives for which such amounts were obligated and expended;

"(C) a description of the activities carried out, including the forms of assistance provided, and the justification for each form of assistance provided;

"(D) the success of each activity, including the goals and objectives achieved for each;

"(E) a description of participation by private sector entities in the United States in carrying out such activities, and the participation of any other Federal department or agency in such activities; and

"(F) any other information that the Secretary considers relevant to provide a complete description of the operation and success of activities carried out under Cooperative Threat Reduction programs.".

(b) Effective Date.—Paragraphs (6) and (7) of section 1308(c) of such Act, as added by subsection (a), shall apply beginning with the report submitted under that section in 2004.

SEC. 1305. PROHIBITION AGAINST USE OF FUNDS FOR SECOND WING OF FISSILE MATERIAL STORAGE FACILITY.

No funds authorized to be appropriated for Cooperative Threat Reduction programs for any fiscal year may be used for the design, planning, or construction of a second wing for a storage facility for Russian fissile material.

SEC. 1306. LIMITED WAIVER OF RESTRICTIONS ON USE OF FUNDS FOR THREAT REDUCTION IN STATES OF THE FORMER SOVIET UNION.

(a) Authority To Waive Restrictions and Eligibility Requirements.—If the President submits the certification and report described in subsection (b) with respect to an independent state of the former Soviet Union for a fiscal year—

(1) the restrictions in subsection (d) of section 1203 of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952) shall cease to apply, and funds may be obligated and expended under that section for assistance, to that state during that fiscal year; and

(2) funds may be obligated and expended during that fiscal year under section 502 of the FREEDOM Support Act (22 U.S.C. 5852) for assistance or other programs and activities for that state even if that state has not met one or more of the requirements for eligibility under paragraphs (1) through (4) of that section.

(b) Certification and Report.—(1) The certification and report referred to in subsection (a) are a written certification submitted by the President to Congress that the waiver of the restrictions and requirements described in paragraphs (1) and (2) of that subsection during such fiscal year is important to the national security interests of the United States, together with a report containing the following:

(A) A description of the activity or activities that prevent the President from certifying that the state is committed to the matters set forth in the provisions of law specified in paragraphs (1) and (2) of subsection (a) in such fiscal year.

(B) An explanation of why the waiver is important to the national security interests of the United States.

(C) A description of the strategy, plan, or policy of the President for promoting the commitment of the state to, and compliance by the state with, such matters, notwithstanding the waiver.

(2) The matter included in the report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) Fiscal Years Covered.—The authority under subsection (a) shall apply only with respect to fiscal years 2003, 2004, and 2005.

(d) Expiration of Authority.—The authority under subsection (a) shall expire on September 30, 2005.

(e) Administration of Restrictions on Assistance.—Subsection (d) of section 1203 of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 107 Stat. 1778; 22 U.S.C. 5952) is amended—

(1) by striking "any year" and inserting "any fiscal year"; and

(2) by striking "that year" and inserting "such fiscal year".

TITLE XIV—HOMELAND SECURITY

Sec. 1401. Transfer of technology items and equipment in support of homeland security.
Sec. 1402. Comprehensive plan for improving the preparedness of military installations for terrorist incidents.
Sec. 1403. Additional Weapons of Mass Destruction Civil Support Teams.
Sec. 1404. Report on the role of the Department of Defense in supporting homeland security.
Sec. 1405. Sense of Congress on Department of Defense assistance to local first responders.

SEC. 1401. TRANSFER OF TECHNOLOGY ITEMS AND EQUIPMENT IN SUPPORT OF HOMELAND SECURITY.

(a) Responsible Senior Official.—The Secretary of Defense shall designate a senior official of the Department of Defense to coordinate all Department of Defense efforts to identify, evaluate, deploy, and transfer to Federal, State, and local first responders technology items and equipment in support of homeland security.

(b) Duties.—The official designated pursuant to subsection (a) shall—

(1) identify technology items and equipment developed or being developed by Department of Defense components that have the potential to enhance public safety and improve homeland security;

(2) cooperate with appropriate Federal Government officials outside the Department of Defense to evaluate whether such technology items and equipment would be useful to first responders;

(3) facilitate the timely transfer, through identification of appropriate private sector manufacturers, of appropriate technology items and equipment to Federal, State, and local first responders, in coordination with appropriate Federal Government officials outside the Department of Defense;

(4) identify and eliminate redundant and unnecessary research efforts within the Department of Defense with respect to technologies to be deployed to first responders;

(5) expedite the advancement of high priority Department of Defense projects from research through implementation of initial manufacturing; and

(6) participate in outreach programs established by appropriate Federal Government officials outside the Department of Defense to communicate with first responders and to facilitate awareness of available technology items and equipment to support responses to crises.

(c) Support Agreement.—The official designated pursuant to subsection (a) shall enter into an appropriate agreement with a nongovernment entity for such entity to assist the official designated under subsection (a) in carrying out that official's duties under this section. Any such agreement shall be entered into using competitive procedures in compliance with applicable requirements of law and regulation.

(d) Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the actions taken to carry out this section. The report shall include the following:

(1) Identification of the senior official designated pursuant to subsection (a).

(2) A summary of the actions taken or planned to be taken to implement subsection (b), including a schedule for planned actions.

(3) An initial list of technology items and equipment identified pursuant to subsection (b)(1), together with a summary of any program schedule for the development, deployment, or transfer of such items and equipment.

(4) A description of any agreement entered into pursuant to subsection (c).

SEC. 1402. COMPREHENSIVE PLAN FOR IMPROVING THE PREPAREDNESS OF MILITARY INSTALLATIONS FOR TERRORIST INCIDENTS.

(a) Comprehensive Plan.—The Secretary of Defense shall develop a comprehensive plan for improving the preparedness of military installations for preventing and responding to terrorist attacks, including attacks involving the use or threat of use of weapons of mass destruction.

(b) Preparedness Strategy.—The plan under subsection (a) shall include a preparedness strategy that includes each of the following:

(1) Identification of long-term goals and objectives for improving the preparedness of military installations for preventing and responding to terrorist attacks.

(2) Identification of budget and other resource requirements necessary to achieve those goals and objectives.

(3) Identification of factors beyond the control of the Secretary that could impede the achievement of those goals and objectives.

(4) A discussion of the extent to which local, regional, or national military response capabilities are to be developed, integrated, and used.

(5) A discussion of how the Secretary will coordinate the capabilities referred to in paragraph (4) with local, regional, or national civilian and other military capabilities.

(c) Performance Plan.—The plan under subsection (a) shall include a performance plan that includes each of the following:

(1) A reasonable schedule, with milestones, for achieving the goals and objectives of the strategy under subsection (b).

(2) Performance criteria for measuring progress in achieving those goals and objectives.

(3) A description of the process, together with a discussion of the resources, necessary to achieve those goals and objectives.

(4) A description of the process for evaluating results in achieving those goals and objectives.

(d) Submittal to Congress.—The Secretary shall submit the comprehensive plan developed under subsection (a) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 180 days after the date of the enactment of this Act.

(e) Comptroller General Review and Report.—Not later than 60 days after the date on which the Secretary submits the comprehensive plan under subsection (a), the Comptroller General shall review the plan and submit to the committees referred to in subsection (d) the Comptroller General's assessment of the plan.

(f) Annual Report.—(1) In each of 2004, 2005, and 2006, the Secretary of Defense shall include a report on the comprehensive plan developed under subsection (a) with the materials that the Secretary submits to Congress in support of the budget submitted by the President that year pursuant to section 1105(a) of title 31, United States Code.

(2) Each such report shall include—

(A) a discussion of any revision that the Secretary has made in the comprehensive plan developed under subsection (a) since the last report under this subsection or, in the case of the first such report, since the plan was submitted under subsection (d); and

(B) an assessment of the progress made in achieving the goals and objectives of the strategy set forth in the plan.

(3) If the Secretary includes in the report for 2004 or 2005 under this subsection a declaration that the goals and objectives of the preparedness strategy set forth in the comprehensive plan have been achieved, no further report is required under this subsection.

SEC. 1403. ADDITIONAL WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAMS.

(a) Establishment of Additional Teams.—The Secretary of Defense shall—

(1) establish 23 additional teams designated as Weapons of Mass Destruction Civil Support Teams, for a total of 55 such teams; and

(2) ensure that of such 55 teams, there is at least one team established in each State and territory.

(b) Plan.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a plan, in furtherance of subsection (a), for establishing at least one Weapons of Mass Destruction Civil Support Team in each State and territory that does not have such a team as of the date of the enactment of this Act. The plan shall include the following:

(1) A schedule and budget for manning, training, and equipping the new teams as rapidly as is possible without jeopardizing the attainment of full effectiveness by the new teams.

(2) A discussion of whether the mission of the Weapons of Mass Destruction Civil Support Teams should be expanded and, if so, how.

(c) Definitions.—For purposes of this section:

(1) The term "Weapons of Mass Destruction Civil Support Team" means a team of members of the reserve components of the Armed Forces that is established under section 12310(c) of title 10, United States Code, in support of emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction.

(2) The term "State and territory" means each of the several States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

SEC. 1404. REPORT ON THE ROLE OF THE DEPARTMENT OF DEFENSE IN SUPPORTING HOMELAND SECURITY.

(a) Report Required.—Not later than March 1, 2003, the Secretary of Defense shall submit to the congressional defense committees a report on Department of Defense responsibilities, mission, and plans for military support of homeland security.

(b) Contents of Report.—The report shall include, at a minimum, a discussion of the following:

(1) The Department of Defense definition of its homeland security mission, particularly with respect to how it relates to providing military support to civil authorities, managing the consequences of terrorist attacks, and homeland defense, and the actions the Department is taking to implement the homeland security mission as so defined.

(2) Changes in the roles, missions, responsibilities, organization, and capabilities of the following organizations in order to conduct their homeland security support mission, and the reasons for such changes:

(A) The Office of the Secretary of Defense.

(B) The Army, Navy, Air Force, and Marine Corps.

(C) The Army National Guard and the Air National Guard.

(D) The combatant commands of the Department of Defense.

(3) The relationship between the Department of Defense, including its combatant commands, and the following with regard to homeland security:

(A) Other departments and agencies of the Federal Government.

(B) State and local governments.

(C) The National Guard and Reserve components.

(4) The current capability of the Department of Defense to respond to terrorist attacks employing chemical, biological, radiological, nuclear, high explosive or cyberterrorism weapons against personnel and critical infrastructure of the Department, including identification of the goals of the Department for being fully capable of responding to such attacks, current deficiencies in that capability, the resources required to achieve that capability, and a long-term plan to reach that capability.

(5) The roles, missions, and responsibilities of the intelligence components of the Department of Defense in support of its homeland security mission, including the policies and plans for—

(A) collecting and analyzing information related to homeland security;

(B) sharing that information with other agencies of the Federal Government; and

(C) preparing threat and risk assessments and issuing warnings.

(6) A discussion of plans of the Department of Defense for training, exercising, and preparing to perform its homeland security mission, including—

(A) individual and collective training for civilian and military personnel of the Department involved in homeland security;

(B) integrated training with other agencies of the Federal Government, and with State and local governments, as appropriate;

(C) interagency exercises and simulations; and

(D) the development of a permanent "terrorist opposing force" capable of challenging the Department's plans, policies, and capabilities during training events and exercises.

(7) A discussion of how the Department of Defense biological defense research program supports its homeland security mission.

(8) A discussion of the efforts by the Department of Defense to develop, either within the Department or through contracts with private entities, anticyberterrorism technology, including an assessment of whether and how such efforts should be increased.

(9) An assessment of the need for and feasibility of developing and fielding Department of Defense regional chemical-biological incident response teams across the United States, including options for providing the resources and personnel necessary for developing and fielding any such teams.

(10) A discussion of the Department of Defense plans and efforts to place new emphasis on the unique operational demands associated with homeland security while ensuring that defense of the United States remains the primary mission of the Department of Defense.

(11) The resource constraints and legal impediments to implementing any of the activities discussed under paragraphs (1) through (10).

SEC. 1405. SENSE OF CONGRESS ON DEPARTMENT OF DEFENSE ASSISTANCE TO LOCAL FIRST RESPONDERS.

It is the sense of Congress that the Secretary of Defense should, to the extent the Secretary considers appropriate and feasible, provide assistance, in accordance with otherwise applicable provisions of law, to entities that are local first responders for domestic terrorist incidents in order to assist those entities in improving their capabilities to respond to such incidents.

TITLE XV—AUTHORIZATION OF APPROPRIATIONS FOR THE WAR ON TERRORISM

Sec. 1501. Authorization of appropriations for continued operations for the war on terrorism.
Sec. 1502. Mobilization and personnel.
Sec. 1503. Operations.
Sec. 1504. Equipment replacement and enhancement.
Sec. 1505. Classified activities.
Sec. 1506. Procurement of munitions.
Sec. 1507. Discretionary restoration of authorizations of appropriations reduced for management efficiencies.
Sec. 1508. General provisions applicable to transfers.

SEC. 1501. AUTHORIZATION OF APPROPRIATIONS FOR CONTINUED OPERATIONS FOR THE WAR ON TERRORISM.

In addition to any other amounts authorized to be appropriated by this Act, there is hereby authorized to be appropriated for the Department of Defense for fiscal year 2003, subject to subsection (b), $10,000,000,000 only for the conduct of Operation Noble Eagle and Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes stated in section 2(a) of the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note).

SEC. 1502. MOBILIZATION AND PERSONNEL.

Of the amount authorized to be appropriated in section 1501, $2,550,000,000 shall be available only for transfer (subject to sections 1507 and 1508) to fiscal year 2003 military personnel accounts of the Department of Defense for the purpose of providing for the personnel and personnel support costs of the members of the Armed Forces who are participating in Operation Noble Eagle or Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes referred to in section 1501(a).

SEC. 1503. OPERATIONS.

Of the amount authorized to be appropriated in section 1501, $4,270,000,000 shall be available only for transfer (subject to sections 1507 and 1508) to fiscal year 2003 operation and maintenance accounts and working-capital funds of the Department of Defense for operating costs of the conduct of Operation Noble Eagle and Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes referred to in section 1501(a).

SEC. 1504. EQUIPMENT REPLACEMENT AND ENHANCEMENT.

Of the amount authorized to be appropriated in section 1501, $1,000,000,000 shall be available only for transfer (subject to sections 1507 and 1508) to fiscal year 2003 procurement and research, development, test, and evaluation accounts of the Department of Defense for—

(1) emergency replacement of equipment and munitions lost or expended in operations conducted as part of Operation Noble Eagle or Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes referred to in section 1501(a); or

(2) enhancement of critical military capabilities necessary to carry out operations as part of those Operations in continuation of the war on terrorism in accordance with those purposes.

SEC. 1505. CLASSIFIED ACTIVITIES.

Of the amount authorized to be appropriated in section 1501, $1,980,000,000 shall be available only for unspecified intelligence and classified activities carried out in support of Operation Noble Eagle or Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes referred to in section 1501(a), and only by transfer (subject to sections 1507 and 1508) to fiscal year 2003 accounts of the Department of Defense in amounts as follows:

(1) To procurement accounts, $1,618,200,000.

(2) To operation and maintenance accounts, $301,600,000.

(3) To research, development, test, and evaluation accounts, $60,200,000.

SEC. 1506. PROCUREMENT OF MUNITIONS.

Of the amount authorized to be appropriated in section 1501, $200,000,000 shall be available only for the procurement of munitions for the support of Operation Noble Eagle or Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes referred to in section 1501(a), and only by transfer (subject to sections 1507 and 1508) to fiscal year 2003 procurement accounts of the Department of Defense in amounts as follows:

(1) To accounts of the Army for the procurement of ammunition $94,000,000.

(2) To accounts of the Navy for the procurement of weapons, $35,000,000.

(3) To accounts of the Navy and Marine Corps for the procurement of ammunition, $25,000,000.

(4) To accounts of the Air Force for the procurement of ammunition, $40,000,000.

(5) To Defense-wide procurement accounts for special operations forces, $6,000,000.

SEC. 1507. DISCRETIONARY RESTORATION OF AUTHORIZATIONS OF APPROPRIATIONS REDUCED FOR MANAGEMENT EFFICIENCIES.

(a) TRANSFER AUTHORITY.—(1) The Secretary of Defense may, subject to section 1508, transfer up to a total of $1,000,000,000 of the amount authorized to be appropriated by section 1501 to Department of Defense accounts under titles I, II, and III that are reduced for savings described in paragraph (2) if and to the extent that the Secretary determines that such savings are not achievable.

(2) The savings referred to in paragraph (1) are savings that are to be achieved from—

(A) improved management of Department of Defense contracts for the procurement of services; and

(B) the deferral of expenditures on financial management systems.

(b) RELATIONSHIP TO OTHER TITLE XV TRANSFER AUTHORITIES.—The total amount transferred under sections 1502 through 1506 and under section 1507 may not exceed the total amount authorized to be appropriated by section 1501.

SEC. 1508. GENERAL PROVISIONS APPLICABLE TO TRANSFERS.

(a) MERGER OF TRANSFERRED AMOUNTS.—Amounts transferred pursuant to this title shall be merged with, and shall be available for the same purposes and the same period as, the account to which transferred.

(b) CONGRESSIONAL NOTICE-AND-WAIT REQUIREMENT.—A transfer may not be made under section 1502, 1503, 1504, 1505, 1506, or 1507 until the Secretary of Defense has submitted a notice in writing to the congressional defense committees of the proposed transfer and a period of 15 days has elapsed after the date such notice is received. Any such notice shall include specification of the amount of the proposed transfer, the account to which the transfer is to be made, and the purpose of the transfer.

(c) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authorities provided in this title are in addition to any other transfer authority available to the Secretary of Defense under any provision of any other title of this Act or under any other provision of law.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 2003".

TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Authorization of appropriations, Army.
Sec. 2105. Modification of authority to carry out certain fiscal year 2002 projects.
Sec. 2106. Modification of authority to carry out certain fiscal year 2001 project.

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Anniston Army Depot	$1,900,000
	Fort Rucker	$15,808,000
	Redstone Arsenal	$1,950,000

Army: Inside the United States—Continued,

State	Installation or location	Amount
Alaska	Fort Greely	$2,700,000
	Fort Richardson	$20,011,000
	Fort Wainwright	$139,906,000
Arizona	Fort Huachuca	$10,400,000
	Yuma Proving Ground	$4,500,000
California	Fort Irwin	$2,522,000
Colorado	Fort Carson	$9,698,000
District of Columbia	Walter Reed Army Medical Center	$13,794,000
Georgia	Fort Benning	$86,250,000
	Fort Stewart/Hunter Army Air Field	$26,000,000
Hawaii	Schofield Barracks	$191,000,000
Kansas	Fort Leavenworth	$7,979,000
	Fort Riley	$81,095,000
Kentucky	Blue Grass Army Depot	$5,500,000
	Fort Campbell	$106,300,000
	Fort Knox	$5,873,000
Louisiana	Fort Polk	$37,620,000
Maryland	Fort Detrick	$22,500,000
Massachusetts	Natick Research, Development, and Engineering Center	$4,100,000
Missouri	Fort Leonard Wood	$24,993,000
New Jersey	Picatinny Arsenal	$7,500,000
New York	Fort Drum	$18,300,000
	United States Military Academy, West Point	$4,991,000
North Carolina	Fort Bragg	$99,632,000
Oklahoma	Fort Sill	$39,652,000
Pennsylvania	Letterkenny Army Depot	$1,550,000
South Carolina	Fort Jackson	$3,051,000
Texas	Fort Bliss	$5,200,000
	Fort Hood	$83,061,000
Virginia	Fort Eustis	$4,133,000
	Fort Lee	$7,103,000
Washington	Fort Lewis	$56,195,000
	Yakima Training Center	$3,000,000
	Total	$1,155,767,000

(b) Outside the United States.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Belgium	Supreme Headquarters, Allied Powers Europe	$13,600,000
Germany	Area Support Group, Bamberg	$17,200,000
	Campbell Barracks	$8,300,000
	Coleman Barracks	$1,350,000
	Darmstadt	$3,500,000
	Grafenwoehr	$69,866,000
	Landstuhl	$2,400,000
	Mannheim	$42,000,000
	Schweinfurt	$2,000,000
Italy	Vicenza	$34,700,000
Korea	Camp Carroll	$20,000,000
	Camp Castle	$6,800,000
	Camp Hovey	$25,000,000
	Camp Humphreys	$36,000,000
	Camp Henry	$10,200,000
	Camp Tango	$12,600,000
	K16 Airfield	$40,000,000
Qatar	Qatar	$8,600,000
	Total	$354,116,000

(c) Unspecified Worldwide.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(3), the Secretary of the Army may acquire real property and carry out military construction projects for the installation and location, and in the amount, set forth in the following table:

Army: Unspecified Worldwide

Location	Installation	Amount
Unspecified Worldwide	Unspecified Worldwide	$4,000,000

SEC. 2102. FAMILY HOUSING.

(a) Construction and Acquisition.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State or Country	Installation or location	Purpose	Amount
Alaska	Fort Wainwright	38 Units	$17,752,000
Arizona	Yuma Proving Ground	33 Units	$6,100,000
Korea	Yongsan	10 Units	$3,100,000
	Total:		$26,952,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $15,653,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $239,751,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $3,104,176,000, as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $949,567,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $354,116,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2101(c), $4,000,000.

(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $21,550,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $160,313,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $282,356,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,117,274,000.

(7) For the construction of phase 2 of Saddle Access Road, Pohakoula Training Facility, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106–398; 114 Stat. 1654A–389), $13,000,000.

(8) For the construction of phase 3 of a barracks complex, Butner Road, at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106–398; 114 Stat. 1654A–389), $50,000,000.

(9) For the construction of phase 2 of a barracks complex, D Street, at Fort Richardson, Alaska, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), $21,000,000.

(10) For the construction of phase 2 of a barracks complex, Nelson Boulevard, at Fort Carson, Colorado, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), as amended by section 2105 of this Act, $42,000,000.

(11) For the construction of phase 2 of a basic combat trainee complex at Fort Jackson, South Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), as amended by section 2105 of this Act, $39,000,000.

(12) For the construction of phase 2 of a barracks complex, 17th and B Streets, at Fort Lewis, Washington, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), $50,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a);

(2) $18,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Main Post, at Fort Benning, Georgia);

(3) $100,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Capron Avenue, at Schofield Barracks, Hawaii);

(4) $13,200,000 (the balance of the amount authorized under section 2101(a) for construction of a combined arms collective training facility at Fort Riley, Kansas);

(5) $50,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Range Road, at Fort Campbell, Kentucky); and

(6) $25,000,000 (the balance of the amount authorized under section 2101(a) for construction of a consolidated maintenance complex at Fort Sill, Oklahoma).

(c) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (12) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by the following:

(1) $18,596,000, which represents savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States.

(2) $29,350,000, which represents savings resulting from adjustments in the accounting of civilian personnel benefits.

(3) $16,740,000, which represents savings resulting from reductions in supervision, inspection, and overhead costs.

(4) $18,000,000, which represents savings resulting from lower-than-expected inflation.

SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) MODIFICATION.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1281) is amended—

(1) in the item relating to Fort Carson, Colorado, by striking "$66,000,000" in the amount column and inserting "$67,000,000"; and

(2) in the item relating to Fort Jackson, South Carolina, by striking "$65,650,000" in the amount column and inserting "$68,650,000".

(b) CONFORMING AMENDMENTS.—Section 2104(b) of that Act (115 Stat. 1284) is amended—

(1) in paragraph (3), by striking "$41,000,000" and inserting "$42,000,000"; and

(2) in paragraph (4), by striking "$36,000,000" and inserting "$39,000,000".

SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2001 PROJECT.

The table in section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106–398; 114 Stat. 1654A–390) is amended by striking "Camp Page" in the installation or location column and inserting "Camp Stanley".

TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Navy.
Sec. 2205. Modification of authority to carry out certain fiscal year 2002 projects.

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Marine Corps Air Station, Yuma	$3,000,000
California	Auxiliary Landing Field, San Diego (San Clemente Island)	$6,150,000
	Marine Corps Air-Ground Combat Center, Twentynine Palms	$39,470,000
	Marine Corps Air Station, Camp Pendleton	$11,930,000
	Marine Corps Air Station, Miramar	$12,210,000
	Marine Corps Base, Camp Pendleton	$84,040,000

Navy: Inside the United States—Continued

State	Installation or location	Amount
	Marine Corps Logistics Base, Barstow	*$4,450,000*
	Naval Air Station, Lemoore	*$35,855,000*
	Naval Air Warfare Center, Point Mugu, San Nicholas Island	*$6,760,000*
	Naval Air Warfare Center, China Lake	*$10,100,000*
	Naval Construction Training Center, Port Hueneme	*$10,170,000*
	Naval Post Graduate School, Monterey	*$9,020,000*
	Naval Station, San Diego	*$12,210,000*
Connecticut	*Naval Submarine Base, New London*	*$7,880,000*
District of Columbia	*Marine Corps Barracks*	*$3,700,000*
	Naval District, Washington	*$2,690,000*
Florida	*Naval Air Station, Jacksonville*	*$13,342,000*
	Naval Air Station, Pensacola	*$990,000*
	Naval School Explosive Ordnance Detachment, Eglin	*$6,350,000*
	Naval Station, Mayport	*$1,900,000*
	Naval Surface Warfare Center Coastal Systems Station, Panama City	*$10,700,000*
Georgia	*Naval Submarine Base, Kings Bay*	*$1,580,000*
Hawaii	*Marine Corps Base*	*$9,500,000*
	Naval Shipyard, Pearl Harbor	*$18,500,000*
	Naval Station, Pearl Harbor	*$34,090,000*
Illinois	*Naval Training Center, Great Lakes*	*$83,190,000*
Indiana	*Naval Surface Warfare Center, Crane*	*$11,610,000*
Maine	*Naval Air Station, Brunswick*	*$9,830,000*
	Naval Shipyard, Kittery-Portsmouth	*$15,200,000*
Maryland	*Naval Air Facility, Andrews Air Force Base*	*$9,680,000*
	Naval Surface Warfare Center, Carderock Division	*$12,900,000*
	United States Naval Academy	*$1,800,000*
Mississippi	*Naval Air Station, Meridian*	*$2,850,000*
	Naval Construction Battalion Center, Gulfport	*$5,460,000*
	Naval Station, Pascagoula	*$25,305,000*
New Jersey	*Naval Air Warfare Center, Lakehurst*	*$5,200,000*
	Naval Weapons Station, Earle	*$5,600,000*
North Carolina	*Marine Corps Air Station, Cherry Point*	*$6,040,000*
	Marine Corps Air Station, New River	*$6,920,000*
	Marine Corps Base, Camp Lejeune	*$9,570,000*
Rhode Island	*Naval Station, Newport*	*$15,900,000*
South Carolina	*Marine Corps Air Station, Beaufort*	*$13,700,000*
	Marine Corps Recruit Depot, Parris Island	*$10,490,000*
	Naval Weapons Station, Charleston	*$5,740,000*
Texas	*Naval Air Station, Corpus Christi*	*$7,150,000*
	Naval Station, Ingleside	*$5,000,000*
	Naval Air Station, Kingsville	*$6,210,000*
Virginia	*Marine Corps Combat Development Command, Quantico*	*$24,864,000*
	Naval Air Station Oceana	*$16,490,000*
	Naval Amphibious Base, Little Creek	*$9,770,000*
	Naval Shipyard, Norfolk, Portsmouth	*$36,470,000*
	Naval Station, Norfolk	*$168,965,000*
	Naval Support Activity, Norfolk	*$2,260,000*
	Naval Surface Warfare Center, Dahlgren	*$15,830,000*
	Naval Weapons Station, Yorktown	*$15,020,000*
Washington	*Naval Air Station, Whidbey Island*	*$17,580,000*
	Naval Magazine, Indian Island	*$4,030,000*
	Naval Station, Bremerton	*$45,870,000*
	Naval Submarine Base, Bangor	*$22,310,000*
	Naval Undersea Warfare Center, Keyport	*$7,500,000*
	Puget Sound Naval Shipyard, Bremerton	*$57,132,000*
	Strategic Weapons Facility, Bangor	*$7,340,000*
Various Locations	*Host Nation Infrastructure*	*$1,000,000*
	Total	*$1,084,363,000*

(b) OUTSIDE THE UNITED STATES.*—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts, set forth in the following table:*

Navy: Outside the United States

Country	Installation or location	Amount
Bahrain	*Naval Support Activity, Bahrain*	*$25,970,000*
Cuba	*Naval Station, Guantanamo Bay*	*$4,280,000*
Diego Garcia	*Diego Garcia, Naval Support Facility*	*$11,090,000*
Greece	*Naval Support Activity, Joint Headquarters Command, Larissa*	*$6,800,000*
Guam	*Commander, United States Naval Forces, Guam*	*$13,400,000*
Iceland	*Naval Air Station, Keflavik*	*$14,920,000*
Italy	*Naval Air Station, Sigonella*	*$55,660,000*
Spain	*Naval Station, Rota*	*$18,700,000*
	Total	*$150,820,000*

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.*—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:*

Navy: Family Housing

State or Country	Installation or location	Purpose	Amount
California	*Naval Air Station, Lemoore*	*178 Units*	*$40,981,000*
	Twentynine Palms	*76 Units*	*$19,425,000*
Connecticut	*Naval Submarine Base, New London*	*100 Units*	*$24,415,000*

Navy: Family Housing—Continued

State or Country	Installation or location	Purpose	Amount
Florida	Naval Station, Mayport	1 Unit	$329,000
Hawaii	Marine Corps Base, Kaneohe Bay	65 Units	$24,797,000
Maine	Naval Air Station, Brunswick	22 Units	$5,000,000
Mississippi	Naval Air Station, Meridian	56 Units	$9,755,000
North Carolina	Marine Corps Base, Camp Lejeune	317 Units	$43,650,000
Virginia	Marine Corps Base, Quantico	290 Units	$41,843,000
United Kingdom	Joint Maritime Facility, St. Mawgan	62 Units	$18,524,000
		Total	$228,719,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriation in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $11,281,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $139,468,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,576,381,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $1,025,598,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $148,250,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $26,187,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $95,570,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $379,468,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $867,788,000.

(6) For replacement of a pier at Naval Station, Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1287), as amended by section 2205 of this Act, $33,520,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $10,645,000 (the balance of the amount authorized under section 2201(a) for a bachelors enlisted quarters shipboard ashore, Naval Station, Pascagoula, Mississippi);

(3) $48,120,000 (the balance of the amount authorized under section 2201(a) for a bachelors enlisted quarters shipboard ashore, Naval Station, Norfolk, Virginia); and

(4) $2,570,000 (the balance of the amount authorized under section 2201(b) for a quality of life support facility, Naval Air Station Sigonella, Italy).

(c) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (6) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by the following:

(1) $3,992,000, which represents savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States.

(2) $10,470,000, which represents savings resulting from adjustments in the accounting of civilian personnel benefits.

(3) $15,017,000, which represents savings resulting from reductions in supervision, inspection, and overhead costs.

(4) $14,000,000, which represents savings resulting from lower-than-expected inflation.

SEC. 2205. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) MILITARY CONSTRUCTION PROJECT AT NAVAL STATION, NORFOLK, VIRGINIA.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1286) is amended—

(1) in the item relating to Naval Station, Norfolk, Virginia, by striking "$139,270,000" in the amount column and inserting "$139,550,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$1,059,030,000".

(b) MILITARY FAMILY HOUSING AT QUANTICO, VIRGINIA.—The table in section 2202(a) of that Act (115 Stat. 1288) is amended in the item relating to Marine Corps Combat Development Command, Quantico, Virginia, by striking "60 Units" in the purpose column and inserting "39 Units".

(c) CONFORMING AMENDMENT.—Section 2204(b)(2) of that Act (115 Stat. 1289) is amended by striking "$33,240,000" and inserting "$33,520,000".

TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.
Sec. 2305. Authority for use of military construction funds for construction of public road near Aviano Air Base, Italy, to replace road closed for force protection purposes.

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alaska	Clear Air Station	$14,400,000
	Eielson Air Force Base	$41,100,000
Arizona	Davis-Monthan Air Force Base	$19,270,000
	Luke Air Force Base	$13,000,000
Arkansas	Little Rock Air Force Base	$25,600,000
California	Beale Air Force Base	$11,740,000
	Travis Air Force Base	$33,469,000
	Vandenberg Air Force Base	$10,500,000
Colorado	Buckley Air National Guard Base	$17,700,000
	Peterson Air Force Base	$5,500,000
	Schriever Air Force Base	$5,700,000
	United States Air Force Academy	$4,200,000
District of Columbia	Bolling Air Force Base	$5,000,000
Florida	Avon Park Air Force Range	$2,000,000
	Elgin Air Force Base	$4,250,000
	Hurlburt Field	$15,000,000
	MacDill Air Force Base	$20,000,000
Georgia	Robins Air Force Base	$29,400,000
Hawaii	Hickam Air Force Base	$1,350,000

Air Force: Inside the United States—Continued

State	*Installation or location*	*Amount*
Kansas	*McConnell Air Force Base*	*$7,500,000*
Louisiana	*Barksdale Air Force Base*	*$22,900,000*
Maryland	*Andrews Air Force Base*	*$9,600,000*
Massachusetts	*Hanscom Air Force Base*	*$7,700,000*
Mississippi	*Keesler Air Force Base*	*$22,000,000*
Nebraska	*Offutt Air Force Base*	*$11,000,000*
Nevada	*Nellis Air Force Base*	*$56,850,000*
New Jersey	*McGuire Air Force Base*	*$29,831,000*
New Mexico	*Cannon Air Force Base*	*$4,650,000*
	Holloman Air Force Base	*$4,650,000*
	Kirtland Air Force Base	*$21,900,000*
North Carolina	*Pope Air Force Base*	*$9,700,000*
North Dakota	*Minot Air Force Base*	*$5,000,000*
Ohio	*Wright-Patterson Air Force Base*	*$25,000,000*
Oklahoma	*Altus Air Force Base*	*$14,800,000*
	Vance Air Force Base	*$4,800,000*
South Carolina	*Shaw Air Force Base*	*$6,800,000*
South Dakota	*Ellsworth Air Force Base*	*$13,200,000*
Texas	*Goodfellow Air Force Base*	*$10,600,000*
	Lackland Air Force Base	*$37,300,000*
	Lackland Air Force Base (Camp Bullis)	*$10,000,000*
	Laughlin Air Force Base	*$8,000,000*
	Sheppard Air Force Base	*$16,000,000*
Utah	*Hill Air Force Base*	*$14,500,000*
Virginia	*Langley Air Force Base*	*$70,940,000*
	Total	*$724,400,000*

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	*Installation or location*	*Amount*
Diego Garcia	*Diego Garcia*	*$17,100,000*
Germany	*Ramstein Air Force Base*	*$71,783,000*
Guam	*Andersen Air Force Base*	*$31,000,000*
Italy	*Aviano Air Force Base*	*$6,600,000*
Japan	*Kadena Air Force Base*	*$6,000,000*
Korea	*Osan Air Base*	*$15,100,000*
Spain	*Naval Station, Rota*	*$31,818,000*
Turkey	*Incirlik Air Force Base*	*$1,550,000*
United Kingdom	*Royal Air Force, Fairford*	*$19,000,000*
	Royal Air Force, Lakenheath	*$13,400,000*
Wake Island	*Wake Island*	*$24,900,000*
	Total	*$238,251,000*

(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installation and location, and in the amount, set forth in the following table:

Air Force: Unspecified Worldwide

Location	*Installation*	*Amount*
Unspecified Worldwide	*Classified Location*	*$24,993,000*
	Total	*$24,993,000*

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acqumsition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State or Country	*Installation or location*	*Purpose*	*Amount*
Arizona	*Luke Air Force Base*	*140 Units*	*$18,954,000*
California	*Travis Air Force Base*	*110 Units*	*$24,320,000*
Colorado	*Peterson Air Force Base*	*2 Units*	*$959,000*
	United States Air Force Academy	*71 Units*	*$12,424,000*
Delaware	*Dover Air Force Base*	*112 Units*	*$19,615,000*
Florida	*Eglin Air Force Base*	*Housing Office*	*$597,000*
	Eglin Air Force Base	*134 Units*	*$15,906,000*
	MacDill Air Force Base	*96 Units*	*$18,086,000*
Hawaii	*Hickam Air Force Base*	*96 Units*	*$29,050,000*
Idaho	*Mountain Home Air Force Base*	*95 Units*	*$24,392,000*
Kansas	*McConnell Air Force Base*	*Housing Maintenance Facility*	*$1,514,000*

Air Force: Family Housing—Continued

State or Country	*Installation or location*	*Purpose*	*Amount*
Maryland	*Andrews Air Force Base*	*53 Units*	*$9,838,000*
	Andrews Air Force Base	*52 Units*	*$8,807,000*
Mississippi	*Columbus Air Force Base*	*Housing Office*	*$412,000*
	Keesler Air Force Base	*117 Units*	*$16,505,000*
Missouri	*Whiteman Air Force Base*	*97 Units*	*$17,107,000*
Montana	*Malmstrom Air Force Base*	*18 Units*	*$4,717,000*
New Mexico	*Holloman Air Force Base*	*101 Units*	*$20,161,000*
North Carolina	*Pope Air Force Base*	*Housing Maintenance Facility*	*$991,000*
	Seymour Johnson Air Force Base	*126 Units*	*$18,615,000*
North Dakota	*Grand Forks Air Force Base*	*150 Units*	*$30,140,000*
	Minot Air Force Base	*112 Units*	*$21,428,000*
	Minot Air Force Base	*102 Units*	*$20,315,000*
Oklahoma	*Vance Air Force Base*	*59 Units*	*$11,423,000*
South Dakota	*Ellsworth Air Force Base*	*Housing Maintenance Facility*	*$447,000*
	Ellsworth Air Force Base	*22 Units*	*$4,794,000*
Texas	*Dyess Air Force Base*	*85 Units*	*$14,824,000*
	Randolph Air Force Base	*Housing Maintenance Facility*	*$447,000*
	Randolph Air Force Base	*112 Units*	*$14,311,000*
Virginia	*Langley Air Force Base*	*Housing Office*	*$1,193,000*
Germany	*Ramstein Air Force Base*	*19 Units*	*$8,534,000*
Korea	*Osan Air Base*	*113 Units*	*$35,705,000*
	Osan Air Base	*Housing Supply Warehouse*	*$834,000*
United Kingdom	*Royal Air Force, Lakenheath*	*Housing Office and Maintenance Facility*	*$2,203,000*
	Total		*$429,568,000*

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $34,188,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, Unites States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $226,068,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,633,738,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $717,300,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $238,251,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2301(c), $24,993,000.

(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $11,500,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $82,820,000.

(6) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $689,824,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $869,050,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1), (2) and (3) of subsection (a); and

(2) $7,100,000 (the balance of the amount authorized under section 2301(a) for construction of a consolidated base engineer complex at Altus Air Force Base, Oklahoma).

(c) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (6) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by the following:

(1) $19,063,000, which represents savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States.

(2) $15,306,000, which represents savings resulting from reductions in supervision, inspection, and overhead costs.

(3) $16,000,000, which represents savings resulting from lower-than-expected inflation.

SEC. 2305. AUTHORITY FOR USE OF MILITARY CONSTRUCTION FUNDS FOR CONSTRUCTION OF PUBLIC ROAD NEAR AVIANO AIR BASE, ITALY, TO REPLACE ROAD CLOSED FOR FORCE PROTECTION PURPOSES.

(a) AUTHORITY TO USE FUNDS.—Using amounts authorized to be appropriated by section 2304(a)(2), the Secretary of the Air Force may carry out a project to provide a public road, and associated improvements, to replace a public road adjacent to Aviano Air Base, Italy, that has been closed for force protection purposes.

(b) SCOPE OF AUTHORITY.—(1) The authority of the Secretary to carry out the project referred to in subsection (a) shall include authority as follows:

(A) To acquire property for the project for transfer to a host nation authority.

(B) To provide funds to a host nation authority to acquire property for the project.

(C) To make a contribution to a host nation authority for purposes of carrying out the project.

(D) To provide vehicle and pedestrian access to landowners affected by the project.

(2) The acquisition of property using the authority in subparagraph (A) or (B) of paragraph (1) may be made regardless of whether or not ownership of such property will vest in the United States.

(c) INAPPLICABILITY OF CERTAIN REAL PROPERTY MANAGEMENT REQUIREMENT.—Section 2672(a)(1)(B) of title 10, United States Code, shall not apply with respect to any acquisition of interests in land for purposes of the project authorized by subsection (a).

TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Improvements to military family housing units.
Sec. 2403. Energy conservation projects.
Sec. 2404. Authorization of appropriations, Defense Agencies.
Sec. 2405. Modification of authority to carry out certain fiscal year 2000 project.
Sec. 2406. Modification of authority to carry out certain fiscal year 1999 project.
Sec. 2407. Modification of authority to carry out certain fiscal year 1997 project.

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Demilitarization	*Pine Bluff, Arkansas*	*$18,937,000*
Defense Intelligence Agency	*Bolling Air Force Base, District of Columbia*	*$111,958,000*
Defense Logistics Agency	*Defense Supply Center, Richmond, Virginia*	*$5,500,000*
	Naval Air Station, New Orleans, Louisiana	*$9,500,000*
	Travis Air Force Base, California	*$16,000,000*
Defense Threat Reduction Agency	*Fort Belvoir, Virginia*	*$76,388,000*
Department of Defense Dependents Schools	*Fort Bragg, North Carolina*	*$2,036,000*
	Fort Jackson, South Carolina	*$2,506,000*
	Marine Corps Base, Camp Lejeune, North Carolina	*$12,138,000*
	Marine Corps Base, Quantico, Virginia	*$1,418,000*
	United States Military Academy, West Point, New York	*$4,347,000*
Joint Chiefs of Staff	*Peterson Air Force Base, Colorado*	*$25,000,000*
Missile Defense Agency	*Kauai, Hawaii*	*$23,400,000*
National Security Agency	*Fort Meade, Maryland*	*$4,484,000*
Special Operations Command	*Dam Neck, Virginia*	*$3,900,000*
	Fort Bragg, North Carolina	*$30,800,000*
	Hurlburt Field, Florida	*$11,100,000*
	Naval Amphibious Base, Little Creek, Virginia	*$14,300,000*
	Stennis Space Center, Mississippi	*$5,000,000*
TRICARE Management Activity	*Elmendorf Air Force Base, Alaska*	*$10,400,000*
	Hickam Air Force Base, Hawaii	*$2,700,000*
Washington Headquarters Services	*District of Columbia*	*$2,500,000*
	Total	*$394,312,000*

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Defense Logistics Agency	*Andersen Air Force Base, Guam*	*$17,586,000*
	Naval Forces Marianas Islands, Guam	*$6,000,000*
	Naval Station, Rota, Spain	*$23,400,000*
	Royal Air Force, Fairford, United Kingdom	*$17,000,000*
	Yokota Air Base, Japan	*$23,000,000*
Department of Defense Dependents Schools	*Kaiserslautern, Germany*	*$957,000*
	Lajes Field, Azores, Portugal	*$1,192,000*
	Seoul, Korea	*$31,683,000*
	Supreme Headquarters, Allied Powers Europe, Belgium	*$1,573,000*
	Spangdahlem Air Base, Germany	*$997,000*
	Vicenza, Italy	*$2,117,000*
TRICARE Management Activity	*Naval Support Activity, Naples, Italy*	*$41,449,000*
	Spangdahlem Air Base, Germany	*$39,629,000*
	Total	*$206,583,000*

SEC. 2402. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(8)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $5,480,000.

SEC. 2403. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(6), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $34,531,000.

SEC. 2404. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $1,434,795,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $357,712,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $206,583,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,293,000.

(4) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $45,532,000.

(6) For energy conservation projects authorized by section 2403, $34,531,000.

(7) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $565,138,000.

(8) For military family housing functions:

(A) For improvement of military family housing and facilities, $5,480,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $42,432,000.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $2,000,000.

(9) For payment of a claim against the Hospital Replacement project at Elmendorf Air Force Base, Alaska, $10,400,000.

(10) For the construction of phase 4 of an ammunition demilitarization facility at Pueblo Chemical Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839) and section 2407 of this Act, $38,000,000.

(11) For the construction of phase 5 of an ammunition demilitarization facility at Newport Army Depot, Indiana, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2193), as amended by section 2406 of this Act, $61,494,000.

(12) For the construction of phase 5 of an ammunition demilitarization facility at Aberdeen Proving Ground, Maryland, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B

of Public Law 105-261; 112 Stat. 2193), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1299), $20,600,000.

(13) For the construction of phase 3 of an ammunition demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1298) and section 2405 of this Act, $10,300,000.

(14) For the construction of phase 3 of an ammunition demilitarization support facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), $8,300,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $26,200,000 (the balance of the amount authorized under section 2401(a) for the construction of the Defense Threat Reduction Center, Fort Belvoir, Virginia).

(c) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (14) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by the following:

(1) $2,976,000, which represents savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States.

(2) $37,000, which represents savings resulting from adjustments in the accounting of civilian personnel benefits.

(3) $7,414,000, which represents savings resulting from reductions in supervision, inspection, and overhead costs.

(4) $7,000,000, which represents savings resulting from lower-than-expected inflation.

SEC. 2405. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2000 PROJECT.

(a) MODIFICATION.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1298), is further amended—

(1) under the agency heading relating to Chemical Demilitarization, in the item relating to Blue Grass Army Depot, Kentucky, by striking "$254,030,000" in the amount column and inserting "$290,325,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$748,245,000".

(b) CONFORMING AMENDMENT.—Section 2405(b)(3) of the Military Construction Authorization Act for Fiscal Year 2000 (113 Stat. 839), as so amended, is further amended by striking "$231,230,000" and inserting "$267,525,000".

SEC. 2406. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1999 PROJECT.

(a) MODIFICATION.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2193), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1299), is further amended—

(1) under the agency heading relating to Chemical Demilitarization, in the item relating to Newport Army Depot, Indiana, by striking "$191,550,000" in the amount column and inserting "$293,853,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$829,919,000".

(b) CONFORMING AMENDMENT.—Section 2404(b)(2) of the Military Construction Authorization Act for Fiscal Year 1999 (112 Stat. 2196) is amended by striking "$162,050,000" and inserting "$264,353,000".

SEC. 2407. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1997 PROJECT.

(a) MODIFICATION.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839), is further amended—

(1) under the agency heading relating to Chemical Demilitarization Program, in the item relating to Pueblo Chemical Activity, Colorado, by striking "$203,500,000" in the amount column and inserting "$261,000,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$607,454,000".

(b) CONFORMING AMENDMENT.—Section 2406(b)(2) of the Military Construction Authorization Act for Fiscal Year 1997 (110 Stat. 2779), as so amended, is further amended by striking "$203,500,000" and inserting "$261,000,000".

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of $168,200,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to subsection (a) is the amount specified in such subsection, reduced by $1,000,000, which represents savings resulting from lower-than-expected inflation.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) IN GENERAL.—There are authorized to be appropriated for fiscal years beginning after September 30, 2002, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $237,236,000; and

(B) for the Army Reserve, $99,399,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $75,801,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $204,215,000; and

(B) for the Air Force Reserve, $85,649,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to subsection (a)(1)(A) is the amount specified in such subsection, reduced by $1,000,000, which represents savings resulting from lower-than-expected inflation.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
Sec. 2702. Extension of authorizations of certain fiscal year 2000 projects.
Sec. 2703. Extension of authorizations of certain fiscal year 1999 projects.

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2005; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2006.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects, and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before the later of—

(1) October 1, 2005; or

(2) the date of the enactment of an Act authorized funds for fiscal year 2006 for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2000 PROJECTS.

(a) EXTENSION OF CERTAIN PROJECTS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 841), authorizations set forth in the tables in subsection (b), as provided in section 2302 or 2601 of that Act, shall remain in effect until October 1, 2003, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2004, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Air Force: Extension of 2000 Project Authorizations

State	Installation or location	Project	Amount
Oklahoma	Tinker Air Force Base	Replace Family Housing (41 Units)	$6,000,000
Texas	Lackland Air Force Base	Dormitory	$5,300,000

Army National Guard: Extension of 2000 Project Authorization

State	Installation or location	Project	Amount
Virginia	Fort Pickett	Multi-Purpose Range Complex–Heavy	$13,500,000

SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1999 PROJECTS.

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2199), authorizations set forth in the table in subsection (b), as provided in section 2302 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1301), shall remain in effect until October 1, 2003, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2004, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

Air Force: Extension of 1999 Project Authorizations

State	Installation or location	Project	Amount
Delaware	Dover Air Force Base	Replace Family Housing (55 Units)	$8,988,000
Florida	Patrick Air Force Base	Replace Family Housing (46 Units)	$9,692,000
New Mexico	Kirtland Air Force Base	Replace Family Housing (37 Units)	$6,400,000
Ohio	Wright-Patterson Air Force Base	Replace Family Housing (40 Units)	$5,600,000

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Lease of military family housing in Korea.
Sec. 2802. Modification of alternative authority for acquisition and improvement of military housing.
Sec. 2803. Pilot housing privatization authority for acquisition or construction of military unaccompanied housing.
Sec. 2804. Repeal of source requirements for family housing construction overseas.
Sec. 2805. Availability of energy cost savings realized at military installations.

Subtitle B—Real Property and Facilities Administration

Sec. 2811. Agreements to limit encroachments and other constraints on military training, testing, and operations.
Sec. 2812. Conveyance of surplus real property for natural resource conservation purposes.
Sec. 2813. Modification of demonstration program on reduction in long-term facility maintenance costs.
Sec. 2814. Expanded authority to transfer property at military installations to be closed to persons who construct or provide military family housing.

Subtitle C—Land Conveyances

PART I—ARMY CONVEYANCES

Sec. 2821. Transfer of jurisdiction, Fort McClellan, Alabama, to establish Mountain Longleaf National Wildlife Refuge.
Sec. 2822. Land conveyances, lands in Alaska no longer required for National Guard purposes.
Sec. 2823. Land conveyance, Sunflower Army Ammunition Plant, Kansas.
Sec. 2824. Land conveyances, Bluegrass Army Depot, Richmond, Kentucky.
Sec. 2825. Land conveyance, Fort Campbell, Kentucky.
Sec. 2826. Land conveyance, Army Reserve Training Center, Buffalo, Minnesota.
Sec. 2827. Land conveyance, Fort Monmouth, New Jersey.
Sec. 2828. Land conveyance, Fort Bliss, Texas.
Sec. 2829. Land conveyance, Fort Hood, Texas.
Sec. 2830. Land conveyances, Engineer Proving Ground, Fort Belvoir, Virginia.

PART II—NAVY CONVEYANCES

Sec. 2831. Land conveyance, Marine Corps Air Station, Miramar, San Diego, California.
Sec. 2832. Modification of authority for land transfer and conveyance, Naval Security Group Activity, Winter Harbor, Maine.
Sec. 2833. Land conveyance, Westover Air Reserve Base, Massachusetts.
Sec. 2834. Land conveyance, Naval Station, Newport, Rhode Island.
Sec. 2835. Land exchange and boundary adjustments, Marine Corps Base, Quantico, and Prince William Forest Park, Virginia.

PART III—AIR FORCE CONVEYANCES

Sec. 2841. Modification of land conveyance, Los Angeles Air Force Base, California.
Sec. 2842. Land exchange, Buckley Air Force Base, Colorado.
Sec. 2843. Land conveyances, Wendover Air Force Base Auxiliary Field, Nevada.

Subtitle D—Other Matters

Sec. 2851. Master plan for use of Navy Annex, Arlington, Virginia.
Sec. 2852. Sale of excess treated water and wastewater treatment capacity, Marine Corps Base, Camp Lejeune, North Carolina.
Sec. 2853. Conveyance of real property, Adak Naval Complex, Alaska, and related land conveyances.
Sec. 2854. Special requirement for adding military installation to closure list.

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. LEASE OF MILITARY FAMILY HOUSING IN KOREA.

(a) INCREASE IN NUMBER OF UNITS AUTHORIZED FOR LEASE AT CURRENT MAXIMUM AMOUNT.—Paragraph (3) of section 2828(e) of title 10, United States Code, is amended by striking "800 units" and inserting "1,175 units".

(b) AUTHORITY TO LEASE ADDITIONAL NUMBER OF UNITS AT INCREASED MAXIMUM AMOUNT.—That section is further amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) In addition to the units of family housing referred to in paragraph (1) for which the maximum lease amount is $25,000 per unit per year, the Secretary of the Army may lease not more than 2,400 units of family housing in Korea subject to a maximum lease amount of $35,000 per unit per year.";

(3) in paragraph (5), as so redesignated, by striking "and (3)" and inserting "(3), and (4)"; and

(4) in paragraph (6), as so redesignated, by striking "53,000" and inserting "55,775".

SEC. 2802. MODIFICATION OF ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

(a) AUTHORIZED UTILITIES AND SERVICES.—Section 2872a(b) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(11) Firefighting and fire protection services.

"(12) Police protection services.".

(b) LEASING OF HOUSING.—(1) Section 2874 of such title is amended—

(A) by redesignating subsection (b) as subsection (c); and

(B) by striking subsection (a) and inserting the following new subsections:

"(a) LEASE AUTHORIZED.—The Secretary concerned may enter into contracts for the lease of housing units that the Secretary determines are suitable for use as military family housing or military unaccompanied housing.

"(b) USE OF LEASED UNITS.—The Secretary concerned shall utilize housing units leased under this section as military family housing or military unaccompanied housing, as appropriate.".

(2) The heading for such section is amended to read as follows:

"§2874. Leasing of housing".

(3) The table of sections at the beginning of subchapter IV of chapter 169 of such title is amended by striking the item relating to section 2874 and inserting the following new item:

"2874. Leasing of housing.".

(c) REPEAL OF INTERIM LEASE AUTHORITY.—(1) Section 2879 of such title is repealed.

(2) The table of sections at the beginning of subchapter IV of chapter 169 of such title is amended by striking the item relating to section 2879.

SEC. 2803. PILOT HOUSING PRIVATIZATION AUTHORITY FOR ACQUISITION OR CONSTRUCTION OF MILITARY UNACCOMPANIED HOUSING.

(a) IN GENERAL.—(1) Subchapter IV of chapter 169 of title 10, United States Code, is amended by inserting after section 2881 the following new section:

"§2881a. Pilot projects for acquisition or construction of military unaccompanied housing

"(a) PILOT PROJECTS AUTHORIZED.—The Secretary of the Navy may carry out not more than three pilot projects under the authority of this section or another provision of this subchapter to use the private sector for the acquisition or construction of military unaccompanied housing in the United States, including any territory or possession of the United States.

"(b) TREATMENT OF HOUSING; ASSIGNMENT OF MEMBERS.—The Secretary of the Navy may assign members of the armed forces without dependents to housing units acquired or constructed under the pilot projects, and such housing units shall be considered as quarters of the United States or a housing facility under the jurisdiction of the Secretary for purposes of section 403 of title 37.

"(c) BASIC ALLOWANCE FOR HOUSING.—(1) The Secretary of Defense may prescribe and, under section 403(n) of title 37, pay for members of the armed forces without dependents in privatized housing acquired or constructed under the pilot projects higher rates of partial basic allowance for housing than the rates authorized under paragraph (2) of such section.

"(2) The partial basic allowance for housing paid for a member at a higher rate under this subsection may be paid directly to the private sector source of the housing to whom the member is obligated to pay rent or other charge for residing in such housing if the private sector source credits the amount so paid against the amount owed by the member for the rent or other charge.

"(d) FUNDING.—(1) The Secretary of the Navy shall use the Department of Defense Military Unaccompanied Housing Improvement Fund to carry out activities under the pilot projects.

"(2) Subject to 90 days prior notification to the appropriate committees of Congress, such additional amounts as the Secretary of Defense considers necessary may be transferred to the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in military construction accounts. The amounts so transferred shall be merged with and be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund.

"(e) REPORTS.—(1) The Secretary of the Navy shall transmit to the appropriate committees of Congress a report describing—

"(A) each contract for the acquisition of military unaccompanied housing that the Secretary proposes to solicit under the pilot projects;

"(B) each conveyance or lease proposed under section 2878 of this title in furtherance of the pilot projects; and

"(C) the proposed partial basic allowance for housing rates for each contract as they vary by grade of the member and how they compare to basic allowance for housing rates for other contracts written under the authority of the pilot programs.

"(2) The report shall describe the proposed contract, conveyance, or lease and the intended method of participation of the United States in the contract, conveyance, or lease and provide a justification of such method of participation. The report shall be submitted not later than 90 days before the date on which the Secretary issues the contract solicitation or offers the conveyance or lease.

"(f) EXPIRATION.—Notwithstanding section 2885 of this title, the authority of the Secretary of the Navy to enter into a contract under the pilot programs shall expire September 30, 2007.".

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2881 the following new item:

"2881a. Pilot projects for acquisition or construction of military unaccompanied housing.".

(b) CONFORMING AMENDMENT.—Section 2871(7) of title 10, United States Code, is amended by inserting before the period at the end the following: "and transient housing intended to be occupied by members of the armed forces on temporary duty".

SEC. 2804. REPEAL OF SOURCE REQUIREMENTS FOR FAMILY HOUSING CONSTRUCTION OVERSEAS.

Section 803 of the Military Construction Authorization Act, 1984 (Public Law 98–115; 10 U.S.C. 2821 note) is repealed.

SEC. 2805. AVAILABILITY OF ENERGY COST SAVINGS REALIZED AT MILITARY INSTALLATIONS.

Section 2865(b) of title 10, United States Code, is amended by striking "through the end of the fiscal year following the fiscal year for which the funds were appropriated" and inserting "until expended".

Subtitle B—Real Property and Facilities Administration

SEC. 2811. AGREEMENTS TO LIMIT ENCROACHMENTS AND OTHER CONSTRAINTS ON MILITARY TRAINING, TESTING, AND OPERATIONS.

(a) IN GENERAL.—Chapter 159 of title 10, United States Code, is amended by inserting after section 2684 the following new section:

"§2684a. Agreements to limit encroachments and other constraints on military training, testing, and operations

"(a) AGREEMENTS AUTHORIZED.—The Secretary of Defense or the Secretary of a military department may enter into an agreement with an eligible entity described in subsection (b) to address the use or development of real property in the vicinity of a military installation for purposes of—

"(1) limiting any development or use of the property that would be incompatible with the mission of the installation; or

"(2) preserving habitat on the property in a manner that—

"(A) is compatible with environmental requirements; and

"(B) may eliminate or relieve current or anticipated environmental restrictions that would or might otherwise restrict, impede, or otherwise interfere, whether directly or indirectly, with current or anticipated military training, testing, or operations on the installation.

"(b) ELIGIBLE ENTITIES.—An agreement under this section may be entered into with any of the following:

"(1) A State or political subdivision of a State.

"(2) A private entity that has as its stated principal organizational purpose or goal the conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal, as determined by the Secretary concerned.

"(c) INAPPLICABILITY OF CERTAIN CONTRACT REQUIREMENTS.—Chapter 63 of title 31 shall not apply to any agreement entered into under this section.

"(d) ACQUISITION AND ACCEPTANCE OF PROPERTY AND INTERESTS.—(1) An agreement with an eligible entity under this section may provide for—

"(A) the acquisition by the entity of all right, title, and interest in and to any real property, or any lesser interest in the property, as may be appropriate for purposes of this section; and

"(B) the sharing by the United States and the entity of the acquisition costs.

"(2) Property or interests may not be acquired pursuant to the agreement unless the owner of the property or interests consents to the acquisition.

"(3) The agreement shall require the entity to transfer to the United States, upon the request of the Secretary concerned, all or a portion of the property or interest acquired under the agreement or a lesser interest therein. The Secretary shall limit such transfer request to the minimum property or interests necessary to ensure that the property concerned is developed and used in a manner appropriate for purposes of this section.

"(4) The Secretary concerned may accept on behalf of the United States any property or interest to be transferred to the United States under the agreement.

"(5) For purposes of the acceptance of property or interests under the agreement, the Secretary concerned may accept an appraisal or title documents prepared or adopted by a non-Federal entity as satisfying the applicable requirements of section 301 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651) or section 3111 of title 40, if the Secretary concerned finds that the appraisal or title documents substantially comply with the requirements.

"(e) ACQUISITION OF WATER RIGHTS.—The authority of the Secretary concerned to enter into an agreement under this section for the acquisition of real property (or an interest therein) includes the authority to support the purchase of water rights from any available source when necessary to support or protect the mission of a military installation.

"(f) Additional Terms and Conditions.—The Secretary concerned may require such additional terms and conditions in an agreement under this section as the Secretary considers appropriate to protect the interests of the United States.

"(g) Funding.—(1) Except as provided in paragraph (2), funds authorized to be appropriated for operation and maintenance of the Army, Navy, Marine Corps, Air Force, or Defense-wide activities may be used to enter into agreements under this section.

"(2) In the case of a military installation operated primarily with funds authorized to be appropriated for research, development, test, and evaluation, funds authorized to be appropriated for the Army, Navy, Marine Corps, Air Force, or Defense-wide activities for research, development, test, and evaluation may be used to enter into agreements under this section with respect to the installation.

"(h) Definitions.—In this section:

"(1) The term 'Secretary concerned' means the Secretary of Defense or the Secretary of a military department.

"(2) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and the territories and possessions of the United States.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2684 the following new item:

"2684a. Agreements to limit encroachments and other constraints on military training, testing, and operations.".

SEC. 2812. CONVEYANCE OF SURPLUS REAL PROPERTY FOR NATURAL RESOURCE CONSERVATION PURPOSES.

(a) Conveyance Authority.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2694 the following new section:

"§2694a. Conveyance of surplus real property for natural resource conservation

"(a) Authority to Convey.—The Secretary of a military department may convey to an eligible entity described in subsection (b) any surplus real property that—

"(1) is under the administrative control of the Secretary;

"(2) is suitable and desirable for conservation purposes;

"(3) has been made available for public benefit transfer for a sufficient period of time to potential claimants; and

"(4) is not subject to a pending request for transfer to another Federal agency or for conveyance to any other qualified recipient for public benefit transfer under the real property disposal processes and authorities under subtitle I of title 40.

"(b) Eligible Entities.—The conveyance of surplus real property under this section may be made to any of the following:

"(1) A State or political subdivision of a State.

"(2) A nonprofit organization that exists for the primary purpose of conservation of natural resources on real property.

"(c) Revisionary Interest and Other Deed Requirements.—(1) The deed of conveyance of any surplus real property conveyed under this section shall require the property to be used and maintained for the conservation of natural resources in perpetuity. If the Secretary concerned determines at any time that the property is not being used or maintained for such purpose, then, at the option of the Secretary, all or any portion of the property shall revert to the United States.

"(2) The deed of conveyance may permit the recipient of the property—

"(A) to convey the property to another eligible entity, subject to the approval of the Secretary concerned and subject to the same covenants and terms and conditions as provided in the deed from the United States; and

"(B) to conduct incidental revenue-producing activities on the property that are compatible with the use of the property for conservation purposes.

"(3) The deed of conveyance may contain such additional terms, reservations, restrictions, and conditions as the Secretary concerned considers appropriate to protect the interests of the United States.

"(d) Release of Covenants.—With the concurrence of the Secretary of Interior, the Secretary concerned may grant a release from a covenant included in the deed of conveyance of real property conveyed under this section, subject to the condition that the recipient of the property pay the fair market value, as determined by the Secretary concerned, of the property at the time of the release of the covenant. The Secretary concerned may reduce the amount required to be paid under this subsection to account for the value of the natural resource conservation benefit that has accrued to the United States during the period the covenant was in effect, if the benefit was not taken into account in determining the original consideration for the conveyance.

"(e) Congressional Notification.—The Secretary concerned may not approve of the reconveyance of real property under subsection (c) or grant the release of a covenant under subsection (d) until the Secretary notifies the appropriate committees of Congress of the proposed reconveyance or release and a period of 21 days elapses from the date the notification is received by the committees.

"(f) Limitations.—The conveyance of real property under this section shall not be used as a condition of allowing any defense activity under any Federal, State, or local permitting or review process. The Secretary concerned may make the conveyance, with the restrictions specified in subsection (c), to establish a mitigation bank, but only if the establishment of the mitigation bank does not occur in order to satisfy any condition for permitting military activity under a Federal, State, or local permitting or review process.

"(g) Consideration.—In fixing the consideration for the conveyance of real property under this section, or in determining the amount of any reduction of the amount to be paid for the release of a covenant under subsection (d), the Secretary concerned shall take into consideration any benefit that has accrued or may accrue to the United States from the use of such property for the conservation of natural resources.

"(h) Relation to Other Conveyance Authorities.—(1) The Secretary concerned may not make a conveyance under this section of any real property to be disposed of under a base closure law in a manner that is inconsistent with the requirements and conditions of the base closure law.

"(2) In the case of real property on Guam, the Secretary concerned may not make a conveyance under this section unless the Government of Guam has been first afforded the opportunity to acquire the real property as authorized by section 1 of Public Law 106–504 (114 Stat. 2309).

"(i) Definitions.—In this section:

"(1) The term 'appropriate committees of Congress' has the meaning given such term in section 2801 of this title.

"(2) The term 'base closure law' means the following:

"(A) Section 2687 of this title.

"(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (10 U.S.C. 2687 note).

"(C) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(D) Any other similar authority for the closure or realignment of military installations that is enacted after the date of the enactment of the Bob Stump National Defense Authorization Act for Fiscal Year 2003.

"(3) The term 'Secretary concerned' means the Secretary of a military department.

"(4) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and the territories and possessions of the United States.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2694 the following new item:

"2694a. Conveyance of surplus real property for natural resource conservation.".

(b) Acceptance of Funds to Cover Administrative Expenses.—Section 2695(b) of such title is amended by adding at the end the following new paragraph:

"(5) The conveyance of real property under section 2694a of this title.".

(c) Agreements With Nonprofit Natural Resource Conservation Organizations.—Section 2701(d) of such title is amended—

(1) in the subsection heading, by striking "Agencies" and inserting "Entities";

(2) in paragraph (1)—

(A) by striking "with any State or local government agency, or with any Indian tribe," and inserting "any State or local government agency, any Indian tribe, or any nonprofit conservation organization"; and

(B) by striking "the agency" and inserting "the agency, Indian tribe, or organization"; and

(3) by striking paragraph (4), as redesignated by section 311(2) of this Act, and inserting the following new paragraph:

"(4) Definitions.—In this subsection:

"(A) The term 'Indian tribe' has the meaning given such term in section 101(36) of CERCLA (42 U.S.C. 9601(36)).

"(B) The term 'nonprofit conservation organization' means any non-governmental nonprofit organization whose primary purpose is conservation of open space or natural resources.".

SEC. 2813. MODIFICATION OF DEMONSTRATION PROGRAM ON REDUCTION IN LONG-TERM FACILITY MAINTENANCE COSTS.

(a) Administrator of Program.—Subsection (a) of section 2814 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1310; 10 U.S.C. 2809 note) is amended by striking "Secretary of the Army" and inserting "Secretary of Defense or the Secretary of a military department".

(b) Contracts.—Subsection (b) of such section is amended to read as follows:

"(b) Contracts.—(1) Not more than 12 contracts per military department may contain requirements referred to in subsection (a) for the purpose of the demonstration program.

"(2) The demonstration program may only cover contracts entered into on or after the date of the enactment of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, except that the Secretary of the Army shall treat any contract containing requirements referred to in subsection (a) that was entered into under the authority in such subsection between that date and December 28, 2001, as a contract for the purpose of the demonstration program.".

(c) Reporting Requirements.—Subsection (d) of such section is amended by striking "Secretary of the Army" and inserting "Secretary of Defense".

(d) FUNDING.—(1) Subsection (f) of such section is amended by striking "the Army" and inserting "the military departments or defense-wide".

(2) The amendment made by paragraph (1) shall not affect the availability for the purpose of the demonstration program under section 2814 of the Military Construction Authorization Act for Fiscal Year 2002, as amended by this section, of any amounts authorized to be appropriated before the date of the enactment of this Act for the Army for military construction that have been obligated for the demonstration program, but not expended, as of that date.

SEC. 2814. EXPANDED AUTHORITY TO TRANSFER PROPERTY AT MILITARY INSTALLATIONS TO BE CLOSED TO PERSONS WHO CONSTRUCT OR PROVIDE MILITARY FAMILY HOUSING.

(a) 1988 LAW.—Section 204(e)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking the last sentence.

(b) 1990 LAW.—Section 2905(f)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking the last sentence.

Subtitle C—Land Conveyances

PART I—ARMY CONVEYANCES

SEC. 2821. TRANSFER OF JURISDICTION, FORT MCCLELLAN, ALABAMA, TO ESTABLISH MOUNTAIN LONGLEAF NATIONAL WILDLIFE REFUGE.

(a) TRANSFER REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior a parcel of real property at Fort McClellan, Alabama, consisting of approximately 7,600 acres, which is described as the "acquisition area" in a memorandum of agreement between the Secretaries numbered 1448–40181–00–K–014.

(b) ESTABLISHMENT AND MANAGEMENT OF REFUGE.—(1) The Secretary of the Interior shall establish on the real property transferred under subsection (a) the Mountain Longleaf National Wildlife Refuge to enhance, manage, and protect the unique mountain longleaf pine ecosystem on the property.

(2) The Secretary of Interior shall manage the Mountain Longleaf National Wildlife Refuge in a manner that—

(A) conserves and enhances populations of fish, wildlife, and plants in the Refuge, including migratory birds and species that are threatened or endangered, with particular emphasis on the protection of the mountain longleaf pine plant ecosystem;

(B) protects and enhances the quality of aquatic habitat in the Refuge;

(C) provides, in coordination with the Alabama Department of Conservation and Natural Resources, the public with recreational opportunities, including hunting, fishing, wildlife observation, and photography;

(D) provides opportunities for scientific research and education on land use and environmental law; and

(E) is consistent with environmental restoration efforts conducted by the Secretary of the Army on the Refuge or on lands adjacent to the Refuge.

(c) ENVIRONMENTAL RESTORATION.—(1) The Secretary of the Army shall continue to be responsible for unexploded ordnance, discarded military munitions, and munitions constituents on the real property transferred under subsection (a) and shall continue to follow a remediation process in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(2) The Secretary of the Army shall appropriately factor the management directives for the Mountain Longleaf National Wildlife Refuge, as described in subsection (b), into the remedy selection process for the property transferred under subsection (a).

(d) RELATION TO OTHER ENVIRONMENTAL LAWS.—Nothing in this section shall relieve, and no action taken under this section may relieve, the Secretary of the Army or the Secretary of the Interior, or any other person from any liability or other obligation under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), or any other Federal or State law.

(e) ASSISTANCE.—The Secretary of the Army may provide up to $500,000 from the funds in the Base Realignment and Closure Account 1990 to the Secretary of Interior to facilitate the establishment of the Mountain Longleaf National Wildlife Refuge and to support environmental research at the Refuge during the first two years of the operation of the Refuge.

SEC. 2822. LAND CONVEYANCES, LANDS IN ALASKA NO LONGER REQUIRED FOR NATIONAL GUARD PURPOSES.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to an eligible entity described in subsection (b) all right, title, and interest of the United States in and to any parcel of real property, including any improvements thereon, in the State of Alaska described in subsection (c) if the Secretary determines the conveyance would be in the public interest.

(b) ELIGIBLE RECIPIENTS.—The following entities shall be eligible to receive real property under subsection (a):

(1) The State of Alaska.

(2) A governmental entity in the State of Alaska.

(3) A Native Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).

(4) The Metlakatla Indian Community.

(c) COVERED PROPERTY.—Subsection (a) applies to real property located in the State of Alaska that—

(1) is under the jurisdiction of the Department of the Army and, before December 2, 1980, was under such jurisdiction for the use of the Alaska National Guard;

(2) is located in a unit of the National Wildlife Refuge System designated in the Alaska National Interest Lands Conservation Act (Public Law 96–487; 16 U.S.C. 668dd note);

(3) is excess to the needs of the Alaska National Guard and the Department of Defense; and

(4) the Secretary determines that—

(A) the anticipated cost to the United States of retaining the property exceeds the value of such property; or

(B) the condition of the property makes it unsuitable for retention by the United States.

(d) CONSIDERATION.—The conveyance of real property under this section shall, at the election of the Secretary, be for no consideration or for consideration in an amount determined by the Secretary to be appropriate under the circumstances.

(e) USE OF CONSIDERATION.—If consideration is received for the conveyance of real property under subsection (a), the Secretary may use the amounts received, in such amounts as are provided in appropriations Acts, to pay for—

(1) the cost of a survey described in subsection (f) with respect to the property;

(2) the cost of carrying out any environmental assessment, study, or analysis, and any remediation, that may be required under Federal law, or is considered appropriate by the Secretary, in connection with the property or the conveyance of the property; and

(3) any other costs incurred by the Secretary in conveying the property.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance of real property under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2823. LAND CONVEYANCE, SUNFLOWER ARMY AMMUNITION PLANT, KANSAS.

(a) CONVEYANCE AUTHORIZED.—The Administrator of General Services may convey to the Johnson County Park and Recreation District, Kansas (in this section referred to as the "District"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, at the Sunflower Army Ammunition Plant in the State of Kansas consisting of approximately 2,000 acres.

(b) BASIS OF CONVEYANCE.—The conveyance under this section shall be made in a manner consistent with section 550(e) of title 40, United States Code, for the purpose of permitting the District to use the conveyed property for public recreational purposes.

(c) DESCRIPTION OF PROPERTY.—The exact acreage, location, and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Administrator. The cost of such legal description, survey, or both shall be borne by the District.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States.

(e) APPLICATION OF SECTION.—If the Administrator and the District reach an agreement regarding the conveyance of the property described in subsection (a) before January 31, 2003, the authority provided by this section shall not take effect.

SEC. 2824. LAND CONVEYANCES, BLUEGRASS ARMY DEPOT, RICHMOND, KENTUCKY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to Madison County, Kentucky (in this section referred to as the "County"), all right, title, and interest of the United States in and to the following parcels of real property, including any improvements thereon, at the Bluegrass Army Depot, Richmond, Kentucky:

(1) A parcel consisting of approximately 10 acres.

(2) A parcel consisting of approximately 3 acres, including the building known as Quarters 29.

(b) CONDITIONS OF CONVEYANCE.—(1) The Secretary may not convey the parcel of real property referred to in subsection (a)(1) unless the County agrees to use the property to facilitate the construction of a veterans' center on the property by the State of Kentucky and the Secretary determines that the State has appropriated adequate funds for the construction of the veterans' center.

(2) The Secretary may not convey the parcel of real property referred to in subsection (a)(2) unless the County agrees to utilize the property for historical preservation and education purposes.

(c) REVERSIONARY INTEREST.—(1) At the end of the seven-year period beginning on the date on which the Secretary makes the conveyance of the parcel of real property referred to in subsection (a)(1), if the Secretary determines that a *veterans' center is not in operation on the conveyed real property, then, at the option of the Secretary, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property.*

(2) If the Secretary determines at any time that the parcel of real property referred to in subsection (a)(2) has ceased to be utilized for the purposes specified in subsection (b)(2), then, at the option of the Secretary, all right, title, and interest in and to the property shall revert to the United States, and the United States shall have the right of immediate entry onto the property.

(3) Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Secretary may require the County to reimburse the Secretary for the costs incurred by the Secretary to carry out the conveyances under subsection (a), including survey costs, costs related to environmental documentation (other than the environmental baseline survey), and other administrative costs related to the conveyance.

(2) The Secretary shall require the County to reimburse the Secretary for any excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyances, if the excess costs were incurred as a result of a request by the County. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyances.

(3) Any reimbursement received under this subsection shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyances. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2825. LAND CONVEYANCE, FORT CAMPBELL, KENTUCKY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Hopkinsville, Kentucky (in this section referred to as the "City"), all right; title, and interest of the United States in and to a parcel of real property at Fort Campbell, Kentucky, consisting of approximately 50 acres and containing an abandoned railroad spur for the purpose of permitting the City to use the property for storm water management, recreation, transportation, and other public purposes.

(b) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Secretary may require the City to reimburse the Secretary for the costs incurred by the Secretary to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation (other than the environmental baseline survey), and other administrative costs related to the conveyance.

(2) The Secretary shall require the City to reimburse the Secretary for any excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance, if the excess costs were incurred as a result of a request by the City. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance.

(3) Any reimbursement received under this subsection shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2825. LAND CONVEYANCE, FORT CAMPBELL, KENTUCKY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Hopkinsville, Kentucky (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property at Fort Campbell, Kentucky, consisting of approximately 50 acres and containing an abandoned railroad spur for the purpose of permitting the City to use the property for storm water management, recreation, transportation, and other public purposes.

(b) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Secretary may require the City to reimburse the Secretary for the costs incurred by the Secretary to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation (other than the environmental baseline survey), and other administrative costs related to the conveyance.

(2) The Secretary shall require the City to reimburse the Secretary for any excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance, if the excess costs were incurred as a result of a request by the City. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance.

(3) Any reimbursement received under this subsection shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) DESCRIPTION OF PROPERTY.—The acreage of the real property to be conveyed under subsection (a) has been determined by the Secretary through a legal description outlining such acreage. No further survey of the property is required before the conveyance is made.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2826. LAND CONVEYANCE, ARMY RESERVE TRAINING CENTER, BUFFALO, MINNESOTA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Buffalo Independent School District 877 of Buffalo, Minnesota (in this section referred to as the "School District"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, that is located at 800 8th Street, N.E., in Buffalo, Minnesota, and contains a former Army Reserve Training Center, which is being used by the School District as the site of the Phoenix Learning Center.

(b) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Secretary may require the School District to reimburse the Secretary for the costs incurred by the Secretary to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation (other than the environmental baseline survey), and other administrative costs related to the conveyance.

(2) The Secretary shall require the School District to reimburse the Secretary for any excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance, if the excess costs were incurred as a result of a request by the School District. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance.

(3) Any reimbursement received under this subsection shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the School District.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2827. LAND CONVEYANCE, FORT MONMOUTH, NEW JERSEY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey by sale all right, title, and interest of the United States in and to a parcel of real property, consisting of approximately 63.95 acres of military family housing known as Howard Commons, that comprises a portion of Fort Monmouth, New Jersey.

(b) COMPETITIVE BID REQUIREMENT.—The Secretary shall use competitive procedures for the sale authorized by subsection (a).

(c) CONSIDERATION.—(1) As consideration for the conveyance authorized by subsection (a), the recipient shall provide the United States, whether by cash payment, in-kind contribution, or a combination thereof, an amount that is not less than the fair market value, as determined by the Secretary, of the property conveyed under such subsection.

(2) In-kind consideration under paragraph (1) may include the construction of replacement military family housing or the rehabilitation of existing military family housing at Fort Monmouth, New Jersey, as agreed upon by the Secretary.

(3) If the value of in-kind consideration to be provided under this subsection exceeds $1,500,000, the Secretary may not accept such consideration until after the end of the 21-day period beginning on the date the Secretary notifies the congressional defense committees of the decision of the Secretary to accept in-kind consideration in excess of that amount.

(4) Any proceeds received by the Secretary under this subsection and not used to construct or rehabilitate such military family housing shall be deposited in the special account in the Treasury established pursuant to section 572(b) of title 40, United States Code.

(d) EFFECT OF TRANSFER OF ADMINISTRATIVE JURISDICTION.—If the real property authorized to be conveyed by this section is transferred to the administrative jurisdiction of the Administrator of General Services, the Administrator, rather than the Secretary, shall have the authority to convey such property under this section.

(e) DESCRIPTION OF PARCEL.—The exact acreage and legal description of the parcel to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the recipient of the parcel.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2828. LAND CONVEYANCE, FORT BLISS, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the County of El Paso, Texas (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 44 acres at Fort Bliss, Texas, for the purpose of facilitating the construction by the State of Texas of a nursing home for veterans of the Armed Forces.

(b) REVERSIONARY INTEREST.—(1) At the end of the seven-year period beginning on the date on which the Secretary makes the conveyance under subsection (a), if the Secretary determines that a nursing home for veterans is not in operation on the conveyed real property, then, at the option of the Secretary—

(A) all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States; and

(B) the United States shall have the right of immediate entry onto the property.

(2) Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Secretary may require the County to reimburse the Secretary for the costs incurred by the Secretary to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation (other than the environmental baseline survey), and other administrative costs related to the conveyance.

(2) The Secretary shall require the County to reimburse the Secretary for any excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance, if the excess costs were incurred as a result of a request by the County. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance.

(3) Any reimbursement received under this subseotion shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2829. LAND CONVEYANCE, FORT HOOD, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Veterans Land Board of the State of Texas (in this section referred to as the "Board") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 174 acres at Fort Hood, Texas, for the purpose of permitting the Board to establish a State-run cemetery for veterans of the Armed Forces.

(b) REVERSIONARY INTEREST.—(1) At the end of the seven-year period beginning on the date on which the Secretary makes the conveyance under subsection (a), if the Secretary determines that a cemetery for veterans is not in operation on the conveyed real property, then, at the option of the Secretary—

(A) all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States; and

(B) the United States shall have the right of immediate entry onto the property.

(2) Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Secretary may require the Board to reimburse the Secretary for the costs incurred by the Secretary to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation (other than the environmental baseline survey), and other administrative costs related to the conveyance.

(2) The Secretary shall require the Board to reimburse the Secretary for any excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance, if the excess costs were incurred as a result of a request by the Board. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance.

(3) Any reimbursement received under this subsection shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Board.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2830. LAND CONVEYANCES, ENGINEER PROVING GROUND, FORT BELVOIR, VIRGINIA.

(a) CONVEYANCE TO FAIRFAX COUNTY, VIRGINIA, AUTHORIZED.—(1) The Secretary of the Army may convey, without consideration, to Fairfax County, Virginia, all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 135 acres, located in the northwest portion of the Engineer Proving Ground at Fort Belvoir, Virginia, in order to permit the County to use such property for park and recreational purposes.

(2) The parcel of real property authorized to be conveyed by paragraph (1) is generally described as that portion of the Engineer Proving Ground located west of Accotink Creek, east of the Fairfax County Parkway, and north of Cissna Road to the northern boundary, but excludes a parcel of land consisting of approximately 15 acres located in the southeast corner of such portion of the Engineer Proving Ground.

(3) The land excluded under paragraph (2) from the parcel of real property authorized to be conveyed by paragraph (1) shall be reserved for an access road to be constructed in the future.

(b) CONVEYANCE OF BALANCE OF PROPERTY AUTHORIZED.—The Secretary may convey to any competitively selected grantee all right, title, and interest of the United States in and to the real property, including any improvements thereon, at the Engineering Proving Ground not conveyed under the authority in subsection (a).

(c) CONSIDERATION.—(1) As consideration for the conveyance authorized by subsection (b), the grantee shall provide the United States, whether by cash payment, in-kind contribution, or a combination thereof, an amount that is not less than the fair market value, as determined by the Secretary, of the property conveyed under such subsection.

(2) In-kind consideration under paragraph (1) may include the maintenance, improvement, alteration, repair, remodeling, restoration (including environmental restoration), or construction of facilities for the Department of the Army at Fort Belvoir or at any other site or sites designated by the Secretary.

(3) If in-kind consideration under paragraph (1) includes the construction of facilities, the grantee shall also convey to the United States—

(A) title to such facilities, free of all liens and other encumbrances; and

(B) if the United States does not have fee simple title to the land underlying such facilities, convey to the United States all right, title, and interest in and to such lands not held by the United States.

(4) If the value of in-kind consideration to be provided under paragraph (1) exceeds $1,500,000, the Secretary may not accept such consideration until after the end of the 21-day period beginning on the date the Secretary notifies the congressional defense committees of the decision of the Secretary to accept in-kind consideration in excess of that amount.

(5) The Secretary shall deposit any cash received as consideration under this subsection in the special account established pursuant to section 572(b) of title 40, United States Code.

(d) EFFECT OF TRANSFER OF ADMINISTRATIVE JURISDICTION.—If all or a portion of the real property authorized to be conveyed by this section is transferred to the administrative jurisdiction of the Administrator of General Services, the Administrator, rather than the Secretary of the Army, shall have the authority to convey such property under this section.

(e) REPEAL OF SUPERSEDED AUTHORITY.—Section 2821 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1658), as amended by section 2854 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 568), is repealed.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Secretary. The cost of each such survey shall be borne by the grantee.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsections (a) and (b) as the Secretary considers appropriate to protect the interests of the United States.

PART II—NAVY CONVEYANCES

SEC. 2831. LAND CONVEYANCE, MARINE CORPS AIR STATION, MIRAMAR, SAN DIEGO, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the ENPEX Corporation, Incorporated (in this section referred to as the "Corporation"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, at Marine Corps Air Station, Miramar, San Diego, California, consisting of approximately 60 acres and appurtenant easements and any other necessary interests in real property for the purpose of permitting the Corporation to use the property for the production of electric power and related ancillary activities.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the Corporation shall—

(A) convey to the United States all right, title, and interest of the Corporation in and to a parcel of real property in the San Diego area that is suitable for military family housing, as determined by the Secretary; and

(B) if the parcel conveyed under subparagraph (A) does not contain housing units suitable for use as military family housing, design and construct such military family housing units and supporting facilities as the Secretary considers appropriate.

(2) The total combined value of the real property and military family housing conveyed by the Corporation under this subsection shall be at least equal to the fair market value of the real property conveyed to the Secretary under subsection (a), including any severance costs arising from any diminution of the value or utility of other property at Marine Corps Air Station, Miramar, attributable to the prospective future use of the property conveyed under subsection (a).

(3) The Secretary shall determine the fair market value of the real property to be conveyed under subsection (a) and the fair market value of the consideration to be provided under this subsection. Such determinations shall be final.

(c) REVERSIONARY INTEREST.—(1) Subject to paragraph (2), if the Secretary determines at any time that the property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(2) If Marine Corps Air Station, Miramar, is no longer used as a Federal aviation facility, paragraph (1) shall no longer apply, and the Secretary shall release, without consideration, the reversionary interest retained by the United States under such paragraph.

(d) ADMINISTRATIVE EXPENSES.—(1) The Corporation shall make funds available to the Secretary to cover costs to be incurred by the Secretary, or reimburse the Secretary for costs incurred, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. This paragraph does not apply to costs associated with the removal of explosive ordnance from the parcel and environmental remediation of the parcel.

(2) Section 2695(c) of title 10 United States Code, shall apply to any amount received under paragraph (1). If the amounts received in advance under such paragraph exceed the costs actually incurred by the Secretary, the Secretary shall refund the excess amount to the Corporation.

(e) DESCRIPTIONS OF PROPERTY.—The exact acreage and legal descriptions of the real property to be conveyed by the Secretary under subsection (a) and the property to be conveyed by the Corporation under subsection (b) shall be determined by a survey satisfactory to the Secretary.

(f) EXEMPTIONS.—Section 2696 of title 10, United States Code, does not apply to the conveyance authorized by subsection (a), and the authority to make the conveyance shall not be considered to render the property excess or underutilized.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2832. MODIFICATION OF AUTHORITY FOR LAND TRANSFER AND CONVEYANCE, NAVAL SECURITY GROUP ACTIVITY, WINTER HARBOR, MAINE.

(a) MODIFICATION OF CONVEYANCE AUTHORITY FOR COREA AND WINTER HARBOR PROPERTIES.—Subsection (b) of section 2845 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1319) is amended to read as follows:

"(b) CONVEYANCE AND TRANSFER OF COREA AND WINTER HARBOR PROPERTIES AUTHORIZED.—(1) The Secretary of the Navy may convey, without consideration, to the State of Maine, any political subdivision of the State of Maine, or any tax-supported agency in the State of Maine, all right, title, and interest of the United States in and to parcels of real property, including any improvements thereon and appurtenances thereto, comprising the former facilities of the Naval Security Group Activity, Winter Harbor, Maine, as follows:

"(A) The parcel consisting of approximately 50 acres known as the Corea Operations Site.

"(B) Three parcels consisting of approximately 23 acres and comprising family housing facilities.

"(2) The Secretary of the Navy may transfer to the administrative jurisdiction of the Secretary of the Interior a parcel of real property consisting of approximately 404 acres at the former Naval Security Group Activity, which is the balance of the real property comprising the Corea Operations Site. The Secretary of the Interior shall administer the property transferred under this paragraph as part of the National Wildlife Refuge System.".

(b) EXEMPTION OF MODIFIED CONVEYANCES FROM FEDERAL SCREENING REQUIREMENT.—Such section is further amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) EXEMPTION FROM FEDERAL SCREENING.—Any conveyance authorized by subsection (b)(1) is exempt from the requirement to screen the property concerned for further Federal use pursuant to section 2696 of title 10, United States Code.".

(c) CONFORMING AMENDMENTS.—Subsections (c), (d), (e), (f), (h) (as redesignated), and (i) (as redesignated) of such section are amended by striking "subsection (b)" each place it appears and inserting "subsection (b)(1)".

SEC. 2833. LAND CONVEYANCE, WESTOVER AIR RESERVE BASE, MASSACHUSETTS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without consideration, to the City of Chicopee, Massachusetts (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including 133 housing units and other improvements thereon, consisting of approximately 30.38 acres located at Westover Air Reserve Base in Chicopee, Massachusetts, for the purpose of permitting the City to use the property for economic development and other public purposes.

(b) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Secretary may require the City to reimburse the Secretary for the costs incurred by the Secretary to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation (other than the environmental baseline survey), and other administrative costs related to the conveyance.

(2) The Secretary shall require the City to reimburse the Secretary for any excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance, if the excess costs were incurred as a result of a request by the City. In this paragraph, the term "excess costs" means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance.

(3) Any reimbursement received under this subsection shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2834. LAND CONVEYANCE, NAVAL STATION, NEWPORT, RHODE ISLAND.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the State of Rhode Island, or any political subdivision thereof, any or all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, consisting of approximately 34 acres located in Melville, Rhode Island, and known as the Melville Marina site.

(b) CONSIDERATION.—(1) As consideration for the conveyance of real property under subsection (a), the conveyee shall pay the United States an amount equal to the fair market value of the real property, as determined by the Secretary based on an appraisal of the real property acceptable to the Secretary.

(2) The consideration received under paragraph (1) shall be deposited in the account established pursuant to section 572(b) of title 40,

United States Code, and shall be available as provided for in that section.

(c) Reimbursement for Costs of Conveyance.—(1) The Secretary may require the conveyee of the real property under subsection (a) to reimburse the Secretary for any costs incurred by the Secretary in carrying out the conveyance.

(2) Any reimbursement for costs that is received under paragraph (1) shall be credited to the fund or account providing funds for such costs. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2835. LAND EXCHANGE AND BOUNDARY ADJUSTMENTS, MARINE CORPS BASE, QUANTICO, AND PRINCE WILLIAM FOREST PARK, VIRGINIA.

(a) Land Exchange.—Administrative jurisdiction over certain lands at Prince William Forest Park, Virginia, and at the Marine Corps Base, Quantico, Virginia, shall be adjusted through the following actions:

(1) The Secretary of the Navy shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior approximately 352 acres of land, depicted as "Lands Transferred from Department of the Navy to Department of the Interior" on the map entitled "Boundary Adjustments Between Prince William Forest Park and Marine Corps Base, Quantico", numbered 860/80283, and dated May 1, 2002.

(2) The Secretary of the Interior shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Navy approximately 3,398 acres of land, depicted as "Lands Transferred from Department of the Interior to Department of the Navy" on the map described in paragraph (1).

(b) Retention of Certain Land.—The Secretary of the Interior shall continue to administer approximately 1,346 acres of land, depicted as "Lands Retained by Department of the Interior" on the map described in subsection (a)(1). Effective on the date of the enactment of this Act, the special use permit dated March 16, 1972, which provides for the use of part of this land by the Marine Corps, shall no longer be in effect.

(c) Subsequent Disposal of Land.—(1) If any of the land described in subsection (a)(1) or (b) is determined to be excess to the needs of the Department of the Interior, the Secretary of the Interior shall offer to transfer, without reimbursement, administrative jurisdiction over the land to the Secretary of the Navy.

(2) If any of the land described in subsection (a)(2) is determined to be excess to the needs of the Department of the Navy, the Secretary of the Navy shall offer to transfer, without reimbursement, administrative jurisdiction over the land to the Secretary of the Interior.

(3) If an offer made under this subsection is not accepted within 90 days, the land covered by the offer may be disposed of in accordance with the laws and regulations governing the disposal of excess property.

(d) Boundary Modification and Administration.—(1) The boundaries of Prince William Forest Park and the Marine Corps Base, Quantico, shall be modified to reflect the land exchanges or disposals made under this section.

(2) Land transferred to the Secretary of the Interior under subsection (a)(1) or retained under subsection (b) shall be administered as part of Prince William Forest Park in accordance with applicable laws and regulations.

(e) Availability of Map.—The map described in subsection (a)(1) shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(f) Conforming Amendments.—The Act of June 22, 1948 (Chapter 596; 62 Stat. 571), is amended—

(1) by striking the first section and inserting the following new section:

"SECTION 1. PRINCE WILLIAM FOREST PARK, VIRGINIA.

"Chopawamsic Park, which was established in 1933 as Chopawamsic Recreational Demonstration Area, shall be known as 'Prince William Forest Park'.";

(2) in section 2—

(A) by striking "That all" and inserting "All"; and

(B) by striking "the Chopawamsic Park" and inserting "Prince William Forest Park"; and

(3) in section 3—

(A) by striking "That the Secretary of the Interior and the Secretary of the Navy be, and they are hereby" and inserting "The Secretary of the Interior is"; and

(B) by striking "the Chopawamsic Park" both places it appears and inserting "Prince William Forest Park".

PART III—AIR FORCE CONVEYANCES

SEC. 2841. MODIFICATION OF LAND CONVEYANCE, LOS ANGELES AIR FORCE BASE, CALIFORNIA.

Section 2861(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–433) is amended in the first sentence by striking "10 years" and inserting "30 years".

SEC. 2842. LAND EXCHANGE, BUCKLEY AIR FORCE BASE, COLORADO.

(a) Exchange Authorized.—For the purpose of facilitating the acquisition of real property suitable for the construction of military family housing for Buckley Air Force Base, Colorado, the Secretary of the Air Force may convey to the State of Colorado (in this section referred to as the "State") all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of all or part of the Watkins Communications Site in Arapahoe County, Colorado.

(b) Consideration.—(1) As consideration for the conveyance authorized by subsection (a) the State shall convey to the United States all right, title, and interest of the State in and to a parcel of real property, including improvements thereon, consisting of approximately 41 acres that is owned by the State and is contiguous to Buckley Air Force Base, Colorado.

(2) The Secretary shall have jurisdiction over the real property conveyed under paragraph (1).

(3) Upon conveyance to the United States under paragraph (1), the real property conveyed under that paragraph is withdrawn from all forms of appropriation under the general land laws, including the mining laws and mineral and geothermal leasing laws.

(c) Description of Property.—The exact acreage and legal description of the parcels of real property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2843. LAND CONVEYANCES, WENDOVER AIR FORCE BASE AUXILIARY FIELD, NEVADA.

(a) Conveyances Authorized To West Wendover, Nevada.—(1) The Secretary of the Interior may convey, without consideration, to the City of West Wendover, Nevada, all right, title, and interest of the United States in and to the following:

(A) The lands at Wendover Air Force Base Auxiliary Field, Nevada, identified in Easement No. AFMC–HL–2–00–334 that are determined by the Secretary of the Air Force to be no longer required.

(B) The lands at Wendover Air Force Base Auxiliary Field identified for disposition on the map entitled "West Wendover, Nevada–Excess", dated January 5, 2001, that are determined by the Secretary of the Air Force to be no longer required.

(2) The purposes of the conveyances under this subsection are—

(A) to permit the establishment and maintenance of runway protection zones; and

(B) to provide for the development of an industrial park and related infrastructure.

(3) The map referred to in paragraph (1)(B) shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management and the Elko District Office of the Bureau of Land Management.

(b) Conveyance Authorized to Tooele County, Utah.—(1) The Secretary of the Interior may convey, without consideration, to Tooele County, Utah, all right, title, and interest of the United States in and to the lands at Wendover Air Force Base Auxiliary Field identified in Easement No. AFMC–HL–2–00–318 that are determined by the Secretary of the Air Force to be no longer required.

(2) The purpose of the conveyance under this subsection is to permit the establishment and maintenance of runway protection zones and an aircraft accident potential protection zone as necessitated by continued military aircraft operations at the Utah Test and Training Range.

(c) Phased Conveyances.—The land conveyances authorized by subsections (a) and (b) may be conducted in phases. To the extent practicable, the first phase of the conveyances should involve at least 3,000 acres.

(d) Management of Conveyed Lands.—The lands conveyed under subsections (a) and (b) shall be managed by the City of West Wendover, Nevada, City of Wendover, Utah, Tooele County, Utah, and Elko County, Nevada—

(1) in accordance with the provisions of an Interlocal Memorandum of Agreement entered into between the Cities of West Wendover, Nevada, and Wendover, Utah, Tooele County, Utah, and Elko County, Nevada, providing for the coordinated management and development of the lands for the economic benefit of both communities; and

(2) in a manner that is consistent with such provisions of the easements referred to in subsections (a) and (b) that, as jointly determined by the Secretary of the Air Force and Secretary of the Interior, remain applicable and relevant to the operation and management of the lands following conveyance and are consistent with the provisions of this section.

(e) Additional Terms and Conditions.—The Secretary of the Air Force and the Secretary of the Interior may jointly require such additional terms and conditions in connection with the conveyances authorized by subsections (a) and (b) as the Secretaries consider appropriate to protect the interests of the United States.

Subtitle D—Other Matters

SEC. 2851. MASTER PLAN FOR USE OF NAVY ANNEX, ARLINGTON, VIRGINIA.

(a) Modification of Authority for Transfer from Navy Annex.—Section 2881 of the

Military Construction Authorization Act for Fiscal Year 2000 (113 Stat. 879) is amended—

(1) in subsection (b)(2), as amended by section 2863(f) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1332), by striking "as a site for—" and all that follows and inserting "as a site for such other memorials or museums that the Secretary considers compatible with Arlington National Cemetery and the Air Force Memorial."; and

(2) in subsection (d)—

(A) in paragraph (2), by striking "the recommendation (if any) of the Commission on the National Military Museum to use a portion of the Navy Annex property as the site for the National Military Museum" and inserting "the use of the acres reserved under subsection (b)(2) for a memorial or museum"; and

(B) in paragraph (4), by striking "the date on which the Commission on the National Military Museum submits to Congress its report under section 2903" and inserting "the date of the enactment of the Bob Stump National Defense Authorization Act for Fiscal Year 2003".

(b) CONSTRUCTION OF AMENDMENTS.—The amendments made by subsection (a) may not be construed to delay the establishment of the United States Air Force Memorial authorized by section 2863 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1330).

SEC. 2852. SALE OF EXCESS TREATED WATER AND WASTEWATER TREATMENT CAPACITY, MARINE CORPS BASE, CAMP LEJEUNE, NORTH CAROLINA.

(a) SALE AUTHORIZED.—The Secretary of the Navy may provide to Onslow County, North Carolina, or any authority or political subdivision organized under the laws of North Carolina to provide public water or sewage services in Onslow County (in this section referred to as the "County"), treated water and wastewater treatment services from facilities at Marine Corps Base, Camp Lejeune, North Carolina, if the Secretary determines that the provision of these utility services is in the public interest and will not interfere with current or future operations at Camp Lejeune.

(b) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—Section 2686 of title 10, United States Code, shall not apply to the provision of public water or sewage services authorized by subsection (a).

(c) CONSIDERATION.—As consideration for the receipt of public water or sewage services under subsection (a), the County shall pay to the Secretary an amount (in cash or in kind) equal to the fair market value of the services. Amounts received in cash shall be credited to the base operation and maintenance accounts of Camp Lejeune.

(d) EXPANSION.—The Secretary may make minor expansions and extensions and permit connections to the public water or sewage systems of the County in order to furnish the services authorized under subsection (a). The Secretary shall restrict the provision of services to the County to those areas in the County where residential development would be compatible with current and future operations at Camp Lejeune.

(e) ADMINISTRATIVE EXPENSES.—(1) The Secretary may require the County to reimburse the Secretary for the costs incurred by the Secretary to provide public water or sewage services to the County under subsection (a).

(2) Section 2695(c) of title 10 United States Code, shall apply to any amount received under this subsection.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the provision of public water or sewage services under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2853. CONVEYANCE OF REAL PROPERTY, ADAK NAVAL COMPLEX, ALASKA, AND RELATED LAND CONVEYANCES.

Section 6 of the Act entitled "An Act to ratify an agreement between The Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes.", approved October 11, 2002 (Public Law 107–239), is amended by adding at the end the following new subsection:

"(f) For purposes of section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(c)), all property received by the Aleut Corporation under this Act shall be given a tax basis equal to fair value on the date of the transfer. Fair value shall be determined by replacement cost appraisal.".

SEC. 2854. SPECIAL REQUIREMENT FOR ADDING MILITARY INSTALLATION TO CLOSURE LIST.

Section 2914(d) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by section 3003 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 155 Stat, 1346), is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) SITE VISIT.—In the report required under section 2903(d)(2)(A) that is to be transmitted under paragraph (1), the Commission may not recommend the closure of a military installation not recommended for closure by the Secretary under subsection (a) unless at least two members of the Commission visit the installation before the date of the transmittal of the report.".

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

Sec. 3101. National Nuclear Security Administration.
Sec. 3102. Defense environmental management.
Sec. 3103. Other defense activities.
Sec. 3104. Defense nuclear waste disposal.

Subtitle B—Program Authorizations, Restrictions, and Limitations

Sec. 3141. Annual assessments and reports to the President and Congress regarding the condition of the United States nuclear weapons stockpile.
Sec. 3142. Plans for achieving enhanced readiness posture for resumption by the United States of underground nuclear weapons tests.
Sec. 3143. Requirements for specific request for new or modified nuclear weapons.
Sec. 3144. Database to track notification and resolution phases of Significant Finding Investigations.
Sec. 3145. Defense environmental management cleanup reform program.
Sec. 3146. Limitation on obligation of funds for Robust Nuclear Earth Penetrator program pending submission of report.

Subtitle C—Proliferation Matters

Sec. 3151. Transfer to National Nuclear Security Administration of Department of Defense's Cooperative Threat Reduction program relating to elimination of weapons grade plutonium production in Russia.
Sec. 3152. Repeal of requirement for reports on obligation of funds for programs on fissile materials in Russia.
Sec. 3153. Expansion of annual reports on status of nuclear materials protection, control, and accounting programs.
Sec. 3154. Testing of preparedness for emergencies involving nuclear, radiological, chemical, or biological weapons.
Sec. 3155. Cooperative program on research, development, and demonstration of technology regarding nuclear or radiological terrorism.
Sec. 3156. Matters relating to the International Materials Protection, Control, and Accounting program of the Department of Energy.
Sec. 3157. Accelerated disposition of highly enriched uranium.
Sec. 3158. Strengthened international security for nuclear materials and security of nuclear operations.
Sec. 3159. Export control programs.
Sec. 3160. Plan for accelerated return of weapons-usable nuclear materials.
Sec. 3161. Sense of Congress on amendment of Convention on Physical Protection of Nuclear Materials.
Sec. 3162. Sense of Congress on program to secure stockpiles of highly enriched uranium and plutonium.

Subtitle D—Other Matters

Sec. 3171. Indemnification of Department of Energy contractors.
Sec. 3172. Support for public education in the vicinity of Los Alamos National Laboratory, New Mexico.
Sec. 3173. Worker health and safety rules for Department of Energy nuclear facilities.
Sec. 3174. Extension of authority to appoint certain scientific, engineering, and technical personnel.
Sec. 3175. One-year extension of panel to assess the reliability, safety, and security of the United States nuclear stockpile.
Sec. 3176. Report on status of environmental management initiatives to accelerate the reduction of environmental risks and challenges posed by the legacy of the Cold War.

Subtitle E—Disposition of Weapons-Usable Plutonium at Savannah River, South Carolina

Sec. 3181. Findings.
Sec. 3182. Disposition of weapons-usable plutonium at Savannah River Site.
Sec. 3183. Study of facilities for storage of plutonium and plutonium materials at Savannah River Site.

Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $8,038,490,000, to be allocated as follows:

(1) For weapons activities, $5,901,641,000.

(2) For defense nuclear nonproliferation activities, $1,104,130,000.

(3) For naval reactors, $706,790,000.

(4) For the Office of the Administrator for Nuclear Security, $325,929,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects as follows:

(1) For weapons activities, the following new plant projects:

Project 03–D–101, Sandia underground reactor facility (SURF), Sandia National Laboratories, Albuquerque, New Mexico, $2,000,000.

Project 03–D–103, project engineering and design, various locations, $17,039,000.

Project 03–D–121, gas transfer capacity expansion, Kansas City Plant, Kansas City, Missouri, $4,000,000.

Project 03–D–122, prototype purification facility, Y–12 plant, Oak Ridge, Tennessee, $20,800,000.

Project 03–D–123, special nuclear materials requalification, Pantex plant, Amarillo, Texas, $3,000,000.

(2) For naval reactors, the following new plant project:

Project 03–D–201, cleanroom technology facility, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, $7,200,000.

SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for environmental management activities in carrying out programs necessary for national security in the amount of $6,759,846,000, to be allocated as follows:

(1) For defense environmental restoration and waste management, $4,510,133,000.

(2) For defense environmental management cleanup reform in carrying out environmental restoration and waste management activities necessary for national security programs, $982,000,000.

(3) For defense facilities closure projects, $1,109,314,000.

(4) For defense environmental management privatization, $158,399,000.

(b) Authorization of New Plant Projects.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects as follows:

(1) For environmental restoration and waste management activities, the following new plant project:

Project 03–D–403, immobilized high-level waste interim storage facility, Richland, Washington, $6,363,000.

(2) For defense environmental management cleanup reform, the following new plant project:

Project 03–D–414, project engineering and design, various locations, $8,800,000.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for other defense activities in carrying out programs necessary for national security in the amount of $462,664,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $315,000,000.

Subtitle B—Program Authorizations, Restrictions, and Limitations

SEC. 3141. ANNUAL ASSESSMENTS AND REPORTS TO THE PRESIDENT AND CONGRESS REGARDING THE CONDITION OF THE UNITED STATES NUCLEAR WEAPONS STOCKPILE.

(a) Annual Assessments Required.—For each nuclear weapon type in the stockpile of the United States, each official specified in subsection (b) on an annual basis shall, to the extent such official is directly responsible for the safety, reliability, performance, or military effectiveness of that nuclear weapon type, complete an assessment of the safety, reliability, performance, or military effectiveness (as the case may be) of that nuclear weapon type.

(b) Covered Officials.—The officials referred to in subsection (a) are the following:

(1) The head of each national security laboratory.

(2) The commander of the United States Strategic Command.

(c) Use of Teams of Experts for Assessments.—The head of each national security laboratory shall establish and use one or more teams of experts, known as "red teams", to assist in the assessments required by subsection (a). Each such team shall include experts from both of the other national security laboratories. Each such team for a national security laboratory shall—

(1) review the matters covered by the assessments under subsection (a) performed by the head of that laboratory;

(2) subject such matters to challenge; and

(3) submit the results of such review and challenge, together with the findings and recommendations of such team with respect to such review and challenge, to the head of that laboratory.

(d) Report on Assessments.—Not later than December 1 of each year, each official specified in subsection (b) shall submit to the Secretary concerned, and to the Nuclear Weapons Council, a report on the assessments that such official was required by subsection (a) to complete. The report shall include the following:

(1) The results of each such assessment.

(2)(A) Such official's determination as to whether or not one or more underground nuclear tests are necessary to resolve any issues identified in the assessments and, if so—

(i) an identification of the specific underground nuclear tests that are necessary to resolve such issues; and

(ii) a discussion of why options other than an underground nuclear test are not available or would not resolve such issues.

(B) An identification of the specific underground nuclear tests which, while not necessary, might have value in resolving any such issues and a discussion of the anticipated value of conducting such tests.

(C) Such official's determination as to the readiness of the United States to conduct the underground nuclear tests identified under subparagraphs (A)(i) and (B), if directed by the President to do so.

(3) In the case of a report submitted by the head of a national security laboratory—

(A) a concise statement regarding the adequacy of the science-based tools and methods being used to determine the matters covered by the assessments;

(B) a concise statement regarding the adequacy of the tools and methods employed by the manufacturing infrastructure required by section 3137 of the National Defense Authorization Act for Fiscal Year 1996 (42 U.S.C. 2121 note) to identify and fix any inadequacy with respect to the matters covered by the assessments; and

(C) a concise summary of the findings and recommendations of any teams under subsection (c) that relate to the assessments, together with a discussion of those findings and recommendations.

(4) In the case of a report submitted by the Commander of the United States Strategic Command, a discussion of the relative merits of other nuclear weapon types (if any), or compensatory measures (if any) that could be taken, that could enable accomplishment of the missions of the nuclear weapon types to which the assessments relate, should such assessments identify any deficiency with respect to such nuclear weapon types.

(5) An identification and discussion of any matter having an adverse effect on the capability of the official submitting the report to accurately determine the matters covered by the assessments.

(e) Submittals to the President and Congress.—(1) Not later than March 1 of each year, the Secretary of Defense and the Secretary of Energy shall submit to the President—

(A) each report, without change, submitted to either Secretary under subsection (d) during the preceding year;

(B) any comments that the Secretaries individually or jointly consider appropriate with respect to each such report;

(C) the conclusions that the Secretaries individually or jointly reach as to the safety, reliability, performance, and military effectiveness of the nuclear weapons stockpile of the United States; and

(D) any other information that the Secretaries individually or jointly consider appropriate.

(2) Not later than March 15 of each year, the President shall forward to Congress the matters received by the President under paragraph (1) for that year, together with any comments the President considers appropriate.

(f) Classified Form.—Each submittal under subsection (e) shall be in classified form only, with the classification level required for each portion of such submittal marked appropriately.

(g) Definitions.—In this section:

(1) The term "national security laboratory" has the meaning given such term in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471).

(2) The term "Secretary concerned" means—

(A) the Secretary of Energy, with respect to matters concerning the Department of Energy; and

(B) the Secretary of Defense, with respect to matters concerning the Department of Defense.

(h) First Submissions.—(1) The first submissions made under subsection (d) shall be the submissions required to be made in 2003.

(2) The first submissions made under subsection (e) shall be the submissions required to be made in 2004.

SEC. 3142. PLANS FOR ACHIEVING ENHANCED READINESS POSTURE FOR RESUMPTION BY THE UNITED STATES OF UNDERGROUND NUCLEAR WEAPONS TESTS.

(a) Plans Required.—The Secretary of Energy, in consultation with the Administrator for Nuclear Security, shall prepare plans for achieving, not later than one year after the date on which the plans are submitted under subsection (c), readiness postures of six months, 12 months, 18 months, and 24 months for resumption by the United States of underground nuclear weapons tests.

(b) Readiness Posture.—For purposes of this section, a readiness posture of a specified number of months for resumption by the United States of underground nuclear weapons tests is achieved when the Department of Energy has the capability to resume such tests, if directed by the President to resume such tests, not later than the specified number of months after the date on which the President so directs.

(c) Report.—The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for fiscal year 2004 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report on the plans required by subsection (a). The report shall include—

(1) an assessment of the current readiness posture for resumption by the United States of underground nuclear weapons tests;

(2) the plans required by subsection (a) and, for each such plan, the estimated cost for implementing such plan and an estimate of the annual cost of maintaining the readiness posture to which the plan relates; and

(3) the recommendation of the Secretary, developed in consultation with the Secretary of Defense, as to the optimal readiness posture for

resumption by the United States of underground nuclear weapons tests, including the basis for that recommendation.

SEC. 3143. REQUIREMENTS FOR SPECIFIC REQUEST FOR NEW OR MODIFIED NUCLEAR WEAPONS.

(a) Requirement for Request for Funds for Development.—(1) In any fiscal year after fiscal year 2002 in which the Secretary of Energy plans to carry out activities described in paragraph (2) relating to the development of a new nuclear weapon or modified nuclear weapon, the Secretary shall specifically request funds for such activities in the budget of the President for that fiscal year under section 1105(a) of title 31, United States Code.

(2) The activities described in this paragraph are as follows:

(A) The conduct, or provision for conduct, of research and development which could lead to the production of a new nuclear weapon by the United States.

(B) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a new nuclear weapon by the United States.

(C) The conduct, or provision for conduct, of research and development which could lead to the production of a modified nuclear weapon by the United States.

(D) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a modified nuclear weapon by the United States.

(b) Budget Request Format.—The Secretary shall include in a request for funds under subsection (a) the following:

(1) In the case of funds for activities described in subparagraph (A) or (C) of subsection (a)(2), a single dedicated line item for all such activities for new nuclear weapons or modified nuclear weapons that are in phase 1, 2, or 2A or phase 6.1, 6.2, or 6.2A (as the case may be), or any concept work prior to phase 1 or 6.1 (as the case may be), of the nuclear weapons acquisition process.

(2) In the case of funds for activities described in subparagraph (B) or (D) of subsection (a)(2), a dedicated line item for each such activity for a new nuclear weapon or modified nuclear weapon that is in phase 3 or higher or phase 6.3 or higher (as the case may be) of the nuclear weapons acquisition process.

(c) Exception.—Subsection (a) shall not apply to funds for purposes of conducting, or providing for the conduct of, research and development, or manufacturing and engineering, determined by the Secretary to be necessary—

(1) for the nuclear weapons life extension program;

(2) to modify an existing nuclear weapon solely to address safety or reliability concerns; or

(3) to address proliferation concerns.

(d) Definitions.—In this section:

(1) The term "life extension program" means the program to repair or replace non-nuclear components, or to modify the pit or canned subassembly, of nuclear weapons that are in the nuclear weapons stockpile on the date of the enactment of this Act in order to assure that such nuclear weapons retain the ability to meet the military requirements applicable to such nuclear weapons when first placed in the nuclear weapons stockpile.

(2) The term "modified nuclear weapon" means a nuclear weapon that contains a pit or canned subassembly, either of which—

(A) is in the nuclear weapons stockpile as of the date of the enactment of this Act; and

(B) is being modified in order to meet a military requirement that is other than the military requirements applicable to such nuclear weapon when first placed in the nuclear weapons stockpile.

(3) The term "new nuclear weapon" means a nuclear weapon that contains a pit or canned subassembly, either of which is neither—

(A) in the nuclear weapons stockpile on the date of the enactment of this Act; nor

(B) in production as of that date.

SEC. 3144. DATABASE TO TRACK NOTIFICATION AND RESOLUTION PHASES OF SIGNIFICANT FINDING INVESTIGATIONS.

(a) Availability of Funds for Database.—Amounts authorized to be appropriated by section 3101(a)(1) for the National Nuclear Security Administration for weapons activities shall be available to the Deputy Administrator for Nuclear Security for Defense Programs for the development and implementation of a database for all national security laboratories to track the notification and resolution phases of Significant Finding Investigations (SFIs). The purpose of the database is to facilitate the monitoring of the progress and accountability of the national security laboratories in Significant Finding Investigations.

(b) Implementation Deadline.—The database required by subsection (a) shall be implemented not later than September 30, 2003.

(c) National Security Laboratory Defined.—In this section, the term "national security laboratory" has the meaning given that term in section 3281(1) of the National Nuclear Security Administration Act (title XXXII of Public Law 106–65; 113 Stat. 968; 50 U.S.C. 2471(1)).

SEC. 3145. DEFENSE ENVIRONMENTAL MANAGEMENT CLEANUP REFORM PROGRAM.

(a) Program Required.—From funds made available pursuant to section 3102(a)(2) for defense environmental management cleanup reform, the Secretary of Energy shall carry out a program to reform DOE environmental management activities. In carrying out the program, the Secretary shall allocate, to each site for which the Secretary has submitted to the congressional defense committees a site performance management plan, the amount of those funds that such plan requires.

(b) Transfer and Merger of Funds.—(1) Funds so allocated shall, notwithstanding section 3624, be transferred to the account for DOE environmental management activities and, subject to paragraph (2) and subsection (c), shall be merged with and be available for the same purposes and for the same period as the funds available in such account. The authority provided by section 3629 shall apply to funds so transferred.

(2) No funds so allocated may be obligated or expended until 30 days after the Secretary submits to the congressional defense committees a description of the activities to be carried out at each site to which funds are so allocated.

(c) Limitation on Use of All Merged Funds.—Upon a transfer and merger of funds under subsection (b), all funds in the merged account that are available with respect to the site may be used only to carry out the site performance management plan for the site.

(d) Site Performance Management Plan Defined.—For purposes of this section, a site performance management plan for a site is a plan, agreed to by the applicable Federal and State agencies with regulatory jurisdiction with respect to the site, for the performance of activities to accelerate the reduction of environmental risk in connection with, and to accelerate the environmental cleanup of, the site.

(e) DOE Environmental Management Activities Defined.—For purposes of this section, the term "DOE environmental management activities" means environmental restoration and waste management activities of the Department of Energy in carrying out programs necessary for national security.

SEC. 3146. LIMITATION ON OBLIGATION OF FUNDS FOR ROBUST NUCLEAR EARTH PENETRATOR PROGRAM PENDING SUBMISSION OF REPORT.

(a) Report-and-Wait Requirement.—None of the funds made available to the Secretary of Energy for fiscal year 2003 for the Robust Nuclear Earth Penetrator program may be obligated until—

(1) the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report described in subsection (b); and

(2) a period of 30 days has passed after such report is received by those committees.

(b) Report.—A report under subsection (a)(1) is a report on the Robust Nuclear Earth Penetrator program, prepared by the Secretary of Defense in consultation with the Secretary of Energy, that sets forth the following:

(1) The military requirements for the Robust Nuclear Earth Penetrator.

(2) The nuclear weapons employment policy regarding the Robust Nuclear Earth Penetrator.

(3) A detailed description of the categories or types of targets that the Robust Nuclear Earth Penetrator is designed to hold at risk.

(4) An assessment of the ability of conventional weapons to defeat the same categories and types of targets as are described pursuant to paragraph (3).

Subtitle C—Proliferation Matters

SEC. 3151. TRANSFER TO NATIONAL NUCLEAR SECURITY ADMINISTRATION OF DEPARTMENT OF DEFENSE'S COOPERATIVE THREAT REDUCTION PROGRAM RELATING TO ELIMINATION OF WEAPONS GRADE PLUTONIUM PRODUCTION IN RUSSIA.

(a) Transfer of Program.—There are hereby transferred to the Administrator for Nuclear Security the following:

(1) The program, within the Cooperative Threat Reduction program of the Department of Defense, relating to the elimination of weapons grade plutonium production in Russia.

(2) All functions, powers, duties, and activities of that program performed before the date of the enactment of this Act by the Department of Defense.

(b) Transfer of Assets.—(1) Notwithstanding any restriction or limitation in law on the availability of Cooperative Threat Reduction funds specified in paragraph (2), so much of the property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the program transferred by subsection (a) are transferred to the Administrator for use in connection with the program transferred.

(2) The Cooperative Threat Reduction funds specified in this paragraph are the following:

(A) Fiscal year 2002 Cooperative Threat Reduction funds, as specified in section 1301(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1254; 22 U.S.C. 5952 note).

(B) Fiscal year 2001 Cooperative Threat Reduction funds, as specified in section 1301(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–339; 22 U.S.C. 5959 note).

(C) Fiscal year 2000 Cooperative Threat Reduction funds, as specified in section 1301(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 792; 22 U.S.C. 5952 note).

(c) Availability of Transferred Funds.—(1) Notwithstanding any restriction or limitation in law on the availability of Cooperative Threat Reduction funds specified in subsection (b)(2), the Cooperative Threat Reduction funds transferred under subsection (b) for the program referred to in subsection (a) shall be available for activities as follows:

(A) To design and construct, refurbish, or both, fossil fuel energy plants in Russia that provide alternative sources of energy to the energy plants in Russia that produce weapons grade plutonium.

(B) To carry out limited safety upgrades of not more than three energy plants in Russia that produce weapons grade plutonium, provided that such upgrades do not extend the life of those plants.

(2) Amounts available under paragraph (1) for activities referred to in that paragraph shall remain available for obligation for three fiscal years.

(d) LIMITATION.—(1) Of the amounts authorized to be appropriated by this title or any other Act for the program referred to in subsection (a), the Administrator for Nuclear Security may not obligate any funds for construction, or obligate or expend more than $100,000,000 for that program, until 30 days after the later of—

(A) the date on which the Administrator submits to the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate, a copy of an agreement or agreements entered into between the United States Government and the Government of the Russian Federation to shut down the three plutonium-producing reactors in Russia as specified under paragraph (2); and

(B) the date on which the Administrator submits to the committees specified in subparagraph (A) a report on a plan to achieve international participation in the program referred to in subsection (a), including cost sharing.

(2) The agreement (or agreements) under paragraph (1)(A) shall contain—

(A) a commitment to shut down the three plutonium-producing reactors;

(B) the date on which each such reactor will be shut down;

(C) a schedule and milestones for each such reactor to complete the shutdown of such reactor by the date specified under subparagraph (B);

(D) a schedule and milestones for refurbishment or construction of fossil fuel energy plants to be undertaken by the Government of the Russian Federation in support of the program;

(E) an arrangement for access to sites and facilities necessary to meet such schedules and milestones;

(F) an arrangement for audit and examination procedures in order to evaluate progress in meeting such schedules and milestones; and

(G) any cost sharing arrangements between the United States Government and the Government of the Russian Federation in undertaking activities under such agreement (or agreements).

SEC. 3152. REPEAL OF REQUIREMENT FOR REPORTS ON OBLIGATION OF FUNDS FOR PROGRAMS ON FISSILE MATERIALS IN RUSSIA.

Section 3131 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 617; 22 U.S.C. 5952 note) is amended—

(1) in subsection (a), by striking "(a) AUTHORITY.—"; and

(2) by striking subsection (b).

SEC. 3153. EXPANSION OF ANNUAL REPORTS ON STATUS OF NUCLEAR MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAMS.

(a) COVERED PROGRAMS.—Subsection (a) of section 3171 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–475; 22 U.S.C. 5952 note) is amended by striking "Russia that" and inserting "countries where such materials".

(b) REPORT CONTENTS.—Subsection (b) of that section is amended—

(1) in paragraph (1) by inserting "in each country covered by subsection (a)" after "locations,";

(2) in paragraph (2), by striking "in Russia" and inserting "in each such country";

(3) in paragraph (3), by inserting "in each such country" after "subsection (a)"; and

(4) in paragraph (5), by striking "by total amount and by amount per fiscal year" and inserting "by total amount per country and by amount per fiscal year per country".

SEC. 3154. TESTING OF PREPAREDNESS FOR EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, OR BIOLOGICAL WEAPONS.

(a) EXTENSION OF TESTING.—Section 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2720; 50 U.S.C. 2315) is amended—

(1) in subsection (a)(2), by striking "of five successive fiscal years beginning with fiscal year 1997" and inserting "of fiscal years 1997 through 2013"; and

(2) in subsection (b)(2), by striking "of five successive fiscal years beginning with fiscal year 1997" and inserting "of fiscal years 1997 through 2013".

(b) CONSTRUCTION OF EXTENSION WITH DESIGNATION OF ATTORNEY GENERAL AS LEAD OFFICIAL.—The amendments made by subsection (a) may not be construed as modifying the designation of the President titled "Designation of the Attorney General as the Lead Official for the Emergency Response Assistance Program Under Sections 1412 and 1415 of the National Defense Authorization Act for Fiscal Year 1997", dated April 6, 2000, designating the Attorney General to assume programmatic and funding responsibilities for the Emergency Response Assistance Program under sections 1412 and 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of the National Defense Authorization Act for Fiscal Year 1997).

SEC. 3155. COOPERATIVE PROGRAM ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION OF TECHNOLOGY REGARDING NUCLEAR OR RADIOLOGICAL TERRORISM.

(a) PROGRAM REQUIRED.—The Administrator for Nuclear Security shall carry out with the Russian Federation a cooperative program on the research, development, and demonstration of technologies for protection from and response to nuclear or radiological terrorism.

(b) PROGRAM ELEMENTS.—In carrying out the program required by subsection (a), the Administrator shall—

(1) conduct research and development of technology for protection from nuclear or radiological terrorism, including technology for the detection, identification, assessment, control, and disposition of radiological materials that could be used for nuclear terrorism; and

(2) provide, where feasible, for the demonstration to other countries of technologies or methodologies on matters relating to nuclear or radiological terrorism, including—

(A) the demonstration of technologies developed under the program to respond to nuclear or radiological terrorism;

(B) the demonstration of technologies developed under the program for the disposal of radioactive materials;

(C) the demonstration of methodologies developed under the program for use in evaluating the radiological threat of radiological sources identified as not under current accounting programs in the audit report of the Inspector General of the Department of Energy titled "Accounting for Sealed Sources of Nuclear Material Provided to Foreign Countries" (DOE/IG–0546);

(D) in coordination with the Nuclear Regulatory Commission, the demonstration of methodologies developed under the program to facilitate the development of a regulatory framework for licensing and controlling radioactive sources; and

(E) in coordination with the Office of Environment, Safety, and Health of the Department of Energy, the demonstration of methodologies developed under the program to facilitate development of consistent criteria for screening international transfers of radiological materials.

(c) CONSULTATION.—In carrying out activities in accordance with subsection (b)(2), the Administrator shall consult with—

(1) the Secretary of Defense, Secretary of State, and Secretary of Commerce; and

(2) the International Atomic Energy Agency.

(d) AMOUNT FOR ACTIVITIES.—Of the amount authorized to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to $15,000,000 may be available for carrying out this section.

SEC. 3156. MATTERS RELATING TO THE INTERNATIONAL MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM OF THE DEPARTMENT OF ENERGY.

(a) RADIOLOGICAL DISPERSAL DEVICE MATERIALS PROTECTION, CONTROL, AND ACCOUNTING.—The Secretary of Energy may establish within the International Materials Protection, Control, and Accounting program of the Department of Energy a program on the protection, control, and accounting of materials usable in radiological dispersal devices. In establishing such program, the Secretary shall—

(1) identify the sites and radiological materials to be covered by such program;

(2) carry out a risk assessment of such radiological materials; and

(3) identify and establish the costs of and schedules for such program.

(b) REVISED FOCUS FOR MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM OF RUSSIAN FEDERATION.—(1) The Secretary of Energy shall work cooperatively with the Russian Federation to develop, as soon as practicable but not later than January 1, 2013, a sustainable nuclear materials protection, control, and accounting system for the nuclear materials of the Russian Federation that is supported solely by the Russian Federation.

(2) The Secretary shall work with the Russian Federation to identify various alternatives to provide the United States adequate transparency in the nuclear materials protection, control, and accounting program of the Russian Federation to assure that such program is meeting applicable goals for nuclear materials protection, control, and accounting.

(c) AMOUNT FOR ACTIVITIES.—Of the amount authorized to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to $5,000,000 may be available for carrying out this section.

SEC. 3157. ACCELERATED DISPOSITION OF HIGHLY ENRICHED URANIUM.

(a) PROGRAM ON ACCELERATED DISPOSITION OF HEU AUTHORIZED.—(1) The Secretary of Energy may carry out a program to pursue with the Russian Federation options for blending highly enriched uranium so that the concentration of U–235 in such uranium is below 20 percent.

(2) The options pursued under paragraph (1) shall include expansion of the Material Consolidation and Conversion program of the Department of Energy to include—

(A) additional facilities for the blending of highly enriched uranium; and

(B) additional centralized secure storage facilities for highly enriched uranium designated for blending.

(3) Any site selected for the storage of uranium or blended material under paragraph (2)(B) shall undergo complete materials protection, control, and accounting upgrades before the commencement of the storage of uranium or blended material at such site under the program.

(b) CONSTRUCTION WITH HEU DISPOSITION AGREEMENT.—Nothing in this section may be construed as terminating, modifying, or otherwise affecting requirements for the disposition of highly enriched uranium under the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, signed at Washington on February 18, 1993.

(c) LIMITATION ON RELEASE FOR SALE OF BLENDED URANIUM.—Uranium blended under this section may not be released for sale until the earlier of—

(1) January 1, 2014; or

(2) the date on which the Secretary certifies that such uranium can be absorbed into the global market without undue disruption to the uranium mining, conversion, and enrichment industry in the United States.

(d) AMOUNT FOR ACTIVITIES.—Of the amount to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to $10,000,000 may be available for carrying out this section.

SEC. 3158. STRENGTHENED INTERNATIONAL SECURITY FOR NUCLEAR MATERIALS AND SECURITY OF NUCLEAR OPERATIONS.

(a) REPORT ON OPTIONS FOR INTERNATIONAL PROGRAM TO STRENGTHEN SECURITY.—(1) Not later than 270 days after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a report on options for an international program to develop strengthened security for nuclear reactors and associated materials outside the United States.

(2) In evaluating options for purposes of the report, the Secretary shall consult with the Nuclear Regulatory Commission and the International Atomic Energy Agency on the feasibility and advisability of actions to reduce the risks associated with terrorist attacks on nuclear reactors outside the United States.

(b) JOINT PROGRAMS WITH RUSSIA ON PROLIFERATION-RESISTANT NUCLEAR ENERGY TECHNOLOGIES.—(1) The Secretary shall pursue with the Ministry of Atomic Energy of the Russian Federation joint programs between the United States and the Russian Federation on the development of proliferation-resistant nuclear energy technologies, including advanced fuel cycles.

(2) Of the amount authorized to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to $10,000,000 may be available for carrying out the joint programs referred to in paragraph (1).

(c) ASSISTANCE REGARDING HOSTILE INSIDERS.—The Secretary may, utilizing appropriate expertise of the Department of Energy and the Nuclear Regulatory Commission, provide technical assistance to nuclear reactor facilities outside the United States with respect to the interdiction of hostile insiders at such facilities in order to prevent incidents arising from the disablement of the vital systems of such facilities.

SEC. 3159. EXPORT CONTROL PROGRAMS.

(a) AUTHORITY TO PURSUE OPTIONS FOR STRENGTHENING EXPORT CONTROL PROGRAMS.—The Secretary of Energy, in coordination with the Secretary of State, may pursue in the region of the former Soviet Union and other regions of concern options for accelerating programs that assist the countries in such regions in improving their domestic export control programs for materials, technologies, and expertise relevant to the construction or use of a nuclear or radiological dispersal device.

(b) AMOUNT FOR ACTIVITIES.—Of the amount authorized to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to $5,000,000 may be available for carrying out this section.

SEC. 3160. PLAN FOR ACCELERATED RETURN OF WEAPONS-USABLE NUCLEAR MATERIALS.

(a) PLAN FOR ACCELERATED RETURN.—The Secretary of Energy shall work with the Russian Federation to develop a plan to accelerate the return to Russia of all weapons-usable nuclear materials located in research reactors and other facilities outside Russia that were supplied by the former Soviet Union.

(b) FUNDING AND SCHEDULES.—As part of the plan under subsection (a), the Secretary shall identify the funding and schedules required to assist the research reactors and facilities referred to in that subsection in—

(1) transferring highly enriched uranium to Russia; and

(2) upgrading the materials protection, control, and accounting procedures at such research reactors and facilities until the weapons-usable nuclear materials in such reactors and facilities are returned in accordance with that subsection.

(c) COORDINATION.—The provision of assistance under subsection (b) shall be closely coordinated with the International Atomic Energy Agency.

SEC. 3161. SENSE OF CONGRESS ON AMENDMENT OF CONVENTION ON PHYSICAL PROTECTION OF NUCLEAR MATERIALS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should encourage amendment of the Convention on the Physical Protection of Nuclear Materials in order to provide that the Convention shall—

(1) apply to both the domestic and international use and transport of nuclear materials;

(2) incorporate fundamental practices for the physical protection of such materials; and

(3) address protection against sabotage involving nuclear materials.

(b) CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL DEFINED.—In this section, the term "Convention on the Physical Protection of Nuclear Materials" means the Convention on the Physical Protection of Nuclear Materials, With Annex, done at Vienna on October 26, 1979.

SEC. 3162. SENSE OF CONGRESS ON PROGRAM TO SECURE STOCKPILES OF HIGHLY ENRICHED URANIUM AND PLUTONIUM.

It is the sense of Congress that the Secretary of Energy should, in consultation with the Secretary of State and Secretary of Defense, develop a comprehensive program of activities to encourage all countries with nuclear materials to adhere to, or to adopt standards equivalent to, the International Atomic Energy Agency standard on The Physical Protection of Nuclear Material and Nuclear Facilities (INFCIRC/225/Rev.4), relating to the security of stockpiles of highly enriched uranium (HEU) and plutonium (Pu).

Subtitle D—Other Matters

SEC. 3171. INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.

Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking "until August 1, 2002," and inserting "until December 31, 2004,".

SEC. 3172. SUPPORT FOR PUBLIC EDUCATION IN THE VICINITY OF LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.

(a) SUPPORT FOR FISCAL YEAR 2003.—From amounts authorized to be appropriated to the Secretary of Energy by this title, $6,900,000 shall be available for payment by the Secretary for fiscal year 2003 to the Los Alamos National Laboratory Foundation, a not-for-profit foundation chartered as described in section 3167(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2052).

(b) USE OF FUNDS.—The foundation referred to in subsection (a) shall—

(1) utilize funds provided under this section as a contribution to the endowment fund for the foundation; and

(2) use the income generated from investments in the endowment fund that are attributable to the payment made under this section to fund programs to support the educational needs of children in the public schools in the vicinity of Los Alamos National Laboratory, New Mexico.

(c) REPEAL OF SUPERSEDED AUTHORITY AND MODIFICATION OF AUTHORITY TO EXTEND CONTRACT.—(1) Subsection (b) of section 3136 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1368) is amended to read as follows:

"(b) SUPPORT FOR FISCAL YEARS 2003 THROUGH 2005.—Subject to the availability of appropriations, the Secretary may provide for a contract extension through fiscal year 2005 similar to the contract extension referred to in subsection (a)(2).".

(2) The amendment made by paragraph (1) shall take effect on October 1, 2002.

(d) REPORT.—(1) The Secretary of Energy, in consultation with the Administrator for Nuclear Security, shall conduct a study of options for funding the contract extension authorized by subsection (b) of such section 3136 (as amended by subsection (c)) other than through annual appropriations. The study should also include options for providing cost of living adjustments to teachers in the public schools in the vicinity of Los Alamos National Laboratory, New Mexico, other than through such contract extension.

(2) Not later than December 31, 2003, the Secretary shall submit to the congressional defense committees a report on the study conducted under paragraph (1). The report shall set forth the findings and conclusions of the study, together with any recommendations as a result of the study.

SEC. 3173. WORKER HEALTH AND SAFETY RULES FOR DEPARTMENT OF ENERGY NUCLEAR FACILITIES.

(a) WORKER HEALTH AND SAFETY RULES.—The Atomic Energy Act of 1954 is amended by inserting after section 234B (42 U.S.C. 2282b) the following new section:

"SEC. 234C. WORKER HEALTH AND SAFETY RULES FOR DEPARTMENT OF ENERGY NUCLEAR FACILITIES.

"a. REGULATIONS REQUIRED.—

"(1) IN GENERAL.—The Secretary shall promulgate regulations for industrial and construction health and safety at Department of Energy facilities that are operated by contractors covered by agreements of indemnification under section 170 d. of the Atomic Energy Act of 1954, after public notice and opportunity for comment under section 553 of title 5, United States Code (commonly known as the 'Administrative Procedure Act'). Such regulations shall, subject to paragraph (3), provide a level of protection for workers at such facilities that is substantially equivalent to the level of protection currently provided to such workers at such facilities.

"(2) APPLICABILITY.—The regulations promulgated under paragraph (1) shall not apply to any facility that is a component of, or any activity conducted under, the Naval Nuclear Propulsion Program provided for under Executive Order No. 12344, dated February 1, 1982 (42 U.S.C. 7158 note) (as in force pursuant to section 1634 of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 42 U.S.C. 7158 note)).

"(3) FLEXIBILITY.—In promulgating the regulations under paragraph (1), the Secretary shall include flexibility—

"(A) to tailor implementation of such regulations to reflect activities and hazards associated with a particular work environment;

"(B) to take into account special circumstances at a facility that is, or is expected to be, permanently closed and that is expected to be demolished, or title to which is expected to be transferred to another entity for reuse; and

"(C) to achieve national security missions of the Department of Energy in an efficient and timely manner.

"(4) NO EFFECT ON HEALTH AND SAFETY ENFORCEMENT.—This subsection does not diminish or otherwise affect the enforcement or the application of any other law, regulation, order, or contractual obligation relating to worker health and safety.

"b. CIVIL PENALTIES.—

"(1) IN GENERAL.—A person (or any subcontractor or supplier of the person) who has entered into an agreement of indemnification under section 170 d. (or any subcontractor or supplier of the person) that violates (or is the employer of a person that violates) any regulation promulgated under subsection a. shall be subject to a civil penalty of not more than $70,000 for each such violation.

"(2) CONTINUING VIOLATIONS.—If any violation under this subsection is a continuing violation, each day of the violation shall constitute a separate violation for the purpose of computing the civil penalty under paragraph (1).

"c. CONTRACT PENALTIES.—

"(1) IN GENERAL.—The Secretary shall include in each contract with a contractor of the Department who has entered into an agreement of indemnification under section 170 d. provisions that provide an appropriate reduction in the fees or amounts paid to the contractor under the contract in the event of a violation by the contractor or contractor employee of any regulation promulgated under subsection a.

"(2) CONTENTS.—The provisions shall specify various degrees of violations and the amount of the reduction attributable to each degree of violation.

"d. COORDINATION OF PENALTIES.—

"(1) CHOICE OF PENALTIES.—For any violation by a person of a regulation promulgated under subsection a., the Secretary shall pursue either civil penalties under subsection b. or contract penalties under subsection c., but not both.

"(2) MAXIMUM AMOUNT.—In the case of an entity described in subsection d. of section 234A, the total amount of civil penalties under subsection b. and contract penalties under subsection c. in a fiscal year may not exceed the total amount of fees paid by the Department of Energy to that entity in that fiscal year.

"(3) COORDINATION WITH SECTION 234A.—The Secretary shall ensure that a contractor of the Department is not penalized both under this section and under section 234A for the same violation.".

(b) PROMULGATION OF INITIAL REGULATIONS.—

(1) DEADLINE FOR PROMULGATING REGULATIONS.—The Secretary of Energy shall promulgate the regulations required by subsection a. of section 234C of the Atomic Energy Act of 1954 (as added by subsection (a)) not later than one year after the date of the enactment of this Act.

(2) EFFECTIVE DATE.—The regulations promulgated under paragraph (1) shall take effect on the date that is one year after the promulgation date of the regulations.

(c) PROHIBITION.—The Secretary of Energy shall not participate in or otherwise support any study or other project relating to a modification in the scope of the regulations enforceable by civil penalties under section 234A or 234C of the Atomic Energy Act of 1954, or the responsibility of the Secretary to implement and enforce such regulations, until after the date on which the regulations for such purposes under such section 234C take effect in accordance with subsection (b).

SEC. 3174. EXTENSION OF AUTHORITY TO APPOINT CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

Section 3161(c)(1) of the National Defense Authorization Act for Fiscal Year 1995 (42 U.S.C. 7231 note) is amended by striking "September 30, 2002" and inserting "September 30, 2004".

SEC. 3175. ONE-YEAR EXTENSION OF PANEL TO ASSESS THE RELIABILITY, SAFETY, AND SECURITY OF THE UNITED STATES NUCLEAR STOCKPILE.

Section 3159 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (42 U.S.C. 2121 note) is amended—

(1) in subsection (f), by striking "atomic energy defense activities" and inserting "the National Nuclear Security Administration";

(2) in subsection (g), by striking "three years" and all that follows through the period at the end and inserting "April 1, 2003."; and

(3) by adding at the end the following new subsection:

"(i) FOLLOW-UP REPORT.—Not later than February 1, 2003, the panel shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a follow-up report assessing progress toward meeting the expectations set forth by the panel for the United States stockpile stewardship program, and making recommendations for corrective legislative action where progress has been unsatisfactory.".

SEC. 3176. REPORT ON STATUS OF ENVIRONMENTAL MANAGEMENT INITIATIVES TO ACCELERATE THE REDUCTION OF ENVIRONMENTAL RISKS AND CHALLENGES POSED BY THE LEGACY OF THE COLD WAR.

(a) REPORT REQUIRED.—The Secretary of Energy shall prepare a report on the status of those environmental management initiatives specified in subsection (c) that are being undertaken to accelerate the reduction of the environmental risks and challenges that, as a result of the legacy of the Cold War, are faced by the Department of Energy, contractors of the Department, and applicable Federal and State agencies with regulatory jurisdiction.

(b) CONTENTS.—The report shall include the following matters:

(1) A discussion of the progress made in reducing such risks and challenges in each of the following areas:

(A) Acquisition strategy and contract management.

(B) Regulatory agreements.

(C) Interim storage and final disposal of high-level waste, spent nuclear fuel, transuranic waste, and low-level waste.

(D) Closure and transfer of environmental remediation sites.

(E) Achievements in innovation by contractors of the Department with respect to accelerated risk reduction and cleanup.

(F) Consolidation of special nuclear materials and improvements in safeguards and security.

(2) An assessment of the progress made in streamlining risk reduction processes of the environmental management program of the Department.

(3) An assessment of the progress made in improving the responsiveness and effectiveness of the environmental management program of the Department.

(4) Any proposals for legislation that the Secretary considers necessary to carry out such initiatives, including the justification for each such proposal.

(c) INITIATIVES COVERED.—The environmental management initiatives referred to in subsection (a) are the initiatives arising out of the report titled "Top-to-Bottom Review of the Environmental Management Program" and dated February 4, 2002, with respect to the environmental restoration and waste management activities of the Department of Energy in carrying out programs necessary for national security.

(d) SUBMISSION OF REPORT.—On the date on which the budget justification materials in support of the Department of Energy budget for fiscal year 2004 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) are submitted to Congress, the Secretary shall submit to the congressional defense committees the report required by subsection (a).

Subtitle E—Disposition of Weapons-Usable Plutonium at Savannah River, South Carolina

SEC. 3181. FINDINGS.

Congress makes the following findings:

(1) In September 2000, the United States and the Russian Federation signed a Plutonium Management and Disposition Agreement by which each agreed to dispose of 34 metric tons of weapons-grade plutonium.

(2) The agreement with Russia is a significant step toward safeguarding nuclear materials and preventing their diversion to rogue states and terrorists.

(3) The Department of Energy plans to dispose of 34 metric tons of weapons-grade plutonium in the United States before the end of 2019 by converting the plutonium to a mixed-oxide fuel to be used in commercial nuclear power reactors.

(4) The Department has formulated a plan for implementing the agreement with Russia through construction of a mixed-oxide fuel fabrication facility, the so-called MOX facility, and a pit disassembly and conversion facility at the Savannah River Site, Aiken, South Carolina.

(5) The United States and the State of South Carolina have a compelling interest in the safe, proper, and efficient operation of the plutonium disposition facilities at the Savannah River Site. The MOX facility will also be economically beneficial to the State of South Carolina, and that economic benefit will not be fully realized unless the MOX facility is built.

(6) The State of South Carolina desires to ensure that all plutonium transferred to the State of South Carolina is stored safely; that the full benefits of the MOX facility are realized as soon as possible; and, specifically, that all defense plutonium or defense plutonium materials transferred to the Savannah River Site either be processed or be removed expeditiously.

SEC. 3182. DISPOSITION OF WEAPONS-USABLE PLUTONIUM AT SAVANNAH RIVER SITE.

(a) PLAN FOR CONSTRUCTION AND OPERATION OF MOX FACILITY.—(1) Not later than February 1, 2003, the Secretary of Energy shall submit to Congress a plan for the construction and operation of the MOX facility at the Savannah River Site, Aiken, South Carolina.

(2) The plan under paragraph (1) shall include—

(A) a schedule for construction and operations so as to achieve, as of January 1, 2009, and thereafter, the MOX production objective, and to produce 1 metric ton of mixed-oxide fuel by December 31, 2009; and

(B) a schedule of operations of the MOX facility designed so that 34 metric tons of defense plutonium and defense plutonium materials at the Savannah River Site will be processed into mixed-oxide fuel by January 1, 2019.

(3)(A) Not later than February 15 each year, beginning in 2004 and continuing for as long as the MOX facility is in use, the Secretary shall submit to Congress a report on the implementation of the plan required by paragraph (1).

(B) Each report under subparagraph (A) for years before 2010 shall include—

(i) an assessment of compliance with the schedules included with the plan under paragraph (2); and

(ii) a certification by the Secretary whether or not the MOX production objective can be met by January 2009.

(C) Each report under subparagraph (A) for years after 2009 shall—

(i) address whether the MOX production objective has been met; and

(ii) assess progress toward meeting the obligations of the United States under the Plutonium Management and Disposition Agreement.

(D) Each report under subparagraph (A) for years after 2017 shall also include an assessment of compliance with the MOX production objective and, if not in compliance, the plan of the Secretary for achieving one of the following:

(i) Compliance with such objective.

(ii) Removal of all remaining defense plutonium and defense plutonium materials from the State of South Carolina.

(b) CORRECTIVE ACTIONS.—(1) If a report under subsection (a)(3) indicates that construction or operation of the MOX facility is behind the applicable schedule under subsection (a)(2) by 12 months or more, the Secretary shall submit to Congress, not later than August 15 of the year in which such report is submitted, a plan for corrective actions to be implemented by the Secretary to ensure that the MOX facility project is capable of meeting the MOX production objective by January 1, 2009.

(2) If a plan is submitted under paragraph (1) in any year after 2008, the plan shall include corrective actions to be implemented by the Secretary to ensure that the MOX production objective is met.

(3) Any plan for corrective actions under paragraph (1) or (2) shall include established milestones under such plan for achieving compliance with the MOX production objective.

(4) If, before January 1, 2009, the Secretary determines that there is a substantial and material risk that the MOX production objective will not be achieved by 2009 because of a failure to achieve milestones set forth in the most recent corrective action plan under this subsection, the Secretary shall suspend further transfers of defense plutonium and defense plutonium materials to be processed by the MOX facility until such risk is addressed and the Secretary certifies that the MOX production objective can be met by 2009.

(5) If, after January 1, 2009, the Secretary determines that the MOX production objective has not been achieved because of a failure to achieve milestones set forth in the most recent corrective action plan under this subsection, the Secretary shall suspend further transfers of defense plutonium and defense plutonium materials to be processed by the MOX facility until the Secretary certifies that the MOX production objective can be met.

(6)(A) Upon making a determination under paragraph (4) or (5), the Secretary shall submit to Congress a report on the options for removing from the State of South Carolina an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the State of South Carolina after April 15, 2002.

(B) Each report under subparagraph (A) shall include an analysis of each option set forth in the report, including the cost and schedule for implementation of such option, and any requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) relating to consideration or selection of such option.

(C) Upon submittal of a report under paragraph (A), the Secretary shall commence any analysis that may be required under the National Environmental Policy Act of 1969 in order to select among the options set forth in the report.

(c) CONTINGENT REQUIREMENT FOR REMOVAL OF PLUTONIUM AND MATERIALS FROM SAVANNAH RIVER SITE.—If the MOX production objective is not achieved as of January 1, 2009, the Secretary shall, consistent with the National Environmental Policy Act of 1969 and other applicable laws, remove from the State of South Carolina, for storage or disposal elsewhere—

(1) not later than January 1, 2011, not less than 1 metric ton of defense plutonium or defense plutonium materials; and

(2) not later than January 1, 2017, an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site between April 15, 2002 and January 1, 2017, but not processed by the MOX facility.

(d) ECONOMIC AND IMPACT ASSISTANCE.—(1) If the MOX production objective is not achieved as of January 1, 2011, the Secretary shall, from funds available to the Secretary, pay to the State of South Carolina each year beginning on or after that date through 2016 for economic and impact assistance an amount equal to $1,000,000 per day, not to exceed $100,000,000 per year, until the later of—

(A) the date on which the MOX production objective is achieved in such year; or

(B) the date on which the Secretary has removed from the State of South Carolina in such year at least 1 metric ton of defense plutonium or defense plutonium materials.

(2)(A) If, as of January 1, 2017, the MOX facility has not processed mixed-oxide fuel from defense plutonium and defense plutonium materials in the amount of not less than—

(i) one metric ton, in each of any two consecutive calendar years; and

(ii) three metric tons total,

the Secretary shall, from funds available to the Secretary, pay to the State of South Carolina for economic and impact assistance an amount equal to $1,000,000 per day, not to exceed $100,000,000 per year, until the removal by the Secretary from the State of South Carolina of an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site between April 15, 2002, and January 1, 2017, but not processed by the MOX facility.

(B) Nothing in this paragraph may be construed to terminate, supersede, or otherwise affect any other requirements of this section.

(3) If the State of South Carolina obtains an injunction that prohibits the Department from taking any action necessary for the Department to meet any deadline specified by this subsection, that deadline shall be extended for a period of time equal to the period of time during which the injunction is in effect.

(e) FAILURE TO COMPLETE PLANNED DISPOSITION PROGRAM.—If on July 1 each year beginning in 2020 and continuing for as long as the MOX facility is in use, less than 34 metric tons of defense plutonium or defense plutonium materials have been processed by the MOX facility, the Secretary shall submit to Congress a plan for—

(1) completing the processing of 34 metric tons of defense plutonium and defense plutonium material by the MOX facility; or

(2) removing from the State of South Carolina an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site after April 15, 2002, but not processed by the MOX facility.

(f) REMOVAL OF MIXED-OXIDE FUEL UPON COMPLETION OF OPERATIONS OF MOX FACILITY.—If, one year after the date on which operation of the MOX facility permanently ceases, any mixed-oxide fuel remains at the Savannah River Site, the Secretary shall submit to Congress—

(1) a report on when such fuel will be transferred for use in commercial nuclear reactors; or

(2) a plan for removing such fuel from the State of South Carolina.

(g) DEFINITIONS.—In this section:

(1) MOX PRODUCTION OBJECTIVE.—The term "MOX production objective" means production at the MOX facility of mixed-oxide fuel from defense plutonium and defense plutonium materials at an average rate equivalent to not less than one metric ton of mixed-oxide fuel per year. The average rate shall be determined by measuring production at the MOX facility from the date the facility is declared operational to the Nuclear Regulatory Commission through the date of assessment.

(2) MOX FACILITY.—The term "MOX facility" means the mixed-oxide fuel fabrication facility at the Savannah River Site, Aiken, South Carolina.

(3) DEFENSE PLUTONIUM; DEFENSE PLUTONIUM MATERIALS.—The terms "defense plutonium" and "defense plutonium materials" mean weapons-usable plutonium.

SEC. 3183. STUDY OF FACILITIES FOR STORAGE OF PLUTONIUM AND PLUTONIUM MATERIALS AT SAVANNAH RIVER SITE.

(a) STUDY.—The Defense Nuclear Facilities Safety Board shall conduct a study of the adequacy of the K-Area Materials Storage facility (KAMS), and related support facilities such as Building 235–F, at the Savannah River Site, Aiken, South Carolina, for the storage of defense plutonium and defense plutonium materials in connection with the disposition program provided in section 3182 and in connection with the amended Record of Decision of the Department of Energy for fissile materials disposition.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Defense Nuclear Facilities Safety Board shall submit to Congress and the Secretary of Energy a report on the study conducted under subsection (a).

(c) REPORT ELEMENTS.—The report under subsection (b) shall—

(1) address—

(A) the suitability of KAMS and related support facilities for monitoring and observing any defense plutonium or defense plutonium materials stored in KAMS;

(B) the adequacy of the provisions made by the Department for remote monitoring of such defense plutonium and defense plutonium materials by way of sensors and for handling of retrieval of such defense plutonium and defense plutonium materials; and

(C) the adequacy of KAMS should such defense plutonium and defense plutonium materials continue to be stored at KAMS after 2019; and

(2) include such proposals as the Defense Nuclear Facilities Safety Board considers appropriate to enhance the safety, reliability, and functionality of KAMS.

(d) REPORTS ON ACTIONS ON PROPOSALS.—Not later than 6 months after the date on which the report under subsection (b) is submitted to Congress, and every year thereafter, the Secretary and the Board shall each submit to Congress a report on the actions taken by the Secretary in response to the proposals, if any, included in the report.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2003, $19,000,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Authorized uses of National Defense Stockpile funds.

SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) Obligation of Stockpile Funds.—During fiscal year 2003, the National Defense Stockpile Manager may obligate up to $76,400,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) Additional Obligations.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) Limitations.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

(a) Amount.—There are hereby authorized to be appropriated to the Secretary of Energy $21,069,000 for fiscal year 2003 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) Period of Availability.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

TITLE XXXV—MARITIME ADMINISTRATION

Sec. 3501. Authorization of appropriations for fiscal year 2003.
Sec. 3502. Authority to convey vessel USS SPHINX (ARL–24).
Sec. 3503. Independent analysis of title XI insurance guarantee applications.
Sec. 3504. Preparation as artificial reefs and scrapping of obsolete vessels.

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2003.

Funds are hereby authorized to be appropriated for fiscal year 2003, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for the Maritime Administration as follows:

(1) For expenses necessary for operations and training activities, $93,132,000.

(2) For expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), $54,126,000, of which—

(A) $50,000,000 is for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees under the program; and

(B) $4,126,000 is for administrative expenses related to loan guarantee commitments under the program.

(3) For expenses to dispose of obsolete vessels in the National Defense Reserve Fleet, including provision of assistance under section 7 of Public Law 92–402 (as amended by this title), $20,000,000.

SEC. 3502. AUTHORITY TO CONVEY VESSEL USS SPHINX (ARL–24).

(a) In General.—Notwithstanding any other law, the Secretary of Transportation may convey the right, title, and interest of the United States Government in and to the vessel USS SPHINX (ARL–24), to the Dunkirk Historical Lighthouse and Veterans Park Museum (a not-for-profit corporation, in this section referred to as the "recipient") for use as a military museum, if—

(1) the recipient agrees to use the vessel as a nonprofit military museum;

(2) the vessel is not used for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government when the Secretary requires use of the vessel by the Government;

(4) the recipient agrees that when the recipient no longer requires the vessel for use as a military museum—

(A) the recipient will, at the discretion of the Secretary, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

(B) if the Board of Trustees of the recipient has decided to dissolve the recipient according to the laws of the State of New York, then—

(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code, or to the Federal Government or a State or local government for a public purpose; and

(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes;

(5) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, or lead paint after conveyance of the vessel, except for claims arising from use by the Government under paragraph (3) or (4); and

(6) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000.

(b) Delivery of Vessel.—If a conveyance is made under this section, the Secretary shall deliver the vessel at the place where the vessel is located on the date of enactment of this Act, in its present condition, and without cost to the Government.

(c) Other Unneeded Equipment.—The Secretary may also convey any unneeded equipment from other vessels in the National Defense Reserve Fleet in order to restore the USS SPHINX (ARL–24) to museum quality.

(d) Retention of Vessel in NDRF.—The Secretary shall retain in the National Defense Reserve Fleet the vessel authorized to be conveyed under subsection (a), until the earlier of—

(1) 2 years after the date of the enactment of this Act; or

(2) the date of conveyance of the vessel under subsection (a).

SEC. 3503. INDEPENDENT ANALYSIS OF TITLE XI INSURANCE GUARANTEE APPLICATIONS.

Section 1104A of the Merchant Marine Act, 1936 (46 App. U.S.C. 1274) is amended—

(1) by adding at the end of subsection (d) the following:

"(4) The Secretary may obtain independent analysis of an application for a guarantee or commitment to guarantee under this title."; and

(2) in subsection (f) by inserting "(including for obtaining independent analysis under subsection (d)(4))" after "applications for a guarantee".

SEC. 3504. PREPARATION AS ARTIFICIAL REEFS AND SCRAPPING OF OBSOLETE VESSELS.

(a) Financial Assistance to States for Preparation of Transferred Obsolete Ships for Use as Artificial Reefs.—(1) Public Law 92–402 (16 U.S.C. 1220 et seq.) is amended—

(A) by redesignating section 7 as section 8; and

(B) by inserting after section 6 the following new section 7:

"SEC. 7. FINANCIAL ASSISTANCE TO STATE TO PREPARE TRANSFERRED SHIP.

"(a) Assistance Authorized.—The Secretary, subject to the availability of appropriations, may provide, to any State to which an obsolete ship is transferred under this Act, financial assistance to prepare the ship for use as an artificial reef, including for—

"(1) environmental remediation;

"(2) towing; and

"(3) sinking.

"(b) Amount of Assistance.—The Secretary shall determine the amount of assistance under this section with respect to an obsolete ship based on—

"(1) the total amount available for providing assistance under this section;

"(2) the benefit achieved by providing assistance for that ship; and

"(3) the cost effectiveness of disposing of the ship by transfer under this Act and provision of assistance under this section, compared to other disposal options for that ship.

"(c) Terms and Conditions.—The Secretary—

"(1) shall require a State seeking assistance under this section to provide cost data and other information determined by the Secretary to be necessary to justify and document the assistance; and

"(2) may require a State receiving such assistance to comply with terms and conditions necessary to protect the environment and the interests of the United States.".

(2) Section 4(4) of such Act (16 U.S.C. 1220a(4)) is amended by inserting "(except for any financial assistance provided under section 7)" after "at no cost to the Government".

(b) Environmental Best Management Practices for Preparing Vessels for Use as Artificial Reefs.—(1) Not later than September 30, 2003, the Secretary of Transportation, acting through the Maritime Administration, and the Administrator of the Environmental Protection Agency shall jointly develop environmental best management practices to be used in the preparation of vessels for use as artificial reefs.

(2) The environmental best management practices under paragraph (1) shall be developed in consultation with the heads of other Federal agencies, and State agencies, having an interest in the use of vessels as artificial reefs.

(3) The environmental best management practices under paragraph (1) shall—

(A) include practices for the preparation of vessels for use as artificial reefs to ensure that vessels so prepared will be environmentally sound in their use as artificial reefs;

(B) ensure that such practices are consistent nationwide;

(C) establish baselines for estimating the costs associated with the preparation of vessels for use as artificial reefs; and

(D) include mechanisms to enhance the utility of the Artificial Reefing Program of the Maritime Administration as an option for the disposal of obsolete vessels.

(4) The environmental best management practices developed under paragraph (1) shall serve as national guidelines to be used by Federal agencies for the preparation of vessels for use as artificial reefs.

(5) The Secretary of Transportation shall submit to Congress a report on the environmental best management practices developed under paragraph (1) through the existing ship disposal reporting requirements in section 3502 of Floyd D. Spence National Defense Authorization Act

for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 1654A–492). The report shall describe such practices, and may include such other matters as the Secretary considers appropriate.

(c) PILOT PROGRAM ON EXPORT OF OBSOLETE VESSELS FOR DISMANTLEMENT AND RECYCLING.—(1)(A) The Secretary of Transportation, Secretary of State, and Administrator of the Environmental Protection Agency shall jointly carry out one or more pilot programs through the Maritime Administration to explore the feasibility and advisability of various alternatives for exporting obsolete vessels in the National Defense Reserve Fleet for purposes of the dismantlement and recycling of such vessels.

(B) The pilot programs shall be carried out in accordance with applicable provisions of law and regulations.

(2)(A) The pilot programs under paragraph (1) shall be carried out during fiscal year 2003.

(B) The pilot programs shall include a total of not more than four vessels.

(C) The authority provided by this subsection is in addition to any other authority available to Maritime Administration for exporting obsolete vessels in the National Defense Reserve Fleet.

(3) Activities under the pilot programs under paragraph (1) shall include the following:

(A) Exploration of the feasibility and advisability of a variety of alternatives (developed for purposes of the pilot programs) for exporting obsolete vessels in the National Defense Reserve Fleet for purposes of the dismantlement and recycling of such vessels.

(B) Response by the Maritime Administration to proposals from the international ship recycling industry for innovative and cost-effective disposal solutions for obsolete vessels in the National Defense Reserve Fleet, including an evaluation of the feasibility and advisability of such proposals.

(C) Demonstration of the extent to which the cost-effective dismantlement or recycling of obsolete vessels in the National Defense Reserve Fleet can be accomplished abroad in manner that appropriately addresses concerns regarding worker health and safety and the environment.

(D) Opportunities to transfer abroad processes, methodologies, and technologies for ship dismantlement and recycling in order to support the pilot programs and to improve international practices and standards for ship dismantlement and recycling.

(E) Exploration of cooperative efforts with foreign governments (under a global action program on ship recycling or other program) in order to foster economically and environmentally sound ship recycling abroad.

(4) The Secretary of Transportation shall submit to Congress a report on the pilot programs under paragraph (1) through the existing ship disposal reporting requirements in section 3502 of Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. The report shall include a description of the activities under the pilot programs, and such recommendations for further legislative or administrative action as the Secretary considers appropriate.

(d) CONSTRUCTION.—Nothing in this section shall be construed to establish a preference for the reefing or export of obsolete vessels in the National Defense Reserve Fleet over other alternatives available to the Secretary for the scrapping of such vessels under section 3502(d)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

TITLE XXXVI—ATOMIC ENERGY DEFENSE PROVISIONS

Sec. 3601. Short title.

Subtitle A—[Reserved]

Subtitle B—Department of Energy National Security Authorizations General Provisions

Sec. 3620. Definitions.
Sec. 3621. Reprogramming.
Sec. 3622. Minor construction projects.
Sec. 3623. Limits on construction projects.
Sec. 3624. Fund transfer authority.
Sec. 3625. Conceptual and construction design.
Sec. 3626. Authority for emergency planning, design, and construction activities.
Sec. 3627. Scope of authority to carry out plant projects.
Sec. 3628. Availability of funds.
Sec. 3629. Transfer of defense environmental management funds.
Sec. 3630. Transfer of weapons activities funds.
Sec. 3631. Funds available for all national security programs of the Department of Energy.

SEC. 3601. SHORT TITLE.

This title may be cited as the "Atomic Energy Defense Act".

Subtitle A—[Reserved]

Subtitle B—Department of Energy National Security Authorizations General Provisions

SEC. 3620. DEFINITIONS.

In this subtitle:

(1) The term "DOE national security authorization" means an authorization of appropriations for activities of the Department of Energy in carrying out programs necessary for national security.

(2) The term "congressional defense committees" means—

(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

(3) The term "minor construction threshold" means $5,000,000.

SEC. 3621. REPROGRAMMING.

(a) IN GENERAL.—Except as provided in subsection (b) and in sections 3629 and 3630, the Secretary of Energy may not use amounts appropriated pursuant to a DOE national security authorization for a program—

(1) in amounts that exceed, in a fiscal year—

(A) 115 percent of the amount authorized for that program by that authorization for that fiscal year; or

(B) $5,000,000 more than the amount authorized for that program by that authorization for that fiscal year; or

(2) which has not been presented to, or requested of, Congress.

(b) EXCEPTION WHERE NOTICE-AND-WAIT GIVEN.—An action described in subsection (a) may be taken if—

(1) the Secretary submits to the congressional defense committees a report referred to in subsection (c) with respect to such action; and

(2) a period of 30 days has elapsed after the date on which such committees receive the report.

(c) REPORT.—The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(d) COMPUTATION OF DAYS.—In the computation of the 30-day period under subsection (b), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

(e) LIMITATIONS.—

(1) TOTAL AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to a DOE national security authorization for a fiscal year exceed the total amount authorized to be appropriated by that authorization for that fiscal year.

(2) PROHIBITED ITEMS.—Funds appropriated pursuant to a DOE national security authorization may not be used for an item for which Congress has specifically denied funds.

SEC. 3622. MINOR CONSTRUCTION PROJECTS.

(a) AUTHORITY.—Using operation and maintenance funds or facilities and infrastructure funds authorized by a DOE national security authorization, the Secretary of Energy may carry out minor construction projects.

(b) ANNUAL REPORT.—The Secretary shall submit to the congressional defense committees on an annual basis a report on each exercise of the authority in subsection (a) during the preceding fiscal year. Each report shall provide a brief description of each minor construction project covered by the report.

(c) COST VARIATION REPORTS TO CONGRESSIONAL COMMITTEES.—If, at any time during the construction of any minor construction project authorized by a DOE national security authorization, the estimated cost of the project is revised and the revised cost of the project exceeds the minor construction threshold, the Secretary shall immediately submit to the congressional defense committees a report explaining the reasons for the cost variation.

(d) MINOR CONSTRUCTION PROJECT DEFINED.—In this section, the term "minor construction project" means any plant project not specifically authorized by law for which the approved total estimated cost does not exceed the minor construction threshold.

SEC. 3623. LIMITS ON CONSTRUCTION PROJECTS.

(a) CONSTRUCTION COST CEILING.—Except as provided in subsection (b), construction on a construction project which is in support of national security programs of the Department of Energy and was authorized by a DOE national security authorization may not be started, and additional obligations in connection with the project above the total estimated cost may not be incurred, whenever the current estimated cost of the construction project exceeds by more than 25 percent the higher of—

(1) the amount authorized for the project; or

(2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(b) EXCEPTION WHERE NOTICE-AND-WAIT GIVEN.—An action described in subsection (a) may be taken if—

(1) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(2) a period of 30 days has elapsed after the date on which the report is received by the committees.

(c) COMPUTATION OF DAYS.—In the computation of the 30-day period under subsection (b), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

(d) EXCEPTION FOR MINOR PROJECTS.—Subsection (a) does not apply to a construction project with a current estimated cost of less than the minor construction threshold.

SEC. 3624. FUND TRANSFER AUTHORITY.

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to a DOE national security authorization to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same time period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY.—

(1) TRANSFERS PERMITTED.—Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to a DOE national security authorization to any other DOE national security authorization. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) MAXIMUM AMOUNTS.—Not more than 5 percent of any such authorization may be transferred to another authorization under paragraph (1). No such authorization may be increased or decreased by more than 5 percent by a transfer under such paragraph.

(c) LIMITATIONS.—The authority provided by this subsection to transfer authorizations—

(1) may be used only to provide funds for items relating to activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(2) may not be used to provide funds for an item for which Congress has specifically denied funds.

(d) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the congressional defense committees of any transfer of funds to or from any DOE national security authorization.

SEC. 3625. CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) CONCEPTUAL DESIGN.—

(1) REQUIREMENT.—Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) REQUESTS FOR CONCEPTUAL DESIGN FUNDS.—If the estimated cost of completing a conceptual design for a construction project exceeds $3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) EXCEPTIONS.—The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than the minor construction threshold; or

(B) for emergency planning, design, and construction activities under section 3626.

(b) CONSTRUCTION DESIGN.—

(1) AUTHORITY.—Within the amounts authorized by a DOE national security authorization, the Secretary may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed $600,000.

(2) LIMITATION ON AVAILABILITY OF FUNDS FOR CERTAIN PROJECTS.—If the total estimated cost for construction design in connection with any construction project exceeds $600,000, funds for that design must be specifically authorized by law.

SEC. 3626. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy pursuant to a DOE national security authorization, including funds authorized to be appropriated for advance planning, engineering, and construction design, and for plant projects, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of a construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making those activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3625(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

SEC. 3627. SCOPE OF AUTHORITY TO CARRY OUT PLANT PROJECTS.

In carrying out programs necessary for national security, the authority of the Secretary of Energy to carry out plant projects includes authority for maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto.

SEC. 3628. AVAILABILITY OF FUNDS.

(a) IN GENERAL.—Except as provided in subsection (b), amounts appropriated pursuant to a DOE national security authorization for operation and maintenance or for plant projects may, when so specified in an appropriations Act, remain available until expended.

(b) EXCEPTION FOR PROGRAM DIRECTION FUNDS.—Amounts appropriated for program direction pursuant to a DOE national security athorization for a fiscal year shall remain available to be obligated only until the end of that fiscal year.

SEC. 3629. TRANSFER OF DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.

(a) TRANSFER AUTHORITY FOR DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental management funds from a program or project under the jurisdiction of that office to another such program or project.

(b) LIMITATIONS.—

(1) NUMBER OF TRANSFERS.—Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) AMOUNTS TRANSFERRED.—The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed $5,000,000.

(3) DETERMINATION REQUIRED.—A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer is necessary—

(A) to address a risk to health, safety, or the environment; or

(B) to assure the most efficient use of defense environmental management funds at the field office.

(4) IMPERMISSIBLE USES.—Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 3621 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section:

(1) The term "program or project" means, with respect to a field office of the Department of Energy, a program or project that is for environmental restoration or waste management activities necessary for national security programs of the Department, that is being carried out by that office, and for which defense environmental management funds have been authorized and appropriated.

(2) The term "defense environmental management funds" means funds appropriated to the Department of Energy pursuant to an authorization for carrying out environmental restoration and waste management activities necessary for national security programs.

SEC. 3630. TRANSFER OF WEAPONS ACTIVITIES FUNDS.

(a) TRANSFER AUTHORITY FOR WEAPONS ACTIVITIES FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer weapons activities funds from a program or project under the jurisdiction of that office to another such program or project.

(b) LIMITATIONS.—

(1) NUMBER OF TRANSFERS.—Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) AMOUNTS TRANSFERRED.—The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed $5,000,000.

(3) DETERMINATION REQUIRED.—A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer—

(A) is necessary to address a risk to health, safety, or the environment; or

(B) will result in cost savings and efficiencies.

(4) LIMITATION.—A transfer may not be carried out by a manager of a field office under subsection (a) to cover a cost overrun or scheduling delay for any program or project.

(5) IMPERMISSIBLE USES.—Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 3621 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Administrator for Nuclear Security, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section:

(1) The term "program or project" means, with respect to a field office of the Department of Energy, a program or project that is for weapons activities necessary for national security programs of the Department, that is being carried out by that office, and for which weapons activities funds have been authorized and appropriated.

(2) The term "weapons activities funds" means funds appropriated to the Department of Energy pursuant to an authorization for carrying out weapons activities necessary for national security programs.

SEC. 3631. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3621, amounts appropriated pursuant to a DOE national security authorization for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

And the House agree to the same.

From the Committee on Armed Services, for consideration of the House amendment and the Senate amendment, and modifications committed to conference:

BOB STUMP,
DUNCAN HUNTER,

James V. Hansen,
Curt Weldon,
Joel Hefley,
Jim Saxton,
John M. McHugh,
Terry Everett,
Howard P. "Buck" McKeon,
J.C. Watts, Jr.,
Mac Thornberry,
John N. Hostettler,
Saxby Chambliss,
Walter B. Jones,
Van Hilleary,
Lindsey Graham,
Ike Skelton,
John M. Spratt, Jr.,
Solomon P. Ortiz,
Lane Evans,
Martin T. Meehan,
Robert A. Underwood,
Thomas Allen,
Silvestre Reyes,
Jim Turner,
Ellen O. Tauscher,

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X:

Porter J. Goss,
Doug Bereuter,

From the Committee on Education and the Workforce, for consideration of secs. 341–343, and 366 o the House amendment, and secs. 331–333, 542, 656, 1064, and 1107 of the Senate amendment, and modifications committed to conference:

Johnny Isakson,
Joe Wilson,
George Miller,

From the Committee on Government Reform, for consideration of secs. 323, 804, 805, 1003, 1004, 1101–1106, 2811, and 2813 of the House amendment, and secs. 241, 654, 817, 907, 1007–1009, 1061, 1101–1106, 2811, and 3173 of the Senate amendment, and modifications committed to conference:

Dan Burton,
Dave Weldon,

From the Committee on International Relations, for consideration of secs. 1201, 1202, 1204, title XIII, and sec. 3142 of the House amendment, and subtitle A of title XII, secs. 1212–1216, 3136, 3151, and 3156–3161 of the Senate amendment, and modifications committed to conference:

Henry Hyde,
Benjamin A. Gilman,

From the Committee on the Judiciary, for consideration of secs. 811 and 1033 of the House amendment, and secs. 1067 and 1070 of the Senate amendment, and modifications committed to conference:

Lamar Smith,

From the Committee on Resources, for consideration of secs. 311, 312, 601, title XIV, secs 2821, 2832, 2841, and 2863 of the House amendment, and secs. 601, 2821, 2823, 2828, and 2841 of the Senate amendment, and modifications committed to conference:

John J. Duncan, Jr.,

From the Committee on Science, for consideration of secs. 244, 246, 1216, 3155, 3163 of the Senate amendment, and modifications committed to conference:

Sherwood L. Boehlert,
Nick Smith,
Ralph M. Hall,

From the Committee on Small Business for consideration of secs. 243, 824, and 829 of the Senate amendment, and modifications committed to conference:

Donald A. Manzullo,
Sue Kelly,

From the Committee on Transportation and Infrastructure, for consideration of sec. 601 of the House amendment, and secs. 601 and 1063 of the Senate amendment, and modifications committed to conference:

Don Young,
Frank A. LoBiondo,
Corrine Brown,

From the Committee on Veterans' Affairs, for consideration of secs. 641, 651, 721, 723, 724, 726, 727, and 728 of the House amendment, and secs. 541 and 641 of the Senate amendment, and modifications committed to conference:

Chris Smith,
Managers on the Part of the House.

Carl Levin,
Ted Kennedy,
Robert C. Byrd,
Joseh I. Lieberman,
Max Cleland,
Mary L. Landrieu,
Jack Reed,
Daniel K. Akaka,
Bill Nelson,
Ben Nelson,
Jean Carnahan,
Mark Dayton,
Jeff Bingaman,
John W. Warner,
Strom Thurmond,
John McCain,
James M. Inhofe,
Pat Roberts,
Jeff Sessions,
Susan Collins,
Jim Bunning,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 4546), to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House amendment struck out the matter proposed to be inserted by the Senate amendment and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the House amendment and the Senate amendment. The differences between the Senate amendment, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Summary Statement of Conference Actions

The conferees recommend authorization of appropriations for fiscal year 2003 for the Department of Defense for procurement; research and development; test and evaluation; operation and maintenance; working capital funds; military construction and family housing; and for weapons and environmental restoration programs of the Department of Energy, that have a budget authority implication of $392.9 billion for the national defense function.

This funding level represents a $3.5 billion reduction to the amounts requested by the President to reflect the proper accounting for civilian retirement and health benefits under current law. The administration's budget included $3.5 billion in the national defense function as part of a governmentwide proposal for accrual funding that was not adopted by the committees of jurisdiction within Congress. This reduction of $3.5 billion is an accounting adjustment that does not reduce the amount of funding available for defense programs and would not result in any reduction in benefits for federal civilian employees of the Department of Defense or the Department of Energy.

Summary Table of Authorizations

The defense authorization act provides authorizations for appropriations but does not generally provide budget authority. Budget authority is provided in appropriations acts.

In order to relate the conference recommendations to the Budget Resolution, matters in addition to the dollar authorizations contained in this bill must be taken into account. A number of programs in the national defense function are authorized permanently or, in certain instances, authorized in other legislation.

The following table summarizes authorizations included in the bill for fiscal year 2003 and, in addition, summarizes the implications of the conference action for the budget authority totals for national defense (budget function 050).

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2003

(In Thousands of Dollars)

					Budget Authority Implication				
DIVISION A	Authorization Request	House Authorization	Senate Authorization	Conference Authorization	FY 2003 Request	House Authorization	Senate Authorization	Conference Change to Request	Conference Authorization
Title I – PROCUREMENT									
Aircraft Procurement, Army	2,061,027	2,300,327	2,147,386	2,186,296	2,061,027	2,300,327	2,147,386	125,269	2,186,296
Missile Procurement, Army	1,642,296	1,758,896	1,653,150	1,152,299	1,642,296	1,758,896	1,653,150	-489,997	1,152,299
Procurement of Weapons & Tracked Combat Vehicles	2,248,558	2,372,958	2,242,882	2,276,751	2,248,558	2,372,958	2,242,882	28,193	2,276,751
Procurement of Ammunition, Army	1,159,426	1,320,026	1,205,499	1,229,533	1,159,426	1,320,026	1,205,499	70,107	1,229,533
Other Procurement, Army	5,168,453	6,130,147	5,513,679	5,857,814	5,168,453	6,130,147	5,513,679	689,361	5,857,814
Aircraft Procurement, Navy	8,203,955	9,077,555	9,037,209	8,979,275	8,203,955	9,077,555	9,037,209	775,320	8,979,275
Weapons Procurement, Navy	1,832,617	2,514,617	2,505,820	2,375,349	1,832,617	2,514,617	2,505,820	542,732	2,375,349
Shipbuilding & Conversion, Navy	8,191,194	9,279,494	8,624,160	9,111,023	8,191,194	9,279,494	8,624,160	919,829	9,111,023
Procurement of Ammunition, Navy & Marine Corps	1,015,153	1,200,053	1,173,157	1,170,750	1,015,153	1,200,053	1,173,157	155,597	1,170,750
Other Procurement, Navy	4,347,024	4,527,763	4,514,500	4,494,754	4,347,024	4,527,763	4,514,500	147,730	4,494,754
Procurement, Marine Corps	1,288,383	1,377,183	1,343,119	1,355,491	1,288,383	1,377,183	1,343,119	67,108	1,355,491
Aircraft Procurement, Air Force	12,067,405	12,737,305	12,611,705	12,676,505	12,067,405	12,737,305	12,611,705	609,100	12,676,505
Missile Procurement, Air Force	3,575,162	3,482,639	3,258,162	3,504,139	3,575,162	3,482,639	3,258,162	-71,023	3,504,139
Procurement of Ammunition, Air Force	1,133,864	1,294,764	1,275,864	1,290,764	1,133,864	1,294,764	1,275,864	156,900	1,290,764
Other Procurement, Air Force	10,523,946	10,918,530	10,478,840	10,846,048	10,523,946	10,918,530	10,478,840	322,102	10,846,048
Procurement, Defense-Wide	2,688,515	3,235,423	3,054,943	3,691,604	2,688,515	3,235,423	3,054,943	1,003,089	3,691,604
Defense Production Act Purchases	0	0	0	0	73,057	73,057	73,057	0	73,057
Chemical Agents & Munitions Destruction, Army	1,490,199	0	0	0	1,490,199	0	0	-1,490,199	0
Chemical Agents & Munitions Destruction, Defense	0	1,490,199	1,490,199	1,490,199	0	1,490,199	1,490,199	1,490,199	1,490,199
Office of the Inspector General	2,000	2,000	2,000	2,000	0	0	0	0	0
Defense Health Program	278,742	278,742	278,742	278,742	0	0	0	0	0
TOTAL PROCUREMENT	**68,917,919**	**75,298,621**	**72,411,016**	**73,969,336**	**68,710,234**	**75,090,936**	**72,203,331**	**5,051,417**	**73,761,651**
Title II – RESEARCH, DEVELOPMENT, TEST & EVALUATION									
RDT&E, Army	6,918,494	6,933,319	7,301,433	7,158,256	6,918,494	6,933,319	7,301,433	239,762	7,158,256
RDT&E, Navy	12,501,630	13,274,540	12,913,135	13,244,164	12,501,630	13,274,540	12,913,135	742,534	13,244,164
RDT&E, Air Force	17,601,233	18,803,184	18,611,184	18,337,078	17,601,233	18,803,184	18,611,184	735,845	18,337,078
RDT&E, Defense-Wide	16,613,551	17,516,337	17,186,873	17,659,099	16,613,551	17,516,337	17,186,873	1,045,548	17,659,099
Operational Test & Evaluation, Defense	222,054	222,054	361,554	311,554	222,054	222,054	361,554	89,500	311,554
Defense Health Program	67,214	67,214	67,214	67,214	0	0	0	0	0
TOTAL RDT&E	**53,924,176**	**56,816,648**	**56,441,393**	**56,777,365**	**53,856,962**	**56,749,434**	**56,374,179**	**2,853,189**	**56,710,151**

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2003

(In Thousands of Dollars)

					Budget Authority Implication				
	Authorization Request	House Authorization	Senate Authorization	Conference Authorization	FY 2003 Request	House Authorization	Senate Authorization	Conference Change to Request	Conference Authorization
Title III -- OPERATION AND MAINTENANCE									
Operation and Maintenance, Army	24,581,055	24,174,003	24,171,542	23,922,251	24,581,055	24,174,003	24,171,542	-658,804	23,922,251
Operation and Maintenance, Navy	29,028,813	29,434,126	29,370,461	29,264,939	29,028,813	29,434,126	29,370,461	236,126	29,264,939
Operation and Maintenance, Marine Corps	3,357,952	3,599,912	3,558,732	3,559,636	3,357,952	3,599,912	3,558,732	201,684	3,559,636
Operation and Maintenance, Air Force	27,304,623	27,816,684	27,442,964	27,419,488	27,304,623	27,816,684	27,442,964	114,865	27,419,488
Operation and Maintenance, Defense-Wide	14,515,304	14,375,037	14,482,266	14,145,310	14,515,304	14,375,037	14,482,266	-369,994	14,145,310
Operation and Maintenance, Army Reserve	1,923,330	1,918,110	1,956,610	1,985,110	1,923,330	1,918,110	1,956,610	61,780	1,985,110
Operation and Maintenance, Navy Reserve	1,165,961	1,233,759	1,233,759	1,233,759	1,165,961	1,233,759	1,233,759	67,798	1,233,759
Operation and Maintenance, Marine Corps Reserve	185,532	185,532	190,532	189,532	185,532	185,532	190,532	4,000	189,532
Operation and Maintenance, Air Force Reserve	2,190,917	2,194,719	2,165,004	2,160,604	2,190,917	2,194,719	2,165,004	-30,313	2,160,604
Operation and Maintenance, Army National Guard	4,136,822	4,300,767	4,498,767	4,155,067	4,136,822	4,300,767	4,498,767	18,245	4,155,067
Operation and Maintenance, Air National Guard	4,150,961	4,077,845	4,114,910	4,104,810	4,150,961	4,077,845	4,114,910	-46,151	4,104,810
Office of the Inspector General	163,440	155,165	155,165	155,165	165,440	157,165	157,165	8,275	157,165
US Court of Appeals, Armed Forces	9,925	9,614	9,614	9,614	9,925	9,614	9,614	-311	9,614
Environmental Restoration, Army	395,900	395,900	395,900	395,900	395,900	395,900	395,900	0	395,900
Environmental Restoration, Navy	256,948	256,948	256,948	256,948	256,948	256,948	256,948	0	256,948
Environmental Restoration, Air Force	389,773	389,773	389,773	389,773	389,773	389,773	389,773	0	389,773
Environmental Restoration, Defense	23,498	23,498	23,498	23,498	23,498	23,498	23,498	0	23,498
Environmental Restoration, Formerly Used Defense Sites	212,102	212,102	252,102	252,102	212,102	212,102	252,102	40,000	252,102
Overseas Humanitarian, Disaster & Civic Aid	58,400	58,400	58,400	58,400	58,400	58,400	58,400	0	58,400
Drug Interdiction & Counter-Drug Activities, Defense	848,907	848,907	873,907	859,907	848,907	848,907	873,907	11,000	859,907
Payment to Kaho'olawe Island Fund	25,000	25,000	25,000	25,000	25,000	25,000	25,000	0	25,000
Defense Health Program	14,360,271	14,242,541	14,202,441	14,123,038	14,706,227	14,588,497	14,548,397	-237,233	14,468,994
Cooperative Threat Reduction	416,700	416,700	416,700	416,700	416,700	416,700	416,700	0	416,700
Overseas Contingency Operations Transfer Fund	50,000	0	50,000	17,844	50,000	0	50,000	-32,156	17,844
Support for International Sporting Competitions	19,000	19,000	19,000	19,000	19,000	19,000	19,000	0	19,000
Department of Defense Travel	0	0	159,790	0	0	0	-159,790	0	0
Foreign Currency Fluctuations	0	0	-615,200	0	0	0	-615,200	0	0
Kaho'olawe Island Environmental Restoration	0	0	0	0	25,000	25,000	25,000	0	25,000
Restoration of Rocky Mountain Arsenal	0	0	0	0	4,000	4,000	4,000	0	4,000
Disposal of DoD Real Property	0	0	0	0	16,000	16,000	16,000	0	16,000
Lease of DoD Real Property	0	0	0	0	13,700	13,700	13,700	0	13,700
National Science Center, Army	0	0	0	0	30	30	30	0	30
DoD Overseas Military Facility Investment Recovery	0	0	0	0	1,300	1,300	1,300	0	1,300
Defense Burdensharing - Allies/NATO	0	0	0	0	210,000	210,000	210,000	0	210,000
Subtotal OPERATION AND MAINTENANCE	129,771,134	130,364,042	129,539,005	129,143,395	130,389,120	130,982,028	130,156,991	-627,739	129,761,381

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2003

(In Thousands of Dollars)

					Budget Authority Implication				
	Authorization Request	House Authorization	Senate Authorization	Conference Authorization	FY 2003 Request	House Authorization	Senate Authorization	Conference Change to Request	Conference Authorization
Defense Emergency Response Fund (DERF)	20,055,000	0	0	0	20,055,000	0	0	-20,055,000	0
TOTAL O&M and DERF	**149,826,134**	**130,364,042**	**129,539,005**	**129,143,395**	**150,444,120**	**130,982,028**	**130,156,991**	**-20,682,739**	**129,761,381**
REVOLVING AND MANAGEMENT FUNDS									
Pentagon Reservation Maintenance Revolving Fund	0	0	328,000	328,000	0	0	328,000	328,000	328.000
Defense Working Capital Funds	1,341,970	508,167	387,156	387.156	1,341,970	508,167	387,156	-954,814	387,156
National Defense Sealift Fund	934,129	934,129	934,129	934,129	934,129	934,129	934,129	0	934,129
Defense Commissary Working Capital Fund	996,789	996,789	969,200	969,200	996.789	996.789	969,200	-27,589	969,200
Total REVOLVING AND MANAGEMENT FUNDS	**3,272,888**	**2,439,085**	**2,618,485**	**2,618,485**	**3,272,888**	**2,439,085**	**2,618,485**	**-654,403**	**2,618,485**
TOTAL O&M and REVOLVING FUNDS (TITLE III)	**153,099,022**	**132,803,127**	**132,157,490**	**131,761,880**	**153,717,008**	**133,421,113**	**132,775,476**	**-21,337,142**	**132,379,866**
MILITARY PERSONNEL	**0**	**94,228,128**	**94,354,008**	**93,829,525**	**94,295,658**	**94,228,128**	**94,354,008**	**-466,133**	**93,829,525**
Title X -- GENERAL PROVISIONS									
Transfer from Ballistic Missile Defense	0	0	-690,000	0	0	0	-690,000	0	0
Transfer to Shipbuilding Programs	0	0	690,000	0	0	0	690,000	0	0
Missile Defense/CombatingTerrorism	0	0	814,300	0	0	0	814,300	0	0
Inflation Savings	0	0	-814,300	-1,000,000	0	0	-814,300	-1,000.000	1,000,000
TOTAL GENERAL PROVISIONS	**0**	**0**	**0**	**-1,000,000**	**0**	**0**	**0**	**-1,000,000**	**-1,000,000**
Title XV -- WAR AGAINST TERRORISM									
Contingent Authorization, Cost of War	0	0	10,000,000	0	0	0	10,000,000	0	0
Operations	0	3,544,682	0	0	0	3,544,682	0	0	0
Equipment Replacement & Enhacement	0	1,000,000	0	0	0	1,000,000	0	0	0
Classified Programs	0	1,980,674	0	0	0	1,980,674	0	0	0
Procurement of Munitions	0	200,000	0	0	0	200,000	0	0	0
War on Terrorism	0	0	0	10,000,000	0	0	0	10,000,000	10,000,000
TOTAL Title XV	0	**6,725,356**	**10,000,000**	**10,000,000**	**0**	**6,725,356**	**10,000,000**	**10,000,000**	**10,000,000**
TOTAL DIVISION A	**275,941,117**	**365,871,880**	**365,363,907**	**365,338,106**	**370,579,862**	**366,214,967**	**365,706,994**	**-4,898,669**	**365,681,193**

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2003

(In Thousands of Dollars)

					Budget Authority Implication				
DIVISION B	Authorization Request	House Authorization	Senate Authorization	Conference Authorization	FY 2003 Request	House Authorization	Senate Authorization	Conference Change to Request	Conference Authorization
MILITARY CONSTRUCTION									
Military Construction, Army	1,476,521	1,530,033	1,612,912	1,640,047	1,476,521	1,530,033	1,612,912	163,526	1,640,047
Military Construction, Navy	895,131	1,268,565	1,235,338	1,297,298	895,131	1,268,565	1,235,338	402,167	1,297,298
Military Construction, Air Force	644,090	933,221	1,065,610	1,044,277	644,090	933,221	1,065,610	400,187	1,044,277
Military Construction, Defense-Wide	687,535	779,896	721,959	806,355	740,535	832,896	774,959	118,820	859,355
Military Construction, Army National Guard	101,595	170,793	195,588	236,236	101,595	170,793	195,588	134,641	236,236
Military Construction, Air National Guard	53,473	119,266	222,459	204,215	53,473	119,266	222,459	150,742	204,215
Military Construction, Army Reserve	58,779	86,789	62,992	99,399	58,779	86,789	62,992	40,620	99,399
Military Construction, Naval Reserve	51,554	66,971	58,671	75,801	51,554	66,971	58,671	24,247	75,801
Military Construction, Air Force Reserve	31,900	68,576	59,883	85,649	31,900	68,576	59,883	53,749	85,649
Base Realignment & Closure, Army	149,878	0	0	0	149,878	0	0	-149,878	0
Base Realignment & Closure, Navy	258,940	0	0	0	258,940	0	0	-258,940	0
Base Realignment & Closure, Air Force	136,320	0	0	0	136,320	0	0	-136,320	0
Base Realignment & Closure, Defense	0	545,138	545,138	561,138	0	545,138	545,138	561,138	561,138
NATO Security Investment Program	168,200	168,200	168,200	167,200	168,200	168,200	168,200	-1,000	167,200
TOTAL MILITARY CONSTRUCTION	**4,713,916**	**5,737,448**	**5,948,750**	**6,217,615**	**4,766,916**	**5,790,448**	**6,001,750**	**1,503,699**	**6,270,615**
FAMILY HOUSING									
Family Housing Construction, Army	283,346	278,426	283,346	280,356	283,346	278,426	283,346	-2,990	280,356
Family Housing Operations and Debt, Army	1,122,274	1,122,274	1,114,087	1,101,087	1,122,274	1,122,274	1,114,087	-21,187	1,101,087
Family Housing Construction, Navy & Marine Corps	375,700	377,616	375,700	376,468	375,700	377,616	375,700	768	376,468
Family Housing Operations & Debt, Navy & Marine Corps	867,788	867,788	865,136	859,136	867,788	867,788	865,136	-8,652	859,136
Family Housing Construction, Air Force	676,694	681,042	676,694	684,824	676,694	681,042	676,694	8,130	684,824
Family Housing Operations & Debt, Air Force	844,419	874,050	865,268	854,268	844,419	874,050	865,268	9,849	854,268
Family Housing Construction, Defense-Wide	5,480	5,480	5,480	5,480	5,480	5,480	5,480	0	5,480
Family Housing Operations & Debt, Defense-Wide	42,432	42,432	42,395	42,395	42,432	42,432	42,395	-37	42,395
DoD Family Housing Improvement Fund	2,000	2,000	2,000	2,000	2,000	2,000	2,000	0	2,000
TOTAL FAMILY HOUSING	**4,220,133**	**4,251,108**	**4,230,106**	**4,206,014**	**4,220,133**	**4,251,108**	**4,230,106**	**-14,119**	**4,206,014**
Prior Year Savings								-33,700	-33,700
TOTAL DIVISION B	**8,934,049**	**9,988,556**	**10,178,856**	**10,423,629**	**8,987,049**	**10,041,556**	**10,231,856**	**1,455,880**	**10,442,929**
Mandatory Programs	0	-57,000	-18,000	0	-1,324,870	-1,391,870	-1,342,870	0	-1,324,870
TOTAL DEPARTMENT OF DEFENSE (051)	**284,875,166**	**375,803,436**	**375,524,763**	**375,761,735**	**378,242,041**	**374,864,653**	**374,595,980**	**-3,442,789**	**374,799,252**

SUMMARY OF NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2003

(In Thousands of Dollars)

					Budget Authority Implication				
	Authorization Request	House Authorization	Senate Authorization	Conference Authorization	FY 2003 Request	House Authorization	Senate Authorization	Conference Change to Request	Conference Authorization
DIVISION C									
National Nuclear Security Administration									
Weapons Activities	5,869,379	5,937,000	5,988,188	5,901,641	5,869,379	5,937,000	5,988,188	32,262	5,901,641
Defense Nuclear Nonproliferation	1,113,630	1,074,630	1,129,130	1,104,130	1,113,630	1,074,630	1,129,130	-9,500	1,104,130
Naval Reactors	708,020	706,790	707,020	706,790	708,020	706,790	707,020	-1,230	706,790
Office of the Administrator	347,705	315,929	335,705	325,929	347,705	315,929	335,705	-21,776	325,929
Total National Nuclear Security Adminstration	**8,038,734**	**8,034,349**	**8,160,043**	**8,038,490**	**8,038,734**	**8,034,349**	**8,160,043**	**-244**	**8,038,490**
Defense Environmental Restoration & Waste Management	4,558,360	4,544,133	4,601,460	4,510,133	4,558,360	4,544,133	4,601,460	-48,227	4,510,133
Defense Environmental Cleanup Reform	800,000	800,000	1,000,000	982,000	800,000	800,000	1,000,000	182,000	982,000
Defense Facilities Closure Projects	1,091,314	1,091,314	1,109,314	1,109,314	1,091,314	1,091,314	1,109,314	18,000	1,109,314
Defense Environmental Management Privatization	158,399	158,399	158,399	158,399	158,399	158,399	158,399	0	158,399
Other Defense Activities	472,156	457,664	489,883	462,664	472,156	457,664	489,883	-9,492	462,664
Defense Nuclear Waste Disposal	315,000	315,000	215,000	315,000	315,000	315,000	215,000	0	315,000
Total DOE/NNSA Discretionary Authorizations	**15,433,963**	**15,400,859**	**15,734,099**	**15,576,000**	**15,433,963**	**15,400,859**	**15,734,099**	**142,037**	**15,576,000**
Energy Employees Compensation Admin Expenses	0	0	0	-2,000	107,000	105,000	105,000	-2,000	105,000
Energy Employees Illness Compensation	0	0	0	0	662,000	662,000	662,000	0	662,000
TOTAL DEPARTMENT OF ENERGY / NNSA	**15,433,963**	**15,400,859**	**15,734,099**	**15,574,000**	**16,202,963**	**16,167,859**	**16,501,099**	**140,037**	**16,343,000**
Defense Nuclear Facilities Safety Board	19,494	19,000	19,494	19,000	19,494	19,000	19,494	-494	19,000
Formerly Used Sites Remedial Action Program	0	0	140,000	0	141,000	141,000	140,000	-1,000	140,000
TOTAL DIVISION C (053)	**15,453,457**	**15,419,859**	**15,893,593**	**15,593,000**	**16,363,457**	**16,327,859**	**16,660,593**	**138,543**	**16,502,000**
OTHER DEFENSE ACTIVITIES									
Discretionary Programs					1,227,000	1,176,000	1,227,000	-20,000	1,207,000
Mandatory Programs					494,000	396,000	351,893	-128,000	366,000
TOTAL DEFENSE RELATED ACTIVITIES (054)	**0**	**0**	**0**	**0**	**1,721,000**	**1,572,000**	**1,578,893**	**-148,000**	**1,573,000**
TOTAL NATIONAL DEFENSE FUNCTION (050)	**300,328,623**	**391,223,295**	**391,418,356**	**391,354,735**	**396,326,498**	**392,764,512**	**392,835,466**	**-3,452,246**	**392,874,252**

CONGRESSIONAL DEFENSE COMMITTEES

The term "congressional defense committees" is often used in this statement of managers. It means the Defense Authorization and Appropriations Committees of the Senate and the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Procurement overview

The budget request for fiscal year 2003 included an authorization of $68,917.9 million for Procurement for the Department of Defense.

The House bill would authorize $75,298.6 million.

The Senate amendment would authorize $73,101.0 million.

The conferees recommend an authorization of $73,969.3 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2003

(In Thousands of Dollars)

	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization
DIVISION A					
Title I -- PROCUREMENT					
Aircraft Procurement, Army	2,061,027	2,300,327	2,147,386	125,269	2,186,296
Missile Procurement, Army	1,642,296	1,758,896	1,653,150	-489,997	1,152,299
Procurement of W&TCV, Army	2,248,558	2,372,958	2,242,882	28,193	2,276,751
Procurement of Ammunition, Army	1,159,426	1,320,026	1,205,499	70,107	1,229,533
Other Procurement, Army	5,168,453	6,130,147	5,513,679	689,361	5,857,814
Aircraft Procurement, Navy	8,203,955	9,077,555	9,037,209	775,320	8,979,275
Weapons Procurement, Navy	1,832,617	2,514,617	2,505,820	542,732	2,375,349
Procurement of Ammunition, Navy & Marine Corps	1,015,153	1,200,053	1,173,157	155,597	1,170,750
Shipbuilding and Conversion, Navy	8,191,194	9,279,494	9,314,160	919,829	9,111,023
Other Procurement, Navy	4,347,024	4,527,763	4,514,500	147,730	4,494,754
Procurement, Marine Corps	1,288,383	1,377,183	1,343,119	67,108	1,355,491
Aircraft Procurement, Air Force	12,067,405	12,737,305	12,611,705	609,100	12,676,505
Procurement of Ammunition, Air Force	1,133,864	1,294,764	1,275,864	156,900	1,290,764
Missile Procurement, Air Force	3,575,162	3,482,639	3,258,162	-71,023	3,504,139
Other Procurement, Air Force	10,523,946	10,918,530	10,478,840	322,102	10,846,048
Procurement, Defense-Wide	2,688,515	3,235,423	3,054,943	1,003,089	3,691,604
National Guard & Reserve Equipment	0	0	0	0	0
Defense Inspector General	2,000	2,000	2,000	0	2,000
Chemical Agents & Munitions Destruction, Army	1,490,199	0	0	-1,490,199	0
Chemical Agents & Munitions Destruction, Defense	0	1,490,199	1,490,199	1,490,199	1,490,199
Defense Health Program	278,742	278,742	278,742	0	278,742
TOTAL PROCUREMENT	**68,917,919**	**75,298,621**	**73,101,016**	**5,051,417**	**73,969,336**

Aircraft Procurement, Army—Overview

The budget request for fiscal year 2003 included an authorization of $2,061.0 million for Aircraft Procurement, Army in the Department of Defense.

The House bill would authorize $2,300.3 million.

The Senate amendment would authorize $2,147.4 million.

The conferees recommend an authorization of $2,186.3 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2003 Budget Request Qty	FY 2003 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Aircraft Procurement, Army										
	Fixed Wing										
1	UTILITY F/W (MR) AIRCRAFT										
	Rotary Wing										
2	UH-60 BLACK HAWK (MYP)	12	153,361	20	268,661	21	249,661	8	111,300	20	264,661
	UH-60L ARNG				[5 / 52,600]						
	UH 60L unspecified								[6 / 64,900]		
	HH-60L MEDEVAC ARNG				[3 / 47,700]						
	HH-60L MEDEVAC - unspecified								[2 / 31,400]		
	UH-60L simulator				[15,000]				[15,000]		
	UH-60 - unspecified						[9 / 96,300]				
3	UH-60 BLACK HAWK (MYP) (AP-CY)		26,859		26,859		26,859				26,859
4	HELICOPTER NEW TRAINING			6	9,600			6	9,600	6	9,600
	TH-67				[6 / 9,600]				[6 / 9,600]		
	Modification of Aircraft										
5	GUARDRAIL MODS (TIARA)		9,229		14,229		14,229		5,000		14,229
	Guardrail Mods (TIARA) (Transfer from DERF)				[5,000]		[5,000]		[5,000]		
6	ARL MODS (TIARA)		20,873		20,873		20,873				20,873

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
7	AH-64 MODS		93,622		132,622		93,622		3,280		96,902
	Digital source collector (DSC) / health usage monitoring system (HUMS)				[8,000]						
	Oil debris detection system (ODDS)				[5,000]				[2,000]		
	Combination magazine / crashworthy fuel tanks				[18,000]						
	Tactical engagement simulation system (TESS) ARNG				[8,000]						
	HGU-56P integrated helmet & display sight subsystem (IHADSS)								[1,280]		
8	CH-47 CARGO HELICOPTER MODS		382,061		395,561		384,061		1,000		383,061
	Crashworthy crew seats				[13,500]				[1,000]		
	COTS crashworthy crew seats						[2,000]				
9	CH-47 CARGO HELICOPTER MODS (MYP) (AP-CY)		21,185		21,185		21,185				21,185
10	CH-47 ICH										
11	UTILITY/CARGO AIRPLANE MODS		16,954		16,954		16,954				16,954
12	OH-58 MODS		460		460		460				460
13	AIRCRAFT LONG RANGE MODS		744		744		744				744

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
14	LONGBOW		865,781		865,781		865,781				865,781
15	LONGBOW (AP-CY)		29,713		29,713		29,713				29,713
16	UH-1 MODS										
17	UH-60 MODS		41,863		49,863		44,863		6,500		48,363
	Crashworthy fuel tanks -- active / ARNG				[6,000]				[3,500]		
	Deicing system upgrade				[2,000]						
	UH-60L SAR upgrades Oregon ARNG						[3,000]				
	Army SAR mods								[3,000]		
18	KIOWA WARRIOR		42,406		42,406		42,406				42,406
19	AIRBORNE AVIONICS		97,003		97,003		97,003				97,003
20	ASE MODS (SIRFC)										
21	GATM										
22	GATM ROLLUP		70,414		70,414		70,414				70,414
	Spares and Repair Parts										
23	SPARE PARTS (AIR)		7,697		7,697		7,697				7,697
	Support Equipment and Facilities										
	Ground Support Avionics										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
24	AIRCRAFT SURVIVABILITY EQUIPMENT				5,000		8,000		6,000		6,000
	AN / AVR-2A laser detecting sets				[5,000]				[6,000]		
	Laser detecting sets						[8,000]				
25	ASE INFRARED CM										
	Other Support										
26	AIRBORNE COMMAND & CONTROL		27,738		27,738				-17,738		10,000
	Transfer to PE 64818A (RDA 121)						[-10,000]		[-17,738]		
	Reduction: system not ready for LRIP						[-17,738]				
27	AVIONICS SUPPORT EQUIPMENT		7,494		15,494		12,494		4,000		11,494
	Aviator night vision imaging system (ANVIS) goggles				[8,000]				[4,000]		
	Aviator night vision imaging system						[5,000]				
28	COMMON GROUND EQUIPMENT		18,091		18,091		18,091				18,091
29	AIRCREW INTEGRATED SYSTEMS		15,215		42,615		15,215				15,215
	Cockpit airbag systems (CABS)				[26,100]						
	HGU-56P integrated helmet & display sight subsystem (IHADSS)				[1,300]						
30	AIR TRAFFIC CONTROL		64,410		64,410		64,410				64,410
31	INDUSTRIAL FACILITIES		704		704		704				704
32	LAUNCHER, 2.75 ROCKET		2,677		2,677		2,677				2,677

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2003 Budget Request Qty	FY 2003 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
33	AIRBORNE COMMUNICATIONS		44,473		52,973		44,473				44,473
	AN / ARC-220 HF radios				[8,500]						
34	CLOSED ACCOUNT ADJUSTMENT										
34a	Contract services savings						-5,203		-3,673		-3,673
	Total - Aircraft Procurement, Army		**2,061,027**		**2,300,327**		**2,147,386**		**125,269**		**2,186,296**

Missile Procurement, Army—Overview

The budget request for fiscal year 2003 included an authorization of $1,642.3 million for Missile Procurement, Army in the Department of Defense.

The House bill would authorize $1,758.9 million.

The Senate amendment would authorize $1,653.2 million.

The conferees recommend an authorization of $1,152.3 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2003		House		Senate		Conference Agreement			
Line		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Missile Procurement, Army										
	Surface-to-air Missile System										
1	PATRIOT SYSTEM SUMMARY	72	471,670	96	536,670	72	471,670	-72	-471,670		
	Additional PAC-3 missiles				[24 / 65,000]						
	Transfer program to MDA (PDW 23)								[-72 / -471,670]		
2	STINGER SYSTEM SUMMARY	160	30,893	160	30,893	160	30,893			160	30,893
3	AVENGER SYSTEM SUMMARY										
	Air-to-surface Missile System										
4	HELLFIRE SYS SUMMARY	1,797	184,396	1,797	224,396	1,797	184,396			1,797	184,396
	Laser Hellfire II missiles				[40,000]						
	Anti-tank/Assault Missile System										
5	JAVELIN (AAWS-M) SYSTEM SUMMARY	1,725	250,506	1,725	250,506	1,725	250,506			1,725	250,506
6	LINE OF SIGHT ANTI-TANK (LOSAT) SYSTEM SUM	144	17,937	144	17,937	144	17,937			144	17,937
7	LINE OF SIGHT ANTI-TANK (LOSAT) SYSTEM SUM (AP-CY)										
8	MLRS ROCKET										
9	GUIDED MLRS ROCKET (GMLRS)	108	29,698	108	29,698	108	44,698	72	15,000	180	44,698
	Additional missiles						[15,000]		[72 / 15,000]		

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2003 Budget Request Qty	FY 2003 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
10	MLRS REDUCED RANGE PRACTICE ROCKETS (RRPR)	5,646	15,924	5,646	15,924	5,646	15,924			5,646	15,924
11	MLRS LAUNCHER SYSTEMS	35	141,131	35	141,131	35	141,131		-4,000	35	137,131
	Reduce programmed growth								[-4,000]		
12	HIMARS LAUNCHER	34	128,402	34	128,402	34	128,402			34	128,402
13	ARMY TACTICAL MSL SYS (ATACMS) - SYS SUM		9,050		47,050		9,050				9,050
	Quick reaction program (QRP) missiles				[38,000]						
14	ATACMS BLKII SYSTEM SUMMARY		49,687		23,287		49,687		-26,400		23,287
	Engineering services / production engineering support				[-26,400]				[-26,400]		
	Modification of Missiles										
15	PATRIOT MODS		151,307		151,307		151,307				151,307
16	STINGER MODS		1,492		1,492		1,492				1,492
17	AVENGER MODS										
18	ITAS/TOW MODS		59,962		59,962		59,962				59,962
19	MLRS MODS		31,734		31,734		31,734				31,734
	Spares and Repair Parts										
20	SPARES AND REPAIR PARTS		55,924		55,924		55,924				55,924

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Support Equipment and Facilities										
21	AIR DEFENSE TARGETS		3,408		3,408		3,408				3,408
22	ITEMS LESS THAN $5.0M (MISSILES)		907		907		907				907
23	MISSILE DEMILITARIZATION		4,895		4,895		4,895				4,895
24	PRODUCTION BASE SUPPORT		3,373		3,373		3,373				3,373
24a	Contract services savings						-4,146		-2,927		-2,927
	Total - Missile Procurement Army		**1,642,296**		**1,758,896**		**1,653,150**		**-489,997**		**1,152,299**

Procurement of Weapons and Tracked Combat Vehicles, Army—Overview

The budget request for fiscal year 2003 included an authorization of $2,248.6 million for Procurement of Weapons and Tracked Combat Vehicles, Army in the Department of Defense.

The House bill would authorize $2,373.0 million.

The Senate amendment would authorize $2,242.9 million.

The conferees recommend an authorization of $2,276.8 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement of Weapons and Tracked Combat Vehicles, Army										
	Tracked Combat Vehicles										
1	ABRAMS TRNG DEV MOD		5,504		5,504		5,504				5,504
2	BRADLEY BASE SUSTAINMENT		397,053	45	457,053		397,053	45	60,000	45	457,053
	A0 to A2ODS upgrades for ARNG				[45 / 60,000]				[45 / 60,000]		
3	BRADLEY BASE SUSTAINMENT (AP-CY)										
4	BRADLEY FVS TRAINING DEVICES										
5	HAB TRAINING DEVICES										
6	BRADLEY FVS TRAINING DEVICES (MOD)		8,532		8,532		8,532				8,532
7	ABRAMS TANK TRAINING DEVICES		12,061		12,061		12,061				12,061
8	INTERIM ARMORED VEHICLE (IAV) FAMILY	332	811,831	332	811,831	332	811,831		23,800	332	788,031
	IAV - mobile gun system testing -- transfer to PE 63653A (RDA 59)								[-23,800]		
9	COMMAND & CONTROL VEHICLE										
	Modification of Tracked Combat Vehicles										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
10	CARRIER, MOD		60,305		60,305		60,305		-10,000		50,305
	T150 track upgrades for US-based counterattack corps				[-45,400]						
	M113A3 upgrades				[45,400]						
	Reduce programmed growth								[-10,000]		
11	FIST VEHICLE (MOD)		6,966		6,966		6,966				6,966
12	MOD OF IN-SVC EQUIP, FIST VEHICLE		692		692		692				692
13	BFVS SERIES (MOD)		35,033		35,033		35,033				35,033
14	HOWITZER, MED SP FT 155MM M109A6 (MOD)		17,361		17,361		17,361				17,361
15	FAASV PIP TO FLEET		2,944		2,944		2,944				2,944
16	IMPROVED RECOVERY VEHICLE (M88 MOD)	16	50,311	31	96,111	16	50,311			16	50,311
	M88A2 upgrades for ARNG				[15 / 45,800]						
17	HEAVY ASSAULT BRIDGE (HAB) SYS (MOD)										
18	ARMORED VEH LAUNCH BRIDGE (AVLB) (MOD)		10,021		10,021		10,021				10,021
19	M1 ABRAMS TANK (MOD)		191,413		191,413		191,413				191,413
20	M1A1D RETROFIT										
21	SYSTEM ENHANCEMENT PGM: SEP M1A2	31	123,697	31	123,697	31	123,697			31	123,697
22	ABRAMS UPGRADE PROGRAM		376,268		376,268		376,268				376,268
23	ABRAMS UPGRADE PROGRAM (AP-CY)										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Support Equipment and Facilities										
24	ITEMS LESS THAN $5.0M (TCV-WTCV)		146		146		146				146
25	PRODUCTION BASE SUPPORT (TCV-WTCV)		9,900		9,900		9,900				9,900
	Weapons and Other Combat Vehicles										
26	ARMOR MACHINE GUN, 7.62MM M240 SERIES	2,217	21,334	2,217	21,334	2,217	21,334			2,217	21,334
27	MACHINE GUN, 5.56MM (SAW)				18,600				6,000		6,000
	M249 squad automatic weapon (SAW)				[18,600]				[6,000]		
28	GRENADE LAUNCHER, AUTO, 40MM, MK19-3	669	16,663	669	16,663	669	16,663			669	16,663
29	81MM MORTAR (ROLL)	138	9,821	138	9,821	138	9,821			138	9,821
30	M16 RIFLE	5,631	3,104	5,631	3,104	5,631	3,104			5,631	3,104
31	XM107, CAL. 50, SNIPER RIFLE	600	8,913	600	8,913	600	8,913			600	8,913
32	5.56 CARBINE M4	12,505	9,155	12,505	9,155	12,505	9,155			12,505	9,155
33	HOWITZER LT WT 155MM (T)										
	Modification of Weapons and Other Combat Vehicles										
34	MARK-19 MODIFICATIONS		2,743		2,743		2,743				2,743
35	M4 CARBINE MODS		9,267		9,267		9,267				9,267
36	SQUAD AUTOMATIC WEAPON (MOD)		4,119		4,119		4,119				4,119
37	MEDIUM MACHINE GUNS (MODS)										
38	HOWITZER, TOWED, 155MM, M198 (MODS)										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
39	M119 MODIFICATIONS		4,852		4,852		4,852				4,852
40	M16 RIFLE MODS										
41	MODIFICATIONS LESS THAN $5.0M (WOCV-WTCV)		817		817		817				817
	Support Equipment and Facilities										
42	ITEMS LESS THAN $5.0M (WOCV-WTCV)		1,265		1,265		1,265				1,265
43	PRODUCTION BASE SUPPORT (WOCV-WTCV)		5,832		5,832		5,832				5,832
44	INDUSTRIAL PREPAREDNESS		3,246		3,246		3,246				3,246
45	SMALL ARMS (SOLDIER ENH PROG)		1,954		1,954		1,954				1,954
46	CLOSED ACCOUNT ADJUSTMENTS										
	Spares and Repair Parts										
47	SPARES AND REPAIR PARTS (WTCV)		25,435		25,435		25,435				25,435
47a	Contract services savings						-5,676		-4,007		-4,007
	Total - Procurement of WTCV, Army		**2,248,558**		**2,372,958**		**2,242,882**		**28,193**		**2,276,751**

Procurement of Ammunition, Army—Overview

The budget request for fiscal year 2003 included an authorization of $1,159.4 million for Procurement of Ammunition, Army in the Department of Defense.

The House bill would authorize $1,320.0 million.

The Senate amendment would authorize $1,205.5 million.

The conferees recommend an authorization of $1,229.5 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement of Ammunition, Army										
	Small/Medium Caliber Ammunition										
1	CTG, 5.56MM, ALL TYPES		89,870		104,175		99,175		13,305		103,175
	CTG, 5.56MM, All Types (Transfer from DERF)				[9,305]		[9,305]		[9,305]		
	Lake City production line upgrade				[5,000]				[4,000]		
2	CTG, 7.62MM, ALL TYPES		15,975		18,174		18,174		2,199		18,174
	CTG, 7.62MM, All Types (Transfer from DERF)				[2,199]		[2,199]		[2,199]		
3	CTG, 9MM, ALL TYPES		13,508		13,508		13,508				13,508
4	CTG, .50 CAL, ALL TYPES		50,575		54,596		58,596		8,021		58,596
	.50 CAL SLAP						[4,000]		[4,000]		
	CTG, .50 CAL, All Types (Transfer from DERF)				[4,021]		[4,021]		[4,021]		
5	CTG, 20MM, ALL TYPES										
6	CTG, 25MM, ALL TYPES		33,087		56,087		33,087		23,000		56,087
	APFSDS-T M919				[23,000]				[23,000]		
7	CTG, 30MM, ALL TYPES		9,795		9,795		9,795				9,795

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
8	CTG, 40MM, ALL TYPES		71,703		77,072		77,072		5,369		77,072
	CTG, 40MM, All Types (Transfer from DERF)				[5,369]		[5,369]		[5,369]		
	Mortar Ammunition										
9	60MM MORTAR, ALL TYPES		31,696		31,696		31,696				31,696
10	81MM MORTAR, ALL TYPES		3,582		6,382		4,582		3,800		7,382
	M816				[2,800]				[2,800]		
	M821A1 HE insensitive munition						[1,000]		[1,000]		
11	CTG, MORTAR, 120MM, ALL TYPES		50,425		64,225		50,425		3,000		53,425
	M934A1				[7,800]						
	IR illumination M983				[3,000]						
	Pine Bluff Arsenal production line upgrade				[3,000]				[3,000]		
	Tank Ammunition										
12	CTG TANK 105MM: ALL TYPES		14,100		14,100		14,100				14,100
13	120MM TANK TRAINING, ALL TYPES		154,963		154,963		154,963				154,963
14	CTG, TANK, 120MM TACTICAL, ALL TYPES		43,254		43,254		43,254				43,254
	Artillery Ammunition										
15	CTG ARTY 75MM BLANK M337A1	101	4,201	101	4,201	101	4,201			101	4,201
16	CTG ARTY 105MM DPICM M915										
17	CTG ARTY 105MM M927										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
18	CTG ARTY 105MM ILLUM M314 SERIES	6	5,208	6	5,208	6	5,208			6	5,208
19	PROJ ARTY 155MM SMOKE WP M825										
20	CTG ARTY 105MM HE M1 W/O FUZE		25,200		26,837		26,837		1,637		26,837
	CTG, ARTY 105MM HE M1 W/O Fuze (Transfer from DERF)				[1,637]		[1,637]		[1,637]		
21	PROJECTILE 155 MILLIMETER DP BASEBLED M864 P7		22,300		22,300		22,300				22,300
22	PROJ ARTY 155MM HE M795				24,000						
	Additional funding				[24,000]						
23	REMOTE AREA DENIAL ARTILLERY MUNITION (RADAM)										
24	PROJ ARTY 155MM HE M107	155	30,200	155	30,200	155	31,200		2,500	155	32,700
	M485 Illuminating rounds								[2,500]		
24a	PROJ ARTY 155MM ILLUM M110				10,000						

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2003 Budget Request Qty	FY 2003 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
25	MODULAR ARTILLERY CHARGE SYSTEM (MACS), ALL TYPES		122,411		142,411		122,411				122,411
	Additional funding				[20,000]						
	Artillery Fuzes										
26	ARTILLERY FUZES, ALL TYPES		69,180		69,180		69,180				69,180
	Mines										
27	MINE, TRAINING, ALL TYPES		12,661		12,661		12,661		-12,661		
	Wide Area Munitions trainers								[-12,661]		
28	MINE AT VOLCANO, ALL TYPES										
29	WIDE AREA MUNITIONS		12,466		12,466		6,466		-12,466		
	Program termination								[-12,466]		
	Rockets										
30	BUNKER DEFEATING MUNITION (BDM)		7,795		17,795		12,795		5,000		12,795
	BDM - unspecified				[10,000]				[5,000]		
31	ROCKET, HYDRA 70, ALL TYPES		22,400		22,400		22,400				22,400
	Other Ammunition										
32	DEMOLITION MUNITIONS, ALL TYPES		28,001		33,001		32,001		2,000		30,001
	Modern demolition initiators				[5,000]		[4,000]		[2,000]		
33	GRENADES, ALL TYPES		37,552		40,773		40,773		3,221		40,773
	Grenades, All Types (Transfer from DERF)				[3,221]		[3,221]		[3,221]		

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
34	SIGNALS, ALL TYPES		11,935		12,881		12,881		946		12,881
	Signals, All Types (Transfer from DERF)				[946]		[946]		[946]		
35	SIMULATORS, ALL TYPES		3,942		3,942		3,942				3,942
	Miscellaneous										
36	AMMO COMPONENTS, ALL TYPES		7,953		7,953		7,953				7,953
37	NON-LETHAL AMMUNITION, ALL TYPES		5,890		5,890		5,890				5,890
38	CAD/PAD ALL TYPES		4,800		4,800		4,800				4,800
39	ITEMS LESS THAN $5 MILLION		8,739		9,041		9,041		302		9,041
•	Items Less than $5 Million (Transfer from DERF)				[302]		[302]		[302]		
40	AMMUNITION PECULIAR EQUIPMENT		4,792		4,792		7,792		3,000		7,792
41	FIRST DESTINATION TRANSPORTATION (AMMO)		5,836		5,836		5,836				5,836
42	CLOSEOUT LIABILITIES		10,017		10,017		10,017				10,017
	Ammunition Production Base Support										
43	PROVISION OF INDUSTRIAL FACILITIES		42,655		42,655		42,655				42,655
44	LAYAWAY OF INDUSTRIAL FACILITIES		6,990		6,990		6,990				6,990
45	MAINTENANCE OF INACTIVE FACILITIES		9,082		9,082		9,082				9,082
46	CONVENTIONAL AMMO DEMILITARIZATION		50,030		50,030		60,030		10,000		60,030
	Additional funding						[10,000]		[10,000]		

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
47	ARMS INITIATIVE		4,657		24,657		4,657		10,000		14,657
	Additional funding				[20,000]				[10,000]		
47a	Contract services savings						-2,927		-2,066		-2,066
	Total - Procurement of Ammunition, Army		**1,159,426**		**1,320,026**		**1,205,499**		**70,107**		**1,229,533**

Other Procurement, Army—Overview

The budget request for fiscal year 2003 included an authorization of $5,168.5 million for Other Procurement, Army in the Department of Defense.

The House bill would authorize $6,130.1 million.

The Senate amendment would authorize $5,513.7 million.

The conferees recommend an authorization of $5,857.8 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Procurement, Army										
	Tactical and Support Vehicles										
	Tactical Vehicles										
1	TACTICAL TRAILERS/DOLLY SETS		8,690		8,690		8,690				8,690
2	SEMITRAILERS, FLATBED		39,095		39,095		39,095				39,095
3	SEMITRAILERS, TANKERS		7,862		7,862		7,862				7,862
4	SEMITRAILER VAN CGO SUPPLY 12T 4WHL M129A2C										
5	HI MOB MULTI-PURP WHLD VEHICLES (HMMWV)		196,783	180	227,883		196,783	180	31,100	180	227,883
	M1114 up armored vehicles - unspecified				[180 / 31,100]				[180 / 31,100]		
6	TRUCK, DUMP, 20T (CCE)	70	17,079	70	17,079	70	17,079			70	17,079
7	FAMILY OF MEDIUM TACTICAL VEHICLES (FMTV)		681,373		681,373		681,373				681,373
8	FIRETRUCKS & ASSOCIATED FIREFIGHTING EQUIPMENT		21,047		21,047		21,047				21,047
9	FAMILY OF HEAVY TACTICAL VEHICLES (FHTV)		242,768		251,768		251,768		9,000		251,768
	Movement tracking system, USAR				[9,000]				[9,000]		
	Movement tracking system, unspecified						[9,000]				
10	ARMORED SECURITY VEHICLES (ASV)	20	14,438	20	14,438	20	14,438			20	14,438

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
11	TRUCK, TRACTOR, LINE HAUL, M915/M916		50,829		50,829		50,829				50,829
12	TOWING DEVICE, 5TH WHEEL	40	2,005	40	2,005	40	2,005			40	2,005
13	TRUCK, TRACTOR, YARD TYPE, M878 (C/S)	50	4,884	50	4,884	50	4,884			50	4,884
14	HVY EXPANDED MOBILE TACTICAL TRUCK EXT SERV PROGRAM	652	119,854	652	119,854	652	119,854			652	119,854
15	LINE HAUL ESP										
16	MODIFICATION OF IN SVC EQUIP		73,320		73,320		73,320				73,320
17	ITEMS LESS THAN $5.0M (TAC VEH)		4,979		4,979		4,979				4,979
	Non-tactical Vehicles										
18	HEAVY ARMORED SEDAN	6	581	106	11,281	6	8,881		8,300	6	8,881
	Heavy armored sedan (Transfer from DERF)			[100 / 10,700]			[8,300]		[8,300]		
19	PASSENGER CARRYING VEHICLES		295		295		295				295
20	NONTACTICAL VEHICLES, OTHER	27	1,753	27	1,753	27	1,753			27	1,753
	Communications and Electronics Equipment										
	Comm-Joint Communications										
21	COMBAT IDENTIFICATION PROGRAM										
22	JCSE EQUIPMENT (USREDCOM)		6,120		6,120		6,120				6,120
	Comm-Satellite Communications										
23	DEFENSE SATELLITE COMMUNICATIONS SYSTEM (SPACE)		89,806		89,806		89,806				89,806

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
24	SHF TERM		33,166		33,166		33,166		-8,300		24,866
	STAR-T								[-8,300]		
25	SAT TERM, EMUT (SPACE)		2,641		2,641		2,641				2,641
26	NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE)		27,510		27,510		27,510				27,510
27	SMART-T (SPACE)		24,467		24,467		24,467				24,467
28	SCAMP (SPACE)		1,559		1,559		1,559				1,559
29	GLOBAL BRDCST SVC - GBS		11,402		11,402		11,402				11,402
30	MOD OF IN-SVC EQUIP (TAC SAT)		11,002		11,002		11,002				11,002
	Comm-C3 System										
31	ARMY GLOBAL CMD & CONTROL SYS (AGCCS)		21,149		21,149		21,149				21,149
	Comm-Combat Communications										
32	ARMY DATA DISTRIBUTION SYSTEM (DATA RADIO)		74,835		74,835		84,835				74,835
	Enhanced position locating & reporting system (EPLRS)						[10,000]				
33	SINCGARS FAMILY		30,141		113,341		30,141		27,100		57,241
	Civil support teams, ARNG (Transfer from DERF)				[22,100]				[22,100]		
	Improved HF radio, USAR				[61,100]				[5,000]		
34	TRACTOR CAGE		4,112		4,112		4,112				4,112

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
35	JOINT TACTICAL AREA COMMAND SYSTEMS		869		6,869		869				869
	AN / ARS-6 (V) COTS insertion upgrades				[6,000]						
36	ACUS MOD PROGRAM		75,905		75,905		100,905		25,000		100,905
	Warfighter information network (WIN-T)						[25,000]		[25,000]		
37	COMMS-ELEC EQUIP FIELDING		12,924		12,924		12,924				12,924
38	SOLDIER ENHANCEMENT PROGRAM COMM/ELECTRONICS		6,114		6,114		6,114				6,114
39	COMBAT SURVIVOR EVADER LOCATOR (CSEL)	1,186	16,879	1,186	16,879	1,186	16,879			1,186	16,879
40	MEDICAL COMM FOR CBT CASUALTY CARE (MC4)		4,975		4,975		4,975				4,975
	Comm-Intelligence Communications										
41	CI AUTOMATION ARCHITECTURE		1,755		1,755		1,755				1,755
	Information Security										
42	TSEC - ARMY KEY MGT SYS (AKMS)		10,150		10,150		10,150				10,150

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2003 Budget Request Qty	FY 2003 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
43	INFORMATION SYSTEM SECURITY PROGRAM ISSP		39,055		79,755		65,755		28,700		67,755
	Secure digital wireless devices (Transfer from DERF)				[3,000]		[3,000]		[3,000]		
	Intrusion Detection Systems (Transfer from DERF)				[1,700]		[1,700]		[1,700]		
	Firewalls and routers (Transfer from DERF)				[1,900]		[1,900]		[1,900]		
	Configuration management (Transfer from DERF)				[4,400]		[4,400]		[4,400]		
	COMSEC new equipment training (Transfer from DERF)				[15,700]		[15,700]		[15,700]		
	Secure terminal equipment				[14,000]				[2,000]		
	Comm-Long Haul Communications										
44	TERRESTRIAL TRANSMISSION		2,040		2,040		2,040				2,040
45	BASE SUPPORT COMMUNICATIONS		36,725		36,725		36,725				36,725
46	ARMY DISN ROUTER		6,039		6,039		6,039				6,039
47	ELECTROMAG COMP PROG (EMCP)		461		461		461				461
48	WW TECH CON IMP PROG (WWTCIP)		2,991		2,991		2,991				2,991
	Comm-Base Communications										
49	INFORMATION SYSTEMS		279,592		494,592		494,592		180,000		459,592
	Alternate relocation sites (Transfer from DERF)				[215,000]		[215,000]		[215,000]		
	Reduce excessive growth								[-35,000]		

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2003 Budget Request Qty	FY 2003 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
50	DEFENSE MESSAGE SYSTEM (DMS)		26,829		26,829		26,829				26,829
51	LOCAL AREA NETWORK (LAN)		127,244		127,244		127,244				127,244
52	PENTAGON INFORMATION MGT AND TELECOM		14,501		14,501		14,501				14,501
	Elect Equip-Nat For Int Prog (NFIP)										
53	FOREIGN COUNTERINTELLIGENCE PROG (FCI)		1,624		1,624		3,904				1,624
54	GENERAL DEFENSE INTELL PROG (GDIP)		20,258		26,252		26,252		5,994		26,252
	Classified (Transfer from DERF)				[5,994]		[5,994]		[5,994]		
	Elect Equip-Tact Int Rel Act (TIARA)										
55	ALL SOURCE ANALYSIS SYS (ASAS) (TIARA)		57,886		57,886		57,886				57,886
56	JTT/CIBS-M (TIARA)	13	4,824	13	4,824	13	4,824			13	4,824
57	PROPHET GROUND (TIARA)	46	20,226	46	35,226	46	35,226		15,000	46	35,226
	Prophet Ground (TIARA) (Transfer from DERF)				[15,000]		[15,000]		[15,000]		
58	TACTICAL UNMANNED AERIAL VEHICLE (TUAV)	12	84,290	12	95,290	12	95,290		11,000	12	95,290
	TUAV shelters/trailers (Transfer from DERF)				[9,500]		[9,500]		[9,500]		
	Hunter upgrades/interoperability (Transfer from DERF)				[1,500]		[1,500]		[1,500]		
59	ARMY COMMON GROUND STATION (CGS)		8,620		8,620		8,620				8,620

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
60	DIGITAL TOPOGRAPHIC SPT SYS (DTSS) (TIARA)		14,089		14,089		14,089				14,089
61	DRUG INTERDICTION PROGRAM (DIP) (TIARA)										
62	TACTICAL EXPLOITATION OF NATIONAL CAPABILITIES										
63	TACTICAL EXPLOITATION SYSTEM (TIARA)		17,576		17,576		17,576				17,576
64	DISTRIBUTED COMMON GRND SYSTEM (DCGS) (JMIP)		2,617		11,617		11,617		9,000		11,617
	Distributed Common Ground System (DCGS) (Transfer from DERF)				[9,000]		[9,000]		[9,000]		
65	TROJAN (TIARA)		4,873		4,873		4,873				4,873
66	MOD OF IN-SVC EQUIP (INTEL SPT) (TIARA)		1,655		1,655		1,655				1,655
67	CI HUMINT INFO MANAGEMENT SYSTEM (CHIMS) (TIARA)		9,735		9,735		9,735				9,735
68	ITEMS LESS THAN $5.0M (TIARA)		3,675		8,175		8,175		4,500		8,175
	Items Less than $5 Million (TIARA) (Transfer from DERF)				[2,000]		[2,000]		[2,000]		
	Items Less than $5.0M (TIARA) (Transfer from DERF)				[2,500]		[2,500]		[2,500]		
	Elect Equip-Electronic Warfare (EW)										
69	SHORTSTOP										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
70	COUNTERINTELLIGENCE/SECURITY COUNTERMEASURES		2,310		2,310		2,310				2,310
	Elect Equip-Tactical Surv. (TAC SURV)										
71	FAAD GBS		31		31		31				31
72	SENTINEL MODS		26,519		26,519		26,519				26,519
73	NIGHT VISION DEVICES		60,475		60,475		70,475		6,000		66,475
	AN / PVS-7 & AN / PVS-14						[10,000]		[6,000]		
74	LONG RANGE ADVANCED SCOUT SURVEILLANCE SYSTEM	105	49,927	105	49,927	105	49,927			105	49,927
75	LTWT VIDEO RECON SYSTEM (LWVRS)	476	14,318	476	14,318	476	14,318			476	14,318
76	NIGHT VISION, THERMAL WPN SIGHT	2,970	52,071	2,970	52,071	2,970	52,071			2,970	52,071
77	COMBAT IDENTIFICATION / AIMING LIGHT										
78	ARTILLERY ACCURACY EQUIP		5,402		5,402		5,402				5,402
79	MOD OF IN-SVC EQUIP (MMS)		346		346		346				346
80	MOD OF IN-SVC EQUIP (MVS)		272		272		272				272
81	PROFILER	2	4,875	2	4,875	2	4,875			2	4,875
82	MOD OF IN-SVC EQUIP (TAC SURV)		33,283		33,283		33,283				33,283
83	FORCE XXI BATTLE CMD BRIGADE & BELOW (FBCB2)	1,783	65,294	1,783	65,294	1,783	65,294			1,783	65,294

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
84	LIGHTWEIGHT LASER DESIGNATOR / RANGEFINDER (LLDR)	35	8,962	35	8,962	35	8,962			35	8,962
85	COMPUTER BALLISTICS: MORTAR M-30										
86	MORTAR FIRE CONTROL SYSTEM	113	29,794	113	29,794	113	29,794			113	29,794
87	INTEGRATED MET SYS SENSORS (IMETS) - TIARA	27	7,230	27	7,230	27	7,230			27	7,230
	Elect Equip-Tactical C2 Systems										
88	TACTICAL OPERATIONS CENTERS		42,332		42,332		42,332				42,332
89	ADV FA TAC DATA SYS / EFF CTRL SYS (AFATDS/ECS)		74,723		74,723		74,723				74,723
90	MOD OF IN-SVC EQUIP, AFATDS		2,976		2,976		2,976				2,976
91	LIGHT WEIGHT TECHNICAL FIRE DIRECTION SYS (LWTFDS)		12,413		12,413		12,413				12,413
92	CMBT SVC SUPT CONTROL SYS (CSSCS)	139	24,989	139	24,989	139	24,989			139	24,989
93	FAAD C2	2	24,779	2	24,779	2	24,779			2	24,779
94	AIR & MSL DEFENSE PLANNING & CONTROL SYS (AMDPCS)		9,750		9,750		9,750				9,750
95	FORWARD ENTRY DEVICE / LIGHTWEIGHT FED (FED/LFED)		15,125		15,125		15,125				15,125

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
96	STRIKER FAMILY	54	28,543	60	33,043	54	28,543		3,500	54	32,043
	Accelerate Strikers for enhanced readiness ARNG brigade				[6 / 4,500]				[3,500]		
97	LIFE CYCLE SOFTWARE SUPPORT (LCSS)		924		924		924				924
98	LOGTECH		7,701		7,701		7,701				7,701
99	TC AIMS II		11,496		11,496		11,496				11,496
100	GUN LAYING AND POS SYS (GLPS)		159		159		159				159
101	ISYSCON EQUIPMENT		31,366		31,366		31,366				31,366
102	JOINT NETWORK MANAGEMENT SYSTEM (JNMS)		6,868		6,868		6,868				6,868
103	TACTICAL INTERNET MANAGER		11,842		11,842		11,842				11,842
104	MANEUVER CONTROL SYSTEM (MCS)		7,584		7,584		7,584				7,584
105	STAMIS TACTICAL COMPUTERS (STACOMP)		61,304		51,304		61,304		-10,000		51,304
	GCSS-A acquisition strategy savings				[-10,000]				[-10,000]		
106	STANDARD INTEGRATED CMD POST SYSTEM		29,535		29,535		29,535				29,535
	Elect Equip-Automation										
107	ARMY TRAINING MODERNIZATION		19,233		19,233		19,233				19,233

Title I - Procurement

(Dollars in Thousands)

		FY 2003		House		Senate		Conference Agreement			
Line		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
108	AUTOMATED DATA PROCESSING EQUIP		156,546		174,046		156,546		8,000		164,546
	Automatic identification technology (AIT) - radio frequency identification (RFID):										
	Army industrial facilities				[12,300]				[4,500]		
	Prepositioned stocks				[5,200]				[3,500]		
109	RESERVE COMPONENT AUTOMATION SYS (RCAS)		68,273		68,273		68,273				68,273
	Elect Equip-Audio Visual Sys (A/V)										
110	SPECIAL INFORMATION OPERATIONS (SIO) (TIARA)										
111	AFRTS		2,523		2,523		2,523				2,523
112	ITEMS LESS THAN $5.0M (A/V)		5,756		5,756		5,756				5,756
113	ITEMS LESS THAN $5M (SURVEYING EQUIPMENT)		1,002		1,002		1,002				1,002
	Elect Equip-Support										
114	PRODUCTION BASE SUPPORT (C-E)		417		417		417				417
	Other Support Equipment										
	Chemical Defensive Equipment										
115	SMOKE & OBSCURANT FAMILY: SOF (NON AAC ITEM)		25,953		25,953		25,953				25,953

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Bridging Equipment										
116	TACTICAL BRIDGING		57,604		57,604		57,604				57,604
117	TACTICAL BRIDGE, FLOAT-RIBBON		51,237		51,237		51,237				51,237
	Engineer (Non-construction) Equipment										
118	DISPENSER, MINE M139		1,822		1,822		1,822				1,822
119	GRND STANDOFF MINE DETECTION SYSTEM (GSTAMIDS)		17,425		17,425		17,425				17,425
120	WIDE AREA MUNITIONS (REMOTE CONTROL UNIT)	278	3,223	278	3,223	278	3,223	-278	-3,223		
	Program termination							[-278 / -3,223]			
121	EXPLOSIVE ORDNANCE DISPOSAL EQPMT (EOD EQPMT)		10,965		10,965		10,965				10,965
122	ITEMS LESS THAN $5M, COUNTERMINE EQUIPMENT		686		686		686				686
123	BN COUNTERMINE SIP										
	Combat Service Support Equipment										
124	HEATERS AND ECU'S		14,824		14,824		14,824				14,824
125	LAUNDRIES, SHOWERS AND LATRINES		32,399		32,399		32,399				32,399
126	FLOODLIGHT SET, ELEC, TRL MTD, 3 LIGHTS		498		498		498				498
127	SOLDIER ENHANCEMENT		2,488		2,488		2,488				2,488

Title I - Procurement

(Dollars in Thousands)

		FY 2003		House		Senate		Conference Agreement			
Line		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
128	LIGHTWEIGHT MAINTENANCE ENCLOSURE (LME)	587	7,730	587	17,730	587	7,730			587	7,730
	LMEs for active Army				[5,000]						
	LMEs for ARNG				[5,000]						
129	FORCE PROVIDER										
130	AUTHORIZED STOCKAGE LIST MOBILITY SYSTEM (ASLMS)		2,838		2,838		2,838				2,838
131	FIELD FEEDING EQUIPMENT		21,177		21,177		21,177				21,177
132	AIRDROP PROGRAM										
133	CAMOUFLAGE: ULCANS										
134	ITEMS LESS THAN $5.0M (ENG SPT EQ)		7,918		7,918		7,918				7,918
135	ITEMS LESS THAN $5.0M (CSS EQ)										
	Petroleum Equipment										
136	FAMILY OF TANK ASSEMBLIES, FABRIC, COLLAPSIBLE										
137	QUALITY SURVEILLANCE EQUIPMENT		7,522		7,522		7,522				7,522
138	DISTRIBUTION SYSTEMS, PETROLEUM & WATER		35,280		35,280		35,280				35,280
139	INLAND PETROLEUM DISTRIBUTION SYSTEM		12,364		12,364		12,364				12,364

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Water Equipment										
140	WATER PURIFICATION SYSTEMS		18,204		18,204		18,204				18,204
	Medical Equipment										
141	COMBAT SUPPORT MEDICAL		21,003		38,003		31,703		10,500		31,503
	Rapid intravenous infusion pumps				[5,000]		[5,700]		[2,500]		
	Life support for trauma & transport (LSTAT)				[10,000]				[3,000]		
	Telemedicine instrumentation pack (TIP)				[2,000]						
	Deployable medical systems						[5,000]		[5,000]		
	Maintenance Equipment										
142	SHOP EQ CONTACT MAINTENANCE TRK MTD (MYP)	180	12,870	180	12,870	180	12,870			180	12,870
143	WELDING SHOP, TRAILER MTD	119	5,082	119	5,082	119	5,082			119	5,082
144	ITEMS LESS THAN $5.0M (MAINT EQ)		1,075		1,075		1,075				1,075
	Construction Equipment										
145	GRADER, ROAD MTZD, HVY, 6X4 (CCE)		3,854		3,854		3,854				3,854
146	SCRAPERS, EARTHMOVING		7,989		7,989		7,989				7,989
147	DISTR, WATER, SP MIN 2500G SEC/NON-SEC										
148	MISSION MODULES - ENGINEERING		19,236		19,236		19,236				19,236
149	COMPACTOR		299		299		299				299
150	LOADERS		25,365		25,365		25,365				25,365

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
151	HYDRAULIC EXCAVATOR		300		300		300				300
152	DEPLOYABLE UNIVERSAL COMBAT EARTH MOVERS		299		299		299				299
153	TRACTOR, FULL TRACKED		14,950		14,950		14,950				14,950
154	CRANES		16,333		16,333		16,333				16,333
155	CRUSHING/SCREENING PLANT, 150 TPH	2	4,495	2	4,495	2	4,495			2	4,495
156	PLANT, ASPHALT MIXING	1	2,006	1	2,006	1	2,006			1	2,006
157	ARMORED COMBAT EARTHMOVER, M9 ACE										
158	HIGH MOBILITY ENGINEER EXCAVATOR (HMEE)	16	5,014	16	5,014	16	5,014			16	5,014
159	CONST EQUIP ESP		9,567		9,567		9,567				9,567
160	ITEMS LESS THAN $5.0M (CONST EQUIP)		12,880		16,880		12,880				12,880
	Water distributors - USAR				[4,000]						
	Rail Float Containerization Equipment										
161	SMALL TUG			2	7,000			1	3,000	1	3,000
162	FLOATING CRANE, 100-250 TON										
163	LOGISTIC SUPPORT VESSEL (LSV)										
164	LOGISTICS SUPPORT VESSEL (ESP)										
165	CAUSEWAY SYSTEMS		29,673		29,673		29,673				29,673
166	ITEMS LESS THAN $5.0M (FLOAT/RAIL)		3,563		3,563		3,563				3,563

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Generators										
167	GENERATORS AND ASSOCIATED EQUIP		79,180		79,180		79,180				79,180
	Material Handling Equipment										
168	ROUGH TERRAIN CONTAINER HANDLER (RTCH)	96	49,065	96	49,065	96	49,065			96	49,065
169	ALL TERRAIN LIFTING ARMY SYSTEM	148	21,963	148	21,963	148	21,963			148	21,963
170	MHE EXTENDED SERVICE PROGRAM (ESP)	12	2,304	12	2,304	12	2,304			12	2,304
171	ROUGH-TERRAIN CONTAINER CRANE										
172	ITEMS LESS THAN $5.0M (MHE)		495		495		495				495
	Training Equipment										
173	COMBAT TRAINING CENTERS (CTC) SUPPORT		54,493		54,493		54,493				54,493
174	TRAINING DEVICES, NONSYSTEM		111,682		111,682		117,082		4,000		115,682
	Engagement skills trainer						[4,000]		[4,000]		
	Range instrumentation @ Fort Knox						[1,400]				
175	CLOSE COMBAT TACTICAL TRAINER		52,472		52,472		52,472				52,472
176	AVIATION COMBINED ARMS TACTICAL TRAINER (AVCATT)		35,915		35,915		35,915				35,915
177	FIRE SUPPORT COMBINED ARMS TACTICAL TRAINER										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Test Measure and Dig Equipment (TMD)										
178	CALIBRATION SETS EQUIPMENT		16,366		16,366		16,366				16,366
179	INTEGRATED FAMILY OF TEST EQUIPMENT (IFTE)		59,596		59,596		59,596				59,596
180	TEST.EQUIPMENT MODERNIZATION (TEMOD)		16,782		16,782		16,782				16,782
181	ARMY DIAGNOSTICS IMPROVEMENT PGM (ADIP)		7,982		7,982		7,982				7,982
	Other Support Equipment										
182	RECONFIGURABLE SIMULATORS										
183	PHYSICAL SECURITY SYSTEMS (OPA3)		227,402		658,802		231,902		344,500		571,902
	Physical Security System (Transfer from DERF)				[4,500]		[4,500]		[4,500]		
	Physical Security System (Transfer from DERF) (Transfer from OMA)				[76,900]						
	Physical Security System (Transfer from DERF) (Transfer from OMA)				[350,000]				[340,000]		
184	BASE LEVEL COM'L EQUIPMENT		12,297		12,297		12,297				12,297
185	MODIFICATION OF IN-SVC EQUIPMENT (OPA-3)		49,181		49,181		49,181				49,181
186	PRODUCTION BASE SUPPORT (OTH)		2,522		2,522		2,522				2,522
187	SPECIAL EQUIPMENT FOR USER TESTING		14,311		14,311		14,311				14,311

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
188	MA8975		4,256		43,356		43,356		39,100		43,356
	MA8975 (Transfer from DERF)				[39,100]		[39,100]		[39,100]		
189	CLOSED ACCOUNT ADJUSTMENTS										
	Spares and Repair Parts										
190	INITIAL SPARES - C&E		59,694		59,694		59,694				59,694
191	INITIAL SPARES - OTHER SUPPORT EQUIPMENT		676		676		676				676
191a	Contract services savings						-13,048		-9,210		-9,210
191b	Financial management savings						-53,200		-53,200		-53,200
	Total - Other Procurement, Army		**5,168,453**		**6,130,147**		**5,513,679**		**689,361**		**5,857,814**

Chemical Agents and Munitions Destruction, Army—Overview

The budget request for fiscal year 2003 included an authorization of $1,490.2 million for Chemical Agents & Munitions Destruction, Army in the Department of Defense.

The House bill would authorize $1,490.2 million for Chemical Agents & Munitions Destruction, Defense.

The Senate amendment would authorize $1,490.2 million for Chemical Agents & Munitions Destruction, Defense.

The conferees recommend an authorization of $1,490.2 million for Chemical Agents & Munitions Destruction, Defense. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Chemical Agents & Munitions Destruction, Army										
1	CHEM DEMILITARIZATION - O&M		974,238						-974,238		
2	CHEM DEMILITARIZATION - RDT&E		302,683						-302,683		
3	CHEM DEMILITARIZATION - PROC		213,278						-213,278		
	Total - Chemical Agents & Munitions Destruction, Army		**1,490,199**						**-1,490,199**		

Aircraft Procurement, Navy—Overview

The budget request for fiscal year 2003 included an authorization of $8,204.0 million for Aircraft Procurement, Navy in the Department of Defense.

The House bill would authorize $9,077.6 million.

The Senate amendment would authorize $9,037.2 million.

The conferees recommend an authorization of $8,979.3 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

MV–22/CV–22 Osprey aircraft advance procurement

The budget request included $60.3 million in advance procurement to support production of 13 MV–22 aircraft in fiscal year 2004 and $10.1 million in advance procurement to support production of two CV–22 aircraft in fiscal year 2004.

The House bill would authorize the budget request.

The Senate amendment would authorize a decrease of $9.2 million in Aircraft Procurement, Navy and a decrease of $10.1 million in Aircraft Procurement, Air Force. These decreases reflect support for buying a total of 11 MV–22 aircraft and no CV–22 aircraft.

Authorization of a maximum of 11 V–22 Osprey aircraft for fiscal year 2004 is consistent with section 123 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107). That provision restricts production of the V–22 (MV–22 and CV–22) to the minimum sustaining production rate until the Secretary of Defense can make certain certifications to Congress.

Given the V–22 schedule for testing, the Department of Defense has agreed that the maximum number of V–22 aircraft that it will be able to buy in fiscal year 2004 is 11. The Department of the Navy and the Department of the Air Force have asked, however, that Congress support buying nine MV–22 and two CV–22 aircraft in fiscal year 2004.

Therefore, the conferees agree to authorize a total of $41.0 million in Aircraft Procurement, Navy for advance procurement for nine MV–22 aircraft, a decrease of $19.3 million. The conferees agree to authorize the budget request for advance procurement supporting CV–22 aircraft.

The conferees do not want support for buying CV–22 aircraft in fiscal year 2004 to be interpreted as any change in their views concerning the requirements in the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107). Therefore, the conferees direct that no CV–22 Osprey aircraft be used for missions other than testing, training, or tactics development until that aircraft is in a configuration that has received the certifications required in the applicable parts of section 123 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107).

T–45 training system

The budget request included $221.8 million to purchase eight T–45C aircraft but included no funds for advance procurement to support T–45C aircraft procurement in fiscal year 2004. The projections in the Future Years Defense Program include no T–45 procurement beyond fiscal year 2003.

The House bill would authorize an increase of $10.0 million for advance procurement to support fiscal year 2004 procurement.

The Senate amendment would authorize the budget request.

The conferees agree to authorize the budget request.

The conferees understand that the Navy has stated a requirement for 234 T–45 aircraft. The Navy's inventory, however, will total only 181 aircraft after delivery of the eight aircraft to be produced with fiscal year 2003 funds.

The conferees understand that the Navy may be reconsidering the original decision to truncate production with the fiscal year 2003 procurement. Absent a change in the requirement for additional T–45C aircraft to support training requirements of the Department of the Navy, the conferees believe that the Navy should continue to buy T–45 aircraft and its associated training systems.

If the Navy decides to continue production, the conferees encourage the Department of the Navy to investigate options for acquiring additional systems in the manner most advantageous to the Government, to include adopting a multiyear procurement contracting strategy.

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2003 Budget Request Qty	FY 2003 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Aircraft Procurement, Navy										
	Combat Aircraft										
1	AV-8B (V/STOL)HARRIER (MYP)		5,953		5,953		5,953				5,953
2	F/A-18E/F (FIGHTER) HORNET (MYP)	44	3,073,233	44	3,073,233	48	3,313,233	4	225,000	48	3,298,233
	Additional aircraft						[4 / 240,000]		[4 / 240,000]		
	Cost growth -- ancillary eqpt., peculiar training eqpt., ILS								[-15,000]		
3	F/A-18E/F (FIGHTER) HORNET (MYP) (AP-CY)		86,259		86,259		86,259				86,259
4	V-22 (MEDIUM LIFT)	11	1,045,660	11	1,045,660	11	1,045,660			11	1,045,660
5	V-22 (MEDIUM LIFT) (AP-CY)		60,298		60,298		51,098		-19,300		40,998
	Buy advance procurement for 11 aircraft in FY 04						[-9,200]				
	Buy advance procurement for 9 aircraft in FY 04								[-19,300]		
6	AH-1W (HELICOPTER) SEA COBRA										
7	UH-1Y/AH-1Z										
8	MH-60S (MYP)	15	284,155	19	372,155	15	284,155			15	284,155
9	MH-60S (MYP) ADVANCE PROCUREMENT (CY)		88,000		88,000		88,000				88,000
10	MH-60R		86,871		86,871		91,871		5,000		91,871
	Airborne low frequency sonar (ALFS) nonrecurring costs						[5,000]		[5,000]		
11	MH-60R ADVANCE PROCUREMENT (CY)		29,341		29,341		29,341				29,341

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
12	E-2C (EARLY WARNING) HAWKEYE (MYP)	5	267,851	5	267,851	5	267,851			5	267,851
13	E-2C (EARLY WARNING) HAWKEYE (MYP) (AP-CY)		27,600		27,600		27,600				27,600
	Airlift Aircraft										
14	MH-60S (MYP)										
15	MH-60S (MYP) ADVANCE PROCUREMENT (CY)										
16	UC-35			1	8,300			1	8,300	1	8,300
	Additional aircraft				[1 / 8,300]				[1 / 8,300]		
17	C-40A										
18	C-37										
	Trainer Aircraft										
19	T-45TS (TRAINER) GOSHAWK	8	221,381	8	221,381	8	221,381			8	221,381
20	T-45TS (TRAINER) GOSHAWK (AP-CY)				10,000						
21	JPATS			10	60,000	6	46,000	6	42,500	6	42,500
	Additional aircraft				[10 / 60,000]		[6 / 39,000]		[6 / 39,000]		
	Operational flight trainers						[7,000]		[3,500]		
	Other Aircraft										
22	KC-130J			4	334,000	4	334,000	4	334,000	4	334,000
	KC-130J (Transfer from DERF)				[4 / 334,000]		[4 / 334,000]		[4 / 334,000]		

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Modification of Aircraft										
23	EA-6 SERIES		223,527		327,527		337,527		44,000		267,527
	Wing center sections				[40,000]		[40,000]		[9,000]		
	Band 9/10 transmitters				[29,000]		[37,000]		[20,000]		
	USQ-113 communications jammers / receivers				[35,000]		[37,000]		[15,000]		
24	AV-8 SERIES		32,232		93,032		87,232		40,000		72,232
	Engine life management plan				[5,800]						
	Litening AT targeting pods				[55,000]				[40,000]		
	Litening II targeting pods						[55,000]				
25	F-14 SERIES		3,712		3,712		3,712				3,712
26	ADVERSARY		10,475		10,475		10,475				10,475
27	F-18 SERIES		421,704		421,704		446,704		25,000		446,704
	ECP-583 upgrade for USMC F/A-18A aircraft						[25,000]		[25,000]		
28	H-46 SERIES		67,193		67,193		67,193				67,193
29	AH-1W SERIES		10,211		10,211		10,211				10,211
30	H-53 SERIES		22,517		22,517		22,517				22,517
31	SH-60 SERIES		15,419		70,419		15,419				15,419
	Link 16				[55,000]						

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
32	H-1 SERIES		1,825		16,825		1,825		7,000		8,825
	AN / AAQ-22 night thermal imaging system (NTIS)				[15,000]				[7,000]		
33	H-3 SERIES										
34	EP-3 SERIES		26,061		48,561		48,561		22,500		48,561
	EP-3E COMINT/ ELINT Upgrades (Transfer from DERF)				[22,500]		[22,500]		[22,500]		
35	P-3 SERIES		102,698		144,698		116,698		37,000		139,698
	Additional anti-surface warfare improvement program (AIP) kit				[27,000]		[14,000]		[26,000]		
	Advanced multiband optical surveillance system (AMOSS)				[9,000]				[5,000]		
	CNS / ATM				[6,000]				[6,000]		
36	S-3 SERIES		45,130		45,130		45,130				45,130
37	E-2 SERIES		17,195		81,195		17,195				17,195
	Hawkeye 2000 upgrades				[64,000]						
38	TRAINER A/C SERIES		2,844		2,844		2,844				2,844
39	C-2A		29,819		29,819		29,819				29,819
40	C-130 SERIES		6,263		6,263		6,263				6,263
41	FEWSG		606		606		606				606
42	CARGO/TRANSPORT A/C SERIES		3,819		3,819		3,819				3,819

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
43	E-6 SERIES		57,099		57,099		57,099				57,099
44	EXECUTIVE HELICOPTERS SERIES		10,157		16,157		16,157		6,000		16,157
	VH-3D/VH-60D Comm Upgrade (Transfer from DERF)				[6,000]		[6,000]		[6,000]		
45	SPECIAL PROJECT AIRCRAFT				4,000		4,000		4,000		4,000
	APEX GOLD (Transfer from DERF)				[4,000]		[4,000]		[4,000]		
46	T-45 SERIES		28,246		28,246		28,246				28,246
47	POWER PLANT CHANGES		13,673		13,673		13,673				13,673
48	COMMON ECM EQUIPMENT		28,006		28,006		28,006				28,006
49	COMMON AVIONICS CHANGES		63,228		63,228		63,228				63,228
50	V-22 (TILT/ROTOR ACFT) OSPREY		4,961		4,961		4,961				4,961
	Aircraft Spares and Repair Parts										
51	SPARES AND REPAIR PARTS		1,116,535		1,116,535		1,116,535				1,116,535
	Aircraft Support Equipment and Facilities										
52	COMMON GROUND EQUIPMENT		442,330		442,330		427,330				442,330
	Fleet aircrew simulator training						[-15,000]				
53	AIRCRAFT INDUSTRIAL FACILITIES		18,112		18,112		18,112				18,112
54	WAR CONSUMABLES		12,079		12,079		12,079				12,079
55	INDUSTRIAL FACILITIES		25,309		25,309		25,309				25,309
56	SPECIAL SUPPORT EQUIPMENT		62,725		62,725		62,725				62,725

Title I - Procurement

(Dollars in Thousands)

		FY 2003		House		Senate		Conference Agreement			
Line		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
57	FIRST DESTINATION TRANSPORTATION		1,643		1,643		1,643				1,643
58	CANCELLED ACCOUNT ADJUSTMENTS										
58a	Contract services savings						-8,046		-5,680		-5,680
	Total - Aircraft Procurement, Navy		**8,203,955**		**9,077,555**		**9,037,209**		**775,320**		**8,979,275**

Weapons Procurement, Navy—Overview

The budget request for fiscal year 2003 included an authorization of $1,832.6 million for Weapons Procurement, Navy in the Department of Defense.

The House bill would authorize $2,514.6 million.

The Senate amendment would authorize $2,505.8 million.

The conferees recommend an authorization of $2,375.3 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Weapons Procurement, Navy										
	Ballistic Missiles										
1	TRIDENT II	12	585,916	12	585,916	12	585,916			12	585,916
2	ADVANCE PROCUREMENT (CY)										
	Support Equipment and Facilities										
3	MISSILE INDUSTRIAL FACILITIES		1,318		1,318		1,318				1,318
	Other Missiles										
	Strategic Missiles										
4	TOMAHAWK	106	145,820	106	765,820	890	743,820	95	517,000	201	662,820
	Tomahawk Remanufacture (Transfer from DERF)				[598,000]		[598,000]		[392,000]		
	Tactical Tomahawk missiles								[95 / 103,000]		
	Tooling equipment to increase production rate to 600 per year				[22,000]				[22,000]		
5	ESSM	146	129,550	146	129,550	146	129,550			146	129,550
	Tactical Missiles										
6	AMRAAM	100	50,937	100	50,937	100	50,937			100	50,937
7	SIDEWINDER	295	53,250	295	53,250	295	53,250			295	53,250
8	JSOW	363	139,537	363	139,537	363	139,537			363	139,537
9	SLAM-ER	120	83,781	120	83,781	120	83,781			120	83,781
10	STANDARD MISSILE	93	156,423	93	156,423	93	156,423			93	156,423

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
11	RAM	90	58,379	90	58,379	90	58,379			90	58,379
12	HELLFIRE				40,000		15,000				
	Hellfire II				[40,000]						
	Hellfire - unspecified						[15,000]				
13	AERIAL TARGETS		70,332		70,332		70,332				70,332
14	DRONES AND DECOYS										
15	OTHER MISSILE SUPPORT		12,039		12,039		12,039				12,039
	Modification of Missiles										
16	SIDEWINDER MODS		595		595		595				595
17	HARM MODS		4,959		4,959		4,959				4,959
18	STANDARD MISSILES MODS	90	56,163	90	56,163	90	56,163			90	56,163
	Support Equipment and Facilities										
19	WEAPONS INDUSTRIAL FACILITIES		17,662		17,662		37,662				17,662
	Allegany Ballistics Lab facilities restoration						[20,000]				
20	FLEET SATELLITE COMM (MYP) (SPACE)										
21	FLEET SATELLITE COMM FOLLOW-ON										
	Ordnance Support Equipment										
22	ORDNANCE SUPPORT EQUIPMENT		5,422		5,422		5,422				5,422
22a	USMC Shadow Upgrades (Transfer from DERF)				15,000		15,000				

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Torpedoes and Related Equipment										
	Torpedoes and Related Equipment										
23	ASW TARGETS		14,330		14,330		14,330				14,330
	Mod of Torpedoes and Related Equipment										
24	MK-46 TORPEDO MODS		38,783		38,783		38,783				38,783
25	MK-48 TORPEDO ADCAP MODS		62,124		62,124		62,124				62,124
26	QUICKSTRIKE MINE		2,025		2,025		2,025				2,025
	Support Equipment										
27	TORPEDO SUPPORT EQUIPMENT		25,132		25,132		25,132				25,132
28	ASW RANGE SUPPORT		14,477		14,477		14,477				14,477
	Destination Transportation										
29	FIRST DESTINATION TRANSPORTATION		2,751		2,751		2,751				2,751
	Other Weapons										
	Guns and Gun Mounts										
30	SMALL ARMS AND WEAPONS		2,856		9,856		9,856		7,000		9,856
	Coast Guard Small Arms Procurement (Transfer from DERF)				[3,000]		[3,000]		[3,000]		
	Physical Security Equipment (Transfer from DERF)				[4,000]		[4,000]		[4,000]		
31	AIRBORNE MINE NEUTRALIZATION SYSTEMS		1,539		1,539		1,539				1,539
	Modification of Guns and Gun Mounts										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
32	CIWS MODS		32,226		32,226		37,226		5,000		37,226
	Additional CIWS Block IB upgrades						[5,000]		[5,000]		
33	GUN MOUNT MODS		8,351		8,351		23,351				8,351
	MK 45 gun rework for cruiser conversion program						[10,000]				
	MK 38 guns to support the Coast Guard						[5,000]				
	Other										
34	CANCELLED ACCOUNT ADJUSTMENTS										
35	CANCELLED ACCOUNT ADJUSTMENTS										
36	CANCELLED ACCOUNT ADJ (89)										
37	JUDGMENT FUND										
37a	Tactical UAV - Pioneer								15,000		15,000
	USMC Shadow Upgrades (Transfer from DERF)								[15,000]		
	Spares and Repair Parts										
38	SPARES AND REPAIR PARTS		55,940		55,940		55,940				55,940
38a	Contract services savings						-1,797		-1,268		-1,268
	Total - Weapons Procurement, Navy		**1,832,617**		**2,514,617**		**2,505,820**		**542,732**		**2,375,349**

Procurement of Ammunition, Navy and Marine Corps—Overview

The budget request for fiscal year 2003 included an authorization of $1,015.2 million for Procurement of Ammunition, Navy and Marine Corps in the Department of Defense.

The House bill would authorize $1,200.1 million.

The Senate amendment would authorize $1,173.2 million.

The conferees recommend an authorization of $1,170.8 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2003		House		Senate		Conference Agreement			
Line		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement of Ammunition, Navy & Marine Corps										
	Navy Ammunition										
1	GENERAL PURPOSE BOMBS		243,395		304,695		304,695		61,300		304,695
	Laser Guided Bomb (LGB) kits (Transfer from DERF)				[25,000]		[25,000]		[25,000]		
	Laser Guided Bomb training kits (Transfer from DERF)				[36,300]		[36,300]		[36,300]		
2	JDAM	9,880	225,992	12,280	279,992	12,280	279,992	2,400	54,000	12,280	279,992
	JDAM Kits (Transfer from DERF)				[2,400 / 54,000]		[2,400 / 54,000]		[2,400 / 54,000]		
3	AIRBORNE ROCKETS, ALL TYPES		28,979		52,279		52,279		23,300		52,279
	2.75" Airborne Rockets (Transfer from DERF)				[23,300]		[23,300]		[23,300]		
4	MACHINE GUN AMMUNITION		26,375		30,875		30,875		4,500		30,875
	PGU-27/PGU-28 machine gun ammunition (Transfer from DERF)				[4,500]		[4,500]		[4,500]		
5	PRACTICE BOMBS		65,623		65,623		65,623				65,623
6	CARTRIDGES & CART ACTUATED DEVICES		26,355		26,355		26,355				26,355
7	AIRCRAFT ESCAPE ROCKETS		10,767		10,767		10,767				10,767
8	AIR EXPENDABLE COUNTERMEASURES		38,856		38,856		38,856				38,856
9	JATOS		4,536		4,536		4,536				4,536

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
10	5 INCH/54 GUN AMMUNITION		12,252		12,252		12,252				12,252
11	EXTENDED RANGE GUIDED MUNITIONS (ERGM)		4,022		4,022		4,022				4,022
12	76MM GUN AMMUNITION		8,342		8,342		8,342				8,342
13	OTHER SHIP GUN AMMUNITION		10,045		10,045		10,045				10,045
14	SMALL ARMS & LANDING PARTY AMMO		19,004		20,004		20,004		1,000		20,004
	Coast Guard Small Arms Ammunition (Transfer from DERF)				[1,000]		[1,000]		[1,000]		
15	PYROTECHNIC AND DEMOLITION		10,338		10,338		10,338				10,338
16	MINE NEUTRALIZATION DEVICES		2,725		2,725		2,725				2,725
17	AMMUNITION LESS THAN $5 MILLION		1,212		1,212		3,112		1,900		3,112
	MK-58 marine location markers (Transfer from DERF)						[1,900]		[1,900]		
18	CAWCF CLOSURE COSTS										
	Marine Corps Ammunition										
19	5.56 MM, ALL TYPES		31,600		31,600		31,600				31,600
20	7.62 MM, ALL TYPES		7,078		8,378		7,078				7,078
	7.62 linked				[1,300]						
21	LINEAR CHARGES, ALL TYPES		40,623		40,623		40,623				40,623
22	.50 CALIBER		10,514		12,814		10,814		300		10,814

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2003 Budget Request Qty	FY 2003 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	.50 cal linked				[2,300]				[300]		
	.50 cal SLAP						[300]				
23	40 MM, ALL TYPES		11,909		11,909		11,909				11,909
24	60MM, ALL TYPES		2,199		2,199		2,199				2,199
25	81MM, ALL TYPES		31,412		31,412		31,412				31,412
26	120MM, ALL TYPES		35,117		45,117		43,817		10,000		45,117
	120mm HEAT-MP-T				[10,000]				[10,000]		
	120mm HEAT						[8,700]				
27	CTG 25MM, ALL TYPES		6,641		6,641		6,641				6,641
28	9 MM ALL TYPES		1,983		1,983		1,983				1,983
29	GRENADES, ALL TYPES		11,357		11,357		11,357				11,357
30	STINGER SLEP		1,577		1,577		1,577				1,577
31	ROCKETS, ALL TYPES		18,854		28,854		18,854				18,854
	84mm AT-4 M136 cartridges				[10,000]						
32	ARTILLERY, ALL TYPES		46,750		55,750		50,750				46,750
	155MM HE M795				[9,000]		[4,000]				
33	DEMOLITION MUNITIONS, ALL TYPES		4,089		4,089		4,089				4,089
34	FUZE, ALL TYPES		620		620		620				620
35	NON LETHALS		5,406		11,706		5,406				5,406

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2003 Budget Request Qty	FY 2003 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Non-lethal ammunition				[6,300]						
36	AMMO MODERNIZATION		6,990		6,990		6,990				6,990
37	ITEMS LESS THAN $5 MILLION		1,616		3,516		1,616				1,616
	MK-58 marine location markers (Transfer from DERF)				[1,900]						
38	CAWCF CLOSURE COSTS										
38a	Contract services savings						-996		-703		-703
	Total - Procurement of Ammunition, Navy & Marine Corps		**1,015,153**		**1,200,053**		**1,173,157**		**155,597**		**1,170,750**

Shipbuilding and Conversion, Navy—Overview

The budget request for fiscal year 2003 included an authorization of $8,191.2 million for Shipbuilding and Conversion, Navy in the Department of Defense.

The House bill would authorize $9,279.5 million.

The Senate amendment would authorize $9,314.2 million.

The conferees recommend an authorization of $9,111.0 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Shipbuilding and Conversion, Navy										
	Other Warships										
1	CARRIER REPLACEMENT PROGRAM										
2	CARRIER REPLACEMENT PROGRAM (AP-CY)		243,703		472,703		472,703		229,000		472,703
	Accelerate CVNX to original schedule				[229,000]		[229,000]		[229,000]		
3	VIRGINIA CLASS SUBMARINE	1	1,512,652	1	1,512,652	1	1,512,652			1	1,512,652
4	VIRGINIA CLASS SUBMARINE (AP-CY)		706,309		706,309		1,121,309				706,309
	Additional advance procurement to increase production rate						[415,000]				
5	SSGN CONVERSION	2	404,305	2	404,305	2	404,305			2	404,305
6	SSGN ADVANCE PROCUREMENT (CY)		421,000		421,000		421,000				421,000
7	CRUISER CONVERSION ADVANCE PROCUREMENT (CY)										
8	CVN REFUELING OVERHAULS				24,000				24,000		24,000
	Fund deferred habitability work for CVN-69 RCOH				[24,000]				[24,000]		
9	CVN REFUELING OVERHAULS (AP-CY)		296,781		296,781		296,781				296,781
10	SUBMARINE REFUELING OVERHAULS	1	271,292	1	271,292	2	471,292		162,500	1	433,792
	Refuel rather than retire an SSN-688						[200,000]		[200,000]		
	Mispricing of FY 02 advance procurement								[-37,500]		
11	SUBMARINE REFUELING OVERHAULS (AP-CY)		88,257		88,257		88,257				88,257

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
12	DDG-51	2	2,295,502	2	2,295,502	2	2,295,502			2	2,295,502
13	DDG-51 (AP-CY)		74,000		74,000		199,000				74,000
	Additional advance procurement						[125,000]				
13a	Shipbuilding Initiative				810,000						
	Amphibious Ships										
14	LHD-1 AMPHIBIOUS ASSAULT SHIP		243,000		243,000		243,000				243,000
15	LHD-1 AMPHIBIOUS ASSAULT SHIP (AP-CY)		10,000		10,000				-10,000		
	Transfer to LHA[R] R&D -- RDN 127 (PE 64567N)						[-10,000]		[-10,000]		
16	LPD-17	1	596,492	1	596,492	1	596,492			1	596,492
17	LPD-17 (AP-CY)		8,000		8,000		158,000				8,000
	Additional advance procurement						[150,000]				
	Auxiliaries, Craft and Prior Year Program Costs										
18	TAGOS SURTASS SHIPS										
19	T-AKE-1										
20	LCU(X)		6,756	2	12,756		6,756	1	3,000	1	9,756
	Yard oilers				[2 / 6,000]				[1 / 3,000]		
21	OUTFITTING		300,608		300,608		300,608				300,608

Title I - Procurement

(Dollars in Thousands)

		FY 2003		House		Senate		Conference Agreement			
Line		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
22	LCAC SLEP	3	67,638	3	78,638	4	89,638	1	22,000	4	89,638
	LCAC buoyancy box				[11,000]						
	SLEP an additional craft						[22,000]		[22,000]		
23	MINE HUNTER			2	8,300			2	7,000	2	7,000
	SWATH minehunter				[2 / 8,300]				[2 / 7,000]		
24	COMPLETION OF PY SHIPBUILDING PROGRAMS		644,899		644,899		644,899		488,000		1,132,899
	VA Class								[213,000]		
	DDG-51 Class										
	Other prior year costs								[125,000]		
	LPD-17 Class										
	Other prior year costs								[150,000]		
24a	Contract services savings						-8,034		-5,671		-5,671
	Total - Shipbuilding and Conversion, Navy		**8,191,194**		**9,279,494**		**9,314,160**		**919,829**		**9,111,023**

Other Procurement, Navy—Overview

The budget request for fiscal year 2003 included an authorization of $4,347.0 million for Other Procurement, Navy in the Department of Defense.

The House bill would authorize $4,527.8 million.

The Senate amendment would authorize $4,514.5 million.

The conferees recommend an authorization of $4,494.8 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Procurement, Navy										
	Ships Support Equipment										
	Ship Propulsion Equipment										
1	LM-2500 GAS TURBINE		9,402		9,402		9,402				9,402
2	ALLISON 501K GAS TURBINE		13,710		13,710		13,710				13,710
	Propellers										
3	SUBMARINE PROPELLERS		10,641		10,641		10,641				10,641
	Navigation Equipment										
4	OTHER NAVIGATION EQUIPMENT		25,828		25,828		25,828				25,828
	Underway Replenishment Equipment										
5	UNDERWAY REPLENISHMENT EQUIPMENT		1,460		1,460		1,460				1,460
	Periscopes										
6	SUB PERISCOPES & IMAGING EQUIPMENT		31,401		31,401		31,401				31,401
	Other Shipboard Equipment										
7	FIREFIGHTING EQUIPMENT		21,534		21,534		21,534				21,534
8	COMMAND AND CONTROL SWITCHBOARD		7,377		7,377		7,377				7,377
9	POLLUTION CONTROL EQUIPMENT		67,502		67,502		67,502				67,502
10	SUBMARINE SUPPORT EQUIPMENT		18,195		18,195		18,195				18,195
11	SUBMARINE BATTERIES		13,996		13,996		13,996				13,996

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
12	STRATEGIC PLATFORM SUPPORT EQUIPMENT		26,692		26,692		26,692				26,692
13	DSSP EQUIPMENT		21,215		21,215		21,215				21,215
14	LCAC		5,105		5,105		5,105				5,105
15	MINESWEEPING EQUIPMENT		3,865		3,865		3,865				3,865
16	ITEMS LESS THAN $5 MILLION		123,449		123,449		145,449		11,000		134,449
	Stainless steel sanitary spaces						[6,000]				
	Integrated condition assessment system (ICAS)						[11,000]		[8,000]		
	Integrated bridge system						[5,000]		[3,000]		
17	SURFACE IMA										
18	SUBMARINE LIFE SUPPORT SYSTEM		3,675		3,675		3,675				3,675
	Reactor Plant Equipment										
19	REACTOR POWER UNITS		336,500		336,500		336,500				336,500
20	REACTOR COMPONENTS		211,020		211,020		211,020				211,020
	Ocean Engineering										
21	DIVING AND SALVAGE EQUIPMENT		7,726		7,726		7,726				7,726
	Small Boats										
22	STANDARD BOATS		33,832		33,832		33,832				33,832
	Training Equipment										
23	OTHER SHIPS TRAINING EQUIPMENT		1,799		1,799		1,799				1,799

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Production Facilities and Equipment										
24	OPERATING FORCES IPE		17,134		22,134		17,134		4,000		21,134
	Expeditionary maintenance facility				[5,000]				[4,000]		
	Other Ship Support										
25	NUCLEAR ALTERATIONS		128,543		128,543		128,543				128,543
	Drug Interdiction Support										
26	DRUG INTERDICTION SUPPORT										
	Communications and Electronics Equipment										
	Ship Radars										
27	RADAR SUPPORT										
	Ship Sonars										
28	AN/SQQ-89 SURF ASW COMBAT SYSTEM		24,247		24,247		24,247				24,247
29	SSN ACOUSTICS		251,909		251,909		251,909		-15,000		236,909
	TB-29A program delays								[-15,000]		
30	UNDERSEA WARFARE SUPPORT EQUIPMENT		3,775		3,775		3,775				3,775
31	SURFACE SONAR WINDOWS AND DOME										
32	SONAR SWITCHES AND TRANSDUCERS		16,348		16,348		16,348				16,348
	ASW Electronic Equipment										
33	SUBMARINE ACOUSTIC WARFARE SYSTEM		21,686		21,686		21,686				21,686

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
34	FIXED SURVEILLANCE SYSTEM		62,090		62,090		62,090				62,090
35	SURTASS		20,639		20,639		20,639				20,639
36	ASW OPERATIONS CENTER		5,109		5,109		5,109				5,109
	Electronic Warfare Equipment										
37	AN/SLQ-32		1,856		1,856		1,856				1,856
38	AIEWS		15,808						-15,808		
	Program cancellation				[-15,808]		[-15,808]		[15,808]		
39	INFORMATION WARFARE SYSTEMS		5,158		7,158		7,158		2,000		7,158
	TARBS,(Transfer from DERF)				[2,000]				[2,000]		
	Navy Cover and Deception Program (Transfer from DERF)						[2,000]				
	Reconnaissance Equipment										
40	SHIPBOARD IW EXPLOIT		77,066		87,066		87,066		10,000		87,066
	Communications data link (Transfer from DERF)				[10,000]						
	Electronic Warfare (EW) Readiness Support (Transfer from DERF)						[10,000]		[10,000]		
	Submarine Surveillance Equipment										
41	SUBMARINE SUPPORT EQUIPMENT PROGRAM		89,508		89,508		89,508				89,508
	Other Ship Electronic Equipment										
42	NAVY TACTICAL DATA SYSTEM										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
43	COOPERATIVE ENGAGEMENT CAPABILITY		66,736		66,736		66,736				66,736
44	GCCS-M EQUIPMENT		55,188		55,188		55,188				55,188
45	NAVAL TACTICAL COMMAND SUPPORT SYSTEM (NTCSS)		46,818		46,818		46,818				46,818
46	ATDLS		7,608		7,608		7,608				7,608
47	MINESWEEPING SYSTEM REPLACEMENT		1,974		1,974		1,974				1,974
48	SHALLOW WATER MCM										
49	NAVSTAR GPS RECEIVERS (SPACE)		11,402		11,402		11,402				11,402
50	ARMED FORCES RADIO AND TV		4,186		4,186		4,186				4,186
51	STRATEGIC PLATFORM SUPPORT EQUIP		21,353		21,353		21,353				21,353
	Training Equipment										
52	OTHER SPAWAR TRAINING EQUIPMENT		1,001		1,001		1,001				1,001
53	OTHER TRAINING EQUIPMENT		15,430		21,430		15,430				15,430
	Battle force tactical training - radar trainer for Aegis ships				[6,000]						
	Aviation Electronic Equipment										
54	MATCALS		14,318		14,318		14,318				14,318
55	SHIPBOARD AIR TRAFFIC CONTROL		7,815		7,815		7,815				7,815
56	AUTOMATIC CARRIER LANDING SYSTEM		17,447		17,447		17,447				17,447
57	NATIONAL AIR SPACE SYSTEM		20,000		20,000		20,000				20,000

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
58	AIR STATION SUPPORT EQUIPMENT		7,012		7,012		7,012				7,012
59	MICROWAVE LANDING SYSTEM										
60	FACSFAC		4,356		4,356		4,356				4,356
61	ID SYSTEMS		32,633		32,633		32,633				32,633
62	SURFACE IDENTIFICATION SYSTEMS										
63	TAC A/C MISSION PLANNING SYS(TAMPS)		6,597		6,597		6,597				6,597
	Other Shore Electronic Equipment										
64	TADIX-B										
65	NAVAL SPACE SURVEILLANCE SYSTEM		2,062		2,062		2,062				2,062
66	DIMHRS		4,675		4,675		4,675				4,675
67	COMMON IMAGERY GROUND SURFACE SYSTEMS		52,432		52,432		52,432				52,432
68	RADIAC		8,015		8,015		8,015				8,015
69	GPETE		6,700		6,700		6,700				6,700
70	INTEG COMBAT SYSTEM TEST FACILITY		4,498		4,498		4,498				4,498
71	EMI CONTROL INSTRUMENTATION		5,409		5,409		5,409				5,409
72	ITEMS LESS THAN $5 MILLION		9,037		9,037		9,037				9,037
	Shipboard Communications										
73	SHIP COMMUNICATIONS AUTOMATION		161,235		161,235		161,235				161,235
74	COMMUNICATIONS ITEMS UNDER $5M		16,307		16,307		16,307				16,307

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Submarine Communications										
75	SHORE LF/VLF COMMUNICATIONS		5,427		5,427		5,427				5,427
76	SUBMARINE COMMUNICATION EQUIPMENT		132,874		132,874		132,874		-5,000		127,874
	Installation costs								[-5,000]		
	Satellite Communications										
77	SATELLITE COMMUNICATIONS SYSTEMS		149,636		149,636		149,636				149,636
	Shore Communications										
78	JCS COMMUNICATIONS EQUIPMENT		4,256		4,256		4,256				4,256
79	ELECTRICAL POWER SYSTEMS		1,270		1,270		1,270				1,270
80	NSIPS		12,281		12,281		12,281				12,281
81	JEDMICS						3,000		3,000		3,000
	Ensure engineering & tech data matches deployed systems						[3,000]		[3,000]		
82	NAVAL SHORE COMMUNICATIONS		96,592		96,592		96,592				96,592
	Cryptographic Equipment										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
83	INFO SYSTEMS SECURITY PROGRAM (ISSP)		78,473		89,873		89,873		11,400		89,873
	Secure Wireless Communications Equipment (Transfer from DERF)				[3,000]		[3,000]		[3,000]		
	Computer Network Defense (Transfer from DERF)				[4,600]		[4,600]		[4,600]		
	Enclave boundaries (Transfer from DERF)				[2,000]		[2,000]		[2,000]		
	Intrusion detection system (Transfer from DERF)				[1,800]		[1,800]		[1,800]		
	Cryptologic Equipment										
84	SPECIAL DCP										
85	CRYPTOLOGIC COMMUNICATIONS EQUIPMENT		18,659		20,159		20,159		1,500		20,159
	Cryptologic Direct Support (Transfer from DERF)				[1,500]		[1,500]		[1,500]		
	Other Electronic Support										
86	COAST GUARD EQUIPMENT		39,789		43,789		43,789		4,000		43,789
	Coast Guard Support Night Vision Devices (NVDs) (Transfer from DERF)				[4,000]		[4,000]		[4,000]		
	Drug Interdiction Support										
87	OTHER DRUG INTERDICTION SUPPORT										
	Aviation Support Equipment										
	Sonobuoys										
88	SONOBUOYS - ALL TYPES		63,277		63,277		63,277				63,277

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Aircraft Support Equipment										
89	WEAPONS RANGE SUPPORT EQUIPMENT		7,733		7,733		7,733				7,733
90	EXPEDITIONARY AIRFIELDS		7,540		7,540		7,540				7,540
91	AIRCRAFT REARMING EQUIPMENT		11,894		11,894		11,894				11,894
92	AIRCRAFT LAUNCH & RECOVERY EQUIPMENT		19,355		19,355		19,355				19,355
93	METEOROLOGICAL EQUIPMENT		27,085		27,085		27,085				27,085
94	OTHER PHOTOGRAPHIC EQUIPMENT		1,572		1,572		1,572				1,572
95	AVIATION LIFE SUPPORT		25,676		25,676		25,676				25,676
96	AIRBORNE MINE COUNTERMEASURES		19,499		19,499		19,499				19,499
97	LAMPS MK III SHIPBOARD EQUIPMENT		5,488		5,488		5,488				5,488
98	OTHER AVIATION SUPPORT EQUIPMENT		12,440		15,440		12,440		2,000		14,440
	Resource allocation management plan (RAMP)				[3,000]				[2,000]		
	Ordnance Support Equipment										
	Ship Gun System Equipment										
99	GUN FIRE CONTROL EQUIPMENT		27,108		46,808		35,108		9,000		36,108
	Additional AN / SPQ-9B radars				[19,700]						
	Additional AN / SPQ-9B radars to accelerate DDG-51 deployment								[9,000]		
	AN / SPQ-9B solid state transmitter						[8,000]				
100	NAVAL FIRES CONTROL SYSTEM		5,690		5,690		5,690				5,690

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Ship Missile System Equipment										
101	NATO SEASPARROW		41,408		41,408		41,408				41,408
102	RAM GMLS		23,893		23,893		23,893				23,893
103	SHIP SELF DEFENSE SYSTEM		47,226		47,226		47,226				47,226
104	AEGIS SUPPORT EQUIPMENT		155,654		155,654		157,654				155,654
	Food service technology						[2,000]				
105	SURFACE TOMAHAWK SUPPORT EQUIPMENT		53,614		53,614		53,614				53,614
106	SUBMARINE TOMAHAWK SUPPORT EQUIPMENT		5,262		5,262		5,262				5,262
107	VERTICAL LAUNCH SYSTEMS		6,483		6,483		6,483				6,483
	FBM Support Equipment										
108	STRATEGIC PLATFORM SUPPORT EQUIPMENT										
109	STRATEGIC MISSILE SYSTEMS EQUIPMENT		75,006		75,006		75,006				75,006
	ASW Support Equipment										
110	SSN COMBAT CONTROL SYSTEMS		46,319		46,319		56,319		10,000		56,319
	Accelerate older system replacement						[10,000]		[10,000]		
111	SUBMARINE ASW SUPPORT EQUIPMENT		7,538		7,538		7,538				7,538
112	SURFACE ASW SUPPORT EQUIPMENT		3,460		3,460		3,460				3,460
113	ASW RANGE SUPPORT EQUIPMENT		7,350		7,350		7,350				7,350

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2003 Budget Request Qty	FY 2003 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
	Other Ordnance Support Equipment										
114	EXPLOSIVE ORDNANCE DISPOSAL EQUIPMENT		7,806		7,806		7,806				7,806
115	ITEMS LESS THAN $5 MILLION		3,770		3,770		3,770				3,770
116	ANTI-SHIP MISSILE DECOY SYSTEM		27,976		27,976		38,776		10,800		38,776
	Additional NULKA decoys						[10,800]		[10,800]		
117	SURFACE TRAINING DEVICE MODS		6,557		6,557		6,557				6,557
118	SUBMARINE TRAINING DEVICE MODS		17,264		17,264		22,264		4,000		21,264
	Equipment for deployed training						[5,000]		[4,000]		
	Civil Engineering Support Equipment										
	Civil Engineering Support Equipment										
119	ARMORED SEDANS		481		481		481				481
120	PASSENGER CARRYING VEHICLES		2,538		2,538		2,538				2,538
121	GENERAL PURPOSE TRUCKS		1,972		1,972		1,972				1,972
122	CONSTRUCTION & MAINTENANCE EQUIPMENT		9,113		9,113		9,113				9,113
123	FIRE FIGHTING EQUIPMENT		6,284		6,284		6,284				6,284
124	TACTICAL VEHICLES		42,238		42,238		42,238				42,238
125	AMPHIBIOUS EQUIPMENT		47,193		47,193		47,193				47,193
126	DRUG INTERDICTION (BA 5)										
127	POLLUTION CONTROL EQUIPMENT		20,734		20,734		20,734				20,734

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2003 Budget Request Qty	FY 2003 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
128	ITEMS UNDER $5 MILLION		14,963		14,963		14,963				14,963
	Supply Support Equipment										
	Supply Support Equipment										
129	MATERIALS HANDLING EQUIPMENT		9,504		9,504		9,504				9,504
130	OTHER SUPPLY SUPPORT EQUIPMENT		10,959		18,959		10,959		6,000		16,959
	Serial number tracking system				[8,000]				[6,000]		
131	FIRST DESTINATION TRANSPORTATION		5,053		5,053		5,053				5,053
132	SPECIAL PURPOSE SUPPLY SYSTEMS		141,431		155,395		155,395		13,964		155,395
	Special Purpose Supply Equip. (Transfer from DERF)				[13,064]		[13,064]		[13,064]		
	Special Purpose Supply Equip. (Transfer from DERF)				[900]		[900]		[900]		
	Personnel and Command Support Equipment										
	Training Devices										
133	TRAINING SUPPORT EQUIPMENT		707		707		707				707
	Command Support Equipment										
134	COMMAND SUPPORT EQUIPMENT		34,770		34,770		34,770				34,770
135	EDUCATION SUPPORT EQUIPMENT		7,095		7,095		7,095				7,095
136	MEDICAL SUPPORT EQUIPMENT		9,145		9,145		9,145				9,145

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
137	INTELLIGENCE SUPPORT EQUIPMENT		26,564		36,564		36,564		10,000		36,564
	NCIS (Transfer from DERF)				[4,000]				[4,000]		
	Intelligence Support Equipment (Transfer from DERF)						[4,000]				
	Classified (Transfer from DERF)				[6,000]				[6,000]		
	Tactical Interoperability and Information Support Systems (Transfer from DERF)						[6,000]				
138	OPERATING FORCES SUPPORT EQUIPMENT		16,505		16,505		16,505				16,505
139	MOBILE SENSOR PLATFORM		5,946		5,946		5,946				5,946
140	ENVIRONMENTAL SUPPORT EQUIPMENT		19,978		27,478		19,978				19,978
	Side scanning sonars				[7,500]						
141	PHYSICAL SECURITY EQUIPMENT		81,721		176,204		176,204		94,483		176,204
	Physical Security Eq. for the Mobile Security Force (Transfer from DERF)				[14,000]		[14,000]		[14,000]		
	Physical Security Equipment for Strategic Bases (Transfer from DERF)				[4,000]		[4,000]		[4,000]		
	Coast Guard (Transfer from DERF)				[4,000]						
	Physical Security Equipment (Transfer from DERF)						[76,483]		[76,483]		
	Additional physical security equipment program effort				[72,483]						

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Productivity Programs										
142	JUDGMENT FUND REIMBURSEMENT										
	Other										
143	CANCELLED ACCOUNT ADJUSTMENTS										
144	CANCELLED ACCOUNT ADJUSTMENT (87)										
145	CANCELLED ACCOUNT ADJUSTMENT (88)										
	Spares and Repair Parts										
146	SPARES AND REPAIR PARTS		172,886		172,886		172,886				172,886
146a	Financial management savings						-20,600		-20,600		-20,600
146b	Contract services savings						-4,263		-3,009		-3,009
	Total - Other Procurement, Navy		**4,347,024**		**4,527,763**		**4,514,500**		**147,730**		**4,494,754**

Procurement, Marine Corps—Overview

The budget request for fiscal year 2003 included an authorization of $1,288.4 million for Procurement, Marine Corps in the Department of Defense.

The House bill would authorize $1,377.2 million.

The Senate amendment would authorize $1,343.1 million.

The conferees recommend an authorization of $1,355.5 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Batteries

The budget request included no funding to replace batteries in the Marine Corps' fleet of prepositioned equipment stored in Norway or aboard the Maritime Prepositioning Force ships.

The House bill and the Senate amendment would support the budget request.

The Marine Corps believes that the use of batteries with newer technology that would replace the current lead-acid batteries could help reduce total ownership costs for vehicles maintained in long-term storage.

The conferees, therefore, agree to an increase of $3.0 million for batteries to be used for long-term storage applications.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement, Marine Corps										
	Weapons and Combat Vehicles										
	Tracked Combat Vehicles										
1	AAV7A1 PIP	85	62,991	85	62,991	85	62,991			85	62,991
2	AAAV	1	14,718	1	14,718	1	14,718			1	14,718
3	LAV PIP		53,166		53,166		53,166				53,166
4	IMPROVED RECOVERY VEHICLE (IRV)		4,179		4,179		4,179				4,179
5	MODIFICATION KITS (TRKD VEH)		3,297		3,297		3,297				3,297
	Artillery and Other Weapons										
6	HIMARS	2	7,869	2	7,869	2	7,869			2	7,869
7	155MM LIGHTWEIGHT TOWED HOWITZER	34	62,643	34	62,643	34	62,643			34	62,643
8	MOD KITS (ARTILLERY)		4,890		4,890		4,890				4,890
9	MARINE ENHANCEMENT PROGRAM		8,145		8,145		8,145				8,145
10	WEAPONS AND COMBAT VEHICLES UNDER $5 MILLION		312		312		312				312
	Weapons										
11	MODULAR WEAPON SYSTEM		24,352		24,352		24,352				24,352
	Other Support										
12	OPERATIONS OTHER THAN WAR		1,531		1,531		1,531				1,531

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Guided Missiles and Equipment										
	Guided Missiles										
13	EADS MOD		184		184		184				184
14	JAVELIN		1,049		1,049		1,049				1,049
15	PEDESTAL MOUNTED STINGER (PMS) (MYP)		1,565		1,565		1,565				1.565
16	ITEMS UNDER $5 MILLION										
17	PREDATOR (SRAW)	445	36,484	445	36,484	445	36,484			445	36,484
	Other Support										
18	MODIFICATION KITS		7,967		7,967		7,967				7,967
	Communications and Electronics Equipment										
	Repair and Test Equipment										
19	AUTO TEST EQUIP SYS		894		894		8,894		8,000		8,894
	Third echelon test sets (TETS)						[8,000]		[8,000]		
20	GENERAL PURPOSE ELECTRONIC TEST EQUIPMENT		8,324		8,324		8,324				8.324

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Intell/Comm Equipment (Non-tel)										
21	INTELLIGENCE SUPPORT EQUIPMENT		18,526		38,126		38,126		19,600		38,126
	TPC (Transfer from DERF)				[11 / 3,300]		[11 / 3,300]		[11 / 3,300]		
	TEG (Transfer from DERF)				[27 / 9,000]		[27 / 9,000]		[27 / 9,000]		
	TROJAN Lite (Transfer from DERF)				[10 / 5,700]		[10 / 5,700]		[10 / 5,700]		
	TACPHOTO (Transfer from DERF)				[1,000 / 1,600]		[1,000 / 1,600]		[1,000 / 1,600]		
22	MOD KITS (INTEL)		2,570		11,370		11,370		8,800		11,370
	TPCS (Transfer from DERF)				[3 / 8,300]		[3 / 8,300]		[3 / 8,300]		
	TCAC (Transfer from DERF)				[7 / 500]		[7 / 500]		[7 / 500]		
23	ITEMS UNDER $5 MILLION (INTELL)		1,843		1,843		4,243		2,400		4,243
	I-SURSS (Transfer from DERF)						[20 / 2,400]		[20 / 2,400]		
	Repair and Test Equipment (Non-tel)										
24	GENERAL PURPOSE MECHANICAL TMDE		4,565		4,565		4,565				4,565
	Other Comm/Elec Equipment (Non-tel)										
25	NIGHT VISION EQUIPMENT		23,204		36,004		23,204				23,204
	AN / PVS-17 night vision sights				[12,800]						

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Support (Non-tel)										
26	ITEMS UNDER $5 MILLION (COMM & ELEC)		16,097		20,997		18,597		2,500		18,597
	Secure Wireless (Transfer from DERF)				[800]		[800]		[800]		
	ISR (Transfer from DERF)				[1,700]		[1,700]		[1,700]		
	Additional aircraft & ground control systems (Transfer from DERF)				[2,400]						
27	COMMON COMPUTER RESOURCES		38,974		38,974		38,974				38,974
28	COMMAND POST SYSTEMS		33,512		33,512		33,512				33,512
29	RADIO SYSTEMS		25,528		50,528		30,528		7,500		33,028
	Tactical handheld radio systems				[5,000]				[4,500]		
	Lightweight multi-band satellite terminals (LMST)				[20,000]		[5,000]		[3,000]		
30	COMM SWITCHING & CONTROL SYSTEMS		3,974		3,974		3,974				3,974
31	COMM & ELEC INFRASTRUCTURE SUPPORT		16,426		21,026		21,026		4,600		21,026
	Continuity of Intelligence (Transfer from DERF)				[2,000]		[2,000]		[2,000]		
	Computer Network Defense (Transfer from DERF)				[1,900]		[1,900]		[1,900]		
	Deployed Security Interdiction Devices (Transfer from DERF)				[700]		[700]		[700]		
32	MOD KITS MAGTF C41		31,470		34,470		34,470		3,000		34,470
	FLAMES/CESAS (Transfer from DERF)				[3,000]		[3,000]		[3,000]		
33	AIR OPERATIONS C2 SYSTEMS		6,525		6,525		6,525				6,525

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
34	INTELLIGENCE C2 SYSTEMS		22,362		22,362		22,362				22,362
35	FIRE SUPPORT SYSTEM		34,855		34,855		34,855				34,855
	Support Vehicles										
	Administrative Vehicles										
36	COMMERCIAL PASSENGER VEHICLES	28	861	28	861	28	861			28	861
37	COMMERCIAL CARGO VEHICLES		13,123		13,123		13,123				13,123
	Tactical Vehicles										
38	5/4T TRUCK HMMWV (MYP)	1,667	118,414	1,667	118,414	1,667	118,414			1,667	118,414
39	MEDIUM TACTICAL VEHICLE REPLACEMENT	1,405	347,578	1,405	347,578	1,405	347,578			1,405	347,578
	Other Support										
40	ITEMS LESS THAN $5 MILLION		3,534		3,534		3,534				3,534
	Engineer and Other Equipment										
	Engineer and Other Equipment										
41	ENVIRONMENTAL CONTROL EQUIP ASSORT		2,709		2,709		2,709				2,709
42	BULK LIQUID EQUIPMENT		10,261		10,261		10,261				10,261
43	TACTICAL FUEL SYSTEMS		2,048		2,048		2,048				2,048
44	DEMOLITION SUPPORT SYSTEMS										
45	POWER EQUIPMENT ASSORTED		8,898		8,898		8,898				8,898

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Material Handling Equipment										
46	COMMAND SUPPORT EQUIPMENT										
47	AMPHIBIOUS RAID EQUIPMENT		22,295		22,295		22,295				22,295
48	PHYSICAL SECURITY EQUIPMENT		8,804		12,404		12,404		3,600		12,404
	Physical Security Upgrades (Transfer from DERF)				[3,600]		[3,600]		[3,600]		
49	GARRISON MOBILE ENGR EQUIP		2,608		2,608		2,608				2,608
50	MATERIAL HANDLING EQUIP		52,503		52,503		52,503				52,503
51	FIRST DESTINATION TRANSPORTATION		8,221		8,221		8,221				8,221
	General Property										
52	FIELD MEDICAL EQUIPMENT		10,452		10,452		10,452				10,452
53	TRAINING DEVICES		18,651		18,651		20,551		1,900		20,551
	Live fire range improvements						[1,900]		[1,900]		
54	CONTAINER FAMILY		7,120		7,120		7,120				7,120
55	FAMILY OF CONSTRUCTION EQUIPMENT		14,709		21,209		14,709		6,500		21,209
	Construction equipment service life extension program (SLEP)				[6,500]				[6,500]		
56	RAPID DEPLOYABLE KITCHEN		21,505		21,505		21,505				21,505

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Support										
57	MODIFICATION KITS										
58	ITEMS LESS THAN $5 MILLION		5,772		5,772		5,772		3,000		8,772
	USMC batteries								[3,000]		
	Spares and Repair Parts										
59	SPARES AND REPAIR PARTS		23,326		23,326		23,326				23,326
59a	Financial management savings						-3,400		-3,400		-3,400
59b	Contract services savings						-1,264		-892		-892
	Total - Procurement, Marine Corps		**1,288,383**		**1,377,183**		**1,343,119**		**67,108**		**1,355,491**

Aircraft Procurement, Air Force—Overview

The budget request for fiscal year 2003 included an authorization of $12,067.4 million for Aircraft Procurement, Air Force in the Department of Defense.

The House bill would authorize $12,737.3 million.

The Senate amendment would authorize $12,611.7 million.

The conferees recommend an authorization of $12,676.5 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Aircraft Procurement, Air Force										
	Combat Aircraft										
	Tactical Forces										
1	F-22 RAPTOR	23	4,090,434	23	4,090,434	23	4,090,434			23	4,090,434
2	F-22 RAPTOR (AP-CY)		530,634		530,634		530,634				530,634
3	F-15A										
4	F-16A (MYP)										
	Airlift Aircraft										
	Tactical Airlift										
5	C-17A (MYP)	12	2,694,140	12	2,694,140	12	2,705,440		11,300	12	2,705,440
	Aircraft engine trainer (AET)						[9,200]		[9,200]		
	Software enhancements for existing trainers						[2,100]		[2,100]		
6	C-17A (MYP) (AP-CY)		391,890		391,890		391,890				391,890
7	C-17 ICS		612,452		612,452		550,852				612,452
	Reduce unjustified growth in flexible sustainment						[-59,700]				
	Additional ICS reduction						[-1,900]				
	Other Airlift										
8	EC-130J					1	110,000	1	87,000	1	87,000
	Purchase 1 additional aircraft						[1 / 110,000]		[87,000]		

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2003 Budget Request Qty	FY 2003 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
9	C-130H		18,672		23,672		18,672		5,000		23,672
	Convert USAFR C-130H3 trainer to H2 configuration				[5,000]				[5,000]		
10	C-130J		175,923		175,923		175,923				175,923
	Trainer Aircraft										
11	JPATS	35	211,848	35	211,848	35	211,848			35	211,848
	Other Aircraft										
	Helicopters										
12	V-22 OSPREY		90,904		90,904		90,904				90,904
13	V-22 OSPREY (AP-CY)		10,100		10,100						10,100
	CV-22 - FY 04 procurement would exceed minimum sustaining rate						[-10,100]				
	Mission Support Aircraft										
14	C-32B FEST/DEST AIRCRAFT										
15	CIVIL AIR PATROL A/C	27	2,616	27	2,616	27	2,616			27	2,616
16	OPERATIONAL SUPPORT AIRCRAFT										
	Other Aircraft										
17	TARGET DRONES		30,586		30,586		30,586				30,586
18	C-40 ANG										
19	E-8C	1	279,268	1	279,268	1	279,268			1	279,268

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
20	E-8C (AP-CY)										
21	HAEUAV	2	63,861	3	128,861	3	128,861	1	65,000	3	128,861
	Global Hawk UAV (Transfer from DERF)				[1 / 65,000]		[1 / 65,000]		[1 / 65,000]		
22	HAEUAV (AP-CY)		41,000		41,000		41,000				41,000
23	PREDATOR UAV	7	23,068	7	131,068	22	113,068	21	108,000	28	131,068
	Predator A (Transfer from DERF)				[15 / 68,000]		[15 / 68,000]		[15 / 68,000]		
	Pred SatCom Equip & Ground Control Station Equip (Transfer from DERF)				[14,000]		[14,000]		[14,000]		
	3rd Squadron Initial Spares (Transfer from DERF)						[8,000]				
	Predator B, including spares				[6 / 26,000]				[6 / 26,000]		
	Modification of Inservice Aircraft										
	Strategic Aircraft										
24	B-2A		72,123		104,123		97,323		32,000		104,123
	SatCom				[25,200]				[25,200]		
	Transfer from PE 64240F (RDAF 69) -- UHF SatCom						[25,200]				
	Low observables maintenance				[6,800]				[6,800]		
25	B-1B		98,026		98,026		98,026				98,026

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
26	B-52						20,000		10,000		10,000
	ALQ-172 electronic countermeasures improvement (ECMI)						[20,000]		[10,000]		
27	F-117		21,079		21,079		21,079				21,079
	Tactical Aircraft										
28	A-10		21,775		21,775		21,775				21,775
29	F-15		232,500		291,500		232,500		40,000		272,500
	F100-PW-220E engine upgrades for ANG				[34,000]				[20,000]		
	Additional ALQ-135 Band 1.5 internal countermeasures systems				[25,000]				[20,000]		
30	F-16		265,007		348,007		325,007		33,400		298,407
	F100-PW-229 engines for ANG				[62,000]		[60,000]		[15,000]		
	Upgrade Litening II pods for AFR F-16 Block 25 & 30 aircraft				[14,400]				[14,400]		
	Theater airborne reconnaissance systems (TARS) for ANG				[6,600]				[4,000]		
31	F22 RAPTOR		11,200		11,200		11,200				11,200
32	T/AT-37		81		81		81				81

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Airlift Aircraft										
33	C-5		86,008		86,008		59,408		-26,600		59,408
	Avionics modernization program - Transfer to RDAF 204 (PE 41119F)						[-26,600]		[-26,600]		
34	C-9		1,346		1,346		1,346				1,346
35	C-17A		128,178		128,178		128,178				128,178
36	C-21		2,562		2,562		2,562				2,562
37	C-32A		26,684		26,684		26,684				26,684
38	C-37A		373		373		373				373
39	C-141		796		796		796				796
	Trainer Aircraft										
40	T-38		168,112		168,112		168,112				168,112
41	T-41 AIRCRAFT		90		90		90				90
42	T-43		2,183		2,183		2,183				2,183
	Other Aircraft										
43	KC-10A (ATCA)		14,176		14,176		14,176				14,176
44	C-12		400		400		12,400				400
	Classified - General Info Tech (Transfer from DERF)						[12,000]				
45	C-18		800		800		800				800
46	C-20 MODS		828		828		828				828

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
47	VC-25A MOD		12,171		80,171		80,171		68,000		80,171
	Passenger Data System (Transfer from DERF)				[68,000]		[68,000]		[68,000]		
48	C-130		138,533		181,133		176,533		31,000		169,533
	Terrain awareness & warning system (TAWS)				[31,000]				[8,000]		
	Traffic alert / collision avoidance system (TCAS)						[15,000]				
	MC-130P air refueling modification				[11,600]						
	T56 quick engine change (QEC) kits						[13,000]		[13,000]		
	Composite propeller system test						[10,000]		[10,000]		
49	C-135		108,670		197,670		204,170		89,000		197,670
	KC-135 boom operator weapons system trainer						[6,500]				
	Air Refueling (Transfer from DERF)				[3 / 89,000]		[3 / 89,000]		[3 / 89,000]		
50	DARP		150,123		156,123		143,423		6,000		156,123
	Rivet Joint QRC Sustainment (Transfer from DERF)				[1,000]		[1,000]		[1,000]		
	U-2 Airframe Repairs (Transfer from DERF)				[5,000]		[5,000]		[5,000]		
	Compass Call transfer						[-12,700]				
51	E-3		29,478		29,478		29,478				29,478
52	E-4		39,139		39,139		39,139				39,139
53	E-8		19,307		19,307		19,307				19,307
54	H-1		473		473		473				473

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
55	H-60		40,640		70,140		40,640				40,640
	Pave Hawk upgrades				[29,500]						
56	OTHER AIRCRAFT		54,653		59,453		54,653				54,653
	Fixed aircrew standardized seats				[4,800]						
57	PREDATOR MODS		10,532		10,532		10,532				10,532
	Other Modifications										
58	CLASSIFIED PROJECTS		18,546		18,546		31,246				18,546
	Compass Call transfer						[12,700]				
	Aircraft Spares and Repair Parts										
59	SPARES AND REPAIR PARTS		275,982		283,982		275,982		8,000		283,982
	Predator spares (Transfer from DERF)				[8,000]				[8,000]		
	Aircraft Support Equipment and Facilities										
60	COMMON SUPPORT EQUIPMENT		180,943		180,943		180,943				180,943
	Post Production Support										
61	A-10										
62	B-1		1,969		1,969		1,969				1,969
63	B-2A		3,279		3,279		3,279				3,279
64	B-2A		33,484		33,484		33,484				33,484
65	C-130		10,922		10,922		10,922				10,922

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
66	E-4										
67	F-15 POST PRODUCTION SUPPORT		7,512		7,512		7,512				7,512
68	F-16 POST PRODUCTION SUPPORT		14,200		14,200		14,200				14,200
	Industrial Preparedness										
69	INDUSTRIAL PREPAREDNESS		22,248		22,248		22,248				22,248
	War Consumables										
70	WAR CONSUMABLES		38,429		38,429		38,429				38,429
	Other Production Charges										
71	MISC PRODUCTION CHARGES		349,516		409,516		381,116		32,000		381,516
	Classified (Transfer from DERF)				[12,000]				[12,000]		
	P4 instrumentation pod refurbishment contract				[30,000]						
	COMET IRCM				[18,000]						
	Upgrade Litening targeting pods - ANG						[20,000]		[20,000]		
	Upgrade theater airborne reconnaissance systems (TARS) pods						[11,600]				
	Common ECM Equipment										
72	COMMON ECM EQUIPMENT		1,182		1,182		1,182				1,182

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Production Charges - SOF										
73	CANCELLED ACCOUNT PY ADJUSTMENTS										
	DARP										
74	DARP		83,751		93,751		93,751		10,000		93,751
	U-2 Defensive System (Transfer from DERF)				[10,000]		[10,000]		[10,000]		
	Total - Aircraft Procurement, Air Force		**12,067,405**		**12,737,305**		**12,611,705**		**609,100**		**12,676,505**

Missile Procurement, Air Force—Overview

The budget request for fiscal year 2003 included an authorization of $3,575.2 million for Missile Procurement, Air Force in the Department of Defense.

The House bill would authorize $3,482.6 million.

The Senate amendment would authorize $3,258.2 million.

The conferees recommend an authorization of $3,504.1 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Missile Procurement, Air Force										
	Ballistic Missiles										
1	MISSILE REPLACEMENT EQ-BALLISTIC		48,685		48,685		48,685				48,685
	Other Missiles										
2	ADVANCED CRUISE MISSILE										
	Tactical										
3	JASSM	100	54,240	100	54,240	100	54,240			100	54,240
4	JOINT STANDOFF WEAPON	113	55,740	113	19,540	113	55,740		-36,200	113	19,540
	JSOW-B termination				[-36,200]				[-36,200]		
5	SIDEWINDER (AIM-9X)	286	56,964	286	56,964	286	56,964			286	56,964
6	AGM-130 POWERED GBU-15										
7	AMRAAM	161	89,593	161	89,593	161	89,593			161	89,593
7a	Hellfire			200	10,000	200	10,000	200	10,000	200	10,000
	Missiles for Predator (Transfer from DERF)				[200 / 10,000]		[200 / 10,000]		[200 / 10,000]		
	Industrial Facilities										
8	INDUSTRIAL FACILITIES		2,105		2,105		2,105				2,105
	Missile Replacement Equipment-Other										
9	MISSILE REPLACEMENT EQ OTHER										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Modification of Inservice Missiles										
	Class IV										
10	ADVANCED CRUISE MISSILE		3,376		3,376		3,376				3,376
11	SIDEWINDER (AIM-9X)										
12	MM III MODIFICATIONS		580,701		603,901		603,901		23,200		603,901
	Guidance replacement program (GRP)						[5,200]		[5,200]		
	Propulsion replacement program (PRP)						[5,200]		[5,200]		
	Containers						[12,800]		[12,800]		
	GRP, PRP & containers				[23,200]						
13	AGM-65D MAVERICK		333		5,333		333		4,000		4,333
	H or K model upgrades for USAFR & ANG				[5,000]				[4,000]		
14	AIR LAUNCH CRUISE MISSILE		1,998		1,998		1,998				1,998
15	PEACEKEEPER (M-X)										
16	MODIFICATIONS UNDER $5.0M										
	Missile Spares and Repair Parts										
17	MISSILE SPARES & REPAIR PARTS		48,412		48,412		48,412				48,412
	Other Support										
	Space Programs										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
18	ADVANCED EHF ADVANCE PROCUREMENT (CY)		94,523				23		-94,523		
	Slip in critical design review				[-94,523]		[-94,500]				
	Program delays								[-94,523]		
19	WIDEBAND GAPFILLER SATELLITES	1	189,666	1	189,666	1	189,666			1	189,666
20	WIDEBAND GAPFILLER SATELLITES (AP-CY)										
21	SPACEBORNE EQUIP (COMSEC)		9,368		9,368		9,368				9,368
22	GLOBAL POSITIONING (SPACE)		206,470		206,470		206,470		28,000		234,470
	USAF-requested transfer from PE 35165F (RDAF 189)								[28,000]		
23	GLOBAL POSITIONING (SPACE) (AP-CY)		3,000		3,000		3,000				3,000
24	NUDET DETECTION SYSTEM										
25	DEF METEOROLOGICAL SAT PROG(SPACE)		60,051		60,051		60,051				60,051
26	DEFENSE SUPPORT PROGRAM(SPACE)		114,382		114,382		116,482				114,382
	New display units for mobile DSP ground terminals						[2,100]				
27	DEFENSE SATELLITE COMM SYSTEM		20,669		20,669		20,669				20,669
28	TITAN SPACE BOOSTERS(SPACE)		335,303		335,303		315,303		-20,000		315,303
	Program execution delays						[-20,000]		[-20,000]		

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
29	EVOLVED EXPENDABLE LAUNCH VEHICLE	1	158,867	1	158,867	1	173,367		14,500	1	173,367
	Mission assurance for wideband gapfiller satellite (WGS) program						[14,500]		[14,500]		
30	MEDIUM LAUNCH VEHICLE(SPACE)		48,208		48,208		48,208				48,208
	Special Programs										
31	DEFENSE SPACE RECONNAISSANCE PROGRAM		384,000		384,000		384,000				384,000
32	SPECIAL PROGRAMS		879,516		879,516		627,216				879,516
33	SPECIAL UPDATE PROGRAMS		128,992		128,992		128,992				128,992
	Total - Missile Procurement, Air Force		3,575,162		3,482,639		3,258,162		-71,023		3,504,139

Procurement of Ammunition, Air Force—Overview

The budget request for fiscal year 2003 included an authorization of $1,133.9 million for Procurement of Ammunition, Air Force in the Department of Defense.

The House bill would authorize $1,294.8 million.

The Senate amendment would authorize $1,275.9 million.

The conferees recommend an authorization of $1,290.8 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

ine		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement of Ammunition, Air Force										
	Procurement of Ammo, Air Force										
	Rockets										
1	ROCKETS		40,909		40,909		40,909				40,909
	Cartridges										
2	CARTRIDGES		154,620		154,620		154,620				154,620
	Bombs										
3	PRACTICE BOMBS		71,935		74,935		71,935		1,000		72,935
	Cast ductile iron practice bombs				[3,000]				[1,000]		
4	GENERAL PURPOSE BOMBS		108,589		136,589		133,589		26,000		134,589
	General Purpose Bombs (Transfer from DERF)				[25,000]		[25,000]		[25,000]		
	Cast ductile iron bombs				[3,000]						
	Cast ductile iron bombs (MK-84)								[1,000]		
5	CAWCF CLOSURE COSTS										
6	SENSOR FUZED WEAPON	298	105,985	298	125,985	298	115,985	12	20,000	310	125,985
	Increase production rate						[10,000]		[12 / 20,000]		
7	JOINT DIRECT ATTACK MUNITION	17,917	378,863	17,917	484,863	23,129	484,863	5,212	106,000	23,129	484,863
	JDAM Tail Kits (Transfer from DERF)				[106,000]		[5,212 / 106,000]		[5,212 / 106,000]		
8	WIND CORRECTED MUNITIONS DISPENSER	4,959	71,165	4,959	71,165	4,959	71,165			4,959	71,165

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Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Flare, IR MJU-7B										
9	CAD/PAD		19,816		19,816		19,816				19,816
10	EXPLOSIVE ORDINANCE DISPOSAL		2,727		2,727		2,727				2,727
11	SPARES AND REPAIR PARTS		3,008		3,008		3,008				3,008
12	MODIFICATIONS LESS THAN $5M		202		202		202				202
13	ITEMS LESS THAN $5,000,000		2,013		2,013		2,013				2,013
	Fuzes										
14	FLARES		131,967		135,867		132,967		3,900		135,867
	MJU-52 training flares				[2,000]				[2,000]		
	MJU-52 war reserve munitions (WRM)				[1,900]				[900]		
	MJU-52B IR						[1,000]		[1,000]		
15	FUZES		37,705		37,705		37,705				37,705
	Weapons										
	Small Arms										
16	SMALL ARMS		4,360		4,360		4,360				4,360
	Total - Procurement of Ammunition, Air Force		1,133,864		1,294,764		1,275,864		156,900		1,290,764

Other Procurement, Air Force—Overview

The budget request for fiscal year 2003 included an authorization of $10,523.9 million for Other Procurement, Air Force in the Department of Defense.

The House bill would authorize $10,918.5 million.

The Senate amendment would authorize $10,478.8 million.

The conferees recommend an authorization of $10,846.0 million. Unless noted explicitly in *COM007*the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003 Budget Request		House Authorized		Senate Authorized		Conference Agreement Change		Conference Agreement Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Procurement, Air Force										
	Vehicular Equipment										
	Passenger Carrying Vehicles										
1	SEDAN, 4 DR 4X2	35	552	35	552	35	552			35	552
2	STATION WAGON, 4X2	28	476	28	476	28	476			28	476
3	BUSES	120	7,982	120	7,982	120	7,982			120	7,982
4	AMBULANCES	10	755	10	755	10	755			10	755
5	LAW ENFORCEMENT VEHICLE	70	1,910	70	1,910	70	1,910			70	1,910
6	ARMORED VEHICLE	2	465	2	465	2	465			2	465
	Cargo and Utility Vehicles										
7	TRUCK, CARGO-UTILITY, 3/4T, 4X4		9,681		9,681		9,681				9,681
8	TRUCK, CARGO-UTILITY, 3/4T, 4X2		5,162		5,162		5,162				5,162
9	TRUCK MAINT/UTILITY/DELIVERY		10,475		10,475		10,475				10,475
10	FAMILY MEDIUM TACTICAL VEHICLES										
11	HIGH MOBILITY VEHICLE (MYP)		11,881		11,881		11,881				11,881
12	CAP VEHICLES		792		792		792				792
13	ITEMS LESS THAN $5,000,000		39,616		39,616		39,616				39,616
	Special Purpose Vehicles										
14	HMMWV, ARMORED		1,019		1,019		1,019				1,019

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
15	HMWWV, UP-ARMORED		3,629		3,629		3,629				3,629
16	TRACTOR, A/C TOW, MB-2		2,726		2,726		2,726				2,726
17	TRACTOR, A/C TOW, MB-4		6,143		6,143		6,143				6,143
18	TRACTOR, TOW, FLIGHTLINE		7,928		7,928		7,928				7,928
19	TRUCK HYDRANT FUEL		7,941		7,941		7,941				7,941
20	ITEMS LESS THAN $5,000,000		24,755		24,755		24,755				24,755
	Fire Fighting Equipment										
21	TRUCK CRASH P-19										
22	ITEMS LESS THAN $5,000,000		10,023		10,023		10,023				10,023
	Material Handling Equipment										
23	TRUCK, F/L 10,000 LB		14,572		14,572		14,572				14,572
24	TUNNER LOADER	38	84,329	38	84,329	38	84,329			38	84,329
25	HALVERSEN LOADER	86	49,554	86	49,554	86	49,554			86	49,554
26	ITEMS LESS THAN $5,000,000		10,922		10,922		10,922				10,922
	Base Maintenance Support										
27	TRUCK, DUMP										
28	RUNWAY SNOW REMOV AND CLEANIN		15,466		15,466		15,466				15,466
29	MODIFICATIONS		5,000		5,000		5,000				5,000
30	ITEMS LESS THAN $5,000,000		24,369		24,369		24,369				24,369

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Canceled Account Adjustments										
31	CANCELLED ACCOUNT ADJUSTMENTS										
	Electronics and Telecommunications										
	Comm Security Equipment (COMSEC)										
32	COMSEC EQUIPMENT		26,331		37,731		33,131		11,400		37,731
	Wireless Communications (Transfer from DERF)				[3,000]		[3,000]		[3,000]		
	Computer network defense (Transfer from DERF)				[4,600]				[4,600]		
	Enclave and Network Tools (Transfer from DERF)				[2,000]		[2,000]		[2,000]		
	Intrusion Detection Systems (Transfer from DERF)				[1,800]		[1,800]		[1,800]		
33	MODIFICATIONS (COMSEC)		460		460		460				460
	Intelligence Programs										
34	INTELLIGENCE TRAINING EQUIPMENT		1,310		1,310		1,310				1,310
35	INTELLIGENCE COMM EQUIPMENT		9,043		17,343		12,343		8,300		17,343
	Tactical Terminal (Transfer from DERF)				[3,300]		[3,300]		[3,300]		
	Eagle Vision				[5,000]				[5,000]		
	Electronics Programs										
36	AIR TRAFFIC CTRL/LAND SYS (ATCALS)		52,038		52,038		52,038				52,038
37	NATIONAL AIRSPACE SYSTEM		55,561		55,561		55,561				55,561
38	THEATER AIR CONTROL SYS IMPROVEMENT		16,713		16,713		16,713				16,713

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
39	WEATHER OBSERVE/FORECAST		29,071		29,071		29,071				29,071
40	STRATEGIC COMMAND AND CONTROL		23,889		23,889		23,889				23,889
41	CHEYENNE MOUNTAIN COMPLEX		17,588		17,588		17,588				17,588
42	TAC SIGINT SUPPORT		406		10,406		10,406		10,000		10,406
	Tactical Information Program (Transfer from DERF)				[10,000]		[10,000]		[10,000]		
43	DRUG INTERDICTION PROGRAM										
	Special Comm-Electronics Projects										
44	GENERAL INFORMATION TECHNOLOGY		55,789		261,673		245,773		194,984		250,773
	Integrated Broadcast Service (Transfer from DERF)				[10,800]		[10,800]		[10,800]		
	Classified - General Info Tech (Transfer from DERF)				[176,584]		[176,584]		[176,584]		
	Commercial Imagery - General Info Tech (Transfer from DERF)						[2,600]		[2,600]		
	Parts & repair item support (PARIS)				[9,000]						
	Science & engineering lab data integration (SELDI)				[9,500]				[5,000]		
45	AF GLOBAL COMMAND & CONTROL SYSTEM		28,182		28,182		28,182				28,182
46	MOBILITY COMMAND AND CONTROL		9,735		9,735		9,735				9,735

Title I - Procurement

(Dollars in Thousands)

Line No	Program	FY 2003 Budget Request Qty	FY 2003 Budget Request Cost	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Agreement Change Qty	Conference Agreement Change Cost	Conference Agreement Authorized Qty	Conference Agreement Authorized Cost
47	AIR FORCE PHYSICAL SECURITY SYSTEMS		41,835		88,635		88,635		46,800		88,635
	AT/FP Equipment Enhance/Modernize (Transfer from DERF)				[7,200]		[7,200]		[7,200]		
	Base Physical Security Systems (Transfer from DERF)				[39,600]		[39,600]		[39,600]		
48	COMBAT TRAINING RANGES		17,242		53,242		17,242		11,000		28,242
	Unmanned threat emitter (UMTE) program				[36,000]				[11,000]		
49	MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS		1,072		1,072		1,072				1,072
50	C3 COUNTERMEASURES		13,409		27,409		17,409		4,000		17,409
	Information Warfare Support (Transfer from DERF)				[2,000]		[2,000]		[2,000]		
	Computer Network Defense (Transfer from DERF)				[2,000]		[2,000]		[2,000]		
	Secure terminal equipment				[10,000]						
51	BASE LEVEL DATA AUTO PROGRAM		12,793		12,793		12,793				12,793
52	THEATER BATTLE MGT C2 SYSTEM		56,202		56,202		56,202				56,202
	Air Force Communications										
53	BASE INFORMATION INFRASTRUCTURE		214,727		214,727		214,727				214,727
54	USCENTCOM		9,839		9,839		9,839				9,839
55	DEFENSE MESSAGE SYSTEM (DMS)		18,967		18,967		18,967				18,967

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	DISA Programs										
56	NAVSTAR GPS SPACE		13,110		13,110		13,110				13,110
57	NUDET DETECTION SYS (NDS) SPACE		7,937		7,937		7,937				7,937
58	AF SATELLITE CONTROL NETWORK		45,063		45,063		45,063				45,063
59	SPACELIFT RANGE SYSTEM SPACE		108,281		108,281		117,781				108,281
	Recapitalization, including planning & scheduling systems and spares						[9,500]				
60	MILSATCOM SPACE		45,698		45,698		45,698				45,698
61	SPACE MODS SPACE		10,938		10,938		10,938				10,938
	Organization and Base										
62	TACTICAL C-E EQUIPMENT		134,427		134,427		135,427				134,427
	Mobile emergency broadband system (MEBS)						[1,000]				
63	COMBAT SURVIVOR EVADER LOCATE		11,049		11,049		11,049				11,049
64	RADIO EQUIPMENT		8,801		8,801		8,801				8,801
65	TV EQUIPMENT (AFRTV)		2,620		2,620		2,620				2,620
66	CCTV/AUDIOVISUAL EQUIPMENT		3,259		3,259		3,259				3,259
67	BASE COMM INFRASTRUCTURE		202,900		217,900		202,900		15,000		217,900
	GeoBase centralized geographic information system (GIS)				[15,000]				[15,000]		
68	CAP COM & ELECT										

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
69	ITEMS LESS THAN $5,000,000		9,278		9,278		9,278				9,278
	Modifications										
70	COMM ELECT MODS		68,894		68,894		68,894				68,894
	Other Base Maintenance and Support Equipment										
	Test Equipment										
71	BASE/ALC CALIBRATION PACKAGE		13,809		13,809		13,809				13,809
72	PRIMARY STANDARDS LABORATORY		1,107		1,107		1,107				1,107
73	ITEMS LESS THAN $5,000,000		8,059		8,059		8,059				8,059
	Personal Safety and Rescue Equipment										
74	NIGHT VISION GOGGLES		3,814		3,814		11,914		8,100		11,914
	Panoramic night vision goggles						[8,100]		[8,100]		
75	ITEMS LESS THAN $5,000,000		9,312		13,312		9,312		4,000		13,312
	Thinpack parachutes				[4,000]				[4,000]		
	Depot Plant and Material Handling Equipment										
76	MECHANIZED MATERIAL HANDLING		25,612		33,612		25,612		8,000		33,612
	Point of maintenance initiative				[8,000]				[8,000]		
77	ITEMS LESS THAN $5,000,000		12,256		12,256		12,256				12,256
	Electrical Equipment										
78	FLOODLIGHTS		11,023		11,023		11,023				11,023

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
79	ITEMS LESS THAN $5,000,000		6,201		6,201		6,201				6,201
	Base Support Equipment										
80	BASE PROCURED EQUIPMENT		11,321		25,321		12,821		14,000		25,321
	Combat arms training system (CATS)				[14,000]		[1,500]		[14,000]		
81	MEDICAL/DENTAL EQUIPMENT		13,992		13,992		13,992				13,992
82	ENVIRONMENTAL PROJECTS		817		817		817				817
83	AIR BASE OPERABILITY		5,700		5,700		5,700				5,700
84	PHOTOGRAPHIC EQUIPMENT		5,893		5,893		5,893				5,893
85	PRODUCTIVITY ENHANCING CAPITAL INVESTMENTS		7,806		7,806		7,806				7,806
86	MOBILITY EQUIPMENT		102,990		102,990		102,990				102,990
87	AIR CONDITIONERS		9,593		9,593		9,593				9,593
88	ITEMS LESS THAN $5,000,000		16,131		16,131		16,131				16,131
	Special Support Projects										
89	INTELLIGENCE PRODUCTION ACTIVITIES		47,160		47,160		47,160				47,160
90	TECH SURV COUNTERMEASURES EQUIPMENT		4,057		4,057		4,057				4,057
91	DARP RC135		13,123		13,123		13,123				13,123
92	DARP, MRIGS		115,777		115,777		115,777				115,777
93	SELECTED ACTIVITIES		8,098,917		8,098,917		7,768,327				8,098,917
94	SPECIAL UPDATE PROGRAM		178,876		178,876		178,876				178,876

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
95	DEFENSE SPACE RECONNAISSANCE		6,694		25,294		25,294				6,694
	Activities (SPACE) (Transfer from DERF)				[18,600]		[18,600]				
96	INDUSTRIAL PREPAREDNESS										
97	MODIFICATIONS		201		201		201				201
98	FIRST DESTINATION TRANSPORT		9,767		9,767		9,767				9,767
98a	Support Programs				2,600						
	Commercial Imagery - General Info Tech (Transfer from DERF)				[2,600]						
	Spares and Repair Parts										
99	SPARES AND REPAIR PARTS		41,358		41,358		41,358				41,358
99a	Financial management savings						-12,000		-12,000		-12,000
99b	Contract services savings						-2,100		-1,482		-1,482
	Total - Other Procurement, Air Force		**10,523,946**		**10,918,530**		**10,478,840**		**322,102**		**10,846,048**

Procurement, Defense-Wide—Overview

The budget request for fiscal year 2003 included an authorization of $2,688.5 million for Procurement, Defense-Wide in the Department of Defense.

The House bill would authorize $3,235.4 million.

The Senate amendment would authorize $3,054.9 million.

The conferees recommend an authorization of $3,691.6 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Advanced SEAL Delivery System

The budget request included $21.8 million for the Advanced SEAL Delivery System (ASDS) procurement, $34.7 million for ASDS advance procurement, and $12.2 million in PE 1160404BB for ASDS research, development, test and evaluation (RDT&E).

The House bill would authorize the budget request.

The Senate amendment would authorize $27.3 million for ASDS procurement, no funds for ASDS advance procurement, and no funds in PE 1160404BB for ASDS RDT&E, but it would identify $13.7 million of unused fiscal year 2002 procurement funds to meet fiscal year 2003 RDT&E requirements.

The conferees agree to authorize an increase of $2.0 million for ASDS procurement, no funds for ASDS advance procurement, and an increase of $9.6 million in PE 1160606BB for ASDS RDT&E. Of the $23.8 million authorized for ASDS procurement, the conferees agree that $12.0 million would cover the procurement of lithium ion batteries. The conferees have also included a provision (sec. 214) that would transfer $13.7 million from the amount authorized and appropriated in fiscal year 2002 for ASDS advance procurement to the fiscal year 2003 ASDS RDT&E account.

Subsequent to submission of the budget request and the passage of the House and Senate bills, the U.S. Special Operations Command (SOCOM) approved a restructuring of the ASDS program, and the conferees were informed of changed fiscal year 2003 funding requirements through the submission of a Department of Defense Authorization appeal. The amounts authorized by the conferees support the SOCOM-approved, restructured program.

The conferees believe that the ASDS program continues to require increased attention from the Commander in Chief, Special Operations Command; the Naval Sea Systems Command; and the Office of the Secretary of Defense. Accordingly, the conferees direct that no more than 50 percent of the fiscal year 2003 ASDS procurement funding (excluding the $12.0 million amount for the lithium ion batteries) be obligated until the Secretary of Defense conducts a complete review of the requirements, mission, management, and cost structure of the ASDS program and reports to the congressional defense committees on his findings.

Chemical Agents and Munitions Destruction, Defense—Overview

The budget request for fiscal year 2003 included an authorization of $1,490.2 million for Chemical Agents & Munitions Destruction, Army in the Department of Defense.

The House bill would authorize $1,490.2 million for Chemical Agents & Munitions Destruction, Defense.

The Senate amendment would authorize $1,490.2 million for Chemical Agents & Munitions Destruction, Defense.

The conferees recommend an authorization of $1,490.2 million for Chemical Agents & Munitions Destruction, Defense. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line		FY 2003		House		Senate		Conference Agreement			
		Budget Request		Authorized		Authorized		Change		Authorized	
No	Program	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Chemical Agents & Munitions Destruction, Defense										
1	CHEM DEMILITARIZATION - O&M: Transfer from Army				974,238		974,238		974,238		974,238
2	CHEM DEMILITARIZATION - RDT&E: Transfer from Army				302,683		302,683		302,683		302,683
3	CHEM DEMILITARIZATION - PROC: Transfer from Army				213,278		213,278		213,278		213,278
	Total - Chemical Agents & Munitions Destruction, Defense				**1,490,199**		**1,490,199**		**1,490,199**		**1,490,199**

ITEMS OF SPECIAL INTEREST

Big Safari

The conferees are aware that the Air Force's Big Safari program office has contributed significantly to the Nation's defense through flexible and dynamic management of programs, including the RC-135 Rivet Joint aircraft and the Predator unmanned aerial vehicle.

The conferees, however, are concerned that the management realignments associated with Big Safari that have been implemented over the past 10 years may have resulted in a layering of review processes and extended acquisition cycles. The existence of several intervening headquarters and agencies, in some cases, could inhibit communication between senior Air Force leadership and those responsible for rapidly fielding innovative intelligence, surveillance and reconnaissance (ISR) systems. The conferees believe the Big Safari approach to streamlined acquisition of specialized ISR capabilities is important to the effective execution of the war on terrorism. The conferees, therefore, recommend that the Secretary of the Air Force consider reestablishing Big Safari as a special projects office reporting directly to the Assistant Secretary of the Air Force for Acquisition.

Navy ship acquisition

The conferees remain concerned about both the Department of Defense (DOD) and the Department of the Navy (DON) fiscal year 2003 and previous budget requests for ship acquisition programs. This concern arises from many facts, among which are:

(1) Numerous witnesses, both government and civilian, have testified on the requirement for increased Navy ship acquisition and the annual investment required to recapitalize the Navy's fleet to meet the battle force ship force structure goals outlined in the most recent Quadrennial Defense Review;

(2) Despite congressional documentation over a number of years that the Navy's budget requests are insufficient to recapitalize the required fleet, the Department of Defense continues to submit long-range shipbuilding plans that are inadequate to carry out the missions assigned to the Navy in both the short and long-term; and

(3) The Department of Defense has established a consistent pattern of putting a large number of ships in the latter years of the Future Years Defense Program (FYDP), instead of placing the annual number required in the budget year.

The conferees are also concerned about the manner in which DOD and the DON are interacting with Congress on these important issues. For example, DOD was very late in submitting two acquisition-related attack submarine reports. The late submission of these reports, which required a review of the long- term approach to the stated problem of the low number of attack submarines, made it difficult for Congress to evaluate the annual attack submarine acquisition request. The Department's late or inadequate submission of congressionally mandated reports must be corrected.

Absent more immediate investment, DOD will have to reduce the number or scope of missions assigned to Navy ships. Witnesses have testified that, if neither course is incorporated in future Navy budget programs, the men and women of the Navy and the Marine Corps will bear the burden of these decisions through some combination of longer deployments and less time at home between deployments. The conferees believe that concrete evidence has been presented to demonstrate that these burdens will result in lower retention, less training, and eventually undermanned ships at sea.

In many instances, the overall Department of Defense ship acquisition message is confused. The conferees believe that DOD has provided only lukewarm support for the acquisition of new ships to modernize the Navy. Despite a sizeable increase in the fiscal year 2003 budget for national defense, the number of ships in the new construction shipbuilding account has declined from the level planned in the last FYDP. The conferees also believe that the DON shares blame for this confusion because it has been inconsistent in its description of force structure requirements. This situation makes it appear as if the Navy has not fully evaluated the long-term implications of its annual budget requests. Because it is difficult for Congress to dramatically adjust the course set in a budget request, the departments must consider the long-term implications of their annual budget requests.

Other, more specific situations inform the conferees' conclusions, as noted below.

(1) DOD and DON witnesses have consistently testified over a number of years that the DON hopes to make reductions in operating and support costs and reallocate those funds for necessary shipbuilding investments. The conferees believe that sufficient evidence has accumulated over a number of years to conclude that the Navy's hopes of harvesting operating and support funds sufficient to recapitalize the fleet are misplaced.

(2) The size of the Navy has been steadily declining, with no apparent solution to halt the decline. Despite this fact, the DON has continued to retire mission-capable ships before the end of their useful service lives. While this action will achieve modest, short-term operating and support cost savings, the conferees believe that this situation reveals that the DON is focusing too narrowly on near-term exigencies. Retiring ships earlier than planned merely adds to the size of the acquisition "bow wave" that may already be reaching insurmountable proportions. Accordingly, the conferees further believe that the nation can ill afford to make a 30-year investment in a ship acquisition and then receive less than 30 years from that investment. If the DON continues making these early retirements, the Navy may only achieve short-term savings at the expense of preserving the capability to maintain the level of forward presence and crisis response that is presumed in the most recent Quadrennial Defense Review.

(3) The Navy has occasionally invoked an argument that a smaller number of more capable ships can do the same job as a greater number of ships with less capability. While the conferees recognize that the Navy buys new ships with increased capability as a response to the evolving threat, the conferees believe that the number of ships required to carry out the presence mission has not diminished from those stated in the two previous Quadrennial Defense Reviews.

(4) Placing additional ship acquisition requirements on an underfunded ship acquisition program has exacerbated the budget pressure on the ship acquisition account. The number of ships required to execute the national military strategy should be fully funded and should take priority over new ship acquisition programs that have not been fully vetted. The Navy's tendency to create new ship program requests during the congressional budget review period indicates a lack of planning, analysis, and foresight. This practice generates questions about the validity of the entire request and disrupts support for programs budgeted to meet validated requirements.

(5) The conferees note that the DON submitted a report to Congress on the most efficient plan for buying the ships in the long-range shipbuilding plan, but despite its own analysis, the Navy subsequently submitted a budget request that did not include those efficiencies. Consequently, the conferees believe that the Navy's acquisition strategy has resulted in higher unit prices, ultimately resulting in a smaller number of ships procured for the available funding.

(6) DOD has conducted additional reviews, performed multiple analyses, and produced numerous reports on ship acquisition programs. These additional reviews, while arriving at the same conclusions as previous analyses, have been used as means to delay ship requirements validations and acquisition increases to meet those requirements. The conferees believe that these postponements put added pressure on the Navy's new construction shipbuilding account and increase the slope of the acquisition "mountain" facing the Navy.

(7) The conferees perceive that DOD lacks a commitment to buy the number and type of ships required to carry out the full range of Navy missions without redundancy. The DON has proposed to buy more ships than the stated requirement in some classes, while not requesting sufficient new hulls in other classes that fall short of the stated requirement. Additionally, the conferees believe that the cost of ships will not be reduced by continually changing the number of ships in acquisition programs or by frequently changing the configuration and capability of those ships, all frequent attributes of recent DON shipbuilding plans. The conferees intend to scrutinize closely proposals for ships that would only yield marginal improvements in any mission area already inherent in the fleet.

(8) The conferees note that the Navy has testified that personnel and maintenance comprise the largest cost in the total acquisition and life-cycle costs, yet the DON is not taking deliberate steps to buy ships that would require smaller crews and would operate with lower maintenance costs. Some ships are being designed to achieve significant manpower life-cycle savings, but the DON has delayed their acquisition and reduced their numbers. Consequently, the conferees believe that these delays will result in a more expensive future force than need be.

(9) Although some programs, such as the DD(X) destroyer, aim to reach significant manpower reduction goals, the DON is not identifying reasonable goals for other major ship programs in the FYDP. Despite DON testimony that manpower reduction goals are very important, a General Accounting Office (GAO) review of existing and future ship programs informs that most of those programs do not include human systems integration (HSI) in the operational requirements documents. GAO further concluded that research shows HSI has great potential for minimizing the costs of manning, thereby reducing total ownership costs. Accordingly, the conferees believe that the DON must institutionalize the process by which they will reach their goal of an effective Navy in the future at reduced total life-cycle costs.

The conferees strongly recommend that the Navy design ship acquisition programs to take advantage of the best acquisition strategies that have been identified in the Navy's own reports as leading to the greatest cost savings. These include multiyear procurement, block buy of long lead materials and configuration stability for blocks of ships. The conferees further recommend that, once structured, the DON submit fully vetted and supported programs for acquisition and not change course in the middle of the process. Congress fully supports a strong Navy and Marine Corps team as indispensable to the national defense. DOD and the DON bear a significant responsibility for correcting the deficiencies noted above.

Cryptographic equipment modernization

The conferees believe that the National Security Agency is making substantial progress in developing modern cryptographic equipment and materials. The conferees, however, fail to see evidence that the services are programming sufficient resources for cryptographic modernization procurement. The conferees expect the services to make better progress in addressing this problem by providing adequate procurement funding in future budget submissions.

Signals intelligence architecture

The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD (C3I)) has the responsibility to provide guidance and oversight with respect to policy for all aspects of information exchange networks and to all Department of Defense components. The ASD (C3I) is also responsible for providing guidance for data information and storage systems and their standardization to ensure service interoperability. The conferees recognize that the National Security Agency (NSA) has an important role in supporting this ASD (C3I) responsibility in the area of developing standards for signals intelligence (SIGINT) architecture for the Department of Defense.

The conferees addressed airborne SIGINT architecture issues in the statement of managers (H. Rept. 107–333) accompanying the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107). The conferees encouraged the ASD (C3I) to develop an architectural plan to provide standards-based policy direction to the services, whose platform program offices can develop systems, and, to the maximum extent possible, share developments. The statement of managers expressed the expectation that the plan should include: (1) a robust spiral development approach; and (2) adequate emphasis on fielding and modernizing the appropriate ground support infrastructure.

The conferees have been unable to detect progress within the Department on such an effort. The ASD(C3I) and the Director of the NSA have not been able to develop and field a cohesive SIGINT architecture with the necessary technical standards. In addition, the conferees can find no evidence that the leadership in either organization has provided sufficient support for establishing an organizational framework for coordinating their own organizational activities or for providing the cross-service oversight of joint intelligence surveillance and reconnaissance (ISR) SIGINT activities, particularly when it comes to information-sharing, routing, and access.

Therefore, the conferees direct the ASD (C3I) to provide a report to the congressional defense and intelligence committees by May 30, 2003, on progress he is making in developing standards for SIGINT architecture for the Department of Defense.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Authorization of Appropriations

Authorization of appropriations (secs. 101–107)

The House bill contained provisions (secs. 101–107) that would authorize the recommended fiscal year 2003 funding levels for procurement for the Army, Navy, Marine Corps, Air Force, Defense-Wide activities, Defense Inspector General, Chemical Demilitarization Program, and Defense Health Program.

The Senate amendment contained similar provisions (secs. 101–107).

The conference agreement includes these provisions.

Chemical Agents and Munitions Destruction, Defense (sec. 106)

The House bill contained a provision (sec. 106) that would authorize $1.5 billion, the amount included in the budget request, for the destruction of chemical agents, munitions, and materiel.

The Senate amendment contained a similar provision (sec. 106) that would authorize the requested amount for chemical demilitarization in a Defense Department account, in accordance with section 1521(f) of title 50, United States Code.

The House recedes.

The conferees are disappointed that the Department of Defense requested funds for chemical demilitarization for fiscal year 2003 in an Army budget account, contrary to the requirements of law. Section 1521(f) of title 50, United States Code requires that funds for this program shall not be included in the budget accounts for any military department. The conferees expect the Department to comply with the law in future budget requests and therefore have approved a separate provision, described elsewhere in this report, concerning the budget submission.

Subtitle B—Army Programs

Pilot program on sales of manufactured articles and services of certain Army industrial facilities without regard to availability from domestic sources (sec. 111)

The Senate amendment contained a provision (sec. 111) that would extend the authorization for Army industrial facilities to sell articles and services to commercial contractors providing weapon systems to the Department of Defense through fiscal year 2004.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Report on impact of Army aviation modernization plan on the Army National Guard (sec. 112)

The House bill contained a provision (sec. 145) that would require the Chief of the National Guard Bureau to submit to the congressional defense committees a report on the requirements for Army National Guard aviation, including an analysis of the impact of the Army Aviation Modernization Plan on the Army National Guard.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Chief of the National Guard Bureau to submit the report through the Army Chief of Staff for any comments and recommendations he considers appropriate before he forwards the report to the Committees on Armed Services of the Senate and House of Representatives. The conferees expect the report to include an analysis of the impact of the Army Aviation Modernization Plan on Army National Guard homeland security search and rescue, MEDEVAC, and state emergency missions.

Family of Medium Tactical Vehicles (sec. 113)

The conferees agree to include a provision that would provide the Army multiyear procurement (MYP) authority for the procurement of the Family of Medium Tactical Vehicles (FMTV).

The budget request included $681.4 million to procure the FMTV to replace the Army's aging fleet of medium tactical vehicles. The FMTV is a complete series of trucks and trailers based on a common chassis, varied by payload and mission. In the fiscal year 2003 budget request, the Army intends to buy 2,572 FMTV A1 models through the option clause of the current sole-source multiyear contract and 1,002 FMTV A1 competitive rebuy (CR) models through the first year of a "competitive rebuy" multiyear contract scheduled for award in March 2003.

The Army failed to request multiyear procurement authority for the FMTV A1 CR until after both houses of Congress had acted on their respective National Defense Authorization Bills for Fiscal Year 2003.

The conferees note that the Army has had technical problems with previous versions of the FMTV. Therefore, the conferees agree that the Secretary of the Army may not enter into a multiyear contract until the Secretary certifies to the congressional defense committees that the FMTV A1 CR models meet all key performance parameters required in the initial operational test and evaluation.

The conferees also note that the Army estimates a $222.0 million cost savings (6.5 percent of the contract value) using a five-year multiyear procurement contract for the FMTV A1 CR over that of annual buys, for the same period of time. The conferees believe that the Army can achieve at least a 10 percent cost savings when both multiyear procurement authority and competition are factored into cost estimates. Therefore, the conferees agree that the Secretary of the Army may not enter into a MYP contract until he certifies that the total cost of the procurement of the FMTV A1 CR under the program over five fiscal years using MYP contracting authority is estimated to be at least 10 percent less than the estimated total cost of the procurement of FMTV A1 CR over the same five-year period through the use of successive one-year contracts. The Secretary of Defense may waive this limitation if he determines that the procurement of vehicles using a MYP contract is in the national security interests of the United States; certifies that the Army cannot achieve a 10 percent cost savings; and submits to the congressional defense committees, in writing, a notification of the waiver together with a report outlining the reasons why the use of a MYP contract is in the national security interests of the United States and reasons why the Army cannot achieve a 10 per cent savings of the total anticipated costs of carrying out the program through a MYP contract.

Subtitle C—Navy Programs

Extension of multiyear procurement authority for DDG–51 class destroyers (sec. 121)

The Senate amendment contained a provision (sec. 122) that would authorize an extension, through fiscal year 2007, of the multiyear procurement authority for Arleigh Burke-class (DDG–51) destroyers.

The House bill contained no similar provision.

The House recedes.

Sense of Congress on scope of conversion program for Ticonderoga-class cruisers (sec. 122)

The Senate amendment contained a provision (sec. 123) that would state that the Secretary of the Navy should maintain the scope of the cruiser conversion program to cover all 27 Ticonderoga-class cruisers with an appropriate mix of modernization upgrades.

The House bill contained no similar provision.

The House recedes with an amendment making the scope of cruiser conversion a sense of Congress.

Continuation of contract for operation of Champion-class T-5 fuel tanker vessels (sec. 123)

The House bill contained a provision (sec. 112) that would prohibit the Navy's requested acquisition of Champion-class T-5 fuel tanker ships.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would permit the Navy to acquire the vessels. The amended provision would require that the Navy maintain the current operating contract for each vessel until the end of the current contract, or until the Navy or Military Sealift Command is no longer using the vessel, whichever is earlier.

Subtitle D—Air Force Programs

Multiyear procurement authority for C-130J aircraft program (sec. 131)

The House bill contained a provision (sec. 121) that would authorize the Secretary of the Air Force to enter into a multiyear contract 30 days after the Secretary of Defense has submitted a certification that the C-130J program is making satisfactory progress toward a successful operational test and evaluation.

The Senate amendment contained a similar provision (sec. 131) that would authorize the Secretary of the Air Force to enter into a multiyear contract that could extend for six program years, subject to the program's having been cleared for worldwide overwater capability.

The conferees agree to a provision that would authorize the Secretary of the Air Force to enter into a multiyear contract that could extend for six program years, subject to the program's having completed qualification for air assault operations and installation of certain software upgrades.

Pathfinder programs (sec. 132)

The Senate amendment contained a provision (sec. 132) that would require: (a) the Secretary of the Air Force to submit to Congress a list of Air Force programs designated as acquisition reform pathfinder programs by February 1, 2003; (b) approval or disapproval of the spiral development plans associated with these pathfinder programs by the Secretary of Defense; and (c) assessments by the Under Secretary of Defense (Comptroller), the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Director of Operational Test and Evaluation, and the Joint Requirements Oversight Council of those pathfinder programs that were not chosen to be spiral development programs. Spiral development programs are covered by another Senate provision (sec. 803).

The House bill contained no similar provision.

The conferees agree that Congress needs a further understanding of the Department of Defense plans for pathfinder programs, as well as information on lessons learned from pathfinder programs that could be applied to other programs. The conferees also agree that appropriate oversight should be maintained over such programs.

Therefore, the House recedes with an amendment that would require the Secretary of the Air Force to submit a list of Air Force programs designated as pathfinder programs by February 1, 2003, and would require the Secretary of Defense to ensure that the Undersecretary of Defense for Acquisition, Technology, and Logistics, the Director of Operational Test and Evaluation, and the Joint Requirements Oversight Council maintain oversight of each pathfinder program. The amendment would also require the Secretary of the Air Force to submit to Congress by March 15, 2003, a report on pathfinder programs describing how oversight by these organizations will be accomplished, as well as the management, acquisition, and test and evaluation plans for each pathfinder program. The report would also contain a description of any innovative business practices that could be applied to other programs. The amendment would not exempt Air Force pathfinder programs from the requirements for spiral development programs specified in section 803.

Leases for tanker aircraft under multiyear aircraft-lease pilot program (sec. 133)

The Senate amendment contained a provision (sec. 134) which would require that the Secretary of the Air Force not enter into any lease for tanker aircraft until: (1) he has submitted the report required by Section 8159 of the Department of Defense Appropriations Act for Fiscal Year 2002 (Public Law 107-117); and (2) he has obtained authorization and appropriation of funds necessary to enter a lease for such aircraft, in accordance with his publicly stated commitments to Congress.

The House bill contained no similar provision.

The House recedes with an amendment that would clarify that the Secretary may not enter into such a lease until the Secretary either: (1) obtains authorization and appropriation of needed funds; or (2) submits a new start reprogramming notification to the congressional defense committees. The Secretary of the Air Force informed the Committee on Armed Services of the Senate February 12, 2002, that he would not take any action on tanker leasing proposals without first coming to both the authorization and the appropriations committees to have money authorized and appropriated or reprogrammed for these purposes. The conferees expect that the Secretary will live up to this commitment, regardless of whether the request for funds is submitted through the normal budget deliberation process or through established procedures observed in the reprogramming process.

Subtitle E—Other Programs

Destruction of existing stockpile of lethal chemical agents and munitions (sec. 141)

The House bill contained a provision (sec. 143) that would require that the chemical demilitarization program be managed as a major defense acquisition program. It would also require that the Under Secretary of Defense (Comptroller) provide an annual certification that the budget request for the chemical agents and munitions destruction program has been submitted in compliance with applicable Federal laws.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment that would specify that the Comptroller certify that the budget request has been submitted in accordance with section 1412 of the Department of Defense Authorization Act for 1986 (Public Law 99-145).

Section 1521(f) of title 50, United States Code requires that funds for the chemical demilitarization program, including those for military construction, "shall be set forth in the budget of the Department of Defense for any fiscal year as a separate account. Such funds shall not be included in the budget accounts for any military department." The Department of Defense submitted the fiscal year 2003 budget request for chemical demilitarization in an Army account, contrary to the law. The conferees expect the Department to comply with the law in future budget requests by submitting the budget request for chemical agents and munitions destruction in a Department of Defense account. This certification provision is intended to help ensure such compliance.

Report on unmanned aerial vehicle systems (sec. 142)

The House bill contained a provision (sec. 144) that would require the Secretary of Defense to submit a report to Congress on unmanned aerial vehicle (UAV) systems.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the report to describe the process by which the Department will ensure that any UAV program proceeding past the science and technology stage does so only as part of an integrated, overall Office of the Secretary of Defense strategy for UAV acquisition.

The conferees support the Department's plans to procure and field a substantial number of UAVs starting in fiscal year 2003. However, the conferees also want to ensure that UAV systems are appropriately integrated into an overall departmental strategy that will minimize redundancy and maximize commonality.

Global Information Grid system (sec. 143)

The House bill contained a provision (sec. 1527) that would prohibit the obligation of funds for the Global Information Grid (GIG) system until the Secretary of Defense certifies to the congressional defense committees that the system is secure and protected from unauthorized access.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that prohibits the obligation of funds for the GIG until the Secretary of Defense submits a plan to ensure that, as part of bandwidth expansion efforts, the information transmitted within the system is secure and protected.

LEGISLATIVE PROVISIONS NOT ADOPTED

Compass Call program

The Senate amendment contained a provision (sec. 135) that would shift $12.7 million in Compass Call aircraft modifications from the Defense Airborne Reconnaissance Program line to the Classified Projects line.

The House bill contained no similar provision.

The Senate recedes on the provision.

By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Integrated bridge system

The Senate amendment contained a provision (sec. 121) that would authorize $5.0 million for the integrated bridge system.

The House bill contained no similar provision.

The Senate recedes on the provision. By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Marine Corps live fire range improvements

The Senate amendment contained a provision (sec. 124) that would authorize $1.9 million for various improvements in live fire training ranges of the Marine Corps.

The House bill contained no similar provision.

The Senate recedes on the provision.

By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Mobile emergency broadband system

The Senate amendment contained a provision (sec. 137) that would authorize $1.0 million to buy technical communications-electronics equipment for the emergency mobile broadband system.

The House bill contained no similar provision.

The Senate recedes on the provision.

By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Reallocation of certain funds for Air Force Reserve Command F–16 aircraft procurement

The House bill contained a provision (sec. 122) that would authorize $14.4 million for the 36 Litening II modernization upgrade kits for the F–16 block 25 and block 30 aircraft (rather than for Litening AT pods for such aircraft).

The Senate amendment contained no similar provision.

The House recedes on the provision. By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Shipbuilding initiative

The House bill contained a provision (sec. 111) that would authorize an additional $810.0 million for shipbuilding programs.

The section would provide that if the *Virginia*-class prime contractor were to reach an agreement with the Government as of the date of enactment of this bill to spend at least $385.0 million for the Virginia-class submarine program from its own funds, then the provision would authorize: (1) an additional $810.0 million for an additional *Arleigh Burke*-class (DDG–51) destroyer; and (2) multiyear procurement for *Virginia*-class submarines, commencing in fiscal year 2003.

If such an agreement were not reached, the provision would authorize the following:

(1) $415.0 million for Virginia-class submarine advance procurement;

(2) $210.0 million for cruiser conversion advance procurement; and

(3) $185.0 million for a nuclear attack submarine refueling overhaul.

The Senate amendment contained no similar provision.

The House recedes.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Research, Development, Test, and Evaluation overview

The budget request for fiscal year 2003 included an authorization of $53,924.2 million for Research and Development for the Department of Defense.

The House bill would authorize $56,816.6 million.

The Senate amendment would authorize $55,751.4 million.

The conferees recommend an authorization of $56,777.4 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Department of Defense science and technology funding

The budget request contained $10,009.2 million for defense science and technology, including all defense-wide and military service funding for basic research, applied research, and advanced technology development. To address the conferees' concerns with respect to critical shortcomings in the budget request, the conferees recommend an authorization of $10,384.7 million, an increase of $375.5 million for the defense science and technology (S&T) program.

The conferees note that the budget request represents an increase of $1231.4 million, or 14.0 percent above the amount requested for the fiscal year 2002 budget, and 2.7 percent of the budget request. The conferees also note that the amount in the budget request for science and technology is an increase of $132.0 million from the amount provided by Congress for fiscal year 2002. However, the Army and Navy science and technology accounts each decreased more than 21 percent (nearly $400 million each).

The conferees view defense science and technology investments as critical to maintaining U.S. military technological superiority in the face of growing and changing threats to national security interests around the world, and believe that both the defense agencies and the military departments have vital roles in the Department's science and technology investment strategy. Although pleased with the overall progress in the defense science and technology program, the conferees continue to be disturbed by the continuing trend of overall reduction in the military departments' science and technology programs and the effect of that trend on the critical role that the military departments play in the transition of science and technology into acquisition programs.

The conferees note the finding of the Defense Science Board Letter Report on the Department of Defense Science and Technology Program (August 2000) which noted that a significant change in defense science and technology over the past 10 years has been the erosion of military department's science and technology budgets. The report notes, and the conferees are aware, that a major reason the military departments' science and technology budgets have declined is because the services have had to emphasize funding for current operations. The shift in funding away from science and technology raises issues of whether the services are investing sufficiently to properly address their long-term technology needs.

The Department's science and technology program has long played a crucial role in the development of technology and in the education and training of the scientific and engineering personnel required to support the continuing technical advances critical to maintain superior military capabilities. The ability of today's U.S. military forces to deploy anywhere in the world, sustain forward presence, and win decisively on the battlefield results from past investments in research and technology. For more than 50 years, these investments have enabled the Department of Defense to advance the frontiers of knowledge and develop the technologies necessary to gain and maintain operational and technical superiority.

The conferees commend the Department of Defense commitment to a goal of three percent of the budget request for the defense science and technology program and progress toward this goal. The conferees also note the finding in the Defense Science Board report that successful high technology industries invest about 3.5 percent of sales in research (equivalent to the DOD S&T program) and the recommendation that S&T funding should be increased to ensure the continued long-term technical superiority of U.S. military forces in the 21st Century. The conferees believe that the Department must continue to provide the necessary investments in research and technologies that ensure a strong, stable, and robust science and technology program for our Armed Forces.

NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2003

(In Thousands of Dollars)

	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization
Title II -- RESEARCH, DEVELOPMENT, TEST & EVALUATION					
Research, Development, Test & Evaluation, Army	6,918,494	6,933,319	7,301,433	239,762	7,158,256
Research, Development, Test & Evaluation, Navy	12,501,630	13,274,540	12,913,135	742,534	13,244,164
Research, Development, Test & Evaluation, Air Force	17,601,233	18,803,184	18,611,184	735,845	18,337,078
Research, Development, Test & Evaluation, Defense-wide	16,613,551	17,516,337	16,496,873	1,045,548	17,659,099
Operational Test & Evaluation	222,054	222,054	361,554	89,500	311,554
Defense Health Program	67,214	67,214	67,214	0	67,214
TOTAL RDT&E	**53,924,176**	**56,816,648**	**55,751,393**	**2,853,189**	**56,777,365**

ARMY

Research, Development, Test and Evaluation, Army—Overview

The budget request for fiscal year 2003 included an authorization of $6,918.5 million for Research, Development, Test and Evaluation, Army in the Department of Defense.

The House bill would authorize $6,933.3 million.

The Senate amendment would authorize $7,301.4 million.

The conferees recommend an authorization of $7,158.3 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
		RESEARCH, DEVELOPMENT, TEST & EVALUATION, ARMY					
0601101A	1	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	22,998	22,998	22,998		22,998
0601102A	2	DEFENSE RESEARCH SCIENCES	139,633	139,633	147,633	7,000	146,633
		Optical research			[3,000]	[2,000]	
		Animal modeling genetics research			[1,000]	[1,000]	
		Desert terrain analysis			[4,000]	[4,000]	
0601104A	3	UNIVERSITY AND INDUSTRY RESEARCH CENTERS	74,855	74,855	78,855	4,000	78,855
		Armor materials modeling & simulation			[2,500]	[2,500]	
		Ferroelectric materials nanofabrication			[1,500]	[1,500]	
0602105A	4	MATERIALS TECHNOLOGY	18,659	18,659	31,159	12,500	31,159
		Advanced materials processing			[4,000]	[4,000]	
		Electronic components reliability			[2,500]	[2,500]	
		Composite materials technology for FCS			[3,000]	[3,000]	
		Multifunctional composite materials			[3,000]	[3,000]	
0602120A	5	SENSORS AND ELECTRONIC SURVIVABILITY	24,305	24,305	24,305		24,305
0602122A	6	TRACTOR HIP	6,839	6,839	6,839		6,839
0602211A	7	AVIATION TECHNOLOGY	43,692	43,692	43,692		43,692
0602270A	8	EW TECHNOLOGY	19,584	19,584	19,584		19,584

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0602303A	9	MISSILE TECHNOLOGY	31,884	48,284	36,884	20,000	51,884
		Micro electro-mechanical systems (MEMS) inertial measurement unit / Global Positioning System		[10,000]		[15,000]	
		Digital glue technology		[3,400]			
		Enhanced area air defense sys (EAADS) short-range air defense integrated kinetic energy (E-STRIKE) system		[3,000]		[3,000]	
		Short range air defense radar			[3,000]		
		Advanced composite chassis			[2,000]	[2,000]	
0602307A	10	ADVANCED WEAPONS TECHNOLOGY	11,208	11,208	11,208		11,208
0602308A	11	ADVANCED CONCEPTS AND SIMULATION	20,634	20,634	23,134	2,500	23,134
		Interactive training technology transition			[2,500]	[2,500]	
0602601A	12	COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY	55,763	55,763	86,063	25,300	81,063
		Advanced coatings research			[1,500]	[1,500]	
		Fastening & joining research			[1,800]	[1,800]	
		21st Century Truck			[17,000]	[17,000]	
		Combat truck initiative (COMBATT) hybrid vehicle			[5,000]	[5,000]	
		Advanced manufacturing technology			[5,000]		
0602618A	13	BALLISTICS TECHNOLOGY	74,094	74,094	74,094		74,094
0602622A	14	CHEMICAL, SMOKE AND EQUIPMENT DEFEATING TECHNOLOGY	3,675	6,675	3,675	3,000	6,675
		Metallic particles in defense applications obscurant smokes		[3,000]		[3,000]	
0602623A	15	JOINT SERVICE SMALL ARMS PROGRAM	5,812	5,812	5,812		5,812

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0602624A	16	WEAPONS AND MUNITIONS TECHNOLOGY	38,090	47,090	41,490	7,000	45,090
		M795 extended range, high explosive baseburner projectile		[6,000]		[4,000]	
		Explosively formed penetrators		[3,000]			
		Generation 2 warhead development (X-caliber) explosively formed penetrators				[2,000]	
		Tungsten kinetic energy projectile			[1,000]	[1,000]	
		Warhead technology for Future Combat System (FCS)			[2,400]		
0602705A	17	ELECTRONICS AND ELECTRONIC DEVICES	27,448	32,448	29,448	4,000	31,448
		Advanced fuel cell technology		[5,000]		[2,000]	
		Portable hybrid electric power systems			[2,000]	[2,000]	
0602709A	18	NIGHT VISION TECHNOLOGY	22,333	25,333	22,333		22,333
		Eye-safe laser		[3,000]			
0602712A	19	COUNTERMINE SYSTEMS	13,186	13,186	25,686	5,000	18,186
		Polymer-based landmine detection			[2,000]	[2,000]	
		Acoustic landmine detection			[3,000]	[3,000]	
		Airborne landmine detection			[7,500]		
0602716A	20	HUMAN FACTORS ENGINEERING TECHNOLOGY	17,415	20,415	17,415	3,000	20,415
		Human factors engineering technology		[3,000]		[3,000]	
0602720A	21	ENVIRONMENTAL QUALITY TECHNOLOGY	23,018	23,018	27,018	3,000	26,018
		Environmental restoration technology			[4,000]	[3,000]	

Title II-RDT and E

(Dollars in Thousands)

Program	Line		FY 2003	House	Senate	Conference Agreement	
Element	No	Program Title	Request	Authorized	Authorized	Change	Authorized
0602782A	22	COMMAND, CONTROL, COMMUNICATIONS TECHNOLOGY	21,821	21,821	21,821		21,821
		Mobile emergency broadband system					
0602783A	23	COMPUTER AND SOFTWARE TECHNOLOGY	4,354	4,354	4,354		4,354
0602784A	24	MILITARY ENGINEERING TECHNOLOGY	51,124	51,124	63,124	12,000	63,124
		Geosciences research			[2,000]	[2,000]	
		Stationary fuel cell initiative			[10,000]	[10,000]	
0602785A	25	MANPOWER/PERSONNEL/TRAINING TECHNOLOGY	14,335	15,835	14,335		14,335
		Distance learning		[1,500]			
0602786A	26	WARFIGHTER TECHNOLOGY	25,502	27,502	28,002		25,502
		Clothing & equipment technology		[2,000]			
		Heavy precision airdrop technology			[2,500]		
0602787A	27	MEDICAL TECHNOLOGY	67,476	80,476	67,476	12,500	79,976
		Metabolically engineered tissues for trauma care		[2,000]		[1,500]	
		Hemoglobin-based oxygen carrier		[7,000]		[7,000]	
		Eliminating arthropod-borne infectious diseases		[4,000]		[4,000]	

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0602789A	28	ARMY ARTIFICIAL INTELLIGENCE TECHNOLOGY					
0602805A	29	DUAL USE SCIENCE AND TECHNOLOGY					
0603001A	30	WARFIGHTER ADVANCED TECHNOLOGY	50,262	51,762	90,262	6,500	56,762
		Metrology		[1,500]		[1,500]	
		Personal navigation of the future warfighter			[5,000]	[5,000]	
		Warfighter position, location, & tracking sensor			[3,000]		
		Objective Force Warrior technologies			[32,000]		
0603002A	31	MEDICAL ADVANCED TECHNOLOGY	16,590	22,090	16,590	3,500	20,090
		Stable hemostat		[3,500]		[3,500]	
		Textile electronic garments for combat casualty care		[2,000]			
0603003A	32	AVIATION ADVANCED TECHNOLOGY	45,404	45,404	48,404	3,000	48,404
		UAV datalinks			[3,000]	[3,000]	
0603004A	33	WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY	66,514	67,514	66,514		66,514
		Mobile fire support system (see Navy)		[1,000]			

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement	
						Change	Authorized
0603005A	34	COMBAT VEHICLE AND AUTOMOTIVE ADVANCED TECHNOLOGY	229,778	240,528	270,778	40,000	269,778
		Advanced Army composite bridge full scale demonstration		[3,000]			
		Fuel catalyst research & evaluation		[2,000]		[1,500]	
		Rotary multi-fuel auxiliary power unit (APU)		[5,000]	[3,000]	[5,000]	
		Automated document conversion		[750]			
		Imp Matls & Powertrain Arch for 21st Century Truck (IMPACT)			[3,000]	[3,000]	
		Networked standardized exchange of product data			[5,000]	[3,000]	
		Mobile parts hospital			[8,000]	[8,000]	
		Rapid prototyping			[2,000]	[2,000]	
		Hybrid electric vehicles			[7,500]	[7,500]	
		Unmanned ground vehicles (UGVs)			[5,000]		
		Active protection system			[7,500]		
		Future Scout & Cavalry vehicle demonstration				[10,000]	
0603006A	35	COMMAND, CONTROL, COMMUNICATIONS ADVANCED	4,826	7,226	4,826		4,826
		Unmanned aerial vehicle / unmanned ground vehicle demonstration		[2,400]			
0603007A	36	MANPOWER, PERSONNEL AND TRAINING ADVANCED	3,527	5,627	5,527	2,000	5,527
		Aircrew coordination training		[2,100]	[2,000]	[2,000]	
0603008A	37	ELECTRONIC WARFARE ADVANCED TECHNOLOGY (H)	28,254	28,254	28,254		28,254
0603009A	38	TRACTOR HIKE	18,069	18,069	18,069		18,069
0603017A	39	TRACTOR RED					
0603020A	40	TRACTOR ROSE	4,895	4,895	4,895		4,895

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0603105A	41	MILITARY HIV RESEARCH					
0603122A	42	TRACTOR HIP					
0603125A	42a	Combating Terrorism, Technology Development		48,900	43,900	48,900	48,900
		Language translation (Transfer from DERF)		[7,300]	[7,300]	[7,300]	
		Blue force awareness suite (Transfer from DERF)		[10,000]	[10,000]	[10,000]	
		Remote observation & confirming sensors (Transfer from DERF)		[600]	[600]	[600]	
		Multi-function remote unattended ground sensor (Transfer from DERF)		[1,500]	[1,500]	[1,500]	
		Laser induced breakdown spectroscopy (Transfer from DERF)		[1,500]	[1,500]	[1,500]	
		Universal soldier sensor (Transfer from DERF)		[8,000]	[8,000]	[8,000]	
		CT echelon surveillance & reconnaissance (Transfer from DERF)		[20,000]	[15,000]	[20,000]	
0603238A	43	GLOBAL SURVEILLANCE/AIR DEFENSE/PRECISION STRIKE	31,291	31,291	31,291		31,291
0603270A	44	EW TECHNOLOGY	11,600	11,600	11,600		11,600
0603313A	45	MISSILE AND ROCKET ADVANCED TECHNOLOGY	87,890	99,390	102,890	14,000	101,890
		Volumetrically controlled manufacturing		[11,500]		[9,000]	
		Loiter attack munition			[15,000]	[5,000]	
0603322A	46	TRACTOR CAGE	3,083	3,083	3,083		3,083
0603606A	47	LANDMINE WARFARE AND BARRIER ADVANCED TECHNOLOGY	24,104	24,104	24,104		24,104
0603607A	48	JOINT SERVICE SMALL ARMS PROGRAM	6,013	15,813	6,013	7,000	13,013
		Anti-materiel sniper rifle		[9,800]		[7,000]	
0603654A	49	LINE-OF-SIGHT TECHNOLOGY DEMONSTRATION	28,283	28,283	28,283		28,283

Title II-RDT and E

(Dollars in Thousands)

Program	Line		FY 2003	House	Senate	Conference Agreement	
Element	No	Program Title	Request	Authorized	Authorized	Change	Authorized
0603710A	50	NIGHT VISION ADVANCED TECHNOLOGY	36,494	52,294	44,294	10,300	46,794
		Wire detection & obstacle avoidance system for helicopters		[4,000]			
		Night vision fusion		[9,000]		[4,500]	
		Helmet-mounted thermal imaging system		[2,800]		[2,800]	
		Warfighter / firefighter position, location & tracking (PLT) sensor				[3,000]	
		Sensors for micro air vehicles			[5,000]		
		High speed target recognition			[2,800]		
0603728A	51	ENVIRONMENTAL QUALITY TECHNOLOGY DEMONSTRATIONS	8,980	8,980	8,980		8,980
0603734A	52	MILITARY ENGINEERING ADVANCED TECHNOLOGY	2,921	5,921	7,921	5,000	7,921
		Energy & sustainability research		[3,000]			
		Proton exchange membrane fuel cell demonstration			[5,000]	[5,000]	
0603772A	53	ADVANCED TACTICAL COMPUTER SCIENCE AND SENSOR	21,674	21,674	21,674		21,674
0603305A	54	ARMY MISSILE DEFENSE SYSTEMS INTEGRATION	27,887	27,887	27,887		27,887

Title II-RDT and E

(Dollars in Thousands)

Program	Line		FY 2003	House	Senate	Conference Agreement	
Element	No	Program Title	Request	Authorized	Authorized	Change	Authorized
0603308A	55	ARMY MISSILE DEFENSE SYSTEMS INTEGRATION (DEM/VAL)	7,417	54,417	25,917	47,500	54,917
		Thermionics technology		[5,000]		[4,000]	
		Mobile tactical high energy laser (MTHEL)		[25,000]		[20,000]	
		P3 micro-power devices for missile defense applications		[3,000]		[3,000]	
		Advanced battery technology demonstration & validation program		[8,000]		[2,000]	
		Low-cost interceptor flight test demonstrations			[8,000]	[8,000]	
		Supercluster distributed memory technology (SDMT)			[4,000]	[4,000]	
		Family of systems simulators (FOSSIM)		[6,000]	[2,000]	[2,000]	
		Radar power technology			[4,500]	[4,500]	
0603619A	56	LANDMINE WARFARE AND BARRIER - ADV DEV	20,286	20,286	20,286	-10,116	10,170
		Termination of Wide Area Munition (WAM)				[-10,116]	
0603627A	57	SMOKE, OBSCURANT AND TARGET DEFEATING SYS-ADV DEV	2,432	2,432	2,432		2,432
0603639A	58	TANK AND MEDIUM CALIBER AMMUNITION	11,354	11,354	11,354		11,354
0603645A	58a	Future Combat System DEM/VAL				114,509	114,509
		Netfire system technology				[57,000]	
		Netfire C4ISR technology				[57,509]	
0603653A	59	ADVANCED TANK ARMAMENT SYSTEM (ATAS)	124,108	124,108	127,108	26,800	150,908
		Common remote stabilized sensor system (CRS3)			[3,000]	[3,000]	
		IAV - mobile gun system testing -- transfer from PWTCVA 8				[23,800]	
0603713A	60	ARMY DATA DISTRIBUTION SYSTEM					
0603747A	61	SOLDIER SUPPORT AND SURVIVABILITY	20,788	20,788	20,788		20,788

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0603766A	62	TACTICAL ELECTRONIC SURVEILLANCE SYSTEM - ADV DEV	16,392	16,392	16,392		16,392
0603774A	63	NIGHT VISION SYSTEMS ADVANCED DEVELOPMENT	11,694	11,694	11,694		11,694
0603779A	64	ENVIRONMENTAL QUALITY TECHNOLOGY DEM/VAL	9,331	11,331	10,331		9,331
		Asbestos pilot project		[2,000]			
		Army technology environmental enhancement			[1,000]		
0603782A	65	WARFIGHTER INFORMATION NETWORK-TACTICAL - DEM/VAL	60,809	60,809	60,809		60,809
		Reduce programmed growth					
0603790A	66	NATO RESEARCH AND DEVELOPMENT	8,773	8,773	8,773		8,773
0603801A	67	AVIATION - ADV DEV	8,643	8,643	8,643		8,643
0603802A	68	WEAPONS AND MUNITIONS - ADV DEV	27,761	27,761	27,761	10,800	38,561
		Crusader amendment - precision guided mortar munition				[10,800]	
0603804A	69	LOGISTICS AND ENGINEER EQUIPMENT - ADV DEV	11,419	16,419	16,919	5,500	16,919
		Nuclear, biological & chemical agent detection & removal		[5,000]			
		Prototype composite hull design for Theater Support Vessel			[5,500]	[5,500]	
0603805A	70	COMBAT SERVICE SUPPORT CONTROL SYSTEM EVALUATION	8,971	8,971	8,971		8,971
0603807A	71	MEDICAL SYSTEMS - ADV DEV	10,398	10,398	10,398		10,398
0603850A	72	INTEGRATED BROADCAST SERVICE (JMIP/DISTP)	1,962	1,962	1,962		1,962
0603851A	73	TRACTOR CAGE (DEM/VAL)					

Title II-RDT and E

(Dollars in Thousands)

Program	Line		FY 2003	House	Senate	Conference Agreement	
Element	No	Program Title	Request	Authorized	Authorized	Change	Authorized
0603854A	74	ARTILLERY SYSTEMS - DEM/VAL	251,665	251,665		116,835	368,500
		Transfer Crusader funds to Future Combat System - PE 64645A (RDA 94)			[-246,665]	[-246,665]	
		Artillery system - DEM/VAL residual transfer			[-5,000]	[-5,000]	
		Future combat systems non line-of-sight cannon				[368,500]	
0603856A	75	SCAMP BLOCK II DEM/VAL	21,006	21,006	21,006		21,006
0603869A	76	MEDIUM EXTENDED AIR DEFENSE SYSTEM (MEADS) CONCEPTS -	117,745		69,745	-117,745	
		Transfer to MDA PE 63881C (RDDW 73)		[-117,745]		[-117,745]	
		Lack of internationally agreed-upon plan			[-48,000]		
	76a	Dem/val Test and Evaluation transfer			-5,000		
0604201A	77	AIRCRAFT AVIONICS	40,308	40,308	40,308		40,308
0604220A	78	ARMED, DEPLOYABLE OH-58D	1,873	1,873	1,873		1,873
0604223A	79	COMANCHE	914,932	914,932	914,932		914,932
0604270A	80	EW DEVELOPMENT	22,819	45,719	38,719	15,900	38,719
		Prophet block II-IV acceleration (Transfer from DERF)		[15,900]	[15,900]	[15,900]	
		Adv threat IR countermeasures (ATIRCM)/common missile warning sys (CMWS) test facility upgrade		[7,000]			
0604280A	81	JOINT TACTICAL RADIO	65,818	65,818	65,818		65,818

Title II-RDT and E

(Dollars in Thousands)

Program	Line		FY 2003	House	Senate	Conference	Agreement
Element	No	Program Title	Request	Authorized	Authorized	Change	Authorized
0604321A	82	ALL SOURCE ANALYSIS SYSTEM	42,322	58,622	54,622	12,300	54,622
		FALCON language translator (Transfer from DERF)		[8,000]	[8,000]	[8,000]	
		Analysis & control element (ACE) software development (Transfer from DERF)		[4,300]	[4,300]	[4,300]	
		Non-traditional intelligence analysis toolset		[4,000]			
0604328A	83	TRACTOR CAGE	9,800	9,800	9,800		9,800
0604329A	84	COMMON MISSILE	29,919	29,919	29,919		29,919
0604601A	85	INFANTRY SUPPORT WEAPONS					
0604604A	86	MEDIUM TACTICAL VEHICLES	1,953	1,953	1,953		1,953
0604609A	87	SMOKE, OBSCURANT AND TARGET DEFEATING SYS-ENG DEV	8,153	8,153	8,153		8,153
0604611A	88	JAVELIN	489	13,589	6,989		489
		Javelin		[13,100]			
		Counteractive protection capability			[6,500]		
0604619A	89	LANDMINE WARFARE	11,913	11,913	11,913		11,913
0604622A	90	FAMILY OF HEAVY TACTICAL VEHICLES	3,990	3,990	3,990		3,990
0604633A	91	AIR TRAFFIC CONTROL	2,339	2,339	2,339		2,339
0604641A	92	TACTICAL UNMANNED GROUND VEHICLE (TUGV)					
0604642A	93	LIGHT TACTICAL WHEELED VEHICLES	7,877	7,877	7,877		7,877

Title II-RDT and E

(Dollars in Thousands)

Program	Line		FY 2003	House	Senate	Conference Agreement	
Element	No	Program Title	Request	Authorized	Authorized	Change	Authorized
0604645A	94	ARMORED SYSTEMS MODERNIZATION (ASM)-ENG. DEV.	59,860	59,860	640,460	105,000	164,860
		Future combat system (FCS)			[105,000]	[105,000]	
		Transfer from Crusader funds -PE 63854A (RDA 74)			[246,665]		
		Transfer from Crusader funds -PE 64854A (RDA 125)			[228,935]		
0604649A	95	ENGINEER MOBILITY EQUIPMENT DEVELOPMENT	8,146	8,146	8,146		8,146
0604710A	96	NIGHT VISION SYSTEMS - ENG DEV	32,328	32,328	32,328		32,328
0604713A	97	COMBAT FEEDING, CLOTHING, AND EQUIPMENT	94,474	94,474	94,474		94,474
0604715A	98	NON-SYSTEM TRAINING DEVICES - ENG DEV	43,650	43,650	43,650		43,650
0604716A	99	TERRAIN INFORMATION - ENG DEV	8,232	8,232	8,232		8,232
0604726A	100	INTEGRATED METEOROLOGICAL SUPPORT SYSTEM	3,417	3,417	3,417		3,417
0604738A	101	JSIMS CORE PROGRAM	24,230	24,230	27,230		24,230
		Common component workstation			[3,000]		
0604739A	102	INTEGRATED BROADCAST SERVICE					
0604741A	103	AIR DEFENSE COMMAND, CONTROL AND INTELLIGENCE - ENG DEV	26,978	26,978	26,978		26,978
0604742A	104	CONSTRUCTIVE SIMULATION SYSTEMS DEVELOPMENT	53,294	53,294	53,294		53,294
0604746A	105	AUTOMATIC TEST EQUIPMENT DEVELOPMENT	11,839	19,839	15,739		11,839
		Digital source collector - health usage monitoring system for Apache		[8,000]			
		Digital source collector - health & monitoring system			[3,900]		
0604760A	106	DISTRIBUTIVE INTERACTIVE SIMULATIONS (DIS) - ENGINEERING	21,487	21,487	21,487		21,487
0604766A	107	TACTICAL SURVEILLANCE SYSTEMS - ENG DEV	56,662	56,662	56,662		56,662

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0604768A	108	BRILLIANT ANTI-ARMOR SUBMUNITION (BAT)	190,293	245,293	245,293	-114,173	76,120
		Earth-penetrating warhead for TACMS (Transfer from DERF)		[55,000]	[55,000]	[0]	
		Return program to Science & Technology Base					
		Restructure of program				[-114,173]	
0604770A	109	JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM	4,740	4,740	4,740		4,740
0604778A	110	POSITIONING SYSTEMS DEVELOPMENT (SPACE)					
0604780A	111	COMBINED ARMS TACTICAL TRAINER (CATT) CORE	7,579	7,579	7,579		7,579
0604783A	112	JOINT NETWORK MANAGEMENT SYSTEM	8,028	8,028	8,028		8,028
0604801A	113	AVIATION - ENG DEV	3,150	3,150	3,150		3,150
0604802A	114	WEAPONS AND MUNITIONS - ENG DEV	41,758	51,158	41,758	3,400	45,158
		Shoulder-launched multipurpose assault weapon-disposable (SMAW-D)		[6,000]			
		Common remotely operated weapon system (CROWS)		[3,400]		[3,400]	
0604804A	115	LOGISTICS AND ENGINEER EQUIPMENT - ENG DEV	65,857	65,857	65,857		65,857
0604805A	116	COMMAND, CONTROL, COMMUNICATIONS SYSTEMS - ENG DEV	82,238	99,238	82,238	17,000	99,238
		Applied communications & information networking (ACIN) program		[17,000]		[17,000]	
0604807A	117	MEDICAL MATERIEL/MEDICAL BIOLOGICAL DEFENSE	12,625	17,625	12,625		12,625
		Life support for trauma & transport (LSTAT) spiral development		[5,000]			
0604803A	118	LANDMINE WARFARE/BARRIER - ENG DEV	128,992	101,692	128,992		128,992
		Landmine warfare / barrier engineering development		[-27,300]			
0604814A	119	ARTILLERY MUNITIONS - EMD	70,888	70,888	70,888	48,300	119,188
		Crusader amendment - Excalibur projectile development				[48,300]	

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0604817A	120	COMBAT IDENTIFICATION	1,995	1,995	1,995		1,995
0604818A	121	ARMY TACTICAL COMMAND & CONTROL HARDWARE &	80,672	80,672	90,672	17,738	98,410
		Transfer from A2C2S procurement - APA 26			[10,000]	[17,738]	
0604819A	122	LOSAT	14,463	14,463	14,463		14,463
0604820A	123	RADAR DEVELOPMENT					
0604823A	124	FIREFINDER	26,122	26,122	26,122		26,122
0604854A	125	ARTILLERY SYSTEMS - EMD	251,376	251,376	22,441	-221,435	29,941
		Transfer Crusader funds to Future Combat System - PE 64645A (RDA 94)			[-228,935]	[-228,935]	
		Crusader amendment - Paladin upgrades				[7,500]	
0604865A	126	PATRIOT PAC-3 THEATER MISSILE DEFENSE ACQUISITION - EMD	150,819		150,819	-150,819	
		Transfer to MDA PE 64865C (RDDW 88)		[-150,819]		[-150,819]	
0605013A	127	INFORMATION TECHNOLOGY DEVELOPMENT	50,865	50,865	50,865		50,865
	127a	EMD Test and Evaluation transfer			-18,000		
0604256A	128	THREAT SIMULATOR DEVELOPMENT	15,251	15,251	18,251	3,000	18,251
		Multi-mode top attack threat simulators			[3,000]	[3,000]	
0604258A	129	TARGET SYSTEMS DEVELOPMENT	10,772	10,772	10,772		10,772
0604759A	130	MAJOR T&E INVESTMENT	53,797	53,797	82,797		53,797
		Transfer from acquisition programs			[29,000]		
0605103A	131	RAND ARROYO CENTER	22,148	22,148	17,148		22,148
		Army reports, studies, & analyses			[-5,000]		
0605301A	132	ARMY KWAJALEIN ATOLL	132,831	132,831	132,831		132,831

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0605326A	133	CONCEPTS EXPERIMENTATION PROGRAM	22,627	22,627	25,627	3,000	25,627
		Battle Lab cooperative R&D			[3,000]	[3,000]	
0605502A	134	SMALL BUSINESS INNOVATIVE RESEARCH					
0605601A	135	ARMY TEST RANGES AND FACILITIES	144,183	144,183	144,183		144,183
0605602A	136	ARMY TECHNICAL TEST INSTRUMENTATION AND TARGETS	43,222	43,222	43,222		43,222
0605604A	137	SURVIVABILITY/LETHALITY ANALYSIS	39,200	39,200	39,200		39,200
0605605A	138	DOD HIGH ENERGY LASER TEST FACILITY	14,410	14,410	14,410		14,410
0605606A	139	AIRCRAFT CERTIFICATION	4,062	4,062	4,062		4,062
0605702A	140	METEOROLOGICAL SUPPORT TO RDT&E ACTIVITIES	7,310	7,310	7,310		7,310
0605706A	141	MATERIEL SYSTEMS ANALYSIS	10,189	10,189	10,189		10,189
0605709A	142	EXPLOITATION OF FOREIGN ITEMS	3,490	3,490	3,490		3,490
0605712A	143	SUPPORT OF OPERATIONAL TESTING	99,375	99,375	99,375		99,375
0605716A	144	ARMY EVALUATION CENTER	41,250	41,250	41,250		41,250
0605801A	145	PROGRAMWIDE ACTIVITIES	78,452	78,452	78,452		78,452
0605803A	146	TECHNICAL INFORMATION ACTIVITIES	34,040	34,040	34,040		34,040
0605805A	147	MUNITIONS STANDARDIZATION, EFFECTIVENESS AND SAFETY	16,014	16,014	16,014		16,014
0605856A	148	ENVIRONMENTAL COMPLIANCE					
0605857A	149	ENVIRONMENTAL QUALITY TECHNOLOGY MGMT SUPPORT	1,902	1,902	1,902		1,902
0605898A	150	MANAGEMENT HEADQUARTERS (RESEARCH AND	11,533	11,533	11,533		11,533
0909999A	151	FINANCING FOR CANCELLED ACCOUNT ADJUSTMENTS					

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0603778A	152	MLRS PRODUCT IMPROVEMENT PROGRAM	57,825	57,825	57,825	55,000	112,825
		Crusader amendment - Guided MLRS unitary warhead				[45,000]	
		Crusader amendment - HIMARS P3I				[10,000]	
0102419A	153	AEROSTAT JOINT PROJECT OFFICE	29,081	31,081	33,081	2,000	31,081
		Lightweight X-band radar		[2,000]		[2,000]	
		Aerostat design & manufacturing (ADAM) program			[4,000]		
0203610A	154	DOMESTIC PREPAREDNESS AGAINST WEAPONS OF MASS					
0203726A	155	ADV FIELD ARTILLERY TACTICAL DATA SYSTEM	38,161	38,161	38,161	4,000	42,161
		Crusader amendment - AFATDS				[4,000]	
0203735A	156	COMBAT VEHICLE IMPROVEMENT PROGRAMS	54,465	54,465	54,465	28,600	83,065
		Crusader amendment - Abrams engine program (ACCE)				[28,600]	
0203740A	157	MANEUVER CONTROL SYSTEM	44,444	44,444	44,444		44,444
0203744A	158	AIRCRAFT MODIFICATIONS/PRODUCT IMPROVEMENT PROGRAMS	196,794	196,794	196,794		196,794
0203752A	159	AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	3,689	3,689	11,689	5,500	9,189
		Full authority digital engine controller (FADEC)			[5,000]	[4,000]	
		Liquid or light-end air (LOLA) boost pump			[3,000]	[1,500]	
0203758A	160	DIGITIZATION	28,968	32,968	28,968	4,000	32,968
		Dismounted situation awareness system map (DISM)		[4,000]		[4,000]	
0203759A	161	FORCE XXI BATTLE COMMAND, BRIGADE AND BELOW (FBCB2)	64,915	64,915	64,915		64,915
0203761A	162	FORCE XXI, WARFIGHTING RAPID ACQUISITION PROGRAM					
0203801A	163	MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT PROGRAM	43,738	43,738	43,738		43,738

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0203802A	164	OTHER MISSILE PRODUCT IMPROVEMENT PROGRAMS	13,018	13,018	13,018		13,018
0203808A	165	TRACTOR CARD	8,891	8,891	8,891		8,891
0208010A	166	JOINT TACTICAL COMMUNICATIONS PROGRAM (TRI-TAC)	14,121	14,121	14,121		14,121
0208053A	167	JOINT TACTICAL GROUND SYSTEM	2,860	2,860	2,860		2,860
0301359A	168	SPECIAL ARMY PROGRAM	7,031	7,031	11,031		7,031
0303028A	169	SECURITY AND INTELLIGENCE ACTIVITIES	5,438	10,438	10,638	14,200	19,638
		Intelligence & Security Command (INSCOM) global information portal		[5,000]		[5,000]	
		Language training software			[5,200]	[5,200]	
		Non-traditional intelligence analysis toolset				[4,000]	
0303140A	170	INFORMATION SYSTEMS SECURITY PROGRAM	14,844	14,844	18,344	3,500	18,344
		Integrated information security research			[3,500]	[3,500]	
0303141A	171	GLOBAL COMBAT SUPPORT SYSTEM	71,864	51,864	71,864		71,864
		GCSS-A program delays		[-20,000]			
0303142A	172	SATCOM GROUND ENVIRONMENT (SPACE)	72,244	72,244	72,244		72,244
0303150A	173	WWMCCS/GLOBAL COMMAND AND CONTROL SYSTEM	17,895	17,895	17,895		17,895
0305114A	174	TRAFFIC CONTROL, APPROACH AND LANDING SYSTEM-FY 1987	977	977	977		977
0305204A	175	TACTICAL UNMANNED AERIAL VEHICLES	46,479	63,579	58,579	23,500	69,979
		Hunter ground control station (Transfer from DERF)		[12,100]	[12,100]	[12,100]	
		Mini-backpack unmanned aerial vehicle		[5,000]			
		Crusader - TUAV target location error				[11,400]	

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0305206A	176	AIRBORNE RECONNAISSANCE SYSTEMS	4,882	13,082	7,882	7,000	11,882
		Signature-based unattended MASINT sensors (Transfer from DERF)		[3,000]	[3,000]	[3,000]	
		Hyperspectral long-wave imager for the tactical environment		[5,200]		[4,000]	
0305208A	177	DISTRIBUTED COMMON GROUND SYSTEMS	15,683	37,383	37,383	21,700	37,383
		Wideband ISR network (Transfer from DERF)		[2,000]	[2,000]	[2,000]	
		MASINT tools (Transfer from DERF)		[2,000]	[2,000]	[2,000]	
		MASINT tools - other		[3,000]			
		Integrate DCGS-A at EAC (Transfer from DERF)		[5,000]	[5,000]	[5,000]	
		Integrate DCGS-A at EAC - other		[3,000]			
		Integrate common data link (CDL) into DCGS-A (Transfer from DERF)		[2,000]	[8,000]	[8,000]	
		MTI / MP-RTIP integration (Transfer from DERF)		[4,700]	[4,700]	[4,700]	
0708045A	178	END ITEM INDUSTRIAL PREPAREDNESS ACTIVITIES	61,025	63,025	68,025	2,000	63,025
		Bipolar wafer cell nickel-metal hydride battery		[2,000]		[2,000]	
		Manufacturing technologies (MANTECH)			[7,000]		
1001018A	179	NATO JOINT STARS	512	512	512		512
	179a	Civilian personnel accounting adjustment		-98,161	-98,161	-98,161	-98,161
	179b	Financial management savings			-17,700	-17,700	-17,700
	179c	Contract services savings			-13,700	-9,671	-9,671
	179d	Operational systems development T&E transfer			-6,000		
		Total, RDT&E Army	**6,918,494**	**6,933,319**	**7,301,433**	**239,762**	**7,158,256**

NAVY

Research, Development, Test and Evaluation, Navy—Overview

The budget request for fiscal year 2003 included an authorization of $12,501.6 million for Research, Development, Test and Evaluation, Navy in the Department of Defense.

The House bill would authorize $13,274.5 million.

The Senate amendment would authorize $12,913.1 million.

The conferees recommend an authorization of $13,244.2 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II-RDT and E

(Dollars in Thousands)

Program	Line		FY 2003	House	Senate	Conference Agreement	
Element	No	Program Title	Request	Authorized	Authorized	Change	Authorized
		RESEARCH, DEVELOPMENT, TEST & EVALUATION, NAVY					
0601152N	1	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	16,352	16,352	16,352		16,352
0601153N	2	DEFENSE RESEARCH SCIENCES	393,557	395,657	403,557	5,000	398,557
		Robotic countermine technologies			[3,000]	[3,000]	
		Marine mammal research program		[2,100]			
		Marine mammal detection & mitigation			[2,000]		
		Marine mammal research				[2,000]	
		Corrosion R&D			[5,000]		
0602111N	3	AIR AND SURFACE LAUNCHED WEAPONS TECHNOLOGY					
0602114N	4	POWER PROJECTION APPLIED RESEARCH	76,612	105,312	76,612	13,300	89,912
		Strategic systems technology modernization (Transfer from DERF)		[7,300]		[7,300]	
		Integrated high payoff rocket propulsion technology (IHPRPT)		[5,000]			
		Hybrid fiber optic / wireless communications		[2,000]			
		Portable digital precision location system		[4,400]			
		Laser interrogator for high-speed covert retro-reflectometer		[5,000]		[2,000]	
		Low cost swarm unmanned aerial vehicle program		[5,000]		[4,000]	
0602121N	5	SHIP, SUBMARINE & LOGISTICS TECHNOLOGY					
0602122N	6	AIRCRAFT TECHNOLOGY					

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0602123N	7	FORCE PROTECTION APPLIED RESEARCH	89,390	96,390	103,890	11,500	100,890
		Advanced smart propulsor product model		[4,000]			
		Laser welding & cutting		[3,000]		[3,000]	
		Laser welding & cutting demonstration			[6,000]		
		Data fusion processor			[3,000]	[3,000]	
		Corrosion maintenance & airframe readiness technologies			[2,500]		
		Anti-corrosion modeling software				[2,500]	
		Advanced power systems			[2,000]	[2,000]	
		Center for Advanced Power Systems (CAPS)					
		Fiber reinforced polymer (FRP) composites research			[1,000]	[1,000]	
0602131M	8	MARINE CORPS LANDING FORCE TECHNOLOGY	30,274	30,274	30,274		30,274
0602232N	9	COMMUNICATIONS, COMMAND AND CONTROL, INTELLIGENCE,					
0602233N	10	HUMAN SYSTEMS TECHNOLOGY					
0602234N	11	MATERIALS, ELECTRONICS AND COMPUTER TECHNOLOGY					
0602235N	12	COMMON PICTURE APPLIED RESEARCH	75,594	75,594	75,594		75,594

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0602236N	13	WARFIGHTER SUSTAINMENT APPLIED RESEARCH	68,852	83,352	72,852	15,000	83,852
		Fibrous monolithic materials insertion		[7,000]		[4,500]	
		Human factors & improved performance integration tool (IMPRINT)		[2,000]		[1,500]	
		Commercial, off-the-shelf (COTS) carbon fiber qualification program for aircraft & missiles		[3,000]		[3,000]	
		Formable aligned carbon thermosets (FACTS)		[2,500]		[2,000]	
		Ceramic & carbon-based materials			[2,000]	[2,000]	
		Integrated bioenvironmental hazards research program			[2,000]	[2,000]	
0602270N	14	ELECTRONIC WARFARE TECHNOLOGY					
0602271N	15	RF SYSTEMS APPLIED RESEARCH	56,263	75,263	68,763	20,500	76,763
		Vacuum electronics		[8,000]		[8,000]	
		Wide bandgap semiconductor materials		[8,000]			
		Wide bandgap silicon carbide semiconductor research initiative			[2,500]	[2,500]	
		High brightness electron sources		[3,000]	[3,000]	[3,000]	
		Silicon carbide research & technology			[2,500]	[2,500]	
		Advanced semiconductor research			[1,500]	[1,500]	
		Nanoscience & technology			[3,000]	[3,000]	
0602314N	16	UNDERSEA WARFARE SURVEILLANCE TECHNOLOGY					
0602315N	17	MINE COUNTERMEASURES, MINING AND SPECIAL WARFARE					
0602435N	18	OCEAN WARFIGHTING ENVIRONMENT APPLIED RESEARCH	55,180	60,180	55,180	5,000	60,180
		Navy support of research in oceanography		[5,000]		[5,000]	

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(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0602633N	19	UNDERSEA WARFARE WEAPONRY TECHNOLOGY					
0602747N	20	UNDERSEA WARFARE APPLIED RESEARCH	71,294	71,294	74,794	3,500	74,794
		Low acoustic signature motors & propulsors			[3,500]	[3,500]	
0602782N	21	MINE AND EXPEDITIONARY WARFARE APPLIED RESEARCH	56,813	56,813	54,313		56,813
		Reduce program growth			[-2,500]		
0602805N	22	DUAL USE SCIENCE AND TECHNOLOGY PROGRAM					
0603114N	23	POWER PROJECTION ADVANCED TECHNOLOGY	78,247	114,647	73,747	22,000	100,247
		Affordable weapon		[15,400]		[10,000]	
		DP-2 thrust vectoring program		[7,000]		[7,000]	
		Demonstrate advanced camouflage coatings & treatments for UAVs		[5,000]		[5,000]	
		Real-time precision tracking radar		[9,000]			
		Reduce program growth			[-4,500]		

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(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0603123N	24	FORCE PROTECTION ADVANCED TECHNOLOGY	57,604	149,304	84,604	60,000	117,604
		Technology, unmanned surface vehicle (Transfer from DERF)		[36,000]	[24,000]	[22,500]	
		Littoral support craft - experimental (LSC-X)		[13,700]		[13,000]	
		Superconducting DC homopolar motor		[5,000]		[4,000]	
		Advanced ducted electric propulsion pod		[10,000]			
		Electric propulsion / ship power system distributed test bed		[5,000]		[3,000]	
		Ship service fuel cell		[4,000]	[2,000]	[4,000]	
		SEAL Mk V patrol craft modification		[6,000]		[2,500]	
		High temperature superconducting AC synchronous Navy propulsion		[7,000]		[7,000]	
		Permanent magnet generator development			[1,000]	[1,000]	
		Knowledge projection for fleet maintenance		[3,000]		[3,000]	
		Small combatant craft		[2,000]			
0603217N	25	AIR SYSTEMS AND WEAPONS ADVANCED TECHNOLOGY					
0603235N	26	COMMON PICTURE ADVANCED TECHNOLOGY	37,753	47,753	40,253	13,000	50,753
		Command center visualization (Transfer from DERF)		[7,000]	[7,000]	[7,000]	
		Integrated maritime picture system of systems		[3,000]			
		Improved shipboard combat information center				[6,000]	
		Reduce program growth			[-4,500]		

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0603236N	27	WARFIGHTER SUSTAINMENT ADVANCED TECHNOLOGY	82,542	89,042	80,542	2,000	84,542
		Electronic interconnection research & development program		[3,000]		[2,000]	
		Shipboard integrated data environment		[3,500]			
		Corrosion-resistant glass technologies			[2,500]		
		Reduce program growth			[-4,500]		
0603238N	28	PRECISION STRIKE AND AIR DEFENSE TECHNOLOGY					
0603270N	29	ADVANCED ELECTRONIC WARFARE TECHNOLOGY					
0603271N	30	RF SYSTEMS ADVANCED TECHNOLOGY	65,098	73,298	67,098		65,098
		Advanced stealth ship radar		[5,800]			
		Multipurpose sensor		[2,400]			
		Multifunction antenna systems			[2,000]		
0603508N	31	SURFACE SHIP & SUBMARINE HM&E ADVANCED TECHNOLOGY					
0603640M	32	MARINE CORPS ADVANCED TECHNOLOGY DEMONSTRATION	51,606	75,106	53,606	11,000	62,606
		Advanced light strike vehicle		[6,000]		[4,500]	
		Mobile fire support system (MFSS) 120mm rifled mortar program		[5,000]		[4,000]	
		Joint mission high-speed vessel		[9,000]			
		Water purification-expeditionary warfare		[2,000]			
		Rapid deployment fortification wall		[1,500]		[1,500]	
		Analysis of emerging threats			[2,000]	[1,000]	
0603706N	33	MEDICAL DEVELOPMENT					
0603707N	34	MANPOWER, PERSONNEL AND TRAINING ADV TECH DEV					

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Program	Line		FY 2003	House	Senate	Conference Agreement	
Element	No	Program Title	Request	Authorized	Authorized	Change	Authorized
0603712N	35	ENVIRONMENTAL QUALITY AND LOGISTICS ADVANCED			4,000	4,000	4,000
		National Surface Treatment Center			[4,000]	[4,000]	
0603727N	36	NAVY TECHNICAL INFORMATION PRESENTATION SYSTEM	97,872	97,872	97,872		97,872
0603729N	37	WARFIGHTER PROTECTION ADVANCED TECHNOLOGY	19,040	35,140	19,040	7,000	26,040
		Portable sterile water production device		[2,600]		[2,000]	
		Organ transfer technology		[5,000]			
		Biomedical research imaging		[5,000]		[5,000]	
		Modeling & simulation of surgical procedures for battlefield trauma		[3,500]			
0603747N	38	UNDERSEA WARFARE ADVANCED TECHNOLOGY	40,125	40,125	40,125		40,125
0603758N	39	NAVY WARFIGHTING EXPERIMENTS AND DEMONSTRATIONS	43,460	43,460	43,460		43,460
0603782N	40	MINE AND EXPEDITIONARY WARFARE ADVANCED TECHNOLOGY	43,725	46,725	46,725	2,000	45,725
		Ocean modeling for mine & expeditionary warfare		[3,000]		[2,000]	
		Mine countermeasures			[3,000]		
0603792N	41	ADVANCED TECHNOLOGY TRANSITION					
0603794N	42	C3 ADVANCED TECHNOLOGY					
0603207N	43	AIR/OCEAN TACTICAL APPLICATIONS	32,549	32,549	32,549		32,549
0603216N	44	AVIATION SURVIVABILITY	7,486	21,986	11,486	9,500	16,986
		Aircrew integrated life support system (AILSS)		[6,500]		[6,500]	
		Real-time heart rate variability monitor		[8,000]			
		Aircrew modular helmet			[4,000]	[3,000]	

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Program	Line		FY 2003	House	Senate	Conference Agreement	
Element	No	Program Title	Request	Authorized	Authorized	Change	Authorized
0603237N	45	DEPLOYABLE JOINT COMMAND AND CONTROL	39,772	47,272	47,272	7,500	47,272
		Fully fund DJCC centers (Transfer from DERF)		[7,500]	[7,500]	[7,500]	
0603254N	46	ASW SYSTEMS DEVELOPMENT	13,207	18,207	13,207	3,500	16,707
		Nonlinear dynamics stochastic resonance		[5,000]		[3,500]	
0603261N	47	TACTICAL AIRBORNE RECONNAISSANCE	1,922	1,922	1,922		1,922
0603382N	48	ADVANCED COMBAT SYSTEMS TECHNOLOGY	3,350	3,350	3,350		3,350
0603502N	49	SURFACE AND SHALLOW WATER MINE COUNTERMEASURES	155,016	170,016	155,016	5,500	160,516
		Surface Navy integrated undersea tactical technology (SNIUTT)		[10,000]		[5,500]	
		Mine countermeasures mine sweep mid-life assessment & upgrade		[5,000]			
0603506N	50	SURFACE SHIP TORPEDO DEFENSE	3,244	3,244	3,244		3,244
0603512N	51	CARRIER SYSTEMS DEVELOPMENT	88,913	88,913	88,913		88,913
0603513N	52	SHIPBOARD SYSTEM COMPONENT DEVELOPMENT	243,111	245,111	253,111	7,000	250,111
		Advanced variable speed drive systems		[2,000]		[1,000]	
		Electric start for gas turbine engines			[5,000]	[1,000]	
		COTS-style airbag technology for surface torpedo launch			[5,000]	[5,000]	
0603525N	53	PILOT FISH	72,637	72,637	72,637		72,637
0603527N	54	RETRACT LARCH	28,482	28,482	28,482		28,482
0603542N	55	RADIOLOGICAL CONTROL	1,078	1,078	1,078		1,078
0603553N	56	SURFACE ASW	3,219	3,219	3,219		3,219
0603559N	57	SSGN CONVERSION	82,527	82,527	82,527		82,527

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0603561N	58	ADVANCED SUBMARINE SYSTEM DEVELOPMENT	107,389	127,389	113,289	24,900	132,289
		MK 48 advanced capability torpedo improvements		[8,000]		[8,000]	
		Advanced composite sail		[5,000]		[4,000]	
		Submarine payloads & sensors program		[7,000]		[7,000]	
		Electromechanical actuator development			[1,900]	[1,900]	
		Electric motor brush technology			[4,000]	[4,000]	
0603562N	59	SUBMARINE TACTICAL WARFARE SYSTEMS	11,601	11,601	11,601		11,601
0603563N	60	SHIP CONCEPT ADVANCED DESIGN	5,820	10,820	9,820	4,000	9,820
		Autonomous maritime navigation		[5,000]			
		Requirements development for a littoral ship			[4,000]	[4,000]	
0603564N	61	SHIP PRELIMINARY DESIGN & FEASIBILITY STUDIES	2,983	2,983	2,983		2,983
0603570N	62	ADVANCED NUCLEAR POWER SYSTEMS	216,091	216,091	216,091		216,091
0603573N	63	ADVANCED SURFACE MACHINERY SYSTEMS	2,931	2,931	2,931		2,931
0603576N	64	CHALK EAGLE	20,978	20,978	20,978		20,978
0603582N	65	COMBAT SYSTEM INTEGRATION	40,464	60,464	40,464	20,000	60,464
		Navy common command & decision system		[20,000]		[20,000]	
0603609N	66	CONVENTIONAL MUNITIONS	22,445	22,445	18,445	-4,000	18,445
		Reduce unexplained warhead development			[-4,000]	[-4,000]	
0603611M	67	MARINE CORPS ASSAULT VEHICLES	272,092	272,092	272,092		272,092
0603612M	68	MARINE CORPS MINE/COUNTERMEASURES SYSTEMS - ADV DEV	497	497	497		497

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0603635M	69	MARINE CORPS GROUND COMBAT/SUPPORT SYSTEM	27,777	27,777	30,577		27,777
		Lightweight 155mm howitzer testing			[2,800]		
0603654N	70	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT	12,877	12,877	12,877		12,877
0603658N	71	COOPERATIVE ENGAGEMENT	86,144	86,144	86,144		86,144
0603713N	72	OCEAN ENGINEERING TECHNOLOGY DEVELOPMENT	15,257	15,257	15,257		15,257
0603721N	73	ENVIRONMENTAL PROTECTION	44,206	44,206	44,206		44,206
0603724N	74	NAVY ENERGY PROGRAM	5,060	5,060	10,060	5,000	10,060
		Navy fuel cell technology program			[5,000]	[5,000]	
0603725N	75	FACILITIES IMPROVEMENT	2,124	4,624	2,124		2,124
		Photovoltaic energy park		[2,500]			
0603734N	76	CHALK CORAL	50,704	67,104	67,104	16,400	67,104
		Classified program (Transfer from DERF)		[5,000]	[5,000]	[5,000]	
		Classified program (Transfer from DERF)		[11,400]	[11,400]	[11,400]	
0603739N	77	NAVY LOGISTIC PRODUCTIVITY	13,023	24,023	13,023	8,000	21,023
		Rapid retargeting project		[5,000]		[4,000]	
		Compatible processor upgrade program (CPUP)		[6,000]		[4,000]	
0603746N	78	RETRACT MAPLE	212,506	276,506	276,506	64,000	276,506
		Classified program (Transfer from DERF)		[64,000]	[64,000]	[64,000]	
0603748N	79	LINK PLUMERIA	82,909	82,909	82,909		82,909
0603751N	80	RETRACT ELM	21,900	21,900	21,900		21,900
0603755N	81	SHIP SELF DEFENSE - DEM/VAL	5,930	5,930	5,930		5,930

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0603764N	82	LINK EVERGREEN	55,971	55,971	55,971		55,971
0603787N	83	SPECIAL PROCESSES	39,756	39,756	39,756		39,756
0603790N	84	NATO RESEARCH AND DEVELOPMENT	11,581	11,581	11,581		11,581
0603795N	85	LAND ATTACK TECHNOLOGY	108,693	134,193	108,693		108,693
		Advanced land attack missile (ALAM)		[11,000]			
		Extended range guided munitions (ERGM)		[14,500]			
0603800N	86	JOINT STRIKE FIGHTER (JSF) - DEM/VAL					
0603851M	87	NONLETHAL WEAPONS - DEM/VAL	24,082	24,082	26,082	2,000	26,082
		Urban operations environmental research				[2,000]	
0603857N	88	ALL SERVICE COMBAT IDENTIFICATION EVALUATION TEAM	14,414	14,414	14,414		14,414
0603860N	89	JOINT PRECISION APPROACH AND LANDING SYSTEMS - DEM/VAL	11,932	11,932	11,932		11,932
0603879N	90	SINGLE INTEGRATED AIR PICTURE (SIAP) SYSTEM ENGINEER (SE)	73,966	73,966	73,966		73,966
0603889N	91	COUNTERDRUG RDT&E PROJECTS					
0604707N	92	SPACE AND ELECTRONIC WARFARE (SEW)	31,623	31,623	31,623		31,623
	92a	Dem/val Test and Evaluation transfer			-15,000		
0603662N	93	FOREIGN COUNTER-INTELLIGENCE (FCI)	[ ]	[ ]	[ ]	[ ]	[ ]
0603787N	94	SPECIAL PROCESSES	[ ]	[ ]	[ ]	[ ]	[ ]
0603831N	95	CLASSIFIED PROGRAMS	[ ]	[ ]	[ ]	[ ]	[ ]

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0604212N	96	OTHER HELO DEVELOPMENT	31,123	38,623	32,623	5,500	36,623
		VH-3D/VH-60D comm upgrade (Transfer from DERF)		[1,500]	[1,500]	[1,500]	
		Sea-target laser aim scoring system (LASS)		[4,000]		[2,000]	
		Advanced cable design for mine / submarine warfare sensors & countermeasures		[2,000]		[2,000]	
0604214N	97	AV-8B AIRCRAFT - ENG DEV	18,565	18,565	18,565		18,565
0604215N	98	STANDARDS DEVELOPMENT	37,757	42,957	37,757	5,200	42,957
		Metrology		[5,200]		[5,200]	
0604216N	99	MULTI-MISSION HELICOPTER UPGRADE DEVELOPMENT	88,969	88,969	88,969		88,969
0604217N	100	S-3 WEAPON SYSTEM IMPROVEMENT	422	422	422		422
0604218N	101	AIR/OCEAN EQUIPMENT ENGINEERING	5,725	5,725	5,725		5,725
0604221N	102	P-3 MODERNIZATION PROGRAM	2,348	2,348	2,348		2,348
0604231N	103	TACTICAL COMMAND SYSTEM	81,475	81,475	65,475	-16,000	65,475
		Reduce FORCEnet effort that duplicates other R&D activities			[-16,000]	[-16,000]	
0604234N	104	E-2C RADAR MODERNIZATION	113,681	113,681	113,681		113,681
0604245N	105	H-1 UPGRADES	241,384	241,384	241,384		241,384
0604261N	106	ACOUSTIC SEARCH SENSORS	13,929	33,929	13,929		13,929
		Advanced extended echo-ranging (AEER) sonobuoy development		[20,000]			
0604262N	107	V-22A	420,109	420,109	420,109		420,109
0604264N	108	AIR CREW SYSTEMS DEVELOPMENT	6,695	6,695	6,695		6,695

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						Change	Authorized
0604270N	109	EW DEVELOPMENT	74,742	87,742	74,742	13,000	87,742
		Airborne electronic attack follow-on		[10,000]		[10,000]	
		Location of Global Positioning System interferers (LOCO GPSI)		[3,000]		[3,000]	
0604280N	110	JOINT TACTICAL RADIO SYSTEM - NAVY (JTRS-NAVY)	20,373	20,373	20,373		20,373
0604300N	111	SC-21 TOTAL SHIP SYSTEM ENGINEERING	717,397	717,397	720,397	2,000	719,397
		Power node control center (PNCC)			[3,000]	[2,000]	
0604307N	112	SURFACE COMBATANT COMBAT SYSTEM ENGINEERING	300,748	310,748	308,248	5,000	305,748
		AEGIS baseline 7 phase II open systems architecture		[10,000]			
		DDG optimized manning initiative			[7,500]	[5,000]	
0604311N	113	LPD-17 CLASS SYSTEMS INTEGRATION	10,133	10,133	10,133		10,133
0604312N	114	TRI-SERVICE STANDOFF ATTACK MISSILE	14,943	14,943	14,943		14,943
0604329N	115	SMALL DIAMETER BOMB (SDB)	1,989	1,989	1,989		1,989
0604366N	116	STANDARD MISSILE IMPROVEMENTS	16,288	16,288	21,288		16,288
		Advanced optical correlator			[5,000]		
0604373N	117	AIRBORNE MCM	67,240	67,240	67,240		67,240
0604503N	118	SSN-688 AND TRIDENT MODERNIZATION	98,516	139,516	98,516	23,500	122,016
		Affordable towed array construction		[16,000]		[1,000]	
		Acoustic rapid commercial, off-the-shelf (COTS) technology insertion		[25,000]		[22,500]	
0604504N	119	AIR CONTROL	4,951	4,951	4,951		4,951
0604507N	120	ENHANCED MODULAR SIGNAL PROCESSOR	513	513	513		513

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0604512N	121	SHIPBOARD AVIATION SYSTEMS	24,619	32,819	33,119	4,000	28,619
		Aviation-shipboard information technology initiative		[8,200]	[8,500]	[4,000]	
0604518N	122	COMBAT INFORMATION CENTER CONVERSION					
0604524N	123	SUBMARINE COMBAT SYSTEM					
0604558N	124	NEW DESIGN SSN	238,253	238,253	238,253		238,253
0604561N	125	SSN-21 DEVELOPMENTS	3,981	3,981	3,981		3,981
0604562N	126	SUBMARINE TACTICAL WARFARE SYSTEM	13,975	28,275	28,475	14,500	28,475
		Submarine tactical warfare system		[14,300]			
		Upgrade combat control software to commercial architecture			[14,500]	[14,500]	
0604567N	127	SHIP CONTRACT DESIGN/LIVE FIRE T&E	184,545	184,545	192,645	8,100	192,645
		Unexplained increases in manpower & training studies			[-1,900]	[-1,900]	
		LHA[R] -- Transfer from LHD-1 AP (SCN 15)			[10,000]	[10,000]	
0604574N	128	NAVY TACTICAL COMPUTER RESOURCES	2,185	2,185	2,185		2,185
0604601N	129	MINE DEVELOPMENT	1,491	1,491	1,491		1,491
0604603N	130	UNGUIDED CONVENTIONAL AIR-LAUNCHED WEAPONS	12,142	12,142	12,142		12,142
0604610N	131	LIGHTWEIGHT TORPEDO DEVELOPMENT	7,769	7,769	13,269	5,000	12,769
		Align lightweight & heavyweight torpedo baselines for commonality			[5,500]	[5,000]	
0604618N	132	JOINT DIRECT ATTACK MUNITION	48,861	48,861	48,861		48,861
0604654N	133	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT	7,781	7,781	7,781		7,781
0604703N	134	PERSONNEL, TRAINING, SIMULATION, AND HUMAN FACTORS	1,331	1,331	1,331		1,331

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0604710N	135	NAVY ENERGY PROGRAM	5,691	5,691	8,191	2,500	8,191
		Continue ongoing demonstration of renewable energy use			[2,500]		
		Photovoltaic energy park				[2,500]	
0604721N	136	BATTLE GROUP PASSIVE HORIZON EXTENSION SYSTEM	14,070	14,070	19,070	5,000	19,070
		Cooperative Outboard logistics update (COBLU) digital upgrade			[5,000]	[5,000]	
0604727N	137	JOINT STANDOFF WEAPON SYSTEMS	16,652	16,652	16,652		16,652
0604755N	138	SHIP SELF DEFENSE (DETECT CONTROL)	61,966	61,966	66,966		61,966
		Continue SEARAM ordnance alteration development			[5,000]		
0604756N	139	SHIP SELF DEFENSE (ENGAGE: HARD KILL)	19,528	19,528	19,528	5,000	24,528
		Continue SEARAM ordnance alteration development				[5,000]	
0604757N	140	SHIP SELF DEFENSE (ENGAGE: SOFT KILL/EW)	28,064	29,664	39,909	11,845	39,909
		Ship self defense electronic warfare improvements		[-25,900]			
		AIEWS cancellation - shift to other EW improvements			[-25,855]	[-25,855]	
		AN / SLQ-32 shipboard electronic warfare system		[27,500]			
		Shipboard electronic warfare improvement			[27,500]	[27,500]	
		NULKA decoy improvements			[9,200]	[9,200]	
		Radar tiles for reduced surface ship signatures			[1,000]	[1,000]	
0604771N	141	MEDICAL DEVELOPMENT	7,154	10,254	8,079	925	8,079
		Real-time medical threat detection system		[3,100]			
		Security equipment for medical labs (Transfer from DERF)			[475]	[475]	
		Site improvement for medical labs (Transfer from DERF)			[450]	[450]	

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0604777N	142	NAVIGATION/ID SYSTEM	46,618	46,618	46,618		46,618
0604784N	143	DISTRIBUTED SURVEILLANCE SYSTEM	35,861	51,861	35,861	4,000	39,861
		Advanced deployable system - off-board sensor		[4,000]		[4,000]	
		Advanced deployable system - burial capability		[6,000]			
		Remotely powered, all optical array		[6,000]			
0604800N	144	JOINT STRIKE FIGHTER (JSF) - EMD	1,727,500	1,727,500	1,727,500		1,727,500
0604910N	145	SMART CARD	711	711	711		711
0605013M	146	INFORMATION TECHNOLOGY DEVELOPMENT	8,079	8,079	8,079		8,079
0605013N	147	INFORMATION TECHNOLOGY DEVELOPMENT	43,213	48,213	50,213	12,000	55,213
		Naval collaboration tool set		[5,000]		[5,000]	
		Human resource enterprise strategy			[7,000]	[7,000]	
0605014N	148	DEFENSE INTEGRATED MILITARY HUMAN RESOURCES SYSTEM	51,297	51,297	51,297		51,297
0605015N	149	JOINT COUNTER-INTELLIGENCE ASSESSMENT GROUP (JCAG) - RDT&E	2,337	2,337	2,337		2,337
0605500N	150	MULTI-MISSION MARITIME AIRCRAFT (MMA)	74,531	74,531	74,531		74,531
0508713N	151	NAVY STANDARD INTEGRATED PERSONNEL SYSTEM (NSIPS)	12,798	12,798	12,798		12,798
	151a	EMD Test and Evaluation transfer			-32,000		
0604256N	152	THREAT SIMULATOR DEVELOPMENT	30,599	30,599	30,599		30,599
0604258N	153	TARGET SYSTEMS DEVELOPMENT	45,562	45,562	45,562		45,562
0604759N	154	MAJOR T&E INVESTMENT	42,453	42,453	106,453		42,453
		Transfer from acquisition programs			[64,000]		

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0605152N	155	STUDIES AND ANALYSIS SUPPORT - NAVY	4,071	4,071	4,071		4,071
0605154N	156	CENTER FOR NAVAL ANALYSES	45,435	45,435	40,435		45,435
		Navy reports, studies, & analyses			[-5,000]		
0605155N	157	FLEET TACTICAL DEVELOPMENT	2,771	2,771	2,771		2,771
0605502N	158	SMALL BUSINESS INNOVATIVE RESEARCH					
0605804N	159	TECHNICAL INFORMATION SERVICES	929	6,929	929		929
		Supply chain best practices		[6,000]			
0605853N	160	MANAGEMENT, TECHNICAL & INTERNATIONAL SUPPORT	50,787	50,787	52,787	2,000	52,787
		Combating terrorism wargaming & research			[2,000]	[2,000]	
0605856N	161	STRATEGIC TECHNICAL SUPPORT	2,340	2,340	2,340		2,340
0605861N	162	RDT&E SCIENCE AND TECHNOLOGY MANAGEMENT	59,447	59,447	59,447		59,447
0605862N	163	RDT&E INSTRUMENTATION MODERNIZATION	13,289	13,289	13,289		13,289
0605863N	164	RDT&E SHIP AND AIRCRAFT SUPPORT	71,519	71,519	71,519		71,519
0605864N	165	TEST AND EVALUATION SUPPORT	278,838	278,838	278,838		278,838
0605865N	166	OPERATIONAL TEST AND EVALUATION CAPABILITY	12,642	12,642	12,642		12,642
0605866N	167	NAVY SPACE AND ELECTRONIC WARFARE (SEW) SUPPORT	3,242	3,242	3,242		3,242
0605867N	168	SEW SURVEILLANCE/RECONNAISSANCE SUPPORT	12,120	12,120	12,120		12,120
0605873M	169	MARINE CORPS PROGRAM WIDE SUPPORT	12,208	15,208	12,208	3,000	15,208
		Chemical agent warning network demonstration		[3,000]		[3,000]	
0305885N	170	TACTICAL CRYPTOLOGIC ACTIVITIES					
0909998N	171	PROBLEM DISBURSEMENTS					

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0909999N	172	FINANCING FOR CANCELLED ACCOUNT ADJUSTMENTS					
	172a	Medical Force Protection		925			
		Security equipment for medical labs (Transfer from DERF)		[475]			
		Site improvement for medical labs (Transfer from DERF)		[450]			
0603660N	173	ADVANCED DEVELOPMENT PROJECTS	[ ]	[ ]	[ ]	[ ]	[ ]
0603661N	174	RETRACT VIOLET	[ ]	[ ]	[ ]	[ ]	[ ]
0604805N	175	COMMERCIAL OPERATIONS AND SUPPORT SAVINGS INITIATIVE					
0101221N	176	STRATEGIC SUB & WEAPONS SYSTEM SUPPORT	40,278	110,178	110,178	69,900	110,178
		Maneuvering reentry vehicle demonstration (Transfer from DERF)		[30,000]	[30,000]	[30,000]	
		Solid rocket motor static test fire demonstrations (Transfer from DERF)		[7,500]	[7,500]	[7,500]	
		Guidance applications program (Transfer from DERF)		[14,400]	[14,400]	[14,400]	
		Radiation hardening program (Transfer from DERF)		[18,000]	[18,000]	[18,000]	
0101224N	177	SSBN SECURITY TECHNOLOGY PROGRAM	34,567	34,567	34,567		34,567
0101226N	178	SUBMARINE ACOUSTIC WARFARE DEVELOPMENT	1,091	1,091	1,091		1,091
0101402N	179	NAVY STRATEGIC COMMUNICATIONS	21,452	21,452	21,452		21,452
0204136N	180	F/A-18 SQUADRONS	204,466	204,466	219,466	10,000	214,466
		F414 engine durability improvements			[15,000]	[10,000]	
0204152N	181	E-2 SQUADRONS	19,011	19,011	19,011		19,011
0204163N	182	FLEET TELECOMMUNICATIONS (TACTICAL)	12,576	12,576	12,576		12,576
0204229N	183	TOMAHAWK AND TOMAHAWK MISSION PLANNING CENTER	94,265	94,265	99,265	5,000	99,265
		Precision terrain aided navigation			[5,000]	[5,000]	

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0204311N	184	INTEGRATED SURVEILLANCE SYSTEM	20,405	20,405	20,405		20,405
0204413N	185	AMPHIBIOUS TACTICAL SUPPORT UNITS	6,352	6,352	6,352		6,352
0204571N	186	CONSOLIDATED TRAINING SYSTEMS DEVELOPMENT	31,421	41,421	31,421	4,000	35,421
		Antisubmarine warfare synthetic training environment		[10,000]		[4,000]	
0204575N	187	ELECTRONIC WARFARE (EW) READINESS SUPPORT	6,731	35,731	37,731	29,000	35,731
		Virtual environment for warfighter (VIEW)			[2,000]		
		Retract Barley (Transfer from DERF)		[20,000]	[20,000]	[20,000]	
		Information warfare system (Transfer from DERF)		[9,000]	[9,000]	[9,000]	
0205601N	188	HARM IMPROVEMENT	60,758	62,258	60,758	1,000	61,758
		Advanced composite radome materials		[1,500]		[1,000]	
0205604N	189	TACTICAL DATA LINKS	42,667	42,667	42,667		42,667
0205620N	190	SURFACE ASW COMBAT SYSTEM INTEGRATION	24,424	24,424	24,424		24,424
0205632N	191	MK-48 ADCAP	22,052	22,052	22,052		22,052
0205633N	192	AVIATION IMPROVEMENTS	40,915	40,915	40,915		40,915
0205658N	193	NAVY SCIENCE ASSISTANCE PROGRAM	4,801	4,801	4,801		4,801
0205667N	194	F-14 UPGRADE					
0205675N	195	OPERATIONAL NUCLEAR POWER SYSTEMS	56,804	56,804	56,804		56,804

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Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0206313M	196	MARINE CORPS COMMUNICATIONS SYSTEMS	174,664	197,464	187,464	17,800	192,464
		Technical control & analysis center (TCAC) (Transfer from DERF)		[2,500]	[2,500]	[2,500]	
		MANPACK secondary imagery dissem sys (SIDS) (Transfer from DERF)		[300]	[300]	[300]	
		Team portable collection system (TPCS) (Transfer from DERF)		[3,400]	[3,400]	[3,400]	
		I-SURSS (Transfer from DERF)		[2,500]	[2,500]	[2,500]	
		Radio reconnaissance equipment program (RREP) (Transfer from DERF)		[300]	[300]	[300]	
		COTS hardware / software for TENCAP (Transfer from DERF)		[1,500]	[1,500]	[1,500]	
		Tactical exploitation group (TEG) (Transfer from DERF)		[1,000]	[1,000]	[1,000]	
		ISR spares & software updates (Transfer from DERF)		[1,200]	[1,200]	[1,200]	
		Tactical photography equipment (Transfer from DERF)		[100]	[100]	[100]	
		Marine Corps stationary lighter-than-air platform (MCSLaP)		[5,000]			
		Hawk AN / TPS-59 radar service life extension program - automatic false alarm reduction		[5,000]		[5,000]	
0206623M	197	MARINE CORPS GROUND COMBAT/SUPPORTING ARMS SYSTEMS	36,004	38,654	37,904	1,900	37,904
		Target location designation & hand-off system (TLDHS)		[1,900]	[1,900]	[1,900]	
		Sniper rifle improvements		[750]			
0206624M	198	MARINE CORPS COMBAT SERVICES SUPPORT	21,041	21,041	21,041		21,041
0207161N	199	TACTICAL AIM MISSILES	1,957	1,957	1,957		1,957
0207163N	200	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM)	8,124	8,124	8,124		8,124
0301303N	201	MARITIME INTELLIGENCE	[ ]	[ ]	[ ]	[ ]	[ ]
0301303N	202	COLLECTION MANAGEMENT	[ ]	[ ]	[ ]	[ ]	[ ]

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Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0303109N	203	TECHNICAL RECONNAISSANCE AND SURVEILLANCE	[ ]	[ ]	[ ]	[ ]	[ ]
0303109N	204	SATELLITE COMMUNICATIONS (SPACE)	115,903	115,903	115,903		115,903
0303140N	205	INFORMATION SYSTEMS SECURITY PROGRAM	18,436	18,436	18,436		18,436
0304111N	206	SPECIAL ACTIVITIES	[ ]	[ ]	[ ]	[ ]	[ ]
0305160N	207	NAVY METEOROLOGICAL AND OCEAN SENSORS-SPACE (METOC)	19,801	19,801	19,801		19,801
0305188N	208	JOINT C4ISR BATTLE CENTER (JBC)	21,970	21,970	26,970	4,000	25,970
		Strategic interoperability initiative			[5,000]	[4,000]	
0305192N	209	JOINT MILITARY INTELLIGENCE PROGRAMS	6,709	6,709	6,709		6,709
0305204N	210	TACTICAL UNMANNED AERIAL VEHICLES	206,359	205,059	251,659	37,800	244,159
		Develop USMC Shadow (Adv) (Transfer from DERF)		[7,000]	[7,000]	[7,000]	
		ISR (BAMS UAV) / classified (Transfer from DERF)		[28,300]	[28,300]	[28,300]	
		Navy tactical unmanned aerial vehicle		[-43,600]			
		VTOL UAV operational testing				[-9,000]	
		Joint operational test bed		[7,000]		[7,000]	
		Integrate Global Hawk into tactical control system (TCS)			[10,000]	[4,500]	
0305206N	211	AIRBORNE RECONNAISSANCE SYSTEMS	5,469	11,469	5,469	6,000	11,469
		Electro-optical framing sensor		[6,000]		[6,000]	
0305207N	212	MANNED RECONNAISSANCE SYSTEMS	11,166	11,166	11,166		11,166
0305208N	213	DISTRIBUTED COMMON GROUND SYSTEMS	4,482	7,482	7,482	3,000	7,482
		Joint service imagery processing system development (Transfer from DERF)		[3,000]	[3,000]	[3,000]	

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0305927N	214	NAVAL SPACE SURVEILLANCE	9,548	9,548	9,548		9,548
0308601N	215	MODELING AND SIMULATION SUPPORT	7,783	7,783	12,483	3,000	10,783
		Modeling & simulation initiatives for interoperability			[4,700]	[3,000]	
0702207N	216	DEPOT MAINTENANCE (NON-IF)	7,119	7,119	7,119		7,119
0708011N	217	INDUSTRIAL PREPAREDNESS	70,631	70,631	70,631		70,631
0708730N	218	MARITIME TECHNOLOGY (MARITECH)	9,943	9,943	13,943		9,943
		Maritime technology research			[4,000]		
	999	CLASSIFIED PROGRAMS	1,178,723	1,178,723	1,178,723	102,000	1,280,723
	218a	Civilian personnel accounting adjustment		-5,565	-5,565	-5,565	-5,565
	218b	Financial management savings			-25,600	-25,600	-25,600
	218c	Contract services savings			-6,900	-4,871	-4,871
	218d	Operational systems development T&E transfer			-17,000		
	218f	General reduction			-8,500		
		Total, RDT&E Navy	**12,501,630**	**13,274,540**	**12,913,135**	**742,534**	**13,244,164**

Marine mammal research

The budget request included $393.6 million in PE 61153N for basic research to support naval applications.

The House bill would authorize an increase of $2.1 million to the budget request for marine mammal research.

The Senate amendment would authorize an increase of $2.0 million to the budget request.

The conferees recommend an increase of $2.0 million for basic research on marine mammals. The conferees support research on marine mammal behavior that can help address heightened public concern about the effects of military and industrial activity on these animals, including additional behavioral and acoustics research and efforts to detect the presence of marine mammals and take mitigating action to protect animals as necessary.

Littoral support craft—experimental

The budget request contained $57.6 million in PE 63123N for force protection advanced technology development but included no funds to continue the development of the Littoral Support Craft—Experimental (LSC–X). The Office of Naval Research has proposed to conduct a phased program to develop and demonstrate an experimental littoral support craft demonstrator that would provide the basis for operational experiments on the contribution that such a craft could make to naval operations in the littorals, and $36.2 million for this purpose was provided in fiscal year 2002.

The House bill would authorize an additional $13.7 million to continue development of the LSC–X.

The Senate amendment included no similar recommendation.

The statement of managers (H. Rept. 107–333) accompanying the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) directed the Secretary of the Navy to identify the set of experimental objectives that the LSC–X program is intended to explore and the objective measures of effectiveness that will be used to determine whether those objectives have been achieved. The conferees also directed the Secretary to define the program plan, the schedule, and the funding requirements for development of LSC–X.

The Secretary of the Navy submitted a report, dated August 6, 2002, that provides the Navy's plan for the development of the LSC–X. The report addresses the experimental concepts to be explored by naval forces in a phased plan that culminates in the use of the craft to test new technology and operational concepts which could be candidates for future support of expeditionary and littoral operations. The report stated that no additional funding would be required to build, outfit, and test the LSC–X prototype hull, beyond those funds already provided in fiscal year 2002.

According to the Navy's plan, the vessel should be ready for initial sea trials in the summer of 2004. The conferees also note the views expressed in the House report (H. Rept. 107–33) that a littoral support craft demonstrator such as the LSC–X design, which would include a modular payload capability that allows the use of different technology demonstrators and warfare mission modules, could be an effective experimental test bed for many of the technologies that might be chosen for use on a littoral combat ship (LCS). Elsewhere in this report, the conferees have directed the Secretary of the Navy to address the role that various demonstration platforms such as the LSC–X will play in the LCS acquisition strategy.

The conferees direct the Secretary of the Navy to develop LSC–X as a complete system, including such combat, communications and weapons systems interfaces as may be required to demonstrate technologies and modular payloads, such as the affordable weapon system, that might be considered for the LCS program. To that end, the conferees direct the Navy to include in the phase one "design and build" portion of the program the total system interface definitions that will be required to demonstrate systems and technologies planned for the phase three "technology and operational concept evaluation" segment of the LSC–X program.

The conferees also believe that the Navy should accelerate phase three to ensure that information required for application to a littoral combat ship program will be available before the Navy requests funds to design such a ship. The conferees recognize that this may require a combination of science and technology and system development and demonstration funding.

Therefore, the conferees agree to an increase of $13.0 million in PE 63123N to continue development of the LSC–X demonstrator. The conferees also direct the Secretary to update his report on the development plan and identify any funding required for the LSC–X program. The Secretary should submit that updated report with the budget request for fiscal year 2004.

AIR FORCE

Research, Development, Test and Evaluation, Air Force—Overview

The budget request for fiscal year 2003 included an authorization of $17,601.2 million for Research, Development, Test and Evaluation, Air Force in the Department of Defense.

The House bill would authorize $18,803.2 million.

The Senate amendment would authorize $18,611.2 million.

The conferees recommend an authorization of $18,337.1 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

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Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
		RESEARCH, DEVELOPMENT, TEST & EVALUATION, AIR FORCE					
0601102F	1	DEFENSE RESEARCH SCIENCES	219,144	224,144	219,144		219,144
		Upper atmospheric & astronomical training		[5,000]			
0602102F	2	MATERIALS	75,272	85,972	89,772	18,000	93,272
		Metals affordability initiative		[4,000]	[3,000]	[4,000]	
		Thermal management for space structures		[3,200]		[2,500]	
		Advanced thermal protection systems		[3,500]			
		Free electron laser materials processing			[3,000]	[3,000]	
		Nanostructured protective coatings			[2,000]	[2,000]	
		Hybrid coatings for aircraft systems			[3,000]	[3,000]	
		Composite materials for UAVs			[2,500]	[2,500]	
		Closed cell foam material technology			[1,000]	[1,000]	
0602201F	3	AEROSPACE VEHICLE TECHNOLOGIES	78,789	79,789	78,789		78,789
		Space technology		[1,000]			
0602202F	4	HUMAN EFFECTIVENESS APPLIED RESEARCH	66,000	66,000	66,000		66,000
0602203F	5	AEROSPACE PROPULSION	107,659	125,359	109,659	18,700	126,359
		Solid rocket propulsion aging & surveillance program (Transfer from DERF)		[5,700]		[5,700]	
		Pulse detonation engine		[6,000]		[6,000]	
		Lithium ion batteries		[6,000]	[2,000]	[6,000]	
		Space technology				[1,000]	

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0602204F	6	AEROSPACE SENSORS	75,799	75,799	78,799	1,000	76,799
		Wireless ISR technology			[3,000]	[1,000]	
0602500F	7	MULTI-DISCIPLINARY SPACE TECHNOLOGY	53,592	101,592	53,592	47,000	100,592
		Space-based GMTI & AMTI capability (Transfer from DERF)		[43,000]	[43,000]	[43,000]	
		Space-based radar not S&T - Transfer to PE 63858F (RDAF 57)			[-43,000]		
		Integrated high payoff rocket propulsion technology (IHPRPT)		[5,000]		[4,000]	
		Engineering tool improvement program					
0602601F	8	SPACE TECHNOLOGY	58,582	58,582	66,582	8,000	66,582
		Microsatellite cluster technology			[3,000]	[3,000]	
		Lightweight structures for space			[1,000]	[1,000]	
		Integrated control for autonomous space systems			[2,000]	[2,000]	
		Silicon substrates flexible solar cells			[2,000]	[2,000]	
0602602F	9	CONVENTIONAL MUNITIONS	60,343	60,343	60,343		60,343
0602605F	10	DIRECTED ENERGY TECHNOLOGY	39,936	42,186	39,936		39,936
		Vacuum pump		[2,250]			
0602702F	11	COMMAND CONTROL AND COMMUNICATIONS	70,951	70,951	78,951	3,000	73,951
		Information protection & authentication			[3,000]	[3,000]	
		Cyber security R&D			[5,000]		
0602805F	12	DUAL USE SCIENCE AND TECHNOLOGY PROGRAM	10,626	10,626	10,626		10,626
0603106F	13	LOGISTICS SYSTEMS TECHNOLOGY					

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0603112F	14	ADVANCED MATERIALS FOR WEAPON SYSTEMS	21,138	29,138	21,138	6,500	27,638
		Metals affordability initiative		[5,000]		[3,500]	
		Ceramic matrix composites		[3,000]		[3,000]	
0603202F	15	AEROSPACE PROPULSION SUBSYSTEMS INTEGRATION					
0603203F	16	ADVANCED AEROSPACE SENSORS	50,589	50,589	50,589		50,589
0603205F	17	FLIGHT VEHICLE TECHNOLOGY					
0603211F	18	AEROSPACE TECHNOLOGY DEV/DEMO	22,315	26,315	26,315	4,000	26,315
		Advanced aluminum aerostructures		[4,000]	[4,000]	[4,000]	
0603216F	19	AEROSPACE PROPULSION AND POWER TECHNOLOGY	85,650	93,050	85,650	4,400	90,050
		Solid rocket propulsion aging & surveillance program (Transfer from DERF)		[4,400]		[4,400]	
		Thrust vector control & infrared signature reduction		[3,000]			
0603227F	20	PERSONNEL, TRAINING AND SIMULATION TECHNOLOGY					
0603231F	21	CREW SYSTEMS AND PERSONNEL PROTECTION TECHNOLOGY	29,690	29,690	33,690	3,500	33,190
		Logistics technologies			[1,500]	[1,000]	
		Total atmospheric liquefaction system (TALON)			[2,500]	[2,500]	
0603245F	22	FLIGHT VEHICLE TECHNOLOGY INTEGRATION					
0603253F	23	ADVANCED SENSOR INTEGRATION					
0603270F	24	ELECTRONIC COMBAT TECHNOLOGY	23,350	23,350	27,350	1,000	24,350
		Test detect & avoid (DAA) technology for FAA approval			[4,000]	[1,000]	
0603302F	25	SPACE AND MISSILE ROCKET PROPULSION					

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0603311F	26	BALLISTIC MISSILE TECHNOLOGY		5,900	4,900	4,900	4,900
		Improved guidance, navigation & controls (Transfer from DERF)		[4,900]	[4,900]	[4,900]	
		Space technology		[1,000]			
0603333F	27	UNMANNED AIR VEHICLE DEV/DEMO	18,000	18,000	18,000		18,000
0603401F	28	ADVANCED SPACECRAFT TECHNOLOGY	42,315	50,815	52,315	10,000	52,315
		Streaker small launch vehicle		[5,000]			
		Scorpius		[3,500]			
		Thin film amorphous solar arrays			[10,000]	[10,000]	
0603410F	29	SPACE SYSTEMS ENVIRONMENTAL INTERACTIONS					
0603436F	30	TRANSFORMATIONAL WIDEBAND MILSATCOM	195,000	195,000		-195,000	
		Engineering-level pre-acquisition effort premature			[-80,000]	[-80,000]	
		Transfer to advanced wideband system (AWS) - PE 63845F (RDAF 52)			[-115,000]	[-115,000]	
0603444F	31	MAUI SPACE SURVEILLANCE SYSTEM (MSSS)	6,472	11,472	6,472	4,000	10,472
		High-accuracy network determination system (HANDS)		[5,000]		[4,000]	
0603500F	32	MULTI-DISCIPLINARY ADVANCED DEVELOPMENT SPACE	50,538	50,538	56,538	6,000	56,538
		Aerospace relay mirror system demonstration			[6,000]	[6,000]	
0603601F	33	CONVENTIONAL WEAPONS TECHNOLOGY	38,001	38,001	45,001	7,000	45,001
		Low cost autonomous attack system (LOCAAS)			[7,000]	[7,000]	
0603605F	34	ADVANCED WEAPONS TECHNOLOGY	28,271	28,271	28,271		28,271
0603723F	35	ENVIRONMENTAL ENGINEERING TECHNOLOGY		3,000		2,500	2,500
		Texas Regional Institute for Environmental Studies (TRIES)		[3,000]		[2,500]	

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0603726F	36	AEROSPACE INFO TECH SYS INTEGRATION					
0603789F	37	C3I ADVANCED DEVELOPMENT	34,288	42,588	34,288	8,300	42,588
		Intrusion defenses & system security tools development		[4,000]		[4,000]	
		Time-critical target identification programs acceleration		[4,300]		[4,300]	
0603801F	38	SPECIAL PROGRAMS	97,300	97,300	97,300		97,300
0603876F	39	SPACE-BASED LASER					
0603260F	40	INTELLIGENCE ADVANCED DEVELOPMENT	4,545	5,545	4,545		4,545
		Super wideband compressive receiver		[1,000]			
0603319F	41	AIRBORNE LASER PROGRAM					
0603421F	42	NAVSTAR GLOBAL POSITIONING SYSTEM III	100,217	100,217	100,217	-14,200	86,017
		Programs delays / execution				[-14,200]	
0603430F	43	ADVANCED EHF MILSATCOM (SPACE)	825,783	844,783	844,783	19,000	844,783
		Radiation hardening program (Transfer from DERF)		[19,000]	[19,000]	[19,000]	
0603432F	44	POLAR MILSATCOM (SPACE)	19,554	19,554	19,554		19,554
0603434F	45	NATIONAL POLAR-ORBITING OPERATIONAL ENVIRONMENTAL SATELLITE SYS (SPACE)	237,199	237,199	237,199		237,199
0603438F	46	SPACE CONTROL TECHNOLOGY	13,814	13,814	13,814		13,814
0603617F	47	COMMAND, CONTROL, AND COMMUNICATION APPLICATIONS					
0603742F	48	COMBAT IDENTIFICATION TECHNOLOGY	12,434	12,434	12,434		12,434
0603790F	49	NATO RESEARCH AND DEVELOPMENT	4,355	4,355	4,355		4,355

Title II-RDT and E

(Dollars in Thousands)

Program	Line		FY 2003	House	Senate	Conference Agreement	
Element	No	Program Title	Request	Authorized	Authorized	Change	Authorized
0603791F	50	INTERNATIONAL SPACE COOPERATIVE R&D	643	643	643		643
0603800F	51	JOINT STRIKE FIGHTER					
0603845F	52	ADVANCED WIDEBAND SYSTEM (AWS)	4,982	4,982	119,982	115,000	119,982
		Transfer from PE 63436F (RDAF 30) -- not S&T activity			[115,000]	[115,000]	
0603850F	53	INTEGRATED BROADCAST SERVICE (DEM/VAL)	19,870	39,070	39,070	19,200	39,070
		IBS smart pull technology (Transfer from DERF)		[6,600]	[6,600]	[6,600]	
		Fully fund IBS R&D shortfalls (Transfer from DERF)		[12,600]	[12,600]	[12,600]	
0603851F	54	INTERCONTINENTAL BALLISTIC MISSILE - DEM/VAL	63,025	70,525	70,525	7,500	70,525
		Solid rocket motor static test fire demonstrations (Transfer from DERF)		[7,500]	[7,500]	[7,500]	
0603854F	55	WIDEBAND GAPFILLER SYSTEM RDT&E (SPACE)	20,009	20,009	20,009		20,009
0603856F	56	AIR FORCE/NATIONAL PROGRAM COOPERATION (AFNPC)	8,829	2,829	8,829		8,829
		Air Force / national systems cooperation		[-6,000]			
0603858F	57	SPACE-BASED RADAR DEM/VAL	47,859	47,859	90,859		47,859
		Space-based radar not S&T - Transfer from PE 62500F (RDAF 7)			[43,000]		
0603859F	58	POLLUTION PREVENTION (DEM/VAL)	2,743	2,743	2,743		2,743
0603860F	59	JOINT PRECISION APPROACH AND LANDING SYSTEMS - DEM/VAL	13,267	13,267	13,267		13,267
0604327F	60	HARD AND DEEPLY BURIED TARGET DEFEAT SYSTEM (HDBTDS) PROGRAM	7,482	7,482	7,482		7,482
0305149F	61	COBRA JUDY (H)	51,000	51,000	51,000		51,000
	61a	Dem/val Test and Evaluation transfer			-9,000		
0603840F	62	GLOBAL BROADCAST SERVICE (GBS)	22,589	22,589	22,589		22,589

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(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0604012F	63	JOINT HELMET MOUNTED CUEING SYSTEM (JHMCS)	1,859	1,859	1,859		1,859
0604222F	64	NUCLEAR WEAPONS SUPPORT	13,627	13,627	13,627		13,627
0604226F	65	B-1B	160,688	160,688	160,688		160,688
0604227F	66	DISTRIBUTED MISSION TRAINING (DMT)					
0604233F	67	SPECIALIZED UNDERGRADUATE PILOT TRAINING	1,909	1,909	1,909		1,909
0604239F	68	F-22 EMD	627,266	627,266	627,266		627,266
0604240F	69	B-2 ADVANCED TECHNOLOGY BOMBER	225,327	292,327	258,327	40,000	265,327
		Transfer to B-2 procurement -- APAF 24			[-25,200]	[-25,200]	
		LO maintenance improvements		[17,000]	[10,000]	[17,000]	
		Unexecutable programs			[-1,800]	[-1,800]	
		B-2 radar frequency change (Transfer from DERF)		[50,000]	[50,000]	[50,000]	
0604251F	70	SPACE-BASED RADAR EMD					
0604270F	71	EW DEVELOPMENT	65,082	84,982	79,782	6,000	71,082
		Precision location & identification (PLAID)		[14,700]	[14,700]	[14,700]	
		Comet infrared countermeasures system		[5,200]			
		IDECM: fiber towed decoy				[-8,700]	
0604280F	72	JOINT TACTICAL RADIO	17,358	17,358	17,358		17,358
0604329F	73	SMALL DIAMETER BOMB (SDB) EMD	54,368	54,368	54,368		54,368
0604421F	74	COUNTERSPACE SYSTEMS	40,053	40,053	40,053		40,053

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(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0604441F	75	SPACE BASED INFRARED SYSTEM (SBIRS) HIGH EMD	814,927	814,927	714,927	-40,000	774,927
		Restructured program with FY 07 first launch			[-100,000]		
		Restructured program				[-40,000]	
0604442F	76	SPACE BASED INFRARED SYSTEM (SBIRS) LOW EMD					
0604479F	77	MILSTAR LDR/MDR SATELLITE COMMUNICATIONS (SPACE)	148,936	157,036	148,936	8,000	156,936
		Joint integrated satellite communications technology		[8,100]		[8,000]	
0604600F	77a	Munitions Dispenser Development		16,200		7,000	7,000
		Wind corrected munitions dispenser - extended range (WCMD-ER)		[16,200]		[7,000]	
0604602F	78	ARMAMENT/ORDNANCE DEVELOPMENT	9,160	9,160	9,160		9,160
0604604F	79	SUBMUNITIONS	4,739	4,739	4,739		4,739
0604617F	80	AGILE COMBAT SUPPORT	6,318	6,318	14,818	2,500	8,818
		Deployable oxygen systems			[2,500]	[2,500]	
		Integrated medical information technology systems (IMITS)			[6,000]		
0604618F	81	JOINT DIRECT ATTACK MUNITION	16,594	16,594	16,594		16,594
0604703F	82	AEROMEDICAL/CHEMICAL DEFENSE SYSTEMS					
0604706F	83	LIFE SUPPORT SYSTEMS	925	8,025	7,425	10,500	11,425
		Advanced concept ejection seat (ACES II) improvement		[7,100]		[4,000]	
		Fixed aircrew standardized seats (FASS)			[2,500]	[2,500]	
		Aircrew rescue signaling systems			[4,000]	[4,000]	
0604727F	84	JOINT STANDOFF WEAPONS SYSTEMS					
0604731F	85	UNMANNED COMBAT AIR VEHICLE (UCAV)	40,000	40,000	40,000		40,000

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(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0604735F	86	COMBAT TRAINING RANGES	13,524	16,524	13,524	3,000	16,524
		Air combat training ranges		[3,000]		[3,000]	
0604740F	87	INTEGRATED COMMAND & CONTROL APPLICATIONS (IC2A)	226	226	226		226
0604750F	88	INTELLIGENCE EQUIPMENT	1,326	1,326	1,326		1,326
0604754F	89	TACTICAL DATA LINK INFRASTRUCTURE					
0604762F	90	COMMON LOW OBSERVABLES VERIFICATION SYSTEM	4,781	4,781	17,781		4,781
		Restructure EMD program to support FY 04 IOC			[13,000]		
0604779F	91	TACTICAL DATA LINK INTEROPERABILITY					
0604800F	92	JOINT STRIKE FIGHTER EMD	1,743,668	1,743,668	1,743,668		1,743,668
0604805F	93	COMMERCIAL OPERATIONS AND SUPPORT SAVINGS INITIATIVE					
0604851F	94	INTERCONTINENTAL BALLISTIC MISSILE - EMD	133,291	133,291	133,291		133,291
0604853F	95	EVOLVED EXPENDABLE LAUNCH VEHICLE PROGRAM (SPACE) - EMD	57,562	57,562	57,562		57,562
0605011F	96	RDT&E FOR AGING AIRCRAFT	19,871	34,871	19,871	10,000	29,871
		Aging landing gear life extension program		[15,000]		[10,000]	
0605306F	97	RANCH HAND II EPIDEMIOLOGY STUDY					
0207249F	98	PRECISION ATTACK SYSTEMS PROCUREMENT					
0207434F	99	LINK-16 SUPPORT AND SUSTAINMENT	44,146	44,146	44,146		44,146
0207701F	100	FULL COMBAT MISSION TRAINING	3,731	3,731	3,731		3,731
0305176F	101	COMBAT SURVIVOR EVADER LOCATOR	14,274	14,274	14,274		14,274
0401318F	102	CV-22	11,449	11,449	11,449		11,449

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(Dollars in Thousands)

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	102a	EMD Test and Evaluation transfer			-27,000		
0604256F	103	THREAT SIMULATOR DEVELOPMENT	30,351	30,351	30,351		30,351
0604759F	104	MAJOR T&E INVESTMENT	46,338	53,338	145,838	7,500	53,838
		Laser induced surface improvement technology		[3,000]		[1,000]	
		Electronic countermeasures upgrades for generic radar target generator		[4,000]		[4,000]	
		Transfer from acquisition programs			[96,000]	[0]	
		Maglev upgrade program			[2,500]	[2,500]	
		Joint directed energy combat operations & employment			[1,000]		
0605101F	105	RAND PROJECT AIR FORCE	25,462	25,462	20,462		25,462
		Air Force reports, studies, & analyses			[-5,000]		
0605306F	106	RANCH HAND II EPIDEMIOLOGY STUDY	11,029	11,029	11,029		11,029
0605502F	107	SMALL BUSINESS INNOVATION RESEARCH					
0605712F	108	INITIAL OPERATIONAL TEST & EVALUATION	27,070	27,070	27,070		27,070
0605807F	109	TEST AND EVALUATION SUPPORT	398,266	398,266	398,266		398,266
0605860F	110	ROCKET SYSTEMS LAUNCH PROGRAM (SPACE)	16,237	27,237	16,237	4,000	20,237
		Missile technology demonstration 3b (MTD-3b)		[11,000]		[4,000]	
0605864F	111	SPACE TEST PROGRAM (STP)	49,882	49,882	49,882		49,882
0804731F	112	GENERAL SKILL TRAINING	313	313	313		313
0909900F	113	FINANCING FOR EXPIRED ACCOUNT ADJUSTMENTS					
0909980F	114	JUDGMENT FUND REIMBURSEMENT	20,000	20,000	20,000		20,000
1001004F	115	INTERNATIONAL ACTIVITIES	3,878	3,878	3,878		3,878

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Program	Line		FY 2003	House	Senate	Conference Agreement	
Element	**No**	**Program Title**	**Request**	**Authorized**	**Authorized**	**Change**	**Authorized**
0605024F	116	ANTI-TAMPER TECHNOLOGY EXECUTIVE AGENCY	8,000	8,000	8,000		8,000
0101113F	117	B-52 SQUADRONS	55,794	55,794	55,794		55,794
0101120F	118	ADVANCED CRUISE MISSILE	2,788	2,788	2,788		2,788
0101122F	119	AIR-LAUNCHED CRUISE MISSILE (ALCM)	26,713	26,713	26,713		26,713
0101313F	120	STRAT WAR PLANNING SYSTEM - USSTRATCOM	1,895	1,895	1,895		1,895
0101815F	121	ADVANCED STRATEGIC PROGRAMS	5,879	5,879	5,879		5,879
0102326F	122	REGION/SECTOR OPERATION CONTROL CENTER	35,000	35,000	35,000		35,000
0203761F	123	WARFIGHTER RAPID ACQUISITION PROCESS (WRAP) RAPID TRANSITION FUND	25,057	25,057	25,057		25,057
0207027F	124	AC2ISR CENTER		5,000			
		Rapid attack support system - transition to production		[5,000]			
0207028F	125	JOINT EXPEDITIONARY FORCE EXPERIMENT	27,161	27,161	27,161		27,161
0207131F	126	A-10 SQUADRONS	7,650	7,650	7,650		7,650
0207133F	127	F-16 SQUADRONS	81,338	81,338	81,338		81,338
0207134F	128	F-15E SQUADRONS	81,726	81,726	81,726		81,726
0207136F	129	MANNED DESTRUCTIVE SUPPRESSION	23,699	23,699	23,699		23,699
0207138F	130	F-22 SQUADRONS	181,239	181,239	181,239		181,239
0207141F	131	F-117A SQUADRONS	3,525	3,525	3,525		3,525
0207161F	132	TACTICAL AIM MISSILES	2,943	2,943	2,943		2,943
0207163F	133	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM)	37,008	43,508	37,008		37,008
		Increase		[6,500]			

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Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0207217F	133a	PODDED RECONNAISSANCE SYSTEMS			13,600		
		Upgrade theater airborne reconnaissance systems (TARS) pods			[13,600]		
0207247F	134	AF TENCAP	10,496	10,496	13,496	3,000	13,496
		GPS jammer detection & location (JLOC)			[3,000]	[3,000]	
0207248F	135	SPECIAL EVALUATION PROGRAM	110,080	113,280	113,280	20,200	130,280
		Classified program (Transfer from DERF)		[3,200]	[3,200]	[3,200]	
		Classified program (Transfer from DERF)				[17,000]	
0207253F	136	COMPASS CALL	3,877	11,877	3,877	8,000	11,877
		Compass Call upgrades		[8,000]		[8,000]	
0207268F	137	AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	186,690	186,690	186,690		186,690
0207277F	138	CSAF INNOVATION PROGRAM	1,920	1,920	1,920		1,920
0207325F	139	JOINT AIR-TO-SURFACE STANDOFF MISSILE (JASSM)	42,097	52,097	57,097	15,000	57,097
		Accelerate extended range JASSM (JASSM ER)		[10,000]	[15,000]	[15,000]	
0207410F	140	AEROSPACE OPERATIONS CENTER (AOC)	35,875	35,875	35,875		35,875
0207412F	141	CONTROL AND REPORTING CENTER (CRC)	6,652	6,652	6,652		6,652
0207417F	142	AIRBORNE WARNING AND CONTROL SYSTEM (AWACS)	173,956	173,956	173,956		173,956
0207423F	143	ADVANCED COMMUNICATIONS SYSTEMS	29,133	29,133	29,133		29,133
0207424F	144	EVALUATION AND ANALYSIS PROGRAM	230,218	240,668	230,218		230,218
		Classified program		[10,450]			
0207433F	145	ADVANCED PROGRAM TECHNOLOGY	104,651	114,651	114,651	10,000	114,651
		Classified program (Transfer from DERF)		[10,000]	[10,000]	[10,000]	

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0207438F	146	THEATER BATTLE MANAGEMENT (TBM) C4I	34,700	34,700	34,700		34,700
0207445F	147	FIGHTER TACTICAL DATA LINK	39,034	39,034	39,034		39,034
0207449F	148	MC2C (MULTI-SENSOR COMMAND AND CONTROL	191,089	679,089	429,089	378,000	569,089
		Accelerate MP-RTIP & B-767 test bed aircraft (Transfer from DERF)		[488,000]		[488,000]	
		Accelerate MP-RTIP (Transfer from DERF)			[238,000]		
		Fund B-767 aircraft using normal R&D rules				[-75,000]	
		Reflect delayed need for aircraft integration effort				[-35,000]	
0207581F	149	JOINT SURVEILLANCE AND TARGET ATTACK RADAR SYSTEM	55,515	68,215	55,515	7,000	62,515
		Joint services workstation		[12,700]		[7,000]	
0207590F	150	SEEK EAGLE	16,972	16,972	16,972		16,972
0207591F	151	ADVANCED PROGRAM EVALUATION	220,088	237,088	237,088	17,000	237,088
	•	Classified program (Transfer from DERF)		[17,000]	[17,000]	[17,000]	
0207601F	152	USAF MODELING AND SIMULATION	21,895	23,895	21,895	1,000	22,895
		Synthetic theater operations research model		[2,000]		[1,000]	
0207605F	153	WARGAMING AND SIMULATION CENTERS	5,278	5,278	7,778	2,500	7,778
		Wargaming & simulation centers			[2,500]	[2,500]	
0207701F	154	FULL COMBAT MISSION TRAINING					
0208006F	155	MISSION PLANNING SYSTEMS	17,002	17,002	17,002		17,002
0208021F	156	INFORMATION WARFARE SUPPORT	7,837	7,837	7,837		7,837
0208031F	157	WAR RESERVE MATERIEL - EQUIPMENT/SECONDARY ITEMS					
0208060F	158	THEATER MISSILE DEFENSES					

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Element	No	Program Title	Request	Authorized	Authorized	Change	Authorized
0208160F	159	TECHNICAL EVALUATION SYSTEM	135,588	165,588	165,588	85,000	220,588
		Classified program (Transfer from DERF)		[30,000]	[30,000]	[30,000]	
		Classified program (Transfer from DERF)				[55,000]	
0208161F	160	SPECIAL EVALUATION SYSTEM	41,518	41,518	41,518		41,518
0208889F	161	COUNTERDRUG USSOUTHCOM SUPPORT					
0301310F	162	NATIONAL AIR INTELLIGENCE CENTER	[ ]	[ ]	[ ]	[ ]	[ ]
030134F	163	COBRA BALL	[ ]	[ ]	[ ]	[ ]	[ ]
0301315F	164	MISSILE AND SPACE TECHNICAL COLLECTION	[ ]	[ ]	[ ]	[ ]	[ ]
0301324F	165	FOREST GREEN	[ ]	[ ]	[ ]	[ ]	[ ]
0301398F	166	MANAGEMENT HEADQUARTERS GDIP	[ ]	[ ]	[ ]	[ ]	[ ]
		Classified program			[-3,100]		
0302015F	167	E-4B NATIONAL AIRBORNE OPERATIONS CENTER (NAOC)	47,867	47,867	47,867		47,867
0303110F	168	DEFENSE SATELLITE COMMUNICATIONS SYSTEM (SPACE)	2,046	2,046	2,046		2,046
0303112F	169	AIR FORCE COMMUNICATIONS (AIRCOM)					
0303131F	170	MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS	2,423	2,423	2,423		2,423
0303140F	171	INFORMATION SYSTEMS SECURITY PROGRAM	9,353	16,353	20,853	14,500	23,853
		Accelerate toolsets development (Transfer from DERF)		[4,000]	[4,000]	[4,000]	
		Information operations technology & fusion initiative		[3,000]		[3,000]	
		Cyber security research			[7,500]	[7,500]	
0303141F	172	GLOBAL COMBAT SUPPORT SYSTEM	29,168	29,168	29,168		29,168
0303150F	173	GLOBAL COMMAND AND CONTROL SYSTEM	3,565	3,565	3,565		3,565

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Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0303401F	174	COMMUNICATIONS SECURITY (COMSEC)	4,765	4,765	4,765		4,765
0303601F	175	MILSATCOM TERMINALS	72,712	72,712	72,712		72,712
0304111F	176	SPECIAL ACTIVITIES	[ ]	[ ]	[ ]	[ ]	[ ]
		Classified program			[405,000]		
		Defense Reconnaissance Support Activities (Space) (Transfer from DERF)			[23,300]		
0304311F	177	SELECTED ACTIVITIES	150,243	222,243	222,243		150,243
		Classified - special activities (Transfer from DERF)		[72,000]	[72,000]		
		Classified					
0305099F	178	GLOBAL AIR TRAFFIC MANAGEMENT (GATM)	7,200	7,200	7,200		7,200
0305110F	179	SATELLITE CONTROL NETWORK (SPACE)	17,542	17,542	17,542		17,542
0305111F	180	WEATHER SERVICE	14,488	14,488	14,488		14,488
0305114F	181	AIR TRAFFIC CONTROL, APPROACH, AND LANDING SYSTEM	9,865	9,865	9,865		9,865
0305128F	182	SECURITY AND INVESTIGATIVE ACTIVITIES	475	475	475		475
0305142F	183	APPLIED TECHNOLOGY INTEGRATION	[ ]	[ ]	[ ]	[ ]	[ ]
0305144F	184	TITAN SPACE LAUNCH VEHICLES (SPACE)					
0305148F	185	AIR FORCE TACTICAL MEASUREMENT & SIGNATURE	6,486	15,486	15,486	9,000	15,486
		ARGUS MASINT (Transfer from DERF)		[9,000]	[9,000]	[9,000]	
0305159F	186	DEFENSE RECONNAISSANCE SUPPORT ACTIVITIES (SPACE)	42,076	187,376	164,076	120,300	162,376
		Classified program (Transfer from DERF)		[120,300]	[97,000]	[120,300]	
		Classified program (Transfer from DERF)		[25,000]	[25,000]		
0305160F	187	DEFENSE METEOROLOGICAL SATELLITE PROGRAM (SPACE)	3,875	3,875	3,875		3,875

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0305164F	188	NAVSTAR GLOBAL POSITIONING SYSTEM (USER EQUIPMENT)	86,799	86,799	86,799		86,799
0305165F	189	NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE AND CONTROL SEGMENTS)	324,098	275,098	294,098	-39,500	284,598
		Cancel high power option		[-49,000]	[-40,000]		
		Modify high power option				[-11,500]	
		Add FY 03 launch			[10,000]		
		USAF-requested transfer to MPAF 22				[-28,000]	
0305172F	190	COMBINED ADVANCED APPLICATIONS	[ ]	[ ]	[ ]	[ ]	[ ]
0305173F	190a	Space & Missile Test & Evaluation Center			1,000	1,000	1,000
		Civil reserve space initiative			[1,000]	[1,000]	
0305182F	191	SPACELIFT RANGE SYSTEM (SPACE)	82,108	82,108	90,108	8,000	90,108
		Systems engineering / planning & scheduling / communications			[8,000]	[8,000]	
0305202F	192	DRAGON U-2 (JMIP)	17,442	65,942	30,942	13,500	30,942
		U-2 SIGINT sensor nonrecurring engineering (NRE) (Transfer from DERF)		[10,800]	[10,800]	[10,800]	
		Global Hawk defensive system (Transfer from DERF)		[30,000]			
		Global Hawk SIGINT (Transfer from DERF)		[5,000]			
		U-2 SIGINT sensor demonstration unit (Transfer from DERF)		[2,700]	[2,700]	[2,700]	

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0305205F	193	ENDURANCE UNMANNED AERIAL VEHICLES	309,743	319,743	354,743	15,000	324,743
		Predator B engineering & manufacturing development (Transfer from DERF)		[10,000]	[10,000]	[10,000]	
		Global Hawk defensive system (Transfer from DERF)			[30,000]		
		Global Hawk SIGINT (Transfer from DERF)			[5,000]	[5,000]	
0305206F	194	AIRBORNE RECONNAISSANCE SYSTEMS	66,810	77,910	66,810	13,600	80,410
		Tactical airborne reconnaissance system (TARS)		[11,100]			
		Tactical airborne reconnaissance system (TARS) P3I				[13,600]	
0305207F	195	MANNED RECONNAISSANCE SYSTEMS		20,000		4,000	4,000
		Network centric collaborative targeting (NCCT) ACTD		[20,000]		[4,000]	
0305208F	196	DISTRIBUTED COMMON GROUND SYSTEMS	20,708	46,908	46,908	26,200	46,908
		Commercial imagery upgrades (Transfer from DERF)		[2,400]	[2,400]	[2,400]	
		DCGS MASINT (Transfer from DERF)		[5,000]	[5,000]	[5,000]	
		Create geospatial laboratory (Transfer from DERF)		[3,800]	[3,800]	[3,800]	
		DCGS/U-2 SIGINT Network (Transfer from DERF)		[15,000]	[15,000]	[15,000]	
0305906F	197	NCMC - TW/AA SYSTEM	15,639	15,639	15,639		15,639
0305910F	198	SPACETRACK (SPACE)	21,917	21,917	21,917		21,917
0305911F	199	DEFENSE SUPPORT PROGRAM (SPACE)	2,090	2,090	2,090		2,090
0305913F	200	NUDET DETECTION SYSTEM (SPACE)	21,180	21,180	21,180		21,180
0308601F	201	MODELING AND SIMULATION SUPPORT	1,995	1,995	1,995		1,995
0308699F	202	SHARED EARLY WARNING (SEW)	4,027	4,027	4,027		4,027

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0401115F	203	C-130 AIRLIFT SQUADRON	158,978	158,978	158,978		158,978
0401119F	204	C-5 AIRLIFT SQUADRONS	277,795	277,795	304,395	26,600	304,395
		Avionics modernization program - Transfer from APAF 33			[26,600]	[26,600]	
0401130F	205	C-17 AIRCRAFT	157,213	157,213	157,213		157,213
0401132F	206	C-130J PROGRAM	10,000	10,000	10,000		10,000
0401134F	207	LARGE AIRCRAFT IR COUNTERMEASURES (LAIRCM)	47,539	47,539	47,539		47,539
0401218F	208	KC-135S	1,497	1,497	1,497		1,497
0401219F	209	KC-10S	10,506	10,506	10,506		10,506
0404011F	210	SPECIAL OPERATIONS FORCES					
0702207F	211	DEPOT MAINTENANCE (NON-IF)	1,340	2,840	1,340	1,500	2,840
		Metrology		[1,500]		[1,500]	
0708011F	212	INDUSTRIAL PREPAREDNESS	37,581	40,581	39,581	2,000	39,581
		Metals affordability initiative		[3,000]			
		Bipolar wafer-cell NiMH aircraft battery			[2,000]	[2,000]	
0708012F	213	LOGISTICS SUPPORT ACTIVITIES	10,375	10,375	10,375		10,375
0708026F	214	PRODUCTIVITY, RELIABILITY, AVAILABILITY, MAINTAIN. PROG OFC (PRAMPO)	4,767	4,767	4,767		4,767
0708071F	215	JOINT LOGISTICS PROGRAM - AMMUNITION STANDARD SYSTEM					
0708611F	216	SUPPORT SYSTEMS DEVELOPMENT	35,813	36,813	37,813	3,000	38,813
		Low emission / efficient hybrid aviation refueling truck propulsion		[1,000]		[1,000]	
		Aging aircraft support			[2,000]	[2,000]	

Title II-RDT and E

(Dollars in Thousands)

Program	Line		FY 2003	House	Senate	Conference Agreement	
Element	No	Program Title	Request	Authorized	Authorized	Change	Authorized
0708612F	217	COMPUTER RESOURCES SUPPORT IMPROVEMENT PROGRAM (CRSIP)	2,094	2,094	2,094		2,094
0901212F	218	SERVICE-WIDE SUPPORT	4,090	4,090	4,090		4,090
0901218F	219	CIVILIAN COMPENSATION PROGRAM	7,132	7,132	7,132		7,132
0901538F	220	FINANCIAL MANAGEMENT INFORMATION SYSTEMS	21,326	21,326	21,326		21,326
1001018F	221	NATO JOINT STARS					
	999	CLASSIFIED PROGRAMS	5,019,286	5,019,286	5,444,486	-102,000	4,917,286
	221a	Civilian personnel accounting adjustment		-36,249	-36,249	-36,249	-36,249
	221b	Financial management savings			-27,200	-27,200	-27,200
	221c	Contract services savings			-45,200	-31,906	-31,906
	221d	Operational systems development T&E transfer			-60,000		
	221e	General reduction			-6,000		
		Total, RDT&E Air Force	**17,601,233**	**18,803,184**	**18,611,184**	**735,845**	**18,337,078**

Multi-sensor command and control constellation

The budget request for the Defense Emergency Response Fund (DERF), Security, Communications, and Information Operations activity included $488.0 million for the multi-sensor command and control constellation (MC2C) program. This request included $150.0 million for the purchase of a Boeing 767-400ER testbed aircraft for the multi-sensor command and control aircraft (MC2A) and $100.0 million for integration engineering for that aircraft. The request also included $238.0 million to accelerate the initial sensor suite, known as the multi-platform radar technology insertion program (MP-RTIP), for the MC2A aircraft and for the Global Hawk unmanned aerial vehicle. The budget request also included $191.1 million in PE 27449F for the MC2C program, reflecting a total request of $679.1 million.

The House bill would authorize the budget request.

The Senate amendment would authorize a total of $429.1 million for the program. This decrease of $250.0 million was based on the belief that the Air Force did not have to budget for the testbed aircraft and its initial integration engineering in fiscal year 2003, since the MP-RTIP system would not be available to install in the aircraft until fiscal year 2007.

The conferees agree to authorize a decrease of $75.0 million for the aircraft purchase and a decrease of $35.0 million for the associated integration engineering activities.

The Air Force has informed the conferees that they have extended the schedule for manufacturing, integration engineering, and airworthiness flight testing for the MC2A testbed aircraft. The new estimate of the schedule would reduce the amount of time available to modify the aircraft to a configuration that would support installation of the MP-RTIP sensor. The revised schedule calls for delivery of the testbed aircraft late in the third quarter of fiscal year 2004 rather than the originally planned delivery early in the first quarter of fiscal year 2004.

The conferees agree that, under the revised schedule, the Air Force may begin the purchase of the aircraft in fiscal year 2003, but should split the cost of the aircraft and integration engineering between fiscal years 2003 and 2004. Since the schedule for the aircraft has been delayed, the conferees have determined that the Air Force does not require all of the funding originally requested for integration engineering tasks in fiscal year 2003.

Therefore, the conferees agree to authorize a total of $569.1 million for the program, a total decrease of $110.0 million.

DEFENSE-WIDE

Research, Development, Test and Evaluation, Defense-Wide—Overview

The budget request for fiscal year 2003 included an authorization of $16,613.6 million for Research, Development, Test and Evaluation, Defense-Wide in the Department of Defense.

The House bill would authorize $17,516.3 million.

The Senate amendment would authorize $16,496.9 million.

The conferees recommend an authorization of $17,659.1 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
		RESEARCH, DEVELOPMENT, TEST & EVALUATION, DEFENSE-WIDE					
0601101D8Z	1	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	2,126	2,126	2,126		2,126
0601101E	2	DEFENSE RESEARCH SCIENCES	175,646	165,146	187,146	9,000	184,646
		Defense research sciences		[-12,000]			
		University optoelectronic centers			[3,000]	[2,000]	
		Interdisciplinary biological nanoscience research		[1,500]			
		Nanotechnology for advanced biomedical sensors & devices			[4,000]	[3,000]	
		Molecular electronics			[2,000]	[2,000]	
		Advanced photonic composite research			[2,500]	[2,000]	
0601103D8Z	3	UNIVERSITY RESEARCH INITIATIVES	221,610	221,610	235,610	2,000	223,610
		Advanced remote sensing			[2,000]		
		Optimization & enterprise sciences for military personnel management			[2,000]	[2,000]	
		Nanotechnology incentive fund			[10,000]		
0601105D8Z	4	FORCE HEALTH PROTECTION	9,973	9,973	9,973		9,973
0601108D8Z	5	HIGH ENERGY LASER RESEARCH INITIATIVES	12,082	12,082	12,082		12,082
0601111D8Z	6	GOVERNMENT/INDUSTRY COSPONSORSHIP OF UNIVERSITY	3,467	3,467	3,467		3,467
		Semiconductor research - Focus Center research program (FCRP)					
0601114D8Z	7	DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE	9,864	19,864	9,864	10,000	19,864
		Additional DEPSCoR effort		[10,000]		[10,000]	

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0601384BP	8	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	64,119	71,119	65,119	8,000	72,119
		Engineered pathogen identification & countermeasures program		[7,000]		[7,000]	
		Agro-terrorism research			[1,000]	[1,000]	
0602110E	9	NEXT GENERATION INTERNET					
0602173C	10	SUPPORT TECHNOLOGIES - APPLIED RESEARCH					
0602227D8Z	11	MEDICAL FREE ELECTRON LASER		15,000	8,000	15,000	15,000
		Medical free electron laser		[15,000]	[8,000]	[15,000]	
0602228D8Z	12	HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU)	13,970	13,970	13,970		13,970
0602234D8Z	13	LINCOLN LABORATORY RESEARCH PROGRAM	27,732	27,732	27,732		27,732
0602301E	14	COMPUTING SYSTEMS AND COMMUNICATIONS TECHNOLOGY	424,940	374,940	419,940	-5,000	419,940
		Computing systems & communications technology		[-50,000]			
		Bio-surveillance and genisys			[-5,000]	[-5,000]	
0602302E	15	EMBEDDED SOFTWARE AND PERVASIVE COMPUTING	60,000	60,000	60,000		60,000
0602383E	16	BIOLOGICAL WARFARE DEFENSE	133,000	148,250	144,250	15,250	148,250
		Anthrax therapeutic candidate technologies (Transfer from DERF)		[11,250]	[11,250]	[11,250]	
		Asymmetric protocols for biological defense enhancement		[4,000]		[4,000]	

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0602384BP	17	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	262,177	275,177	261,877	33,200	295,377
		Rapid antibody-based biological countermeasures		[2,000]		[2,000]	
		Chemical-biological regenerative air filter		[8,000]		[8,000]	
		Mustard gas prophylactic		[3,000]		[3,000]	
		Nanoemulsions for decontamination			[5,000]	[5,000]	
		Nanosystem detection & deactivation of biowarfare agents			[2,000]	[2,000]	
		Detection of chemical, biological & pollutant agents in water			[5,000]	[5,000]	
		Nanoparticle responses to chemical & biological threats			[5,000]	[3,000]	
		Bioinformatics			[3,000]	[3,000]	
		Materials fabrication for bio sensors			[1,000]	[1,000]	
		Chemical agent exposure research			[1,200]	[1,200]	
		Nanotechnology biological agent sensor			[2,500]		
		Chemical & biological research programs			[-25,000]		
0602702E	18	TACTICAL TECHNOLOGY	180,952	180,952	170,952	-10,000	170,952
		Hypersonics technology			[-10,000]	[-10,000]	
0602708E	19	INTEGRATED COMMAND AND CONTROL TECHNOLOGY					
0602712E	20	MATERIALS AND ELECTRONICS TECHNOLOGY	440,500	392,500	435,500	-7,800	432,700
		Materials and electronics technology		[-50,000]		[-9,800]	
		Integrated optoelectronic technology		[2,000]		[2,000]	
		Biologically-based materials & devices			[-5,000]		
0602715BR	21	NUCLEAR SUSTAINMENT & COUNTERPROLIFERATION					

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0602716BR	22	WMD DEFEAT TECHNOLOGY	146,143	180,443	186,443	38,300	184,443
		CT information network (Transfer from DERF)		[5,500]	[5,500]	[5,500]	
		Vulnerability reduction technology measures (Transfer from DERF)		[9,800]	[9,800]	[9,800]	
		Hazard prediction & decision support tools (Transfer from DERF)		[5,000]	[5,000]	[5,000]	
		Hard target defeat characterization initiative (Transfer from DERF)		[7,000]	[7,000]	[7,000]	
		Enhanced blast weapons effects (Transfer from DERF)		[7,000]	[7,000]	[7,000]	
		Discrete particle method			[3,000]	[1,000]	
		Deep digger			[3,000]	[3,000]	
0602717BR	23	STRATEGIC DEFENSE TECHNOLOGIES	131,199	131,199	131,199		131,199
0602787D8Z	24	MEDICAL TECHNOLOGY					
0602890D8Z	25	HIGH ENERGY LASER RESEARCH	39,310	39,310	39,310		39,310
0603002D8Z	26	MEDICAL ADVANCED TECHNOLOGY					
0603104D8Z	27	EXPLOSIVES DEMILITARIZATION TECHNOLOGY	8,935	11,935	8,935		8,935
		Tactical missile recycling		[3,000]			
0603121D8Z	28	SO/LIC ADVANCED DEVELOPMENT	13,800	22,800	22,800	9,000	22,800
		Special reconnaissance capabilities (Transfer from DERF)		[5,000]	[5,000]	[5,000]	
		Measurement & signatures information (Transfer from DERF)		[4,000]	[4,000]	[4,000]	

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0603122D8Z	29	COMBATING TERRORISM TECHNOLOGY SUPPORT	49,015	132,915	123,615	84,600	133,615
		Entry point screening & perimeter protection (Transfer from DERF)		[11,000]	[11,000]	[11,000]	
		Reconnaissance Tool Kit (Transfer from DERF)		[19,500]	[19,500]	[19,500]	
		Super zoom digital camera (Transfer from DERF)		[6,000]	[6,000]	[6,000]	
		Combating terrorism BAA (Transfer from DERF)		[19,500]	[19,500]	[19,500]	
		Attribution CT tools & deployable communications (Transfer from DERF)		[5,600]	[5,600]	[5,600]	
		Detection of Bio agents in food (Transfer from DERF)		[3,000]	[3,000]	[3,000]	
		Alternate power sources for battery charging (Transfer from DERF)		[5,000]	[5,000]	[5,000]	
		Stand off surveillance camera (Transfer from DERF)				[2,000]	
		Magnetic quadrapole resonance explosives detection		[2,000]			
		Lightweight biological detectors		[4,000]			
		Chemical-biological electrostatic decontamination system		[4,300]		[5,000]	
		Facial recognition technology		[4,000]		[3,000]	
		Blast mitigation testing			[5,000]	[5,000]	
0603160BR	30	COUNTERPROLIFERATION ADVANCED DEVELOPMENT	77,389	97,389	77,389	16,000	93,389
		SOF support defeat terrorist (Transfer from DERF)		[11,000]		[11,000]	
		Anti-biological weapon defeat device (Transfer from DERF)		[5,000]		[5,000]	
		Thermobaric warhead development		[4,000]			
0603173C	31	SUPPORT TECHNOLOGIES - ADVANCED TECHNOLOGY					
0603174C	32	SPACE BASED LASERS (SBL)					

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0603175C	33	BALLISTIC MISSILE DEFENSE TECHNOLOGY	121,751	127,251	145,451	15,000	136,751
		Wafer-scale planarization			[5,000]	[5,000]	
		Bottom anti-reflective coatings (BARC)			[5,000]	[5,000]	
		Nanophotonic systems fabrication facility			[3,700]		
		Silicon carbide-based wide-bandgap technology		[5,500]		[2,500]	
		Gallium nitride wide-bandgap semiconductors			[10,000]	[2,500]	
0603225D8Z	34	JOINT DOD-DOE MUNITIONS TECHNOLOGY DEVELOPMENT	25,420	25,420	25,420		25,420
0603232D8Z	35	AUTOMATIC TARGET RECOGNITION	7,404	7,404	7,404		7,404
0603285E	36	ADVANCED AEROSPACE SYSTEMS	246,000	196,000	246,000	-10,500	235,500
		Advanced aerospace systems		[-50,000]		[-10,500]	
0603384BP	37	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - ADVANCED	249,842	252,442	249,142	16,300	266,142
		Miniature chemical analysis sys for detection of chem-bio agents in the chemlab (Transfer from DERF)		[2,600]			
		Biological process development facility			[7,000]	[7,000]	
		Electrostatic decontamination system			[5,000]		
		Chem-bio emergency response technologies			[2,300]	[2,300]	
		Vaccine stabilization			[3,000]	[3,000]	
		Weaponization of nanoparticles for the neutralization of facility threats			[3,000]		
		Agroterrorism prediction & risk assessment			[4,000]	[4,000]	
		Chemical & biological research programs			[-25,000]		

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0603704D8Z	38	SPECIAL TECHNICAL SUPPORT	11,168	16,968	11,168		11,168
		Complex systems engineering		[5,800]			
0603711BR	39	ARMS CONTROL TECHNOLOGY	37,646	40,646	40,646	8,000	45,646
		Advanced CBRNE sensor & info fusion (Transfer from DERF)		[3,000]	[3,000]	[3,000]	
		Seismic research for monitoring nuclear explosions			[16,000]	[5,000]	
		Reduction to lower priority programs			[-16,000]		
0603712S	40	GENERIC LOGISTICS R&D TECHNOLOGY DEMONSTRATIONS	25,451	26,951	35,451	11,500	36,951
		Defense manufacturing supply chain management		[1,500]		[1,500]	
		Vehicle fuel cell program			[10,000]	[10,000]	
0603716D8Z	41	STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM	60,468	30,468	63,468		60,468
		Inadequate budget justification		[-30,000]			
		UXO remediation technology development			[3,000]		
0603727D8Z	42	JOINT WARFIGHTING PROGRAM	9,610	9,610	9,610		9,610
0603728D8Z	43	AGILE PORT DEMONSTRATION					
0603738D8Z	44	COOPERATIVE DOD/VA MEDICAL RESEARCH					
0603739E	45	ADVANCED ELECTRONICS TECHNOLOGIES	150,400	150,400	150,400		150,400
0603750D8Z	46	ADVANCED CONCEPT TECHNOLOGY DEMONSTRATIONS	199,580	215,580	199,580		199,580
		Stand off surveillance camera (Transfer from DERF)		[2,000]			
		Multi-link antenna system (MLAS)		[14,000]			
0603755D8Z	47	HIGH PERFORMANCE COMPUTING MODERNIZATION PROGRAM	188,642	188,642	188,642		188,642
0603760E	48	COMMAND, CONTROL AND COMMUNICATIONS SYSTEMS	130,101	130,101	130,101		130,101

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0603762E	49	SENSOR AND GUIDANCE TECHNOLOGY	224,000	224,000	224,000		224,000
0603763E	50	MARINE TECHNOLOGY	33,000	33,000	33,000		33,000
0603764E	51	LAND WARFARE TECHNOLOGY	162,100	170,100	170,100	8,000	170,100
		Wolfpack program for terrorist communications (Transfer from DERF)		[8,000]	[8,000]	[8,000]	
0603765E	52	CLASSIFIED DARPA PROGRAMS	275,899	294,899	294,899	19,000	294,899
		Chem / bio agent defense improvements (Transfer from DERF)		[19,000]	[19,000]	[19,000]	
0603769D8Z	53	DISTRIBUTED LEARNING ADVANCED TECHNOLOGY	14,000	14,000	14,000		14,000
0603781D8Z	54	SOFTWARE ENGINEERING INSTITUTE	22,983	22,983	22,983		22,983
0603805S	55	DUAL USE APPLICATION PROGRAMS					
0603826D8Z	56	QUICK REACTION SPECIAL PROJECTS	25,430	25,430	50,430		25,430
		Defense acquisition challenge program (fence--non-add)		[25,000]			
		Technology transition initiative			[25,000]		
		Technology transition activities (fence--non-add)				[25,430]	
0603832D8Z	57	JOINT WARGAMING SIMULATION MANAGEMENT OFFICE	49,929	49,929	53,929		49,929
		Information technology for WMD medical response			[4,000]		
0603924D8Z	58	HIGH ENERGY LASER ADVANCED TECHNOLOGY PROGRAM	13,567	28,567	13,567		13,567
		Joint technology office		[15,000]			
0605160D8Z	59	COUNTERPROLIFERATION SUPPORT	1,806	1,806	17,806		1,806
		SOF support defeat terrorist (Transfer from DERF)			[11,000]		
		Anti-biological weapon defeat device (Transfer from DERF)			[5,000]		

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(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Conference Agreement Authorized
0603228D8Z	60	PHYSICAL SECURITY EQUIPMENT	33,553	62,553	43,553	10,000	43,553
		Classified program (Transfer from DERF)		[10,000]	[10,000]	[10,000]	
		Enhanced techniques for detection of explosives		[3,000]			
		Backscatter mobile truck system		[16,000]			
0603709D8Z	61	JOINT ROBOTICS PROGRAM	11,305	11,305	11,305		11,305
0603714D8Z	62	ADVANCED SENSOR APPLICATIONS PROGRAM	15,994	22,994	15,994	1,000	16,994
		Classified programs		[5,000]			
		Multi-wavelength surface scanning biological sensor		[2,000]		[1,000]	
0603736D8Z	63	CALS INITIATIVE	1,647	1,647	1,647		1,647
0603851D8Z	64	ENVIRONMENTAL SECURITY TECHNOLOGY CERTIFICATION PROGRAM	28,334	20,334	33,334		28,334
		Eliminate growth above FY 02 level		[-8,000]			
		UXO remediation			[5,000]		
0603868C	65	NAVY THEATER WIDE MISSILE DEFENSE SYSTEM					
0603869C	66	MEADS CONCEPTS - DEM/VAL					
0603871C	67	NATIONAL MISSILE DEFENSE - DEM/VAL					
0603873C	68	FAMILY-OF SYSTEMS ENGINEERING AND INTEGRATION (FOS E&I					

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(Dollars in Thousands)

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0603874C	69	BMD TECHNICAL OPERATIONS					
0603875C	70	INTERNATIONAL COOPERATIVE PROGRAMS					
0603876C	71	THREAT AND COUNTERMEASURES					
0603880C	72	BALLISTIC MISSILE DEFENSE SYSTEM SEGMENT	1,065,982	1,085,982	733,982	5,650	1,071,632
		Wide bandwidth information technology program		[10,000]		[2,500]	
		Battlespace environment & signatures tool kit		[10,000]			
		Systems engineering & integration (SE&I)			[-140,000]		
		Maintain T&E funding level			[30,000]		
		Additional T&E funding				[3,150]	
		Duplication/lack of justification/execution			[-222,000]		
0603881C	73	BALLISTIC MISSILE DEFENSE TERMINAL DEFENSE SEGMENT	169,974	378,719	195,974	77,745	247,719
		Transfer from MEADS, PE 63869A (RDA 76)		[117,745]		[117,745]	
		Enhanced Arrow deployability program		[21,000]			
		Arrow Ballistic Missile System (Amd #5)		[70,000]			
		Arrow			[40,000]		
		Arrow (fence--non-add)				[55,000]	
		Program operations			[-14,000]		
		Sea-based terminal				[-40,000]	

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0603882C	74	BALLISTIC MISSILE DEFENSE MIDCOURSE DEFENSE SEGMENT	3,195,104	3,247,104	3,034,104	5,000	3,200,104
		Aegis LEAP interceptor flight demonstration program		[27,000]			
		Long-range S-band & X-band discrimination radar program		[25,000]			
		High power discriminator radar development			[40,000]		
		Systems engineering & integration (SE&I)			[-45,000]		
		Small kill vehicle technology development			[10,000]	[5,000]	
		Concept development, studies & risk reduction			[-52,000]		
		SE&I -- non-system specific			[-50,000]		
		Program operations			[-64,000]		
0603883C	75	BALLISTIC MISSILE DEFENSE BOOST DEFENSE SEGMENT	796,927	719,427	546,927	-41,300	755,627
		Sea-based boost				[-20,000]	
		Sea-based boost -- undefined, unexecutable experiment			[-55,000]		
		Space-based boost				[-21,300]	
		Space-based boost -- undefined, unexecutable experiment			[-30,000]		
		Airborne laser		[-77,500]	[-135,000]		
		Space-based laser			[-10,000]		
		Program operations			[-20,000]		
0603884BP	76	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - DEM/VAL	144,790	154,790	147,390	2,600	147,390
		Miniature chemical analysis sys for detection of chem-bio agents in the chemlab (Transfer from DERF)			[2,600]	[2,600]	
		Chemical-biological mass spectrometer - Block II		[10,000]			

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(Dollars in Thousands)

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0603884C	77	BALLISTIC MISSILE DEFENSE SENSORS	373,447	373,447	340,447	20,000	393,447
		Airborne infrared surveillance (AIRS) system			[22,000]	[10,000]	
		Russian-American observation satellite (RAMOS) solar array development			[10,000]	[10,000]	
		SBIRS-Low -- fund a single contractor			[-55,000]		
		Program operations			[-10,000]		
0603910D8Z	77a	Strategic Capability Modernization		125,000	125,000	125,000	125,000
		Hard & deeply buried target capabilities upgrades (Transfer from DERF)		[125,000]	[125,000]	[125,000]	
0603920D8Z	78	HUMANITARIAN DEMINING	13,355	13,355	13,355		13,355
0603923D8Z	79	COALITION WARFARE	12,444	12,444	12,444	-5,000	7,444
		Reduction				[-5,000]	
0604722D8Z	80	JOINT SERVICE EDUCATION AND TRAINING SYSTEMS					
0303191D8Z	81	JOINT ELECTROMAGNETIC TECHNOLOGY (JET) PROGRAM	5,085	5,085	5,085		5,085
0901585C	82	PENTAGON RESERVATION					
	82a	Kinetic Energy Anti-satellite System (KE-ASAT)		7,500			
		Develop another option for space control		[7,500]			
	82b	Dem/val Test and Evaluation transfer			-37,000		
0604384BP	83	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM - EMD	169,018	169,018	169,018		169,018
0604709D8Z	84	JOINT ROBOTICS PROGRAM - EMD	13,643	13,643	14,643	1,000	14,643
		Robotic & unmanned military platforms			[1,000]	[1,000]	
0604764K	85	ADVANCED IT SERVICES JOINT PROGRAM OFFICE (AITS-JPO)	28,393	28,393	28,393		28,393
0604771D8Z	86	JOINT TACTICAL INFORMATION DISTRIBUTION SYSTEM (JTIDS)	10,797	10,797	10,797		10,797

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(Dollars in Thousands)

Program	Line		FY 2003	House	Senate	Conference Agreement	
Element	No	Program Title	Request	Authorized	Authorized	Change	Authorized
0604861C	87	THEATER HIGH-ALTITUDE AREA DEFENSE SYSTEM - TMD - EMD	932,171	932,171	892,171		932,171
		Missiles excess to the THAAD test program			[-40,000]		
0604865C	88	PATRIOT PAC-3 THEATER MISSILE DEFENSE ACQUISITION - EMD		150,819		150,819	150,819
		Transfer from PE 64865A (RDA 126)		[150,819]		[150,819]	
0604867C	89	NAVY AREA THEATER MISSILE DEFENSE - EMD					
0605013BL	90	INFORMATION TECHNOLOGY DEVELOPMENT	3,938	3,938	3,938		3,938
0605013D8Z	91	PROTOTYPE ACCOUNTING SYSTEMS	700	700	700		700
0605014SE	92	INFORMATION TECHNOLOGY DEVELOPMENT					
0605015BL	93	INFORMATION TECHNOLOGY DEVELOPMENT-STANDARD	10,427	10,427	10,427	-2,500	7,927
		Schedule slip				[-2,500]	
0605016D8Z	94	FINANCIAL MANAGEMENT SYSTEM IMPROVEMENTS	96,250	96,250	96,250		96,250
0303129K	95	DEFENSE MESSAGE SYSTEM	11,803	11,803	11,803		11,803
0303140K	96	INFORMATION SYSTEMS SECURITY PROGRAM	17,620	17,620	17,620		17,620
0303141K	97	GLOBAL COMBAT SUPPORT SYSTEM	17,239	17,239	17,239		17,239
0305840K	98	ELECTRONIC COMMERCE	24,265	24,265	24,265		24,265
	98a	EMD Test and Evaluation transfer			-8,000		
0603858D8Z	99	UNEXPLODED ORDNANCE DETECTION AND CLEARANCE	1,185	1,185	1,185		1,185
0604943D8Z	100	THERMAL VICAR	7,058	7,058	7,058		7,058
0605104D8Z	101	TECHNICAL STUDIES, SUPPORT AND ANALYSIS	30,023	30,023	25,023	-5,000	25,023
		OSD reports, studies, & analyses			[-5,000]	[-5,000]	
0605110BR	102	CRITICAL TECHNOLOGY SUPPORT	1,862	1,862	1,862		1,862

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0605114E	103	BLACK LIGHT	5,000	15,000	15,000	10,000	15,000
		Classified program (Transfer from DERF)		[10,000]	[10,000]	[10,000]	
0605116D8Z	104	GENERAL SUPPORT TO C3I	14,979	19,879	19,879	4,900	19,879
		Tech demos & coordinated IT planning for homeland security (Transfer from DERF)		[2,000]	[2,000]	[2,000]	
		GIS-based maps for installation consequence management (Transfer from DERF)		[2,900]	[2,900]	[2,900]	
0605117D8Z	105	FOREIGN MATERIAL ACQUISITION AND EXPLOITATION	32,382	32,382	34,382		32,382
		Classified program			[2,000]		
0605123D8Z	106	INTERAGENCY EXPORT LICENSE AUTOMATION	10,702	10,702	10,702		10,702
0605124D8Z	107	DEFENSE TRAVEL SYSTEM	30,358	20,358	30,358	-9,500	20,858
		Eliminate growth above FY 02 level		[-10,000]		[-9,500]	
0605126J	108	JOINT THEATER AIR AND MISSILE DEFENSE ORGANIZATION	72,919	72,919	72,919		72,919
0605128D8Z	109	CLASSIFIED PROGRAM USD(P)					
0605130D8Z	110	FOREIGN COMPARATIVE TESTING	31,670	31,670	31,670		31,670
0605384BP	111	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	42,959	43,959	42,959		42,959
		Interagency consequence management equipment program		[1,000]			
0605502C	112	SMALL BUSINESS INNOVATIVE RESEARCH - BMDO					
0605502E	113	SMALL BUSINESS INNOVATIVE RESEARCH					

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0605710D8Z	114	CLASSIFIED PROGRAMS - C3I	60,708	102,768	112,768	52,060	112,768
		Information security scholarships			[10,000]	[10,000]	
		Hard & deeply buried target analysis upgrades (Transfer from DERF)		[3,200]	[3,200]	[3,200]	
		National Infrastructure Protection Center (NIPC) Crucial Player (Transfer from DERF)		[1,600]	[1,600]	[1,600]	
		Space Policy activities supporting Operation Enduring Freedom (Transfer from DERF)		[4,500]	[4,500]	[4,500]	
		Collaborative planning tools (Transfer from DERF)		[32,760]	[32,760]	[32,760]	
0605790D8Z	115	SMALL BUSINESS INNOVATION RESEARCH/CHALLENGE	2,103	2,103	2,103		2,103
0605798S	116	DEFENSE TECHNOLOGY ANALYSIS	5,201	5,201	5,201		5,201
0605799D8Z	117	FORCE TRANSFORMATION DIRECTORATE	20,000	20,000	20,000		20,000
0605801K	118	DEFENSE TECHNICAL INFORMATION SERVICES (DTIC)	45,249	45,249	45,249		45,249
0605803SE	119	R&D IN SUPPORT OF DOD ENLISTMENT, TESTING AND	8,963	8,963	8,963		8,963
0605804D8Z	120	DEVELOPMENT TEST AND EVALUATION	48,913	48,913	48,913		48,913
0605898E	121	MANAGEMENT HEADQUARTERS (RESEARCH AND	43,572	43,572	43,572		43,572
0901585C	122	PENTAGON RESERVATION	7,457	7,457	7,457		7,457
0901598C	123	MANAGEMENT HEADQUARTERS-BMDO	27,909	27,909	27,909		27,909
0909999E	124	FINANCING FOR CANCELLED ACCOUNT ADJUSTMENTS					
0604805D8Z	125	COMMERCIAL OPERATIONS AND SUPPORT SAVINGS INITIATIVE	10,320	18,320	10,320	8,000	18,320
		Aircraft affordability initiative		[8,000]		[8,000]	
0605127T	126	PARTNERSHIP FOR PEACE (PFP) INFORMATION MANAGEMENT	1,920	1,920	1,920		1,920

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0208045K	127	C4I INTEROPERABILITY	43,199	43,199	43,199		43,199
0208052J	128	JOINT ANALYTICAL MODEL IMPROVEMENT PROGRAM	12,531	12,531	12,531		12,531
0300205R	129	INFORMATION TECHNOLOGY SYSTEMS	550	550	550		550
0301011G	130	CRYPTOLOGIC ACTIVITIES	[ ]	[ ]	[ ]	[ ]	[ ]
		Classified program			[-12,000]		
		Classified program			[-45,000]		
		Secure Bandwidth (Transfer from DERF)			[30,000]		
		Mobile Secure Communications (Transfer from DERF)			[20,400]		
		Classified - Cryptologic activities (Transfer from DERF)			[7,000]		
		NC-2 COMSEC (Transfer from DERF)			[10,000]		
		Coalition Interoperability and Coalition Information Security (Transfer from DERF)			[18,000]		
0301301L	131	GENERAL DEFENSE INTELLIGENCE PROGRAM	[ ]	[ ]	[ ]	[ ]	[ ]
		Hard & deeply buried target intelligence support (Transfer from DERF)			[5,800]		
		Classified program			[-10,000]		
		Classified program (Transfer from DERF)			[9,000]		
0301398L	132	MANAGEMENT HEADQUARTERS GDIP, DIA	[ ]	[ ]	[ ]	[ ]	[ ]
0302016K	133	NATIONAL MILITARY COMMAND SYSTEM-WIDE SUPPORT	1,053	1,053	1,053		1,053
0302019K	134	DEFENSE INFO INFRASTRUCTURE ENGINEERING AND	7,554	7,554	7,554		7,554

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Program	Line		FY 2003	House	Senate	Conference Agreement	
Element	No	Program Title	Request	Authorized	Authorized	Change	Authorized
0303126K	135	LONG HAUL COMMUNICATIONS (DCS)	1,407	1,407	1,407		1,407
0303127K	136	SUPPORT OF THE NATIONAL COMMUNICATIONS SYSTEM	15,046	15,046	15,046		15,046
0303131K	137	MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS	7,199	7,199	7,199		7,199
0303140G	138	INFORMATION SYSTEMS SECURITY PROGRAM	394,257	445,407	398,257	54,400	448,657
		Secure Bandwidth (Transfer from DERF)		[30,000]		[30,000]	
		Mobile Secure Communications (Transfer from DERF)		[20,400]		[20,400]	
		Computer science & internet security degree program		[750]			
		Information systems protection research			[4,000]	[4,000]	
0303149J	139	C4I FOR THE WARRIOR	10,190	10,190	10,190		10,190
0303149K	140	C4I FOR THE WARRIOR	20,536	25,036	25,036	4,500	25,036
		Improve network infrastructure (Transfer from DERF)		[4,500]	[4,500]	[4,500]	
0303150K	141	GLOBAL COMMAND AND CONTROL SYSTEM	15,604	15,604	15,604		15,604
0303153K	142	JOINT SPECTRUM CENTER	19,102	19,102	19,102		19,102
0303610K	143	TELEPORT PROGRAM	6,678	6,678	6,678		6,678
0304210BB	144	SPECIAL RECONNAISSANCE CAPABILITIES (SRC) PROGRAM					
0304345BQ	145	NATIONAL IMAGERY AND MAPPING PROGRAM	[ ]	[ ]	[ ]	[ ]	[ ]
		Classified program			[9,000]		

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0305102BQ	146	DEFENSE IMAGERY AND MAPPING PROGRAM	143,488	183,488	164,588	21,100	164,588
		Integrate airborne information into collection manage & exploit system (Transfer from DERF)		[8,300]	[8,300]	[8,300]	
		Softcopy exploitation infrastructure acceleration (Transfer from DERF)		[1,000]	[1,000]	[1,000]	
		Increase storage capacity for command information libraries (Transfer from DERF)		[1,000]	[1,000]	[1,000]	
		Improve mensuration to support PGM accuracy needs (Transfer from DERF)		[1,700]	[1,700]	[1,700]	
		Classified programs initiatives		[28,000]			
		Feature-level database development			[4,100]	[4,100]	
		Intelligent spatial technologies for smart maps			[1,000]	[1,000]	
		Broadcast-request imagery technology development (BRITE)			[4,000]	[4,000]	
0305127D8Z	147	FOREIGN COUNTERINTELLIGENCE ACTIVITIES	13,916	13,916	29,216		13,916
		Classified program			[15,300]		
0305127V	148	FOREIGN COUNTERINTELLIGENCE ACTIVITIES	474	474	474		474
0305146D8Z	149	DEFENSE JOINT COUNTERINTELLIGENCE PROGRAM (JMIP)	6,058	59,058	54,058	53,000	59,058
		Adv info systems & contractor support for critical asset protection (Transfer from DERF)		[48,000]	[48,000]	[48,000]	
		Counterintelligence awareness initiative		[5,000]		[5,000]	

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0305190D8Z	150	C3I INTELLIGENCE PROGRAMS	75,682	121,582	118,982	49,800	125,482
		Hard & deeply buried target intelligence technology (Transfer from DERF)		[3,200]	[3,200]	[3,200]	
		Modernize electronic warfare capabilities (Transfer from DERF)		[25,000]	[25,000]	[25,000]	
		Analysis of the potential for wars (Transfer from DERF)		[9,000]		[9,000]	
		Develop & test systems for horizontal fusion analysis (Transfer from DERF)		[5,600]	[5,600]	[5,600]	
		Coalition-Intelligence Information Sharing (CENTRIX) (Transfer from DERF)		[5,000]	[5,000]	[5,000]	
		Classified program (Transfer from DERF)		[32,100]			
		C3I intelligence programs		[-34,000]			
		Regional pilot program for infrastructure protection			[4,500]	[2,000]	
0305191D8Z	151	TECHNOLOGY DEVELOPMENT	120,458	230,958	263,058	142,600	263,058
		Classified program (Transfer from DERF)		[110,500]	[110,500]	[110,500]	
		Classified program (Transfer from DERF)			[32,100]	[32,100]	
0305202G	152	DRAGON U-2 (JMIP)	3,353	3,353	3,353		3,353
0305206G	153	AIRBORNE RECONNAISSANCE SYSTEMS	11,934	14,934	11,934		11,934
		Multifunction self-aligned gate tile antenna		[3,000]			
0305207G	154	MANNED RECONNAISSANCE SYSTEMS	4,649	12,899	4,649	5,000	9,649
		Combat Sent data distribution upgrade		[8,250]		[5,000]	
0305208BQ	155	DISTRIBUTED COMMON GROUND SYSTEMS	[ ]	[ ]	[ ]	[ ]	[ ]
0305208G	156	DISTRIBUTED COMMON GROUND SYSTEMS	[ ]	[ ]	[ ]	[ ]	[ ]

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0305208L	157	DISTRIBUTED COMMON GROUND SYSTEMS	1,000	1,000	1,000		1,000
0305884L	158	INTELLIGENCE PLANNING AND REVIEW ACTIVITIES	[ ]	[ ]	[ ]	[ ]	[ ]
		Hard & deeply buried target intelligence support (Transfer from DERF)		[5,800]			
		Classified program (Transfer from DERF)		[9,000]			
0305885G	159	TACTICAL CRYPTOLOGIC ACTIVITIES	113,159	148,159	113,159	35,000	148,159
		Classified - Cryptologic activities (Transfer from DERF)		[7,000]		[7,000]	
		NC-2 COMSEC (Transfer from DERF)		[10,000]		[10,000]	
		Coalition Interoperability and Coalition Information Security (Transfer from DERF)		[18,000]		[18,000]	
0305889G	160	COUNTERDRUG INTELLIGENCE SUPPORT					
0305917D8Z	161	NATIONAL SECURITY SPACE ARCHITECT (NSSA)	11,185	11,185	11,185		11,185
0708011S	162	INDUSTRIAL PREPAREDNESS	13,072	13,072	18,072	5,000	18,072
		Laser additive manufacturing program			[5,000]	[5,000]	
0902298J	163	MANAGEMENT HEADQUARTERS (OJCS)	12,887	12,887	12,887		12,887
0902740J	164	JOINT SIMULATION SYSTEM					
1160279BB	165	SMALL BUSINESS INNOVATIVE RESEARCH/SMALL BUS TECH					
1160401BB	166	SPECIAL OPERATIONS TECHNOLOGY DEVELOPMENT	6,741	11,741	11,741	5,000	11,741
		Spike urban warfare system		[5,000]		[5,000]	
		Advanced technologies for Special Operations Forces			[5,000]		
1160402BB	167	SPECIAL OPERATIONS ADVANCED TECHNOLOGY DEVELOPMENT	62,276	62,276	62,276		62,276

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1160404BB	168	SPECIAL OPERATIONS TACTICAL SYSTEMS DEVELOPMENT	281,443	283,943	271,043	13,900	295,343
		Cobra Blue Force tracking equipment		[2,500]		[2,500]	
		Use excess FY 02 funds for FY 03 requirements			[-12,200]		
		Joint threat warning system			[1,800]	[1,800]	
		Underwater systems advanced development:					
		Other ASDS development				[9,600]	
1160405BB	169	SPECIAL OPERATIONS INTELLIGENCE SYSTEMS DEVELOPMENT	1,590	1,590	3,790	26,000	27,590
		Embedded integrated broadcast service (IBS) receivers			[2,200]	[1,000]	
		Classified program (Transfer from DERF)				[25,000]	
1160407BB	170	SOF MEDICAL TECHNOLOGY DEVELOPMENT	1,962	1,962	1,962		1,962
1160408BB	171	SOF OPERATIONAL ENHANCEMENTS	77,308	77,308	86,408	4,000	81,308
		Classified program adjustments			[9,100]		
		Advanced night vision system				[4,000]	
	999	CLASSIFIED PROGRAMS	2,534,247	2,549,047	2,596,447		2,534,247
	171a	Civilian personnel accounting adjustment		-14,688	-14,688	-14,688	-14,688
	171b	Financial management savings			-36,600	-36,600	-36,600

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Program	Line		FY 2003	House	Senate	Conference Agreement	
Element	**No**	**Program Title**	**Request**	**Authorized**	**Authorized**	**Change**	**Authorized**
	171c	Contract services savings			-25,200	-17,788	-17,788
	171d	Operational systems development T&E transfer			-25,000		
	171e	Missile Defense Agency		-135,000		-814,300	-814,300
		General reduction - MDA programs		[-135,000]		[-814,300]	
	171f	President's priorities for combating terrorism or ballistic missile defense				814,300	814,300
		Total, RDT&E Defense-Wide	**16,613,551**	**17,516,337**	**16,496,873**	**1,045,548**	**17,659,099**

Advanced aerospace systems

The budget request included $246.0 million in PE 63285E for research to address high payoff opportunities associated with advanced aeronautical and space systems.

The House bill would authorize a decrease of $50.0 million in PE 63285E.

The Senate amendment would authorize the budget request.

The conferees agree to a $10.5 million reduction to PE 63285E. The conferees direct that this reduction not be assessed against the Unmanned Combat Air Vehicle programs.

Arrow

The budget request included $65.7 million in PE 63881C for the joint U.S./Israeli Arrow missile defense program.

The House bill would authorize an increase of $91.0 million in PE 63881C for the Arrow program.

The Senate amendment would authorize an increase of $40.0 million in PE 63881C for the Arrow program.

The conferees strongly support the Arrow program and agree that, of the funding authorized for the Missile Defense Agency, up to an additional $55.0 million may be used for the Arrow program.

TEST AND EVALUATION

Operational Test and Evaluation, Defense—Overview

The budget request for fiscal year 2003 included an authorization of $222.1 million for Operational Test and Evaluation, Defense.

The House bill would authorize $222.1 million.

The Senate amendment would authorize $361.6 million.

The conferees recommend an authorization of $311.6 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II-RDT and E

(Dollars in Thousands)

Program Element	Line No	Program Title	FY 2003 Request	House Authorized	Senate Authorized	Conference Agreement Change	Authorized
		OPERATIONAL TEST & EVALUATION, DEFENSE					
0603941D8Z	1	TEST & EVALUATION SCIENCE TECHNOLOGY	6,010	6,010	11,010	4,000	10,010
		Test & evaluation science & technology			[5,000]	[4,000]	
0604940D8Z	2	CENTRAL TEST AND EVALUATION INVESTMENT DEVELOPMENT	123,276	123,276	251,276	74,000	197,276
		Central T&E improvement program			[50,000]	[70,000]	
		Transfer from acquisition programs			[70,000]		
		Digital video laboratory			[3,000]	[3,000]	
		Big Crow test support activities			[5,000]		
		Joint directed energy combat operations & employment (JDECOE)				[1,000]	
0605118D8Z	3	OPERATIONAL TEST AND EVALUATION	19,725	19,725	19,725		19,725
0605131D8Z	4	LIVE FIRE TESTING	10,102	10,102	16,602	6,500	16,602
		Live fire test & training program			[5,000]	[5,000]	
		Fire fighting training system			[1,500]	[1,500]	
0605804D8Z	5	DEVELOPMENT TEST AND EVALUATION	62,941	62,941	62,941	5,000	67,941
		Big Crow test support activities				[5,000]	
		Total, Operational Test & Evaluation, Defense	**222,054**	**222,054**	**361,554**	**89,500**	**311,554**

ITEMS OF SPECIAL INTEREST

Biometric identification technology

The budget request included the following amounts for research and development activities related to information systems security programs: (1) $394.3 million in PE 33140G; (2) $14.8 million in PE 33140A; (3) $18.4 million in PE 33140N; and (4) $9.4 million in PE 33140F. Within those amounts, the budget request included $4.3 million in projects related to biometric and anti-tamper evaluations in PE 33140G and $6.0 million in PE 33140A supporting the Department of the Army and Department of Defense Executive Agent activities for biometrics.

The House bill and the Senate amendment would support the budget request.

The House report (H. Rept. 107-592) on the Intelligence Authorization Act for Fiscal Year 2003 (H.R. 4628) would recommend $15.0 million within PE 33140G for a national biometric security project.

The conferees understand that use of biometric identification techniques could dramatically improve national infrastructure security. For example, biometric technology can be used for protecting electronic information systems, ensuring the authenticity of communications, and deterring terrorist or other attacks against the national communications infrastructure.

The conferees believe that the Defense Department's biometrics research and development programs might benefit from participation in a national-level consortium. That consortium might coordinate biometric research, assess various biometric techniques, evaluate promising technologies, and educate information professionals. Such a consortium approach might be used to mobilize and coordinate biometric expertise and provide an informed basis for integrating biometric technologies into a comprehensive approach to infrastructure security. In so doing, a consortium could provide independent, private sector advice and support on how best to deploy biometrics and biometric technologies to help deter or respond to terrorist attacks against the national critical infrastructure.

Therefore, the conferees encourage the Director of the National Security Agency to investigate the possibility of sponsoring a national biometric security project and provide the results of that investigation to the congressional defense and intelligence committees when he completes that review. The conferees also believe that it would be appropriate to use resources from within the information systems security program to conduct such a review.

Delegation of research, development, test, and evaluation programs and activities

The conferees support the efforts of the Department of Defense to streamline and transform itself in order to more effectively modernize and achieve its mission. The conferees are concerned, however, about recent efforts to devolve numerous research, development, test, and evaluation (RDT&E) programs within the Office of the Secretary of Defense (OSD) to the services and defense components. In particular, the conferees note that several programs with significant congressional interest are being transferred out of OSD, many of which are managed by OSD at congressional direction. It is the conferees' understanding that these programs are being transferred to achieve staffing and budget goals within OSD, rather than to improve the execution or performance of the affected programs.

The conferees believe that the level of support that these RDT&E programs will receive if managed by the services and defense components will be reduced without OSD oversight. In addition, many of these programs serve multiple military objectives, which may not be addressed if the programs are managed by the individual services or defense components.

Therefore, the conferees direct the Secretary of Defense to halt any efforts to transition the following RDT&E programs to a particular service or defense component: (1) Strategic Environmental Research and Development Program; (2) Defense Experimental Program to Stimulate Competitive Research; (3) Environmental Security Technology Certification Program; (4) In-House Laboratory Independent Research; (5) High Performance Computer Modernization Program; (6) High Energy Laser Program; (7) Mentor Protege Program; (8) University Research Initiative; (9) Foreign Comparative Test Program; and (10) Joint Robotics Program.

The conferees direct the Secretary of Defense to provide notification to Congress prior to the delegation of research, development, test, and evaluation activities and programs from the Office of the Secretary of Defense to a service or other defense component outside of OSD. The conferees direct the Secretary to provide justification for any proposed delegations in the form of a mandated report.

A report on a delegation of authority should include each of the following: (1) an identification of the Secretary of a military department or head of a defense agency or other element of the Department of Defense to whom the delegation is made; (2) an evaluation of how the delegation is expected to improve the efficiency and performance of the program or activity in accomplishing the stated goals and purposes of the program or activity; (3) a description of plans for continued supervision of the program by the Office of the Secretary of Defense to ensure that the program or activity has sufficient resources to accomplish its stated goals and purposes; and (4) an identification of any changes in existing law necessary to support the delegation and a request that such changes be enacted.

The conferees note that any delegation of RDT&E activities or programs by the Secretary of Defense shall be subject to careful congressional scrutiny. Some of the programs proposed for delegation were established at the OSD level by statute and will require changes to such statutes or enactment of specific authorization enabling the Secretary of Defense to delegate the program, while others may involve strong congressional interest. The conferees expect the Secretary of Defense to consider these legal requirements and congressional interests in rendering a decision on devolvement.

Management of the chemical-biological defense program

The conferees have been informed that on September 19, 2002, the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)) approved an acquisition decision memorandum that would reorganize management of the chemical-biological defense program. The new streamlined management structure would place authority and accountability with specific individuals in an effort to improve the program's efficiency and responsiveness to warfighter and national security needs. Under the revised management structure, a Joint Program Executive Office (JPEO) would be established that would have responsibility for chemical-biological defense acquisition programs and would report through the Army Acquisition Executive to the Defense Acquisition Executive. Responsibility for chemical-biological defense science and technology programs, except those programs separately funded and managed by the Defense Advanced Research Projects Agency (DARPA), would be assigned to the Defense Threat Reduction Agency (DTRA), which would also continue to perform funding management functions under the oversight of the Assistant to the Secretary of Defense (Nuclear and Chemical and Biological Defense Programs) (ATSD(NCB)). Responsibility for overall coordination and integration of all activities within the chemical-biological defense program, to include policy guidance, interagency and international coordination responsibility, and day-to-day oversight, would be exercised by the ATSD(NCB) in accordance with section 1701 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160). The ATSD(NCB) would establish and chair a permanent overarching integrated product team, consisting of representatives from the military services, the Joint Staff, and the Office of the Secretary of Defense, to assist the ATSD(NCB) in this oversight role.

The conferees understand that the Joint Requirements Oversight Council has already established a Joint Requirements Office for Nuclear, Biological and Chemical (NBC) Defense in the Joint Staff, which replaces the current requirements process under the Joint NBC Defense Board and will integrate and establish priorities for chemical-biological defense requirements.

The conferees strongly support the Under Secretary's objective of establishing a streamlined management structure for the chemical-biological defense program that will improve authority and accountability and will ensure that the program is better able to respond to warfighter and national needs. The conferees agree that the establishment of a JPEO responsible for acquisition programs will provide a single, dedicated executive, who will be able to integrate programs and funding across commodity areas and services and effectively link programmatic and acquisition authority. The conferees believe that the JPEO should be established as a joint activity, with subordinate program managers drawn from all the military services.

The conferees are concerned, however, about the assignment of responsibility for the science and technology program to DTRA.

The conferees note that the predominant expertise in the chemical-biological defense science and technology program resides in the military departments and particularly in the chemical-biological, medical biological, and medical chemical defense science and technology programs of the Army, which is currently responsible for approximately 70 percent of the program. The conferees are concerned about how this existing technical expertise would continue to be leveraged under a science and technology program managed and executed by DTRA.

The conferees note that, to date, DTRA's direct participation in the chemical-biological defense program has been limited, and a significant increase in DTRA's management and chemical-biological science and technology capabilities would be required to take on the management and execution of the chemical- biological defense science and technology program.

One key attribute of the military departments' research and development laboratories and centers is their close contact with the services in the field that provides a constant awareness of the needs of deployed soldiers, sailors, airmen, and marines. The conferees are concerned about the ability of a separate science and technology program under DTRA to remain focused on acquisition program requirements and the need to meet the needs of the warfighter.

The conferees believe that a close and habitual working relationship between the science and technology community and the acquisition community is necessary for the transition of maturing technologies into acquisition programs. The conferees note the difficulty in transitioning technologies developed under DARPA's biological warfare defense program into acquisition programs. The conferees believe it is important to maintain the close link between the acquisition and science and technology communities under the new program management.

The conferees note further that the congressional defense committees played a major role in establishing a defense-wide, integrated, and coordinated chemical and biological defense program that would meet the needs of U.S. Armed Forces and have closely monitored and maintained an intense interest in this critical program. A principal feature of the program was the establishment in the Office of the Secretary of Defense of a strong focal point for chemical-biological defense to provide overall policy and budget guidance and oversight for the program.

The conferees do not want to prejudge the decision made by the USD(AT&L) and note that appropriate staff agencies have begun work on the detailed plans and procedures required to implement the acquisition decision memorandum. The conferees request that the concerns noted above be take into account in the development of those implementation plans. The conferees direct that the Under Secretary review the implementation plans and procedures with the congressional defense committees before those plans become effective.

Wide bandgap semiconductor electronics

The budget request contained $5.5 million in PE 61153N for basic research and $30.0 million in PE 62712E, $1.4 million in PE 62705A, $3.5 million in PE 62271N, $1.75 million in PE 62204F for applied research in wide bandgap semiconductor electronics.

The House would authorize an increase of $8.0 million in PE 62271N for wide bandgap semiconductor materials technology and an increase of $5.5 million in PE 63175C for silicon carbide-based wide bandgap semiconductor technology.

The Senate amendment would authorize an increase of $2.5 million in PE 62271N for wide bandgap semiconductor materials and devices for application in advanced power electronics, communications, and sensor systems, $2.5 million for silicon carbide materials and device research, and $1.5 million for advanced semiconductor materials research for high power amplifiers. The amendment would also authorize an increase of $10.0 million in PE 63175C for wide bandgap semiconductor technology.

The conferees agree to authorize $5.5 million in PE 61153N for basic research and $30.0 million in PE 62712E, $1.4 million in PE 62705A, and $1.75 million in PE 62204F for applied research in wide bandgap semiconductor electronics as contained in the budget request. The conferees also agree to authorize increases in PE 62271N of $2.5 million for wide bandgap semiconductor materials and devices, $2.5 million for silicon carbide materials and devices, and $1.5 million for advanced semiconductor materials, and increases in PE 63175C of $2.5 million for silicon carbide-based wide bandgap semiconductor technology and $2.5 million for gallium nitride technology.

Section 212 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) required the Secretary of Defense to carry out a cooperative program to develop and demonstrate advanced technologies and concepts for future naval radar systems and other applications with particular emphasis on development of advanced electronic materials to extend the range and sensitivity of radars. The conferees have reviewed the report by the Director of Defense Research and Engineering (DDRE), dated May 28, 2002, that addresses the cooperative program. Collaborating agencies under the overall direction of the DDRE include the Defense Advanced Research Projects Agency (DARPA), the Navy, the Army, the Air Force, and the Missile Defense Agency.

The conferees note that the program focuses on activities needed to accelerate the development, maturation, and transition of technologies for advanced electronic materials to extend the range and sensitivity of naval radars, including radio frequency/microwave and high power wide bandgap semiconductor materials and devices, and reduce the technical risk and expedite the insertion of the technology in military systems. While several insertion opportunities exist across the services, the next generation naval radar is the primary insertion target. To support that development, an objective of the overall wide bandgap program is to demonstrate the ability to produce wide bandgap high power amplifiers that can be expected to meet cost and performance criteria of the Navy's advanced ship-based radar plan for sea-based missile defense. The goal of the program for these devices is to achieve a sufficient level of technology maturity to support the radar's preliminary design review that is now anticipated to occur between fiscal year 2007 and 2008.

The conferees note that the DDRE's report reflected an initial investment in the collaborative program of $54.9 million in fiscal year 2002. The fiscal year 2003 budget request for the program totals $40.7 million, including $30.0 million in DARPA, $3.7 million in the Navy, $1.8 million in the Air Force, $1.4 million in the Army, and $3.9 million for Defense Production Act Title III authority to facilitate the transition of technologies through the establishment of enhanced production capabilities.

The conferees note that this level of funding is not consistent with previous analyses, which have recommended an increased science and technology investment in wide bandgap technology that would total approximately $50 million per year over a five-year period, beginning in fiscal year 2002, in order to develop the technologies necessary to field advanced radar systems in time to meet the Navy and the Department of Defense (DOD) requirements in 2015. The conference agreement increases the investment in the program to the recommended level.

The conferees commend the participating DOD agencies for development of the collaborative program. The conferees place a high priority on the development of the technology for advanced wide bandgap semiconductor materials and devices for future naval radar and other applications and intend to monitor the program closely.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Authorization of Appropriations

Authorization of appropriations (sec. 201)

The Senate bill contained a provision (sec. 201) that would authorize the recommended fiscal year 2003 funding levels for all research, development, test, and evaluation accounts.

The House amendment contained a similar provision.

The conference agreement includes this provision.

Amount for defense science and technology (sec. 202)

The budget request for fiscal year 2003 included an authorization of $9,677.2 million for science and technology programs in the Department of Defense. The Defense Emergency Response Fund request included an authorization of $332.0 million for science and technology programs.

The House bill would authorize $10,350.2 million.

The Senate amendment would authorize $10,155.4 million.

The conferees recommend an authorization of $10,384.7 million for Department of Defense science and technology programs. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Defense health programs (sec. 203)

The budget request for fiscal year 2003 included an authorization of $67.2 million for research, development, test, and evaluation activities for carrying out health care programs, projects, and activities of the Department of Defense.

The House bill and Senate amendment would both authorize the amount of the budget request.

The conferees recommend an authorization of $67.2 million for research, development, test and evaluation activities for carrying out health care programs, projects, and activities of the Department of Defense.

Subtitle B—Program Requirements, Restrictions, and Limitations

RAH–66 Comanche aircraft program (sec. 211)

The House bill contained a provision (sec. 211) that would place a cost cap of $6.0 billion as the total amount that could be spent on the engineering and manufacturing development (EMD) phase of the RAH–66 Comanche aircraft program. The provision would also require an annual Department of Defense Inspector General program review until the EMD phase is completed.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of the Army to provide the Committees on Armed Services of the Senate and House of Representatives with a quarterly report on the progress of the restructured RAH–66 Comanche aircraft program during fiscal year 2003.

The conferees repeat both their strong support for and concern about the RAH–66 Comanche aircraft program as highlighted in the statement of managers accompanying the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107). The conferees believe this aircraft will be a transformational weapon system capable of an array of missions to include manned reconnaissance, light attack, and network-centric warfare. The conferees, however, have been disappointed with the Army's lackluster support in prior years for this program. The Army has consistently failed to provide the appropriate funds required to ensure that the program could meet its earlier established fiscal year 2006 initial operational capability (IOC), resulting in program slips and numerous program restructures.

In the aforementioned statement of managers, the conferees questioned the reliability of any new cost estimates and EMD program milestones and expected an accurate estimate of funds required to complete EMD and the new time line and plan for bringing the Comanche to IOC to be submitted with the fiscal year 2003 budget request. (Section 211 of the House bill addressed this lack of response.)

The Army has finally reacted to this concern and is once again restructuring the program, the sixth such restructuring since fiscal year 1988, with an approximate $4.0 billion infusion of funds to complete the EMD phase of the program. The information the Army has belatedly provided the conferees gives some cause for hope that the program is now more realistically structured and funded to field this critical capability for the Objective Force beginning in fiscal year 2009. The conferees believe the commissioning of a Comanche Independent Review Panel, which contributed to this restructuring, and the Army's due consideration of that panel's recommendations are positive steps. The conferees will closely monitor the upcoming Defense Acquisition Board's decision on the restructured program and subsequent actions related to this program as reflected in the quarterly reports required by this conference. The conferees reiterate their concern that the program remain on schedule during fiscal year 2003 and be adequately funded in the out years to meet the new fiscal year 2009 IOC.

Extension of requirements relating to management responsibility for naval mine countermeasures programs (sec. 212)

The House bill contained a provision (sec. 212) that would extend, through fiscal year 2008, the requirement for the Under Secretary of Defense (Acquisition, Technology, and Logistics) (USD(AT&L)) to have primary responsibility for developing and testing naval mine countermeasures (MCM) systems. The provision would permit waiving that requirement annually, subject to certification by the Secretary of Defense that: (1) the Secretary of the Navy (SECNAV) has submitted an updated mine countermeasures master plan; (2) the budget for that fiscal year proposes sufficient resources for executing that plan; and (3) the Chairman of the Joint Chiefs of Staff (CJCS) concurs with the plan and resources.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Joint Requirements Oversight Council (JROC) to carry out title 10 responsibilities regarding the Secretary of the Navy MCM plan. The amendment would also require the USD(AT&L) to submit a notification to the congressional defense committees if the Navy intends to change the plan and budget that have been certified and submitted to Congress.

The USD(AT&L) letter to Congress, dated February 6, 2002, provided a review of the Navy's fiscal year 2002 MCM plan. That letter stated, "the assessments continue to show that the programmed changes in equipment and force structure will significantly reduce the time required to counter a mine threat and hence, validate the Navy investment strategy." The SECNAV reported in a letter to Congress on March 25, 2002, that "the Commander, Fleet Forces Command has conducted a fleet review of all Mine Countermeasures Plans and Programs (MCM) and Operational Requirements Documents (ORDs) and concurs with all programs and ORDs." In a letter to Congress, dated April 18, 2002, the USD(AT&L) certified the Navy MCM program for fiscal year 2003.

Despite the USD(AT&L) and CJCS reviews and subsequent certification of both the fiscal year 2002 and 2003 SECNAV MCM plans and budget requests, the Navy has recently taken actions without congressional consultation or notification to change those plans and associated programs significantly. These actions occurred after a hearing cycle which included reviews of both MCM plans and programs and the processes for changing those plans and programs.

Recent events have included the following:

(1) Senior Navy officials testified before Congress that congressional consultation and concurrence would be sought prior to removing appropriated and authorized capabilities from Navy ships.

(2) Shortly after the USD(AT&L) submitted the fiscal year 2003 certification, a senior member of the staff of the Chief of Naval Operations, apparently without consultation with the Director of Expeditionary Warfare and without consulting or notifying Congress, issued an order for the DDG–51 program manager to delete certain organic mine countermeasures capability from ships that were nearing delivery and that were under construction. This action had the effect of making a fundamental change to the programs upon which the USD(AT&L) made his certification.

(3) In August, two senior military officers, without consultation or notification to Congress, issued an order to remove a key MCM system that was included in the approved, certified, appropriated and authorized MCM plan.

The conferees believe that these circumstances are sufficient evidence for their concern regarding the oversight of MCM programs and for requiring that the Department provide closer supervision of the execution of the certified plans and budgets.

Revised requirements for plan for Manufacturing Technology Program (sec. 213)

The House bill contained a provision (sec. 214) that would revise the requirements for the annual plan for the Manufacturing Technology Program (ManTech).

The Senate amendment contained no similar provision.

The Senate recedes.

Advanced SEAL Delivery System (sec. 214)

The Senate bill contained a provision (sec. 212) that would authorize the Secretary of Defense to use any funds that were authorized and appropriated for fiscal year 2002 for Advanced SEAL Delivery System (ASDS) advance procurement, but are no longer needed for that purpose, for fiscal year 2003 ASDS research, development, test and evaluation.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize the Secretary of Defense to transfer $13.7 million, which was authorized and appropriated for fiscal year 2002 for ASDS advance procurement, to fiscal year 2003 ASDS research, development, test and evaluation.

Army experimentation program regarding design of the objective force (sec. 215)

The Senate amendment contained a provision (sec.213) that would require the Secretary of the Army to submit a report to Congress on the details of an Objective Force experimentation program no later than March 30, 2003, and to fund that experimentation program as a separate program element in the fiscal year 2004 budget request submission to Congress.

The House bill contained no similar provision.

The House recedes with an amendment that would extend the date for the report submission to March 31, 2003.

Program to provide Army with self-propelled Future Combat Systems non-line-of-sight cannon indirect fire capability for the objective force (sec. 216)

The budget request contained $475.6 million, composed of $246.5 million in PE 63854A and $229.1 million in PE 64854A for continued development of the Crusader self-propelled artillery system.

The Senate amendment contained a provision (sec.214) that would move the $475.6 million requested in the fiscal year 2003 budget for the Crusader artillery system to a different budget line—the Army's Future Combat Systems (FCS)—to be used only to meet the Army's organic indirect fire needs. Upon submission of the report to Congress required by the provision, the Secretary of Defense would be allowed to seek to reprogram the funds for Crusader termination costs, for continued research and development of the Crusader artillery system, or for other Army programs identified as the best available alternatives to the Crusader for providing improved indirect fire for the Army. The provision would require the Chief of Staff of the Army to complete a review of the full range of Army programs that could provide improved indirect fire for the Army over the next 20 years and submit his recommendations. The provision would further require an annual report to be submitted to the congressional defense committees on the investments proposed to be made on indirect fire programs for the Army.

The report required by the provision was submitted to Congress by the Chief of Staff of the Army, through the Office of the Under Secretary of Defense for Acquisition, Logistics and Technology on July 26, 2002.

The House bill contained no similar provision, but the report accompanying the bill directed the Secretary of Defense to continue Crusader development until completion of the Army's Analysis of Alternatives in support of the Milestone B decision for Crusader scheduled for the third quarter of fiscal year 2003.

The House recedes with an amendment that would direct the Secretary of Defense to carry out a program to provide the Army, no later than fiscal year 2008, with a self-propelled Future Combat Systems (FCS) Non-Line-of-Sight (NLOS) Cannon to equip the Objective Force.

The conferees have carefully considered the Secretary of Defense's decision to terminate the Crusader Artillery System and the budget amendment request the Administration submitted to the congressional defense committees to transfer the $475.6 million requested for Crusader in the fiscal year 2003 budget request to other programs. The Army Chief of Staff has reported that he "fully supports OSD proposals to accelerate Army precision fire initiatives and further develop other programs to enhance fire support to ground forces. However, the acceleration of existing programs alone will not fully meet the operational requirement for organic, indirect fires by 2008." He recommends funding the fielding of a Future Combat Systems Non-Line-of-Sight Cannon and establishing a networked fires capability by 2008, stating that "we cannot fully employ Objective

Force operational concepts without this capability."

The conferees believe that, in order to deliver such a system by 2008, maximum advantage should be taken of technology developed through other programs, such as the composite armored vehicle, Crusader, and the joint United States-United Kingdom Future Scout and Cavalry System.

To reduce risk in this effort, the conferees have authorized increases totaling $293.0 million to the $475.6 million requested for Crusader in the fiscal year 2003 budget request as reflected in the following program elements:

[In millions of dollars]

PE 62303A Missile Technology: Micro Electro-mechanical Systems (MEMS)	15.0
PE 63005A Combat Vehicle and Automotive Advanced Technology: Future Scout and Cavalry Vehicle Demo	10.0
PE 63645A Future Combat Sys Dem/Val: F 48 NetFires	114.5
PE 63778A MLRS Product Imp. Program:	
HIMARS	10.0
Guided MLRS	45.0
PE 63802A Weapons and Munitions—ADV DEV: Precision Guided Mortar Munitions (PGMM)	10.8
PE 64645A Armored System Modernization: Future Combat System	105.0
PE 63854A Artillery Systems Dem/Val: F 47 FCS NLOS Cannon	368.5
PE 64814A Artillery Munitions—EMD: Excalibur	48.3
PE 64854A Artillery Sys—EMD: Paladin	7.5
PE 23726A Army Field Artillery Data Sys	4.0
PE 23735A Combat Vehicle Improvement Program: Abrams Engine	28.6
PE 35204A Tactical Unmanned Aerial Vehicle	11.4

Prohibition on transfer of Medical Free Electron Laser program (sec. 217)

The Senate amendment contained a provision (sec. 217) that would prohibit the transfer of the Department of Defense Medical Free Electron Laser (MFEL) Program to any other department or agency of the Federal Government.

The House bill contained no similar provision.

The House recedes with a technical amendment.

The conferees note that the MFEL program continues to fund high quality, peer-reviewed research that is oriented towards military medical applications. The conferees believe that the program transfer was inappropriate and, therefore, support the retention and funding of the MFEL program within the Department of Defense.

Littoral combat ship program (sec. 218)

The budget request for fiscal year 2003 included no funding for research and development for a littoral combat ship (LCS). The Senate amendment contained a provision (sec. 219J) that would authorize 4.0 million in PE 63563N to develop requirements for a littoral ship.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize $4.0 million in PE 63563N to develop requirements for a littoral combat ship and would require certain reporting requirements from the Secretary of the Navy.

Subsequent to hearings and markup by the Committees on Armed Services of the Senate and the House of Representatives of the fiscal year 2003 authorization request, Navy officials requested additional funding authorization for research and development of an LCS.

An LCS program may be necessary to provide capabilities to carry out the National Military Strategy. However, neither the Office of the Secretary of Defense, the Joint Chiefs of Staff, nor the Navy has provided any indication that they have completed sufficient work on any number of prerequisites that the Department of Defense (DOD) is required to meet before concluding that new development is required to provide the capabilities inherent in an LCS. These include requirements in title 10, United States Code, and internal DOD directives, such as DOD 5000.2–R Mandatory Procedures for Major Defense Acquisition Programs and Chairman, Joint Chiefs of Staff (CJCS) Instruction 3170.01B.

The LCS has not been vetted through the Joint Requirements Oversight Council (JROC) process, particularly regarding possible alternatives and the relative priority to meet valid requirements. This should be completed prior to initiation of any program which is intended to support joint combat operations.

The conferees believe that the Navy needs to assess the adequacy of existing and planned platforms to test the littoral combat ship concept and how these platforms will be used in the development, test, and evaluation of the LCS and its mission modules. The conferees strongly believe that the Navy must capitalize on ongoing and planned experiments, demonstrations, and evaluations of existing, prototype, and experimental hull forms and platforms to better inform the Navy's decisions on the LCS. Some of these have been completed, but others are planned and await modification or construction of the hull form and platform demonstrators.

The conferees are also concerned that the Navy's strategy for the LCS does not clearly identify the plan and funding for development and evaluation of the mission modules upon which the operational capability of the LCS will depend. The conferees believe that the strategy for LCS development must provide for the identification, transition, and integration of the component technologies and subsystems to be included in the several mission modules and for the evaluation of each mission module as a system before its deployment on the LCS.

The conferees expect the JROC and the Navy to specifically deal with a number of concerns in fulfilling the requirements in the LCS provision. These include:

(1) Assessing the extent to which unmanned systems could be capable of completing the missions instead of a manned LCS vessel. Briefings on the LCS indicate that an LCS would be used for operations determined to be "too risky" for larger surface combatants. This raises questions about the level of risk the Navy has determined to be acceptable for an LCS that is unacceptable for larger surface combatants.

(2) Identifying the threat or threats that have negated the Navy's previous investments in multi-mission ships and made the missions of anti-submarine warfare, anti-surface warfare, and anti-mine warfare "too risky" for these ships. The Navy has invested heavily in providing combatants of all types and displacements with onboard and offboard sensors, weapons, and information connectivity. This investment was directed to ensure that multi-mission ships could operate at any time and in any place.

(3) Determining the level of support from other combatants and auxiliaries that LCS vessels will require, and whether this will lead to altered planning assumptions for sizing the force. An open question regarding a "focused mission" vessel such as an LCS is whether the vessel will be able to operate with impunity in the presence of threats outside its focused mission warfare area. If not, the Navy may have to adjust operating and support concepts in more significant ways than merely adding LCS vessels to the current battle group.

(4) Identifying the appropriate level of helicopter support in the baseline LCS vessel. The naval helicopter has been a proven key capability for combatant surface ships when conducting the three primary warfare areas stated for LCS. Navy briefings indicate that the LCS will require a helicopter capability to carry out its missions and will operate forward of the battle group. Nevertheless, the Navy appears to have forgotten the lessons learned from the first flight of *Arleigh Burke*-class destroyers and has not included a naval helicopter hangar as a key requirement for the LCS.

(5) Assessing the implications of using and supporting non-marinized systems as component capabilities on LCS vessels. For example, the Navy has indicated the desire for using OH–58D helicopters on LCS. Although these Army helicopters have flown from Navy ships for short periods, they have limited capabilities for LCS mission areas. Naval helicopters, however, have the durability and system integration required to provide joint and battle group synergism for LCS missions.

(6) Identifying whether there are changes in tactics and procedures which the Navy could apply to current platforms and concepts of operations that would accomplish the envisioned LCS missions without putting additional pressure on an already underfunded ship acquisition plan.

(7) Assessing the assignment of LCS-unique missions to the U.S. Coast Guard, close allies, or coalition partners. If we are to continue assuming joint and coalition warfare, perhaps the U.S. Navy could count on the Coast Guard or smaller navies of allies to contribute more effectively by performing "small ship" mission.

SUBTITLE C—BALLISTIC MISSILE DEFENSE

Report requirements relating to ballistic missile defense programs (sec. 221)

The Senate amendment contained provisions (secs. 222 and 223) that would require the Secretary of Defense to submit to the congressional defense committees reports containing programmatic information on the Ground-based Midcourse and Air-based Boost programs. The Senate amendment also contained a provision (sec. 221) that would require the Department to submit to the congressional defense committees reports containing operational assessments of these programs by the Director of Operational Test and Evaluation (DOT&E) and an annual review of the cost, schedule, and performance criteria of all ballistic missile defense (BMD) programs by the Joint Requirements Oversight Council (JROC).

The House bill contained no similar provision.

The conferees agree that the Department must provide adequate programmatic information on BMD programs to the congressional defense committees and notes that the annual budget justification materials, together with the report on the cost, schedule, testing, and performance goals of BMD programs required by section 232 of the National

Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107), are appropriate vehicles for transmitting such information.

Therefore, the Senate recedes on sections 221, 222 and 223 with an amendment that would require the Secretary of Defense to annually submit to Congress, with the budget justification materials, the performance goals and development baselines for each block of each BMD system that could be fielded and for BMD systems that have been designated by Congress as special interest items. The amendment would require submission of funding profiles (i.e., year-by-year funding estimates) for each block of each BMD system that could be fielded.

Finally, the amendment would require the JROC to perform a one-time review of the cost, schedule, and performance criteria for BMD programs in order to assess the validity of those criteria in relation to military requirements and to include the results of the review with the annual statement of BMD cost, schedule, and performance goals required by the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107).

The conferees believe that a cooperative relationship between the Director of Operational Test and Evaluation and the Missile Defense Agency is and will remain important to successful execution of ballistic missile defense programs. The conferees are concerned that DOT&E reporting on BMD programs, included in the DOT&E annual report dated February 2002, may not have been based on information generated with a sufficient level of interaction between MDA and DOT&E. The conferees are encouraged by recent statements by DOT&E that DOT&E involvement in BMD programs is now acceptable and expect that the Missile Defense Agency will continue to work cooperatively with DOT&E.

Responsibility of Missile Defense Agency for research, development, test, and evaluation related to system improvements of programs transferred to military departments (sec. 222)

The House bill contained a provision (sec. 232) that would amend title 10, United States Code, to require the Director of the Missile Defense Agency to retain responsibility for research, development, test and evaluation related to improvements of missile defense systems and system components that have been transferred to the military departments for procurement and fielding.

The Senate amendment contained no similar provision.

The Senate recedes.

Limitation on obligation of funds for Theater High Altitude Area Defense Program pending submission of required life-cycle cost information (sec. 223)

The Senate amendment contained a provision (sec. 224) that would require the Secretary of Defense to submit to Congress by January 15, 2003, certain types of programmatic information for the Theater High Altitude Area Defense (THAAD) program, including the development schedule and planned procurement schedule. The provision would also require submission of a life cycle cost estimate specifically required by section 232 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) for programs such as THAAD in their Engineering and Manufacturing Development phase. The provision would specify that no more than 50 percent of the amount authorized to be appropriated in fiscal year 2003 for THAAD may be expended until the congressional defense committees have received the information required by the provision.

The House bill contained no similar provision.

The House recedes with an amendment that would specify that no more than 85 percent of the amount authorized to be appropriated in fiscal year 2003 for THAAD may be obligated until Congress has received the life cycle cost estimate required by last year's National Defense Authorization Act. Other reporting requirements related to THAAD are included in Section 221.

The conferees note that a development schedule and planned procurement schedule need to be developed in order to provide such a life cycle cost estimate. The conferees also recognize that the Missile Defense Agency (MDA) plans to evolve missile defense system capabilities through spiral development and will acquire the ballistic missile defense systems in an evolutionary acquisition process. The conferees expect that MDA will provide the congressional defense committees the basis for understanding the THAAD life cycle cost estimate.

The conferees also note that under the Defense Department's plan for obligation of THAAD funding, the Department should have until February 2003 to submit the required life cycle cost estimate prior to any adverse funding impacts to the THAAD program. Therefore, the conferees expect the life cycle cost estimate to be provided on or before the date of submission of the fiscal year 2004 budget justification materials in February 2003.

Provision of information on flight testing of Ground-based Midcourse National Missile Defense system (sec. 224)

The Senate amendment contained a provision (sec. 227) that would require the Director of the Missile Defense Agency (MDA) to submit to the congressional defense committees a thorough report on each flight test of the Ground-based Midcourse national missile defense system no later than 120 days after the test.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Director of the MDA to communicate to Congress the results of each flight test, including a thorough discussion of the content and objectives of the test, a statement regarding whether each objective was achieved, and a discussion of the reasons, if any, for not achieving the objectives.

The conferees note that the amendment, which does not require a report by a fixed date months after the flight test, would provide the Director of the MDA the flexibility to provide Congress with more complete information in a more timely fashion.

References to new name for Ballistic Missile Defense Organization (sec. 225)

The House bill contained a provision (sec. 233) that would make appropriate conforming changes to reflect the change of the Ballistic Missile Defense Organization's name to the Missile Defense Agency.

The Senate amendment contained a similar provision (sec. 225).

The House recedes with a clarifying amendment.

One-year limitation on use of funds for nuclear armed interceptors (sec. 226)

The Senate amendment contained a provision (sec. 226) that would prevent any funds from being obligated for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors for a missile defense system.

The House bill contained no similar provision.

The House recedes with an amendment that would prohibit obligation of any fiscal year 2003 funds.

Subtitle D—Improved Management of Department of Defense Test and Evaluation Facilities

Department of Defense Test Resource Management Center (sec. 231)

The Senate amendment contained a provision (sec. 231) that would establish a Department of Defense (DOD) Test and Evaluation Resource Enterprise, which would report to the Director of Operational Test and Evaluation.

The House bill contained no similar provision.

The House recedes with an amendment that would establish a DOD Test Resource Management Center. The Test Resource Management Center would be a DOD Field Activity headed by a Director, who would be a three-star officer, and a Deputy Director, who would be a senior civilian with substantial experience in the field of test and evaluation. The Director would be subject to supervision by the Under Secretary of Defense for Acquisition, Technology, and Logistics. The Director would report directly to the Under Secretary without intervening authority.

Under the conference amendment, the Test Resource Management Center would be responsible for developing a strategic plan for DOD test and evaluation resources; reviewing and certifying the adequacy of proposed DOD budgets for test and evaluation activities; and administering the Central Test and Evaluation Investment Program (CTEIP) and the DOD program for test and evaluation science and technology.

The CTEIP and science and technology programs would not be transferred to the Center until the beginning of the first fiscal year after the Department submits a strategic plan for test and evaluation resources to the congressional defense committees. The conferees expect that CTEIP funds will continue to be used to fund the development of critically needed, high priority test and evaluation capabilities for joint, and multiservice requirements. The CTEIP program is not intended to be a substitute for adequate funding of service-specific test and evaluation capabilities by the military services.

Objective for institutional funding of test and evaluation facilities (sec. 232)

The Senate amendment contained a provision (sec. 232) that would transfer testing funds from the research and development programs of the military departments and defense agencies to the major test and evaluation investment accounts of the Department of Defense.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to establish the objective of ensuring that, by fiscal year 2006: (1) the institutional and overhead costs of the Major Range and Test Facility Base (MRTFB) are fully funded through the Department's major test and evaluation investment accounts and other direct appropriations; and (2) no more than the direct costs for the use of the MRTFB facilities and resources are charged to users of the MRTFB.

The conferees expect the Secretary of Defense to submit a budget for fiscal year 2004 that will begin to fund the military departments and defense agency MRTFB institutional programs at a level such as to achieve the above objective by fiscal year 2006.

Uniform financial management system for Department of Defense test and evaluation facilities (sec. 233)

The Senate amendment contained a provision (sec. 234) that would require the Secretary of Defense to implement a single financial management and accounting system for all test and evaluation facilities of the Department of Defense (DOD) within two years after the date of enactment of this Act.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary to implement a single financial management and accounting system for test and evaluation facilities as soon as possible, with the objective that such system be implemented no later than September 30, 2006.

Test and evaluation workforce improvements (sec. 234)

The Senate amendment contained a provision (sec. 235) that would require the Under Secretary of Defense for Acquisition, Technology and Logistics to develop a plan to ensure that the test and evaluation workforce of the Department of Defense (DOD) is of sufficient size and has the expertise needed to ensure that the testing of DOD systems identifies issues of military suitability and effectiveness in a timely and accurate manner.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Compliance with testing requirements (sec. 235)

The Senate amendment contained a provision (sec. 236) that would require the Director of Operational Test and Evaluation to include an assessment of waivers of and deviations from testing requirements in his annual report to Congress.

The House bill contained no similar provision.

The House recedes.

Subtitle E—Other Matters

Pilot programs for revitalizing Department of Defense laboratories (sec. 241)

The House bill contained a provision (sec. 213) that would reauthorize pilot programs intended to revitalize Department of Defense laboratories.

The Senate amendment contained a similar provision (sec. 241) that would reauthorize and expand the same pilot programs.

The House recedes with an amendment that would eliminate the establishment of new excepted service positions under the pilot program.

The conferees are concerned that the Department of Defense has made very limited use of authorities granted under this and other pilot and demonstration programs that could help address personnel and other issues at laboratories and test centers. Congress has provided the Department with considerable legislative authority for personnel reform, which remains unused. It is the intent of Congress that the authority granted to the Secretary under section 342 of the National Defense Authorization Act for Fiscal Year of 1995 (Public Law 103–337) and section 1114 of the National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) be broadly and expansively interpreted by the Secretary and that the Secretary exercises his discretion to the fullest extent of the law to address the unique personnel issues associated with government scientists and engineers. These pilot programs and other demonstration projects should be used to experiment with novel personnel systems, procedures, and new business practices to derive lessons learned and help shape a coordinated strategy to address personnel and laboratory reform issues in the future.

Technology Transition Initiative (sec. 242)

The House bill contained a provision (sec. 215) that would establish a program to accelerate the transition of technologies into fielded defense systems.

The Senate amendment contained a provision (sec. 242) that would establish a similar program.

The House recedes with an amendment that would modify the Technology Transition Initiative and its procedures.

The Technology Transition Initiative establishes a joint funding mechanism for transition projects between the Office of the Secretary of Defense and a military service or defense agency. The Initiative also establishes a Department-wide Technology Transition Council consisting of representatives of the science and technology, acquisition, and operational communities that would advise the Initiative Manager on the Initiative as well as other technology transition issues.

The conferees direct the Initiative Manager to work with the science and technology community and the acquisition community to develop memoranda of agreement, joint funding agreements, and other cooperative arrangements and to utilize innovative contracting arrangements and acquisition procedures to provide for carrying out projects under the Initiative in an efficient manner.

The conferees note that it is the intent of this provision to provide flexibility to the Department regarding the use and activities of the Technology Transition Council. Under this provision, the formal council would meet periodically to discuss technology transition issues, especially those relating to the Initiative and its projects. The organizations represented on the Council, however, are free to designate representatives to support the detailed technical reviews and funding decision-making processes that will be part of the Initiative.

The conferees note that the Technology Transition Initiative does not replace, but complements, the responsibility of the senior acquisition executives of the Department of Defense, the military departments, and the heads of the Defense agencies with research and development responsibilities under section 5358, title 10, United States Code, to ensure that the science and technology programs under their authority are carried out in such manner that will foster the transition of science and technology to higher levels of research, development, test, and evaluation.

The conferees direct the Comptroller General to review and evaluate the Technology Transition Initiative, the Defense Acquisition Challenge Program, and the Small Business Outreach program for combating terrorism. These reviews should occur two years after the enactment of the provisions, so as to provide the Department sufficient time to organize and establish the programs. The reviews should assess the implementation of the programs relative to congressional intent. The reviews should also recommend any necessary changes to improve the programs, including incentives for participation by services and agencies, organizational structure, and changes to the acquisition workforce. For example, the review should assess the cost savings generated by the programs and the use of those savings by participating organizations to support other missions.

Defense Acquisition Challenge Program (sec. 243)

The House bill contained a provision (sec. 216) that would require the Secretary of Defense to establish the Defense Acquisition Challenge Program, a pilot program to promote the insertion of unique and innovative technologies ("challenge proposals") into existing Department of Defense (DOD) acquisition programs.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would provide that the Secretary act through the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)), in carrying out the program. The amendment would provide that the Under Secretary prescribe procedures for the submission of challenge proposals through the unsolicited proposal process or in response to a broad agency announcement issued to solicit challenge proposals. The amendment would also provide that the Under Secretary establish panels to carry out preliminary evaluations of challenge proposals and prescribe criteria to be considered in those evaluations and would establish additional criteria to be considered by the program office and the prime system contractor in consideration of those challenge proposals referred for a full review and evaluation.

The conferees believe that the panels will be an important tool in the preliminary screening and identification of meritorious challenge proposals and that the amended provision would provide the USD(AT&L) the flexibility needed to prescribe proper panel make-up. The composition of the panels may change ranging from a technical level review by knowledgeable scientists and technologists to a very senior level blue ribbon panel, depending on the issue or technology being reviewed. The conferees expect that review panels would take a "best value" approach in evaluation of challenge proposals.

The conferees believe that the use of the broad agency announcement and the unsolicited proposal process under procedures prescribed by the USD(AT&L) will provide the Department the ability to manage the submission of challenge proposals and to identify specific technology areas of interest and areas that could be transitioned rapidly into fielded programs under a broad agency announcement, while at the same time allowing prospective contractors the opportunity to propose innovations for a program at any time under the unsolicited proposal process. The conferees believe that the authority for appropriate DOD officials to identify and refer unsolicited challenge proposals to a panel would permit their expeditious review under appropriate circumstances. Upon completion of a preliminary review by a panel, those challenge proposals with merit would be requested to submit a more detailed proposal to be reviewed by the Government program office and the prime system contractor for the impacted program. The conferees note that the detailed analyses should include a cost estimate and examination of relevant industrial base issues.

The conferees believe that the challenge program could provide an excellent avenue for accelerating the introduction of new and innovative technology into defense acquisition programs and that program offices and prime contractors should be encouraged to incorporate such approaches as new technology insertions by appropriate incentives, such as share-in savings approaches.

The conferees also believe that the Under Secretary should establish procedures for adoption of those extraordinary challenge proposals that, based on their evaluation, promise such far-reaching improvements in performance, affordability, manufacturability, or operational capability that a termination of a contract for the convenience of the Government and an award of a contract for insertion of the technology would be justified.

Encouragement of small businesses and nontraditional defense contractors to submit proposals potentially beneficial for combating terrorism (sec. 244)

The Senate amendment contained a provision (sec. 243) that would establish a program to assist the Department of Defense in utilizing small businesses and nontraditional defense contractors in developing technologies to combat terrorism.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

The conferees direct the Department to use all available electronic commerce technology to carry out its activities, including proposal submission, review, response to proposers, and recommendations within the Department. This is consistent with the Department's efforts to streamline its procedures and make more use of electronic transactions in conducting Department business. The use of these technologies should also address a systemic problem within the Department by making technical proposals and evaluator responses easier to track and document by both contractors and Department of Defense personnel alike.

The conferees direct the Department to use the size standards appropriate for the Small Business Innovative Research program when determining eligibility for participation in the Small Business Outreach Program.

The conferees are concerned with the communication between the various federal agencies responsible for developing technologies to combat terrorism. Therefore, the conferees recommend that the activities of the panel be coordinated with the activities of appropriate federal agencies and the Office of Science and Technology Policy, including the forwarding of proposals not specific to the needs of the Department of Defense to other appropriate federal agencies.

Vehicle fuel cell program (sec. 245)

The Senate amendment contained a provision (sec. 244) that would require the Secretary of Defense to carry out a cost-shared program to develop fuel cell technology for use in Department of Defense vehicles.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would require the Secretary to carry out the program in coordination with the Department of Energy and other appropriate federal agencies.

Defense nanotechnology research and development program (sec. 246)

The Senate amendment contained a provision (sec. 245) that would establish a Department of Defense nanotechnology research and development program.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would encourage the Department of Defense to coordinate its nanotechnology research activities with the National Nanotechnology Initiative.

The conferees note that there are many ongoing activities in the Defense Advanced Research Projects Agency and the military services that are attempting to exploit the promise of nanotechnology to develop new military capabilities, for example in biosensing, smart materials, computing, and nanoelectronics. The conferees urge the Department to leverage these activities in developing the coordinated research program. In particular, the conferees direct the Department to capitalize on the special technical area review on nanoelectronics by the Department's Advisory Group on Electronic Devices as it works to develop a research portfolio, investment plan, and transition strategy in this important technical area.

Activities of the Defense Experimental Program to Stimulate Competitive Research (sec. 247)

The Senate amendment contained a provision (sec. 246) that would modify the Defense Experimental Program to Stimulate Competitive Research (DEPSCoR) and to require a National Research Council assessment of the program.

The House bill contained no similar provision.

The House recedes with an amendment.

The conferees direct the Secretary of Defense to continue to support the DEPSCoR effort to develop new defense research capabilities across the Nation. The conferees encourage the Secretary to continue to support activities that will develop world-class researchers in DEPSCoR states and to work closely with the individual states' planning committees to ensure that the program supports the development of defense research infrastructure.

Four-year extension of authority of DARPA to award prizes for advanced technology achievements and additional authority of military departments and Defense Agencies to award prizes for achievements in promoting education (sec. 248)

The Senate amendment contained a provision (sec. 247) that would reauthorize the Defense Advanced Research Projects Agency (DARPA) to award competitive prizes for advanced technology achievements.

The House bill contained no similar provision.

The House recedes with an amendment that would modify the reporting requirements related to the authority.

The conferees note that competitive prizes have been used successfully in the past to support the development of advanced technologies and have been endorsed by the National Academy of Engineering. The conferees support DARPA's interest in utilizing this authority in the future.

The conferees direct the Director of DARPA to address the whole area of competitive prizes seriously and to develop an overall program rather than a limited "one-shot" approach to the use of the authority. This includes fulfilling the reporting requirements included in the provision; conducting a market survey of those corporations and other entities who might want to participate in such an initiative; coordinating with the military services on the most relevant and promising technical areas in which to run competitions; and establishing a competitive prize program that supports the National Academy of Engineering's finding that prize contests have the ability "to attract a broader spectrum of ideas and participants" to the pursuit of scientific and technological objectives "by reducing the costs and other bureaucratic barriers to participation by individuals or firms."

The conferees urge the services to make use of similar prize authority granted to the service secretaries by the provision. The conferees believe that service-sponsored programs to promote science, math, and engineering can provide a positive contribution to communities and would help increase national emphasis on the role of science, math, and technology education in meeting long-term national defense needs.

The conferees note that the Army's eCybermission program to establish a nationwide math, science, and technology competition for elementary and secondary schools is an excellent example of this type of effort. The conferees urge the Secretary of the Army to make use of these authorities to continue the eCybermission program.

Plan for five-year program for enhancement of measurement and signatures intelligence capabilities of the United States through incorporation of results of basic research on sensors (sec. 249)

The Senate amendment contained a provision (sec. 1038) that would require the Director of the Central Measurement and Signatures Intelligence Office to submit a plan for a five-year program for incorporating the results of basic research on sensors into the measurement and signatures intelligence systems fielded by the Federal Government.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to submit the plan.

Legislative Provisions Not Adopted

Aerospace Relay Mirror System demonstration

The Senate amendment contained a provision (sec. 219I) that would authorize funding for an Aerospace Relay Mirror System demonstration.

The House bill contained no similar provision.

The Senate recedes. By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Agroterrorist attacks

The Senate amendment contained a provision (sec. 219E) that would authorize $1.0 million for research and analysis of efforts to counter potential agroterrorist attacks.

The House bill contained no similar provision.

The Senate recedes on the provision.

By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Analysis of emerging threats

The Senate amendment contained a provision (sec. 216) that would authorize funding for analysis of emerging threats.

The House bill contained no similar provision.

The Senate recedes.

By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Army radar power technology

The Senate amendment contained a provision (sec. 219A) that would authorize funding for a radar power technology for the Army.

The House bill contained no similar provision.

The Senate recedes. By convention, outcomes of funding differences between the

House bill and the Senate amendment are included in the tables elsewhere in this report.

Aviation-shipboard information technology initiative

The Senate amendment contained a provision (sec. 219H) that would authorize, of the funds authorized to be appropriated within Research, Development, Test and Evaluation, Navy, up to $8.2 million for the aviation-shipboard information technology initiative.

The House bill contained no similar provision.

The Senate recedes on the provision.

By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Basic seismic research program for support of national requirements for monitoring nuclear explosions

The Senate amendment contained a provision (sec. 211) that would require the Secretary of the Air Force to manage the Department of Defense program for basic seismic research in support of national requirements for monitoring nuclear explosions. The provision would also authorize $20.0 million for this seismic research program.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that the Department of Defense is planning to transfer management of the research program to support national requirements for monitoring nuclear explosions from the Defense Threat Reduction Agency to the Air Force and the Army. The conferees are concerned that, while the requirements for monitoring nuclear explosions have become significantly more challenging since the mid-1990s, management of and resources for the research program to support these national requirements have been neither stable nor sufficient since that time. Congress has repeatedly appropriated additional funds above the budget request levels for this research program.

Therefore, the conferees direct the Secretary of Defense to submit a report to the congressional defense committees by February 1, 2003, describing how the management of and resources for this research program will support the national requirements for monitoring nuclear explosions and ensure that the United States is able to meet these requirements.

Critical infrastructure protection

The Senate amendment contained a provision (sec. 219B) that would authorize funding for critical infrastructure protection.

The House bill contained no similar provision.

The Senate recedes.

By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

DDG optimized manning initiative

The Senate amendment contained a provision (sec. 219D) that would authorize an additional $2.5 million in PE 64307N for the DDG optimized manning initiative.

The House bill contained no similar provision.

The Senate recedes on the provision.

By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Demonstration of renewable energy use

The Senate amendment contained a provision (sec. 218) that would authorize an additional $2.5 million in PE 64710N to continue a demonstration program of renewable energy use, rather than in PE 63508N.

The House bill contained no similar provision.

The Senate recedes on the provision.

By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Full-scale high-speed permanent magnet generator

The Senate amendment contained a provision (sec. 219G) that would authorize an additional $1.0 million in PE 63123N to develop and demonstrate a full-scale, high-speed, permanent magnet generator.

The House bill contained no similar provision.

The Senate recedes on the provision.

By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Increased investment in test and evaluation facilities

The Senate amendment contained a provision (sec. 233) that would increase the amount authorized to be appropriated for investment in Department of Defense test and evaluation facilities.

The House bill contained no similar provision.

The Senate recedes.

The amounts authorized for investment in test and evaluation facilities are reflected in the appropriate accounts.

Laser welding and cutting demonstration

The Senate amendment contained a provision (sec. 215) that would authorize an additional $6.0 million in PE 62123N for laser welding and cutting demonstration, rather than in PE 63508N.

The House bill contained no similar provision.

The Senate recedes on the provision.

By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Limitation on obligation of funds for procurement of Patriot (PAC–3) missiles pending submission of required certification

The House bill contained a provision (sec. 231) that would prevent obligation of funds for procurement of PAC–3 missiles pending submission of criteria to the congressional defense committees for the transfer of missile defense programs from the Missile Defense Agency (MDA) to the military departments and certification by the Secretary of Defense that those criteria have been met for the PAC–3 program. The criteria and certification are required by sections 224(b)(2) and 224(c), respectively, of title 10, United States Code.

The Senate amendment contained no similar provision.

The House recedes.

In its budget submission for fiscal year 2003, the Department of Defense proposed transferring the PAC–3 program from the MDA to the Army. The conferees understand that the Department has decided not to transfer the PAC–3 program, pending full agreement within the Department on the appropriate criteria to establish prior to the transfer. Furthermore, the conferees understand that such criteria, as well as the appropriate certification, will be submitted to Congress prior to proposing such a transfer in the future. Based on this, the conferees consider the House provision to be unnecessary at present.

The conferees strongly support the PAC–3 program and expect that, prior to transferring this or any other program from MDA to the services, the Department will establish appropriate criteria to ensure that the programs are adequately funded, managed, upgraded, and supported over time.

Report on implementation of Defense Science Board recommendations

The Senate amendment contained a provision (sec. 237) that would require the Secretary of Defense to report to the congressional defense committees on the implementation of the recommendations of the December 2000 report of the Defense Science Board Task Force on Test and Evaluation Capabilities.

The House bill contained no similar provision.

The Senate recedes.

Theater Aerospace Command and Control Simulation Facility upgrades

The Senate amendment contained a provision (sec. 219C) that would authorize $2.5 million for Theater Aerospace Command and Control Simulation Facility (TACCSF) upgrades.

The House bill contained no similar provision.

The Senate recedes on the provision.

By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Very high speed support vessel for the Army

The Senate amendment contained a provision (sec.219F) that would increase the amount authorized to be appropriated for research, development, test, and evaluation for the Army by $5.5 million for the development of a prototype composite hull design to meet the theater support vessel requirement. The provision would offset this increase by a reduction of $5.5 million authorized to be appropriated for research, development, test, and evaluation for the Navy for the submarine tactical warfare program.

The House bill contained no similar provision.

The Senate recedes on the provision.

By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

TITLE III—OPERATION AND MAINTENANCE

Overview

The President's budget request for fiscal year 2003 included $129.8 billion for operation and maintenance programs and $3.3 billion for working capital fund accounts.

The budget request also included $20.1 billion in the operation and maintenance title for the Defense Emergency Response Fund (DERF). Of this amount, $10.1 billion was requested for specific programs and $10.0 billion was requested as unspecified contingency funding for continuing the war on terrorism into fiscal year 2003.

The House bill would authorize $130.4 billion for operation and maintenance accounts and $2.4 billion for working capital fund accounts.

The Senate amendment would authorize $129.5 billion for operation and maintenance accounts and $2.6 billion for working capital fund accounts.

The conferees recommend an authorization of $129.1 billion for the operation and maintenance accounts and $2.6 billion for the working capital fund accounts of the Department of Defense for fiscal year 2003.

The amounts recommended in this title include two reductions discussed more fully in title X of this Act, one for improved management of services contracts and one for reductions in proposed information technology modernization prior to design of a comprehensive financial management structure. For operation and maintenance, the conferees agree to a reduction of $494.1 million for savings from services contracts and $51.6 million from financial management information technology systems.

The conferees agree to a reduction of $654.4 million in working capital funds, including a $328.0 million increase (as requested in the DERF) for renovation and reconstruction of the Pentagon, a decrease of $839.1 million for changes in the accounting structure for health and retirement benefits that were not adopted (discussed more fully below), a decrease of $148.6 million from financial management information technology systems, and an increase of $5.3 million as requested in the DERF.

The House bill, the Senate amendment, and the conference agreement transfer the funding requested in the DERF to the appropriate accounts throughout the Department of Defense. The authorization of appropriations for the unspecified $10.0 billion for continuing the war on terrorism, which would fund the costs of ongoing military operations as well as the additional pay and benefits of mobilized guard and reserve personnel, has been transferred to title XV of this Act.

The conferees' actions on the $10.1 billion in funding for the other portion of the DERF are reflected in the tables throughout this report which describe the accounts to which those funds were transferred.

The budget request also proposed to change the accounting structure for various health and retirement benefits of federal civilian employees to an accrual basis. As discussed in the House and Senate reports, Congress did not agree with this proposed change. The operation and maintenance accounts in the House bill, the Senate amendment, and the conference agreement have been reduced by $2.3 billion to reflect the appropriate funding levels for defense programs under current accounting procedures. The authorizations for revolving and management funds in this title have been reduced by $839.1 million for this same reason. These reductions would not entail any change to the benefits of federal civilian employees funded by either direct appropriations or through the working capital funds.

NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2003

	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization
Title III -- OPERATION AND MAINTENANCE					
Operation and Maintenance, Army	24,581,055	24,174,003	24,171,542	-658,804	23,922,251
Operation and Maintenance, Navy	29,028,813	29,434,126	29,370,461	236,126	29,264,939
Operation and Maintenance, Marine Corps	3,357,952	3,599,912	3,558,732	201,684	3,559,636
Operation and Maintenance, Air Force	27,304,623	27,816,684	27,442,964	114,865	27,419,488
Operation and Maintenance, Defense-Wide	14,515,304	14,375,037	14,482,266	-369,994	14,145,310
Operation and Maintenance, Army Reserve	1,923,330	1,918,110	1,956,610	61,780	1,985,110
Operation and Maintenance, Navy Reserve	1,165,961	1,233,759	1,233,759	67,798	1,233,759
Operation and Maintenance, Marine Corps Reserve	185,532	185,532	190,532	4,000	189,532
Operation and Maintenance, Air Force Reserve	2,190,917	2,194,719	2,165,004	-30,313	2,160,604
Operation and Maintenance, Army National Guard	4,136,822	4,300,767	4,498,767	18,245	4,155,067
Operation and Maintenance, Air National Guard	4,150,961	4,077,845	4,114,910	-46,151	4,104,810
Office of the Inspector General	163,440	155,165	155,165	-8,275	155,165
US Court of Appeals, Armed Forces	9,925	9,614	9,614	-311	9,614
Environmental Restoration, Army	395,900	395,900	395,900	0	395,900
Environmental Restoration, Navy	256,948	256,948	256,948	0	256,948
Environmental Restoration, Air Force	389,773	389,773	389,773	0	389,773
Environmental Restoration, Defense	23,498	23,498	23,498	0	23,498
Environmental Restoration, Formerly Used Defense Sites	212,102	212,102	252,102	40,000	252,102
Overseas Humanitarian, Disaster & Civic Aid	58,400	58,400	58,400	0	58,400
Drug Interdiction & Counter-Drug Activities, Defense	848,907	848,907	873,907	11,000	859,907
Payment to Kaho'olawe Island Fund	25,000	25,000	25,000	0	25,000

NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2003

	Authorization Request	House Authorization	Senate Authorization	Conference Change	Conference Authorization
Defense Health Program	14,360,271	14,242,541	14,202,441	-237,233	14,123,038
Cooperative Threat Reduction	416,700	416,700	416,700	0	416,700
Overseas Contingency Operations Transfer Fund	50,000	0	50,000	-32,156	17,844
Support for International Sporting Competitions	19,000	19,000	19,000	0	19,000
Department of Defense Travel	0	0	-159,790	0	0
Foreign Currency Fluctuations	0	0	-615,200	0	0
Subtotal OPERATION AND MAINTENANCE	**129,771,134**	**130,364,042**	**129,539,005**	**-627,739**	**129,143,395**
Defense Emergency Response Fund	20,055,000	0	0	-20,055,000	0
TOTAL O&M and DERF	**149,826,134**	**130,364,042**	**129,539,005**	**-20,682,739**	**129,143,395**
REVOLVING AND MANAGEMENT FUNDS					
Pentagon Reservation Maintenance Revolving Fund	0	0	328,000	328,000	328,000
Defense Working Capital Funds	1,341,970	508,167	387,156	-954,814	387,156
National Defense Sealift Fund	934,129	934,129	934,129	0	934,129
Defense Commissary Working Capital Fund	996,789	996,789	969,200	-27,589	969,200
Total REVOLVING AND MANAGEMENT FUNDS	**3,272,888**	**2,439,085**	**2,618,485**	**-654,403**	**2,618,485**

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Operation and Maintenance, Army					
	LAND FORCES					
010	DIVISIONS	1,425,204	1,425,204	1,425,204	0	1,425,204
	Cold Weather Clothing (ECWCS)		8,000	0	0	0
	Hydration on the move system (CamelBak)	0	4,110	0	2,000	2,000
020	CORPS COMBAT FORCES	424,191	424,191	424,191	0	424,191
030	CORPS SUPPORT FORCES	361,001	361,001	361,001	0	361,001
040	ECHELON ABOVE CORPS SUPPORT FORCES	405,752	405,752	405,752	0	405,752
050	LAND FORCES OPERATIONS SUPPORT	1,115,776	1,115,776	1,115,776	0	1,115,776
	Combat training center improvements	0	0	1,200	0	0
	LAND FORCES READINESS					
060	FORCE READINESS OPERATIONS SUPPORT	1,529,998	1,529,998	1,529,998	0	1,529,998
	Battlefield mobility enhancers (M-Gators)	0	4,000	0	2,000	2,000
	Integrated training area management	0	0	15,700	1,500	1,500
	Live-fire range improvements/ training range modernization	0	32,000	13,200	3,700	3,700
60	Physical security equipment (DERF)	0	76,900	76,900	0	0
	Physical security equipment (Reduction to request)	0	0	0	0	0
	Physical security equipment (Transfer to OPA)	0	-76,900	0	0	0
60	Alternate National Military Command Center (DERF)		44,000	44,000	44,000	44,000
60	TROJAN network control center (DERF)		2,000	2,000	2,000	2,000
60	Information operations team (DERF)		0	5,000	0	0
070	LAND FORCES SYSTEMS READINESS	491,947	491,947	491,947	0	491,947
080	LAND FORCES DEPOT MAINTENANCE	808,666	808,666	808,666	0	808,666
	Army Aviation warfighting simulation center		4,000	0	0	0

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	LAND FORCES READINESS SUPPORT					
090	BASE OPERATIONS SUPPORT	3,207,409	3,207,409	3,207,409	0	3,207,409
	HQ/USARSO lease cost increase	0	-2,550	0	0	0
	Utilities privatization	0	0	-12,992	0	0
100	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (OPERATING FORCES)	1,146,516	1,146,516	1,146,516	0	1,146,516
110	MANAGEMENT & OPERATIONAL HEADQUARTERS	297,834	297,834	297,834	0	297,834
120	UNIFIED COMMANDS	83,961	83,961	83,961	0	83,961
120	Counter-terrorism/force protection personnel (DERF)		9,400	9,400	9,400	9,400
130	MISCELLANEOUS ACTIVITIES	1,607,610	1,607,610	1,607,610	0	1,607,610
	Nuclear Posture Review - Info Systems Security Program (DERF)		15,000	0	15,000	15,000
	TOTAL, BA 01: OPERATING FORCES	**12,905,865**	**13,025,825**	**13,060,273**	**79,600**	**12,985,465**
	MOBILITY OPERATIONS					
140	STRATEGIC MOBILIZATION	365,257	365,257	365,257	0	365,257
150	ARMY PREPOSITIONED STOCKS	158,237	158,237	158,237	0	158,237
160	INDUSTRIAL PREPAREDNESS	9,497	9,497	9,497	0	9,497
170	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (MOBILITY OPERATIONS)	11,473	11,473	11,473	0	11,473
	TOTAL, BA 02: MOBILIZATION	**544,464**	**544,464**	**544,464**	**0**	**544,464**
	ACCESSION TRAINING					
180	OFFICER ACQUISITION	88,026	88,026	88,026	0	88,026
190	RECRUIT TRAINING	20,197	20,197	20,197	0	20,197

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
200	ONE STATION UNIT TRAINING	22,486	22,486	22,486	0	22,486
210	SENIOR RESERVE OFFICERS' TRAINING CORPS	209,550	209,550	209,550	0	209,550
220	BASE OPERATIONS SUPPORT (ACCESSION TRAINING)	89,214	89,214	89,214	0	89,214
230	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (ACCESSION TRAINING)	56,754	56,754	56,754	0	56,754
	Army Depot Apprenticeship Program		10,000	0	0	0
	Anniston Cooperative Program		2,000	0	0	0
	BASIC SKILL/ ADVANCE TRAINING					
240	SPECIALIZED SKILL TRAINING	365,041	365,041	365,041	0	365,041
240	Army language program, Army TIARA (DERF)		19,500	19,500	19,500	19,500
240	Contract linguists-force protection, TIARA (DERF)		9,270	9,400	9,400	9,400
240	Contract linguists-interrogators, TIARA (DERF)		5,000	5,000	5,000	5,000
240	Classified (DERF)		2,300	2,300	2,300	2,300
	SCOLA language training		0	0	1,000	1,000
250	FLIGHT TRAINING	402,481	402,481	457,481	0	402,481
260	PROFESSIONAL DEVELOPMENT EDUCATION	133,572	133,572	133,572	0	133,572
270	TRAINING SUPPORT	431,508	431,508	431,508	0	431,508
280	BASE OPERATIONS SUPPORT (BASIC SKILL/ADVANCED TRAINING)	1,006,102	1,006,102	1,006,102	0	1,006,102
290	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (BASIC SKILL/ADV TRAINING)	351,864	351,864	351,864	0	351,864
	RECRUITING/OTHER TRAINING					
300	RECRUITING AND ADVERTISING	458,788	458,788	455,788	-3,000	455,788
310	EXAMINING	87,568	87,568	87,568	0	87,568

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
320	OFF-DUTY AND VOLUNTARY EDUCATION	208,860	208,860	208,860	0	208,860
330	CIVILIAN EDUCATION AND TRAINING	99,193	99,193	99,193	0	99,193
340	JUNIOR RESERVE OFFICERS' TRAINING CORPS	97,512	97,512	97,512	0	97,512
350	BASE OPERATIONS SUPPORT (RECRUIT/OTHER TRAINING)	250,316	250,316	250,316	0	250,316
	Utilities privatization		0	-3,953	0	0
	TOTAL, BA 03: TRAINING AND RECRUITING	**4,379,032**	**4,427,102**	**4,463,279**	**34,200**	**4,413,232**
	SECURITY PROGRAMS					
360	SECURITY PROGRAMS	572,013	572,013	619,513	0	572,013
360	CONUS support - TIARA (DERF)		2,000	2,000	2,000	2,000
360	Battle space characteristics (DERF)		2,000	2,000	2,000	2,000
360	Security clearance backlog (DERF)		10,000	10,000	10,000	10,000
360	Information dominance support (DERF)		1,000	1,000	1,000	1,000
	LOGISTICS OPERATIONS					
370	SERVICEWIDE TRANSPORTATION	608,608	608,608	608,608	-10,000	598,608
380	CENTRAL SUPPLY ACTIVITIES	547,994	547,994	547,994	0	547,994
390	LOGISTICS SUPPORT ACTIVITIES	356,424	356,424	356,424	0	356,424
	Anti-corrosion product testing		0	1,000	1,000	1,000
	AIT/RFID for maintenance		9,000	0	2,000	2,000
	AIT/RFID for pre-positioned stocks		8,000	0	0	0
	EMS and point-to-point wiring and signal system		6,000	0	2,000	2,000
400	AMMUNITION MANAGEMENT	311,789	311,789	311,789	0	311,789
	Corrosion Control		12,000	6,000	3,000	3,000
	SERVICEWIDE SUPPORT					

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
410	ADMINISTRATION	638,845	638,845	638,845	0	638,845
410	Critical infrastructure protection (DERF)		600	600	600	600
420	SERVICEWIDE COMMUNICATIONS	655,796	655,796	655,796	0	655,796
420	CONUS support - JMIP (DERF)		5,000	5,000	5,000	5,000
420	Collaboration planning/enablers (DERF)		2,500	2,500	2,500	2,500
420	CONUS support (DERF)		500	500	500	500
420	Computer network defense countermeasures (DERF)		4,600	4,600	4,600	4,600
420	Monitoring Army websites (DERF)		1,700	1,700	1,700	1,700
420	Intrusion detection systems (DERF)		1,500	1,500	1,500	1,500
430	MANPOWER MANAGEMENT	245,901	245,901	245,901	0	245,901
440	OTHER PERSONNEL SUPPORT	204,749	204,749	204,749	0	204,749
450	OTHER SERVICE SUPPORT	623,408	623,408	623,408	0	623,408
460	ARMY CLAIMS	112,215	112,215	112,215	0	112,215
470	REAL ESTATE MANAGEMENT	54,282	54,282	54,282	0	54,282
480	BASE OPERATIONS SUPPORT (SERVICEWIDE SUPPORT)	1,298,623	1,298,623	1,298,623	0	1,298,623
	Utilities privatization		0	-12,791	0	0
490	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (SERVICEWIDE SUPPORT)	257,333	257,333	343,338	0	257,333
	SUPPORT OF OTHER NATIONS					
500	INTERNATIONAL MILITARY HEADQUARTERS	205,623	205,623	205,623	0	205,623
510	MISC. SUPPORT OF OTHER NATIONS	58,091	58,091	58,091	0	58,091
520	EXPANSION OF NATO	0	0	0	0	0
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**6,751,694**	**6,818,094**	**6,910,808**	**29,400**	**6,781,094**

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Legislative provisions not proposed		0	-7,500	-7,500	-7,500
	Civilian personnel accrual accounting adjustment		-612,382	-612,382	-612,382	-612,382
	Contract services		0	-192,500	-135,882	-135,882
	Woodlawn Road relocation study		0	5,000	5,000	5,000
	Army museum activation		0	100	0	0
	BRAC Preparation Funds		-24,100	0	0	0
	Global Command Support System		-5,000	0	0	0
	Civilian personnel transferred to NORTHCOM		0	0	-3,240	-3,240
	Depot maintenance - excess carryover		0	0	-48,000	-48,000
	Total Operation and Maintenance, Army	**24,581,055**	**24,174,003**	**24,171,542**	**-658,804**	**23,922,251**
	Operation and Maintenance, Navy					
	AIR OPERATIONS					
010	MISSION AND OTHER FLIGHT OPERATIONS	3,247,197	3,247,197	3,247,197	0	3,247,197
020	FLEET AIR TRAINING	1,030,024	1,030,024	1,030,024	0	1,030,024
030	INTERMEDIATE MAINTENANCE	69,945	69,945	69,945	0	69,945
040	AIR OPERATIONS AND SAFETY SUPPORT	109,072	109,072	109,072	0	109,072
050	AIRCRAFT DEPOT MAINTENANCE	785,052	785,052	785,052	0	785,052
	AV-8A engine life maintenance program		2,000	0	0	0
060	AIRCRAFT DEPOT OPERATIONS SUPPORT	55,930	55,930	55,930	0	55,930
	SHIP OPERATIONS					
070	MISSION AND OTHER SHIP OPERATIONS	2,442,911	2,442,911	2,442,911	0	2,442,911
080	SHIP OPERATIONAL SUPPORT AND TRAINING	589,655	589,655	589,655	0	589,655
	Fleet training resource strategy		0	15,000	0	0

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
80	Comm/data backup Commander Naval Security Group (DERF)		5,000	5,000	5,000	5,000
80	Cryptologic direct support (DERF)		2,000	2,000	2,000	2,000
090	INTERMEDIATE MAINTENANCE	406,251	406,251	406,251	0	406,251
100	SHIP DEPOT MAINTENANCE	3,536,452	3,536,452	3,626,447	0	3,536,452
	LHA stability improvement alterations		57,000	0	0	0
110	SHIP DEPOT OPERATIONS SUPPORT	1,324,577	1,324,577	1,324,577	0	1,324,577
	COMBAT OPERATIONS/SUPPORT					
120	COMBAT COMMUNICATIONS	424,042	424,042	424,042	0	424,042
	Improved shipboard combat information center		0	8,000	0	0
	Submarine broadcast support		0	1,000	0	0
130	ELECTRONIC WARFARE	15,485	15,485	15,485	0	15,485
140	SPACE SYSTEMS & SURVEILLANCE	205,001	205,001	205,001	0	205,001
150	WARFARE TACTICS	166,186	166,186	166,186	0	166,186
	Fleet range operations support		0	8,000	0	0
160	OPERATIONAL METEOROLOGY & OCEANOGRAPHY	273,412	273,412	273,412	0	273,412
170	COMBAT SUPPORT FORCES	767,833	767,833	767,833	0	767,833
170	Commo/data backup - ONI (DERF)		2,000	2,000	2,000	2,000
170	Data backup/hardware/software (DERF)		2,000	2,000	2,000	2,000
170	Classified (DERF)		1,000	1,000	1,000	1,000
170	SCI GCCS I3 (DERF)		3,800	3,800	3,800	3,800
170	GENSER GCCS I3 (DERF)		5,400	5,400	5,400	5,400
170	JDIS / LOCE / CENTRIX (DERF)		5,250	5,300	5,300	5,300
170	Collection management application upgrades (DERF)		1,500	1,500	1,500	1,500
170	CMMA hardware, bandwidth (DERF)		22,500	22,500	22,500	22,500
170	JWICS connectivity (DERF)		5,500	5,500	5,500	5,500

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
170	Joint commo/data backup (DERF)		7,000	7,000	7,000	7,000
170	Intelligence analysts (DERF)		3,000	3,000	3,000	3,000
180	EQUIPMENT MAINTENANCE	169,941	169,941	169,941	0	169,941
190	DEPOT OPERATIONS SUPPORT	1,676	1,676	1,676	0	1,676
	WEAPONS SUPPORT					
200	CRUISE MISSILE	162,185	162,185	162,185	0	162,185
210	FLEET BALLISTIC MISSILE	806,150	806,150	806,150	0	806,150
210	Strategic security forces, technicians (DERF)		7,000	7,000	7,000	7,000
220	IN-SERVICE WEAPONS SYSTEMS SUPPORT	43,314	43,314	43,314	0	43,314
230	WEAPONS MAINTENANCE	420,864	420,864	420,864	0	420,864
	Mark-45 overhauls		0	5,000	5,000	5,000
230	Pioneer (DERF)		6,000	6,000	6,000	6,000
	WORKING CAPITAL FUND SUPPORT					
240	NWCF SUPPORT	0	0	0	0	0
	BASE SUPPORT					
250	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	1,153,732	1,153,732	1,153,732	0	1,153,732
250	Site improvement (DERF)		219,200	219,200	219,200	219,200
250	Facilities sustainment, restoration and modernization (DERF)		2,500	2,500	2,500	2,500
260	BASE SUPPORT	2,748,739	2,748,739	2,748,739	0	2,748,739
260	Security forces and technicians (DERF)		143,096	143,096	143,096	143,096
260	Law enforcement (DERF)		32,573	32,573	32,573	32,573
260	Management and planning (DERF)		1,712	1,712	1,712	1,712
260	Shipyard security forces & technicians (DERF)		28,000	28,000	28,000	28,000

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
260	Base support services (DERF)		38,500	38,500	38,500	38,500
	TOTAL, BA 01: OPERATING FORCES	**20,955,626**	**21,559,157**	**21,627,202**	**549,581**	**21,505,207**
	READY RESERVE AND PREPOSITIONING FORCES					
270	SHIP PREPOSITIONING AND SURGE	528,795	528,795	528,795	0	528,795
	ACTIVATIONS/INACTIVATIONS					
280	AIRCRAFT ACTIVATIONS/INACTIVATIONS	3,432	3,432	3,432	0	3,432
290	SHIP ACTIVATIONS/INACTIVATIONS	156,037	156,037	156,037	0	156,037
	Ship disposal project	0	0	0	5,000	5,000
	MOBILIZATION PREPAREDNESS					
300	FLEET HOSPITAL PROGRAM	25,561	25,561	25,561	0	25,561
300	Medical operations (DERF)		4,000	4,000	4,000	4,000
310	INDUSTRIAL READINESS	1,207	1,207	1,207	0	1,207
320	COAST GUARD SUPPORT	18,759	18,759	18,759	0	18,759
	TOTAL, BA 02: MOBILIZATION	**733,791**	**737,791**	**737,791**	**9,000**	**742,791**
	ACCESSION TRAINING					
330	OFFICER ACQUISITION	115,943	115,943	115,943	0	115,943
340	RECRUIT TRAINING	10,413	10,413	10,413	0	10,413
350	RESERVE OFFICERS TRAINING CORPS	83,461	83,461	83,461	0	83,461
	BASIC SKILLS AND ADVANCED TRAINING					
360	SPECIALIZED SKILL TRAINING	351,114	351,114	351,114	0	351,114
360	Pre-deployment training (DERF)		1,000	1,000	1,000	1,000
360	Imagery training initiative (DERF)		1,000	1,000	1,000	1,000

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
370	FLIGHT TRAINING	371,096	371,096	371,096	0	371,096
380	PROFESSIONAL DEVELOPMENT EDUCATION	137,801	137,801	137,801	0	137,801
390	TRAINING SUPPORT	218,765	218,765	218,765	0	218,765
	Navy aviation depot apprenticeship program		6,000	0	0	0
	Navy shipyard apprenticeship program		6,000	0	5,000	5,000
	RECRUITING, AND OTHER TRAINING AND EDUCATION					
400	RECRUITING AND ADVERTISING	257,292	257,292	257,292	0	257,292
410	OFF-DUTY AND VOLUNTARY EDUCATION	102,643	102,643	102,643	0	102,643
420	CIVILIAN EDUCATION AND TRAINING	75,178	75,178	75,178	0	75,178
430	JUNIOR ROTC	35,358	35,358	35,358	0	35,358
	Naval sea cadet corps		1,000	0	1,000	1,000
	IMET Funding		-4,930	0	0	0
	BASE SUPPORT					
440	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	224,764	224,764	224,764	0	224,764
440	Site improvement (DERF)		42,000	42,000	42,000	42,000
450	BASE SUPPORT	375,698	375,698	375,698	0	375,698
450	Security forces and technicians (DERF)		1,500	1,500	1,500	1,500
	TOTAL, BA 03: TRAINING AND RECRUITING	**2,359,526**	**2,413,096**	**2,405,026**	**51,500**	**2,411,026**
	SERVICEWIDE SUPPORT					
460	ADMINISTRATION	669,509	669,509	669,509	0	669,509
470	EXTERNAL RELATIONS	4,639	4,639	4,639	0	4,639
480	CIVILIAN MANPOWER & PERSONNEL MANAGEMENT	119,785	119,785	119,785	0	119,785

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
490	MILITARY MANPOWER & PERSONNEL MANAGEMENT	106,986	106,986	106,986	0	106,986
500	OTHER PERSONNEL SUPPORT	199,531	199,531	199,531	0	199,531
510	SERVICEWIDE COMMUNICATIONS	732,372	732,372	732,372	0	732,372
510	Carry on cryptologic systems (DERF)		500	500	500	500
510	HQ management and planning (DERF)		3,920	3,920	3,920	3,920
510	HQ management, planning unified CINCS (DERF)		1,600	1,600	1,600	1,600
510	Computer network defense (DERF)		3,800	3,800	3,800	3,800
510	Enclave boundary (DERF)		1,200	1,200	1,200	1,200
510	Intrusion detection (DERF)		1,140	1,140	1,140	1,140
520	MEDICAL ACTIVITIES	0	0	0	0	0
	LOGISTICS OPERATIONS AND TECHNICAL SUPPORT					
530	SERVICEWIDE TRANSPORTATION	186,872	186,872	186,872	0	186,872
540	ENVIRONMENTAL PROGRAMS	0	0	0	0	0
550	PLANNING, ENGINEERING & DESIGN	393,563	393,563	393,563	0	393,563
560	ACQUISITION AND PROGRAM MANAGEMENT	857,646	857,646	857,646	0	857,646
560	Acquisition program management (DERF)		11,000	11,000	11,000	11,000
570	AIR SYSTEMS SUPPORT	464,959	464,959	464,959	0	464,959
	Configuration management systems		0	13,500	2,000	2,000
580	HULL, MECHANICAL & ELECTRICAL SUPPORT	51,399	51,399	51,399	0	51,399
	Ambient temperature cure coating tests		2,000	2,000	2,000	2,000
	Anti-corrosion product testing		0	1,000	1,000	1,000
590	COMBAT/WEAPONS SYSTEMS	43,907	43,907	43,907	0	43,907
600	SPACE & ELECTRONIC WARFARE SYSTEMS	59,899	59,899	59,899	0	59,899
	SECURITY PROGRAMS					

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
610	SECURITY PROGRAMS	767,090	767,090	795,080	0	767,090
610	Intel/security and investigative matters (DERF)		3,500	3,500	3,500	3,500
610	Commo/data backup Criminal Investigative Service (DERF)		2,000	2,000	2,000	2,000
610	HUMINT (DERF)		3,700	3,700	3,700	3,700
610	Counter-surveillance, law enforcement advance details (DERF)		5,000	5,000	5,000	5,000
	Critical infrastructure protection		0	6,000	6,000	6,000
	SUPPORT OF OTHER NATIONS					
620	INTERNATIONAL HEADQUARTERS & AGENCIES	9,349	9,349	9,349	0	9,349
	BASE SUPPORT					
630	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	99,406	99,406	99,406	0	99,406
630	Site improvement (DERF)		13,000	13,000	13,000	13,000
640	BASE SUPPORT	212,958	212,958	212,958	0	212,958
	Stainless steel sanitary spaces		15,000	0	5,000	5,000
	CANCELLED ACCOUNTS					
650	CANCELLED ACCOUNT	0	0	0	0	0
	PROBLEM DISBURSEMENTS					
660	PROBLEM DISBURSEMENTS	0	0	0	0	0
	JUDGMENT FUND					
670	JUDGMENT FUND		0	0	0	0
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**4,979,870**	**5,047,230**	**5,080,720**	**66,360**	**5,046,230**

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Legislative provisions not proposed		0	-5,200	-7,300	-7,300
	Civilian personnel accrual accounting adjustment		-324,278	-324,278	-324,278	-324,278
	Contract services		0	-152,300	-107,506	-107,506
	Data conversion management lab		0	1,500	0	0
	Human resources call center		0	[1,500]	1,500	1,500
	MARAD ship disposal		0	[20,000]	0	0
	Camelbak hydration system		1,000	0	0	0
	Uniting through reading program		130	0	0	0
	Civilian personnel transferred to NORTHCOM		0	0	-2,731	-2,731
	Total Operation and Maintenance, Navy	**29,028,813**	**29,434,126**	**29,370,461**	**236,126**	**29,264,939**
	Operation and Maintenance, Marine Corps					
	EXPEDITIONARY FORCES					
010	OPERATIONAL FORCES	631,065	631,065	631,065	0	631,065
10	Continuity of intelligence (DERF)		1,000	1,000	1,000	1,000
10	I-SURSS (DERF)		700	700	700	700
10	TRSS (DERF)		1,000	1,000	1,000	1,000
10	TCAC (DERF)		500	500	500	500
10	RREP (DERF)		200	200	200	200
10	TPC (DERF)		700	700	700	700
10	MCIA analytic support (DERF)		2,400	2,400	2,400	2,400
10	TEG (DERF)		1,000	1,000	1,000	1,000
10	TROJAN Lite (DERF)		1,500	1,500	1,500	1,500
10	ISR (DERF)		2,800	2,900	2,900	2,900

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
10	FLAMES/CESAS (DERF)		2,000	2,000	2,000	2,000
10	Computer network defense (DERF)		2,000	2,000	2,000	2,000
10	Secure wireless (DERF)		800	800	800	800
10	Deployed security interdiction devices (DERF)		700	700	700	700
020	FIELD LOGISTICS	289,401	289,401	289,401	0	289,401
	Anti-corrosion product testing		0	1,000	1,000	1,000
030	DEPOT MAINTENANCE	138,576	138,576	138,576	0	138,576
040	BASE SUPPORT	907,624	907,624	907,624	0	907,624
40	Physical security equipment (DERF)		228,000	228,000	228,000	228,000
40	CINC AT/FP staffs (DERF)		3,200	3,200	3,200	3,200
40	Physical security upgrades (DERF)		10,000	10,000	10,000	10,000
	Training area management		0	1,590	0	0
	Exercise equipment maintenance		0	2,300	0	0
050	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	445,582	445,582	445,582	0	445,582
	USMC PREPOSITIONING					
060	MARITIME PREPOSITIONING	80,743	80,743	80,743	0	80,743
070	NORWAY PREPOSITIONING	3,813	3,813	3,813	0	3,813
	TOTAL, BA 01: OPERATING FORCES	**2,496,804**	**2,755,304**	**2,760,294**	**259,600**	**2,756,404**
	ACCESSION TRAINING					
080	RECRUIT TRAINING	10,516	10,516	10,516	0	10,516
090	OFFICER ACQUISITION	355	355	355	0	355
100	BASE SUPPORT	65,906	65,906	65,906	0	65,906

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
110	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	29,122	29,122	29,122	0	29,122
	IMET FUNDING		-1,330	0	0	0
	BASIC SKILLS AND ADVANCED TRAINING					
120	SPECIALIZED SKILLS TRAINING	40,524	40,524	40,524	0	40,524
130	FLIGHT TRAINING	175	175	175	0	175
140	PROFESSIONAL DEVELOPMENT EDUCATION	8,912	8,912	8,912	0	8,912
150	TRAINING SUPPORT	112,202	112,202	112,202	0	112,202
160	BASE SUPPORT	80,141	80,141	80,141	0	80,141
170	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	30,144	30,144	30,144	0	30,144
	RECRUITING AND OTHER TRAINING EDUCATION					
180	RECRUITING AND ADVERTISING	121,345	121,345	121,345	0	121,345
190	OFF-DUTY AND VOLUNTARY EDUCATION	34,695	34,695	34,695	0	34,695
200	JUNIOR ROTC	13,312	13,312	13,312	0	13,312
210	BASE SUPPORT	15,137	15,137	15,137	0	15,137
210	Site R (DERF)		1,000	1,000	1,000	1,000
220	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	2,507	2,507	2,507	0	2,507
	TOTAL, BA 03: TRAINING AND RECRUITING	**564,993**	**564,663**	**565,993**	**1,000**	**565,993**
	SERVICEWIDE SUPPORT					
230	SPECIAL SUPPORT	198,890	198,890	198,890	0	198,890
240	SERVICEWIDE TRANSPORTATION	34,627	34,627	34,627	0	34,627

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
250	ADMINISTRATION	39,262	39,262	39,262	0	39,262
260	BASE SUPPORT	20,438	20,438	20,438	0	20,438
270	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	2,938	2,938	2,938	0	2,938
	CANCELLED ACCOUNT					
280	CANCELLED ACCOUNT	0				
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**296,155**	**296,155**	**296,155**	**0**	**296,155**
	Legislative provisions not proposed		0	-200	-200	-200
	Civilian personnel accrual accounting adjustment		-47,210	-47,210	-47,210	-47,210
	Contract services		0	-16,300	-11,506	-11,506
	Facilities sustainment and modernization		31,000	0	0	0
	Total Operation and Maintenance, Marine Corps	**3,357,952**	**3,599,912**	**3,558,732**	**201,684**	**3,559,636**
	Operation and Maintenance, Air Force					
	AIR OPERATIONS					
010	PRIMARY COMBAT FORCES	3,244,026	3,244,026	3,244,026	0	3,244,026
10	Combat air patrol (DERF)		517,280	380,000	522,000	522,000
10	Predator O&M (DERF)		9,000	9,000	9,000	9,000
020	PRIMARY COMBAT WEAPONS	336,234	336,234	336,234	0	336,234
030	COMBAT ENHANCEMENT FORCES	248,367	248,367	248,367	0	248,367
	Airspace control and information operations range improvements		0	2,100	0	0

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
30	Computer network defense combat enhancement (DERF)		3,500	3,500	3,500	3,500
040	AIR OPERATIONS TRAINING	1,250,537	1,250,537	1,250.537	0	1,250,537
	Joint training and deployment preparation exercises		0	23,500	0	0
	Joint Advanced Weapon Scoring System		0	300	0	0
	Improved targets		0	4,000	0	0
	Range residue removal, infrastructure improvements		0	3,400	2,000	2,000
	Security sensor upgrades and facility repairs		0	3,200	0	0
050	DEPOT MAINTENANCE	1,382,953	1,382,953	1,461,581	0	1,382,953
	B-1B improvements		80,000	0	0	0
060	COMBAT COMMUNICATIONS	1,465,273	1,465,273	1,465,273	0	1,465,273
070	BASE SUPPORT	2,357,450	2,357,450	2,357,450	0	2,357,450
	Land planning outreach and restoration		0	1,200	0	0
	Primary training range infrastructure		0	2,800	0	0
70	AEF/ force protection certification training (DERF)		10,200	10,200	10,200	10,200
	WMD-1st Responder (DERF)		46,000	46,000	46,000	46,000
080	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	960,912	960,912	1,040,912	0	960,912
210	AT/FP facility upgrades (DERF)		99,585	99,585	99,585	99,585
	COMBAT RELATED OPERATIONS					
090	GLOBAL C3I AND EARLY WARNING	816,000	816,000	816,000	0	816,000
90	GeoReach/GeoBase (DERF)		25,800	25,800	25,800	25,800
90	Defense reconnaissance support (DERF)		68,630	68,630	0	0
100	NAVIGATION/WEATHER SUPPORT	187,671	187,671	187,671	0	187,671
110	OTHER COMBAT OPERATIONS SUPPORT PROGRAMS	425,618	425,618	425,618	0	425,618
110	National Airborne Command Center ground network (DERF)		10,000	10,000	10,000	10,000

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(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
110	Aircraft communication modernizations (DERF)		3,600	3,600	3,600	3,600
110	UH-1 support, capital region (DERF)		700	700	700	700
110	Communications systems operators training (DERF)		500	500	500	500
110	Commercial imagery - other combat (DERF)		2,000	2,000	2,000	2,000
	Information warfare support (DERF)		5,000	5,000	5,000	5,000
120	JCS EXERCISES	39,406	39,406	39,406	0	39,406
130	MANAGEMENT/OPERATIONAL HEADQUARTERS	221,692	221,692	221,692	0	221,692
130	CENTCOM PSD & forward HQs (DERF)		700	700	700	700
130	CINC AT/FP staff (DERF)		5,500	5,500	5,500	5,500
130	Management HQ STRATCOM (DERF)		1,250	1,250	1,250	1,250
130	Information warfare support (DERF)		4,000	0	4,000	4,000
130	Tactical deception (DERF)		1,000	0	1,000	1,000
130	Management HQs STRATCOM (DERF)		1,000	0	1,000	1,000
130	Management critical infrastructure protection (DERF)		400	400	400	400
140	TACTICAL INTEL AND OTHER SPECIAL ACTIVITIES	251,806	251,806	251,806	0	251,806
140	Combat air intelligence systems (DERF)		2,300	2,300	2,300	2,300
140	Special purpose communications (DERF)		2,000	2,000	2,000	2,000
140	Tactical information program (DERF)		5,000	5,000	5,000	5,000
140	Special evaluation program (DERF)		1,200	1,200	1,200	1,200
140	DCGS architecture (DERF)		3,000	3,000	3,000	3,000
140	Integrated broadcast service smart pull technology (DERF)		100	100	100	100
140	Integrated broadcast service (DERF)		100	100	100	100
	SPACE OPERATIONS					
150	LAUNCH FACILITIES	281,022	281,022	281,022	0	281,022
	Range operations		0	11,100	0	0

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
160	LAUNCH VEHICLES	133,478	133,478	133,478	0	133,478
170	SPACE CONTROL SYSTEMS	244,626	244,626	244,626	0	244,626
180	SATELLITE SYSTEMS	60,989	60,989	60,989	0	60,989
190	OTHER SPACE OPERATIONS	251,191	251,191	251,191	0	251,191
	Defense reconnaissance support activities (DERF)		10,000	10,000	10,000	10,000
200	BASE SUPPORT	493,528	493,528	493,528	0	493,528
210	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	157,715	157,715	157,715	0	157,715
	TOTAL, BA 01: OPERATING FORCES	**14,810,494**	**15,729,839**	**15,716,787**	**777,435**	**15,587,929**
	MOBILITY OPERATIONS					
220	AIRLIFT OPERATIONS	2,147,117	2,147,117	2,147,117	0	2,147,117
230	AIRLIFT OPERATIONS C31	42,298	42,298	42,298	0	42,298
230	Airlift operations critical infrastructure protection (DERF)		1,800	1,800	1,800	1,800
240	MOBILIZATION PREPAREDNESS	175,023	175,023	175,023	0	175,023
250	DEPOT MAINTENANCE	312,552	312,552	372,552	0	312,552
260	PAYMENTS TO TRANSPORTATION BUSINESS AREA	470,700	470,700	470,700	0	470,700
270	BASE SUPPORT	527,755	527,755	527,755	0	527,755
270	AEF/ force protection certification training (DERF)		4,800	4,800	4,800	4,800
270	Weapons of Mass Destruction-1st Responder (DERF)		21,850	21,850	21,850	21,850
280	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	159,896	159,896	159,896	0	159,896
280	AT/FP facility upgrades (DERF)		57,254	57,254	57,254	57,254
	TOTAL, BA 02: MOBILIZATION	**3,835,341**	**3,921,045**	**3,981,045**	**85,704**	**3,921,045**

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(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	ACCESSION TRAINING					
290	OFFICER ACQUISITION	69,262	69,262	69,262	0	69,262
300	RECRUIT TRAINING	6,879	6,879	6,879	0	6,879
310	RESERVE OFFICER TRAINING CORPS (ROTC)	68,063	68,063	68,063	0	68,063
320	BASE SUPPORT (ACADEMIES ONLY)	73,180	73,180	73,180	0	73,180
330	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (ACADEMIES)	82,672	82,672	82,672	0	82,672
	BASIC SKILLS AND ADVANCED TRAINING					
340	SPECIALIZED SKILL TRAINING	307,625	307,625	307,625	0	307,625
350	FLIGHT TRAINING	663,762	663,762	663,762	0	663,762
360	PROFESSIONAL DEVELOPMENT EDUCATION	141,864	141,864	141,864	0	141,864
370	TRAINING SUPPORT	92,646	92,646	92,646	0	92,646
380	DEPOT MAINTENANCE	8,242	8,242	8,242	0	8,242
390	BASE SUPPORT (OTHER TRAINING)	573,464	573,464	573,464	0	573,464
390	Weapons of Mass Destruction-1st Responder (DERF)		1,150	1,150	1,150	1,150
400	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION (OTHER TRAINING)	160,638	160,638	160,638	0	160,638
400	AT/FP facility upgrades (DERF)		16,341	16,341	16,341	16,341
	RECRUITING, AND OTHER TRAINING AND EDUCATION					
410	RECRUITING AND ADVERTISING	152,289	152,289	146,489	0	152,289
420	EXAMINING	3,222	3,222	3,222	0	3,222
430	OFF DUTY AND VOLUNTARY EDUCATION	96,516	96,516	96,516	0	96,516
440	CIVILIAN EDUCATION AND TRAINING	107,151	107,151	107,151	0	107,151
450	JUNIOR ROTC	43,448	43,448	43,448	0	43,448

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(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	TOTAL, BA 03: TRAINING AND RECRUITING	2,650,923	2,668,414	2,662,614	17,491	2,668,414
	LOGISTICS OPERATIONS					
460	LOGISTICS OPERATIONS	922,106	922,106	922,106	0	922,106
	Anti-corrosion product testing		0	1,000	1,000	1,000
	Aging Propulsion System		7,000	0	0	0
	Logistics system management & retrieval technology/ L-SMART		2,500	0	0	0
470	TECHNICAL SUPPORT ACTIVITIES	429,543	429,543	429,543	0	429,543
480	SERVICEWIDE TRANSPORTATION	237,503	237,503	237,503	0	237,503
490	DEPOT MAINTENANCE	78,062	78,062	78,062	0	78,062
500	BASE SUPPORT	1,154,363	1,154,363	1,154,363	0	1,154,363
510	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	245,436	245,436	245,436	0	245,436
	SERVICEWIDE ACTIVITIES					
520	ADMINISTRATION	224,882	224,882	224,882	0	224,882
530	SERVICEWIDE COMMUNICATIONS	376,841	376,841	376,841	0	376,841
530	Modernization, sustainment, and development (DERF)		4,900	0	0	0
530	Servicewide comm modernization and sustainment (DERF)		1,700	1,700	1,700	1,700
530	Intrusion detection systems (DERF)		1,500	1,500	1,500	1,500
540	PERSONNEL PROGRAMS	184,558	184,558	184,558	0	184,558
550	RESCUE AND RECOVERY SERVICES	110,418	110,418	110,418	0	110,418
560	ARMS CONTROL	33,092	33,092	33,092	0	33,092
570	OTHER SERVICEWIDE ACTIVITIES	572,320	572,320	572,320	0	572,320
	Maintenance data collection and analysis		0	20,000	0	0
580	OTHER PERSONNEL SUPPORT	44,716	44,716	44,716	0	44,716

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(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
590	CIVIL AIR PATROL CORPORATION	19,668	19,668	19,668	0	19,668
600	BASE SUPPORT	276,338	276,338	276,338	0	276,338
600	AEF/ force protection certification training (DERF)		2,900	2,900	2,900	2,900
600	Weapons of Mass Destruction-1st Responder (DERF)		4,600	4,600	4,600	4,600
610	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	23,816	23,816	23,816	0	23,816
610	AT/FP facility upgrades (DERF)		3,976	3,976	3,976	3,976
	BRAC PREPARATION FUNDS		-16,500	0	0	0
	SECURITY PROGRAMS					
620	SECURITY PROGRAMS	1,054,171	1,054,171	1,172,031	0	1,054,171
620	Security and investigative activities (DERF)		2,000	2,000	2,000	2,000
620	Defense Security Service (DSS) (DERF)		5,000	5,000	5,000	5,000
	SUPPORT TO OTHER NATIONS					
630	INTERNATIONAL SUPPORT	20,032	20,032	20,032	0	20,032
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**6,007,865**	**6,027,441**	**6,168,401**	**22,676**	**6,030,541**
	Unspecified flying hour costs		0	-287,628	0	0
	Utilities		0	-55,000	-55,000	-55,000
	Legislative provisions not proposed		0	-800	-800	-800
	Civilian personnel accrual accounting adjustment		-531,055	-531,055	-531,055	-531,055
	Contract services		0	-211,400	-149,224	-149,224
	Camelbak hydration system		1,000	0	0	0
	Civilian personnel transferred to NORTHCOM		0	0	-2,362	-2,362

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Contingency operations		0	0	-50,000	-50,000
	Total Operation and Maintenance, Air Force	**27,304,623**	**27,816,684**	**27,442,964**	**114,865**	**27,419,488**
	Operation and Maintenance, Defense-Wide					
	OPERATING FORCES					
010	JOINT CHIEFS OF STAFF	398,341	398,341	398,341	0	398,341
10	Combating terrorism readiness initiatives fund (DERF)		12,000	12,000	12,000	12,000
	CJCS exercise program		-10,000	0	0	0
020	SPECIAL OPERATIONS COMMAND	1,531,330	1,531,330	1,531,330	0	1,531,330
	TOTAL, BUDGET ACTIVITY 1:	**1,929,671**	**1,931,671**	**1,941,671**	**12,000**	**1,941,671**
	MOBILIZATION					
050	DEFENSE LOGISTICS AGENCY	41,420	41,420	41,420	0	41,420
	TOTAL, BUDGET ACTIVITY 2:	**41,420**	**41,420**	**41,420**	**0**	**41,420**
	TRAINING AND RECRUITING					
060	AMERICAN FORCES INFORMATION SERVICE	11,232	11,232	11,232	0	11,232
070	CLASSIFIED PROGRAMS	6,869	6,869	6,869	0	6,869
080	DEFENSE ACQUISITION UNIVERSITY	103,514	103,514	103,514	0	103,514
090	DEFENSE CONTRACT AUDIT AGENCY	4,865	4,865	4,865	0	4,865
100	DEFENSE FINANCE AND ACCOUNTING SERVICE	9,160	9,160	9,160	0	9,160
110	DEFENSE HUMAN RESOURCES ACTIVITY	89,161	89,161	89,161	0	89,161
	Joint recruiting and advertising		0	-24,250	0	0
120	DEFENSE SECURITY SERVICE	9,889	9,889	9,889	0	9,889

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
130	DEFENSE THREAT REDUCTION AGENCY	1,292	1,292	1,292	0	1,292
140	SPECIAL OPERATIONS COMMAND	62,982	62,982	62,982	0	62,982
	SOCOM training		0	16,700	0	0
	TOTAL, BUDGET ACTIVITY 3:	**298,964**	**298,964**	**291,414**	**0**	**298,964**
	ADMINISTRATION & SERVICEWIDE ACTIVITIES					
150	AMERICAN FORCES INFORMATION SERVICE	98,564	98,564	98,564	0	98,564
160	CIVIL MILITARY PROGRAMS	97,006	97,006	97,006	0	97,006
	Challenge program		2,500	0	2,500	2,500
170	CLASSIFIED PROGRAMS	5,864,228	5,864,228	5,865,288	0	5,864,228
170	Critical database backup (DERF), DIA		5,000	5,000	5,000	5,000
170	Intelligence support to hard/deeply buried targets, DIA (DERF)		12,600	12,600	7,600	7,600
170	Hard/deeply buried targets, NIMA (DERF)		2,300	2,300	2,300	2,300
170	Hard/deeply buried targets, NSA (DERF)		2,600	2,600	0	0
170	DIA (DERF)		15,000	15,000	7,000	7,000
170	Airborne integration - NIMA (DERF)		2,000	2,000	2,000	2,000
170	IEC workstations - NIMA (DERF)		1,000	1,000	1,000	1,000
170	Libraries communication - NIMA (DERF)		10,100	10,100	10,100	10,100
170	Program targeting workstations - NIMA (DERF)		2,000	2,000	2,000	2,000
170	CENTCOM - NIMA (DERF)		1,000	1,000	1,000	1,000
170	Commercial imagery - NIMA (DERF)		33,670	33,670	33,670	33,670
170	Geospatial data generation (DERF)		32,800	32,800	32,800	32,800
170	Classified - NSA (DERF)		11,000	11,000	6,000	6,000
170	U-2 support (DERF)		1,300	1,300	1,300	1,300

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
170	Global and theater guarding solutions (DERF)		5,400	5,400	5,400	5,400
170	Coalition intelligence information sharing (CENTRIX) (DERF)		14,000	14,000	14,000	14,000
	DIMAP		-28,000	0	0	0
180	DEFENSE CONTRACT AUDIT AGENCY	377,495	377,495	377,495	0	377,495
190	DEFENSE CONTRACT MANAGEMENT AGENCY	1,070,567	1,070,567	1,070,567	0	1,070,567
200	DEFENSE FINANCE AND ACCOUNTING SERVICE	2,282	2,282	2,282	0	2,282
200	Financial operations physical security (DERF)		5,900	5,900	5,900	5,900
200	Financial operations vulnerability assesments (DERF)		500	500	500	500
210	DEFENSE HUMAN RESOURCES ACTIVITY	256,042	256,042	256,042	0	256,042
	Civilian personnel data system		-20,000	0	-20,000	-20,000
210	Critical infrastructure protection (DERF)		500	500	500	500
220	DEFENSE INFORMATION SYSTEMS AGENCY	956,644	956,644	956,644	0	956,644
	Wireless information program		-37,000	0	-37,000	-37,000
220	Secure voice teleconferencing system (DERF)		2,500	2,500	2,500	2,500
220	Defense conferencing enhancement program (DERF)		8,900	8,900	8,900	8,900
220	DISA continuity of operations (DERF)		2,500	2,500	2,500	2,500
220	Bandwidth expansion (DERF)		7,600	7,600	7,600	7,600
220	Information assurance (DERF)		500	500	500	500
220	White House communications (DERF)		3,000	3,000	3,000	3,000
220	On-site administration for primary sites (DERF)		3,400	3,400	3,400	3,400
220	Info assurance, intel/coalition encryption (CWAN) (DERF)		5,000	5,000	5,000	5,000
220	Info assurance, intelligence/coalition encryption (CFBL) (DERF)		1,600	1,600	1,600	1,600
220	Information assurance, computer network defense (DERF)		3,500	3,500	3,500	3,500
220	On-site administration for primary sites (DERF)		3,000	3,000	3,000	3,000
230	DEFENSE LOGISTICS AGENCY	201,171	201,171	201,171	0	201,171
	Procurement Technical Assistance Program		0	5,000	5,000	5,000

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Business process (logistics) reengineering		0	-2,000	-2,000	-2,000
	CTMA defense depot activities		20,000	0	2,500	2,500
0	GIG other communications		-10,000	0	-10,000	-10,000
230	Critical infrastructure protection (CIP) (DERF)		600	600	600	600
240	DEFENSE LEGAL SERVICES AGENCY	14,385	14,385	14,385	0	14,385
250	DEPARTMENT OF DEFENSE DEPENDENTS EDUCATION	1,616,135	1,616,135	1,616,135	0	1,616,135
250	Enhanced force protection- GPS transponders (DERF)		18,000	18,000	18,000	18,000
250	School physical security upgrades (DERF)		6,000	6,000	6,000	6,000
250	Enhanced force protection- management personnel (DERF)		200	200	200	200
260	DEFENSE POW /MISSING PERSONS OFFICE	15,974	15,974	15,974	0	15,974
270	DEFENSE SECURITY COOPERATION AGENCY	67,927	67,927	67,927	0	67,927
280	DEFENSE SECURITY SERVICE	170,447	170,447	170,447	0	170,447
280	Critical infrastructure protection (DERF)		500	500	500	500
290	DEFENSE THREAT REDUCTION AGENCY	273,510	273,510	273,510	0	273,510
300	OFFICE OF ECONOMIC ADJUSTMENT	14,740	14,740	14,740	0	14,740
310	OFFICE OF THE SECRETARY OF DEFENSE	499,943	499,943	499,943	0	499,943
310	Range Enhancement Initiative Fund		0	20,000	0	0
310	Legacy Resource Management Program		0	3,000	3,000	3,000
310	Corrosion management		0	3,000	0	0
310	Base information system		0	-10,000	-10,000	-10,000
310	Studies		0	-1,821	-1,200	-1,200
310	C3I Mission and Analysis Fund		0	-4,894	-4,894	-4,894
310	OSD continuity of operations operations and sustainment (DERF)		18,000	18,000	18,000	18,000
310	National Capital Region continuity of operations (DERF)		10,500	10,500	10,500	10,500
310	National Infrastructure Protection Center Reserve support (DERF)		4,000	4,000	4,000	4,000
310	National Infrastructure Protection Center DoD detailees (DERF)		4,000	4,000	4,000	4,000

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
310	Hard/deeply buried targets (0902198D8Z) (DERF)		3,050	3,050	3,050	3,050
310	CIP – biological agent security (DERF)		2,000	2,000	2,000	2,000
310	CIP - nuke security command and control (DERF)		400	400	400	400
310	CIP technology & consequence management (DERF)		6,600	6,600	6,600	6,600
310	Info operations: multi-media communications/ polls (DERF)		25,000	10,000	25,000	25,000
310	Concept plan (DERF)		10,000	0	0	0
310	Information operations (DERF)		32,000	17,000	27,600	27,600
310	Information operations: space ops (DERF)		1,500	1,500	1,500	1,500
310	Offensive information operations fellowship (DERF)		6,000	6,000	6,000	6,000
310	Horizontal fusion analysis (DERF)		2,000	2,000	2,000	2,000
310	Classified (DERF)		9,500	9,500	9,500	9,500
	Classified Program (Change to DERF)		0	0	52,600	52,600
320	SPECIAL OPERATIONS COMMAND	62,885	62,885	62,885	0	62,885
320	Combat development activities (DERF)		7,000	7,000	7,000	7,000
	Combat development activities - classified (Change to DERF)		0	0	16,000	16,000
330	SPECIAL ACTIVITIES	68,000	68,000	68,000	0	68,000
340	JOINT CHIEFS OF STAFF	184,483	184,483	184,483	0	184,483
	Studies		0	-6,966	-6,966	-6,966
340	Other combating terrorism initiatives (DERF)		1,459	1,459	1,459	1,459
340	Vulnerability assess, AT/FP requirements tracking/analysis (DERF)		400	400	400	400
340	CINC for Homeland Security (DERF)		41,000	27,000	37,000	37,000
340	Critical infrastructure protection (DERF)		300	300	300	300
350	WASHINGTON HEADQUARTERS SERVICES	332,821	332,821	332,821	-10,000	322,821
	Defense Travel System		-10,000	0	0	0
350	Classified (DERF)		28,000	28,000	28,000	28,000
	Continuity of operations- Pentagon Acceleration (DERF)		114,000	0	0	0

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Continuity of op- Command Comm Survivability Project (DERF)		214,000	0	0	0
	TOTAL, BA 4: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**12,245,249**	**12,928,928**	**12,635,807**	**378,719**	**12,623,968**
	Impact aid		35,000	30,000	30,000	30,000
	Impact aid for children with disabilities		0	5,000	5,000	5,000
	Commercial imagery		0	30,000	30,000	30,000
	Civilian personnel accrual accounting adjustment		-346,046	-346,046	-346,046	-346,046
	Travel		0	0	-159,790	-159,790
	Foreign currency fluctuation		-522,400	0	-208,710	-208,710
	Contract services		0	-127,500	-90,000	-90,000
	Financial management		0	-19,500	-19,500	-19,500
	National Guard Youth Foundation		2,500	0	0	0
	Civilian personnel transferred to NORTHCOM		0	0	-1,667	-1,667
	JTF Support to Law Enforcement		5,000	0	0	0
	Total Operation and Maintenance, Defense-Wide	**14,515,304**	**14,375,037**	**14,482,266**	**-369,994**	**14,145,310**
	Operation and Maintenance, Army Reserve					
	LAND FORCES					
010	DIVISION FORCES	16,323	16,323	16,323	0	16,323
	Cold Weather Clothing (ECWCS)		4,000	0	4,000	4,000
	Modular Sleep System		6,000	0	0	0
020	CORPS COMBAT FORCES	33,211	33,211	33,211	0	33,211
030	CORPS SUPPORT FORCES	281,583	281,583	281,583	0	281,583

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
040	ECHELON ABOVE CORPS FORCES	128,348	128,348	128,348	0	128,348
050	LAND FORCES OPERATIONS SUPPORT	461,173	461,173	461,173	0	461,173
	LAND FORCES READINESS					
060	FORCES READINESS OPERATIONS SUPPORT	115,962	115,962	115,962	0	115,962
	Information operations training and support		0	3,000	1,500	1,500
070	LAND FORCES SYSTEM READINESS	62,255	62,255	62,255	0	62,255
70	Enhanced secure communications to RC (DERF)		5,900	5,900	5,900	5,900
70	Enhanced secure comm to RC: ARNET/ GUARDNET (DERF)		25,600	17,600	25,600	25,600
080	DEPOT MAINTENANCE	48,451	48,451	48,451	0	48,451
	LAND FORCES READINESS SUPPORT					
090	BASE SUPPORT	361,907	361,907	361,907	0	361,907
90	Access control/vulnerability assmnts (DERF)		33,800	20,000	20,000	20,000
90	Installation security (DERF)		2,900	2,900	2,900	2,900
90	RC communications hardening, redundancy, protection (DERF)		30,700	24,700	30,700	30,700
100	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	176,494	176,494	176,494	0	176,494
110	ADDITIONAL ACTIVITIES	2,712	2,712	2,712	0	2,712
	Controlled humidity preservation		20,000	0	4,000	4,000
	TOTAL, BA 01: OPERATING FORCES	**1,688,419**	**1,817,319**	**1,762,519**	**94,600**	**1,783,019**
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES					
120	ADMINISTRATION	48,752	48,752	48,752	0	48,752
130	SERVICEWIDE COMMUNICATIONS	34,842	34,842	34,842	0	34,842
130	Enhanced secure communications to RC (DERF)		2,400	2,400	2,400	2,400

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
140	PERSONNEL/FINANCIAL ADMINISTRATION (MANPOWER MANAGEMENT)	50,044	50,044	50,044	0	50,044
150	RECRUITING AND ADVERTISING	101,273	101,273	101,273	0	101,273
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**234,911**	**237,311**	**237,311**	**2,400**	**237,311**
	Civilian personnel accrual accounting adjustment		-43,220	-43,220	-43,220	-43,220
	Military technicians	0	8,000	0	8,000	8,000
	Total Operation and Maintenance, Army Reserve	**1,923,330**	**2,019,410**	**1,956,610**	**61,780**	**1,985,110**
	Operation and Maintenance, Navy Reserve					
	RESERVE AIR OPERATIONS					
010	MISSION AND OTHER FLIGHT OPERATIONS	398,320	398,320	398,320	0	398,320
030	INTERMEDIATE MAINTENANCE	18,003	18,003	18,003	0	18,003
040	AIR OPERATION AND SAFETY SUPPORT	2,268	2,268	2,268	0	2,268
40	Management and planning - physical security staff (DERF)		61	61	61	61
40	Management and planning - physical security staff (DERF)		187	187	187	187
050	AIRCRAFT DEPOT MAINTENANCE	129,532	129,532	129,532	0	129,532
50	Physical security site improvement (DERF)		68,777	68,777	68,777	68,777
060	AIRCRAFT DEPOT OPERATIONS SUPPORT	366	366	366	0	366
	RESERVE SHIP OPERATIONS					
070	MISSION AND OTHER SHIP OPERATIONS	68,219	68,219	68,219	0	68,219
080	SHIP OPERATIONAL SUPPORT AND TRAINING	558	558	558	0	558
090	INTERMEDIATE MAINTENANCE	11,712	11,712	11,712	0	11,712

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
100	SHIP DEPOT MAINTENANCE	80,272	80,272	80,272	0	80,272
110	SHIP DEPOT OPERATIONS SUPPORT	3,535	3,535	3,535	0	3,535
	RESERVE COMBAT OPERATIONS SUPPORT					
120	COMBAT SUPPORT FORCES	69,864	69,864	69,864	0	69,864
	RESERVE WEAPONS SUPPORT					
130	WEAPONS MAINTENANCE	5,668	5,668	5,668	0	5,668
	BASE SUPPORT					
140	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	66,599	66,599	66,599	0	66,599
150	BASE SUPPORT	146,119	146,119	146,119	0	146,119
	TOTAL, BA 01: OPERATING FORCES	**1,001,035**	**1,070,060**	**1,070,060**	**69,025**	**1,070,060**
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES					
160	ADMINISTRATION	12,023	12,023	12,023	0	12,023
170	CIVILIAN MANPOWER & PERSONNEL	2,161	2,161	2,161	0	2,161
180	MILITARY MANPOWER & PERSONNEL	32,479	32,479	32,479	0	32,479
190	SERVICEWIDE COMMUNICATIONS	111,766	111,766	111,766	0	111,766
190	Reserve site C2, cryptologic COOP (DERF)		5,000	5,000	5,000	5,000
200	COMBAT/WEAPONS SYSTEM	5,766	5,766	5,766	0	5,766
210	OTHER SERVICEWIDE SUPPORT	731	731	731	0	731
	CANCELLED ACCOUNTS					
220	CANCELLED ACCOUNTS	0	0	0	0	0

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**164,926**	**169,926**	**169,926**	**5,000**	**169,926**
	Civilian personnel accrual accounting adjustment		-6,227	-6,227	-6,227	-6,227
	Total Operation and Maintenance, Navy Reserve	**1,165,961**	**1,233,759**	**1,233,759**	**67,798**	**1,233,759**
	Operation and Maintenance, Marine Corps Reserve					
	MISSION FORCES					
010	OPERATING FORCES	80,723	80,723	80,723	0	80,723
	Initial issue		0	5,000	4,000	4,000
020	DEPOT MAINTENANCE	12,571	12,571	12,571	0	12,571
030	BASE SUPPORT	29,473	29,473	29,473	0	29,473
040	TRAINING SUPPORT	20,641	20,641	20,641	0	20,641
050	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	10,785	10,785	10,785	0	10,785
	TOTAL, BA 01: OPERATING FORCES	**154,193**	**154,193**	**159,193**	**4,000**	**158,193**
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES					
060	SPECIAL SUPPORT	8,461	8,461	8,461	0	8,461
070	SERVICEWIDE TRANSPORTATION	500	500	500	0	500
080	ADMINISTRATION	9,977	9,977	9,977	0	9,977
090	BASE SUPPORT	4,130	4,130	4,130	0	4,130
100	RECRUITING AND ADVERTISING	8,271	8,271	8,271	0	8,271

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**31,339**	**31,339**	**31,339**	**0**	**31,339**
	Total O&M, Marine Corps Reserve	**185,532**	**185,532**	**190,532**	**4,000**	**189,532**
	Operation and Maintenance, Air Force Reserve					
	AIR OPERATIONS					
010	PRIMARY COMBAT FORCES	1,346,055	1,346,055	1,346,055	0	1,346,055
	Range residue removal		0	400	0	0
020	MISSION SUPPORT OPERATIONS	69,818	69,818	69,818	0	69,818
030	DEPOT MAINTENANCE	337,113	337,113	337,113	0	337,113
040	BASE SUPPORT	282,280	282,280	282,280	0	282,280
40	Weapons of Mass Destruction-1st Responder (DERF)		14,950	14,950	14,950	14,950
050	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	48,463	48,463	48,463	0	48,463
50	AT/FP facility upgrades (DERF)		6,202	6,202	6,202	6,202
	TOTAL, BA 01: OPERATING FORCES	**2,083,729**	**2,104,881**	**2,105,281**	**21,152**	**2,104,881**
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES					
060	ADMINISTRATION	57,136	57,136	57,136	0	57,136
	Server consolidation		0	8,000	4,000	4,000
070	MILITARY MANPOWER AND PERSONNEL MANAGEMENT	24,088	24,088	24,088	0	24,088
080	RECRUITING AND ADVERTISING	18,683	18,683	18,683	0	18,683
090	OTHER PERSONNEL SUPPORT	6,593	6,593	6,593	0	6,593

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
100	AUDIOVISUAL	688	688	688	0	688
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**107,188**	**107,188**	**115,188**	**4,000**	**111,188**
	Legislative provisions not proposed		0	-100	-100	-100
	Civilian personnel accrual accounting adjustment		-55,365	55,365	-55,365	-55,365
	Total O&M, Air Force Reserve	**2,190,917**	**2,156,704**	**2,165,004**	**-30,313**	**2,160,604**
	Operation and Maintenance, Army National Guard					
	LAND FORCES					
010	DIVISIONS	592,730	592,730	592,730	0	592,730
	Cold Weather Clothing (ECWCS)		4,000	12,000	6,000	6,000
	Modular Sleep System		9,000	0	0	0
	Homeland security training, Camp Gruber	0	0	0	0	0
020	CORPS COMBAT FORCES	652,895	652,895	652,895	0	652,895
030	CORPS SUPPORT FORCES	313,967	313,967	313,967	0	313,967
040	ECHELON ABOVE CORPS FORCES	516,742	516,742	516,742	0	516,742
050	LAND FORCES OPERATIONS SUPPORT	48,443	48,443	48,443	0	48,443
	LAND FORCES READINESS					
060	FORCE READINESS OPERATIONS SUPPORT	75,746	75,746	75,746	0	75,746
070	LAND FORCES SYSTEMS READINESS	107,925	107,925	107,925	0	107,925
080	LAND FORCES DEPOT MAINTENANCE	178,733	178,733	178,733	0	178,733
	Azur Blue cannon bore cleaning system	0	2,200	0	1,000	1,000

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	LAND FORCES READINESS SUPPORT					
090	BASE OPERATIONS SUPPORT	561,967	561,967	561,967	0	561,967
90	Security (DERF)	0	350,000	350,000	0	0
	Security (Transfer to OPA)	0	-350,000	0	0	0
100	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	363,571	363,571	363,571	0	363,571
110	MANAGEMENT & OPERATIONAL HEADQUARTERS	420,329	420,329	420,329	0	420,329
120	MISCELLANEOUS ACTIVITIES	46,673	46,673	46,673	0	46,673
120	Classified network (DERF)		86,200	78,700	78,700	78,700
120	Classified network (DERF)		48,500	8,500	8,500	8,500
	TOTAL, BA 01: OPERATING FORCES	**3,879,721**	**4,029,621**	**4,328,921**	**94,200**	**3,973,921**
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES					
130	STAFF MANAGEMENT	104,409	104,409	104,409	0	104,409
140	INFORMATION MANAGEMENT	15,565	15,565	15,565	0	15,565
150	PERSONNEL ADMINISTRATION	52,259	52,259	52,259	0	52,259
160	RECRUITING AND ADVERTISING	84,868	84,868	84,868	0	84,868
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**257,101**	**257,101**	**257,101**	**0**	**257,101**
	Additional military technicians	0	11,300	0	11,300	11,300
	Civilian personnel accrual accounting adjustment		-87,255	-87,255	-87,255	-87,255
	Total O&M, Army National Guard	**4,136,822**	**4,210,767**	**4,498,767**	**18,245**	**4,155,067**

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Operation and Maintenance, Air National Guard					
	AIR OPERATIONS					
010	AIRCRAFT OPERATIONS	2,637,374	2,637,374	2,637,374	0	2,637,374
	Range residue removal	0	0	6,600	0	0
	Range emitters	0	0	1,500	0	0
	Increased support for test and evaluation	0	0	2,000	0	0
	Cold Weather Clothing (ECWCS)	0	4,000	4,000	4,000	4,000
020	MISSION SUPPORT OPERATIONS	341,385	341,385	341,385	0	341,385
	Medical equipment	0	0	350	350	350
030	BASE SUPPORT	407,751	407,751	407,751	0	407,751
040	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	164,228	164,228	164,228	0	164,228
40	AT/FP facility upgrades (DERF)		38,015	38,015	38,015	38,015
050	DEPOT MAINTENANCE	565,224	565,224	565,224	0	565,224
	TOTAL, BA 01: OPERATING FORCES	**4,115,962**	**4,157,977**	**4,168,427**	**42,365**	**4,158,327**
	SERVICEWIDE ACTIVITIES					
060	ADMINISTRATION	24,871	24,871	24,871	0	24,871
070	RECRUITING AND ADVERTISING	10,128	10,128	10,128	0	10,128
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**34,999**	**34,999**	**34,999**	**0**	**34,999**
	Legislative provisions not proposed	0	0	-100	-100	-100
	Civilian personnel accrual accounting adjustment		-88,416	-88,416	-88,416	-88,416

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Total O&M, Air National Guard	**4,150,961**	**4,104,560**	**4,114,910**	**-46,151**	**4,104,810**
	TRANSFER ACCOUNTS					
010	ENVIRONMENTAL RESTORATION, ARMY	395,900	395,900	395,900	0	395,900
020	ENVIRONMENTAL RESTORATION, NAVY	256,948	256,948	256,948	0	256,948
030	ENVIRONMENTAL RESTORATION, AIR FORCE	389,773	389,773	389,773	0	389,773
040	ENVIRONMENTAL RESTORATION, DEFENSE-WIDE	23,498	23,498	23,498	0	23,498
050	ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES	212,102	212,102	252,102	40,000	252,102
060	DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES	848,907	848,907	848,907	0	848,907
	National Guard counterdrug state plans	0	0	25,000	11,000	11,000
070	OVERSEAS CONTINGENCIES	50,000	0	50,000	-32,156	17,844
	TOTAL, O&M, TRANSFER ACCOUNTS	**2,177,128**	**2,127,128**	**2,242,128**	**18,844**	**2,195,972**
	MISCELLANEOUS					
080	OFFICE OF THE INSPECTOR GENERAL	163,440	163,440	163,440	0	163,440
	Civilian personnel accrual accounting adjustment		-8,275	-8,275	-8,275	-8,275
090	U.S. COURT OF APPEALS FOR THE ARMED FORCES	9,925	9,925	9,925	0	9,925
	Civilian personnel accrual accounting adjustment		-311	-311	-311	-311
100	SUPPORT OF INTERNATIONAL SPORTING COMPETITIONS	19,000	19,000	19,000	0	19,000
110	OVERSEAS HUMANITARIAN, DISASTER, & CIVIC AFFAIRS	58,400	58,400	58,400	0	58,400
120	PAYMENT TO KAHO'OLAWE ISLAND	25,000	25,000	25,000	0	25,000
140	DEFENSE HEALTH PROGRAM	14,360,271	14,360,271	14,360,271	0	14,360,271
	Underexecution	0	0	0	-78,813	-78,813

Title III - Operation and Maintenance

(Dollars in thousands)

Line	Program	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	AIDS prevention/education			[30,000]	0	0
	Civilian personnel accrual accounting adjustment		-126,230	-126,230	-126,320	-126,320
	Financial management		0	-32,100	-32,100	-32,100
	Critical infrastructure protection - DHP (DERF)		0	500	0	0
	TRICARE Prime Remote		6,000	0	0	0
	Marshall Islands diabetes reversal/wellness program		2,000	0	0	0
150	FORMER SOVIET UNION THREAT REDUCTION	416,700	416,700	416,700	0	416,700
160	QUALITY OF LIFE ENHANCEMENTS	0	0	0	0	0
170	OPPLAN 34A-35 P.O.W.	0	0	0	0	0
180	COUNTER-TERRORISM/WMD DEFENSE	0	0	0	0	0
	TOTAL, MISCELLANEOUS	15,052,736	14,925,920	14,886,320	-245,819	14,806,917
	Travel	0	0	-159,790	0	0
	Foreign currency fluctuation	0	0	-615,200	0	0
	TOTAL OPERATION AND MAINTENANCE TITLE:	129,771,134	130,363,542	129,539,005	-627,739	129,143,395

Department of Defense foreign language training

The budget request included $135.4 million in Operation and Maintenance, Army for the Defense Language Institute/Foreign Language Center (DLI/FLC).

The House bill and the Senate amendment would support the budget request. The House version of the Intelligence Authorization Act for Fiscal Year 2003 (H.R. 4628) would authorize an increase of $2.0 million for the satellite communications for learning (SCOLA) project at the DLI/FLC.

The conferees agree to authorize $136.4 million, an increase of $1.0 million in Operation and Maintenance, Army for SCOLA. The conferees also direct the Secretary of the Army to designate an appropriate organization to manage the SCOLA program beginning in fiscal year 2003.

The SCOLA project provides important support within the Government. Financing to date for the SCOLA project has been provided by reimbursements from defense agencies and other government activities seeking SCOLA program support. The conferees believe that the SCOLA program deserves more focused management that would benefit the program with: (1) a more reliable funding line item in the budget; and (2) better support in the programming and budgeting process from the Department. The conferees also believe that the DLI/FLC would be an appropriate organization to manage the SCOLA program effort.

Ship depot maintenance

The budget request for fiscal year 2003 included $3.5 billion for ship depot maintenance.

The Senate amendment recommended a $90.0 million increase in ship depot maintenance to address war-related requirements and emergent repairs.

The House bill contained no similar increase.

The conferees agree to authorize the amount included in the budget request.

The request for the fiscal year 2002 supplemental appropriations bill included $90.0 million to fund regularly scheduled maintenance that would have been deferred until fiscal year 2003 because funds were being diverted for war-related repairs. This funding for ship depot maintenance was approved by Congress.

Because supplemental funding was provided that would allow regularly scheduled maintenance to proceed as planned, the conferees did not adopt the increase recommended in the Senate amendment.

Secure communications for the reserve components

The budget request for the Defense Emergency Response Fund included almost $200.0 million for the reserve components to increase reserve communications infrastructure.

The House bill fully funded this request.

The Senate amendment expressed support for the proposed improvements, but it also expressed concern over whether the entire amount requested could be executed in one fiscal year. Accordingly, the Senate amendment reduced the request by $40.0 million. The Senate report also required the Commander in Chief for Homeland Security to conduct a review of requirements to expand reserve component communications and to report the results of this review to the congressional defense committees no later than April 30, 2003.

The conferees agree to authorize a $40.0 million decrease and jointly endorse the need for the required review.

Since the Senate completed action on its bill, Congress has received a report from the General Accounting Office (GAO) entitled "National Guard: Effective Management Processes Needed for Wide-Area Network." This report identifies a number of deficiencies in the management of the National Guard's wide-area network, known as GuardNet. The conferees are concerned that the Department of Defense (DOD)'s plans to expand GuardNet and/or increase its use may be overly aggressive, given the apparent lack of defined requirements, uncertain configuration of the network, and potential security risks. The conferees believe that GuardNet can play a critical role both in enhancing the readiness of our Armed Forces by facilitating training and in bolstering capabilities to defend the homeland through rapid, secure communications with and between National Guard units. Therefore, the conferees strongly urge DOD to address these management concerns as quickly as possible and to include an update on any actions taken in its report to the congressional defense committees in April 2003.

Items of Special Interest

Formerly Used Defense Site at Lowry Bombing and Gunnery Range

The Army is the executive agent for the Formerly Used Defense Site (FUDS) Program, and the U.S. Army Corps of Engineers manages and executes actual remediation activities. The conferees urge the Secretary of the Army to expeditiously move forward with remediation efforts at all former military ranges.

The conferees are aware of the environmental cleanup activities needed at the former Lowry Bombing and Gunnery Range in Arapahoe County, Colorado, and recognize the importance of completing needed cleanup and containment to protect the health and safety of the surrounding residences and to permit planned residential and school construction in the surrounding area to proceed. The conferees encourage the Army Corps of Engineers to complete cleanup in a timely manner by providing sufficient resources and selecting appropriate cleanup and containment methodologies for the former Lowry Bombing and Gunnery Range and for all other installations included in the FUDS Program.

National Imagery and Mapping Agency commercial satellite imaging support

The conferees recognize the importance of a viable, technically competent, commercial space imaging industry as an important complement to U.S. national technical means and note that the Director of Central Intelligence has directed the National Imagery and Mapping Agency (NIMA) to make fuller use of commercial imagery. The conferees believe that a long-term government commitment to the appropriate use of commercial imagery is necessary in this context. The conferees believe that such a long-term commitment would cause commercial capital to become available to industry to support development of next generation commercial space imaging capabilities and infrastructure and would also result in greatly reduced cost-per- unit for commercial imagery.

Section 2306b, title 10, United States Code, provides the head of an agency with the authority to enter into a multiyear contract for the purchase of property for more than one, but not more than five program years to the extent that funds are otherwise available for obligation. This authority is further qualified in that the agency head must find that the multiyear saves money, that the requirement is substantially stable, and that there is a reasonable expectation throughout the contract period that sufficient funds will be budgeted to avoid contract cancellation. For the Department of Defense, the agency head's authority is also restricted to contracts less than $500.0 million, with an unfunded contingent liability of $20.0 million or less. For amounts greater than these, congressional notification or express congressional approval is required.

The multiyear authority does not waive the requirement for annual appropriations from Congress for each contract year nor does it preclude the Government's ability to terminate the contract for convenience. Nevertheless, because multiyear contracts can bring a significant measure of stability and economic order quantity activity to a program, it provides for considerably more efficient program execution and savings to the Government.

The conferees believe that the termination liability in a multiyear contract for pixels or product from the commercial remote sensing industry need not exceed $20.0 million in any contract year. Thus the conferees understand that the Director of NIMA, under the foregoing statute, has the authority to award such a multiyear contract to a commercial remote sensing company for up to five years and $500.0 million ($100.0 million for each of five years) without requiring express congressional approval, as long as the unfunded contingent liability does not exceed $20.0 million. If the Director desired to purchase imagery from more than one industry source, he could award more than one multiyear contract on his own authority; however, congressional approval would be required if the aggregate amount were to exceed $500.0 million or $20.0 million in termination liability.

The conferees expect NIMA to take advantage of existing multiyear contracting authority, including the authority contained in 10 USC 2306b, for commercial satellite imagery when such use is in the best interests of the Government.

Legislative Provisions Adopted

Subtitle A—Authorization of Appropriations

Authorization of appropriations (secs. 301–302)

The House bill contained provisions (secs. 301–302) that would authorize the recommended fiscal year 2003 funding levels for all operation and maintenance and working capital fund accounts.

The Senate amendment contained similar provisions (secs. 301–302).

The conference agreement includes these provisions.

Armed Forces Retirement Home (sec. 303)

The House bill contained a provision (sec. 303) that would authorize $69.9 million from the Armed Forces Retirement Home Trust Fund for the operation of the Armed Forces Retirement Home, including the Armed Forces Retirement Home—Washington, and the Armed Forces Retirement Home—Gulfport.

The Senate amendment contained a similar provision (sec. 303).

The Senate recedes.

Grant to National Guard Youth Foundation (sec. 304)

The conference agreement includes a provision (sec. 304) that would authorize $2.5 million for a grant to the National Guard Youth Foundation for building and strengthening the character and competence of the Nation's youth.

Subtitle B—Environmental Provisions

Enhancement of authority on cooperative agreements for environmental purposes (sec. 311)

The Senate amendment contained a provision (sec. 311) that would authorize the Secretary of Defense to enter into and fund cooperative agreements with Federal, State and local agencies, as well as Indian tribes, that begin in one fiscal year and end in another fiscal year.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Single point of contact for policy and budgeting issues regarding unexploded ordnance, discarded military munitions, and munitions constituents (sec. 312)

The House bill contained a provision (sec. 313) that would require the Secretary of Defense to establish a single point of contact for policy and budgeting issues regarding unexploded ordnance, discarded military munitions, and munitions constituents (UXO).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment clarifying the authority that may be delegated under the provision.

The conferees direct the Department of Defense to provide a consolidated budget exhibit on all proposed funding to address environmental impacts of UXO with its budget submission in each of the next four fiscal years as noted in the Senate report accompanying S. 2514 (S. Rept. 107–151).

Authority to carry out construction projects for environmental responses (sec. 313)

The House bill contained a provision (sec. 2802) that would clarify that the secretaries of the military departments are required to notify Congress of their intent to conduct military construction projects necessary to carry out an environmental response action when such projects are in excess of the minor construction threshold.

The Senate amendment contained a provision (sec. 312) that would require the Secretary of Defense to fund environmental restoration projects through the Environmental Restoration accounts of the Department of Defense and not as military construction projects.

The House recedes.

Procurement of environmentally preferable procurement items (sec. 314)

The Senate amendment contained a provision (sec. 313) that would require the Secretary of Defense to establish: (1) goals for the increased purchase of procurement items that are environmentally preferable or are made with recovered materials; and (2) a tracking system to enable the Department to monitor its progress in achieving these goals.

The House bill contained no similar provision.

The House recedes with an amendment that would eliminate the requirement to establish goals. The Secretary of Defense would be required to develop and implement an effective and efficient tracking system to identify the extent to which the Defense Logistics Agency procures items that have been determined to be environmentally preferable or made with recovered material. To the maximum extent practicable, the tracking system would be required to separately track the procurement of each category of such procurement items. In identifying categories of procurement items to be tracked, the conferees expect the Secretary to consider the Comprehensive Procurement Guidelines and Guidance on Acquisition of Environmentally Preferable Products and Services developed pursuant to Executive Order 13101 and products identified as environmentally preferable in the Federal Logistics Information System. The conferees also expect that the system will track the procurement of such items as a percentage of all purchases of procurement items that serve a similar purpose.

Incidental taking of migratory birds during military readiness activities (sec. 315)

The House bill contained a provision (sec. 311) that would amend the Migratory Bird Treaty Act (Public Law 93–300) to create a statutory exemption for the Department of Defense (DOD) for the incidental taking of migratory birds during authorized military readiness activities.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would create interim authority under which the Migratory Bird Treaty Act would not apply to the incidental taking of a migratory bird by DOD during authorized military readiness activities. The amendment would direct the Secretary of the Interior to prescribe regulations, no later than one year after the date of enactment of this Act, to exempt DOD for the incidental taking of migratory birds during authorized military readiness activities. The interim authority would not expire until the regulations have taken effect. The amendment would also require the Secretary of Defense, acting in consultation with the Secretary of the Interior, to identify measures to minimize the adverse impact of military training activities on affected species of migratory birds during both the period of interim authority and the period after the regulations have taken effect.

The conferees believe this provision to be entirely consistent with the underlying terms of all treaty obligations of the United States.

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

Authority for each military department to provide base operating support to Fisher Houses (sec. 321)

The House bill contained a provision (sec. 321) that would authorize the service secretaries to provide appropriated fund support to Fisher Houses associated with the health care facilities of that military department.

The Senate amendment contained a similar provision (sec. 903).

The Senate recedes.

Use of commissary stores and MWR retail facilities by members of National Guard serving in national emergency (sec. 322)

The House bill contained a provision (sec. 322) that would authorize members of the National Guard to use commissary and exchange stores when ordered to duty in other than a federal status in response to a federally declared national emergency.

The Senate amendment contained no similar provision.

The Senate recedes.

Uniform funding and management of morale, welfare, and recreation programs (sec. 323)

The House bill contained a provision (sec. 323) that would authorize the Secretary of Defense to permit installation commanders to manage funds appropriated for installation Morale, Welfare, and Recreation (MWR) programs under the procedures used for nonappropriated funds and would authorize conversion of certain employment positions, with the employees' consent, from appropriated fund positions to nonappropriated fund positions.

The Senate amendment contained no similar provision.

The Senate recedes.

Rebate agreements under the special supplemental food program (sec. 324)

The Senate amendment contained a provision (sec. 344) that would authorize the Secretary of Defense to enter into contracts for rebates with producers of food products for the exclusive right to provide food in Navy Exchange Markets as supplemental food for the Women, Infants, and Children (WIC) Overseas Program, consistent with current authority for products sold in commissary stores. The recommended provision would also increase the maximum period of the exclusive rights contracts from one year to three years.

The House bill contained no similar provision.

The House recedes.

Subtitle D—Workplace and Depot Issues

Notification requirements in connection with required studies for conversion of commercial or industrial type functions to contractor performance (sec. 331)

The House bill contained a provision (sec. 331) that would require the Secretary of Defense to notify Congress of the outcome of a required study for conversion of a function to contractor performance, regardless of whether the study results in conversion to contractor performance or maintaining performance in the public sector.

The Senate amendment contained no similar provision.

The Senate recedes.

Temporary authority for contractor performance of security-guard functions to meet increased requirements since September 11, 2001 (sec. 332)

The House bill contained a provision (sec. 332) that would authorize the Secretary of Defense or the secretary of a military department to waive the prohibition in section 2465(a) of title 10, United States Code, on contracting out security guard functions in certain circumstances. The House provision would authorize the Department to contract for security guard functions if: (1) those functions are or will be performed by members of the Armed Forces; or (2) the security guard functions were not required before September 11, 2001.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would authorize the waiver of section 2465(a) to meet increased security guard functions undertaken in response to the terrorist attacks of September 11, 2001, if: (1) the functions are or would be performed by members of the Armed Forces; and (2) the secretary concerned determines that the contractor personnel are appropriately trained and supervised and can be used without a reduction in security at the affected installation or facility. The authority to contract out security guard functions under this provision would expire three years after the date of enactment of this Act. The Secretary of Defense would be required to identify any longer-term requirements for security guard functions and submit a plan for meeting those requirements to the congressional defense committees no later than six months after the date of enactment.

Repeal of obsolete provision regarding depot-level maintenance and repair workloads that were performed at closed or realigned military installations (sec. 333)

The House bill contained a provision (sec. 334) that would repeal section 2469(a) of title 10, United States Code, which addresses depot-level maintenance and repair workloads that were performed at installations closed or realigned under the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510). Because all installations have completed closure or realignment actions in accordance with that law, this provision is no longer necessary.

The Senate amendment contained no similar provision.

The Senate recedes.

Exclusion of certain expenditures from limitation on private sector performance of depot-level maintenance (sec. 334)

The House bill contained a provision (sec. 333) that would revise section 2474(f) of title 10, United States Code. Currently, that section excludes, until 2005, all work that is performed by private sector personnel at Department of Defense maintenance and repair depots from the percentage limitations (50/50) on private sector depot-level maintenance work. The provision would remove the date limitation.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would revise the date limitation. The amendment would extend the exclusion for the duration of all public-private partnership contracts for depot maintenance that are signed before the end of fiscal year 2006.

Subtitle E—Defense Dependents Education

Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees (sec. 341)

The Senate amendment contained a provision (sec. 331) that would authorize $30.0 million for continuation of the Department of Defense assistance program to local education agencies that benefit dependents of service members and Department of Defense civilian employees.

The House bill contained a similar provision (sec. 341).

The House recedes with a technical amendment.

Housing benefits for unaccompanied teachers required to live at Guantanamo Bay Naval Station, Cuba (sec. 342)

The Senate amendment contained a provision (sec. 1107) that would require the Navy to make excess military family housing at Guantanamo Bay Naval Station, Cuba, available for lease to Department of Defense Education Activity teachers assigned to teach at that station.

The House bill contained a similar provision (sec. 342).

The House recedes.

Options for funding dependent summer school programs (sec. 343)

The Senate amendment contained a provision (sec. 333) that would require the Secretary of Defense to provide dependent summer school programs on the same financial basis as programs offered during the regular school year.

The House bill contained a similar provision (sec. 343).

The House recedes.

The conferees expect the Secretary to exercise the authority to charge fees for certain summer school programs only when necessary to offer a course. When a fee is charged, the Secretary should provide authority to waive the fee, on the basis of financial need, for students otherwise eligible for free education.

Impact aid eligibility for local educational agencies affected by privatization of military housing (sec. 344)

The House bill contained a provision (sec. 366) that would authorize continued eligibility of certain local education agencies for impact aid during temporary reductions in the number of qualified students because of conversion of military housing units to private housing. The provision would also exclude basic allowance for housing payments to military personnel residing in privatized military housing from income for purposes of determining eligibility for free or reduced price school lunches.

The Senate amendment contained a similar provision (sec. 1064).

The Senate recedes with an amendment deleting the provision for free or reduced price school lunches because this provision was enacted in separate legislation.

Comptroller General study of adequacy of compensation provided for teachers in the Department of Defense Overseas Dependents' Schools (sec. 345)

The Senate amendment contained a provision (sec. 334) that would extend from May 1, 2002 to December 12, 2002 the date for the Comptroller General to report on a study on whether compensation for teachers in the Department of Defense dependents' education system is adequate for recruiting and retaining high quality teachers. The provision would also require the Comptroller General to consider whether the process for setting teacher compensation is efficient and cost effective.

The House bill amendment contained no similar provision.

The House recedes.

Subtitle F—Information Technology

Annual submission of information regarding information technology capital assets (sec. 351)

The House bill contained a provision (sec. 352) that would require the Secretary of Defense to include, along with the annual budget request, a description of and complete budget information on major information technology, national security system, and national security capital asset programs.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment to clarify certain terms and to minimize reporting requirements.

Policy regarding acquisition of information assurance and information assurance-enabled information technology products (sec. 352)

The House bill contained a provision (sec. 353) that would require the Secretary of Defense to establish and implement a policy limiting the acquisition of all commercial off-the-shelf information assurance and information assurance-enabled information technology products to those products that have been evaluated and validated in accordance with appropriate criteria, schemes, or programs.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to: (1) apply the policy to all information assurance and information assurance-enabled information technology products (not just commercial off-the-shelf products); and (2) authorize the waiver of the policy in the national security interest of the United States.

Installation and connection policy and procedures regarding Defense Switch Network (sec. 353)

The House bill contained a provision (sec. 354) that would direct the Secretary of Defense to establish uniform policies and procedures throughout the Department for the installation and connection of telecom switches to the Defense Switch Network.

The Senate amendment contained a similar provision (sec. 348).

The House recedes with a clarifying amendment.

Subtitle G—Other Matters

Distribution of monthly reports on allocation of funds within operation and maintenance budget subactivities (sec. 361)

The House bill contained a provision (sec. 361) that would clarify that the monthly reports on operation and maintenance accounts that the Department of Defense is required to provide to Congress should be delivered to the congressional defense committees.

The Senate amendment contained no similar provision.

The Senate recedes.

Continuation of arsenal support program initiative (sec. 362)

The House bill contained a provision (sec. 364) that would extend the Arsenal Support Program Initiative through fiscal year 2004. The provision also required a report from the Secretary of the Army evaluating the Initiative's results.

The Senate amendment contained an identical provision (sec. 346).

The conference agreement includes this provision.

Extension of work safety demonstration program (sec. 363)

The Senate amendment contained a provision (sec. 350) that would extend by one year the authority for the work safety demonstration program through September 30, 2003.

The House bill contained no similar provision.

The House recedes.

Condition on authority of Defense Security Service to impose fees on fee-for-service basis (sec. 364)

The House bill contained a provision (sec. 363) that would prohibit the Secretary of Defense from converting the Defense Security Service (DSS) to a working capital-funded entity until the Secretary certifies that DSS has the requisite financial systems to support such operations.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment clarifying that DSS is currently a working capital-funded entity but cannot impose fees on a fee-for-service basis until proper certification is provided.

Logistics support and services for weapon systems contractors (sec. 365)

The Senate amendment contained a provision (sec. 345) that would allow the Defense Logistics Agency (DLA) to provide services to weapon systems contractors on a reimbursable basis. The authority would be limited to no more than five contracts, with a total value of less than $100.0 million.

The House bill contained no similar provision.

The House recedes with an amendment specifying that, in accordance with section 2208(h), title 10, United States Code, all revenues from such contracts would be credited to DLA accounts.

Training range sustainment plan, Global Status of Resources and Training System, and training range inventory (sec. 366)

The House bill contained a provision (sec. 365) that would require the Secretary of Defense to develop a comprehensive plan for addressing training constraints caused by limitations on the use of military lands, marine areas, and airspace; a plan to modify the Global Status of Resources and Training System to better reflect the impact of such training constraints; and a training range inventory for each of the military services.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment clarifying the content and timing of the required plans and reports.

Engineering study and environmental analysis of road modifications in vicinity of Fort Belvoir, Virginia (sec. 367)

The Senate amendment contained a provision (sec. 349) that would provide $5.0 million to the Secretary of the Army to conduct a preliminary engineering and environmental study on the feasibility of providing an alternative to Beulah Road (State Route 613) and Woodlawn Road (State Route 618) at Fort Belvoir, Virginia, which were closed as a force protection measure. The Secretary would submit a summary report on the study and analysis to Congress with the budget justification materials for the fiscal year 2006 budget request.

The House bill contained no similar provision.

The House recedes.

The conferees are aware that other communities have been adversely impacted by the closure of public roads that traverse military installations and believe the communities that have lost access to thoroughfares constructed and maintained with local tax dollars should be appropriately compensated for this loss. The conferees understand that Fort Dix, New Jersey, and Fort Drum, New York, are among the communities affected by road closures. The conferees are also aware of a long-standing issue of road access on Andersen Air Force Base, Guam.

Accordingly, the conferees direct the Secretary of Defense to identify all localities affected by the closures of public roads on military installations to enhance force protection, to work with local communities to find appropriate means, including compensation, to address these situations, and to include those measures in future budget requests as necessary.

Reauthorization of warranty claims recovery pilot program (sec. 368)

The conference agreement includes a provision (sec. 368) that would extend the warranty claims pilot program through September 30, 2004.

Expanded eligibility for loan, gift, or exchange of documents, historical artifacts, and condemned or obsolete combat materiel (sec. 369)

The conference agreement includes a provision (sec. 369) that would include nonprofit military aviation heritage foundations and associations among the entities eligible to receive transfers of excess Department of Defense (DOD) materiel.

The conferees authorize this expansion with the recognition that section 2572(d)(2) of title 10, United States Code, prescribes very limited circumstances under which DOD may bear the costs of demilitarizing equipment to make it safe for transfer. The conferees further note that, under existing statute, DOD is not responsible for the costs of operating, maintaining, or repairing equipment once it has been transferred. The conferees direct that any transfers made under this section be conducted in accordance with DOD regulations pertaining to the safe and secure operation of transferred equipment.

Legislative Provisions Not Adopted

Calculation of five-year period of limitation for Navy-Marine Corps Intranet contract

The House bill contained a provision (sec. 351) that would authorize the Secretary of the Navy to extend the current contract for Navy-Marine Corps Intranet (NMCI) services from the current five years to seven years.

The Senate amendment contained a similar provision (sec. 342).

Because similar legislation has been enacted (Public Law 107–254), the conference report does not include either provision.

Clarification of required core logistics capabilities

The House bill contained a provision (sec. 335) that would expand the definition of core logistics capabilities to include acquisition logistics, supply management, system engineering, maintenance, and modification management.

The Senate amendment contained no similar provision.

The House recedes.

Cleanup of unexploded ordnance on Kaho'olawe Island, Hawaii

The Senate amendment contained a provision (sec. 314) that would require the Secretary of the Navy to continue cleanup activities on Kaho'olawe Island, Hawaii, until the Navy has inspected and assessed 100 percent of the island, cleared 75 percent of the island in accordance with Tier One standards, and cleared 25 percent of the island in accordance with Tier Two standards.

The House bill contained no similar provision.

The Senate recedes.

Impact aid for children with severe disabilities

The Senate amendment contained a provision (sec. 332) that would authorize $5.0 million for continuation of the Department of Defense assistance program to local educational agencies that benefit dependents with severe disabilities.

The House bill contained no similar provision.

The Senate recedes on the provision.

The conferees agree to authorize $5.0 million of the funds available for Operation and Maintenance, Defense-Wide, for continuation of the Department of Defense assistance program to local educational agencies that benefit dependents with severe disabilities.

Lift support for mine warfare ships and other vessels

The Senate amendment contained a provision (sec. 351) that would authorize $10.0 million to be made available for implementing recommendations resulting from the Navy's Non-self Deployable Watercraft (NSDW) Study and the Joint Chiefs of Staff Focused Logistics Study, which are to determine the requirements of the Navy to provide lift support for mine warfare ships and other vessels. The provision would also reduce funding for mine countermeasures ship cradles by the same amount.

The House bill contained no similar provision.

The Senate recedes on the provision.

The conferees agree to authorize $10.0 million for implementing recommendations resulting from the Navy's Non-self Deployable Watercraft (NSDW) Study and the Joint Chiefs of Staff Focused Logistics Study and to reduce funding for mine countermeasures ship cradles by the same amount. The conferees are specifically not directing a particular solution to meeting lift support requirements.

Military readiness and the conservation of protected species

The House bill contained a provision (sec. 312) that would amend the Endangered Species Act of 1973 (Public Law 93–205) to prohibit further designations of critical habitat for endangered species in areas for which an Integrated Natural Resources Management Plan has been prepared under the Sikes Act (Public Law 86–797). The House provision would further amend the Endangered Species Act to require regulatory agencies to consider national security concerns in addition to economic impact prior to designating future areas of critical habitat.

The Senate amendment contained no similar provision.

The House recedes.

The conferees believe that all federal agencies, including the Armed Forces, should be required to comply with all federal environmental laws. However, due to their unique military training and operational responsibilities, the Armed Forces often face unique challenges in balancing the obligations to comply with environmental laws and sustain military readiness. Examples of these challenges include increasing limitations and restrictions on lands and waters which are currently set aside for military training exercises as well as significant restrictions on the times and conditions under which military training exercises can be conducted. The conferees are concerned that future designations of critical habitat on military training ranges could have an adverse impact on the military's readiness capabilities.

The conferees strongly endorse the consultative process through which the military services work with the Fish and Wildlife Service to ensure the protection of threatened and endangered species by adopting effective Integrated Natural Resources Management Plans at military installations. The conferees are concerned that questions have been raised regarding whether the protections provided by these Integrated Natural Resources Management Plans, such as the one at Marine Corps Base, Camp Pendleton, California, are sufficient to avoid the need for future designations of critical habitat that could adversely affect military training. Nevertheless, the conferees encourage the Department of the Interior and the Department of Defense to pursue a cooperative approach in managing natural and cultural resources throughout the Armed Forces.

The conferees direct the Secretary of Defense to provide the Committees on Armed Services of the Senate and the House of Representatives recommendations for any legislative proposals that he considers necessary to accomplish these stated goals.

Minimum deduction from pay of certain members of the Armed Forces to support Armed Forces Retirement Home

The House bill contained a provision (sec. 362) that would require that the minimum amount deducted monthly from the pay of all active duty enlisted, warrant officer, and limited duty officer personnel for the support of the Armed Forces Retirement Home be no less than $1.

The Senate amendment contained no similar provision.

The House recedes.

National Army Museum, Fort Belvoir, Virginia

The Senate amendment contained a provision (sec. 306) that would authorize $100,000 to initiate planning and development efforts for the National Army Museum at Fort Belvoir, Virginia.

The House bill contained no similar provision.

The Senate recedes.

Navy data conversion activities

The Senate amendment contained a provision (sec. 352) that would authorize $1.5 million in Navy operation and maintenance funds for the Navy Data Conversion and Management Laboratory. The provision would offset this increase with a reduction of $1.5 million from Army operation and maintenance funds for utilities privatization.

The House bill contained no similar provision.

The Senate recedes.

Navy Pilot Human Resources Call Center, Cutler, Maine

The Senate amendment contained a provision (sec. 305) that would authorize $1.5 million of Navy operation and maintenance funds for the Navy Pilot Human Resources Call Center in Cutler, Maine.

The House bill contained no similar provision.

The Senate recedes on the provision. The Navy operation and maintenance table contained in this report describes the conference agreement for the Cutler call center.

Range Enhancement Initiative Fund

The Senate amendment contained a provision (sec. 304) that would authorize $20.0 million to create a new Range Enhancement Initiative Fund from which funds would be drawn to purchase easements or cover other costs incurred by the military departments resulting from agreements entered into under the authorities contained in section 2811 of the Senate amendment.

The House bill contained no similar provision.

The Senate recedes.

Reimbursement for reserve component intelligence support

The Senate amendment contained a provision (sec. 343) that would authorize the use of operation and maintenance funds of the military departments, combatant commands, and defense agencies to reimburse pay, allowances and other expenses when members of the National Guard and Reserve provide intelligence or counterintelligence support to such departments, commands, or agencies.

The House bill contained no similar provision.

The Senate recedes.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Active Forces

End strengths for active forces (sec. 401)

The House bill contained a provision (sec. 401) that would authorize the following end strengths for active duty personnel of the Armed Forces as of September 30, 2003:

Service	FY 2002 authorized	FY 2003		Change from	
		Request	Committee recommendation	FY 2003 request	FY 2002 authorized
Army	480,000	480,000	484,800	4,800	4,800
Navy	376,000	375,700	379,457	3,757	3,457
USMC	172,600	175,000	175,000	0	2,400
Air Force	358,800	359,000	360,795	1,795	1,995
DOD Total	1,387,400	1,389,700	1,400,052	10,352	12,652

The Senate amendment contained a provision (sec. 401) that would authorize the following end strengths: Army, 485,000; Navy, 379,200; United States Marine Corps, 175,000; Air Force, 362,500.

The Senate recedes with an amendment that would authorize the following end strengths:

Service	FY 2002 authorized	FY 2003		Change from	
		Request	Committee recommendation	FY 2003 request	FY 2002 authorized
Army	480,000	480,000	480,000	0	0
Navy	376,000	375,700	375,700	0	– 300
USMC	172,600	175,000	175,000	0	2,400
Air Force	358,800	359,000	359,000	0	200
DOD Total	1,387,400	1,389,700	1,389,700	0	2,300

The conferees believe that the active duty end strengths should be increased substantially. This belief is based not only on the testimony of senior military officers who describe their personnel as stretched to the limit by ever-expanding missions and operations tempo, but also on the fact that more than 70,000 mobilized reservists remain on active duty a year after the start of the war on terrorism, and active duty tours for thousands more have been extended for a second year because the active components lack the manpower to meet requirements.

Furthermore, the conferees are disappointed that due to insufficient additional appropriations, the conference report was unable to include the increased active end strength authorizations recommended by the House and Senate in their separate bills.

That notwithstanding, in order to give the service secretaries and the Secretary of Defense more flexibility to man the force to meet mission requirements, the conferees have, in separate provisions, expanded the authority of the Secretary of Defense to increase active end strength from the current two percent to three percent above authorized levels. The conferees have also created new authority for the service secretaries, recognizing the practical limitations they face, to increase active end strength by two percent above authorized levels.

In recognition of the conferees' strong view that active duty end strength should not be reduced any further as well as the Secretary of Defense's apparent commitment to hold end strengths at or above the requested levels, another provision in this conference agreement (sec. 402) eliminates the Secretary of Defense's current authority to reduce end strength below authorized levels.

Revision in permanent end strength minimum levels (sec. 402)

The House bill contained a provision (sec. 402) that would establish end strength floors for the active forces equivalent to the end strengths recommended by the committee in section 401.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would establish end strength floors for the active forces equivalent to the end strengths contained in the budget request and would eliminate the Secretary of Defense's current authority to reduce end strength below authorized levels.

Expanded authority for administrative increases in statutory active-duty end strengths (sec. 403)

The House bill contained a provision (sec. 403) that would authorize the secretaries of the military departments to increase the authorized active duty end strength of their respective military service by up to one percent.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would expand the authority of the Secretary of Defense to increase active duty end strength from the current two percent to three percent above authorized levels and would provide new authority for the service secretaries to increase active duty end strength by two percent above authorized levels.

This provision reflects the conferees' belief that the requested end strength is not sufficient and gives the service secretaries and the Secretary of Defense greater flexibility to increase end strength as needed to meet mission requirements.

General and flag officer management (sec. 404)

The House bill contained a provision (sec. 404) that would exclude an officer serving in the position of Senior Military Assistant to the Secretary of Defense from the limitation on active duty officers in grades above major general and rear admiral, increase by one the limit on the number of lieutenant generals authorized for the Marine Corps, require that the Chief of the Veterinary Corps of the Army serve in the grade of brigadier general, and require the Secretary of Defense to review and report to Congress on active duty and reserve general and flag officer authorizations. The grade requirements of this provision would be effective on the date of receipt by Congress of the report required by this provision.

The Senate amendment contained a provision (sec. 403) that would authorize one additional Marine Corps general officer in a grade above major general.

The Senate recedes with an amendment that would exclude an officer serving in the position of Senior Military Assistant to the Secretary of Defense from the limitation on active duty officers in grades above major general and rear admiral, increase by one the limit on the number of lieutenant generals authorized for the Marine Corps, and require the Secretary of Defense to review and report to Congress on active duty and reserve general and flag officer authorizations. The provision regarding the grade of the Senior Military Assistant to the Secretary of Defense would be effective on the date of receipt by Congress of the report on active duty and reserve general and flag officer authorizations. The provisions regarding the number of lieutenant generals in the Marine Corps would be effective upon date of enactment. The grade of the Chief of the Veterinary Corps of the Army is addressed in a separate provision.

Extension of certain authorities relating to management of numbers of general and flag officers in certain grades (sec. 405)

The House bill contained a provision (sec. 405) that would extend to December 31, 2004, three expiring authorities relating to general and flag officer management. Those authorities provide for: the process by which the Secretary of Defense and Chairman of the Joint Chiefs of Staff fill vacant senior joint four-star general and flag officer positions; the exemption of the senior joint four-star general and flag officers appointed by that process from the general and flag officer limits that apply to the military services; and the process by which the Chairman of the Joint Chiefs of Staff designates and fills 12 general and flag officer positions on the joint staff and 10 reserve component general and flag positions on the staffs of the commanders of the unified and specified commands.

The Senate amendment contained a provision (sec. 501) that would extend these authorities to December 31, 2003.

The Senate recedes.

Increase in authorized strengths for Marine Corps officers on active duty in the grade of colonel (sec. 406)

The Senate amendment contained a provision (sec. 404) that would increase by 40 the authorized strength for colonels on active duty in the Marine Corps.

The House bill contained no similar provision.

The House recedes.

Subtitle B—Reserve Forces

End strengths for Selected Reserve (sec. 411)

The House bill contained a provision (sec. 411) that would authorize the following end strengths for the selected reserve personnel, including the end strength for reserves on active duty in support of the reserves, as of September 30, 2003:

Service	FY 2002 authorized	FY 2003		Change from	
		Request	Committee recommendation (limit)	FY 2003 request	FY 2002 authorized
Army National Guard	350,000	350,000	350,000	0	0
Army Reserve	205,000	205,000	205,000	0	0
Naval Reserve	87,000	87,800	87,800	0	800
Marine Corps Reserve	39,558	39,558	39,558	0	0
Air National Guard	108,400	106,600	106,600	0	−1,800
Air Force Reserve	74,700	75,600	75,600	0	900
DOD Total	864,658	864,558	864,558	0	−100
Coast Guard Reserve	8,000	9,000	9,000	0	1,000

The Senate amendment contained an identical provision. The conference agreement includes this provision.

End strengths for Reserves on active duty in support of the reserves (sec. 412)

The House bill contained a provision (sec. 412) that would authorize the following end strengths for reserves on active duty in support of the reserves as of September 30, 2003:

Service	FY 2002 authorized	FY 2003		Change from	
		Request	Committee recommendation	FY 2003 request	FY 2002 authorized
Army National Guard	23,698	23,768	24,562	794	864
Army Reserve	13,406	13,588	14,070	482	664
Naval Reserve	14,811	14,572	14,572	0	−239
Marine Corps Reserve	2,261	2,261	2,261	0	0
Air National Guard	11,591	11,697	11,697	0	106
Air Force Reserve	1,437	1,498	1,498	0	61
DOD Total	67,204	67,384	68,660	1,276	1,456

The Senate amendment contained a provision (sec. 412) that would authorize the following end strengths: the Army National Guard of the United States, 24,492; the Army Reserve, 13,888; the Naval Reserve, 14,572; the Marine Corps Reserve, 2,261; the Air National Guard of the United States, 11,727; the Air Force Reserve, 1,498.

The Senate recedes with an amendment that would authorize the following end strengths for reserves on active duty in support of the reserves as of September 30, 2003:

Service	FY 2002 authorized	FY 2003		Change from	
		Request	Committee recommendation	FY 2003 request	FY 2002 authorized
Army National Guard	23,698	23,768	24,562	794	864
Army Reserve	13,406	13,588	14,070	482	664
Naval Reserve	14,811	14,572	14,572	0	−239
Marine Corps Reserve	2,261	2,261	2,261	0	0
Air National Guard	11,591	11,697	11,727	30	136
Air Force Reserve	1,437	1,498	1,498	0	61
DOD Total 67,204 67,384 68,690 1,306 1,486.					

End strengths for military technicians (dual status) (sec. 413)

The House bill contained a provision (sec. 413) that would authorize the following end strengths for military technicians (dual status) as of September 30, 2003:

Service	FY 2002 authorized	FY 2003		Change from	
		Request	Committee recommendation (limit)	FY 2003 request	FY 2002 authorized
Army National Guard	23,615	23,615	24,102	487	487
Army Reserve	6,249	6,349	6,599	250	350
Air National Guard	22,422	22,495	22,495	0	73
Air Force Reserve	9,818	9,911	9,911	0	93
DOD Total	62,104	62,370	63,107	737	1,003

The Senate amendment contained an identical provision (sec. 413).

The conference agreement includes this provision.

Fiscal year 2003 limitation on non-dual status technicians (sec. 414)

The House bill contained a provision (sec. 414) that would establish the following limits on the number of non-dual status technicians as of September 30, 2003:

Service	FY 2002 limit	FY 2003		Change from	
		Request	Committee recommendation (limit)	FY 2003 request	FY 2002 authorized
Army National Guard	1,600	1,600	1,600	0	0
Army Reserve	1,095	995	995	0	−100
Air National Guard	350	350	350	0	0
Air Force Reserve	90	0	90	90	0
DOD Total	3,135	2,945	3,035	90	−100

The Senate amendment contained a provision (sec. 414) that would establish numerical limits on the number of non-dual status technicians who may be employed in the Department of Defense as of September 30, 2003, as follows: (1) Army National Guard of the United States, 1,600; (2) Air National Guard of the United States, 350; (3) Army Reserve, 995; and Air Force Reserve, 0.

The Senate recedes.

Subtitle C—Authorization of Appropriations

Authorization of appropriations for military personnel (sec. 421)

The House bill contained a provision (sec. 421) that would authorize a total of $93,725.0 million to be appropriated to the Department of Defense for military personnel.

The Senate amendment included a similar provision (sec. 421) that would authorize a total of $94.4 billion to be appropriated to the Department of Defense for military personnel.

The House recedes with an amendment that would authorize $93,829.5 million to be appropriated to the Department of Defense for military personnel.

The conferees provide the following itemization of the increases and decreases from the budget request related to the military personnel accounts:

[Additions in millions]

Military Personnel Funding in DERF	$22.9
ARNG National Guard AGR end strength increase	28.4
USAR AGR end strength increase	11.5
ANG AGR end strength increase	0.7
Total	63.5

[Reductions in millions]

Accrual payment to Uniformed Services Retiree Health Care Fund	$405.0
Savings from DOD proposals not adopted	14.8
Repeal of special compensation for severely disabled	53.9
Selective reenlistment bonus	16.5
$30K Lump Sum Bonus	28.9
Enlistment bonus	10.5
Total	529.6

LEGISLATIVE PROVISIONS NOT ADOPTED

Authority to increase strength and grade limitations to account for reserve component members on active duty in support of a contingency operation

The Senate amendment contained a provision (sec. 402) that would authorize the Secretary of Defense to increase the limit on active duty end strength by the number of members of the reserve components serving on active duty, with their consent, in support of a contingency operation.

The House bill contained no similar provision.

The Senate recedes.

TITLE V—MILITARY PERSONNEL POLICY

ITEMS OF SPECIAL INTEREST

Department of Defense education partnerships

The conferees recognize the importance of the continued growth and development of partnerships, using web-based technology, between the Department of Defense, high schools, and institutions of higher education in order to ensure that the services are able to effectively recruit and retain the most qualified service members. The conferees are also aware that the Department of Defense and the military services already have a number of ongoing initiatives to foster such education partnerships.

The conferees encourage the Department to pursue new partnerships, in a manner that is fully coordinated with ongoing initiatives, that will facilitate the enrollment and transfer of students with full recognition of credits among two-year and four-year institutions of higher education. Such new efforts could enhance education opportunities for minority men and women, a demographic that currently makes up nearly 40 percent of the enlisted members in the armed services.

Enrollments at Air Force Institute of Technology and Naval Postgraduate School

The conferees are concerned that the Air Force and the Navy are not heeding the previous directions, as specified in the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) and the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107), to produce sufficient numbers of military personnel with the requisite graduate level education in science, engineering, and technology.

The Air Force Institute of Technology and the Naval Postgraduate School are uniquely qualified to meet these graduate education requirements with specialized, military-relevant curricula. As noted by the Secretary of the Air Force and the Secretary of the Navy in March 2002, the Air Force and Navy are committed to maintaining each school as world-class, higher education institutions underpinned by their unique service heritage and character.

Despite such commitment by the secretaries, the conferees remain concerned that neither service is fully utilizing the military student enrollment capacity of these two institutions. Therefore, the conferees direct the Secretaries of the Air Force and the Navy to report 120 days after enactment of this Act their plans to increase the military student enrollment at both schools.

STARBASE resource and training center

The Department of Defense STARBASE Program is an effective community outreach program for youths ages six through 18 that is aimed at improving math and science skills. It also addresses drug use prevention, health, self-esteem, and life skills and exposes youth, parents, and teachers to the value of military service. It currently operates at 39 locations associated with active, guard, and reserve commands throughout the United States. At least seven additional locations are seeking STARBASE programs.

The conferees are encouraged that the Department is looking at ways to ensure that STARBASE academies are complying with program standardization requirements and maintaining quality control. The conferees urge the Department of Defense to implement a cost-effective system for providing program standardization and quality control during fiscal year 2003, to include consideration of establishing a STARBASE resource and training center.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Officer Personnel Policy

Extension of good-of-the-service waiver authority for officers appointed to a Reserve Chief or Guard Director position (sec. 501)

The House bill contained a provision (sec. 502) that would extend to December 31, 2004, the authority of the Secretary of Defense to waive the requirement for significant joint experience as a qualification for appointment as the Chief of the Army, Navy, Air Force, or Marine Corps Reserve or as Director of the Army or Air National Guard. The recommended provision would also require the Secretary of Defense to report to Congress the steps that he, together with the Chairman of the Joint Chiefs and the secretaries of the military departments, will take to ensure that no further extensions of this waiver authority will be required after 2004.

The Senate amendment contained a similar provision (sec. 502) that would extend the waiver authority from October 1, 2003 to December 31, 2003.

The Senate recedes with an amendment that would require the Secretary of Defense to submit by May 1, 2003, a report to the Committees on Armed Services of the Senate and the House of Representatives indicating what steps have been taken to ensure that Reserve and Guard officers receive significant joint duty experience and a date by which a waiver will no longer be required.

Exclusion of certain officers from limitation on authority to grant a waiver of required completion or sequencing for joint professional military education (sec. 502)

The Senate amendment contained a provision (sec. 503) that would repeal the 10 percent limitation on authority to grant officers, in grades below brigadier general and rear admiral (lower half), a waiver of the required sequence of joint professional military education and joint duty assignment.

The House bill contained no similar provision.

The House recedes with an amendment that would exclude only officers nominated and selected for the joint specialty pursuant to section 521 of the National Defense Authorization Act of Fiscal Year 2002 (Public Law 107–107) from the 10 percent limitation on authority to grant officers, in grades below brigadier general and rear admiral (lower half), a waiver of the required sequence of joint professional military education and joint duty assignment. This authority would expire on October 1, 2006.

Extension and codification of authority for recall of retired aviators to active duty (sec. 503)

The Senate amendment contained a provision (sec. 504) that would extend to September 30, 2008, the temporary authority for recall of retired aviators to active duty.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would terminate the authority to order retired aviators to active duty on September 30, 2008, and would allow officers ordered to active duty before that date to complete the period of active duty specified in an agreement entered into by the officer and the secretary concerned, even when that period of active duty extends beyond September 30, 2008.

Grades for certain positions (sec. 504)

The Senate amendment contained a provision (sec. 505) that would require that the heads of the Nurse Corps for the Army, Navy, and Air Force be appointed in the regular grade of major general or rear admiral. The Senate amendment contained another provision (sec. 906) that would provide statutory authorization for the Army Veterinary Corps and authorize appointment of the officer serving in this position in the regular grade of brigadier general.

The House bill contained a provision (sec. 404(c)) that would require that the Chief of the Veterinary Corps of the Army serve in the grade of brigadier general.

The House recedes with an amendment that would require that the heads of the Nurse Corps for the Army, Navy, and Air Force be appointed in the regular grade of major general or rear admiral and that the Chief of the Veterinary Corps of the Army serve in the grade of brigadier general. The amendment would also establish the positions of Chief of Legislative Liaison in the Departments of the Army and the Air Force to be filled by officers in the grade of major general; Chief of Legislative Affairs in the Department of the Navy to be filled by an officer in the grade of rear admiral; and Legislative Assistant to the Commandant of the Marine Corps to be filled by an officer in a grade above colonel.

Reinstatement of authority to reduce three-year time-ingrade requirement for retirement in grade for officers in grades above major and lieutenant commander (sec. 505)

The Senate amendment contained a provision (sec. 506) that would authorize, during the period from September 1, 2002, until December 31, 2004, waiver of one year of the three-year time-in- grade requirement for retirement for officers in grades above major and lieutenant commander. The amendment would require advance notice to the Committees on Armed Services of the Senate and House of Representatives and would authorize the Deputy Under Secretary of Defense for Personnel and Readiness to exercise this authority for flag and general officers and the service secretaries or assistant secretaries responsible for manpower and reserve affairs to exercise this authority for retirements in grades of lieutenant colonel and colonel, or, in the case of the Navy, commander and captain.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize the Secretary of Defense to authorize the service secretaries to reduce the time-in-grade requirement for retirement to no less than two years for retirements effective between October 1, 2002, and December 31, 2003. The amendment would authorize a service secretary to approve an early retirement of a flag or general officer only if approved by the Secretary of Defense or a Senate- confirmed civilian official in the Office of the Secretary of Defense. The amendment would require advance notice to the Committees on Armed Services of the Senate and the House of Representatives of the exercise of this authority for officers retired in general of flag officer grades.

Authority to require that an officer take leave pending review of a recommendation for removal by a board of inquiry (sec. 506)

The Senate amendment contained a provision (sec. 552) that would authorize the service secretaries to require an officer to take leave (including excess leave) while awaiting a secretary's action on a board of inquiry's recommendation that the officer not be retained on active duty.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Subtitle B—Reserve Component Management

Reviews of National Guard strength accounting and management and other issues (sec. 511)

The House bill contained a provision (sec. 511) that would require the Comptroller General to submit a report to Congress on management of the National Guard. The recommended provision would also require the Secretary of Defense to submit a report to Congress on the differing Army and Air Force policies for taking adverse administrative actions against National Guard officers in a State status.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Courts-martial for the National Guard when not in Federal service (sec. 512)

The House bill contained a provision (sec. 512) that would update and streamline the administration of military justice in the National Guard when it is not in a federal status and would require the Secretary of Defense to develop a model state Uniform Code of Military Justice and a model state Manual for Courts- Martial.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Fiscal year 2003 funding for military personnel costs of reserve component Special Operations Forces personnel engaged in humanitarian assistance activities relating to clearing of landmines (sec. 513)

The Senate amendment contained a provision (sec. 341) that would amend section 401(c) of title 10, United States Code, to allow up to 10 percent of the funding for a fiscal year for humanitarian and civic assistance to be expended for the pay and allowances of reserve component personnel of the Special Operations Command (SOCOM) performing duty in connection with training and activities related to the clearing of landmines for humanitarian purposes.

The House bill contained no similar provision.

The House recedes with an amendment that authorizes for fiscal year 2003 funds appropriated to a military department for reserve component personnel to reimburse military personnel expenses of Special Operations Forces of reserve components engaged in humanitarian demining training and activities. The total expenses incurred in this way cannot exceed 10 percent of the operation and maintenance funding for humanitarian demining, and the military services must be fully reimbursed. The conferees direct the Secretary of Defense, as part of the fiscal year 2004 budget request, to submit a legislative proposal that ensures that the military personnel expenses of active and reserve components employed in humanitarian demining activities are defined in detail and budgeted, authorized, and appropriated from military personnel accounts.

Use of Reserves to perform duties relating to defense against terrorism (sec. 514)

The Senate amendment contained a provision (sec. 1043) that would change the definition of the term "weapons of mass destruction" in sections 12304 and 12310 of title 10, United States Code, so as to include any large conventional explosive that is designed to produce catastrophic loss of life or property.

The House bill contained no similar provision.

The House recedes with an amendment that would not change the definition of the term "weapons of mass destruction" but would amend sections 12303 and 12310 of title 10, United States Code, to authorize the use of the reserves to perform duties relating to defense against a terrorist attack or a threatened terrorist attack that results, or could result, in catastrophic loss of life or property.

Repeal of prohibition on use of Air Force Reserve AGR personnel for Air Force base security functions (sec. 515)

The Senate amendment contained a provision (sec. 513) that would repeal the prohibition on the use of Air Force Reserve AGR personnel for Air Force base security functions.

The House bill contained no similar provision.

The House recedes.

Subtitle C—Reserve Component Officer Personnel Policy

Eligibility for consideration for promotion to grade of major general for certain reserve component brigadier generals who do not otherwise qualify for consideration for promotion under the one-year rule (sec. 521)

The House bill contained a provision (sec. 522) that would permit reserve brigadier generals of the Army and Air Force to be eligible for promotion with less than one year on the reserve active status list or the active-duty list (or combination of both lists) when the following three factors apply to the officer:

(1) The officer had been transferred from an inactive status to the active status list during the one-year period preceding the date of the convening of the promotion board.

(2) The officer had been in an inactive status for less than one year immediately before the officer's most recent transfer to an active status.

(3) The officer had continuously served for at least one year on the reserve active status list or the active duty list (or a combination of both lists) before the officer's most recent transfer to an inactive status.

The Senate amendment contained no similar provision.

The Senate recedes.

Authority for limited extension of medical deferment of mandatory retirement or separation of reserve component officers (sec. 522)

The Senate amendment contained a provision (sec. 512) that would authorize the service secretaries to defer the mandatory retirement or separation of a Reserve component officer for 30 days after completion of an evaluation requiring hospitalization or medical observation to determine the officer's entitlement to retirement or separation for physical disability.

The House bill contained a similar provision (sec. 524).

The House recedes with a technical amendment.

Subtitle D—Enlistment, Education, and Training Programs

Enlistment incentives for pursuit of skills to facilitate national service (sec. 531)

The Senate amendment contained a provision (sec. 541) that would authorize unique incentives to encourage individuals to volunteer to serve the Nation through enlisting in the Armed Forces. Individuals who volunteer under this program would be required to serve on active duty for 15 months after completion of initial entry training and could complete the remainder of their military service obligation by choosing service on active duty, in the Selected Reserve, in the Individual Ready Reserve, or in another national service program designated by the Secretary of Defense. Participants would be required to meet all eligibility requirements for military service and would elect one of the following incentives: (1) a $5000 bonus payable after completion of 15 months of active duty, (2) repayment of a qualifying student loan not to exceed $18,000, (3) an educational allowance at the monthly rate payable under the Montgomery GI Bill for 12 months, or (4) an educational allowance of two-thirds of the monthly rate payable under the Montgomery GI Bill for 36 months. Program participants who are otherwise qualified and volunteer to continue serving on active duty may be considered for reenlistment or extension on active duty and any additional benefits for which they may be eligible.

The House bill contained no similar provision.

The House recedes with an amendment that would require an enlistee, upon completion of the initial obligated period of service, to serve an additional period on active duty as determined by the Secretary of Defense or 24 months in an active status in the Selected Reserve, then to serve the remaining period of obligated service on active duty, in the Selected Reserve, in the Individual Ready Reserve, in the Peace Corps, Americorps, or other national service program, or some combination of these. The amendment would also change the bonus amount for 36 months of educational assistance from two-thirds to one-half of the monthly rate payable for basic educational assistance under the Montgomery GI Bill.

Authority for phased increase to 4,400 in authorized strengths for the service academies (sec. 532)

The House bill contained a provision (sec. 531) that would permit the secretaries of the military departments, beginning with classes entering the service academies during the 2003–2004 academic year, to increase the end strengths for cadets or midshipmen from the current limit of 4,000 to 4,400 in annual increments of up to 100.

The Senate amendment contained a similar provision (sec. 521).

The Senate recedes.

Enhancement of reserve component delayed training program (sec. 533)

The House bill contained a provision (sec. 532) that would authorize members who enlist in the reserve delayed training program to remain in that program for one year, a full three months longer than authorized in current law.

The Senate amendment contained a similar provision (sec. 511).

The Senate recedes.

Review of Armed Forces programs for preparation for, participation in, and conduct of athletic competitions (sec. 534)

The House bill contained a provision (sec. 533) that would authorize members and units of the National Guard to use appropriated funds to conduct and participate in qualifying athletic and small arms competitions.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to conduct a comprehensive review of the programs of the active and reserve components of the Armed Forces for preparation for, participation in, and conduct of athletic competitions. The amendment would also require the Secretary to report to the Committees on Armed Services of the Senate and the House of Representatives by March 3, 2003, on: (1) the adequacy of funding sources for athletic competitions, (2) recommendations regarding limitations on the use of the funding sources or inadequacies in the funding for athletic competitions, (3) an assessment of, and recommendations for, achieving consistent funding and policy treatment regarding the participation of active and reserve component personnel in athletic competitions, and (4) any recommended legislation.

Repeal of bar to eligibility of Army College First Program participants for benefits under student loan repayment program (sec. 535)

The conference agreement includes a provision that would repeal the bar to eligibility for Educational Loan Repayment Programs for persons receiving allowances for participating in the College First Program.

Subtitle E—Decorations, Awards, and Commendations

Waiver of time limitations for award of Army Distinguished-Service Cross to certain persons (sec. 541)

The Senate amendment contained a provision (sec. 531) that would waive the statutory time limits for award of military decorations to certain individuals who have been recommended by the service secretaries for these awards.

The House bill contained a similar provision (sec. 541).

The House recedes with an amendment that would remove the waiver of time limit for awards of the Distinguished Flying Cross of the Navy because the time limit for this award is not set forth in statute and may be waived by the Secretary of the Navy.

Option to convert award of Armed Forces Expeditionary Medal awarded for Operation Frequent Wind to Vietnam Service Medal (sec. 542)

The House bill contained a provision (sec. 542) that would authorize eligible veterans to receive the Vietnam Service Medal in lieu of a previously awarded Armed Forces Expeditionary Medal for participation in Operation Frequent Wind, the evacuation of Vietnam conducted on April 29 and 30, 1975.

The Senate amendment contained no similar provision.

The Senate recedes.

Korea Defense Service Medal (sec. 543)

The Senate amendment contained a provision (sec. 532) that would require the service secretaries to issue a campaign medal, to be known as the Korea Defense Service Medal, to military personnel who served in the Republic of Korea, or the adjacent waters, between July 28, 1954, and a termination date determined by the Secretary of Defense, and who meet prescribed service requirements for eligibility.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Commendation of military chaplains (sec. 544)

The Senate amendment contained a provision (sec. 1069) that would express Congress's appreciation for the outstanding contributions of military chaplains and would authorize and request the President to issue a proclamation calling on the people of the United States to recognize the distinguished service of the Nation's military chaplains.

The House bill contained no similar provision.

The House recedes.

Subtitle F—Administrative Matters

Staffing and funding for Defense Prisoner of War/Missing Personnel Office (sec. 551)

The House bill contained a provision (sec. 551) that would require the Secretary of Defense to ensure that the Defense Prisoner of War/Missing in Action Office (DPMO) is provided sufficient personnel and funding to enable the DPMO to fully perform its complete range of missions. The provision would also prohibit reducing the number of military and civilian personnel assigned or detailed to DPMO below the number requested in the President's budget for fiscal year 2003 unless such a reduction is expressly required by law.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

The conferees note that the budget request for fiscal year 2003 provides for 46 military personnel and 69 civilian personnel and includes a funding request for $16.0 million.

Three-year freeze on reductions of personnel of agencies responsible for review and correction of military records (sec. 552)

The House bill contained a provision (sec. 552) that would preclude the secretaries of the military departments from reducing the number of military and civilian personnel assigned to duty within the review boards agencies through fiscal year 2005 until 90 days after the secretary of the military department concerned submits a report that describes the proposed reduction, provides the rationale for the reduction, and specifies the number of personnel that will be assigned to the board after the reduction is complete.

The Senate amendment contained no similar provision.

The Senate recedes.

Authority for acceptance of voluntary services of individuals as proctors for administration of Armed Services Vocational Aptitude Battery test (sec. 553)

The House bill contained a provision (sec. 554) that would authorize the secretaries concerned to accept the voluntary services of educators and other individuals to assist recruiters in administering the Armed Services Vocational Aptitude Battery test to high school students.

The Senate amendment contained a similar provision (sec. 1062).

The Senate recedes with a technical amendment.

Extension of temporary early retirement authority (sec. 554)

The conference agreement includes a provision that would extend the active force drawdown period from December 31, 2001, to September 1, 2002, for purposes of temporary authority to approve retirements of members with at least 15 but less than 20 years of active service.

Subtitle G—Matters Relating to Minorities and Women in the Armed Forces

Surveys of racial and ethnic issues and of gender issues in the Armed Forces (sec. 561)

The Senate amendment contained a provision (sec. 551) that would require the Secretary of Defense to conduct two separate biennial surveys, rather than a single annual survey, to identify and assess racial, ethnic, and gender issues and discrimination among members of the Armed Forces serving on active duty and the extent (if any) of "hate group" activity among such members.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to carry out four quadrennial surveys (each in a separate year) to identify and assess racial, ethnic, and gender issues and discrimination among members of the Armed Forces, active and reserve, and the extent (if any) of "hate group" activity among such members.

Annual report on status of female members of the Armed Forces (sec. 562)

The House bill contained a provision (sec. 555) that would require the Secretary of Defense to submit an annual report to the Committees on Armed Services of the Senate and the House of Representatives on the status of female members of the Armed Forces regarding assignments and assignment policies, deployment, promotion and retention rates, sexual harassment, and other personnel issues.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment clarifying the matters to be included in the report and requiring that the report be submitted for each of the fiscal years 2002 through 2006.

Wear of abayas by female members of the Armed Forces in Saudi Arabia (sec. 563)

The Senate amendment contained a provision (sec. 554) that would prohibit requiring or encouraging service members to wear an abaya while serving in Saudi Arabia, taking adverse action against members for choosing not to wear an abaya while serving in Saudi Arabia, and using Department of Defense funds to procure abayas for issuance to military personnel serving in Saudi Arabia. The provision would also require instruction to female service members ordered to duty in Saudi Arabia about this prohibition.

The House bill contained no similar provision.

The House recedes with an amendment that would afford more flexibility in the timing of instruction to service members regarding this provision and would delete the prohibition on taking adverse action against members for choosing not to wear an abaya while serving in Saudi Arabia. The conferees believe that this prohibition against adverse action is unnecessary because service members could not be required or encouraged to wear an abaya if this provision is enacted.

Subtitle H—Benefits

Department of Defense support for persons participating in military funeral honors details (sec. 571)

The House bill contained a provision (sec. 553) that would authorize the Secretary of Defense to prescribe a flat-rate daily stipend for military retirees and others who are not service members or government employees participating in funeral honors details. The stipend would be paid in lieu of separate payments for transportation and miscellaneous expenses.

The Senate amendment contained a similar provision (sec. 553).

The Senate recedes with a technical amendment.

Emergency leave of absence program (sec. 572)

The House bill contained a provision (sec. 561) that would authorize a service member to transfer accrued leave to another member when the recipient is likely to require a prolonged absence from duty due to a medical condition of a family member or other hardship condition.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would authorize service secretaries to grant a service member a one-time emergency leave of absence of up to 14 days for a qualifying emergency. This emergency leave of absence could be granted only to prevent the member from entering unearned leave status or excess leave status.

Enhanced flexibility in medical loan repayment program (sec. 573)

The House bill contained a provision (sec. 562) that would repeal the bar against providing loan repayment benefits to participants in the Armed Forces health professions scholarship and financial assistance program and would remove the limit on the total benefit that may be paid.

The Senate amendment contained no similar provision.

The Senate recedes.

Destinations authorized for Government paid transportation of enlisted personnel for rest and recuperation absence upon extending duty at designated locations overseas (sec. 574)

The Senate amendment contained a provision (sec. 633) that would authorize enlisted personnel, who agree to extend an overseas tour for a period of not less than one year, the option of round-trip transportation to: (1) the nearest port in the 48 contiguous states, or (2) an alternative destination at equal or lesser cost.

The House bill contained a similar provision (sec. 563).

The House recedes with a technical amendment.

Vehicle storage in lieu of transportation when member is ordered to a nonforeign duty station outside continental United States (sec. 575)

The House bill contained a provision (sec. 564) that would authorize members to store a privately owned vehicle when the member is ordered to a duty station in a nonforeign area outside the continental United States and the shipment of a vehicle is prohibited or contingent upon completion of extensive modification.

The Senate amendment contained a similar provision (sec. 634).

The Senate recedes.

SUBTITLE I—REPORTS

Quadrennial quality of life review (sec. 581)

The Senate amendment contained a provision (sec. 1034) that would require the Secretary of Defense to conduct a quadrennial quality of life review to examine the quality of life of members of the Armed Forces.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Report on desirability and feasibility of consolidating separate courses of basic instruction for judge advocates (sec. 582)

The House bill contained a provision (sec. 572) that would require the Secretary of Defense to study the feasibility and desirability of consolidating the separate Army, Navy and Air Force courses of basic instruction for judge advocates at a single location.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees are aware of, and pleased with, the exceptional quality of the various courses of study taught at each of the separate service schools for judge advocates. The conferees expect the Secretary and the military departments to continue to offer judge advocate education of this high caliber.

Reports on efforts to resolve status of Captain Michael Scott Speicher, United States Navy (sec. 583)

The Senate amendment contained a provision (sec. 1035) that would require the Secretary of Defense, in consultation with the Secretary of State and the Director of Central Intelligence, to submit to Congress a report no later than 60 days after enactment of this Act and every 90 days thereafter on the efforts of the United States Government to determine the status of Captain Michael Scott Speicher, U.S. Navy. The reports would discuss direct and indirect contacts with the Government of Iraq, requests to other governments for assistance, leads, and cooperation from nongovernmental organizations or international organizations pertaining to resolving the status of Captain Speicher.

The House bill contained no similar provision.

The House recedes with an amendment that would have the Secretary submit a report no later than 90 days after the enactment of this Act and every 120 days thereafter, would provide for the reports to cease upon a final determination regarding the status of Michael Scott Speicher by the Secretary of Defense, and would make other clarifying amendments.

Report on volunteer services of members of the reserve components in emergency response to the terrorist attacks of September 11, 2001 (sec. 584)

The Senate amendment contained a provision (sec. 1039) that would require the Secretary of Defense to report on volunteer services performed by members of the reserve components not in an official status in response to the September 11, 2001, terrorist attacks on the World Trade Center and the Pentagon.

The House bill contained no similar provision.

The House recedes with an amendment that would require that the report be submitted no later than 180 days after enactment of this Act, include volunteer services performed in the vicinity of Shanksville, Pennsylvania, in responding to the crash of United Airlines Flight 93, and discuss any recognition that the Secretary considers appropriate.

LEGISLATIVE PROVISIONS NOT ADOPTED

Exemption from active status strength limitation for reserve component general and flag officers serving on active duty in certain joint duty assignments designated by the Chairman of the Joint Chiefs of Staff

The House bill contained a provision (sec. 521) that would exempt the 10 reserve component general and flag officers who are serving on active duty in designated positions on the joint staffs of the commanders of the unified and specified commands from counting against the numbers of reserve component general and flag officers authorized by section 12004 of title 10, United States Code.

The Senate amendment contained no similar provision.

The House recedes.

Matching funds requirements under National Guard Youth Challenge Program

The House bill contained a provision (sec. 513) that would increase the amount of assistance the Department of Defense may provide to a state program of the National Guard Challenge Program for a fiscal year not to exceed 75 percent of the state program during that fiscal year.

The Senate amendment contained no similar provision.

The House recedes.

Military recruiter access to institutions of higher education

The Senate amendment contained a provision (sec. 542) that would encourage and facilitate military service by requiring institutions of higher education receiving assistance under the Higher Education Act of 1965 (Public Law 89–329) to provide military recruiters: (1) the same access to students and the institution as is provided to prospective employers, and (2) upon request, access to the names, addresses, and telephone listings of students, except for the information of students who have submitted a request that the information not be released without prior written consent.

The House bill contained no similar provision.

The Senate recedes.

Retention of promotion eligibility for reserve component general and flag officers transferred to an inactive status

The House bill contained a provision (sec. 523) that would permit reserve officers selected for promotion to major general and rear admiral to retain their promotion eligibility and, if otherwise qualified, be promoted to the higher grade upon returning to an active status from an inactive status.

The Senate amendment contained no similar provision.

The House recedes.

Right of convicted accused to request sentencing by military judge

The House bill contained a provision (sec. 571) that would allow a convicted accused at a court-martial composed of a military judge and court members to request that the sentence be adjudged by a military judge rather than the court members.

The Senate amendment contained no similar provision.

The House recedes.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Pay and Allowances

Increase in basic pay for fiscal year 2003 (sec. 601)

The House bill contained a provision (sec. 601) that would increase basic pay by a minimum of 4.1 percent for all members of the uniformed services and would provide additional increases to mid-grade and senior noncommissioned officers and mid-grade officers.

The Senate amendment contained an identical provision (sec. 601).

The conference agreement includes this provision.

Basic allowance for housing in cases of low-cost or no-cost moves (sec. 602)

The Senate amendment contained a provision (sec. 603) that would extend to locations outside the United States the authority to pay the basic allowance for housing based on the member's former duty assignment when the member's reassignment is a low-cost or no-cost permanent change of station or permanent change of assignment. This authority currently applies only to assignments within the United States.

The House bill contained a similar provision (sec. 602).

The House recedes.

Rate of basic allowance for subsistence for enlisted personnel occupying single Government quarters without adequate availability of meals (sec. 603)

The Senate amendment contained a provision (sec. 602) that would authorize payment of an increased amount of basic allowance for subsistence to enlisted members who are assigned to single Government quarters without adequate availability of meals from a Government messing facility.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Subtitle B—Bonuses and Special and Incentive Pays

One-year extension of certain bonus and special pay authorities for reserve forces (sec. 611)

The House bill contained a provision (sec. 611) that would extend the authority for the selected reserve reenlistment bonus, the selected reserve enlistment bonus, special pay for enlisted members of the selected reserve assigned to certain high priority units, the selected reserve affiliation bonus, the ready reserve enlistment and reenlistment bonus, and the prior service enlistment bonus until December 31, 2003.

The Senate amendment contained an identical provision (sec. 611).

The conference agreement includes this provision.

One-year extension of certain bonus and special pay authorities for certain health care professionals (sec. 612)

The House bill contained a provision (sec. 612) that would extend the authority for the nurse officer candidate accession program, the accession bonus for registered nurses, the incentive special pay for nurse anesthetists, the special pay for selected reserve health care professionals in critically short wartime specialties, and the accession bonus for dental officers until December 31, 2003. The provision would also extend the authority for repayment of educational loans for certain health care professionals who serve in the selected reserve until January 1, 2004.

The Senate amendment contained an identical provision (sec. 612).

The conference agreement includes this provision.

One-year extension of special pay and bonus authorities for nuclear officers (sec. 613)

The House bill contained a provision (sec. 613) that would extend the authority for the special pay for nuclear-qualified officers extending the period of active service, the nuclear career accession bonus, and the nuclear career annual incentive bonus until December 31, 2003.

The Senate amendment contained an identical provision (sec. 613).

The conference agreement includes this provision.

One-year extension of other bonus and special pay authorities (sec. 614)

The House bill contained a provision (sec. 614) that would extend the authority for the aviation officer retention bonus, the reenlistment bonus for active members, the enlistment bonus for active members, the retention bonus for members with critical military skills, and the accession bonus for new officers in critical skills until December 31, 2003.

The Senate amendment contained an identical provision (sec. 614).

The conference agreement includes this provision.

Increase in maximum rates for certain special pays, bonuses, and financial assistance for health care professionals (sec. 615)

The Senate amendment contained a provision (sec. 615) that would increase to $25,000 the maximum amount of the multiyear retention bonus for certain medical officers. The Senate amendment contained another provision (sec. 616) that would increase to $50,000 the maximum amount payable as special incentive pay for certain medical officers of the Armed Forces for service during any 12–month period beginning after fiscal year 2002.

The House bill contained no similar provision.

The House recedes with an amendment that would combine the two Senate provisions and would increase: (1) the maximum multiyear retention bonus to $50,000 for certain medical officers, including dentists; (2) the maximum retention special pay for optometrists to $15,000; (3) the maximum accession bonus for registered nurses to $30,000;

and (4) the maximum incentive pay for nurse anesthetists to $50,000. The amendment would also convert the special pay for pharmacy officers to a retention special pay not to exceed $15,000 for a 12-month period and, for nurse officer candidates, would increase the maximum accession bonus to $10,000 and the maximum monthly stipend to $1,000.

Assignment incentive pay (sec. 616)

The Senate amendment contained a provision (sec. 617) that would authorize the service secretaries, with the concurrence of the Secretary of Defense, to pay a monthly incentive pay of up to $1,500 to members serving in designated assignments.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize payment of assignment incentive pay for the period specified in a written agreement between the member and the secretary concerned and would provide that no agreements may be entered into after December 31, 2005.

Increase in maximum rates for prior service enlistment bonus (sec. 617)

The House bill contained a provision (sec. 616) that would increase the maximum rates paid to reservists with critical skills under the prior service enlistment bonus to $8,000 in the case of a member who enlists for six years, to $4,000 in the case of a member who enlists for three years, and to $3,500 in the case of a member who received a prior bonus for a three-year enlistment and who reenlists or extends for an additional three years.

The Senate amendment contained an identical provision (sec. 618).

The conference agreement includes this provision.

Retention incentives for health care professionals qualified in a critical military skill (sec. 618)

The House bill contained a provision (sec. 617) that would amend the critical skill retention bonus to provide exceptions to the limits on bonus amounts and years of service for bonuses paid to health care professionals.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Subtitle C—Travel and Transportation Allowances

Extension of leave travel deferral period for members performing consecutive overseas tours of duty (sec. 621)

The House bill contained a provision (sec. 631) that would authorize members who have been granted travel and transportation allowances in connection with a consecutive overseas tour to defer those benefits for the full duration of the additional tour of duty. If the member is unable to undertake the travel before the completion of the additional tour because of duty in connection with a contingency operation, the provision would authorize the member to defer the travel and transportation for a year after the date on which the member's duty in connection with the contingency operation duty ends.

The Senate amendment contained a similar provision (sec. 631).

The Senate recedes with a clarifying amendment.

Transportation of motor vehicles for members reported missing (sec. 622)

The Senate amendment contained a provision (sec. 632) that would authorize shipment of two privately owned motor vehicles when transportation of household and personal effects is authorized at government expense in the case of members who are officially reported as dead, injured, ill, or absent for a period of more than 29 days in a missing status.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Subtitle D—Retired Pay and Survivor Benefits

Permanent reduction from eight to six in number of years of reserve service required for eligibility for retired pay for non-regular service (sec. 631)

The House bill contained a provision (sec. 642) that would reduce the number of years of continuous reserve component service required immediately before qualifying for non-regular retired pay from eight to six.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Increased retired pay for enlisted Reserves credited with extraordinary heroism (sec. 632)

The Senate amendment contained a provision (sec. 642) that would authorize a 10 percent increase in the retired pay of an enlisted member of a Reserve component when the member has been credited with extraordinary heroism in the line of duty. The amount of retired pay, including the 10 percent increase, would not exceed 75 percent of the member's retired base pay.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Elimination of possible inversion in retired pay cost-of-living adjustment for initial COLA computation (sec. 633)

The House bill contained a provision (sec. 643) that would prevent partial-year retired pay cost-of-living adjustments (COLAs) in the first year of retirement from exceeding the COLA paid to retirees who were retired for the entire year.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Technical revisions to so-called "forgotten widows" annuity program (sec. 634)

The House bill contained a provision (sec. 644) that would make technical and administrative changes to section 644 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85) that addressed annuities for certain military surviving spouses.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would eliminate the provision precluding retroactive benefits.

Expansion of authority of Secretary of Defense to waive time limitations on claims against the Government for military personnel benefits (sec. 635)

The Senate amendment contained a provision (sec. 643) that would authorize the Secretary of Defense to waive the statute of limitations for claims involving uniformed service members' pay, allowances, travel, transportation, payments for unused accrued leave, retired pay, and survivor benefits.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Special compensation for certain combat-related disabled uniform services retirees (sec. 636)

The House bill contained a provision (sec. 641) that would phase in over five years repeal of the prohibition against receipt of both military retired pay and veterans' disability compensation for veterans whose disability is rated 60 percent or higher.

The Senate amendment contained a similar provision (sec. 641) that would repeal the prohibition against receipt of both military retired pay and veterans' disability compensation.

The Senate recedes with an amendment that would authorize special compensation for uniformed services retirees who completed at least 20 years of service creditable for retirement and who incurred a qualifying combat-related disability. A qualifying combat-related disability is: (1) any disability rated at 10 percent or higher attributable to an injury for which the member was awarded the Purple Heart; or (2) a service-connected disability rated at 60 percent or higher incurred as a direct result of armed conflict, while engaged in hazardous service, in the performance of duty under conditions simulating war, or through an instrumentality of war. The amount of the special compensation would be equal to the amount of veterans' disability compensation to which the retiree would be entitled based solely for the combat-related disability without regard to sections 5304 and 5305 of title 38, United States Code. This provision would be effective no later than 180 days after enactment.

Subtitle E—Montgomery GI Bill

Time limitation for use of Montgomery GI Bill entitlement by members of the Selected Reserve (sec. 641)

The Senate amendment contained a provision (sec. 652) that would extend from 10 to 14 years the maximum period that a member of the Selected Reserve can use educational benefits provided under the Montgomery GI Bill for the Selected Reserve.

The House bill contained a similar provision (sec. 651).

The House recedes.

Repayment requirements under reserve component Montgomery GI Bill arising from failure to participate satisfactorily in military service to be considered debts owed to the United States (sec. 642)

The Senate amendment contained a provision (sec. 653) that would treat an obligation to pay a refund to the United States for certain educational assistance as a debt to the United States when the obligation to pay the refund was incurred because the member failed to participate satisfactorily in the Selected Reserve.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Technical adjustments to authority for certain members to transfer educational assistance under Montgomery GI Bill to dependents (sec. 643)

The Senate amendment contained a provision (sec. 655) that would clarify that dependents of active duty military personnel would receive transferred Montgomery GI Bill benefits at the veterans' rate rather than the in-service rate.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize the Department of Veterans Affairs to make payments attributable to increased usage of benefits as a result of transfers of Montgomery GI Bill entitlement from the Department of Defense Education Benefits Fund or from appropriations made to the Department of Transportation.

Subtitle F—Other Matters

Payment of interest on student loans (sec. 651)

The Senate amendment contained a provision (sec. 656) that would authorize the Secretary of Defense to pay interest on student loans of service members for three years during their first term of service.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Additional authority to provide assistance for families of members of the Armed Forces (sec. 652)

The Senate amendment contained a provision (sec. 651) that would make permanent the temporary authority to provide assistance to families of members of the Armed Forces serving on active duty to ensure that the children of such families obtain needed child care, education, and other youth services.

The House bill contained no similar provision.

The House recedes.

Repeal of authority for acceptance of honoraria by personnel at certain Department of Defense schools (sec. 653)

The Senate amendment contained a provision (sec. 654) that would repeal a limited exemption from the ban on receipt of honoraria by military and civilian faculty members and students at the three service academies and certain Department of Defense professional military schools. The exemption limits acceptance of honoraria to $2,000.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Addition of definition of continental United States in title 37 (sec. 654)

The House bill contained a provision (sec. 661) that would amend section 101 of title 37, United States Code, to include the definition of continental United States as the 48 contiguous states and the District of Columbia.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

LEGISLATIVE PROVISIONS NOT ADOPTED

Minimum levels of hardship duty pay for duty on the ground in Antarctica or on Arctic icepack

The House bill contained a provision (sec. 615) that would specify a hardship duty pay rate of no less than $240 per month for duty performed by service members on the ground in Antarctica or on the Arctic icepack.

The Senate amendment contained no similar provision.

The House recedes.

The conferees direct that the issue of payment of special and incentive pays for reservists who perform frequent and continuous duty on ski-equipped aircraft operating in the polar regions while assigned temporarily to locations where extremely harsh conditions are encountered be included in the reserve component personnel compensation review directed in the Senate report accompanying S. 2514 (S. Rept. 107–151) and in the Comptroller General review of compensation and benefits for reserve component members directed in the House report accompanying H.R. 4546 (H. Rept. 107–436).

Modification of amount of back pay for members of Navy and Marine Corps selected for promotion while interned as prisoners of war during World War II to take into account changes in consumer price index

The Senate amendment contained a provision (sec. 657) that would modify the amount of back pay determined for a member of the Navy or Marine Corps selected for promotion while interned as a prisoner of war during World War II to reflect increases in the cost of living.

The House bill contained no similar provision.

The Senate recedes.

TITLE VII—HEALTH CARE PROVISIONS

ITEMS OF SPECIAL INTEREST

Civil-military partnership education programs related to sexual health decision-making

The conferees are aware of collaborative civil-military partnership education programs related to sexual health decision-making that may have benefits in the reduction of unintended pregnancies and sexually transmitted infections among military personnel. Such efforts have the potential to contribute to improving both the readiness and health of military personnel in all services. The conferees direct the Department of Defense to examine such collaborative programs and consider their use by other services.

Naval Medical Research Center cooperative agreements

The conferees encourage the Secretary of the Navy, acting through the Director of the Naval Medical Research Center, to enter into cooperative agreements with administrators of donor banks to provide for cooperation between the Bone Marrow Registry of the Naval Medical Research Center and the donor banks. In light of the fact that bone marrow donor searches for minority groups take nearly twice as long as searches for non-minorities, the Director is encouraged to give a high priority to selecting donor banks that emphasize the involvement of members of minority groups as donors of tissue or as patients.

TRICARE in Alaska

The conferees are well aware of the unique challenges in providing health care to military beneficiaries in Alaska. Geographic impacts on access to care, limited managed care initiatives, and the level of reimbursement rates demand constant and local oversight of the military health care delivery system to ensure adequate and appropriate access for military beneficiaries. The conferees commend the local military treatment facility commanders for the arrangements that have been established with local health care providers and other federal health care entities to ensure timely access to quality care. The conferees urge the Secretary of Defense to exclude Alaska from fiscal year 2003 managed care contracts.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Health Care Program Improvements

Elimination of requirement for TRICARE preauthorization of inpatient mental health care for medicare-eligible beneficiaries (sec. 701)

The House bill contained a provision (sec. 701) that would eliminate the requirement for pre-admission authorization for inpatient mental health services when medicare has already authorized such care and medicare is the primary payer.

The Senate amendment contained a similar provision (sec. 702).

The Senate recedes with an amendment that would require advance authorization for a continuation of inpatient mental health services when medicare coverage terminates.

Continued TRICARE eligibility of dependents residing at remote locations after departure of sponsors for unaccompanied assignments and eligibility of dependents of reserve component members ordered to active duty (sec. 702)

The Senate amendment contained a provision (sec. 703) that would authorize continued eligibility of family members for TRICARE Prime Remote when the sponsoring service member is transferred from a duty that qualified the family members for TRICARE Prime Remote and the family members remain at the current duty location because they are not authorized to accompany the member to the new duty assignment.

The House bill contained a similar provision (sec. 702).

The House recedes with an amendment that extends the TRICARE Prime Remote benefit to dependents of reserve component personnel residing in locations that qualify for TRICARE Prime Remote when the member is ordered to active duty for more than 30 days.

Eligibility of surviving dependents for TRICARE dental program benefits after discontinuance of former enrollment (sec. 703)

The Senate amendment contained a provision (sec. 701) that would authorize certain surviving dependents to enroll in the TRICARE dental plan.

The House bill contained a similar provision (sec. 703).

The House recedes.

Department of Defense Medicare-Eligible Retiree Health Care Fund (sec. 704)

The Senate amendment contained a provision (sec. 706) that would require that contributions to the Department of Defense Medicare-Eligible Retiree Health Care Fund be paid from military personnel funds.

The House bill contained a similar provision (sec. 704).

The House recedes.

The conferees intend that the Department of Defense exclude cadets and midshipmen from average force strength calculations for the Medicare-Eligible Retiree Health Care Fund under sections 1115 and 1116 of title 10, United States Code, just as cadets and midshipmen are excluded from average force strength calculations for the Department of Defense Military Retirement Fund under sections 1465 and 1466 of title 10, United States Code.

Approval of medicare providers as TRICARE providers (sec. 705)

The Senate amendment contained a provision (sec. 704) that would require that medicare-approved health care providers also be considered as approved TRICARE providers.

The House bill contained a similar provision (sec. 705).

The House recedes with an amendment that would make this provision effective for new TRICARE contracts entered into on or after the date of the enactment of this Act.

Technical corrections relating to transitional health care for members separated from active duty (sec. 706)

The Senate amendment contained a provision (sec. 707) that would correct section 736 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) to provide transitional health care to the dependents of members separated from active duty who are eligible for transitional health care.

The House bill contained a similar provision (sec. 706).

The House recedes.

Extension of temporary authority to enter into personal services contracts for the performance of health care responsibilities at locations other than military medical treatment facilities (sec. 707)

The Senate amendment contained a provision (sec. 708) that would extend until December 31, 2003, the authority to contract with physicians to provide new-recruit physicals.

The House bill contained no similar provision.

The House recedes.

Access to health care services for beneficiaries eligible for TRICARE and Department of Veterans Affairs health care (sec. 708)

The Senate amendment contained a provision (sec. 710) that would provide that a TRICARE Prime beneficiary could not be denied health care under TRICARE on the basis that the beneficiary had received care from the Department of Veterans Affairs if the Department of Veterans Affairs cannot provide the care within the time limit standards for TRICARE Prime.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to prescribe a process for resolving issues relating to patient safety and continuity of care for beneficiaries who are concurrently entitled to health care under TRICARE and are eligible for health care services from the Department of Veterans Affairs. The amendment would also require the Comptroller General to conduct a study of the health care issues of beneficiaries covered by both systems.

Disclosure of information on Project 112 to Department of Veterans Affairs (sec. 709)

The Senate amendment contained a provision (sec. 1065) that would require the Secretary of Defense to submit to Congress and the Secretary of Veterans Affairs a plan for review, declassification, and submission to the Department of Veterans Affairs of all medically relevant information regarding the Shipboard Hazard and Defense (SHAD) project to facilitate the provision of Veterans Administration benefits to former service members who participated in that project.

The House bill contained no similar provision.

The House recedes with an amendment that would expand the scope of the plan to include all medically relevant information on Project 112, which includes the SHAD project, and would require a GAO review of the plan.

Subtitle B—Reports

Claims information (sec. 711)

The Senate amendment contained a provision (sec. 705) that would require the Secretary of Defense, in new managed care support contracts entered into under the TRICARE program on or after October 1, 2002, to adopt new claims requirements that are substantially the same as Medicare claims requirements.

The House bill contained a provision (sec. 711) that would require the Comptroller General to evaluate the continuing impediments to a cost-effective provider and beneficiary-friendly system for TRICARE claims processing.

The House recedes with an amendment that would combine the provisions and limit claims information to the information required for Medicare claims except for information that is uniquely required by the TRICARE program.

Comptroller General report on provision of care under the TRICARE program (sec. 712)

The House bill contained a provision (sec. 712) that would require the Comptroller General to evaluate the nature, reasons, and extent of trends in TRICARE network provider turbulence and the effectiveness of the efforts of the Department of Defense and TRICARE managed care support contractors to measure and mitigate such turbulence.

The Senate amendment contained no similar provision.

The Senate recedes.

Repeal of report requirement (sec. 713)

The House bill contained a provision (sec. 713) that would repeal the TRICARE Senior Prime annual reporting requirement specified in section 712 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398).

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle C—Department of Defense-Department of Veterans Affairs Health Resources Sharing

Revised coordination and sharing guidelines (sec. 721)

The House bill contained a provision (sec. 723) that would require the Secretary of Veterans Affairs and the Secretary of Defense to: (1) enter into agreements and contracts for the mutually beneficial coordination, use, or exchange of the health care resources of the respective Departments; (2) develop and publish a joint strategic vision and plan; (3) establish and jointly fund a Department of Defense-Veterans Affairs health executive committee; (4) establish and fund a joint incentives program; (5) jointly develop guidelines and policies for implementation of coordination and sharing recommendations, contracts, and agreements; and (6) jointly submit an annual report to Congress on health care coordination and sharing activities.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Comptroller General to review the implementation and effectiveness of the joint incentives program and report to the Committees on Armed Services and Veterans' Affairs of the Senate and the House of Representatives on the results of the review. The amendment would also incorporate the reporting requirements contained in separate provisions into the annual joint report required in this provision and would make other technical changes.

Health care resources sharing and coordination project (sec. 722)

The House bill contained a provision (sec. 724) that would require the Secretary of Veterans Affairs and the Secretary of Defense to conduct a health care resources sharing project at no less than five sites to test the feasibility, advantages, and disadvantages of measures and programs designed to improve the sharing and coordination of health care and health care resources between the Department of Veterans Affairs and the Department of Defense.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require health care resources sharing projects at no less than three sites, would remove the requirement to test affording beneficiaries of either Department access to the pharmaceutical services of the other Department, and would require the Comptroller General to provide for an annual onsite review at each of the project locations and report to the Committees on Armed Services and Veterans' Affairs of the Senate and House of Representatives.

The conferees do not anticipate that the "coordinated management system" will disrupt established command and control or established reporting chains for either agency.

Report on improved coordination and sharing of health care and health care resources following domestic acts of terrorism or domestic use of weapons of mass destruction (sec. 723)

The House bill contained a provision (sec. 725) that would require the Secretary of Defense and the Secretary of Veterans Affairs to review the adequacy of current processes and existing statutory authorities and policy governing the capability of the Department of Defense and the Department of Veterans Affairs to provide health care to service members following domestic acts of terrorism or domestic use of weapons of mass destruction, both before and after a declaration of national emergency. The provision would require the Secretaries to report the results to Congress with the fiscal year 2004 budget submission.

The Senate amendment contained no similar provision.

The Senate recedes.

Interoperability of Department of Veterans Affairs and Department of Defense pharmacy data programs (sec. 724)

The House bill contained a provision (sec. 726) that would require the Secretary of Veterans Affairs to adopt the Department of Defense's Pharmacy Data Transaction System.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Veterans Affairs and the Secretary of Defense to seek to ensure that, by October 1, 2004, their respective pharmacy data systems are using national standards for the exchange of outpatient medication information and are interoperable, achieving real-time interface, data exchange, and checking of prescription drug data of outpatients. If interoperability is not achieved by October 1, 2004, the amendment would require the Secretary of Veterans Affairs to adopt the Department of Defense Pharmacy Data Transaction System by October 1, 2005.

The conferees believe the Secretary of Veterans Affairs should consider the National Council for Prescription Drug Program Standards in determining the national standards required for interoperability.

Joint pilot program for providing graduate medical education and training for physicians (sec. 725)

The House bill contained a provision (sec. 727) that would require the Secretary of Defense and the Secretary of Veterans Affairs to conduct a joint pilot program under which graduate medical education and training is provided to military physicians and physician employees of their departments.

The Senate amendment contained no similar provision.

The Senate recedes.

Repeal of certain limits on Department of Veterans Affairs resources (sec. 726)

The House bill contained a provision (sec. 728) that would repeal the limits on the total number of authorized Veterans Administration hospital and nursing home beds.

The Senate amendment contained no similar provision.

The Senate recedes.

Legislative Provisions Not Adopted

Findings and sense of Congress concerning status of health resources sharing between the Department of Veterans Affairs and the Department of Defense

The House bill contained a provision (sec. 722) that would express a sense of Congress that the Secretary of Defense and Secretary of Veterans Affairs should commit their respective Departments to significantly improve mutually beneficial sharing and coordination of health care resources and services during peace and war, build organizational cultures supportive of improved sharing and coordination of health care resources and services, and establish and achieve measurable goals to facilitate increased sharing and coordination of health care resources and services.

The Senate amendment contained no similar provision.

The House recedes.

The conferees strongly support coordination and sharing of health care resources between the Department of Defense and the Department of Veterans Affairs. Federal health care resources are scarce and thus should be effectively and efficiently used. Health care beneficiaries of the Departments of Defense and Veterans Affairs, whether active service members, veterans, retirees, or family members of active or retired service members, should have full access to the health care and services that Congress has authorized for them.

In 1982, Congress authorized the sharing of health resources between Department of Defense medical treatment facilities and Department of Veterans Affairs health care facilities to allow more effective and efficient use of those health resources. The Secretary of Defense and the Secretary of Veterans Affairs, and the appropriate officials of each of the Departments of Defense and Veterans Affairs with responsibilities related to health care, have not taken full advantage of the opportunities provided by law to make their respective health resources available to health care beneficiaries of the other Department in order to provide improved health care for beneficiaries of both health systems.

The conferees are disappointed that, after the many years of support and encouragement from Congress, the Departments have made little progress in health resource sharing and the intended results of the sharing authority have not been achieved. The conferees expect greater cooperation between the Departments in the future.

Reports

The House bill contained a provision (sec. 729) that would require an interim report on the conduct of each program under the Department of Defense-Department of Veterans Affairs Health Resources Sharing and Performance Improvement Act of 2002, an annual report on the use of waiver authorities, a pharmacy benefits report, and an annual report on the pilot program for graduate medical education.

The Senate amendment contained no similar provision.

The House recedes.

The reports contained in this provision have been incorporated in a separate provision.

Restoration of previous policy regarding restrictions on use of Department of Defense medical facilities

The Senate amendment contained a provision (sec. 709) that would repeal the prohibition on using Department of Defense facilities for abortions.

The House bill contained no similar provision.

The Senate recedes.

Short title

The House bill contained a provision (sec. 721) that would entitle Subtitle C of the House Bill the "Department of Defense-Department of Veterans Affairs Health Resources Sharing and Performance Improvement Act of 2002."

The Senate amendment contained no similar provision.

The House recedes.

Title VIII—Acquisition Policy, Acquisition Management, and Related Matters

Legislative Provisions Adopted

Subtitle A—Acquisition Policy and Management

Buy-to-budget acquisition of end items (sec. 801)

The Senate amendment contained a provision (sec. 801) that would authorize the Department of Defense to make the best use of limited resources by acquiring a higher quantity of an end item than the number specified in an authorization or appropriations law or the accompanying report language.

The House bill contained no similar provision.

The House recedes with an amendment that would add a definition of the term "end item" and make certain technical changes to the provision.

Report to Congress on evolutionary acquisition of major defense acquisition programs (sec. 802)

The Senate amendment contained a provision (sec. 802) that would require the Secretary of Defense to submit to the congressional defense committees a report on how the Department of Defense plans to comply with applicable requirements of title 10, United States Code, and Department of Defense regulations when it conducts programs for the incremental acquisition of major systems.

The House bill contained no similar provision.

The House recedes with an amendment that would require the submission of a report on the application of such requirements to the evolutionary acquisition of major defense acquisition programs and make certain technical changes.

Spiral development under major defense acquisition programs (sec. 803)

The Senate amendment contained a provision (sec. 803) that would authorize the Secretary of Defense to conduct a pilot program for the spiral development of major systems. Under the Senate provision, the Secretary would be required to issue guidance on how spiral development programs would be designed to meet key acquisition system objectives and to approve a spiral development plan for each spiral development program.

The House bill contained no similar provision.

The House recedes with an amendment that would: (1) provide permanent authorization to conduct spiral development in lieu of a pilot program; (2) authorize the Secretary to delegate the approval of spiral development plans to designated officials; (3) limit the applicability of the provision to major defense acquisition programs; and (4) give the Secretary greater flexibility in developing guidance.

Improvement of software acquisition processes (sec. 804)

The Senate amendment contained a provision (sec. 804) that would require the secretary of each military department and the head of each defense agency that manages a major defense acquisition program with a substantial software component to establish a program to improve its software acquisition processes.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Department of Defense to ensure that: (1) key program personnel have an appropriate level of experience or training in software acquisition; and (2) criteria used in the selection of sources for software provide appropriate emphasis on the past performance in developing and producing software and the maturity of the software products offered.

Performance goals for procuring services pursuant to multiple award contracts (sec. 805)

The Senate amendment contained a provision (sec. 811) that would establish annual goals for the Department of Defense (DOD) to increase the percentage of services purchases under multiple award contracts that are: (1) entered on the basis of competition with more than one offer received; and (2) performance-based with fixed prices for specific tasks to be performed.

The House bill contained no similar provision.

The House recedes with an amendment that would repeal goals established in the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107) for savings to be achieved through improved management of the Department's $50.0 billion of services contracts. The conference amendment would also: (1) modify the goals for the competitive purchase of services under multiple award contracts to 40 percent for fiscal year 2003, 50 percent for fiscal year 2004, and 75 percent for fiscal year 2011; and (2) modify the goals for performance-based purchases of services under such contracts to 25 percent in fiscal year 2003, 35 percent in 2004, 50 percent in 2005, and 70 percent in 2011. The Secretary of Defense would be authorized to adjust any of these percentage goals upon a determination that such goal is too high and cannot reasonably be achieved.

The conferees understand that the Department has been unable to develop a method for measuring savings achieved through the improved management of services contracts. The goals for competitive and performance-based services contracting established by the conference amendment would establish measurable benchmarks for the increased use of improved management approaches for services contracts.

In the 1990's, the Office of Federal Procurement Policy (OFPP) conducted a government-wide, performance-based service contracting (PBSC) pilot program including 26 contracts from 15 agencies with a combined award value of approximately $585.0 million. OFPP found that, "On average contract price decreased by 15% in nominal dollars after the introduction of PBSC. This does not consider that, absent the conversion to PBSC, additional inflation-related price increases of 16% could have been expected."

The report cautions that all elements of performance-based contracting must be followed in order to achieve optimal success. According to the report, the minimum essential components of performance-based contracting include: performance requirements; measurable performance standards; government quality assurance plans based on measurements of the work against the performance standards; and incentives based on the quality assurance measurements. The conferees are aware of the significant effort that will be required to implement performance-based contracting on an extensive basis.

The conferees also note that significant savings can be found where a non-technical cost type contract is converted to a fixed price performance-based contract. In addition, the Acting Inspector General of the Department of Defense testified in the mid-1990's that the first decade of implementation of the Competition in Contracting Act of 1984 (Public Law 98-396) had resulted in significant cost avoidance. On August 3, 1995, the Acting Inspector General testified that: "While we have seen savings of 5 to over 90 percent from competition, typically competition results in price reductions of 15 to 30 percent." The conferees believe that the Department should be able to achieve significant savings by meeting the performance goals established in this provision.

Rapid acquisition and deployment procedures (sec. 806)

The House bill contained a provision (sec. 808) that would require the Secretary of Defense to develop procedures for the rapid acquisition and deployment of items that a commander of a unified combatant command urgently requires.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would give the Secretary greater flexibility in the development of the required procedures.

Quick-reaction special projects acquisition team (sec. 807)

The House bill contained a provision (sec. 809) that would require the Secretary of Defense to establish a special projects acquisition team to examine and address issues affecting expeditious procurements.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would: (1) require that the quick reaction special projects acquisition team be established by the Under Secretary of Defense for Acquisition, Technology and Logistics; and (2) broaden the categories of issues to be addressed by the team.

Subtitle B—Amendments to General Contracting Authorities, Procedures, and Limitations

Limitation period for task and delivery order contracts (sec. 811)

The House bill contained a provision (sec. 803) that would amend sections 2304a and 2304b of title 10, United States Code, to limit the period of time for which task and delivery order contracts may be awarded to five years—the same time limitation that is applicable to other multiyear contracts.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would amend section 2306c of title 10, United States Code, to provide that multiyear task and delivery order contracts are subject to the same requirements as other multiyear contracts, including the five-year time limitation on such contracts. The amendment would also establish a preference for the award of a multiyear task and delivery order contract to more than one source to ensure competition for task orders and delivery orders throughout the period of the contract. Finally, the amendment would require the Comptroller General to review the contract term of existing single-award and multiple-award task and delivery order contracts (including any options or extensions available under such contracts).

One-year extension of program applying simplified procedures to certain commercial items; report (sec. 812)

The House bill contained a provision (sec. 804) that would extend for one year the pilot program established in section 4202 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106). The provision would also require the Secretary of Defense to report to Congress on the pilot program.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would: (1) require a report by the Comptroller General instead of the Secretary of Defense; and (2) clarify the issues to be addressed in the report.

Extension and improvement of personnel demonstration policies and procedures applicable to the civilian acquisition workforce (sec. 813)

The House bill contained a provision (sec. 806) that would require the Secretary of Defense to develop a plan for improving the policies and procedures applicable to the civilian acquisition workforce, based on the results of the demonstration project authorized by section 4308 of the Clinger-Cohen Act of 1996 (division D of Public Law 104-106; 10 U.S.C. 1706 note).

The Senate amendment contained a provision (sec. 821) that would extend the demonstration project.

The Senate recedes with an amendment that would extend the demonstration project.

Past performance given significant weight in renewal of procurement technical assistance cooperative agreements (sec. 814)

The House bill contained a provision (sec. 812) that would require the Secretary of Defense, to the maximum extent practicable, to renew without reduction in funding any procurement technical assistance cooperative agreement with an eligible entity that has performed successfully under an existing agreement.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary, in conducting a competition for the award of procurement technical assistance cooperative agreements, to give significant weight to successful past performance of eligible entities under existing agreements.

Increased maximum amount of assistance for tribal organizations or economic enterprises carrying out procurement technical assistance programs in two or more service areas (sec. 815)

The Senate amendment contained a provision (sec. 828) that would increase from $300,000 to $600,000 the maximum amount of assistance for tribal organizations or economic enterprises carrying out procurement technical assistance programs in two or more service areas.

The House bill contained no similar provision.

The House recedes.

Extension of contract goal for small disadvantaged businesses and certain institutions of higher education (sec. 816)

The Senate amendment contained a provision (sec. 823) that would extend for three years the contract goal for small disadvantaged businesses and certain institutions of higher education.

The House bill contained no similar provision.

The House recedes.

Grants of exceptions to cost or pricing data certification requirements and waivers of cost accounting standards (sec. 817)

The Senate amendment contained a provision (sec. 812) that would require the Department of Defense (DOD) to issue guidance on grants of exceptions to cost or pricing data certification requirements and waivers of cost accounting standards. The provision would also require the Secretary of Defense to report to the congressional defense committees on certain exceptions to the Truth in Negotiations Act and waivers of the cost accounting standards.

The House bill contained no similar provision.

The House recedes with an amendment that would modify the guidance to be issued on waivers and exceptions to ensure that DOD has the flexibility it needs to grant waivers and extensions when: (1) the property or services could not reasonably be obtained from the contractor or subcontractor without the grant of the exception or waiver; (2) the price can be determined to be a fair and reasonable price; and (3) there are demonstrated benefits from granting the waiver or exception. The conference amendment would also streamline the reporting requirements in the provision by requiring an annual report instead of a semiannual report and eliminating the requirement in the Senate bill for advance notice to Congress of certain waivers and exceptions.

Timing of certification in connection with waiver of survivability and lethality testing requirements (sec. 818)

The Senate amendment contained a provision (sec. 806) that would modify the authority of the Secretary of Defense to waive the requirement for survivability and lethality tests for major weapon programs in order to correspond with the revised acquisition milestones in the Department's new acquisition regulations.

The House bill contained no similar provision.

The House recedes.

Contracting with Federal Prison Industries (sec. 819)

The House bill contained a provision (sec. 811) that would: (1) require the Secretary of Defense to use competitive procedures to acquire products or services from Federal Prison Industries (FPI); (2) clarify that a Department of Defense (DOD) contractor may not be required to use FPI as a subcontractor or supplier of products or services; and (3) prohibit the Department from entering any contract with FPI under which an inmate worker would have access to classified or sensitive information.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would modify the provision to ensure that it is consistent with the approach taken by section 811 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107), while reinforcing the requirement of that provision that DOD contracting officials shall have sole discretion to determine whether FPI products and services meet the Department's needs in terms of price, quality, and time of delivery.

If DOD officials determine that an FPI product or service is not comparable to the best products or services available from the private sector, the Department is directed to purchase the product on a competitive basis. The requirement for competition under this section may be met by the award of a new contract on a competitive basis or through a purchase under an existing multiple award contract pursuant to competition requirements included in section 803 of the National Defense Authorization Act for Fiscal Year 2002 and other applicable provisions of law and regulation. In either case, the Department must consider a timely offer from FPI in accordance with the specifications and evaluation factors specified in the solicitation or other request for offers.

Revisions to multiyear contracting authority (sec. 820)

The House bill contained a provision (sec. 141) that would amend section 2306b of title 10, United States Code, to clarify that: (1) funds available for a multiyear contract may be used only for the procurement of complete and usable end items; and (2) funds available for advance procurement may be used only for the procurement of long-lead items necessary to meet a planned delivery schedule for complete major end items.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would permit the purchase of economic order quantities of long-lead items where authorized by law. The conference amendment would also clarify that nothing in the section authorizes the use of funds available under contracts awarded prior to the effective date of the provision for any purpose other than the purpose for which such funds were authorized and appropriated. Consequently, although the section would not apply to contracts awarded before the date of enactment, funds available under such contracts could not be used in a manner that would be inconsistent with the requirements of the section unless such funds were authorized and appropriated for such purposes.

Subtitle C—Acquisition-Related Reports and Other Matters

Evaluation of training, knowledge, and resources regarding negotiation of intellectual property arrangements (sec. 821)

The House bill contained a provision (sec. 802) that would require the Secretary of Defense to evaluate the training, knowledge, and resources needed by the Department to effectively negotiate intellectual property rights.

The Senate amendment contained no similar provision.

The Senate recedes.

Independent technology readiness assessments (sec. 822)

The Senate amendment contained a provision (sec. 805) that would require the Department of Defense to explain any decision not to conduct an independent technology readiness assessment for a critical technology on a major defense acquisition program.

The House bill contained no similar provision.

The House recedes.

Extension and amendment of requirement for annual report on defense commercial pricing management improvement (sec. 823)

The Senate amendment contained a provision (sec. 813) that would extend the requirement that the Secretary of Defense submit to the congressional defense committees an annual report on price trend analyses for commercial items purchased by the Defense Logistics Agency (DLA) and the military departments.

The House bill contained no similar provision.

The House bill recedes with an amendment that would clarify the requirement for the Secretary of each military department and the Director of the DLA to conduct price trend analyses to identify and address any unreasonable escalation in prices paid for items procured by that military department or agency.

Assessment of purchases of products and services through contracts with other Federal departments and agencies (sec. 824)

The Senate amendment contained a provision (sec. 815) that would require the Secretary of Defense to carry out an assessment to determine the amount paid by the Department of Defense as fees for the acquisition of property and services under contracts entered by other federal departments and agencies and whether these amounts could be put to better use.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Department to consider both the costs and the benefits of using contracts entered by other federal departments and agencies.

Repeal of certain requirements and Comptroller General reviews of the requirements (sec. 825)

The Senate amendment contained a provision (sec. 825) that would repeal statutory requirements for review by the Comptroller General of programs conducted pursuant to certain legislative authority that has never been utilized.

The House bill contained no similar provision.

The House recedes with an amendment that would repeal the authority to conduct programs pursuant to these sections. The conferees have determined that the legislative authority provided by sections 912, 5312, and 5401 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106) has never been used and is not likely to be needed. For this reason, the conference amendment would repeal all three provisions.

Multiyear procurement authority for purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products (sec. 826)

The Senate amendment contained a provision (sec. 826) that would authorize the Secretary of Defense to enter into contracts for periods of up to 10 years for dinitrogen tetroxide, hydrazine, and hydrazine-related products.

The House bill contained no similar provision.

The House recedes.

Multiyear procurement authority for environmental services for military installations (sec. 827)

The Senate amendment contained a provision (sec. 827) that would authorize the use of multiyear contracts for the acquisition of environmental remediation services.

The House bill contained no similar provision.

The House recedes.

Report on effects of Army Contracting Agency (sec. 828)

The Senate amendment contained a provision (sec. 830) that would require the Secretary of the Army to report to Congress on the effects of the establishment of an Army Contracting Agency on small business participation in Army procurements.

The House bill contained no similar provision.

The House recedes.

The conferees note that the Army expects to eliminate approximately 200 unneeded positions as a result of this reorganization. The conferees direct the Secretary to review the Army's requirements for acquisition personnel—including shortcomings identified in Department of Defense Inspector General reports D–2000–088 (February 29, 2000) and D–2000–100 (March 10, 2000)—and to determine whether some of the resources saved as a result of the reorganization should be reinvested to shape a more productive acquisition workforce for the future. The results of the Secretary's review should be forwarded to the congressional defense committees with the report required by this section.

Authorization to take actions to correct the industrial resource shortfall for radiation-hardened electronics (sec. 829)

The conference agreement includes a provision that would authorize the Department of Defense to take actions to correct the industrial resource shortfall for radiation-hardened electronics, notwithstanding the limitation in section 303(a)(6)(C) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)(6)(C)), as long as such actions do not cause the aggregate outstanding amount of all such actions to exceed **$106.0** million.

LEGISLATIVE PROVISIONS NOT ADOPTED

Authority for nonprofit organizations to self-certify eligibility for treatment as qualified organizations employing severely disabled under Mentor-Protege Program

The Senate amendment contained a provision (sec. 829) that would permit nonprofit organizations employing the severely disabled to self-certify their eligibility to participate in the Department of Defense Mentor-Protege Program.

The House bill contained no similar provision.

The Senate recedes.

Authority to make inflation adjustments to simplified acquisition threshold

The House bill contained a provision (sec. 805) that would authorize the Administrator of the Office of Federal Procurement Policy to adjust the simplified acquisition threshold every five years to account for inflation.

The Senate amendment contained no similar provision.

The House recedes.

Mentor-Protege Program eligibility for HUBZone small business concerns and small business concerns owned and controlled by service-disabled veterans

The Senate amendment contained a provision (sec. 824) that would add HUBZone small business concerns and small business concerns owned and controlled by service-disabled veterans to the list of organizations eligible to participate in the Mentor-Protege Program of the Department of Defense.

The House bill contained no similar provision.

The Senate recedes.

Modification of scope of ball and roller bearings covered for purposes of procurement limitation

The House bill contained a provision (sec. 807) that would expand a prohibition on the purchase of ball or roller bearings from sources outside the United States to cover unconventional or hybrid ball and roller bearings, cam follower bearings, ball screws, and other derivatives of ball and roller bearings.

The Senate amendment contained no similar provision.

The House recedes.

Moratorium on reduction of the defense acquisition and support workforce

The Senate amendment contained a provision (sec. 822) that would impose a moratorium on reductions in the defense acquisition and support workforce during fiscal years 2003, 2004 and 2005.

The House bill contained no similar provision.

The Senate recedes.

Pilot program for transition to follow-on contracts for prototype projects

The Senate amendment contained a provision (sec. 816) that would establish a pilot program for the transition of prototype projects to follow-on production contracts.

The House bill contained no similar provision.

The Senate recedes.

Plan for acquisition management professional exchange pilot program

The House bill contained a provision (sec. 801) that would require the Secretary of Defense to develop a plan for a pilot program for the exchange of acquisition management personnel between the Department of Defense and private sector organizations.

The Senate amendment contained no similar provision.

The House recedes.

Report on development of anticyberterrorism technology

The House bill contained a provision (sec. 810) that would require the Secretary of Defense to submit a report to Congress on anticyberterrorism technology.

The Senate amendment contained no similar provision.

The House recedes.

The material covered by the House provision would be addressed in a report on homeland security required elsewhere in the bill.

Waiver authority for domestic source or content requirements

The Senate amendment contained a provision (sec. 817) that would authorize the Secretary of Defense to waive the application of statutory domestic source requirements and domestic content requirements in certain circumstances.

The House bill contained no similar provision.

The Senate recedes.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Duties and Functions of Department of Defense Officers

Under Secretary of Defense for Intelligence (sec. 901)

The Senate amendment contained a provision (sec. 907) that would amend Chapter 4 of title 10, United States Code, to establish the position of Under Secretary of Defense for Intelligence.

The House bill contained no similar provision.

The House recedes with an amendment that would make clear that the establishment of this new position does not supercede or modify the authorities of the Secretary of Defense and the Director of Central Intelligence as established by the National Security Act of 1947. It would also require the Secretary of Defense to submit a report to Congress within 90 days after enactment on the establishment of the position of Under Secretary of Defense for Intelligence, including mission, organizational structure, and relationships.

Reorganization of Office of Secretary of Defense for administration of duties relating to homeland defense and combating terrorism (sec. 902)

The conferees agree to include a provision that would amend Chapter 4 of title 10, United States Code, to establish the position of Assistant Secretary of Defense for Homeland Defense; transfer the responsibility for the overall direction and supervision for policy, program planning and execution, and allocation of resources for the activities of the Department of Defense for combating terrorism to the Under Secretary of Defense for Policy; and repeal the contingent reduction in the number of assistant secretaries of defense.

Subtitle B—Space Activities

Oversight of acquisition for defense space programs (sec. 911)

The Senate amendment contained a provision (sec. 133) that would require the Office of the Secretary of Defense to maintain oversight of acquisition for defense space programs. The provision would also require the Secretary of Defense to submit a detailed plan on how such oversight will be provided.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

The conferees understand that the Department of Defense is planning to change the way defense space programs are overseen in an effort to reduce the decision cycle time for these programs. The conferees believe that any changes to the oversight process should not detract from the ability of the Office of the Secretary of Defense and the Joint Requirements Oversight Council to provide meaningful oversight of space programs. The conferees also believe that because space programs are inherently joint programs, each of the military services should have a strong voice in space program acquisition decisions.

The conferees note that the conference report accompanying the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107) discussed the "virtual major force program (MFP)" for space activities established by the Secretary of Defense and expressed the conferees' expectations that the virtual space MFP would be submitted along with the fiscal year 2003 budget. However, the virtual space MFP still has not been submitted.

The conferees note that the virtual space MFP is an important tool for providing better visibility and insight into space programs and are disappointed that the Secretary of Defense has not yet submitted it to Congress. The conferees therefore direct the Secretary of Defense to submit the current version of the virtual MFP for space activities to the congressional defense and intelligence committees no later than January 15, 2003, and furthermore direct the Secretary of Defense to submit the virtual MFP for space activities along with the fiscal year 2004 budget request and all future budget requests.

Report regarding assured access to space for the United States (sec. 912)

The Senate amendment contained a provision (sec. 136) that would set forth the sense of Congress that the Under Secretary of the Air Force should evaluate all options for sustaining the United States space launch industrial base, develop an integrated, adequately funded, long-range plan for access to space, and submit a report on that plan as soon as practicable. The provision also included a series of findings.

The House bill contained no similar provision.

The House recedes with an amendment that would delete the findings portion of the provision and require the Secretary of Defense to evaluate options for sustaining the space launch industrial base; to develop an integrated, adequately funded, long-range plan for assuring access to space; and to submit a report to Congress on this plan.

The conferees agree that providing assured reliable access to space is a vital national security interest of the United States. One of the critical elements of assured access to space is the Air Force Evolved Expendable Launch Vehicle (EELV) program. This program will be a new approach for the Air Force and the Department of Defense (DOD). Instead of buying individual rockets to launch space payloads, the Air Force and DOD will now buy launch services. The contractors supplying the launch services will also supply launches to commercial customers. The EELV program is intended to provide reliable, assured, launch services for a variety of payload types and weights, at reduced cost.

Since the beginning of the EELV program, significant contraction in the commercial space launch market has eroded the overall viability of the United States space launch industrial base and could hamper the ability of DOD to provide assured access to space in the future. The continuing viability of the United States space launch industrial base is a critical element of any strategy to ensure the long-term ability of the United States to assure access to space. The Under Secretary of the Air Force, as acquisition executive for DOD space programs, has been authorized to develop a strategy to address United States space launch and other requirements to support assured access to space. This strategy should serve as the basis of the integrated, long-range, adequately funded plan for assured access to space that the Secretary of Defense is required to submit to Congress by March 1, 2003.

Subtitle C—Reports

Report on establishment of United States Northern Command (sec. 921)

The House bill contained a provision (sec. 902) requiring the Secretary of Defense to submit to the congressional defense committees a report on an implementation plan for the United States Northern Command that addresses organizational, legal, diplomatic, budgetary, and personnel matters associated with the establishment of that command.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would change the date by which the report must be submitted and clarifies the items to be addressed by the report.

Time for submittal of report on Quadrennial Defense Review (sec. 922)

The House bill contained a provision (sec. 904) that would amend section 118 of title 10, United States Code, to change the submission date of the report on each quadrennial defense review to the Committees on Armed Services of the Senate and House of Representatives to the second year after a year divisible by four.

The Senate amendment contained a similar provision (sec. 901) that would change the submission date of the report from September 30 of the year in which the review is conducted to no later than the date in the following year on which the President submits the budget for the next fiscal year to Congress.

The House recedes.

National defense mission of Coast Guard to be included in future Quadrennial Defense Reviews (sec. 923)

The House bill contained a provision (sec. 903) that would amend section 118(d) of title

10, United States Code, to require the Secretary of Defense to include the defense mission of the U.S. Coast Guard when conducting future Quadrennial Defense Reviews.

The Senate amendment contained no similar provision.

The Senate recedes.

Report on establishment of a Joint National Training Complex and joint opposing forces (sec. 924)

The House bill contained a provision (sec. 1015) that would require the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and House of Representatives that outlines a plan to develop and operate a Joint National Training Complex capable of supporting field exercises and experimentation at the operational level of war across a broad spectrum of adversary capabilities.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would have the commander of the United States Joint Forces Command outline a plan that would provide for the development and implementation of a joint national training concept together with the establishment of a joint training complex for supporting the implementation of that concept. The Secretary of Defense would submit the report, together with any comments he considers appropriate and any comments that the Chairman of the Joint Chiefs of Staff considers appropriate.

Subtitle D—Other Matters

Authority to accept gifts for National Defense University (sec. 931)

The House bill contained a provision (sec. 907) that would amend section 2605 of title 10, United States Code, to authorize the Secretary of Defense to accept gifts for the National Defense University in a manner similar to the authority to accept gifts for defense dependents' schools.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would add a new section to Chapter 155 of title 10, United States Code, for this purpose; would specifically authorize the acceptance of gifts from an international organization and a foreign gift; and would make other clarifying amendments.

Western Hemisphere Institute for Security Cooperation (sec. 932)

The Senate amendment contained a provision (sec. 905) that would amend section 2166 of title 10, United States Code, to authorize the Secretary of Defense to accept foreign gifts or donations of funds, materials, property, or services in order to defray the costs of, or enhance the operation of, the Western Hemisphere Institute for Security Cooperation. It would also provide that the Secretary's annual report to Congress on the Institute shall include a copy of the latest report of the Board of Visitors, together with any comment of the Secretary on the Board's report.

The House bill contained no similar provision.

The House recedes.

Conforming amendment to reflect disestablishment of Department of Defense Consequence Management Program Information Office (sec. 933)

The House bill contained a provision (sec. 906) that would amend section 12310(c)(3) of title 10, United States Code, to strike a reference to the Department of Defense Consequence Management Program Integration Office (COMPIO). The provision reflects the fact that the Deputy Secretary of Defense disestablished COMPIO on February 14, 2001, directing that its functions be integrated into existing Department of Defense organizations and processes to ensure greater effectiveness and oversight of programs.

The Senate amendment included an identical provision (sec. 1042) under a different title.

The House recedes with an amendment modifying the title.

Increase in number of Deputy Commandants of the Marine Corps (sec. 934)

The House bill contained a provision (sec. 501) that would increase the authorized number of deputy commandants at Headquarters, United States Marine Corps, from five to six.

The Senate amendment contained an identical provision (sec. 902).

The conference agreement includes this provision.

LEGISLATIVE PROVISIONS NOT ADOPTED

Change in title of Secretary of the Navy to the Secretary of the Navy and the Marine Corps

The House bill contained a provision (sec. 901) that would redesignate the title of the Secretary of the Navy to the Secretary of the Navy and the Marine Corps.

The Senate amendment contained no similar provision.

The House recedes.

The conferees consider the proposal to change the title of the Secretary of the Navy to the Secretary of the Navy and Marine Corps a serious initiative deserving more study and deliberation, including hearings. While some misunderstandings may stem from the traditional reliance on the singular term "Navy" to encompass all the sea services, the conferees consider it essential to consider additional factors and considerations, including historical antecedents. The conferees agree to provide maximum opportunities during the 108th Congress for interested individuals and groups to provide information and recommendations regarding this important issue.

Report on effect of operations other than war on combat readiness of the Armed Forces

The House bill contained a provision (sec. 905) requiring the Secretary of Defense to submit a report to the Committees on Armed Services of the Senate and House of Representatives on the effect of operations other than war on the combat readiness of the Armed Forces.

The Senate amendment contained no similar provision.

The House recedes.

The conferees understand that the Department of Defense (DOD) has initiated improvements to readiness reporting in the new Defense Readiness Reporting System (DRRS). The conferees expect that this system will provide greater visibility into the impact of all types of operations, including operations other than war, on the ability of U.S. forces to conduct their assigned missions. The conferees direct DOD, in implementing DRRS, to ensure that it captures readiness effects not only for forces that are directly engaged in operations, but also for those forces and units that are preparing to participate in or are re-training after recent deployments.

The conferees also understand that DOD has commissioned, and continues to commission, studies by various groups and organizations on the broader effects of operational deployments, including their impact on recruiting, retention, and performance. Given the importance of these issues, the conferees expect that these reports will also be provided to the congressional defense committees.

TITLE X—GENERAL PROVISIONS

Deferral of expenditures on financial management and feeder systems

Section 1004 of the conference agreement accompanying the National Defense Authorization Act for Fiscal Year 2003 would require the Secretary of Defense to develop a financial management enterprise architecture and a transition plan for implementing that architecture. Under this provision, expenditures for financial management system improvements in excess of $1.0 million would be permitted only if the Under Secretary of Defense (Comptroller) determines that such expenditures are necessary to meet critical requirements or prevent significant adverse effects on projects needed to achieve essential capabilities.

Titles I, II and III of the conference report include reductions totaling $400.0 million, in proportion to proposed spending on information technology development modernization for functional area applications in each account. The specific reductions reflected in these titles are as follows:

Other Procurement, Army—$53.2 million;

Other Procurement, Navy—$20.6 million;

Other Procurement, Air Force—$12.0 million;

Procurement, Marine Corps—$3.4 million;

Other Procurement, Defense-wide—$3.5 million;

Research and Development, Army—$17.7 million;

Research and Development, Navy—$25.6 million;

Research and Development, Air Force—$27.2 million;

Research and Development, Defense-wide—36.6 million;

Defense Health Programs—$32.1 million;

Defense Working Capital Fund Operations—$148.6 million;

Operation and Maintenance, Defense-wide—$19.5 million.

The conferees expect the Department to achieve these reductions by implementing the requirements of section 1004 and restricting the development of Department of Defense business systems until the Department has completed its proposed architecture and transition plan and is in a position to ensure that business system expenditures will be consistent with that architecture and plan.

The conferees note that section 1507 of the conference report would authorize the Secretary of Defense to transfer funds out of the contingency fund authorized by title XV to offset the reductions described above, in the event that the Secretary determines that the required savings are not achievable.

Drug interdiction and counterdrug activities

The budget request included $998.7 million for drug interdiction and counterdrug activities of the Department of Defense, $848.9 million in the central transfer account and $149.8 million in the operating budgets of the military services for authorized counterdrug operations.

The conferees agree to the following fiscal year 2003 budget for the Department's counterdrug activities:

DRUG INTERDICTION AND COUNTERDRUG ACTIVITIES, CENTRAL TRANSFER ACCOUNT

[In thousands of dollars; may not add due to rounding]

Fiscal Year 2003 Counterdrug Request	$848.9
Increases:	
National Guard Support	23.5
National Guard C-26 Aircraft	2.1

Mexico Information Analysis Center	1.5
Southwest Border Fence	6.7
Decreases:	
1404 DEA Support	1.3
4208 Hemispheric Radar System	5.0
3348 TAGOS	12.0
1401 NIMA CD Support	.5
1102 ADNET	.5
2440 CMS	2.0
9203 Mexico Training	1.5
Fiscal Year 2003 Counterdrug Funding	859.9

Improved management of Department of Defense contracting for services

Section 802 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) established goals for improved management of the Department's $50.0 billion of services contracts. The conference report would repeal these statutory goals and establish new goals for the increased use of performance-based services contracts and competitive purchases of services under multiple award contracts.

Titles I, II and III of the conference report accompanying the National Defense Authorization Act for Fiscal Year 2003 include reductions totaling $600.0 million, to be achieved through the implementation of the new statutory goals and other improvements in the management of services contracts. The specific reductions reflected in these titles are as follows:

Aircraft Procurement, Army—$3.7 million;

Missile Procurement, Army—$2.9 million;

Procurement of Wheeled and Tactical Vehicles, Army—$4.0 million;

Procurement of Ammunition, Army—$2.0 million;

Other Procurement, Army—$9.2 million;

Aircraft Procurement, Navy—$5.7 million;

Weapons Procurement, Navy—$2.3 million;

Shipbuilding and Conversion, Navy—$5.7 million;

Procurement of Ammunition, Navy & Marine Corps—$0.7 million;

Other Procurement, Navy—$3.0 million;

Procurement, Marine Corps—$0.9 million;

Other Procurement, Air Force—$1.5 million;

Procurement, Defense-Wide—$1.1 million;

Research and Development, Army—$9.7 million;

Research and Development, Navy—$4.9 million;

Research and Development, Air Force—$31.9 million;

Research and Development, Defense-wide—$17.8 million;

Operation and Maintenance, Army—$135.9 million;

Operation and Maintenance, Navy—$107.5 million;

Operation and Maintenance, Air Force—$149.2 million;

Operation and Maintenance, Marine Corps—$11.5 million;

Operation and Maintenance, Defense-wide—$90.0 million.

The conferees expect the Department to distribute these reductions across budget activities and programs within the relevant appropriations accounts, based on the dollar value of contracts within those budget activities and programs to which improvements may be appropriately applied.

The conferees note that section 1507 of the conference report would authorize the Secretary of Defense to transfer funds out of the contingency fund authorized by title XV to offset the reductions described above, in the event that the Secretary determines that the required savings are not achievable.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Financial Matters

Transfer authority (sec. 1001)

The House bill contained a provision (sec. 1001) that would provide $2.0 billion in transfer authority among accounts in Division A of this Act for fiscal year 2003.

The Senate amendment contained a similar provision (sec. 1001) that would provide $2.5 billion in transfer authority.

The Senate recedes with an amendment that would provide $2.0 billion in transfer authority for fiscal year 2003 and would increase the transfer authority for fiscal year 2002 from $2.0 billion to $2.5 billion.

Authorization of supplemental appropriations for fiscal year 2002 (sec. 1002)

The House bill contained a provision (sec. 1002) that would authorize supplemental appropriations for the Department of Defense and the national security activities of the Department of Energy for fiscal year 2002. The House bill would also require prior notification before funds were transferred from the Defense Emergency Response Fund (DERF) or other transfer accounts.

The Senate amendment contained a similar provision (sec. 1004).

The Senate recedes with an amendment that would authorize supplemental appropriations for the Department of Defense and the national security activities of the Department of Energy for fiscal year 2002 contained in the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States (Public Law 107–206) and would require a report on all Department of Defense transfers from the DERF or other transfer accounts during fiscal year 2002.

United States contribution to NATO common-funded budgets in fiscal year 2003 (sec. 1003)

The Senate amendment contained a provision (section 1005) that would authorize the U.S. contribution to NATO common-funded budgets for fiscal year 2003, including the use of unexpended balances from prior years. The resolution of ratification for the Protocol to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary and the Czech Republic contained a provision (section 3(2)(c)(ii)) requiring a specific authorization for U.S. payments to the common-funded budgets of NATO for each fiscal year, beginning in fiscal year 1999, that payments exceed the fiscal year 1998 total.

The House bill contained no similar provision.

The House recedes.

Development and implementation of financial management enterprise architecture (sec. 1004)

The House bill contained a provision (sec. 1007) that would: (1) require the Secretary of Defense to submit a report to the congressional defense committees on the goals and objectives of the financial management modernization plan of the Department of Defense (DOD); and (2) require the approval of the DOD Comptroller prior to any new contract for the acquisition or upgrade of a financial management or feeder system.

The Senate amendment contained a provision (sec. 1006) that would: (1) require the Secretary to develop a comprehensive financial management enterprise architecture for all DOD budgetary, accounting, finance and data systems; and (2) require the approval of the Financial Management Modernization Executive Committee for any significant expenditures on financial system improvements that would be inconsistent with the new architecture.

The House recedes with an amendment that would: (1) extend the deadline for the development of the new enterprise architecture; (2) require the DOD Comptroller, rather than the Financial Management Modernization Executive Committee, to approve significant new expenditures; (3) repeal outdated reporting requirements and substitute a streamlined annual report on compliance with the new requirements; and (4) harmonize the language of the provision with existing guidance issued by DOD and the Office of Management and Budget.

Accountable officials in the Department of Defense (sec. 1005)

The House bill contained a provision (sec. 1004) that would authorize the Secretary of Defense to designate certain Department of Defense employees and members of the Armed Forces as departmental accountable officials who could be held pecuniarily liable for illegal, improper, or incorrect payments when the official who certified payment relied on information provided through fault or negligence of the departmental accountable official.

The Senate amendment contained a similar provision (sec. 1007).

The Senate recedes with a clarifying amendment.

Uniform standards throughout Department of Defense for exposure of personnel to pecuniary liability for loss of Government property (sec. 1006)

The Senate amendment contained a provision (sec. 1008) that would authorize any officer of the Armed Forces or any civilian employee of the Department of Defense designated by regulation to act on reports of survey and vouchers pertaining to the loss, spoilage, unserviceability, unsuitability, destruction of, or damage to, property of the United States under the control of the Department of Defense.

The House bill contained a similar provision (sec. 1003).

The House recedes with a clarifying amendment.

Improvements in purchase card management (sec. 1007)

The House bill contained a provision (sec. 1005) that would require the Secretary of Defense to prescribe regulations including safeguards and internal controls for the use of purchase cards by Department of Defense personnel.

The Senate amendment contained a similar provision (sec. 814).

The Senate recedes with an amendment that would provide additional detail on required audits and purchase card policies. The amendment would also clarify that required training and reviews are to be conducted on a periodic basis, rather than an annual basis. The conferees direct the Department to conduct annual training and reviews in calendar years 2003 and 2004 but understand that less frequent training and reviews may be adequate to protect the Department's interests in subsequent years.

The conferees direct the Comptroller General to review the actions that have been taken within the Department of Defense to comply with the requirements of this section and submit a report on those actions to the congressional defense committees no later than one year after the date of enactment of this Act.

Improvements in travel card management (sec. 1008)

The Senate amendment contained a provision (sec. 1009) that would authorize direct payment to the issuer of a Defense travel card of official travel or transportation expenses charged on the Defense travel card by a Department of Defense employee or member.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize direct payment to the issuer of a Defense travel card of official travel or transportation expenses charged on the Defense travel card by a Department of Defense employee or member and by former employees of the Department of Defense and retired members of the Armed Forces who are receiving retired pay.

Clearance of certain transactions recorded in Treasury suspense accounts and resolution of certain check issuance discrepancies (sec. 1009)

The Senate amendment contained a provision (sec. 1010) that would authorize the Department of Defense to cancel longstanding debit and credit transactions that cannot be cleared from the Department's books because they have been misrecorded to the wrong appropriation.

The House bill contained no similar provision.

The House recedes with a technical amendment.

The conferees direct the Comptroller General to review the Department's use of the authority provided by this section and report any findings and recommendations he may have to the congressional defense committees no later than six months after the date on which such authority expires.

Authorization of funds for ballistic missile defense programs or combating terrorism programs of the Department of Defense (sec. 1010)

The Senate amendment contained a provision (sec. 1011) that would authorize $814.3 million, the amount by which the Senate bill reduced funding for ballistic missile defense programs, for whichever of the following purposes the President determines to be in the national security interests of the United States:

(1) Research, development, test and evaluation (RDT&E) of ballistic missile defense (BMD) programs of the Department of Defense (DOD); and

(2) DOD activities for combating terrorism. The amendment would reduce the amount authorized to be appropriated for other defense programs by $814.3 million to reflect amounts that the Secretary of Defense determines unnecessary by reason of a revision of assumptions regarding inflation. The amendment would also specify that the top priority for the use of additional funds made available by a lower rate of inflation shall be combating terrorism.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize an additional $814.3 million to be available for RDT&E of BMD programs and activities of DOD to combat terrorism, whichever the President determines to be in the national security interests of the United States. The amendment would also require the Secretary of Defense to report to the congressional defense committees on the allocation of the funds pursuant to the President's determination and the basis for such determination.

Reduction in overall authorization due to inflation savings (sec. 1011)

The Senate amendment contained a provision (sec. 1011) that would reduce the amount authorized to be appropriated to the Department of Defense by $814.3 million to reflect the reduced inflation estimates included in the Office of Management and Budget's 2002 mid-session review of the budget.

The House bill contained no similar provision.

The House recedes with an amendment that would reduce the amounts authorized to be appropriated for the operation and maintenance, procurement, and research and development accounts in this Act by $1.0 billion to reflect these inflation savings. The reductions would be allocated among the accounts in these titles to reflect the extent to which inflation savings are available in each account.

The conferees direct the Secretary to ensure the allocation of any inflation reductions is included in the applicable base for reprogramming reports that the Department submits to Congress.

Subtitle B—Naval Vessels and Shipyards

Number of Navy combatant surface vessels in active and reserve service (sec. 1021)

The Senate amendment contained a provision (sec. 1021) that would require the Secretary of the Navy to submit a report should the surface combatant ship active and reserve force drop below 116 ships. The provision would also require the Secretary to retain on the Naval Vessel Register a sufficient number of ships which could be reactivated within 120 days notice to provide a surge capability to regain the level of 116 surface combatants described in the 2001 Quadrennial Defense Review.

The House bill contained no similar provision.

The House recedes with an amendment that would incorporate the requirements of the Senate provision in title 10, United States Code.

Annual long-range plan for the construction of naval vessels (sec. 1022)

The Senate amendment contained a provision (sec. 1024) that would require the Secretary of Defense to submit, with the annual budget request, a 30-year shipbuilding plan.

The section also included a number of findings, including:

(1) Navy ships provide a forward presence for the United States that is key to the national defense of the United States.

(2) The Navy has demonstrated that its ships contribute significantly to homeland defense.

(3) The Navy's ship recapitalization plan is inadequate to maintain the ship force structure that is described as the current force in the 2001 Quadrennial Defense Review.

(4) The Navy is decommissioning ships as much as 10 years earlier than the projected ship life upon which ship replacement rates are based.

(5) The current force was assessed in the 2001 Quadrennial Defense Review as having moderate to high risk, depending on the scenario considered.

The House bill contained no similar provision.

The conferees agree with the findings included in the Senate provision.

The House recedes with an amendment that would remove the findings from the provision but would support the required annual long-range plan.

Assessment of the feasibility of the expedited equipping of a Navy ship with a version of the 155-millimeter Advanced Gun System (sec. 1023)

The Senate amendment contained a provision (sec. 1022) that would require the Secretary of the Navy to submit a plan for fielding a 155-millimeter gun on a ship not later than the end of fiscal year 2006.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Navy to submit a feasibility assessment of fielding a 155- millimeter gun on a ship not later than the end of fiscal year 2006.

Report on initiatives to increase operational days of Navy ships (sec. 1024)

The Senate amendment contained a provision (sec. 1023) that would require the Under Secretary of Defense for Acquisition, Technology, and Logistics to submit, to the Committees on Armed Services of the Senate and House of Representatives, a report on initiatives to increase the ship operational days available to regional combatant commanders without increasing the number of ships and without extending deployments.

The House bill contained no similar provision.

The House recedes with an amendment that would require that the report include an assessment of how the Navy would conduct routine programmed ship maintenance for Navy ships that would remain in forward operating areas.

Ship combat system industrial base (sec. 1025)

The House bill contained a provision (sec. 1030) that would require the Secretary of Defense to report to the congressional defense committees on the effect of the DD(X) contract award on the industrial base for ship combat system development, including ship systems integration, radar electronic warfare, launch systems, and other components.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Sense of Congress concerning aircraft carrier force structure (sec. 1026)

The House bill contained a provision (sec. 1028) that would state the sense of Congress that there should be at least 12 aircraft carriers.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Conveyance, Navy drydock, Portland, Oregon (sec. 1027)

The House bill contained a provision (sec. 1025) that would authorize the Secretary of the Navy to sell a drydock in Portland, Oregon to Portland Shipyard, LLC for fair market value.

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle C—Strategic Matters

Strategic force structure plan for nuclear weapons and delivery systems (sec. 1031)

The House bill contained a provision (sec. 1014) that would require the Secretaries of Defense and Energy to jointly prepare a baseline nuclear force structure plan for the period covered by, and consistent with, the Nuclear Posture Review submitted to Congress on January 8, 2002. The plan would include the warheads, weapon systems, and delivery vehicles required to execute the national defense strategy, as well as the infrastructure, modernization and life extension plans, and other elements of the defense program of the United States necessary to sustain that force structure. The section would require submission of a report to the congressional defense committees on the force structure and a budget plan to support that force structure by January 1, 2003, but would permit the President to defer submission of the report to a certain date should the President determine that it is in the national security interest of the United States to submit the report on a later date. Finally, the provision would require a report to be submitted to Congress by the Secretary of Energy on options for achieving, prior to fiscal year 2012, a posture under which the United States maintains no more than 1700–2200 deployed nuclear weapons and that would look at achieving such levels of such weapons in fiscal years 2006, 2008 and 2010.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would add additional elements to and modify the scope of the report. The amendment would also require both the Secretary of Defense and Energy to evaluate the advantages and disadvantages of options to reduce the level of operationally deployed nuclear weapons to 1,700–2,200 warheads as early as 2007. While the Secretaries may choose the range of dates to be considered as options one of those options must be the achievement of the warhead goal of 1,700–2,200 operationally deployed warheads by 2007. The provision would require the Secretaries to submit the report to the congressional defense committees no later than March 1, 2003.

Annual report on weapons to defeat hardened and deeply buried targets (sec. 1032)

The Senate amendment contained a provision (sec. 1032) that would require the Secretary of Defense, in conjunction with the Secretary of Energy and the Director of Central Intelligence, to submit an annual report on the research and development activities under their respective jurisdictions during the preceding fiscal year to develop a weapon to defeat hardened and deeply buried targets. The report would be submitted no later than April 1 of each year.

The House bill contained no similar provision.

The House recedes with an amendment that would expand the report to include procurement and other activities undertaken to develop a weapon to defeat hardened and deeply buried targets. In addition, the activities of the defense agencies would be specifically included in the report, and the reporting requirement would be limited to five years.

The conferees are concerned that substantial amounts of money are being spent for a wide variety of hardened and deeply buried target-related activities within the defense and intelligence communities and that these many programs are not sufficiently coordinated. The conferees believe this report will be useful to ensure that the hardened and deeply buried target challenge is addressed in a coordinated way to meet established requirements and that the funds are spent efficiently.

Report on effects of nuclear earth-penetrator weapon and other weapons (sec. 1033)

The House bill contained a provision (sec. 1018) that would direct the Secretary of Defense to request the National Academy of Sciences to conduct a study and prepare a report on the short and long-term effects on the surrounding civilian populations: (1) of the use by the United States of a nuclear earth penetrator weapon on a target; (2) of the use of a non-penetrating nuclear weapon on a hard or deeply buried target; and (3) of the use of a conventional high-explosive weapon on facilities to store and produce weapons of mass destruction when the involved materials or contaminants are released into populated areas. The report would be required to be submitted to Congress no later than 180 days after the day of enactment of this Act.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Subtitle D—Reports

Repeal and modification of various reporting requirements applicable to the Department of Defense (sec. 1041)

The House bill contained a provision (sec. 1016) that would repeal or modify a number of obsolete or superceded reporting requirements presently imposed by statute upon the Department of Defense.

The Senate amendment contained a similar provision (sec. 1031).

The conferees agree to repeal or modify 22 reports currently required of the Department.

Requirement that Department of Defense reports to Congress be accompanied by electronic version (sec. 1042)

The House bill contained a provision (sec. 1013) that would require the Department of Defense to submit to Congress electronic versions of all unclassified reports that are required by law.

The Senate amendment contained no similar provision.

The Senate recedes.

Annual report on the conduct of military operations conducted as part of Operation Enduring Freedom (sec. 1043)

The House bill contained a provision (sec. 1011) that would require the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, the Commander in Chief of the United States Central Command, and the Director of Central Intelligence, to submit to the Committees on Armed Services of the Senate and House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House two reports on the accomplishments and shortcomings of the conduct of military operations conducted as part of Operation Enduring Freedom. Each report would specifically include a discussion of the command, control, coordination and support relationship between United States Special Operations Forces and Central Intelligence Agency elements participating in the operation and recommendations to improve operational readiness and effectiveness. The first report would be required by June 15, 2003, and the final report would be required no later than 180 days after the cessation of hostilities.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to also submit annual reports by June 15 of each year, require the Secretary to include a definition of the military operations carried out as part of Operation Enduring Freedom, maintain as special matters to be included the discussion relating to special operations forces and recommendations for improvement, and add a number of other matters to be addressed in each report.

Report on efforts to ensure adequacy of fire fighting staffs at military installations (sec. 1044).

The Senate amendment contained a provision (sec. 1036) that would require a report to Congress on the adequacy of fire fighting staffs at military installations.

The House bill contained no similar provision.

The House recedes.

Report on designation of certain Louisiana highway as Defense Access Road (sec. 1045)

The Senate amendment contained a provision (sec. 1037) that would direct the Secretary of the Army to submit a report to the congressional defense committees on the advisability of designating Louisiana Highway 28 as a defense access road.

The House bill contained no similar provision.

The House recedes.

Subtitle E—Extension of Expiring Authorities

Extension of authority for Secretary of Defense to sell aircraft and aircraft parts for use in responding to oil spills (sec. 1051)

The Senate amendment contained a provision (sec. 1063) that would extend for four years the authority for the Secretary of Defense to sell aircraft and aircraft parts for use in responding to oil spills.

The House bill contained no similar provision.

The House recedes.

Six-month extension of expiring Government-wide information security requirements; continued applicability of expiring Governmentwide information security requirements to the Department of Defense (sec. 1052)

The Senate amendment contained a provision (sec. 1061) that would make expiring governmentwide information security requirements permanent with regard to the Department of Defense (DOD).

The House bill contained no similar provision.

The House recedes with an amendment that would: (1) extend for two years the applicability of the expiring requirements to DOD; and (2) extend for six months the applicability of these requirements to other federal agencies.

Two-year extension of authority of the Secretary of Defense to engage in commercial activities as security for intelligence collection activities abroad (sec. 1053)

The Senate amendment contained a provision (sec. 347) that would amend section 431(a) of title 10, United States Code, to extend the authority of the Secretary of Defense to engage in commercial activities as security for intelligence collection activities abroad until December 31, 2004.

The House bill contained no similar provision.

The House recedes.

Subtitle F—Other Matters

Time for transmittal of annual defense authorization legislative proposal (sec. 1061)

The House bill contained a provision (sec. 1022) that would require the Secretary of Defense to transmit to Congress the annual defense authorization legislative proposal for a fiscal year within 30 days of the date the President transmits to Congress the budget for that fiscal year.

The Senate amendment contained no similar provision.

The Senate recedes.

Technical and clerical amendments (sec. 1062)

The House bill contained a provision (sec. 1023) that would make technical and clerical amendments.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment making additional technical and clerical amendments.

Use for law enforcement purposes of DNA samples maintained by Department of Defense for identification of human remains (sec. 1063)

The House bill contained a provision (sec. 1027) that would require the Department of Defense to comply with a valid order of a Federal court or military judge to provide DNA samples for law enforcement purposes.

The Senate amendment contained no similar provision.

The Senate recedes.

Enhanced authority to obtain foreign language services during periods of emergency (sec. 1064)

The House bill contained a provision (sec. 1029) that would authorize the Secretary of Defense to establish and maintain a secure data registry of individuals who volunteer to provide linguistic services in times of emergency to assist the Department of Defense and other departments and agencies of the U.S. Government with translation and interpretation in languages designated as critical by the Secretary.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Rewards for assistance in combating terrorism (sec. 1065)

The Senate amendment contained a provision (sec. 1067) that would add a new section to chapter 3 of title 10, United States Code, to authorize the Secretary of Defense to pay a monetary reward, in an amount not to exceed $200,000, to a person for providing U.S. personnel with information or nonlethal assistance that is beneficial to an operation of the Armed Forces outside the United States against international terrorism or to force protection of the Armed Forces. The policies and procedures for offering and paying rewards would be coordinated with the Secretary of State and the Attorney General. The authority could be delegated to the commander of a combatant command to pay a reward in an amount not to exceed $50,000, and the combatant commander could further delegate such authority to pay rewards in an amount not to exceed $2,500.

The House bill contained no similar provision.

The House recedes with an amendment that would also authorize the payment of in-kind as well as monetary rewards, authorize rewards for assistance to an activity as well as an operation of the Armed Forces outside the United States, provide for delegation to the Deputy Secretary and an Under Secretary of Defense, and other clarifying amendments.

Provision of space and services to military welfare societies (sec. 1066)

The Senate amendment contained a provision (sec. 1068) that would allow the secretaries of the military departments to provide space and services to military welfare societies without charge.

The House bill contained no similar provision.

The House recedes.

Prevention and mitigation of corrosion of military equipment and infrastructure (sec. 1067)

The Senate amendment contained a provision (sec. 904) that would require the Secretary of Defense to designate a senior official in the Department of Defense (DOD) to be responsible for developing corrosion prevention and mitigation policies, reviewing the services' budgets to ensure adequate resources are being devoted to anti-corrosion efforts, and ensuring that anti- corrosion technologies and treatments are considered and inserted at appropriate points in the life cycle of both facilities and military equipment. The provision would further require DOD to develop a long-term strategy to increase the emphasis on corrosion prevention, establish common criteria for the military services when testing and evaluating new technologies, share useful information across DOD stovepipes, and coordinate a research and development plan to help transition new technologies into operational systems and current facilities.

The House bill contained no similar provision.

The House recedes with an amendment that allows the Secretary of Defense to designate a senior official or a standing board or committee to oversee DOD's corrosion-related activities. The amendment also reduces the reporting requirements, although the conferees encourage DOD to take steps to improve the amount and quality of data available on the resources required to fight corrosion of military equipment and facilities.

The conferees firmly believe that DOD can improve its management and coordination of anti-corrosion policies, regulations, and programs, and that these improvements result in greater efficiency and enhanced readiness and quality of life for service members. The conferees, therefore, urge DOD to act quickly to implement this provision.

Transfer of historic DF–9E Panther Aircraft to Women Airforce Service Pilots Museum (sec. 1068)

The Senate amendment contained a provision (sec. 1066) that would allow the Secretary of the Navy to convey a DF–9E Panther aircraft to the Women Airforce Service Pilots (WASP) Museum.

The House bill contained no similar provision.

The House recedes with a clarifying amendment to specify that the aircraft would be in a non-flyable condition.

Increase in amount authorized to be expended for Department of Defense program to commemorate 50th anniversary of the Korean War (sec. 1069)

The conference agreement includes a provision (sec. 1069) that would increase the amount authorized for expenditures by the Korean War Commemorative Committee from $7.0 million to $10.0 million.

LEGISLATIVE PROVISIONS NOT ADOPTED

Assignment of members to assist Immigration and Naturalization Service and Customs Service

The House bill contained a provision (sec. 1033) that would amend chapter 18 of title 10, United States Code, to authorize the Secretary of Defense to assign members of the Army, Navy, Marine Corps, and Air Force to assist the Immigration and Naturalization Service in preventing the entry of terrorists, drug traffickers, and illegal aliens into the United States, and to assist the Customs Service in the inspection of cargo, vehicles, and aircraft at points of entry into the United States to prevent the entry of weapons of mass destruction, components of such weapons, prohibited narcotics or drugs, or other terrorist or drug trafficking items. Such assignment could take place only at the request of the Attorney General or the Secretary of the Treasury, respectively. A member so assigned could not make an arrest or perform a search, seizure, or similar law enforcement activity.

The Senate amendment contained no similar provision.

The House recedes.

Authority to transfer funds within a major acquisition program from Procurement to Research, Development, Test and Evaluation

The House bill contained a provision (sec. 1006) that would provide the Secretary of Defense limited authority to transfer funds from Procurement to Research, Development, Test, and Evaluation for the same acquisition program.

The Senate amendment contained no similar provision.

The House recedes.

Availability of amounts for Oregon Army National Guard for search and rescue and medical evacuation missions in adverse weather conditions

The Senate amendment contained a provision (sec. 1012) that would authorize $3.0 million to upgrade three UH–60L Blackhawk helicopters of the Oregon Army National Guard to improve their utility in search and rescue (SAR) and medical evacuation missions. The provision further authorized $1.8 million for up to 26 additional military personnel to perform these missions.

The House bill contained no similar provision.

The Senate recedes on the provision. The Army aircraft procurement table contained in this report describes the conference agreement for helicopter upgrades to improve SAR capabilities.

Charter grant to Korean War Veterans Association

The Senate amendment contained a provision (sec. 1070) that would grant a federal charter to the Korean War Veterans Association, Incorporated.

The House bill contained no similar provision.

The Senate recedes.

The conferees' decision reflects the agreement contained in the statement of managers accompanying sections 1501 through 1516 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85) that, "in the future, amendments to the National Defense Authorization Bill that would grant a federal charter should not be included in a conference agreement unless favorably recommended by the committees of jurisdiction."

Enhanced cooperation between United States and Russian Federation to promote mutual security

The House bill contained a provision (sec. 1031) that would state that it is the policy of the United States to pursue greater cooperation with the Russian Federation regarding nuclear weapons policy, force structure, safeguards, testing, and proliferation prevention, as well as nuclear weapons infrastructure, production, and dismantlement, so as to promote mutual security, stability, and trust. The provision would also set forth a sense of Congress that the President of the United States should continue to engage the President of the Russian Federation in the interest of preventing illicit use, theft, diversion, and proliferation of nuclear weapons. The provision would encourage a series of reciprocal programs of joint visits and conferences dealing with nuclear weapons, ballistic missile defenses, nonproliferation, disposition of weapons grade nuclear materials and spent reactor fuel. The provision would also require the President to submit a report to Congress on the status and description of the various actions to develop such programs with the Russian Federation and the response of the Russian Federation, as well as an assessment of the Russian Federation's commitment to a better, closer relationship with the United States based on the principles of increased cooperation and transparency.

The Senate amendment contained no similar provision.

The House recedes.

Homeland security activities of the National Guard

The Senate amendment contained a provision (sec. 1041) that would amend title 32, United States Code, to authorize the Governor of a State, at the request of a federal law enforcement agency and with the concurrence of the Secretary of Defense, to order personnel of the National Guard of a State to perform full-time National Guard duty for the purpose of carrying out homeland security activities. Such personnel would be provided for a limited time until the agency could recruit and train sufficient personnel to perform these activities. The Secretary of Defense would provide funds to the Governor to fund the costs of the National Guard personnel and would be reimbursed by the agency receiving the support. The activities would be provided pursuant to a memorandum of understanding between the Secretary of Defense and the Governor.

The House bill contained no similar provision.

The Senate recedes.

Limitation on duration of future Department of Defense reporting requirements

The House bill contained a provision (sec. 1020) that would automatically sunset recurring congressional defense reporting requirements after five years.

The Senate amendment contained no similar provision.

The House recedes.

Reallocation of authorizations of appropriations from ballistic missile defense to shipbuilding

The Senate amendment contained a provision (sec. 1002) that would transfer funding from ballistic missile defense programs to shipbuilding programs.

The House bill contained no similar provision.

The Senate recedes.

By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Report on biological weapons defense and counterproliferation

The House bill contained a provision (sec. 1012) that would require a report on U.S. biological weapons defense and counterproliferation programs, including information on impediments to the biological weapons counterproliferation efforts.

The Senate amendment contained no similar provision.

The House recedes.

The conferees have addressed the issue of information about impediments to U.S. biological counterproliferation efforts in a separate section that is described elsewhere in this report.

Report on effects of nuclear-tipped ballistic missile interceptors and nuclear missiles not intercepted

The House bill contained a provision (sec. 1019) that would direct the Secretary of Defense to request the National Academy of Sciences to study and report on the effects of the use of a nuclear-tipped interceptor and the effects on a major U.S. city of the detonation of a nuclear weapon delivered by a ballistic missile.

The Senate amendment contained no similar provision.

The House recedes.

Sense of Congress on maintenance of a reliable, flexible, and robust strategic deterrent

The House bill contained a provision (sec. 1021) that would set forth a sense of Congress that the President should maintain a reliable, flexible, and robust strategic deterrent consistent with the national defense strategy outlined in the Quadrennial Defense Review, the Nuclear Posture Review, and the global strategic environment.

The Senate amendment contained no similar provision.

The House recedes.

Sense of Congress on prohibition of use of funds for International Criminal Court

The House bill contained a provision (sec. 1034) that would prohibit the use of funds appropriated pursuant to authorizations of appropriations in this Act for any assistance to, cooperation with, or support for the International Criminal Court.

The Senate amendment contained no similar provision.

The House recedes.

The conferees note that, subsequent to passage of the House bill, the President signed legislation making supplemental appropriations for fiscal year 2002 (Public Law 107–206). That legislation contained the American Servicemembers' Protection Act of 2002, which protects United States military personnel and other elected and appointed officials of the United States Government against criminal prosecution by the International Criminal Court. Accordingly, the House provision is no longer necessary.

Transfer of funds to increase amounts for PAC-3 missile procurement and Israeli Arrow program

The House bill contained a provision (sec. 1032) that would transfer funding to the PAC–3 and Arrow programs from other Missile Defense Agency programs.

The Senate amendment contained no similar provision.

The House recedes.

By convention, outcomes of funding differences between the House bill and the Senate amendment are included in the tables elsewhere in this report.

Utah Test and Training Range

Title XIV of the House bill contained a series of provisions that would designate certain lands in Utah around the Utah Test and Training Range (UTTR) as wilderness areas. Low level military overflights, special use airspace designations, installation of electronic equipment, and emergency access would be unrestricted in these wilderness areas. Title XIV would also prohibit the Secretary of the Interior from developing or revising certain land use plans in Utah without the prior concurrence of the Secretary of the Air Force and the State of Utah.

The Senate amendment contained no similar provision.

The House recedes.

War risk insurance for vessels in support of NATO-approved operations

The House bill contained a provision (sec. 1024) that would authorize the Secretary of Transportation to provide war risk insurance to a commercial vessel that is supporting a shared logistics military operation approved by the North Atlantic Council. This section would also authorize the Secretary of Transportation, with the concurrence of the Secretary of State, to seek from another nation a commitment to indemnify the United States for any amounts paid by the United States for claims against such insurance.

The Senate amendment contained no similar provision.

The House recedes.

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

LEGISLATIVE PROVISIONS ADOPTED

Eligibility of Department of Defense nonappropriated fund employees for long-term care insurance (sec. 1101)

The House bill contained a provision (sec. 1101) that would permit nonappropriated fund employees of the Department of Defense to participate in the employee-funded federal long-term care insurance program.

The Senate amendment contained a similar provision (sec. 1104).

The Senate recedes.

Extension of Department of Defense authority to make lump-sum severance payments (sec. 1102)

The House bill contained a provision (sec. 1102) that would extend from September 30, 2003 to September 30, 2006, the authority of the Secretary of Defense to pay lump-sum severance payments to civilian employees. The provision would also require the President to report to Congress whether this authority should be made permanent or extended to other federal agencies.

The Senate amendment contained a similar provision (sec. 1101).

The Senate recedes with an amendment specifying the congressional committees to whom the report must be submitted.

Continuation of Federal Employee Health Benefits Program eligibility (sec. 1103)

The House bill contained a provision (sec. 1104) that would extend for three years eligibility for continued health care coverage under the Federal Employee Health Benefits Program of certain Department of Defense civilian employees who are separated due to a reduction in force.

The Senate amendment contained a similar provision (sec. 1103).

The Senate recedes.

Certification for Department of Defense professional accounting positions (sec. 1104)

The House bill contained a provision (sec. 1106) that would authorize the Secretary of Defense to prescribe professional certification and credential standards for professional accounting positions.

The Senate amendment contained a similar provision (sec. 1106).

The Senate recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Common occupational and health standards for differential payments as a consequence of exposure to asbestos

The House bill contained a provision (sec. 1103) that would establish a common standard for payment of environmental differential pay for exposure to asbestos for prevailing rate and general schedule federal employees.

The Senate amendment contained no similar provision.

The House recedes.

Currently, general schedule employees are entitled to eight percent differential pay when working conditions result in exposure to asbestos exceeding the permissible exposure limits established by the Occupational Safety and Health Administration. The existing environmental differential pay for wage-grade employees also entitles them to the same eight percent differential pay but does not set an objective measure for determining the level of asbestos exposure necessary to qualify for environmental differential pay. This has led to inconsistent application of environmental differential pay.

The conferees remain concerned that this issue was not addressed as directed in the statement of managers accompanying the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107). The conferees encourage the Federal Prevailing Rate Advisory Committee (FPRAC) to continue its review of this issue, which provides a forum for interested parties. The conferees expect the FPRAC to consider adoption of a consistent, objective means of measuring asbestos exposure for federal prevailing rate and general schedule employees that addresses the actual risk of asbestos exposure based on scientific and empirical data.

Extension of voluntary separation incentive pay authority

The Senate amendment contained a provision (sec. 1102) that would extend from September 30, 2003, to September 30, 2006, the authority of the Secretary of Defense to pay voluntary separation incentive pay to civilian employees.

The House bill contained no similar provision.

The Senate recedes.

The conferees were unable to include this provision because of the lack of an adequate mandatory funding allocation.

The conferees are well aware of a potential human capital crisis facing the Federal Government and its impact on the Department of Defense. The conferees know that the Department has developed a human resources strategic plan designed to provide a roadmap to the future and has aggressively implemented many civilian personnel demonstration authorities granted by Congress. However, these steps alone may not be sufficient to meet the demand for new hires and to accommodate the reshaping necessary to transform the Department. The conferees encourage the Department to use existing authorities to the fullest extent possible.

In order to address this potential human capital crisis, the conferees direct the Secretary of Defense to review the human resources strategic plan and the existing civilian personnel demonstration authorities and, no later than March 31, 2003, provide to the Committees on Armed Services of the Senate and House of Representatives, the Committee on Government Affairs of the Senate, and the Committee on Government Reform and Oversight of the House of Representatives an assessment of the effectiveness of these authorities and recommend any legislative changes necessary to effectively and efficiently manage the civilian employees of the Department of Defense.

Increased maximum period of appointment under the experimental personnel program for scientific and technical personnel

The Senate amendment contained a provision (sec. 1105) that would extend the maximum period of appointment under an experimental personnel program for scientific and technical personnel.

The House bill contained no similar provision.

The Senate recedes.

The conferees recognize the importance of offering a competitive retirement benefit in order to recruit and retain highly qualified employees for these temporary positions. The conferees also recognize, however, that the benefit, which is defined by the Federal Employees Retirement System, is not portable and is therefore not likely to be attractive to many qualified individuals, particularly those in the early and middle stages of their careers. Therefore, the conferees direct the Secretary of Defense to study alternative retirement proposals, including a fully portable, defined contribution plan or, where appropriate, to permit employees in these positions to continue to participate in non-federal retirement plans. The results of the study and any such legislative proposal as the Secretary deems appropriate shall be submitted to Congress as part of the annual report on the program that is required by section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261).

Triennial full-scale federal wage system wage surveys

The House bill contained a provision (sec. 1105) that would change the full-scale federal wage system wage survey cycle conducted by the Office of Personnel Management from two to three years.

The Senate amendment contained no similar provision.

The House recedes.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

LEGISLATIVE PROVISIONS ADOPTED

Authority to provide administrative services and support for coalition liaison officers (sec. 1201)

The House bill contained a provision (sec. 1203) that would authorize the Secretary of Defense and the secretaries of the military departments to provide administrative services and support to foreign liaison officers performing duties, through the Department of Defense Foreign Liaison Officer Program, at military facilities in the United States.

The Senate amendment contained a provision (sec. 1211) that would authorize the Secretary of Defense to provide administrative support and services to coalition liaison officers while they are temporarily assigned to the headquarters of a combatant command, component command, or subordinate operational command in connection with the planning for, or conduct of, a coalition operation. The Secretary would also be authorized to pay the travel, subsistence, and personnel expenses of a liaison officer of a developing country in connection with the assignment of that liaison officer to the headquarters of a combatant command if the assignment is requested by the commander of the combatant command.

The House recedes with an amendment that would limit the payment of personal expenses for a liaison officer from a developing country to those which are directly necessary to carry out the duties of that officer in connection with the assignment, provide for the authority under this section to expire on September 30, 2005, and require the Comptroller General to submit a report to the Committees on Armed Services of the Senate and House of Representatives by March 1, 2005, on the implementation of this authority.

Authority to pay for certain travel of defense personnel of countries participating in NATO Partnership for Peace program (sec. 1202)

The Senate amendment contained a provision (sec. 1212) that would amend section 1051 of title 10, United States Code, to authorize the Secretary of Defense to pay for the travel-related expenses of defense personnel from a developing country participating in the North Atlantic Treaty Organization's (NATO) Partnership for Peace (PfP) program to the territory of any of the countries participating in the PfP program or of any of the NATO member countries.

The House bill contained no similar provision.

The House recedes with an amendment clarifying that the authority is limited to developing countries that are participating in PfP but are not members of NATO.

Limitation on funding for Joint Data Exchange Center in Moscow (sec. 1203)

The House bill contained a provision (sec. 1205) that would prohibit obligation or expenditure of more than 50 percent of the funds authorized for fiscal year 2003 for activities associated with the Joint Data Exchange Center (JDEC) in Moscow, Russia, until: (1) the United States and the Russian Federation enter into a cost-sharing agreement as required by section 1231 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398); (2) the United States and the Russian Federation enter into an agreement exempting the United States from Russian taxes and liability laws for activities associated with the JDEC; and (3) 30 days have elapsed after the Secretary of Defense submits to the Committees on Armed Services of the Senate and the House or Representatives, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives, a copy of each required agreement.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees continue to support activities to improve transparency and build confidence and cooperation between the United States and the Russian Federation and believe the JDEC will make an important contribution to these efforts. The conferees urge the Secretary of Defense to work diligently to obtain agreement or agreements with the Russian Federation that meet the requirements of section 1231.

Support of United Nations-sponsored efforts to inspect and monitor Iraqi weapons activities (sec. 1204)

The House bill contained a provision (sec. 1201) that would extend the authority under section 1505 of the Weapons of Mass Destruction Control Act of 1992, section 5859a of title 22, United States Code, for the Department of Defense to expend up to $15.0 million in fiscal year 2003 in support of United Nations-sponsored inspection and monitoring efforts to ensure Iraqi compliance with its international obligations to destroy its weapons of mass destruction programs and associated delivery systems.

The Senate amendment contained an identical provision (sec. 1213).

The conference agreement includes this provision.

Comprehensive annual report to Congress on coordination and integration of all United States non-proliferation activities (sec. 1205)

The Senate amendment contained a provision (sec. 3162) that would amend section 1205 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107), which directed the President to submit a report on a plan to secure nuclear weapons, material, and expertise in the states of the Former Soviet Union, to require an annual update on the status of implementing the plan.

The House bill contained no similar provision.

The House recedes.

Report requirement regarding Russian proliferation to Iran and other countries of proliferation concern (sec. 1206)

The House bill contained a provision (sec. 1306) that would express the sense of Congress about the seriousness of Russian proliferation assistance to the weapons of mass destruction programs of Iran and other countries. The provision would also require an annual report beginning in 2003 and continuing through 2009, describing in detail such assistance and its consequences and the efforts of the United States to defend against and end such proliferation.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require an annual report beginning in 2003 and continuing through 2009, describing in detail Russian proliferation of weapons of mass destruction and ballistic missile goods, technology, expertise and information, and of related dual-use items, to Iran and other countries of proliferation concern during the preceding year. The report would describe the impact and consequences of such proliferation and the efforts of the United States to halt such proliferation.

The conferees note that this provision is intended to apply to prohibited acts of proliferation assistance.

Monitoring of implementation of 1979 agreement between the United States and China on cooperation in science and technology (sec. 1207)

The Senate amendment included a provision (sec. 1216) that would require the Office of Science and Technology Cooperation of the Department of State to monitor the implementation of the 1979 United States-China Agreement on Cooperation in Science and Technology (S&T) and its protocols. The amendment would require the Office of S&T Cooperation to submit a biennial report on the activities conducted under this agreement and the benefits of this agreement to the Chinese economy, military, and defense industrial base.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize the President to establish a working group to monitor the Agreement and directs the Director of Central Intelligence, the Secretary of Defense, and the Inspector General of the Commerce Department to conduct various assessments that would be components of the biennial report. The conferees continue to support the numerous mutually beneficial exchanges that occur under the auspices of the Agreement.

Extension of certain counterproliferation activities and programs (sec. 1208)

The Senate amendment contained a provision (sec. 1033) that would extend the date of submission of the annual report on counterproliferation activities and programs from February 1 to May 1 of each year.

The House bill contained no similar provision.

The House recedes with an amendment that would extend the service of the interagency Counterproliferation Program Review Committee through September 2008. It would also require that the annual report include a discussion of the limitations on and impediments to the biological weapons counterproliferation efforts of the Department of Defense and include recommendations for ways to make such efforts more effective.

Semiannual report by Director of Central Intelligence on contributions by foreign persons to efforts of countries of proliferation concern to obtain weapons of mass destruction and their delivery systems (sec. 1209)

The Senate amendment contained a provision (sec. 1040) that would require biannual reports to Congress by the President on foreign persons that make a material contribution to the development of weapons of mass destruction or missiles by a country of proliferation concern.

The House bill contained no similar provision.

The House recedes with an amendment that would conform and add the provision to Title VII of the Combating Weapons of Mass Destruction Act of 1996 (Public Law 104-293). The first report required under this provision would be due no later than January 1, 2004.

Report on feasibility and advisability of senior officer exchanges between the Armed Forces of the United States and the military forces of Taiwan (sec. 1210)

The House bill included a provision (sec. 1202) which directed the Secretary of Defense to prepare and implement a plan for conducting joint operational training for and exchanges of senior officers between the Armed Forces of the United States and the Armed Forces of Taiwan. The Secretary would submit this plan to Congress at least 30 days before commencing with its implementation.

The Senate amendment included no similar provision.

The Senate recedes with an amendment requiring the President to submit to Congress a report on the feasibility and advisability of conducting combined operational training with, and exchanges of general and flag officers between, the Armed Forces of the United States and the military forces of Taiwan and a discussion of the progress being made on meeting U.S. commitments to the security of Taiwan.

Report on United States force structure in the Pacific (sec. 1211)

The conferees agree to include a provision which directs the Secretary of Defense to submit to Congress a report on the Department of Defense's plans to maintain adequate force structure in the Pacific theater. The report would be submitted no later than 180 days after the date of enactment of this Act.

LEGISLATIVE PROVISIONS NOT ADOPTED

Additional countries covered by loan guarantee program

The House bill contained a provision (sec. 1204) that would amend section 2540(b) of title 10, United States Code, to authorize the Secretary of Defense, in consultation with the Secretary of State, to expand the list of countries eligible under the Defense Export Loan Guarantee Program.

The Senate amendment contained no similar provision.

The House recedes.

Arctic and Western Pacific Environmental Cooperation Program

The Senate amendment contained a provision (sec. 1214) that would authorize the Secretary of Defense to conduct a cooperative program with countries in the Arctic and Western Pacific regions. The Secretary, with the concurrence of the Secretary of State, would be authorized to provide cooperative assistance or provide assistance on environmental matters in the Arctic and Pacific regions with certain exceptions. The primary focus of the program would be technology projects and activities related to radiological threats and contamination. To reflect this focus, the provision would limit the availability of program funds to no more than 20 percent of such funds on non-radiological matters. The provision would also require the Secretary to submit an annual report on the program that would include a discussion of the activities, the funding, the life-cycle costs of any projects, the participants, and any contributions from other agencies or countries.

The House bill contained no similar provision.

The Senate recedes.

Department of Defense HIV/AIDS Prevention Assistance Program

The Senate amendment contained a provision (sec. 1215) that would authorize the Secretary of Defense to expand the existing program of HIV/AIDS prevention education activities undertaken in connection with the conduct of U.S. military training, exercises, and humanitarian assistance in sub-Saharan Africa, to countries that are suffering a public health crisis relating to HIV/AIDS and that participate in the military-to-military contacts program of the Department of Defense. The activities would focus, to the extent possible, on military units that participate in peacekeeping operations and would include HIV/AIDS-related voluntary counseling and testing and HIV/AIDS-related surveillance.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that the Department of Defense has extensive authorities in title 10, United States Code, relating to military-to-military contacts and comparable activities, humanitarian and civic assistance provided in conjunction with military operations, and other similar activities. The conferees take this action without prejudice and invite the Secretary of Defense to submit a legislative proposal for any additional authorities that he needs in this area.

Limitation on number of military personnel in Colombia

The House bill contained a provision (sec. 1206) that would prohibit the use of funds available to the Department of Defense to support or maintain more than 500 members of the Armed Forces on duty in the Republic of Colombia at any one time. Members in Colombia for no more than 30 days for the purpose of rescuing or retrieving U.S. military or civilian Government personnel, members assigned to the security assistance office or to the Marine Corps security contingent at the Embassy, members participating in relief efforts to respond to a natural disaster, nonoperational transient military personnel, and members making a ship port call, would all be excluded from the 500 member limitation. The Secretary of Defense would have the authority to waive the limitation if he determines that such waiver is in the national security interest.

The Senate amendment contained no similar provision.

The House recedes.

Russian tactical nuclear weapons

The Senate amendment contained a provision (sec. 1205) that would set forth findings with respect to the potential threats posed by unsecured Russian tactical nuclear weapons. The provision would also set forth the sense of the Senate that stolen Russian tactical nuclear weapons could be used against the United States, that it should be a priority of the United States to account for, secure, and reduce the number of Russian tactical nuclear weapons and materials, and that the threat warrants a special nonproliferation initiative. The provision would also require the President to submit a report to Congress 30 days after the date of enactment of this Act on efforts, including establishing a special initiative, to reduce the threats from Russian tactical nuclear weapons.

The House bill contained no similar provision.

The Senate recedes.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

ITEMS OF SPECIAL INTEREST

Weapons of Mass Destruction Proliferation Prevention Program of the Cooperative Threat Reduction program with the States of the Former Soviet Union

The Department of Defense (DOD) requested $40.0 million in the fiscal year 2003 budget request to initiate a new program within the Cooperative Threat Reduction (CTR) program called the Weapons of Mass Destruction Proliferation Prevention Program. The program would provide CTR assistance to enhance the capability of non-Russian Former Soviet Union (FSU) military, internal security forces, border guards, and customs forces to prevent, deter, detect and interdict unauthorized movement of weapons of mass destruction or related materials across borders and to respond effectively to terrorist incidents at borders. While the conferees support this new effort, the conferees are concerned that there may be potential for duplication of effort with other similar programs within DOD as well as with the Department of Energy's National Nuclear Security Administration (NNSA) FSU activities.

The conferees urge DOD to coordinate this new CTR program with all existing programs within DOD, the NNSA, the Department of State, the U.S. Customs Service, the Federal Bureau of Investigation, and the U.S. Coast Guard. The conferees expect DOD to coordinate with the NNSA in the area of weapons of mass destruction detection technology. The conferees direct DOD to report to the congressional defense committees, no later than December 31, 2002, the results of this coordination. The conferees expect DOD to present a plan, coordinated with the Department of State, the Administrator of the NNSA, and the other federal agencies, that describes how this new program will complement and enhance, rather than duplicate, any similar ongoing effort in any other federal agency and the interagency process for coordinating these programs in the future.

LEGISLATIVE PROVISIONS ADOPTED

Specification of Cooperative Threat Reduction programs and funds (sec. 1301)

The House bill contained a provision (sec. 1301) that would define the programs and funds that are Cooperative Threat Reduction (CTR) programs and funds and specify that CTR funds shall remain available for obligation for three fiscal years.

The Senate amendment contained an identical provision (sec. 1201).

The conferees agree to include the provision.

Funding allocations (sec. 1302)

The House bill contained a provision (sec. 1302) that would authorize $416.7 million for the Cooperative Threat Reduction (CTR) program and would allocate the funds among the various program activities. In addition, the provision would provide limited authority to vary the amounts allocated to individual program activities including a requirement that for certain CTR program activities, the amount obligated for those program activities may not exceed 115 percent of the amount allocated. The provision would also allow $83.6 million of the funds authorized to be used either for activities related to strategic and nuclear systems or for destruction of chemical weapons in Russia and Ukraine.

The Senate amendment contained a similar provision (sec. 1202) that would authorize $416.7 million for the CTR program and allocate the funds among the various program activities.

The Senate recedes with an amendment that would authorize $417.6 million for the CTR program, modify certain of the allocations among the CTR program activities, and increase the limitation on obligation to 125 percent of the amount authorized.

Prohibition against use of funds until submission of reports (sec. 1303)

The House bill contained a provision (sec. 1303) that would prohibit obligation or expenditure of all fiscal year 2003 Cooperative Threat Reduction (CTR) funds until 30 days after two reports are submitted.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would prohibit expenditure or obligation of 50 percent of the fiscal year 2003 CTR funds until 30 days after the required reports have been submitted to Congress.

Report on use of revenue generated by activities carried out under Cooperative Threat Reduction programs (sec. 1304)

The House bill contained two provisions (secs. 1304 and 1309) that would establish additional reporting requirements for the Cooperative Threat Reduction (CTR) program. Section 1304 would amend the annual CTR reporting requirement in section 1308(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) to add a description of how revenue generated by activities carried out under the CTR program are utilized, monitored, and accounted for. Section 1309 would require the Secretary of Defense to submit a new stand- alone report describing in detail the operation and success of activities carried out by the defense and military contacts element of the CTR program. Section 1309 would also prohibit obligation or expenditure of more than 50 percent of the CTR funds allocated for defense and military contacts until such report is submitted to Congress.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would combine both reporting requirements into a single provision that would amend section 1308(c) to include both reports as elements of the annual CTR report. The amendment would delete the funding prohibition. The new reporting requirements would be included in the annual report for fiscal year 2003, that would be submitted in 2004.

Prohibition against use of funds for second wing of fissile materials storage facility (sec. 1305)

The House bill contained a provision (sec. 1305) that would prohibit any funds appropriated for the Cooperative Threat Reduction program from being used for design, planning, or construction of a second wing for a storage facility for storing Russian fissile material.

The Senate amendment contained no similar provision.

The Senate recedes.

Limited waiver of restrictions on use of funds for threat reduction in states of the former Soviet Union (sec. 1306)

The Senate amendment contained a provision (sec. 1204) that would provide the President with permanent authority to waive the annual certifications required for both the Cooperative Threat Reduction (CTR) programs and the Freedom Support Act nonproliferation programs, as requested by the administration. The provision would amend section 1203 of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952) and section 502 of the Freedom Support Act (22 U.S.C. 5852) and provide the President the authority to waive the restrictions in any given fiscal year for any given country if such a waiver is important to the national security interests of the United States.

If the President chooses to exercise the waiver for either the Cooperative Threat Reduction Act or Freedom Support Act preconditions, this waiver would be effective only when the President submits to Congress a report describing the activity or activities that prevent the President from making the certification or certifications required by the Act and the strategy, plan, or policy of the President to promote the relevant State's future commitment to the preconditions.

The House bill contained a similar provision (sec. 1308) but would allow the waiver authority only for the certification required by section 1203(d)(5) of the Cooperative Threat Reduction Act, which states Russia is committed to complying with all relevant arms control agreements. The waiver authority would be available until September 30, 2005.

The House recedes with an amendment that would limit the authority to grant an annual waiver to three fiscal years.

LEGISLATIVE PROVISIONS NOT ADOPTED

Prohibition against use of Cooperative Threat Reduction funds outside the States of the former Soviet Union

The House bill contained a provision (sec. 1307) that would prohibit the use of Cooperative Threat Reduction (CTR) funds for any fiscal year for any projects or activities outside the States of the Former Soviet Union (FSU).

The Senate amendment contained a provision (sec. 1203) that would authorize the use of CTR funds for threat reduction activities outside the States of the FSU under certain circumstances and with certain restrictions.

The conferees agree to drop both provisions.

The conferees recognize that the President periodically determines that it is necessary for the United States Government to address an emergency proliferation threat from weapons of mass destruction (WMD) outside of the States of the FSU that would affect the national security interests of the United States.

Therefore the conferees direct the Secretary of Defense to conduct a review of the authorities currently available to the United States Government to be able to respond to any emergency WMD proliferation threat. In this review the Secretary should identify any prohibition, impediment, or limitation imposed by any statute, order, regulation, or policy that would limit or prevent a Unites States Government response, including a response by the Secretary of Defense. In reviewing the authorities available to the Department of Defense (DOD) these should include situations when DOD response is in a support róle to another federal agency or is the lead federal agency. The review should also include an explanation of the Department's role in the interagency process.

The Secretary is directed to submit a report to the congressional defense committees that would set forth the results of this review and invited to submit a legislative proposal to remedy shortcomings in his existing authority. This report shall be due no later than March 1, 2003.

TITLE XIV—HOMELAND SECURITY

LEGISLATIVE PROVISIONS ADOPTED

Transfer of technology items and equipment in support of homeland security (sec. 1401)

The House bill contained a provision (sec. 142) that would authorize the Secretary of Defense to enter into an agreement with an independent, non-profit, technology-oriented entity to facilitate technology transfer of promising defense technologies to aid the homeland security efforts of federal, state and local "first responders".

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to designate a senior official of the Department of Defense to coordinate the Department's efforts to identify, evaluate, deploy, and transfer technology items to first responders in support of homeland security. The conference amendment would require the senior official to work with other appropriate federal agencies and to use competitive procedures to enter into an agreement with a highly qualified private sector entity to assist in these efforts.

The conferees expect the Department to work with the new Department of Homeland Security, if such an agency is established, in any effort to transfer homeland security technologies to first responders. The conferees also anticipate that the Department of Defense will give appropriate consideration to standards developed by the Inter-Agency Board for Equipment Standardization and Interoperability when it works to identify and evaluate new homeland security technologies.

Comprehensive plan for improving the preparedness of military installations for terrorist incidents (sec. 1402)

The Senate amendment contained a provision (sec. 1045) that would direct the Secretary of Defense to develop a comprehensive plan to improve the preparedness of military installations for incidents involving weapons of mass destruction (WMD). The Secretary would submit the plan to the congressional defense committees no later than 180 days after this legislation comes into effect. No later than 60 days after the Secretary submits the plan to Congress, the Comptroller General would be required to review it and submit a report assessing the plan to the congressional defense committees. The Secretary would be directed to inform Congress of progress under and updates to the plan for a total of three years.

The House bill contained no such provision.

The House recedes with an amendment to change the provision so that the plan would address preparedness of military installations for terrorist incidents, not limited to those involving weapons of mass destruction.

Additional Weapons of Mass Destruction Civil Support Teams (sec. 1403)

The House bill contained a provision (sec. 1551) that would direct the Secretary of Defense to establish at least one Weapons of Mass Destruction Civil Support Team (WMD CST) in each state and territory. The Secretary would be required to ensure that this provision is fully implemented by September 30, 2003.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment directing the Secretary to establish 23 additional teams, one for each state and territory, and requiring the Secretary to submit to Congress within six months of enactment of this Act a report including his plan for establishing these teams. The report would include a schedule and budget for manning, training, and equipping the new teams as rapidly as possible without jeopardizing the attainment of full effectiveness by the teams. The report would also include a discussion of whether the mission of the teams should be expanded, and if so, how.

Report on the role of the Department of Defense in supporting homeland security (sec. 1404)

The House bill contained a provision (sec. 1017) requiring the Secretary of Defense to submit to the congressional defense committees a report on Department of Defense (DOD) responsibilities, missions, and plans for military support of homeland security.

The Senate amendment contained a provision (sec. 1044) requiring the Secretary to submit a detailed report on how DOD should be fulfilling and is fulfilling its homeland defense mission.

The Senate recedes with an amendment that would combine the report requirements outlined in these provisions.

Sense of Congress on Department of Defense assistance to local first responders (sec. 1405)

The House bill contained a provision (sec. 1553) that would express the sense of Congress that the Secretary of Defense should, to the extent that the Secretary determines appropriate, use funds provided in the Act to assist, train, and equip local fire and police departments that would act as first responders to domestic terrorist incidents that may come about in connection with the continued fight to prosecute the war on terrorism.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment stating that, to the extent the Secretary considers appropriate and feasible and in accordance with the law, the Secretary should provide assistance to entities that are local first responders for domestic terrorist incidents and assist those entities in improving their capabilities to respond to such incidents.

LEGISLATIVE PROVISIONS NOT ADOPTED

Additional weapons of mass destruction civil support teams

The House bill contained a provision (sec. 1026) that would express the sense of Congress that the Secretary of Defense should establish at least one Weapons of Mass Destruction Civil Support Team (WMD CST) in each state and territory.

The Senate amendment contained no similar provision.

The House recedes.

TITLE XV—AUTHORIZATION OF APPROPRIATIONS FOR THE WAR ON TERRORISM

LEGISLATIVE PROVISIONS ADOPTED

Authorization of appropriations for continued operations for the war on terrorism (secs. 1501–1508)

Title XV of the House bill contained a series of provisions that would authorize $10.0 billion to continue the war on terrorism. The House bill would provide $3.5 billion for a war on terrorism operations fund, $1.0 billion for an equipment replacement and enhancement fund, $200.0 million for additional munitions purchases, and $2.0 billion for classified programs. The House bill would also authorize, within the $10.0 billion total, approximately $3.1 billion for programs for which funds were requested elsewhere in the fiscal year 2003 budget request, including the Defense Emergency Response Fund. The House bill would also provide additional funding for enhanced military personnel benefits that were contained in that title.

Section 1003 of the Senate amendment would authorize the appropriation of $10.0 billion for continuing the war on terrorism, as requested in the President's budget, contingent on the submission of a subsequent request by the President that identified a proposed allocation and plan for the use of these funds.

On July 3, 2002, the President submitted a budget amendment that proposed to allocate $2.5 billion of the $10.0 billion requested to military personnel and mobilization costs, $5.3 billion to the cost of military operations, $2.0 billion for classified programs, and $200.0 million for additional munitions.

The Senate recedes with an amendment that would authorize $10.0 billion for the conduct of Operation Noble Eagle and Operation Enduring Freedom to continue the war on terrorism in accordance with the conditions stated in the Authorization for Use of Military Force (Public Law 107–40). The conferees agree to authorize $10.0 billion that would be available for transfer to the normal budget accounts of the Department of Defense for the following purposes: $2.5 billion for mobilization and other military personnel costs; $4.3 billion for the operating costs of military operations; $1.0 billion for equipment replacement and enhancement of military capabilities; $2.0 billion for classified programs; and $200.0 million for additional munitions. Funding would be available for the specific munitions programs identified in the July 3, 2002, budget amendment as follows:

	[Dollars in millions]
Army	$94.0
Procurement of Ammunition, Army:	
5.56 mm—all types (training)	15.0
.50-caliber—all types (training)	5.0
105 mm HE recapitalization	5.0
155 mm M795	20.0
MACS	20.0
Fuze M762	5.0
105 mm illumination round	5.0
120 mm mortar high explosive multi-option fuze	10.0
25mm M919 for Bradley	9.0
Navy	60.0
Weapons Procurement, Navy:	
AGM 114M Hellfire missiles	35.0
Procurement of Ammunition, Navy and Marine Corps:	
General purpose bomb components	25.0
Air Force	40.0
Procurement of Ammunition, Air Force:	
General purpose bomb components	40.0
Special Operations Command	6.0
Procurement, Defense-wide:	
Special Operations Forces Munitions	6.0
Total	200.0

The conferees agree to require prior notification to the congressional defense committees before funds are transferred to the normal budget accounts for obligation.

The conferees further agree to allow the Secretary of Defense to transfer up to $1.0 billion of the amount authorized in section 1501 to authorizations that were reduced in Titles I, II, and III to reflect savings to be achieved through the improved management of the Department's contracts for services and the deferral of expenditures on financial management systems, if the Secretary determines that such savings are not achievable. This provision would give the Secretary discretion to either: (1) achieve $1.0 billion of savings through management efficiencies as provided in Titles I, II and III; or (2) transfer up to $1.0 billion out of the contingency fund in lieu of achieving such savings.

LEGISLATIVE PROVISIONS NOT ADOPTED

Air Force procurement

The House bill contained a provision (sec. 1523) that would authorize $383.2 million for specific Air Force procurement programs in support of the war against terrorism.

The Senate amendment contained no similar provision, but the Senate amendment would authorize funding for these and other procurement activities in Title I.

The House recedes.

The conferees agree to authorize funding for these activities in Title I of this Act.

Army procurement

The House bill contained a provision (sec. 1521) that would authorize $104.7 million for the Army for ammunition and other procurement.

The Senate amendment contained no similar provision, but the Senate amendment would authorize funding for these and other Army procurement activities in Title I.

The House recedes.

The conferees agree to authorize funding for these activities in Title I of this Act.

Authority for joint task forces to provide support to law enforcement agencies conducting counter-terrorism activities

The House bill contained a provision (sec. 1552) that would authorize a joint task force of the Department of Defense that provides support to law enforcement agencies conducting counterdrug activities to also provide, consistent with all applicable laws and regulations, support to law enforcement agencies conducting counterterrorism activities.

The Senate amendment contained no similar provision.

The House recedes.

Authorized military construction and land acquisition projects

The House bill contained a provision (sec. 1531) that would authorize $35.1 million for the construction of facilities in Qatar; Naval Station Guantanamo Bay, Cuba; Naval Station Rota, Spain; and Bolling Air Force Base, District of Columbia.

The Senate amendment contained no similar provision, but Division B of the Senate amendment contained funding for these projects in the military construction accounts of the military departments.

The House recedes.

The conferees include funding for these projects in the military construction authorizations in Division B of this Act.

Defense-Wide Activities procurement

The House bill contained a provision (sec. 1524) that would authorize $620.4 million for Defense-wide procurement.

The Senate amendment contained no similar provision, but the Senate amendment would authorize funding for these and other Defense-wide procurement activities in Title I.

The House recedes.

The conferees agree to authorize funding for these activities in Title I of this Act.

Effective date

The House bill contained a provision (sec. 1547) that would establish effective dates for the wartime pay and allowance increases proposed in this Title.

The Senate amendment contained no similar provision.

The House recedes.

Increase in amount of death gratuity

The House bill contained a provision (sec. 1546) that would increase the death gratuity from $6,000 to $12,000.

The Senate amendment contained no similar provision.

The House recedes.

Increase in rate for career enlisted flyer incentive pay

The House bill contained a provision (sec. 1545) that would increase the rate for career enlisted flyer incentive pay by $50 per month for each category of recipient based on years of service completed.

The Senate amendment contained no similar provision.

The House recedes.

Increase in rate for diving duty special pay

The House bill contained a provision (sec. 1543) that would increase the rate for diving duty special pay for officers from $240 per month to $290 per month and for enlisted members from $340 per month to $390 per month.

The Senate amendment contained no similar provision.

The House recedes.

Increase in rate for family separation allowance

The House bill contained a provision (sec. 1541) that would increase the rate for family separation allowance from $100 per month to $125 per month.

The Senate amendment contained no similar provision.

The House recedes.

Increase in rate for imminent danger pay

The House bill contained a provision (sec. 1544) that would increase the rate for imminent danger pay from $150 to $250 per month.

The Senate amendment contained no similar provision.

The House recedes.

Increase in rates for various hazardous duty incentive pays

The House bill contained a provision (sec. 1542) that would increase the rates for various hazardous duty incentive pays by $50 per month.

The Senate amendment contained no similar provision.

The House recedes.

Military personnel

The House bill contained a provision (sec. 1529) that would authorize $503.1 million for military personnel for the conduct of operations in continuation of the war on terrorism.

The Senate amendment contained no similar provision.

The House recedes.

Navy and Marine Corps procurement

The House bill contained a provision (sec. 1522) that would authorize $884.8 million for specific Navy and Marine Corps procurement programs in support of the war against terrorism.

The Senate amendment contained no similar provision, but the Senate amendment would authorize funding for these and other procurement activities in Title I.

The House recedes.

The conferees agree to authorize funding for these activities in Title I of this Act.

Operation and Maintenance

The House bill contained a provision (sec. 1528) that would authorize $548.2 million for operation and maintenance for the Army, Navy, Marine Corps, and Air Force.

The Senate amendment contained no similar provision, but the Senate amendment would authorize funding for these and other Defense-wide operation and maintenance activities in Title III.

The House recedes.

The conferees agree to authorize funding for these activities in Title III of this Act.

Research, Development, Test and Evaluation, Defense-wide

The House bill contained a provision (sec. 1525) that would authorize $390.1 million for Research, Development, Test and Evaluation, Defense-wide for chemical and biological defense activities.

The Senate amendment contained no similar provision, but the Senate amendment would authorize funding for these and other research and development activities in Title II.

The House recedes.

The conferees agree to authorize funding for these activities in Title II of this Act.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Overview

The budget for fiscal year 2003 requested authorization of appropriations of $8,934.0 million for the military construction and family housing construction and operation accounts of the Department of Defense. An additional $594.4 million was requested for military construction projects in the Defense Emergency Response Fund (DERF). The Army later identified an additional $122.6 million in military construction projects in the DERF that had been originally categorized as operation and maintenance funding.

The House bill would authorize $9,988.6 million for military construction and family housing.

The Senate amendment would authorize $10,178.9 million for these accounts.

The conferees recommend authorization of appropriations of $10,423.6 million for the military construction and family housing accounts of the Department of Defense for fiscal year 2003. The summary table that follows also reflects prior year savings of $33.7 million to be derived from anticipated rescissions. Including the budget authority impact of $53.0 million for a previously authorized project and the anticipated rescissions of prior year funding, the conference agreement is consistent with a budget authority level of $10,442.9 million for military construction and family housing.

Projects that have been transferred into these accounts from the DERF are displayed as changes to the original military construction request in the tables that follow. Excluding these transfers, the conferees agree to a net increase of $772.6 million in military construction and family housing funding.

The House bill, the Senate amendment, and the conference agreement reduced the military construction and family housing accounts by $39.9 million to reflect the proper accounting for the accrual of civilian personnel benefits under current law, and by $44.6 million to reflect foreign currency fluctuations. In addition, the conferees agree to reductions of $54.5 million in the military construction accounts to be achieved through a 0.9 percent reduction in the rates charged for supervision, inspection, and overhead on construction projects, and $57.0 million to reflect lower inflation rates. These reductions shall not cancel any military construction project authorized by this Act.

The following tables list the amounts authorized to be appropriated for the military construction and family housing accounts and for each military construction and family housing project.

NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2003
(Dollars in Thousands)

	Authorization Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Military Construction					
Military Construction, Army	1,476,521	1,530,033	1,612,912	163,526	1,640,047
Military Construction, Navy	895,131	1,268,565	1,235,338	402,167	1,297,298
Military Construction, Air Force	644,090	933,221	1,065,610	400,187	1,044,277
Military Construction, Defense-Wide	687,535	779,896	721,959	118,820	806,355
Military Construction, Army National Guard	101,595	170,793	195,588	134,641	236,236
Military Construction, Air National Guard	53,473	119,266	222,459	150,742	204,215
Military Construction, Army Reserve	58,779	86,789	62,992	40,620	99,399
Military Construction, Naval Reserve	51,554	66,971	58,671	24,247	75,801
Military Construction, Air Force Reserve	31,900	68,576	59,883	53,749	85,649
Base Realignment & Closure, Defense	545,138	545,138	545,138	16,000	561,138
NATO Security Investment Program	168,200	168,200	168,200	-1,000	167,200
Total Military Construction	**4,713,916**	**5,737,448**	**5,948,750**	**1,503,699**	**6,217,615**
Family Housing					
Family Housing Construction, Army	283,346	278,426	283,346	-2,990	280,356
Family Housing Operations & Debt, Army	1,122,274	1,122,274	1,114,087	-21,187	1,101,087
Family Housing Construction, Navy & Marine Corps	375,700	377,616	375,700	768	376,468
Family Housing Operations & Debt, Navy & Marine Corps	867,788	867,788	865,136	-8,652	859,136
Family Housing Construction, Air Force	676,694	681,042	676,694	8,130	684,824
Family Housing Operations & Debt, Air Force	844,419	874,050	865,268	9,849	854,268
Family Housing Construction, Defense-Wide	5,480	5,480	5,480	0	5,480
Family Housing Operations & Debt, Defense-Wide	42,432	42,432	42,395	-37	42,395
DoD Family Housing Improvement Fund	2,000	2,000	2,000	0	2,000
Total Family Housing	**4,220,133**	**4,251,108**	**4,230,106**	**-14,119**	**4,206,014**
Total FY2003 Authorization of Appropriations	8,934,049	9,988,556	10,178,856	1,489,580	10,423,629
Prior Year Savings				-33,700	-33,700
Net Military Construction/Family Housing Funding				1,455,880	10,389,929

Military Construction Authorizations for FY2003
(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2003 Authorization Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized
Alabama	Army	Anniston Army Depot	Ammunition Containerization Doors	1,900	1,900	1,900		1,900
Alabama	Army (DERF)	Ft. Rucker	Cantonment Fencing	-	-	-	9,258	9,258
Alabama	Army	Ft. Rucker	Physical Fitness Center	-	-	3,500	3,500	3,500
Alabama	Army	Ft. Rucker	UH-60 Parking Apron	-	3,050	3,050	3,050	3,050
Alabama	Army	Redstone Arsenal	Cafeteria Addition	-	1,950	-	1,950	1,950
Alabama	Air Force	Maxwell AFB	Gunter Fitness Center	-	8,000	-		-
Alabama	Army National Guard	Gadsen	Add/Alter Readiness Center (ADRS)	1,781	2,261	1,781	480	2,261
Alaska	Army (DERF)	Fort Greely	Fencing	-	-	-	2,700	2,700
Alaska	Army	Fort Richardson	Barracks Complex - D Street, Phase II	21,000	21,000	21,000		21,000
Alaska	Army	Fort Richardson	Community Center	-	-	15,000	15,000	15,000
Alaska	Army (DERF)	Fort Richardson	Perimeter Fencing	-	-	-	5,011	5,011
Alaska	Army	Fort Wainwright	Automated Sniper Field Fire Range	1,600	1,600	1,600		1,600
Alaska	Army	Fort Wainwright	Battalion Headquarters	18,000	18,000	18,000		18,000
Alaska	Army (DERF)	Fort Wainwright	Fencing Installation Boundary	-	-	-	6,896	6,896
Alaska	Army	Fort Wainwright	Infantry Platoon Battle Course	24,000	24,000	24,000		24,000
Alaska	Army	Fort Wainwright	Mission Support Training Facility	50,000	50,000	50,000		50,000
Alaska	Army (DERF)	Fort Wainwright	Mylar Window Glazing	-	910	910	910	910
Alaska	Army	Fort Wainwright	Vehicle Maintenance Facility	16,500	16,500	16,500		16,500
Alaska	Army	Fort Wainwright	Vehicle Maintenance Shop Phase II	-	-	-	22,000	22,000
Alaska	Air Force	Clear AFS	Upgrade Power Plant	14,400	14,400	14,400		14,400
Alaska	Air Force	Eielson AFB	Blair Lakes Range Maintenance Complex	-	-	19,500	19,500	19,500
Alaska	Air Force	Eielson AFB	Central Heat Plant Bag Houses	21,600	21,600	21,600		21,600
Alaska	TRICARE	Elmendorf AFB	Hospital Construction Claim Payment	10,400	10,400	10,400		10,400
Alaska	TRICARE	Fort Wainwright	Hospital Replacement, Phase IV		-	-		-
Arizona	Army	Fort Huachuca	UAV Facilities	-	10,400	-	10,400	10,400
Arizona	Army	Yuma PG	Aircraft Armament Test/Maintenance Facilities	-	4,500	-	4,500	4,500
Arizona	Navy	MCAS Yuma	Combat Aircraft Loading Apron, Phase II	3,000	3,000	3,000		3,000
Arizona	Air Force	Davis-Monthan AFB	Dormitory (120 Rm)	9,110	9,110	9,110		9,110
Arizona	Air Force	Davis-Monthan AFB	HH-60 Apron/Taxiway D Shoulder	3,720	3,720	3,720		3,720
Arizona	Air Force	Davis-Monthan AFB	HH 60 Maintenance Hanger	6,440	6,440	6,440		6,440
Arizona	Air Force	Luke AFB	Land Acquisition	-	13,000	-	13,000	13,000
Arkansas	Army	Pine Bluff Arsenal	Non-Stockpile Ammunition Demolition Shop	18,937	18,937	18,937	(18,937)	-
Arkansas	Air Force	Little Rock AFB	Add/Alter C-130J Aircrew Fuselage Trainer	2,500	2,500	2,500		2,500
Arkansas	Air Force	Little Rock AFB	C-130J Engine/Propeller Storage Facility	2,100	2,100	2,100		2,100
Arkansas	Air Force	Little Rock AFB	C-130J Maintenance Hanger	12,900	12,900	12,900		12,900
Arkansas	Air Force	Little Rock AFB	C-130J Maintenance Training Facility	8,100	8,100	8,100		8,100
Arkansas	ChemDemil	Pine Bluff Arsenal	Non-Stockpile Ammunition Demolition Shop	-	-	-	18,937	18,937

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Arkansas	Air National Guard	Little Rock AFB	Operations and Training Facility	-	5,100	5,100	5,100	5,100
Arkansas	Air National Guard	Ft. Smith MAP	Operations and Training Facility	-	-	7,900	6,000	6,000
California	Army (DERF)	Fort Irwin	Fencing	-	-	-	2,522	2,522
California	Army	Monterey DLI	Water Diversion	-	1,500	-		-
California	Navy	MCAS Camp Pendleton	Aviation Armament Shop	6,610	6,610	6,610		6,610
California	Navy	MCAS Camp Pendleton	Fire Protection Pipeline	5,320	5,320	5,320		5,320
California	Navy	Camp Pendleton	AAAV Training Complex	28,810	28,810	28,810		28,810
California	Navy	Camp Pendleton	Bachelor Enlisted Quarters	23,230	23,230	23,230		23,230
California	Navy	Camp Pendleton	Child Development Center	-	-	8,230		-
California	Navy (DERF)	Camp Pendleton	Force Intelligence Operations Center	-	20,000	20,000	20,000	20,000
California	Navy	Camp Pendleton	Water Treatment, Reservoir & Distribution	12,000	12,000	12,000		12,000
California	Navy	China Lake NAWCWPNSDIV	Propulsion Fuel Lab Replacement	-	10,100	-	10,100	10,100
California	Navy	NAS Lemoore	Air Passenger Terminal	8,070	8,070	8,070		8,070
California	Navy	NAS Lemoore	Aircraft Parking Apron	8,450	8,450	8,450		8,450
California	Navy (DERF)	NAS Lemoore	Security Upgrades	-	19,335	19,335	19,335	19,335
California	Navy	MCAS Miramar	Construction Equipment Shop	5,540	5,540	5,540		5,540
California	Navy	MCAS Miramar	High Explosive Magazine	3,160	3,160	3,160		3,160
California	Navy	MCAS Miramar	Refueling Vehicle Shop	-	3,510	-	3,510	3,510
California	Navy	MCLB Barstow	Combat Vehicle Welding	-	4,450	-	4,450	4,450
California	Navy	NAWC Point Mugu	Extend Aircraft Parking Apron	6,760	6,760	6,760		6,760
California	Navy	NPGS Monterey	Educational Facility Replacement Phase I	-	7,000	-	7,000	7,000
California	Navy (DERF)	NPGS Monterey	Replace Perimeter Security Fence	-	2,020	2,020	2,020	2,020
California	Navy (DERF)	NS San Diego	Perimeter Security Lighting	-	1,580	1,580	1,580	1,580
California	Navy	NS San Diego	Pier 2 Electrical Upgrade	3,530	3,530	3,530		3,530
California	Navy	NS San Diego	Replace Pier (San Clemente Island)	6,150	6,150	6,150		6,150
California	Navy (DERF)	NS San Diego	Security Lights, Piers and Quaywalls	-	7,100	7,100	7,100	7,100
California	Navy	MAGTFC Twentynine Palms	Aircraft Surveillance Radar	-	15,100	-	13,700	13,700
California	Navy	MAGTFC Twentynine Palms	Bachelor Enlisted Quarters	25,770	25,770	25,770		25,770
California	Navy	Port Hueneme NCTC	Seabee Training Facility	-	-	6,957	10,170	10,170
California	Air Force	Beale AFB	Global Hawk Dining Facility	3,470	3,470	3,470		3,470
California	Air Force	Beale AFB	Global Hawk Squadron Ops/Maint Facility	3,670	3,670	3,670		3,670
California	Air Force	Beale AFB	Global Hawk Upgrade Maintenance Dock	4,600	4,600	4,600		4,600
California	Air Force	Travis AFB	Aircraft Parts Store	-	-	8,000	8,000	8,000
California	Air Force	Travis AFB	Electrical System Replacement & Supporting Infrastruct	-	-	11,300	11,269	11,269
California	Air Force	Travis AFB	Operations AMU	-	9,600	-	9,600	9,600
California	Air Force	Travis AFB	Simulator Facility	-	-	4,600	4,600	4,600
California	Air Force	Vandenberg AFB	Install Stormwater Drainage	3,100	3,100	3,100		3,100

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California	Air Force	Vandenberg AFB	Upgrade Water Distribution System, Phase II	7,400	7,400	7,400		7,400
California	DLA	Travis AFB	Replace Bulk Fuel Storage Tanks	16,000	16,000	16,000		16,000
California	Army National Guard	Moreno Valley	Readiness Center (ADRS)	12,044	12,044	12,044		12,044
California	Army National Guard	San Diego	OMS (ADRS)	6,774	6,774	6,774		6,774
California	Air National Guard	Sepulveda ANGS	Communications and Electronics Training Facility	-	-	7,000	7,000	7,000
California	Army Reserve	Vallejo	OMS/Marine/AMSA	6,501	6,501	6,501		6,501
California	Air Force Reserve	March ARB	Add/Alter C-17 Simulator Facility	-	-	-	1,900	1,900
California	Air Force Reserve	March ARB	Add/Alter Squadron Operations	-	-	1,700	1,700	1,700
California	Air Force Reserve	March ARB	Alter General Maintenance Shops	-	-	2,000	2,000	2,000
California	Air Force Reserve	March ARB	Alter Life Support	-	-	3,000	3,000	3,000
California	Air Force Reserve	March ARB	C-17 Multifunctional Hangar	-	-	-	15,100	15,100
California	Air Force Reserve	March ARB	Runway Surface	-	2,550	-	2,550	2,550
California	Air Force Reserve	March ARB	Taxiway Surface	-	4,350	-		-
Colorado	Army	Fort Carson	Barracks Complex - Nelson Blvd, Phase II	42,000	42,000	42,000		42,000
Colorado	Army (DERF)	Fort Carson	Fencing	-	-	-	4,348	4,348
Colorado	Army	Fort Carson	Fire Station	-	4,250	-	4,250	4,250
Colorado	Army	Fort Carson	Truck Loading/Unloading Docks	1,100	1,100	1,100		1,100
Colorado	Army	Pueblo Depot	Ammunition Demilitarization Facility, Phase IV	38,000	-	38,000	(38,000)	-
Colorado	Air Force (DERF)	USAF Academy	Perimeter Fence, Cadet Area, Phase I	-	4,200	4,200	4,200	4,200
Colorado	Air Force	USAF Academy	Upgrade Academic Facility	-	5,200	-		-
Colorado	Air Force	Buckley AFB	Add/Alter SBIRS Mission Control Station	6,900	6,900	6,900		6,900
Colorado	Air Force	Buckley AFB	Wing Headquarters/Administrative Facility	10,800	10,800	10,800		10,800
Colorado	Air Force (DERF)	Peterson AFB	NORAD Battle Management Center	-	3,500	3,500	3,500	3,500
Colorado	Air Force (DERF)	Peterson AFB	NORAD Battle Management Center	-	(3,500)	-		-
Colorado	Air Force (DERF)	Peterson AFB	AT/FP Site Improvements	-	2,000	2,000	2,000	2,000
Colorado	Air Force (DERF)	Schriever AFB	Visitors Center/Entry Control Gates	-	5,700	5,700	5,700	5,700
Colorado	JCS (DERF)	Peterson AFB	Facility Refurbishment CINC Northern Command	-	18,400	-	25,000	25,000
Colorado	ChemDemil	Pueblo AD	Ammunition Demilitarization Facility Phase iv	-	38,000	-	38,000	38,000
Colorado	Air National Guard	Buckley AFB	Control Tower	-	-	5,900	5,900	5,900
Colorado	Air Force Reserve	Schriever AFB	Consolidates Space Group Ops	-	6,900	-	6,900	6,900
Connecticut	Navy (DERF)	NSB New London	Gate 1 Security Improvements	-	4,080	4,080	4,080	4,080
Connecticut	Navy (DERF)	NSB New London	Gate 7 Truck Access Security	-	3,800	3,800	3,800	3,800
Delaware	Air Force	Dover AFB	Air Traffic Control Facility	-	-	7,500		-
Delaware	Air National Guard	New Castle County AP	Parking Apron/Taxiway	-	-	10,800	10,800	10,800
District of Columbia	Army (DERF)	Walter Reed AMC	Electric Switch Station	-	7,400	7,400	7,400	7,400
District of Columbia	Army	Walter Reed AMC	Parking Garage	-	-	8,000		-

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District of Columbia	Army (DERF)	Walter Reed AMC	Physical Security, Forest Glen	-	2,550	2,550	2,550	2,550
District of Columbia	Army (DERF)	Walter Reed AMC	Physical Security, Main Section	-	-	-	3,844	3,844
District of Columbia	Navy	MCB Washington, D.C.	Site Improvements	3,700	3,700	3,700		3,700
District of Columbia	Navy (DERF)	ND Washington	O Street Visitor Processing Center	-	2,690	2,690	2,690	2,690
District of Columbia	Air Force (DERF)	Bolling AFB	Perimeter Wall, North Gate	-	1,500	1,500	1,500	1,500
District of Columbia	Air Force (DERF)	Bolling AFB	Security Forces Operations Facility	-	3,500	3,500	3,500	3,500
District of Columbia	DIA	Bolling AFB	Analysis Center	121,958	121,958	121,958	(10,000)	111,958
District of Columbia	Defense (WHS)	District Of Columbia	Parking Garage	2,500	-	2,500		2,500
Florida	Navy	Eglin AFB	Advanced Explosive Ordnance Disposal Train Fac	6,350	6,350	6,350		6,350
Florida	Navy	NAS Jacksonville	Aviation Support Equipment Maint Training Facility	-	6,572	-	6,572	6,572
Florida	Navy (DERF)	NAS Jacksonville	Birmingham Gate Security Improvements	-	1,890	1,890	1,890	1,890
Florida	Navy (DERF)	NAS Jacksonville	Commercial Gate Security Improvements	-	2,680	2,680	2,680	2,680
Florida	Navy (DERF)	NAS Jacksonville	Yorktown Gate Security Improvements	-	2,200	2,200	2,200	2,200
Florida	Navy (DERF)	NS Mayport	Perimeter Security Upgrades	-	1,900	1,900	1,900	1,900
Florida	Navy	NAS Pensacola	Runway Approach Lights	990	990	990		990
Florida	Navy	Panama City	Naval Special Warfare Facility	-	-	10,700	10,700	10,700
Florida	Navy	Whiting Field NAS	Aviation Maintenance Officer School	-	1,780	-		-
Florida	Air Force	Avon Park Range	Defense Access Road, Arbuckle Creek Bridge	-	-	-	2,000	2,000
Florida	Air Force (DERF)	Eglin AFB	Barriers and Intrusion Detection System	-	1,050	1,050	1,050	1,050
Florida	Air Force (DERF)	Eglin AFB	Security Fencing	-	3,200	3,200	3,200	3,200
Florida	Air Force	Hurlburt Field	Dormitory (144 Rm)	9,000	9,000	9,000		9,000
Florida	Air Force	Tyndall AFB	Fitness Center	-	8,100	-		-
Florida	Air Force (DERF)	Hurlburt Field	Force Protection, HQ AFSOC, Phase I	-	3,500	3,500	3,500	3,500
Florida	Air Force (DERF)	Hurlburt Field	Force Protection, HQ 16 SOW, Phase II	-	2,500	2,500	2,500	2,500
Florida	Air Force (DERF)	MacDill AFB	AT/FP Gates	-	7,000	7,000	7,000	7,000
Florida	Air Force	MacDill AFB	Air Traffic Control Tower / Fire Rescue	-	14,000	-	13,000	13,000
Florida	SOCOM	Hurlburt Field	Add/Alter Command & Operations Facility	9,000	9,000	9,000		9,000
Florida	SOCOM	Hurlburt Field	Alter Facilities for CV 22	2,100	2,100	2,100		2,100
Florida	Army National Guard	Camp Blanding	Combined Support Maintenance Shop Phase I		6,000	-	5,000	5,000
Florida	Air Force Reserve	Homestead ARS	Services Complex	-	2,500		2,500	2,500
Florida	Air Force Reserve (DERF)	Homestead ARS	Perimeter Fence	-	1,100	1,100	1,100	1,100
Georgia	Army (DERF)	Fort Benning	Access Control Points	-	8,000	8,000	8,000	8,000
Georgia	Army	Fort Benning	Barracks Complex - Main Post, Phase I	45,000	45,000	45,000		45,000
Georgia	Army (DERF)	Fort Benning	Cantonment Fencing	-	-	-	5,500	5,500
Georgia	Army	Fort Benning	Chapel	-	-	-	6,500	6,500
Georgia	Army	Fort Benning	Urban Assault Course	3,250	3,250	3,250		3,250
Georgia	Army	Fort Stewart	Saber Hall Complex	26,000	26,000	26,000		26,000

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Georgia	Navy (DERF)	NSB Kings Bay	Stimson Gate Security Improvements	-	1,580	1,580	1,580	1,580
Georgia	Air Force (DERF)	Warner-Robins AFB	Base Entrance/Visitors Facility	-	5,400	5,400	5,400	5,400
Georgia	Air Force	Warner-Robins AFB	Corrosion Control Depaint Facility	-	-	24,000	24,000	24,000
Georgia	Air National Guard (DERF)	Savannah IAP	Relocate Base Entrance	-	1,450	1,450	1,450	1,450
Georgia	Naval Reserve	NAS Atlanta	Bachelor Enlisted Quarters	6,730	6,730	6,730		6,730
Georgia	Naval Reserve	NRC Savannah	Marine Corps Reserve Center	5,900	5,900	5,900		5,900
Georgia	Air Force Reserve (DERF)	Dobbins ARB	Visitor Center	-	2,000	2,000	2,000	2,000
Hawaii	Army	Schofield Barracks	Barracks Complex - Capron Ave, Phase I	49,000	49,000	49,000		49,000
Hawaii	Army	Schofield Barracks	Barracks Complex - Quad C	42,000	42,000	42,000		42,000
Hawaii	Army	Pohakuloa Training Area	Saddle Road Access, Phase II	-	-	13,000	13,000	13,000
Hawaii	Navy	MCB Hawaii	Religious Ministry Facility	-	-	9,500	9,500	9,500
Hawaii	Navy	NS Pearl Harbor	Electrical System Upgrade Ford Island	-	-	19,400	19,400	19,400
Hawaii	Navy	NS Pearl Harbor	Recapitalize Bravo Wharfs	10,490	10,490	10,490		10,490
Hawaii	Navy (DERF)	NS Pearl Harbor	Security Lighting	-	4,200	4,200	4,200	4,200
Hawaii	Navy	Pearl Harbor NSY	Waterfront/Mech Shop (Bravo Pier)	-	18,500	-	18,500	18,500
Hawaii	Air Force (DERF)	Hickam AFB	Flightline Security Fencing and Gates, Phase I	-	1,350	1,350	1,350	1,350
Hawaii	Msl Defense Agency	Kauai	THAAD Test Facility	23,400	23,400	23,400		23,400
Hawaii	TRICARE	Hickam AFB	Life Skills Clinic Replacement	2,700	2,700	2,700		2,700
Hawaii	Army National Guard	NAS Barbers Point	Military Complex, Phase I	22,473	22,473	22,473		22,473
Idaho	Army National Guard	Gowen Field	Readiness Center	-	-	-	1,500	1,500
Idaho	Air National Guard	Gowen Field	Air Support Squadron Beddown	-	-	6,800	6,700	6,700
Illinois	Navy (DERF)	NTC Great Lakes	Commercial Truck Inspection Station	-	1,620	1,620	1,620	1,620
Illinois	Navy (DERF)	NTC Great Lakes	Intrusion Resistant Gates	-	6,470	6,470	6,470	6,470
Illinois	Navy	NTC Great Lakes	Recruit Barracks	43,360	43,360	43,360	(5,000)	38,360
Illinois	Navy	NTC Great Lakes	Recruit Barracks	41,740	41,740	41,740	(5,000)	36,740
Illinois	Air National Guard	Capital MAP	Composite Support Facility	-	8,800	10,000	10,000	10,000
Indiana	Army	Newport AAP	Ammunition Demilitarization Facility, Phase V	61,494	-	61,494	(61,494)	-
Indiana	Navy	Crane NAVSURFWARCENDIV	Electrochemistry Engineering Facility	-	11,610	-	11,610	11,610
Indiana	ChemDemil	Newport AAP	Ammunition Demilitarization Facility Phase V	-	61,494	-	61,494	61,494
Indiana	Army National Guard	Camp Atterbury	Battle Simulation Center		8,327		8,327	8,327
Indiana	Air Force Reserve	Grissom ARB	Add/Alter Aircraft Maintenance Hangar	-	-	6,000		-
Iowa	Army National Guard	Boone	Readiness Center	-	4,252	-	4,252	4,252
Iowa	Air National Guard	Sioux Gateway Airport	KC-135 Upgrade Aircraft Maint Hangar & Shops	6,900	6,900	6,900		6,900
Iowa	Air National Guard	Sioux Gateway Airport	KC-135 Upgrade Shops & Operations Facility	4,800	4,800	4,800		4,800
Iowa	Air National Guard	Des Moines	Upgrade Airfield Facilities Phase I	-	-	9,200	6,000	6,000
Kansas	Army (DERF)	Fort Leavenworth	Access Control Points	-	3,150	3,150	3,150	3,150
Kansas	Army (DERF)	Fort Leavenworth	Cantonment Fencing	-	-	-	4,829	4,829

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Kansas	Army (DERF)	Fort Riley	Access Control Gates	-	6,000	6,000	6,000	6,000
Kansas	Army	Fort Riley	Barracks Complex - Infantry Drive East	41,000	41,000	41,000		41,000
Kansas	Army (DERF)	Fort Riley	Cantonment Fencing	-	-	-	7,095	7,095
Kansas	Army	Fort Riley	Combined Arms Collective Training Facility, Phase I	-	-	13,800	13,800	13,800
Kansas	Army	Fort Riley	Deployment Facility, Ramp Extension	-	4,950	-		-
Kansas	Air Force	McConnell AFB	Corrosion Control Paint Facility	-	7,500	-	7,500	7,500
Kansas	Army National Guard	Fort Riley	OMS Add/Alter (ADRS)	770	770	770		770
Kansas	Army National Guard	Kansas City	OMS Add/Alter (ADRS)	771	771	771		771
Kansas	Army National Guard	Topeka	Armed Forces Reserve Center	14,607	14,607	14,607		14,607
Kentucky	Army	Blue Grass Army Depot	Ammunition Demilitarization Facility, Phase III	10,300	-	10,300	(10,300)	-
Kentucky	Army	Blue Grass Army Depot	Ammunition Demilitarization Support, Phase III	8,300	-	8,300	(8,300)	-
Kentucky	Army	Blue Grass Army Depot	Railyard Infrastructure	5,500	5,500	5,500		5,500
Kentucky	Army	Fort Campbell	Barracks Complex - Range Road, Phase I	49,000	49,000	49,000		49,000
Kentucky	Army	Fort Campbell	Purchase Easement Runway Approach & Departure	-	7,300	-	7,300	7,300
Kentucky	Army (DERF)	Ft. Knox	Access Control	-	-	-	2,529	2,529
Kentucky	Army (DERF)	Ft. Knox	Cantonment Fencing	-	-	-	3,344	3,344
Kentucky	Army	Ft. Knox	Child Development Center	-	-	6,800		-
Kentucky	ChemDemil	Blue Grass Army Depot	Ammunition Demilitarization Facility, Phase III	-	10,300	-	10,300	10,300
Kentucky	ChemDemil	Blue Grass Army Depot	Ammunition Demilitarization Support, Phase III	-	8,300	-	8,300	8,300
Louisiana	Army	Fort Polk	Digital Multi-Purpose Training Range	31,000	31,000	31,000		31,000
Louisiana	Army (DERF)	Fort Polk	Fencing	-	-	-	6,620	6,620
Louisiana	Air Force	Barksdale AFB	Dormitory (168 Room)	10,900	10,900	10,900		10,900
Louisiana	Air Force	Barksdale AFB	Replace Parking Ramp	-	-	12,000	12,000	12,000
Louisiana	DLA	NASJRB New Orleans	Replace Bulk Fuel Storage Tanks	9,500	9,500	9,500		9,500
Louisiana	Air National Guard	NASJRB New Orleans	Replace Vehicle Maint/Aircraft Spt Equip Complex	-	-	5,500		-
Louisiana	Naval Reserve	NASJRB New Orleans	AFRC (Phase III)	-	7,400	-	7,400	7,400
Louisiana	Naval Reserve	NASJRB New Orleans	Engine Maintenance Shop Addition	1,500	1,500	1,500		1,500
Louisiana	Naval Reserve	NASJRB New Orleans	Hazardous Material Storage	2,690	2,690	2,690		2,690
Louisiana	Naval Reserve (DERF)	NASJRB New Orleans	Perimeter Road and Fencing	-	1,510	1,510	1,510	1,510
Louisiana	Naval Reserve	NASJRB New Orleans	Runway and Taxiway Extension	14,600	14,600	14,600		14,600
Maine	Navy	NAS Brunswick	Air Traffic Control Tower	-	-	9,830	9,830	9,830
Maine	Navy	NSY Kittery-Portsmouth	AT/FP Improvements	11,600	11,600	11,600		11,600
Maine	Navy (DERF)	NSY Kittery-Portsmouth	Gate 1 Security Improvements	-	3,600	3,600	3,600	3,600
Maryland	Army	Aberdeen Proving Ground	Ammunition Demilitarization Facility, Phase V	30,600	-	30,600	(30,600)	-
Maryland	Army	Fort Detrick	Barracks Complex - Porter Street South	16,000	16,000	16,000		16,000
Maryland	Army	Fort Detrick	Community Support Center	3,700	3,700	3,700		3,700
Maryland	Army	Fort Detrick	Renovate & Expand Fire Station	-	2,800	-	2,800	2,800

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Location	Service/Agency/Program	Installation	Project Title	FY2003 Authorization Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized
Maryland	Navy	NAF Andrews	BEQ Replacement	9,680	9,680	9,680		9,680
Maryland	Navy	NSWC Carderock Division	National Maritime Tech Information Center	-	-	12,900	12,900	12,900
Maryland	Navy	U.S. Naval Academy	Ethical Center Classroom	-	1,800	-	1,800	1,800
Maryland	Air Force (DERF)	Andrews AFB	AT/FP Improvements Harbor Gate	-	5,500	5,500	5,500	5,500
Maryland	Air Force (DERF)	Andrews AFB	AT/FP Vehicle Gates	-	4,100	4,100	4,100	4,100
Maryland	ChemDemil	Aberdeen Proving Ground	Ammunition Demilitarization Facility, Phase V	-	30,600	-	20,600	20,600
Maryland	NSA	Fort Meade	Operations Building 1 Stair Tower	2,588	2,588	2,588		2,588
Maryland	NSA	Fort Meade	Perimeter Security	1,896	1,896	1,896		1,896
Maryland	Army National Guard	St. Mary's County	Readiness Center	-	6,740	-	6,740	6,740
Massachusetts	Army	Natick	Food Engineer Lab	-	4,100	-	4,100	4,100
Massachusetts	Air Force	Hanscom AFB	Add/Alter Fitness Center	7,700	7,700	7,700		7,700
Massachusetts	Air Force	Fourth Cliff, Scituate	Erosion Control and Retaining Wall	-	-	9,500		-
Massachusetts	Air Force Reserve	Westover ARB	Security Forces Complex	-	3,850	-	3,850	3,850
Michigan	Army National Guard	Lansing	Multi-Unit Readiness Center	-	-	16,928	16,928	16,928
Michigan	Army National Guard	Shiawasse County	Readiness Center	-	4,700	-		-
Michigan	Air National Guard	Selfridge ANGB	Joint Dining Facility	-	-	8,500	8,500	8,500
Michigan	Air National Guard	Battle Creek	Vehicle Maintenance Shop	-	3,800	-	3,800	3,800
Michigan	Air National Guard (DERF)	Selfridge ANGB	Add Security Fence	-	1,000	1,000	1,000	1,000
Minnesota	Air National Guard	Duluth	Composite Maint Facility Modernization, Phase II	-	-	15,000	6,100	6,100
Minnesota	Naval Reserve (DERF)	NRC Duluth	Harden NRC Building	-	1,450	1,450	1,450	1,450
Minnesota	Air Force Reserve	Minn-St Paul ARS	Lodging Facility Phase IV		6,300	-	6,300	6,300
Mississippi	Navy	NCBC Gulfport	Communications/Instruction Facility	5,460	5,460	5,460		5,460
Mississippi	Navy	NS Pascagoula	BEQ Shipboard Ashore, Phase I	-	12,000	12,800	10,500	10,500
Mississippi	Navy	NS Pascagoula	Construct New Navy Channel	4,160	4,160	4,160		4,160
Mississippi	Navy	NAS Meridian	Control Tower (Joe Williams Field)	-	2,850	-		-
Mississippi	Navy	NAS Meridian	Replace Control and Beacon Tower	-	-	2,850	2,850	2,850
Mississippi	Air Force	Keesler AFB	Student Dormitory (200 Room)	22,000	22,000	22,000		22,000
Mississippi	SOCOM	Stennis Space Center	SOF Training Range	-	-	5,000	5,000	5,000
Mississippi	Army National Guard	Kosciusko	Readiness Center	-	-	3,580	2,300	2,300
Mississippi	Air National Guard	Jackson IAP	C-17 Construct Maintenance Training Facility	4,100	4,100	4,100		4,100
Mississippi	Air National Guard	Jackson IAP	C-17 Replace Fuel Cell Hangar/Shops	25,000	25,000	25,000		25,000
Missouri	Army (DERF)	Fort Leonard Wood	Access Control Points	-	-	-	9,493	9,493
Missouri	Army	Fort Leonard Wood	Tactical Vehicle Simulator Building	15,500	15,500	15,500		15,500
Missouri	Army National Guard	Ft. Leonard Wood	Army Aviation Support Facility	-	-	14,767	14,767	14,767
Missouri	Air National Guard	Lambert-St. Louis IAP	Upgrade Facilities	-	-	5,000		-
Montana	Air National Guard	Great Falls IAP	Munitions Load Crew Training Facility	-	-	3,500	3,500	3,500
Montana	Naval Reserve	NRC Billings	Reserve Center/Land Acquisition	5,905	5,905	5,905		5,905

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Nebraska	Air Force	Offutt AFB	Fire/Crash Rescue Station	-	-	11,000	11,000	11,000
Nebraska	Army National Guard	Lincoln	Readiness Center Add/Alter (ADRS)	757	757	757		757
Nebraska	Army National Guard	Norfolk	Organizational Maintenance Shop (ADRS)	3,666	3,666	3,666		3,666
Nebraska	Army Reserve	Lincoln	AR Center/OMS/Unheated Storage	8,732	8,732	8,732		8,732
Nevada	Navy	NAS Fallon	Weapons Magazine Storage Facility	-	4,010	-		-
Nevada	Air Force	Nellis AFB	Dormitory (144 Room)	12,280	12,280	12,280		12,280
Nevada	Air Force (DERF)	Nellis AFB	Explosive Ordnance Disposal Facility	-	6,900	6,900	6,900	6,900
Nevada	Air Force	Nellis AFB	F-22 Munitions Maintenance Facility	3,170	3,170	3,170		3,170
Nevada	Air Force	Nellis AFB	Land Acquisition	15,000	15,000	15,000		15,000
Nevada	Air Force	Nellis AFB	Land Acquisition	-	-	19,500	19,500	19,500
New Hampshire	Air National Guard	Pease ANGB	Fire Station	-	-	4,450		-
New Jersey	Army	Picatinny Arsenal	High Energy Propellant Formulation Facility Phase II	-	7,500	-	7,500	7,500
New Jersey	Navy	Lakehurst NAWCACFTDIV	Fire Rescue Station	-	5,200	5,200	5,200	5,200
New Jersey	Navy (DERF)	NWS Earle	Water Front Main Gate Security Improvements	-	5,600	5,600	5,600	5,600
New Jersey	Air Force	McGuire AFB	C-17 Add/Alter 3-Bay Hangar	-	-	-	5,200	5,200
New Jersey	Air Force	McGuire AFB	C-17 Flightline Operations Facilities	24,631	24,631	24,631		24,631
New Jersey	Army Reserve	Fort Dix	Vehicle/Pallet Facility	-	4,012	-	4,012	4,012
New Jersey	Army Reserve	Fort Dix	Ramp Modifications	-	10,000	-	10,000	10,000
New Mexico	Army	White Sands Msl Rg	Launcher Complex Revitalization, Phase IIA	-	-	-		
New Mexico	Air Force	Kirtland AFB	Visiting Airmen/Officers Quarters	-	8,400	8,400	8,400	8,400
New Mexico	Air Force	Holloman AFB	Survival Equipment Shop	-	4,650	4,650	4,650	4,650
New Mexico	Air Force (DERF)	Cannon AFB	Replace Security Forces Operations Facility	-	4,650	4,650	4,650	4,650
New Mexico	Air Force (DERF)	Kirtland AFB	Relocate Truman gate	-	2,500	2,500	2,500	2,500
New Mexico	Air Force (DERF)	Kirtland AFB	Upgrade Munitions Maint Storage Complex Security	-	11,000	11,000	11,000	11,000
New York	Army	Fort Drum	One plus One DIVARTY Barracks	-	8,000	-	8,000	8,000
New York	Army	Fort Drum	Parallel Taxiway	-	8,800	-	8,800	8,800
New York	Army	Fort Drum	Shoot House	1,500	1,500	1,500		1,500
New York	Army (DERF)	West Point	Fencing West Point Proper	-	-	-	4,991	4,991
New York	DODEA	West Point	West Point ES Classroom Addition	3,898	3,898	3,898		3,898
New York	DODEA (DERF)	West Point	West Point ES Classroom Addition	-	449	449	449	449
New York	Air National Guard	Hancock Field	Upgrade Force Protection and Infrastructure	-	8,600	-	8,600	8,600
New York	Air National Guard	Syracuse	Mobility Processing Facility	-	2,300	-		-
New York	Army Reserve	Oswego	Reserve Center/OMS/Unheated Storage	5,492	5,492	5,492		5,492
New York	Naval Reserve	I & I Staff Syracuse	Vehicle Maintenance Facility	2,030	2,030	2,030		2,030
New York	Air Force Reserve	Niagara Falls ARS	Visiting Airmen Quarters, Phase I	-	-	9,000		-
North Carolina	Army	Fort Bragg	Barracks Complex - Armistead Street	50,000	50,000	50,000		50,000
North Carolina	Army	Fort Bragg	Barracks Complex - Butner Road, Phase III	50,000	50,000	50,000		50,000

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North Carolina	Army	Fort Bragg	Consolidated Fuel Facility	17,500	17,500	17,500		17,500
North Carolina	Army (DERF)	Fort Bragg	Fencing	-	-	-	4,732	4,732
North Carolina	Army (DERF)	Fort Bragg	Force Protection Plan, Phase II	-	18,000	18,000	18,000	18,000
North Carolina	Army	Fort Bragg	Soldier Support Center	-	9,400	-	9,400	9,400
North Carolina	Navy	Camp Lejeune	Fitness Center Addition	5,370	5,370	5,370		5,370
North Carolina	Navy	Camp Lejeune	Land Acquisition	-	4,200	-	4,200	4,200
North Carolina	Navy	MCAS Cherry Point	T-56 Test Cell	6,040	6,040	6,040		6,040
North Carolina	Navy	MCAS Cherry Point	Ordnance Magazines	-	4,430	-		-
North Carolina	Navy	MCAS New River	Property Control Facility	6,920	6,920	6,920		6,920
North Carolina	Air Force	Pope AFB	Dormitory (144 Room)	9,700	9,700	9,700		9,700
North Carolina	Air Force	Seymour Johnson AFB	Fire/Crash Rescue Station	-	-	10,600		-
North Carolina	DODEA	Camp Lejeune	Berkeley Manor ES Replace School	10,884	10,884	10,884		10,884
North Carolina	DODEA (DERF)	Camp Lejeune	Berkeley Manor ES Replace School	-	1,254	1,254	1,254	1,254
North Carolina	DODEA	Fort Bragg	Butner ES Classroom Addition	900	900	900		900
North Carolina	DODEA (DERF)	Fort Bragg	Butner ES Classroom Addition	-	104	104	104	104
North Carolina	DODEA	Fort Bragg	McNair ES Classroom Addition	925	925	925		925
North Carolina	DODEA (DERF)	Fort Bragg	McNair ES Classroom Addition	-	107	107	107	107
North Carolina	SOCOM	Fort Bragg	SOF Renovate Bryant Hall	11,600	11,600	11,600		11,600
North Carolina	SOCOM	Fort Bragg	SOF Weapons Training Facility	19,200	19,200	19,200		19,200
North Carolina	Army National Guard	Elizabeth City	Motor Vehicle Storage Compound (ADRS)	208	208	208		208
North Carolina	Air National Guard (DERF)	Charlotte/Douglas IAP	Relocate Road and Gate House	-	2,500	2,500	2,500	2,500
North Carolina	Army Reserve	Fort Bragg	Add/Alter Reserve Center	1,624	1,624	1,624		1,624
North Dakota	Air Force	Minot AFB	CALCM Storage Facility	-	-	18,000		-
North Dakota	Air Force	Minot AFB	Munitions Storage Igloos	-	-	-	5,000	5,000
Ohio	Air Force	Wright-Patterson AFB	AFIT Graduate Facility Upgrade	-	13,000	13,000	13,000	13,000
Ohio	Air Force	Wright-Patterson AFB	Dormitory (144 Room)	10,400	-	-	(10,400)	-
Ohio	Air Force	Wright-Patterson AFB	Materials Computational Research Facility	-	-	15,200		-
Ohio	Air Force (DERF)	Wright-Patterson AFB	Small Arms Range Complex	-	12,000	10,000	12,000	12,000
Ohio	DLA	Columbus	Physical Fitness Facility	5,021	5,021	5,021	(5,021)	-
Ohio	Air National Guard	179th Airlift Wing Mansfield	Replace Vehicle Maintenance Shop		3,500	-	3,500	3,500
Ohio	Air National Guard	Toledo Express	Replace Logistics Complex	-	6,900	-		-
Ohio	Air National Guard	Rickenbacker ANGB	Fire Station	-	6,000	-	6,000	6,000
Ohio	Air National Guard	Springfield ANGB	Fire Station	-	6,100	-	6,100	6,100
Ohio	Army Reserve	North Canton	Reserve Center	-	11,998	-	11,998	11,998
Ohio	Naval Reserve (DERF)	NMCRC Columbus	Harden NRC Building	-	1,040	1,040	1,040	1,040
Ohio	Air Force Reserve (DERF)	Youngstown Air Reserve Station	Visitors Center	-	2,500	2,500		-
Oklahoma	Army (DERF)	Ft. Sill	Cantonment Fencing	-	-	-	4,652	4,652

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Oklahoma	Army	Ft. Sill	Consolidated Maintenance Complex, Phase I	-	-	10,000	10,000	10,000
Oklahoma	Air Force	Altus AFB	Consolidated Base Engineer Complex, Phase I	-	-	7,700	7,700	7,700
Oklahoma	Air Force	Tinker AFB	Consolidated Integrated Support Facility	-	7,500	-		-
Oklahoma	Air Force	Vance AFB	Elam Road Repair	-	-	4,800	4,800	4,800
Oregon	Army National Guard	Lane County	Armed Forces Reserve Center Phase II	-	-	9,000		-
Oregon	Air National Guard (DERF)	Klamath Falls Apt-Kingsley Field	Replace Cantonment Area Fence	-	1,000	1,000	1,000	1,000
Oregon	Air Force Reserve	Portland IAP	Alter Maintenance Hangar	525	525	525		525
Oregon	Air Force Reserve	Portland IAP	Alter Maintenance Shops	2,650	2,650	2,650		2,650
Oregon	Air Force Reserve	Portland IAP	Consolidated Training, Phase I	1,609	1,609	1,609		1,609
Oregon	Air Force Reserve	Portland IAP	Hydrant Refueling System, Phase I	6,400	6,400	6,400		6,400
Pennsylvania	Army	Letterkenny Army Depot	Ammunition Road Infrastructure	1,550	1,550	1,550		1,550
Pennsylvania	Army National Guard	Connellsville	Readiness Center Phase II	-	1,700	-	1,700	1,700
Pennsylvania	Army National Guard	Johnstown	Runway Improvements	-	11,000	-		-
Pennsylvania	Air National Guard	Pittsburgh IAP	Add/Alter Squadron Operations and Support Facilities	-	-	7,700	7,700	7,700
Pennsylvania	Air National Guard (DERF)	Ft Indiantown Gap AGS	Base Entrance/Relocate Road/Fencing	-	2,300	2,300	2,300	2,300
Pennsylvania	Army Reserve	Johnstown	Upgrade Aircraft Parking/Ramp	-	-	-	12,270	12,270
Rhode Island	Navy	NS Newport	Police/Security/Fire/Gate	-	-	9,030	9,030	9,030
Rhode Island	Navy	NS Newport	Child Development Center	-	6,870	-	6,870	6,870
South Carolina	Army	Fort Jackson	Basic Combat Training Complex, Phase III	39,000	39,000	39,000		39,000
South Carolina	Army (DERF)	Fort Jackson	Cantonment Fencing	-	-	-	3,051	3,051
South Carolina	Navy	MCAS Beaufort	Aircraft Acoustical Enclosure	13,700	13,700	13,700		13,700
South Carolina	Navy (DERF)	NWS Charleston	Security Facilities Consolidation	-	5,740	5,740	5,740	5,740
South Carolina	Navy	MCRD Parris Island	All Weather Training Facility	7,410	7,410	7,410		7,410
South Carolina	Navy	MCRD Parris Island	Recruit Training Facility Addition	3,080	3,080	3,080		3,080
South Carolina	Air Force	Shaw AFB	Fighter Squadron Maintenance Facility	-	6,800	6,500	6,800	6,800
South Carolina	Air National Guard	McEntire ANGB	Replace Operations and Training Facility	-	-	10,200		-
South Carolina	Air Force Reserve	Charleston AFB	Medical Training Addition	-	2,150	-	2,150	2,150
South Carolina	DODEA	Fort Jackson	Hood St ES Classroom Addition	865	865	865		865
South Carolina	DODEA (DERF)	Fort Jackson	Hood St ES Classroom Addition	-	100	100	100	100
South Carolina	DODEA	Fort Jackson	Pierce Terrace ES Classroom Addition	1,382	1,382	1,382		1,382
South Carolina	DODEA (DERF)	Fort Jackson	Pierce Terrace ES Classroom Addition	-	159	159	159	159
South Dakota	Air Force	Ellsworth AFB	37th Bomb Squadron Operations Facility	-	-	13,200	13,200	13,200
South Dakota	Army National Guard	Camp Rapid	Barracks/Dining /Admin and Parking Complex Phase II	-	-	10,593	10,593	10,593
Tennessee	Air National Guard	Nashville IAP	Composite Aircraft Maintenance Complex Phase II	-	-	8,400		-
Texas	Army (DERF)	Fort Bliss	Cantonment Fencing	-	-	-		-
Texas	Army	Fort Bliss	Upgrade Water Systems	-	5,200	-	5,200	5,200
Texas	Army (DERF)	Fort Hood	Access Control Buildings/Security Fencing	-	24,000	24,000	24,000	24,000

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Texas	Army	Fort Hood	Barracks Complex - Clear Creek Road	45,000	45,000	45,000		45,000
Texas	Army	Fort Hood	Brigade/Battalion Command and Control Phase II	-	16,000	-	11,600	11,600
Texas	Army (DERF)	Fort Hood	Fencing	-	-	-	2,461	2,461
Texas	Navy	NAS Kingsville	Upgrade Airfield Lighting and Controls	6,210	6,210	6,210		6,210
Texas	Navy	NAS Corpus Christi	Public Safety Facility	-	7,150	-	7,150	7,150
Texas	Navy	NS Ingleside	Mine Warfare Training Center Addition	-	-	5,480	5,000	5,000
Texas	Navy	NAS JRB Fort Worth	AIMD Power Plant Shop	-	8,850	-		-
Texas	Air Force (DERF)	Lackland AFB	Military Operations in Urban Terrain Site	-	13,000	13,000	13,000	13,000
Texas	Air Force (DERF)	Lackland AFB	Mil Operations in Urban Terrain Site (Camp Bullis)	-	6,000	6,000	6,000	6,000
Texas	Air Force (DERF)	Lackland AFB	Mil Operations in Urban Terrain Site (Camp Bullis)	-	(6,000)	-		-
Texas	Air Force	Lackland AFB	Student Dormitory (200 Rm)	18,500	18,500	18,500		18,500
Texas	Air Force	Lackland AFB	Training Annex, Fitness Center	-	5,800	-	5,800	5,800
Texas	Air Force (DERF)	Lackland AFB	Visiting Quarters (Camp Bullis)	-	(4,000)	-		-
Texas	Air Force (DERF)	Lackland AFB	Visiting Quarters (Camp Bullis)	-	4,000	4,000	4,000	4,000
Texas	Air Force	Laughlin AFB	Consolidated Wing Support Facility	-	8,000	-	8,000	8,000
Texas	Air Force	Sheppard AFB	Airfield Ops Complex	-	8,000	-		-
Texas	Air Force	Sheppard AFB	Dormitory (144 Room)	10,000	10,000	10,000		10,000
Texas	Air Force	Sheppard AFB	Euro-NATO Joint Pilot Training Flight Simulator	6,000	6,000	6,000		6,000
Texas	Air Force	Goodfellow AFB	Wing Support Complex	-	-	10,600	10,600	10,600
Texas	Air National Guard	Ft. Bliss	Base Defense Training Center	-	-	8,700	8,000	8,000
Texas	Army Reserve	Grand Prairie	Army Reserve Center/OMS/DSGS	9,113	9,113	9,113		9,113
Texas	Naval Reserve	NASJRB Fort Worth	AIMD Power Plant Shop	-	-	-	8,850	8,850
Texas	Naval Reserve (DERF)	NASJRB Fort Worth	Base Pass/ID/Visitor's Center	-	1,500	1,500	1,500	1,500
Texas	Naval Reserve	NMCRC Waco	Vehicle Maintenance/Supply Storage Facility	4,140	4,140	4,140		4,140
Utah	Air Force	Hill AFB	Consolidated Software Support Facility	-	-	16,500		-
Utah	Air Force	Hill AFB	Depot Maintenance Hangar Phase IB	-	14,500	-	14,500	14,500
Vermont	Army National Guard	South Burlington	Readiness Center	-	-	11,241	11,241	11,241
Virginia	Army (DERF)	Fort Eustis	Fencing and Access Road	-	-	-	4,133	4,133
Virginia	Army (DERF)	Fort Lee	Cantonment Fencing	-	-	-	1,903	1,903
Virginia	Army	Fort Lee	Fire and Emergency Services Center	-	5,200	-	5,200	5,200
Virginia	Navy	Dam Neck	Special Operations Building	-	3,900	-		-
Virginia	Navy (DERF)	NAB Little Creek	Fleet Information Warfare Center	-	5,370	5,370	5,370	5,370
Virginia	Navy (DERF)	NAB Little Creek	New Truck Access Gate	-	4,400	4,400	4,400	4,400
Virginia	Navy	NSWC Dahlgren	Theater Warfare Integration Center	9,230	9,230	9,230		9,230
Virginia	Navy (DERF)	NSWC Dahlgren	Chemical/Biological Det Facility Addition	-	6,600	6,600	6,600	6,600
Virginia	Navy	NS Norfolk	Aircraft Maintenance Facilities	34,450	34,450	34,450		34,450
Virginia	Navy	NS Norfolk	Aircraft Recap, Phase III	11,290	11,290	11,290		11,290

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Virginia	Navy	NS Norfolk	BEQ, Shipboard Ashore, Phase I	37,310	37,310	37,310		37,310
Virginia	Navy (DERF)	NS Norfolk	Gate 2 Security Improvements	-	4,400	4,400	4,400	4,400
Virginia	Navy (DERF)	NS Norfolk	Gate 3A Security Improvements	-	4,005	4,005	4,005	4,005
Virginia	Navy (DERF)	NS Norfolk	Main Gate Improvements	-	2,200	2,200	2,200	2,200
Virginia	Navy	NS Norfolk	Pier Replacement, Phase II	33,520	33,520	33,520		33,520
Virginia	Navy	NS Norfolk	Shoreline Security Fencing	2,030	2,030	2,030		2,030
Virginia	Navy	NS Norfolk	Upgrade Electrical Distribution, Phase III	25,160	25,160	25,160		25,160
Virginia	Navy (DERF)	NSA Norfolk	Gate 5 Security Improvements	-	2,260	2,260	2,260	2,260
Virginia	Navy	Norfolk NSY	AT/FP Improvements	19,660	19,660	19,660		19,660
Virginia	Navy	Norfolk NSY	Ship Components Service Facility	-	-	16,810	16,810	16,810
Virginia	Navy	NAS Oceana	Airfield Approach Lighting	2,000	2,000	2,000		2,000
Virginia	Navy (DERF)	NAS Oceana	Airfield Perimeter Security	-	10,500	10,500	10,500	10,500
Virginia	Navy (DERF)	NAS Oceana	Post 1 Security Improvements	-	3,990	3,990	3,990	3,990
Virginia	Navy	MCCDC Quantico	Armory/Fleet Weapons Support Facility	4,234	4,234	4,234		4,234
Virginia	Navy	MCCDC Quantico	BEQ (OCS)	10,280	10,280	10,280		10,280
Virginia	Navy	MCCDC Quantico	BEQ Addition, SNCO	5,040	5,040	5,040		5,040
Virginia	Navy	MCCDC Quantico	Consolidate Instruction Facility	-	5,310	-	5,310	5,310
Virginia	Navy	NWS Yorktown	BEQ Replacement	15,020	15,020	15,020		15,020
Virginia	Air Force (DERF)	Langley AFB	ACC Operations Support Center	-	24,000	24,000	23,000	23,000
Virginia	Air Force	Langley AFB	Dormitory (96 Room)	8,320	8,320	8,320		8,320
Virginia	Air Force	Langley AFB	F-22 Flight Simulator	8,120	8,120	8,120		8,120
Virginia	Air Force	Langley AFB	F-22 Infrastructure and Utilities	10,700	10,700	10,700		10,700
Virginia	Air Force	Langley AFB	F-22 Squadron Ops/AMU	20,800	20,800	20,800		20,800
Virginia	Defense (WHS)	Arlington	Land Acquisition	18,000	-	18,000	(18,000)	-
Virginia	DLA	Def Dist Depot Richmond	Renovate Operations Center	5,500	5,500	5,500		5,500
Virginia	DTRA	Fort Belvoir	Headquarters Relocation	50,188	50,188	50,188		50,188
Virginia	DODEA	Quantico	Ashurst ES Classroom Addition	1,272	1,272	1,272		1,272
Virginia	DODEA (DERF)	Quantico	Ashurst ES Classroom Addition	-	146	146	146	146
Virginia	SOCOM	Dam Neck	Special Operations Building		-	-	3,900	3,900
Virginia	SOCOM	Little Creek	SOF Operations Trainer	4,400	4,400	4,400		4,400
Virginia	SOCOM	Little Creek	SOF Seal Team Operations Facility	9,900	9,900	9,900		9,900
Virginia	Army National Guard	Ft. Pickett	Maneuver and Training Equipment Site, Phase II	-	-	8,957	8,957	8,957
Virginia	Army Reserve	Fort Story	Readiness Center,OMS,AMSA,Storage	12,385	12,385	12,385		12,385
Virginia	Naval Reserve	Norfolk	Reserve Center Addition	4,770	4,770	4,770		4,770
Washington	Army	Fort Lewis	Barracks Complex - 17th & B Street, Phase III	50,000	50,000	50,000		50,000
Washington	Army	Fort Lewis	Battle Simulation Center	24,000	24,000	24,000		24,000
Washington	Army	Fort Lewis	Combined Arms Collective Training Facility	29,800	29,800	29,800		29,800

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Location	Service/Agency/Program	Installation	Project Title	FY2003 Authorization Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized
Washington	Army (DERF)	Fort Lewis	Fencing	-	-	-	2,395	2,395
Washington	Army (DERF)	Yakima Training Center	Shoot House	-	-	-	1,500	1,500
Washington	Army (DERF)	Yakima Training Center	Urban Assault Course	-	-	-	1,500	1,500
Washington	Navy	SWFPAC Bangor	Missile Spares Storage Building	7,340	7,340	7,340		7,340
Washington	Navy	NSB Bangor	Relocate Encumbered Waterfront Shops	5,900	5,900	5,900		5,900
Washington	Navy (DERF)	NSB Bangor	Small Arms Training Center	-	16,410	16,410	16,410	16,410
Washington	Navy	NS Bremerton	BEQ Shipboard Ashore	35,120	35,120	35,120		35,120
Washington	Navy (DERF)	NS Bremerton	Ship Movements Office with Control Tower	-	2,200	2,200	2,200	2,200
Washington	Navy	NS Bremerton	Waterfront Revitalization	8,550	8,550	8,550		8,550
Washington	Navy	Keyport NUWC	Center for Integrated USW Systems Dependability	-	10,500	-	7,500	7,500
Washington	Navy	NMAG Indian Island	Ammunition Wharf Improvements	4,030	4,030	4,030		4,030
Washington	Navy	Puget Sound NSY Bremerton	AT/FP Improvements	21,670	21,670	21,670		21,670
Washington	Navy	Puget Sound NSY Bremerton	AT/FP Parking	-	3,000	-	3,000	3,000
Washington	Navy	Puget Sound NSY Bremerton	Industrial Waste Treatment Facility	11,390	11,390	11,390		11,390
Washington	Navy	Puget Sound NSY Bremerton	Waterfront Support Facilities	21,072	21,072	21,072		21,072
Washington	Navy	NAS Whidbey Island	Aircraft Direct Refueling Facility	9,180	9,180	9,180		9,180
Washington	Navy (DERF)	NAS Whidbey Island	Ault Field Security Fencing	-	8,400	8,400	8,400	8,400
Washington	Army National Guard	Spokane	Combined Readiness Center	-	8,800	11,598	8,800	8,800
West Virginia	Army National Guard	Summersville	Readiness Center	6,800	6,800	6,800		6,800
West Virginia	Army National Guard	Lewisburg	Readiness Center	-	-	5,624	5,715	5,715
West Virginia	Air National Guard	Martinsburg	Site Improvements & Utilities	-	-	12,200	12,200	12,200
Wisconsin	Army National Guard	Camp Douglas (Camp Williams)	United States Property & Fiscal Office Warehouse	6,045	6,045	6,045		6,045
Wisconsin	Army National Guard	Madison	United States Property and Fiscal Office	5,245	5,245	5,245	(5,245)	-
Wisconsin	Army National Guard	Camp Douglas (Camp Williams)	United States Property and Fiscal Office	-	-	-	5,245	5,245
Wisconsin	Army Reserve	Fort McCoy	Battalion Dining Facility	5,117	5,117	5,117		5,117
Wisconsin	Army Reserve	Fort McCoy	Battle Simulation Center		-	3,863		-
Wyoming	Air Force	F.E. Warren AFB	Storm Drainage System, Phase I	-		10,000		-
Wyoming	Naval Reserve (DERF)	NRC Cheyenne	Harden NRC Building	-	1,240	1,240	1,240	1,240
Conus Various	JCS (DERF)	Unspecified Location	CINC HQ for Homeland Defense	-	-	25,000		
Belgium	Army	SHAPE HQ	Barracks Complex - Chievres	13,600	13,600	13,600		13,600
Bahrain	Navy	NSA Bahrain	Installation Service Support Center	25,970	25,970	25,970		25,970
Belgium	DODEA	Mons	SHAPE ES Classroom Addition	1,410	1,410	1,410		1,410
Belgium	DODEA (DERF)	Mons	SHAPE ES Classroom Addition	-	163	163	163	163
Cuba	Navy (DERF)	NS Guantanamo Bay	Security Upgrades	-	4,280	4,280	4,280	4,280
Diego Garcia	Navy	Diego Garcia NAVSUPPFAC	Physical Readiness Center	8,370	8,370	8,370		8,370
Diego Garcia	Navy	Diego Garcia NAVSUPPFAC	Waterfront Operations Support Facility	2,720	2,720	2,720		2,720

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Location	Service/Agency/Program	Installation	Project Title	FY2003 Authorization Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized
Diego Garcia	Air Force	Diego Garcia	B-2 Aircraft Parking Apron, Phase I	17,100	17,100	17,100		17,100
Germany	Army	Bamberg	Barracks Complex - Warner Building 7002	10,200	10,200	10,200		10,200
Germany	Army	Bamberg	Child Development Center	7,000	7,000	7,000		7,000
Germany	Army (DERF)	Campbell Barracks	Window Replacement	-	8,300	8,300	8,300	8,300
Germany	Army (DERF)	Coleman Barracks	Upgrade Access Control/Perimeter Security	-	1,350	1,350	1,350	1,350
Germany	Army	Darmstadt	Modified Record Fire Range, Automated	3,500	3,500	3,500		3,500
Germany	Army	Grafenwoehr	Brigade Complex - Utilities Infrastructure	46,666	46,666	46,666		46,666
Germany	Army	Grafenwoehr	Brigade Complex-Barracks	13,200	13,200	13,200		13,200
Germany	Army	Grafenwoehr	Brigade Complex-Site Preparation	10,000	10,000	10,000		10,000
Germany	Army (DERF)	Landstuhl Hospital	Upgrade Access Control/Facilities	-	1,100	1,100	1,100	1,100
Germany	Army (DERF)	Landstuhl Hospital	Upgrade Access Control/Perimeter Security	-	1,300	1,300	1,300	1,300
Germany	Army	Mannheim	Barracks Complex - Coleman Bldg 18	42,000	42,000	42,000		42,000
Germany	Army	Schweinfurt	Central Vehicle Wash Facility	2,000	2,000	2,000		2,000
Germany	Air Force	Ramstein AB	Combined Fleet Service/In-Flight Kitchen	7,500	7,500	7,500		7,500
Germany	Air Force	Ramstein AB	KMC Center Support	21,300	21,300	21,300		21,300
Germany	Air Force (DERF)	Ramstein AB	Large Vehicle Security Inspection Station	-	1,600	1,600	1,600	1,600
Germany	Air Force	Ramstein AB	Passenger Terminal Annex	17,683	17,683	17,683		17,683
Germany	Air Force	Ramstein AB	Ramp 1, Phase I	23,700	23,700	23,700		23,700
Germany	TRICARE	Spangdahlem AB	Hospital Replacement	39,629	39,629	39,629		39,629
Germany	DODEA	Kaiserlautern AB	Ramstein ES Classroom Addition	858	858	858		858
Germany	DODEA (DERF)	Kaiserlautern AB	Ramstein ES Classroom Addition	-	99	99	99	99
Germany	DODEA	Spangdahlem AB	Spangdahlem ES Classroom Addition	894	894	894		894
Germany	DODEA (DERF)	Spangdahlem AB	Spangdahlem ES Classroom Addition	-	103	103	103	103
Greece	Navy	NSA JHC Larissa	BEQ and Support Facility	14,800	14,800	14,800	(8,000)	6,800
Guam	Air Force	Andersen AFB	Fitness Center	16,000	16,000	16,000		16,000
Guam	Air Force (DERF)	Andersen AFB	Replace Base Water Supply System	-	15,000	15,000	15,000	15,000
Guam	DLA	Andersen AFB	Replace Hydrant Fuel System, Phase IV	17,586	17,586	17,586		17,586
Guam	Army National Guard	Barrigada	Readiness Center	-	6,968	-	6,968	6,968
Iceland	Navy	NAS Keflavik	Combined Dining Facility	14,920	14,920	14,920		14,920
Italy	Army	Vicenza	Barracks Complex-Camp Ederle	31,000	31,000	31,000		31,000
Italy	Army	Vicenza	Child Development Center	3,700	3,700	3,700		3,700
Italy	Navy (DERF)	NAS Sigonella	Off Base Access Road Improvements	-	11,300	11,300	11,300	11,300
Italy	Navy (DERF)	NAS Sigonella	Off Base Access Road Improvements	-	(11,300)	-	(11,300)	(11,300)
Italy	Navy	NAS Sigonella	Parking Garage and Perimeter Security Upgrade	19,560	19,560	19,560		19,560
Italy	Navy	NAS Sigonella	QOL Support II	33,530	33,530	33,530		33,530
Italy	Air Force (DERF)	Aviano Bachelor Housing Annex #1	Consolidate Area A1 & Area A2 for Force Protection	-	5,000	5,000	5,000	5,000
Italy	Air Force (DERF)	Aviano AB	Large Vehicle Inspection Station	-	1,600	1,600	1,600	1,600

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Location	Service/Agency/Program	Installation	Project Title	FY2003 Authorization Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized
Italy	TRICARE	NAS Naples	Medical/Dental Facility Replacement	41,449	41,449	41,449		41,449
Italy	DODEA	Vicenza	Vicenza ES Classroom Addition	1,898	1,898	1,898		1,898
Italy	DODEA (DERF)	Vicenza	Vicenza ES Classroom Addition	-	219	219	219	219
Japan	Air Force (DERF)	Kadena AB	Visitor & Traffic Control Facility & Security Fencing	-	6,000	6,000	6,000	6,000
Japan	DLA	Yokota AB	Bulk Fuel Storage Tanks	23,000	23,000	23,000		23,000
Korea	Army	Camp Carroll	Barracks Complex	20,000	20,000	20,000		20,000
Korea	Army	Camp Castle	Physical Fitness Training Center	6,800	6,800	6,800		6,800
Korea	Army	Camp Henry	Barracks Complex	10,200	10,200	10,200		10,200
Korea	Army	Camp Hovey	Barracks Complex	25,000	25,000	25,000		25,000
Korea	Army	Camp Humphreys	Barracks Complex	36,000	36,000	36,000		36,000
Korea	Army (DERF)	Camp Tango	Communications and Commo Hardening	-	12,600	12,600	12,600	12,600
Korea	Army	K-16 Airfield	Barracks Complex	40,000	40,000	40,000		40,000
Korea	Air Force	Osan AB	Dormitory (156 Room)	15,100	15,100	15,100		15,100
Korea	DODEA	Seoul	Seoul MS Replacement	28,409	28,409	28,409		28,409
Korea	DODEA (DERF)	Seoul	Seoul MS Replacement	-	3,274	3,274	3,274	3,274
Mariana Islands	Navy	Guam	BEQ Replacement	13,400	13,400	13,400		13,400
Mariana Islands	DLA	Guam	Marine Loading Arms	6,000	6,000	6,000		6,000
Portugal	DLA	Def FSP Lajes Field Azores	Replace Hydrant Fuel System	19,000	-	19,000	(19,000)	-
Portugal	DODEA	Lajes AB	Lajes ES Classroom Addition	1,069	1,069	1,069		1,069
Portugal	DODEA (DERF)	Lajes AB	Lajes ES Classroom Addition	-	123	123	123	123
Qatar	Army	Qatar	Unaccompanied Personnel Housing	8,600	8,600	8,600		8,600
Spain	Navy (DERF)	NS Rota	Security Complex	-	18,700	18,700	18,700	18,700
Spain	Navy	Joint HQ CMD Madrid	NEX/MWR Facility	2,890	-	2,890	(2,890)	-
Spain	Air Force	NS Rota	Aircraft Parking Apron, Phase I	31,818	31,818	31,818		31,818
Spain	DLA	NS Rota	Hydrant Fuel System	23,400	23,400	23,400		23,400
Turkey	Air Force (DERF)	Incirlik AB	Large Vehicle Security Inspection Station	-	1,550	1,550	1,550	1,550
United Kingdom	Air Force	RAF Fairford	B-2 Maintenance Hangar/Apron	19,000	19,000	19,000		19,000
United Kingdom	Air Force	RAF Lakenheath	Add To and Alter Fitness Center	10,800	10,800	10,800		10,800
United Kingdom	Air Force	RAF Lakenheath	Mobility Processing Facility	2,600	2,600	2,600		2,600
United Kingdom	DLA	RAF Fairford	Replace Hydrant Fuel System	17,000	17,000	17,000		17,000
Wake Island	Air Force	Wake Island	Repair Airfield Pavement, Phase II	24,900	24,900	24,900		24,900
Worldwide	OSD	Base Closure IV	Base Closure Activities - Army	149,878	-	-	(149,878)	-
Worldwide	OSD	Base Closure IV	Base Closure Activities - Navy	258,940	-	-	(258,940)	-
Worldwide	OSD	Base Closure IV	Base Closure Activities - Air Force	136,320	-	-	(136,320)	-
Worldwide	OSD	Base Closure IV	Base Realignment & Closure, Defense	-	545,138	545,138	565,138	565,138
Worldwide	OSD	Base Closure IV	Revised Economic Assumptions	-	-	-	(4,000)	(4,000)

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Location	Service/Agency/Program	Installation	Project Title	FY2003 Authorization Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized
Worldwide	Army	Unspecified Worldwide	Classified Project	4,000	4,000	4,000		4,000
Worldwide	Army	Unspecified Worldwide	Unspecified Minor Construction	20,500	21,550	20,500	1,050	21,550
New Mexico	Army	White Sands Missile Range	Planning and Design	-	-	3,000		-
Worldwide	Army	Unspecified Worldwide	Planning and Design	119,824	129,756	119,824	2,068	121,892
Worldwide	Army (DERF)	Unspecified Worldwide	Planning and Design	-	5,340	5,340	5,340	5,340
Worldwide	Army (DERF)	Unspecified Worldwide	Planning and Design	-	-	-	9,381	9,381
Worldwide	Army	Unspecified Worldwide	Host Nation Support	23,700	23,700	23,700		23,700
Worldwide	Army	Unspecified Worldwide	IBCT Transformation	-	-	-		-
Worldwide	Army	Unspecified Worldwide	Foreign Currency Fluctuations	-	(13,676)	(13,676)	(13,676)	(13,676)
Worldwide	Army	Unspecified Worldwide	Supervision, Inspection & Overhead Reduction	-	-	-	(16,740)	(16,740)
Worldwide	Army	Unspecified Worldwide	Revised Economic Assumptions	-	-	-	(8,000)	(8,000)
Worldwide	Army	Unspecified Worldwide	Civilian Personnel Accrual Accounting Adjustment	-	-	(26,083)	(26,083)	(26,083)
Worldwide	Army	Unspecified Worldwide	General Reduction	-	-	-		-
Worldwide	Navy	Unspecified Worldwide	Unspecified Minor Construction	23,262	23,262	23,262	2,925	26,187
Worldwide	Navy	Unspecified Worldwide	Planning and Design	68,573	78,115	70,173	9,367	77,940
Worldwide	Navy (DERF)	Unspecified Worldwide	Planning and Design	-	17,630	17,630	17,630	17,630
Worldwide	Navy	Various Worldwide	Host Nation Infrastructure	1,000	1,000	1,000		1,000
Worldwide	Navy	Unspecified Worldwide	Foreign Currency Fluctuations	-	(1,340)	(1,340)	(1,340)	(1,340)
Worldwide	Navy	Unspecified Worldwide	Civilian Personnel Accrual Accounting Adjustment	-	-	(10,470)	(10,470)	(10,470)
Worldwide	Navy	Unspecified Worldwide	Supervision, Inspection & Overhead Reduction	-	-	-	(15,017)	(15,017)
Worldwide	Navy	Unspecified Worldwide	Revised Economic Assumptions	-	-	-	(5,000)	(5,000)
Worldwide	Air Force	Classified Location	Classified Milcon Project	1,993	1,993	1,993		1,993
Worldwide	Air Force	Classified Location	C-17 Various Facilities	30,569	30,569	-	(30,569)	-
Worldwide	Air Force	Various Worldwide	C-17 Transformation	-	-	-		-
Worldwide	Air Force	Classified Location	Various Facilities/Utilities/Infrastructure	23,000	-	23,000		23,000
Worldwide	Air Force	Various Worldwide	Unspecified Minor Construction	11,500	11,500	11,500		11,500
Worldwide	Air Force	Various Worldwide	Planning and Design	41,496	55,161	59,619	20,527	62,023
Worldwide	Air Force	Unspecified Worldwide	Foreign Currency Fluctuations	-	(10,281)	(10,281)	(10,281)	(10,281)
Worldwide	Air Force	Unspecified Worldwide	General Reduction	-	-	-		-
Worldwide	Air Force (DERF)	Various Worldwide	Planning and Design	-	21,797	16,797	15,797	15,797
Worldwide	Air Force (DERF)	Various Worldwide	Planning and Design (Predator Beddown)	-	-	5,000	5,000	5,000
Worldwide	Air Force	Unspecified Worldwide	Supervision, Inspection & Overhead Reduction	-	-	-	(15,306)	(15,306)
Worldwide	Air Force	Unspecified Worldwide	Revised Economic Assumptions	-	-	-	(5,000)	(5,000)
Worldwide	Chem Bio Defense Prgm	Unspecified Worldwide	Planning and Design	5,000	5,000	5,000		5,000
Worldwide	Energy Cons Invest Prgm	Unspecified Worldwide	Energy Conservation Improvement Program	49,531	49,531	50,531	(15,000)	34,531
Worldwide	DFAS	Unspecified Worldwide	Unspecified Minor Construction	1,500	1,500	1,500		1,500
Worldwide	JCS	Unspecified Worldwide	Unspecified Minor Construction	6,430	6,430	6,430		6,430

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Location	Service/Agency/Program	Installation	Project Title	FY2003 Authorization Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized
Worldwide	OSD	Unspecified Worldwide	Contingency Construction	10,000	10,000	10,000		10,000
Worldwide	OSD	Unspecified Worldwide	Unspecified Minor Construction	3,000	3,000	3,000		3,000
Worldwide	OSD	Unspecified Worldwide	Planning and Design	20,000	21,300	20,000	1,300	21,300
Worldwide	OSD (DERF)	Unspecified Worldwide	Planning and Design	-	-	-		-
Worldwide	SOCOM	Unspecified Worldwide	Unspecified Minor Construction	2,000	2,000	2,000		2,000
Worldwide	SOCOM	Unspecified Worldwide	Planning and Design	4,932	4,932	5,032	100	5,032
Worldwide	TRICARE	Unspecified Worldwide	Unspecified Minor Construction	3,363	3,363	3,363		3,363
Worldwide	TRICARE	Unspecified Worldwide	Planning and Design	14,200	14,200	14,200		14,200
Worldwide	OSD	Unspecified Worldwide	Foreign Currency Fluctuations	-	(2,976)	(2,976)	(2,976)	(2,976)
Worldwide	OSD	Unspecified Worldwide	Accrual	-	(39,857)	-		-
Worldwide	OSD	Unspecified Worldwide	Supervision, Inspection & Overhead Reduction	-	-	-	(7,414)	(7,414)
Worldwide	OSD	Unspecified Worldwide	Revised Economic Assumptions	-	-	-	(3,000)	(3,000)
Worldwide	Army National Guard	Unspecified Worldwide	Unspecified Minor Construction	4,930	5,516	4,930	9,055	13,985
Worldwide	Army National Guard	Unspecified Worldwide	Planning and Design	14,724	24,369	16,429	12,318	27,042
Worldwide	Army National Guard	Unspecified Worldwide	General Reduction	-	-	-		-
Worldwide	Army National Guard	Unspecified Worldwide	Revised Economic Assumptions	-	-	-	(1,000)	(1,000)
Worldwide	Air National Guard	Unspecified Worldwide	Unspecified Minor Construction	4,400	4,400	4,400	1,500	5,900
Worldwide	Air National Guard	Unspecified Worldwide	Planning and Design	8,273	14,033	16,476	8,809	17,082
Worldwide	Air National Guard (DERF)	Unspecified Worldwide	Planning and Design	-	683	683	683	683
Worldwide	Army Reserve	Unspecified Worldwide	Unspecified Minor Construction	2,850	2,850	2,850		2,850
Worldwide	Army Reserve	Unspecified Worldwide	Planning and Design	6,965	8,965	7,315	2,340	9,305
Worldwide	Naval Reserve	Unspecified Worldwide	Unspecified Minor Construction	780	780	780		780
Worldwide	Naval Reserve	Unspecified Worldwide	Planning and Design	2,509	3,409	2,509	880	3,389
Worldwide	Naval Reserve (DERF)	Unspecified Worldwide	Planning and Design	-	377	377	377	377
Worldwide	Air Force Reserve	Unspecified Worldwide	Judgment Fund Payment	11,900	11,900	11,900		11,900
Worldwide	Air Force Reserve	Unspecified Worldwide	Unspecified Minor Construction	5,160	5,160	5,160	800	5,960
Worldwide	Air Force Reserve	Unspecified Worldwide	Planning and Design	3,656	5,656	3,863	1,423	5,079
Worldwide	Air Force Reserve (DERF)	Unspecified Worldwide	Planning and Design	-	476	476	476	476
Worldwide	NATO Sec Invest Prgm	Unspecified Worldwide	NATO Security Investment Program	168,200	168,200	168,200		168,200
Worldwide	NATO Sec Invest Prgm	Unspecified Worldwide	Revised Economic Assumptions	-	-	-	(1,000)	(1,000)
			Total Military Construction	4,713,916	5,737,448	5,948,750	1,503,699	6,217,615

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Location	Service/Agency/Program	Installation	Project Title	FY2003 Authorization Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized
Alaska	Army	Fort Wainwright	Replace Family Housing (38 Units)	17,752	17,752	17,752		17,752
Arizona	Army	Yuma Proving Ground	Replace Family Housing (33 Units)	6,100	6,100	6,100		6,100
Arizona	Air Force	Luke AFB	Replace Family Housing, Phase II (140 Units)	18,954	18,954	18,954		18,954
California	Navy	NAS Lemoore	Replace Family Housing (178 Units)	40,981	40,981	40,981		40,981
California	Navy	MAGTFC Twentynine Palms	Replace Family Housing (76 Units)	19,425	19,425	19,425		19,425
California	Air Force	Travis AFB	Replace Family Housing, Phase III (110 Units)	24,320	24,320	24,320		24,320
Colorado	Air Force	Peterson AFB	Construct Family Housing, Phase I (2 Units)	959	959	959		959
Colorado	Air Force	U.S. Air Force Academy	Replace Family Housing, Phase I (71 Units)	12,424	12,424	12,424		12,424
Connecticut	Navy	NSB New London	Replace Family Housing (100 Units)	24,415	24,415	24,415		24,415
Delaware	Air Force	Dover AFB	Replace Family Housing, Phase II (112 Units)	19,615	19,615	19,615		19,615
Florida	Navy	NS Mayport	New Construction (1 Unit)	329	329	329		329
Florida	Air Force	Eglin AFB	Replace Family Housing, Phase IIA (134 Units)	15,906	15,906	15,906		15,906
Florida	Air Force	Eglin AFB	Housing Management Facility	597	597	597		597
Florida	Air Force	MacDill AFB	Replace Family Housing, Phase V (96 Units)	18,086	18,086	18,086		18,086
Hawaii	Navy	MCB Kaneohe Bay	Replace Family Housing (65 Units)	24,797	24,797	24,797		24,797
Hawaii	Air Force	Hickam AFB	Replace Family Housing, Phase II (96 Units)	29,050	29,050	29,050		29,050
Idaho	Air Force	Mountain Home AFB	Replace Family Housing, Phase IV (95 Units)	24,392	24,392	24,392		24,392
Kansas	Air Force	McConnell AFB	Construct MFH Maintenance Building & Roads	1,514	1,514	1,514		1,514
Maine	Navy	NAS Brunswick	Family Housing Replacement (22 Junior Enlisted Units)	-	5,800	-	5,000	5,000
Maryland	Air Force	Andrews AFB	Replace Family Housing, Phase IA (53 Units)	9,838	9,838	9,838		9,838
Maryland	Air Force	Andrews AFB	Replace Family Housing, Phase IB (52 Units)	8,807	8,807	8,807		8,807
Mississippi	Navy	NAS Meridian	Replace Family Housing (56 Units)	9,755	9,755	9,755		9,755
Mississippi	Air Force	Columbus AFB	MFH Management Office	412	412	412		412
Mississippi	Air Force	Keesler AFB	Replace Family Housing, Phase I (117 Units)	16,505	16,505	16,505		16,505
Missouri	Air Force	Whiteman AFB	Replace Family Housing, Phase III (97 Units)	3,977	17,107	3,977	13,130	17,107
Montana	Air Force	Malmstrom AFB	Replace Family Housing, Phase VIA (18 Units)	4,717	4,717	4,717		4,717
New Mexico	Air Force	Holloman AFB	Replace Family Housing (101 Units)	20,161	20,161	20,161		20,161
North Carolina	Navy	Camp Lejeune	Tarawa Terrace, Phase II Replacement (317 units)	43,650	43,650	43,650		43,650
North Carolina	Air Force	Pope AFB	Replace Housing Maintenance Bldg	991	991	991		991
North Carolina	Air Force	Seymour Johnson AFB	Replace Family Housing, Phase VII (126 Units)	18,615	18,615	18,615		18,615
North Dakota	Air Force	Grand Forks AFB	Replace Family Housing, Phase F (150 Units)	30,140	30,140	30,140		30,140
North Dakota	Air Force	Minot AFB	Replace Family Housing, Phase VIII (112 Units)	21,428	21,428	21,428		21,428
North Dakota	Air Force	Minot AFB	Replace Family Housing, Phase IX (102 Units)	20,315	20,315	20,315		20,315
Oklahoma	Air Force	Vance AFB	Replace Family Housing, Phase I (59 Units)	11,423	11,423	11,423		11,423
Pennsylvania	DLA	Def Dist Depot New Cumberland	Whole House Revitalization	5,430	5,430	5,430		5,430

Military Construction Authorizations for FY2003
(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2003 Authorization Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized
South Dakota	Air Force	Ellsworth AFB	Replace Family Housing, Phase II (22 Units)	4,794	4,794	4,794		4,794
South Dakota	Air Force	Ellsworth AFB	Housing Maintenance Facility	447	447	447		447
Texas	Air Force	Dyess AFB	Replace Family Housing, Phase III (85 Units)	14,824	14,824	14,824		14,824
Texas	Air Force	Randolph AFB	Replace Family Housing, Phase I (112 Units)	14,311	14,311	14,311		14,311
Texas	Air Force	Randolph AFB	MFH Housing Maintenance Office	447	447	447		447
Virginia	Navy	MCB Quantico	Replacement Housing, Phase III (290 Units)	41,843	41,843	41,843		41,843
Virginia	Air Force	Langley AFB	Construction Housing Management Office	1,193	1,193	1,193		1,193
Germany	Army	Stuttgart	Replace Family Housing (1 Unit)	990	990	990	(990)	-
Germany	Air Force	Ramstein AB	Replace Family Housing (19 Units)	8,534	8,534	8,534		8,534
Greece	Navy	NSA JHC Larissa	New Construction (2 Units)	1,232	-	1,232	(1,232)	-
Korea	Army	Yongsan	Replace Family Housing (10 Units)	3,100	3,100	3,100		3,100
Korea	Air Force	Osan AB	Construct Family Housing, Phase I (113 Units)	35,705	35,705	35,705		35,705
Korea	Air Force	Osan AB	Replace Furnishings Management Warehouse	834	834	834		834
United Kingdom	Navy	JMF St Mawgan	New Construction (62 Units) Family Housing Office	18,524	18,524	18,524		18,524
United Kingdom	Air Force	RAF Lakenheath	Family Housing Management Facility	2,203	2,203	2,203		2,203
Worldwide	Army	Unspecified Worldwide	Construction Improvements	239,751	239,751	239,751		239,751
Worldwide	Army	Unspecified Worldwide	Planning and Design	15,653	15,653	15,653		15,653
Worldwide	Army	Unspecified Worldwide	Management Account	91,567	91,567	91,567		91,567
Worldwide	Army	Unspecified Worldwide	Services Account	41,846	41,846	41,846		41,846
Worldwide	Army	Unspecified Worldwide	Furnishings Account	48,673	48,673	48,673		48,673
Worldwide	Army	Unspecified Worldwide	Miscellaneous Account	1,321	1,321	1,321		1,321
Worldwide	Army	Unspecified Worldwide	Utilities Account	212,432	212,432	212,432		212,432
Worldwide	Army	Unspecified Worldwide	Leasing	215,251	215,251	215,251		215,251
Worldwide	Army	Unspecified Worldwide	Maintenance of Real Property	485,257	485,257	485,257		485,257
Worldwide	Army	Unspecified Worldwide	Servicemen's Mortgage Insurance Premium	1	1	1		1
Worldwide	Army	Unspecified Worldwide	Privatization Support Costs	25,926	25,926	25,926	(5,000)	20,926
Worldwide	Army	Unspecified Worldwide	Foreign Currency Fluctuations	-	-	(4,920)	(4,920)	(4,920)
Worldwide	Army	Unspecified Worldwide	Revised Economic Assumptions	-	-	-	(8,000)	(8,000)
Worldwide	Army	Unspecified Worldwide	Revised Economic Assumptions	-	-	-	(2,000)	(2,000)
Worldwide	Army	Unspecified Worldwide	Foreign Currency Fluctuations	-	(4,920)	-		-
Worldwide	Army	Unspecified Worldwide	Civilian Personnel Accrual Accounting Adjustment	-	-	(3,267)	(3,267)	(3,267)
Worldwide	Navy	Unspecified Worldwide	Construction Improvements	139,468	139,468	139,468		139,468
Worldwide	Navy	Unspecified Worldwide	Planning and Design	11,281	11,281	11,281		11,281
Worldwide	Navy	Unspecified Worldwide	Revised Economic Assumptions	-	-	-	(3,000)	(3,000)
Worldwide	Navy	Unspecified Worldwide	Revised Economic Assumptions	-	-	-	(6,000)	(6,000)
Worldwide	Navy	Unspecified Worldwide	Furnishings Account	30,344	30,344	30,344		30,344
Worldwide	Navy	Unspecified Worldwide	Management Account	82,114	82,114	82,114		82,114

Military Construction Authorizations for FY2003
(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2003 Authorization Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized
Worldwide	Navy	Unspecified Worldwide	Miscellaneous Account	913	913	913		913
Worldwide	Navy	Unspecified Worldwide	Services Account	62,583	62,583	62,583		62,583
Worldwide	Navy	Unspecified Worldwide	Utilities Account	174,219	174,219	174,219		174,219
Worldwide	Navy	Unspecified Worldwide	Leasing	129,085	129,085	129,085		129,085
Worldwide	Navy	Unspecified Worldwide	Maintenance Of Real Property	381,388	381,388	381,388		381,388
Worldwide	Navy	Unspecified Worldwide	Servicemen's Mortgage Insurance Premium	71	71	71		71
Worldwide	Navy	Unspecified Worldwide	Privatization Support Costs	7,071	7,071	7,071		7,071
Worldwide	Navy	Unspecified Worldwide	Foreign Currency Fluctuations	-	-	(2,652)	(2,652)	(2,652)
Worldwide	Navy	Unspecified Worldwide	Foreign Currency Fluctuations	-	(2,652)	-		-
Worldwide	Air Force	Unspecified Worldwide	Construction Improvements	226,068	226,068	226,068		226,068
Worldwide	Air Force	Unspecified Worldwide	Planning and Design	34,188	34,188	34,188		34,188
Worldwide	Air Force	Unspecified Worldwide	Furnishings Account	35,619	35,619	35,619		35,619
Worldwide	Air Force	Unspecified Worldwide	Management Account	48,473	48,473	48,473		48,473
Worldwide	Air Force	Unspecified Worldwide	Services Account	25,178	25,178	25,178		25,178
Worldwide	Air Force	Unspecified Worldwide	Utilities Account	132,945	132,945	132,945		132,945
Worldwide	Air Force	Unspecified Worldwide	Miscellaneous Account	1,511	1,511	1,511		1,511
Worldwide	Air Force	Unspecified Worldwide	Leasing	103,690	103,690	103,690		103,690
Worldwide	Air Force	Unspecified Worldwide	Maintenance of Real Property	476,485	476,485	476,485		476,485
Worldwide	Air Force	Unspecified Worldwide	Servicemen's Mortgage Insurance Premium	36	36	36		36
Worldwide	Air Force	Unspecified Worldwide	Privatization Support Costs	20,482	20,482	20,482	(5,000)	15,482
Worldwide	Air Force	Unspecified Worldwide	Foreign Currency Fluctuations	-	-	(8,782)	(8,782)	(8,782)
Worldwide	Air Force	Unspecified Worldwide	Revised Economic Assumptions	-	-	-	(6,000)	(6,000)
Worldwide	Air Force	Unspecified Worldwide	Revised Economic Assumptions	-	-	-	(5,000)	(5,000)
Worldwide	Air Force	Unspecified Worldwide	Foreign Currency Fluctuations	-	(8,782)	-		-
Worldwide	Air Force (DERF)	Unspecified Worldwide	AT/FP Facility Upgrades	-	29,631	29,631	29,631	29,631
Worldwide	DIA	Unspecified Worldwide	Furnishings Account	3,689	3,689	3,689		3,689
Worldwide	DIA	Unspecified Worldwide	Leasing	26,220	26,220	26,220		26,220
Worldwide	DLA	Unspecified Worldwide	Furnishings	26	26	26		26
Worldwide	DLA	Unspecified Worldwide	Services Account	76	76	76		76
Worldwide	DLA	Unspecified Worldwide	Utilities Account	410	410	410		410
Worldwide	DLA	Unspecified Worldwide	Management Account	308	308	308		308
Worldwide	DLA	Unspecified Worldwide	Maintenance of Real Property	510	510	510		510
Worldwide	DLA	Unspecified Worldwide	Civilian Personnel Accrual Accounting Adjustment		-	(37)	(37)	(37)
Worldwide	NSA	Unspecified Worldwide	Construction Improvements	50	50	50		50
Worldwide	NSA	Unspecified Worldwide	Furnishings Account	120	120	120		120
Worldwide	NSA	Unspecified Worldwide	Management Account	15	15	15		15
Worldwide	NSA	Unspecified Worldwide	Miscellaneous Account	58	58	58		58

Military Construction Authorizations for FY2003
(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2003 Authorization Request	House Authorized	Senate Authorized	Conference Change to Request	Conference Authorized
Worldwide	NSA	Unspecified Worldwide	Services Account	339	339	339		339
Worldwide	NSA	Unspecified Worldwide	Utilities Account	407	407	407		407
Worldwide	NSA	Unspecified Worldwide	Leasing	9,643	9,643	9,643		9,643
Worldwide	NSA	Unspecified Worldwide	Maintenance of Real Property	611	611	611		611
Worldwide	Family Housing Improvement	Unspecified Worldwide	Family Housing Improvement Fund	2,000	2,000	2,000		2,000
			Total Family Housing	4,220,133	4,251,108	4,230,106	(14,119)	4,206,014
			Total Military Construction/Family Housing	8,934,049	9,988,556	10,178,856	1,489,580	10,423,629
			Prior Year Savings:					
			Rescission, Fort Bliss, Texas					-
			Rescission, Osan, Korea Base Civil Engineering Complex				(3,000)	(3,000)
			Rescission, Fort Buchanan, Puerto Rico, various				(30,700)	(30,700)
			Subtotal Prior Year Savings					(33,700)
			Grand Total Military Construction/Family Housing				1,489,580	10,389,929

Short title (sec. 2001)

The House bill contained a provision (sec. 2001) that would cite Division B of this Act as the Military Construction Authorization Act for Fiscal Year 2003.

The Senate amendment contained an identical provision (sec. 2001).

The conference agreement includes this provision.

TITLE XXI—ARMY

Overview

The House bill would authorize $2,930.7 million for Army military construction and family housing programs for fiscal year 2003.

The Senate amendment would authorize $3,010.3 million for this purpose.

The conferees recommend authorization of appropriations of $3,021.5 million for Army military construction and family housing for fiscal year 2003.

ITEMS OF SPECIAL INTEREST

Fort Bliss, Texas

Within the Army's military construction account, the conferees agree to authorize $5.2 million to upgrade the water system at Fort Bliss, Texas. Funds for this project are to be used in conjunction with the $5.0 million authorized for water system upgrades at that installation in the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107).

Fort Dix, New Jersey

The conferees recommend that, within authorized amounts for unspecified minor construction, the Secretary of the Army use $1.5 million for road construction in the vicinity of Fort Dix, New Jersey, to compensate for road closures due to force protection.

LEGISLATIVE PROVISIONS ADOPTED

Authorized Army construction and land acquisition projects (sec. 2101)

The House bill contained a provision (sec. 2101) that would authorize Army military construction projects for fiscal year 2003.

The Senate amendment contained a similar provision (sec. 2101).

The conference agreement includes this provision.

The amounts authorized in the bill are listed on an installation-by-installation basis. The state list of projects contained in this report provides the binding list of specific projects authorized at each location.

Family housing (sec. 2102)

The House bill included a provision (sec. 2102) that would authorize new construction and planning and design of family housing units for the Army for fiscal year 2003.

The Senate amendment contained a similar provision (sec. 2102).

The conference agreement includes this provision.

The amounts authorized in the bill are listed on an installation-by-installation basis. The state list of projects contained in this report provides the binding list of specific projects authorized at each location.

Improvements to military family housing units (sec. 2103)

The House bill contained a provision (sec. 2103) that would authorize improvements to existing units of Army family housing for fiscal year 2003.

The Senate amendment contained a similar provision (sec. 2103).

The conference agreement includes this provision.

Authorization of appropriations, Army (sec. 2104)

The House bill contained a provision (sec. 2104) that would authorize specific appropriations for each line item contained in the Army's military construction budget for fiscal year 2003. This section would also provide an overall limit on the amount the Army is authorized to spend on military construction projects.

The Senate amendment contained a similar provision (sec. 2104).

The conference agreement includes this provision.

Modification of authority to carry out certain fiscal year 2002 projects (sec. 2105)

The House bill contained a provision (sec. 2105) that would amend the table in section 2101 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107) to increase the total project authorization ceilings for military construction projects at Fort Carson, Colorado, and Fort Jackson, South Carolina.

The Senate amendment contained an identical provision (sec. 2105).

The conference agreement includes this provision.

Modification of authority to carry out certain fiscal year 2001 project (sec. 2106)

The Senate amendment contained a provision (sec. 2109) that would amend section 2101 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of Public Law 106–398) to change the location for which funds were authorized for a barracks complex from Camp Page, Korea, to Camp Stanley, Korea.

The House bill contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Planning and design for anechoic chamber at White Sands Missile Range, New Mexico

The Senate amendment contained a provision (sec. 2110) that would authorize $3.0 million for planning and design for an anechoic chamber at White Sands Missile Range, New Mexico.

The House bill contained no similar provision.

The Senate recedes.

The state list contained in this report describes the conference agreement on funding for this project.

TITLE XXII—NAVY

Overview

The House bill would authorize $2,514.0 million for Navy military construction and family housing programs for fiscal year 2003.

The Senate amendment would authorize $2,476.2 million for this purpose.

The conferees recommend authorization of appropriations of $2,532.9 million for Navy military construction and family housing for fiscal year 2003.

LEGISLATIVE PROVISIONS ADOPTED

Authorized Navy construction and land acquisition projects (sec. 2201)

The House bill contained a provision (sec. 2201) that would authorize Navy military construction projects for fiscal year 2003.

The Senate amendment contained a similar provision (sec. 2201).

The conference agreement includes this provision.

The amounts authorized in the bill are listed on an installation-by-installation basis. The state list of projects contained in this report provides the binding list of specific projects authorized at each location.

Family housing (sec. 2202)

The House bill included a provision (sec. 2202) that would authorize new construction and planning and design of family housing units for the Navy for fiscal year 2003.

The Senate amendment contained a similar provision (sec. 2202).

The conference agreement includes this provision.

The amounts authorized in the bill are listed on an installation-by-installation basis. The state list of projects contained in this report provides the binding list of specific projects authorized at each location.

Improvements to military family housing units (sec. 2203)

The House bill contained a provision (sec. 2203) that would authorize improvements to existing units of Navy family housing for fiscal year 2003.

The Senate amendment contained a similar provision (sec. 2203).

The conference agreement includes this provision.

Authorization of appropriations, Navy (sec. 2204)

The House bill contained a provision (sec. 2204) that would authorize specific appropriations for each line item contained in the Navy's military construction budget for fiscal year 2003. This section would also provide an overall limit on the amount the Navy is authorized to spend on military construction projects.

The Senate amendment contained a similar provision (sec. 2204).

The conference agreement includes this provision.

Modification of authority to carry out certain fiscal year 2002 projects (sec. 2205)

The House bill contained a provision (sec. 2205) that would amend the table in section 2201 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107) to provide for an increase in the amounts authorized for military construction at Naval Station Norfolk, Virginia.

The Senate amendment contained a similar provision (sec. 2205) that would amend the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107) to increase the total project authorization for the projects at Naval Station, Norfolk, Virginia by $280,000. The provision would also correct the number of housing units authorized for a project at Quantico, Virginia from 60 units to 39 units.

The House recedes.

TITLE XXIII—AIR FORCE

Overview

The House bill would authorize $2,488.3 million for Air Force military construction and family housing programs for fiscal year 2003.

The Senate amendment would authorize $2,607.6 million for this purpose.

The conferees recommend authorization of appropriations of $2,583.4 million for Air Force military construction and family housing for fiscal year 2003.

LEGISLATIVE PROVISIONS ADOPTED

Authorized Air Force construction and land acquisition projects (sec. 2301)

The House bill contained a provision (sec. 2301) that would authorize Air Force military construction projects for fiscal year 2003.

The Senate amendment contained a similar provision (sec. 2301).

The conference agreement includes this provision.

The amounts authorized in the bill are listed on an installation-by-installation basis. The state list of projects contained in this report provides the binding list of specific projects authorized at each location.

Family housing (sec. 2302)

The House bill included a provision (sec. 2302) that would authorize new construction and planning and design of family housing units for the Air Force for fiscal year 2003.

The Senate amendment contained a similar provision (sec. 2302).

The conference agreement includes this provision.

The amounts authorized in the bill are listed on an installation-by-installation basis. The state list of projects contained in this report provides the binding list of specific projects authorized at each location.

Improvements to military family housing units (sec. 2303)

The House bill contained a provision (sec. 2303) that would authorize improvements to existing units of Air Force family housing for fiscal year 2003.

The Senate amendment contained a similar provision (sec. 2303).

The conference agreement includes this provision.

Authorization of appropriations, Air Force (sec. 2304)

The House bill contained a provision (sec. 2304) that would authorize specific appropriations for each line item contained in the Air Force's military construction budget for fiscal year 2003. This section would also provide an overall limit on the amount the Air Force is authorized to spend on military construction projects.

The Senate amendment contained a similar provision (sec. 2304).

The conference agreement includes this provision.

Authority for use of military construction funds for construction of public road near Aviano Air Base, Italy, to replace road closed for force protection purposes (sec. 2305)

The Senate amendment contained a provision (sec. 2305) that would authorize the Secretary of the Air Force to provide to Italian authorities funds authorized for appropriation by section 2304 of this Act for the construction of a public road, plus associated improvements, to replace a public road adjacent to Aviano Air Base, Italy, that was closed for force protection purposes.

The House bill contained no similar provision.

The House recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Additional project authorization for air traffic control facility at Dover Air Force Base, Delaware

The Senate amendment contained a provision (sec. 2306) that would authorize the Secretary of the Air Force to carry out the construction of a new air traffic control facility at Dover Air Force Base, Delaware, in the amount of $7.5 million.

The House bill contained no similar provision.

The Senate recedes.

The state list contained in this report describes the conference agreement on funding for this project.

Availability of funds for consolidation of materials computational research facility at Wright-Patterson Air Force Base, Ohio

The Senate amendment contained a provision (sec. 2307) that would authorize $15.2 million for Air Force military construction to construct a project for the consolidation of the materials computational research facility at Wright-Patterson Air Force Base, Ohio.

The House bill contained no similar provision.

The Senate recedes.

The state list contained in this report describes the conference agreement on funding for this project.

TITLE XXIV—DEFENSE AGENCIES

Overview

The House bill would authorize $829.8 million for Defense Agencies military construction and family housing programs for fiscal year 2003. The bill would also authorize $545.1 million for base closure activities.

The Senate amendment would authorize $771.8 million for Defense Agencies military construction and family housing programs and $545.1 million for base closure activities.

The conferees recommend authorization of appropriations of $856.2 million for Defense Agencies military construction and family housing for fiscal year 2003. The conferees also recommend authorization of appropriations of $561.1 million for base closure activities, which includes an increase of $20.0 million for environmental restoration at closed facilities.

LEGISLATIVE PROVISIONS ADOPTED

Authorized Defense Agencies construction and land acquisition projects (sec. 2401)

The House bill contained a provision (sec. 2401) that would authorize Defense Agencies military construction projects for fiscal year 2003.

The Senate amendment contained a similar provision (sec. 2401).

The conference agreement includes this provision.

The amounts authorized in the bill are listed on an installation-by-installation basis. The state list of projects contained in this report provides the binding list of specific projects authorized at each location.

Improvements to military family housing units (sec. 2402)

The House bill contained a provision (sec. 2402) that would authorize improvements to existing units of Defense Agencies family housing for fiscal year 2003.

The Senate amendment contained a similar provision (sec. 2402).

The conference agreement includes this provision.

Energy conservation projects (sec. 2403)

The House bill contained a provision (sec. 2403) that would authorize the Secretary of Defense to carry out energy conservation projects.

The Senate amendment contained a similar provision (sec. 2403).

The conference agreement includes this provision.

Authorization of appropriations, Defense Agencies (sec. 2404)

The House bill contained a provision (sec. 2404) that would authorize specific appropriations for each line item contained in the Defense Agencies' military construction budgets for fiscal year 2003. This section would also provide an overall limit on the amount the Defense Agencies are authorized to spend on military construction projects.

The Senate amendment contained a similar provision (sec. 2404).

The conference agreement includes this provision.

Modification of authority to carry out certain fiscal year 2000 project (sec. 2405)

The House bill contained a provision (sec. 2405) that would modify the table in section 2401 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65) to provide for an increase in the amounts authorized for military construction at Blue Grass Army Depot, Kentucky.

The Senate amendment contained an identical provision (sec. 2106).

The conference agreement includes this provision.

Modification of authority to carry out certain fiscal year 1999 project (sec. 2406)

The House bill contained a provision (sec. 2406) that would amend the table in section 2401 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261) to provide for an increase in the amounts authorized for military construction at Newport Army Depot, Indiana.

The Senate amendment contained a similar provision (sec. 2107).

The Senate recedes.

Modification of authority to carry out certain fiscal year 1997 project (sec. 2407)

The House bill contained a provision (sec. 2407) that would amend the table in section 2401 of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201) to provide for an increase in the amounts authorized for military construction at Pueblo Chemical Activity, Colorado.

The Senate amendment contained an identical provision (sec. 2108).

The conference agreement includes this provision.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Authorized NATO construction and land acquisition projects (sec. 2501)

The House bill contained a provision (sec. 2501) that would authorize the Secretary of Defense to make contributions to the North Atlantic Treaty Organization security investment program in an amount equal to the sum of the amount specifically authorized in section 2502 of this bill and the amount of recoupment due to the United States for construction previously financed by the United States.

The Senate amendment contained an identical provision (sec. 2501).

The conference agreement includes this provision.

Authorization of appropriations, NATO (sec. 2502)

The House bill contained a provision (sec. 2502) that would authorize appropriations of $168.2 million as the U.S. contribution to the North Atlantic Treaty Organization (NATO) security investment program.

The Senate amendment contained an identical provision (sec. 2502).

The conference agreement includes this provision.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Overview

The House bill would authorize $512.4 million for military construction and land acquisition for fiscal year 2003 for the Guard and Reserve components.

The Senate amendment would authorize $599.6 million for this purpose.

The conferees recommend authorization of appropriations of $701.3 million for military construction and land acquisition for fiscal year 2003. This authorization would be distributed as follows:

[Dollars in millions]

Army National Guard	$ 236,236
Air National Guard	204,215
Army Reserve	99,399
Naval and Marine Corps Reserve	75,801

Air Force Reserve	85,649
Total	701,300

Items of Special Interest

Planning and design, Army National Guard

The conferees recommend that, within authorized amounts for planning and design, the Secretary of the Army make $1.4 million available to complete planning and design activities for a multi-purpose training range at Fort Indiantown Gap, Pennsylvania.

Legislative Provisions Adopted

Authorized Guard and Reserve construction and land acquisition projects (sec. 2601)

The House bill contained a provision (sec. 2601) that would authorize appropriations for military construction for the Guard and Reserve by service component for fiscal year 2003.

The Senate amendment contained a similar provision (sec. 2601).

The conference agreement includes this provision. The state list of projects contained in this report provides the binding list of specific projects authorized at each location.

Legislative Provisions Not Adopted

Army National Guard Reserve Center, Lane County, Oregon

The Senate amendment contained a provision (sec. 2602) that would authorize a $9.0 million increase in the Army National Guard military construction program for the construction of an additional phase of the Reserve Center in Lane County, Oregon.

The House bill contained no similar provision.

The Senate recedes.

The state list contained in this report describes the conference agreement on funding for this project.

Additional project authorization for composite support facility for Illinois Air National Guard

The Senate amendment contained a provision (sec. 2603) that would authorize a $10.0 million increase in the Air National Guard military construction program for the construction of the Composite Support Facility for the 183rd Fighter Wing of the Illinois Air National Guard.

The House bill contained no similar provision.

The Senate recedes.

The state list contained in this report describes the conference agreement on funding for this project.

Title XXVII—Expiration and Extension of Authorizations

Legislative Provisions Adopted

Expiration of authorizations and amounts required to be specified by law (sec. 2701)

The House bill contained a provision (sec. 2701) that would provide that authorizations for military construction projects, repair of real property, land acquisition, family housing projects and facilities, contributions to the North Atlantic Treaty Organization infrastructure program, and guard and reserve projects will expire on October 1, 2005, or the date of enactment of an act authorizing funds for military construction for fiscal year 2006, whichever is later. This expiration would not apply to authorizations for which appropriated funds have been obligated before October 1, 2005, or the date of enactment of an act authorizing funds for these projects, whichever is later.

The Senate amendment contained an identical provision (sec. 2701).

The conference agreement includes this provision.

Extension of authorizations of certain fiscal year 2000 projects (sec. 2702)

The House bill contained a provision (sec. 2702) that would provide for the extension of certain fiscal year 1999 military construction project authorizations until October 1, 2003, or the date of the enactment of the act authorizing funds for military construction for fiscal year 2004, whichever is later.

The Senate amendment contained a similar provision (sec. 2702).

The House recedes.

Extension of authorizations of certain fiscal year 1999 projects (sec. 2703)

The House bill contained a provision (sec. 2703) that would provide for the extension of certain fiscal year 1999 military construction project authorizations until October 1, 2003, or the date of the enactment of the act authorizing funds for military construction for fiscal year 2004, whichever is later.

The Senate amendment contained an identical provision (sec. 2703).

The conference agreement includes this provision.

Legislative Provisions Not Adopted

Effective date

The House bill contained a provision (sec. 2704) that would provide that Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI of this bill shall take effect on October 1, 2002, or the date of the enactment of this Act, whichever is later.

The Senate amendment contained a similar provision (sec. 2704).

Because the conference report was not adopted prior to October 1, 2002, this provision is no longer required and was not included in the conference agreement.

Title XXVIII—General Provisions

Items of Special Interest

Blount Island, Jacksonville, Florida

The conferees understand that the Secretary of the Navy and business and government entities in Jacksonville, Florida, have been unable to resolve what commercial activities may continue on Blount Island, Jacksonville, Florida, upon completion of several pending land acquisitions by the Secretary. The conferees believe that in the course of negotiating easements with these entities, the Secretary of the Navy should consider that a waiver of regulations pertaining to activities within the explosive safety quantity distance arc has been in effect for over fifteen years and that ammunition transshipment operations occur only 12 weekends annually. The conferees believe that both the Marine Corps and commercial activities can safely coexist on Blount Island and encourage both sides to continue to negotiate in good faith.

Legislative Provisions Adopted

Subtitle A—Military Construction Program and Military Family Housing Changes

Leasing of military family housing in Korea (sec. 2801)

The House bill contained a provision (sec. 2803) that would amend section 2828 of title 10, United States Code, to authorize the Secretary of the Army to lease up to 2,400 units of family housing in Korea for a maximum lease amount of $35,000 per year. This provision would also increase from 800 to 1,175 the number of units of family housing in Korea that may be leased for no more than $25,000 per year.

The Senate amendment contained a similar provision (sec. 2801).

The House recedes.

Modification of alternative authority for acquisition and improvement of military housing (sec. 2802)

The House bill contained a provision (sec. 2801) that would amend several provisions of title 10, United States Code, to provide the secretaries of the military departments with additional flexibility in the management of family and unaccompanied housing under alternate authorities. The provision would amend section 2872a of title 10, United States Code, to add police and fire protection services to the services that may be provided by a service secretary under the housing privatization authorities; would amend section 2874 of title 10, United States Code, to permit service secretaries to lease existing housing and incorporate such housing into contracts negotiated under these authorities; would repeal section 2879 of title 10, United States Code; would amend section 2880 of title 10, United States Code, to remove restrictions on space limitations by grade for unaccompanied housing provided under these authorities on a military installation; and would amend section 2883 of title 10, United States Code, to consolidate the existing separate family housing and unaccompanied housing improvement funds into a single fund.

The Senate amendment contained a provision (sec. 2803) that would amend section 2874 of title 10, United States Code, to permit service secretaries to lease existing housing and incorporate such housing into contracts negotiated under these authorities. The provision would repeal section 2879 of title 10, United States Code, and make certain conforming changes.

The House recedes with an amendment that would amend section 2872a of title 10, United States Code, to add police and fire protection services to the list of services that a service secretary may be provide under this authority.

Pilot housing privatization authority for acquisition or construction of military unaccompanied housing (sec. 2803)

The House bill contained a provision (sec. 2804) that would authorize the Secretary of the Navy to undertake no more than three pilot projects within the United States and its territories for the acquisition or construction of military unaccompanied housing to be operated and maintained by private sector entities. The provision would also authorize the Secretary of Defense to set specific higher rates of partial basic allowance for housing (BAH) for sailors or marines assigned to this housing. The authorities would expire September 30, 2007.

The Senate amendment contained a provision (sec. 604) that would authorize the Secretary of Defense to prescribe higher partial basic allowance for housing rates. The rates would be expected to approximate, but be lower than, current BAH rates for unaccompanied junior enlisted personnel assigned to shore commands where government-provided housing is not available. The authority would expire in 2007.

The Senate recedes with an amendment that would authorize a partial BAH for members assigned to such projects and would direct that the Department of Defense Military Unaccompanied Housing Improvement Fund be used to fund the pilot program.

Repeal of source requirements for family housing construction overseas (sec. 2804)

The Senate amendment contained a provision (sec. 2802) that would repeal section 803 of the Military Construction Authorization Act, 1984 (Public Law 98–115), which requires the use of housing manufactured or fabricated in the United States in family housing constructed in foreign countries.

The House bill contained no similar provision.

The House recedes.

Availability of energy cost savings realized at military installations (sec. 2805)

The conferees agree to include a provision that would modify section 2865 of title 10, United States Code, to allow up to two-thirds of energy savings realized from energy savings contracts to remain available until expended. Under current law, such funds are available for up to two years. The conferees believe this change would allow the military departments to make more efficient use of savings realized under Energy Savings Performance Contracts.

Subtitle B—Real Property and Facilities Administration

Agreements to limit encroachments and other constraints on military training, testing, and operations (sec. 2811)

The House bill contained a provision (sec. 2811) that would authorize the secretaries of the military departments to enter into agreements with private entities to acquire interests in lands adjacent to military installations that would serve to limit development or preserve habitat in the vicinity of military installations in order to protect military training and operations. The House bill would also allow the secretaries of the military departments to enter into agreements to acquire water rights.

The Senate amendment contained a similar provision (sec. 2811).

The Senate recedes with a technical amendment.

Conveyance of surplus real property for natural resource conservation purposes (sec. 2812)

The House bill contained a provision (sec. 2812) that would authorize the secretaries of the military departments to convey surplus real property to State or local governments or to nonprofit entities who have as their primary purpose the conservation of open space or natural resources. Property would be conveyed under this authority under the condition that it be used to preserve open space or the natural resources on such property. Any property conveyed that was no longer being used for such purposes would revert to the United States.

In addition, any subsequent conveyance would be subject to secretarial approval and to the condition that the property be maintained for natural resource conservation in perpetuity. Any property no longer being maintained in accordance with these provisions would revert to the United States.

The Senate amendment contained a similar provision (sec. 2812) that would require prior notice to Congress before any subsequent conveyance of the property.

The Senate recedes with an amendment that would also require prior notice to Congress before any release of covenants on such property.

Modification of demonstration program on reduction in long-term facility maintenance costs (sec. 2813)

The House bill contained a provision (sec. 2814) that would authorize the Secretary of Defense to conduct a demonstration program to assess whether the inclusion of facility maintenance requirements in military construction contracts may reduce the long-term facility maintenance costs of the military departments. The program would be limited to 12 contracts, and would be in addition to similar authority provided to the Secretary of the Army by section 2814 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107).

The Senate amendment contained a similar provision (sec. 2813) that would amend section 2814 of the Military Construction Act for Fiscal Year 2002 (division B of Public Law 107–107) to authorize the Department of Defense to expand the number of demonstration projects on reduction of long-term facility maintenance costs from three to 12. The provision would amend that act to expand the program to the Department of the Navy and the Department of the Air Force while providing for the continuation of ongoing Army demonstration projects.

The House recedes with an amendment that would allow each military department to enter into up to 12 contracts as part of the demonstration program.

Expanded authority to transfer property at military installations to be closed to persons who construct or provide military family housing (sec. 2814)

The House bill contained a provision (sec. 2815) that would amend section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) and section 2905 of the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510) to provide greater flexibility to the secretary of a military department to exchange property at a closed military installation for military family housing that is needed at other installations, even if the property to be exchanged was identified as essential to the reuse plan at the closing installation.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees direct the secretaries of the military departments to consult with and take into consideration the views of the local redevelopment agency prior to entering into an agreement to transfer any property at a closed military installation to a third party in exchange for the construction of military housing at another location.

Subtitle C—Land Conveyances

Part I—Army Conveyances

Transfer of jurisdiction, Fort McClellan, Alabama, to establish Mountain Longleaf National Wildlife Refuge (sec. 2821)

The conferees agree to include a provision that would direct the Secretary of the Army to transfer approximately 7,600 acres of real property at Fort McClellan, Alabama, to the Secretary of the Interior for the purpose of establishing the Mountain Longleaf National Wildlife Refuge. The Secretary of the Army would retain responsibility for ordnance and munitions on the property. The provision would authorize the Secretary of the Army to provide up to $500,000 from the Base Realignment and Closure Account to the Secretary of the Interior to facilitate the transfer of the property and support environmental research.

Land conveyances, lands in Alaska no longer required for National Guard purposes (sec. 2822)

The House bill contained a provision (sec. 2821) that would authorize the Secretary of the Army to convey to the State of Alaska, a local government entity, or Native corporation in the State of Alaska certain parcels of real estate in the National Wildlife Refuge System in Alaska that are excess to the needs of the Alaska National Guard.

The Senate amendment contained a similar provision (sec. 2821).

The Senate recedes.

Land conveyance, Sunflower Army Ammunition Plant, Kansas (sec. 2823)

The Senate amendment contained a provision (sec. 2832) that would authorize the Secretary of the Army or the Administrator of the General Services Administration to convey approximately 2,000 acres at the former Sunflower Army Ammunition Plant, Kansas, to the Johnson County Park and Recreation District, Kansas, for recreational purposes.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize only the Administrator of General Services Administration to convey the property. The amendment would also make certain technical and conforming changes.

Land conveyances, Bluegrass Army Depot, Richmond, Kentucky (sec. 2824)

The Senate amendment contained a provision (sec. 2833) that would authorize the Secretary of the Army to convey 10 acres, without consideration, at Blue Grass Army Depot, Kentucky, to Madison County, Kentucky, for the purpose of constructing a veterans' center. The property could revert to the United States if not being used for the intended purpose.

The House bill contained no similar provision.

The House recedes with an amendment that would also authorize the Secretary to convey to the county, without consideration, an additional three acres for the purpose of constructing an educational center and historic museum and would permit the Secretary to require reimbursement to the Government for administrative costs associated with these conveyances. The conferees further agree to require reimbursement for any excess costs that result from a request by the recipient for any environmental assessment or other activities beyond those considered reasonable and necessary to convey this property in compliance with existing law.

Land conveyance, Fort Campbell, Kentucky (sec. 2825)

The House bill contained a provision (sec. 2822) that would authorize the Secretary of the Army to convey, without consideration, a parcel of real property at Fort Campbell, Kentucky, consisting of approximately 50 acres containing an abandoned railroad spur, to the City of Hopkinsville, Kentucky. The property would be used by the City for storm water management, recreation, and other public purposes. The cost of any surveys necessary for the conveyance would be borne by the City.

The Senate amendment contained a similar provision (sec. 2822) that would require, as a condition of the conveyance, the City to reimburse the Secretary for costs incurred to carry out the conveyance.

The House recedes with an amendment that would permit the Secretary to require reimbursement to the Government for administrative costs associated with this conveyance. The conferees further agree to require reimbursement for any excess costs that result from a request by the recipient for any environmental assessment or other activities beyond those considered reasonable and necessary to convey the property in compliance with existing law.

Land conveyance, Army Reserve Training Center, Buffalo, Minnesota (sec. 2826)

The House bill contained a provision (sec. 2823) that would authorize the Secretary of the Army to convey, without consideration, a parcel of real property, with improvements, to the Buffalo Independent School

District 877 of Buffalo, Minnesota. The property is to be used by the school district as a learning center. The cost of any surveys necessary for the conveyance would be borne by the school district.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would permit the Secretary to require reimbursement to the Government for administrative costs associated with this conveyance. The conferees further agree to require reimbursement for any excess costs that result from a request by the recipient for any environmental assessment or other activities beyond those considered reasonable and necessary to convey the property in compliance with existing law.

Land conveyance, Fort Monmouth, New Jersey (sec. 2827)

The House bill contained a provision (sec. 2826) that would authorize the Secretary of the Army to sell a parcel of land consisting of approximately 64 acres of military family housing known as Howard Commons and located at Fort Monmouth, New Jersey. The provision would specify that the sale would be made on a competitive basis and would be at no less than fair market value. As compensation the Secretary may accept payment in-kind that would build replacement facilities or rehabilitate existing military family housing at Fort Monmouth.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would authorize either the Secretary of the Army or the Administrator of the General Services Administration to carry out the conveyance. The amendment would also make certain conforming changes and require the Secretary of the Army to notify the congressional defense committees in the event the payment in-kind takes the form of new construction.

Land conveyance, Fort Bliss, Texas (sec. 2828)

The House bill contained a provision (sec. 2824) that would authorize the Secretary of the Army to convey, without consideration, a parcel of real property at Fort Bliss, Texas, consisting of approximately 44 acres with and without improvements, to the State of Texas. The property would be used by the State for the construction of a veterans' nursing home and could revert to the United States if not being used for the intended purpose. The cost of any surveys necessary for the conveyance would be borne by the State.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would permit the Secretary to require reimbursement to the Government for administrative costs associated with this conveyance. The conferees further agree to require reimbursement for any excess costs that result from a request by the recipient for any environmental assessment or other activities beyond those considered reasonable and necessary to convey the property in compliance with existing law.

Land conveyance, Fort Hood, Texas (sec. 2829)

The House bill contained a provision (sec. 2825) that would authorize the Secretary of the Army to convey, without consideration, a parcel of real estate at Fort Hood, Texas, consisting of approximately 174 acres with and without improvements, to the Veterans Land Board of the State of Texas. The property would be used by the State to establish a State-run veterans' cemetery. The cost of any surveys necessary for the conveyance would be borne by the Board.

The Senate amendment contained a similar provision (sec. 2829) which provided that the property could revert to the United States if not being used for the intended purpose.

The House recedes with an amendment that would permit the Secretary to require reimbursement to the Government for administrative costs associated with this conveyance. The conferees further agree to require reimbursement for any excess costs that result from a request by the recipient for any environmental assessment or other activities beyond those considered reasonable and necessary to convey the property in compliance with existing law.

Land conveyances, Engineer Proving Ground, Fort Belvoir, Virginia (sec. 2830)

The Senate amendment contained a provision (sec. 2830) that would authorize the Secretary of the Army to convey, without consideration, approximately 135 acres at the Engineer Proving Ground, Fort Belvoir, Virginia to Fairfax County, Virginia for use as a park or recreational purposes. The provision would further authorize the Secretary to convey, at fair market value using competitive procedures, the remaining acreage at the Engineer Proving Ground. The compensation received by the Secretary could be in cash or in the form of in-kind consideration for maintenance, improvement, alteration, repair, restoration, or construction of facilities at Fort Belvoir. The provision would repeal section 2821, as amended, of the National Defense Authorization Act for Fiscal Year 1990 and 1991 (Public Law 101–189) relating to the Engineer Proving Ground.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize either the Secretary of the Army or the Administrator of the General Services Administration to convey the balance of the property. The amendment would also direct that the congressional defense committees be notified when payment in-kind involves the construction of new facilities. The amendment would also make certain conforming changes.

Part II—Navy Conveyances

Land conveyance, Marine Corps Air Station, Miramar, San Diego, California (sec. 2831)

The House bill contained a provision (sec. 2831) that would authorize the Secretary of the Navy to convey a parcel of real property at Marine Corps Air Station Miramar, San Diego, California, to ENPEX Corporation. As consideration, the provision would require that the corporation convey to the United States a parcel of real property in the San Diego area, and if that parcel does not contain housing suitable for use as military family housing, the corporation would construct family housing and convey such housing and underlying real estate to the Secretary of the Navy. The provision would also require that the value of the housing and real estate to be acquired by the Secretary be of at least equal value to real estate being conveyed and would restrict the use of the land conveyed by the Secretary to the generation of electric power.

The Senate amendment contained no similar provision.

The Senate recedes.

Modification of authority for land transfer and conveyance, Naval Security Group Activity, Winter Harbor, Maine (sec. 2832)

The Senate amendment contained a provision (sec. 2823) that would amend section 2845(b) of the Military Construction Act for Fiscal Year 2002 (division B of Public Law 107–107) to authorize the Secretary of the Navy to convey to the State of Maine, a political subdivision of the State, or any tax-supported agency in the State, without consideration, approximately 50 acres known as the Corea Operating Site and approximately 23 acres comprising three parcels containing family housing. The provision would further authorize the Secretary to convey approximately 404 acres of the Corea site to the Secretary of the Interior for inclusion in the National Wildlife Refuge System, as requested by the Department of the Interior pursuant to the federal screening required by section 2696 of title 10, United States Code.

The House bill amendment contained no similar provision.

The House recedes with a technical amendment.

Land conveyance, Westover Air Reserve Base, Massachusetts (sec. 2833)

The Senate amendment contained a provision (sec. 2824) that would authorize the Secretary of the Navy to convey, without consideration, to the City of Chicopee, Massachusetts, property consisting of 30.4 acres, including 133 housing units and other improvements that are no longer required for defense purposes, located at Westover Air Reserve Base, Massachusetts. The property would be used by the city for economic development. The provision would authorize the Secretary to require the City of Chicopee to reimburse the Navy for the administrative costs related to the conveyance.

The House bill contained no similar provision.

The House recedes with an amendment that would require reimbursement for any excess costs that result from a request by the recipient for any environmental assessment or other activities beyond those considered reasonable and necessary to convey the property in compliance with existing law.

Land conveyance, Naval Station, Newport, Rhode Island (sec. 2834)

The Senate amendment contained a provision (sec. 2825) that would authorize the Secretary of the Navy to convey to the State of Rhode Island, or any political subdivision thereof, a parcel of real property consisting of approximately 34 acres, with any improvements thereon, known as the Melville Marina site. The conveyance would be by sale for fair market value.

The House bill contained no similar provision.

The House recedes.

Land exchange and boundary adjustments, Marine Corps Base, Quantico, and Prince William Forest Park, Virginia (sec. 2835)

The House bill contained a provision (sec. 2832) that would authorize the Secretary of the Interior and the Secretary of the Navy to adjust the boundaries of Marine Corps Base, Quantico, Virginia, and Prince William Forest Park, Virginia. The boundary adjustment would require the Secretary of the Navy to transfer approximately 352 acres of land to the administrative jurisdiction of the Secretary of the Interior and would require the Secretary of the Interior to transfer approximately 3,400 acres of land to the administrative jurisdiction of the Secretary of the Navy.

The Senate amendment contained no similar provision.

The Senate recedes with a technical and clarifying amendment.

Part III—Air Force Conveyances

Modification of land conveyance, Los Angeles Air Force Base, California (sec. 2841)

The conferees agree to include a provision that would modify section 2861 of the Floyd

D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) to extend the time limitation on a leaseback exercised under that authority, if any, from ten to thirty years.

Land exchange, Buckley Air Force Base, Colorado (sec. 2842)

The Senate amendment contained a provision (sec. 2826) that would authorize the Secretary of the Air Force to convey to the State of Colorado property consisting of approximately 72 acres, including improvements, known as the Watkins Communication Site in Arapahoe County, Colorado. In exchange, the State would convey to the Air Force real property consisting of approximately 41 acres, including improvements, that is contiguous to Buckley Air Force Base, Colorado. The property conveyed to the Air Force would be used to build additional housing and would not be subject to general land laws, including mining and mineral and geothermal leasing laws. The provision would authorize additional terms and conditions, which may include a payment by one party to the other to reflect a difference in the value of the two parcels of property. Because the acquisition of this land had not yet received the approval normally required by the Office of the Secretary of Defense, the provision specified that this exchange would require the concurrence of the Secretary of Defense.

The House bill contained no similar provision.

The House recedes with an amendment that would specify that the purpose of the conveyance is for the construction of military family housing. Since the Secretary of Defense has approved the required land acquisition waiver, the amendment would also strike the limitation that the Secretary of Defense must concur with the conveyance.

Land conveyances, Wendover Air Force Base Auxiliary Field, Nevada (sec. 2843)

The House bill contained a provision (sec. 2841) that would authorize the Secretary of the Interior and the Secretary of the Air Force to convey certain parcels of real property at Wendover Air Force Base Auxiliary Field, Nevada, to the City of West Wendover, Nevada, and Tooele County, Utah, without consideration, for the purpose of establishing a runway protection zone and the development of an industrial park.

The Senate amendment contained a similar provision (sec. 2828).

The Senate recedes with a technical amendment.

Subtitle D—Other Matters

Master plan for use of Navy Annex, Arlington, Virginia (sec. 2851)

The Senate amendment contained a provision (sec. 2831) that would repeal title XXIX of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65) regarding the Commission on the National Military Museum. The provision would also amend section 2881 of that Act to require the Secretary of Defense to submit a master plan for the use of the Navy Annex, Arlington, Virginia, no later than 180 days after enactment of the bill. The provision would further direct that the master plan not delay the construction of the Air Force Memorial.

The House bill contained no similar provision.

The House recedes with an amendment that would delete the language referring to the National Military Museum.

Sale of excess treated water and wastewater treatment capacity, Marine Corps Base, Camp Lejeune, North Carolina (sec. 2852)

The House bill contained a provision (sec. 2862) that would permit the Secretary of the Navy to enter into an agreement that would allow Camp Lejeune, North Carolina, to provide treated water and wastewater treatment services to Onslow County, North Carolina, if the Secretary determines that such an agreement is in the public interest and will not interfere with current or future utility needs at Camp Lejeune. The county would be required to reimburse the Navy for the fair market value of the services provided, and any amounts paid would be credited to the base operations and maintenance accounts of Camp Lejeune.

The Senate amendment contained no similar provision.

The Senate recedes.

Conveyance of real property, Adak Naval Complex, Alaska, and related land conveyances (sec. 2853)

The House bill contained a provision (sec. 2863) that would ratify an agreement made by the Secretary of the Interior, the Secretary of the Navy, and the Aleut Corporation in September 2000 concerning the reuse of the Adak Naval Complex, Alaska, and other related parcels of land. The agreement would provide that real estate on Adak Island withdrawn for use by the Secretary of the Navy may be transferred to the Aleut Corporation without regard to the requirements of section 1621 of title 42, United States Code, pertaining to lands in the Alaska Maritime National Wildlife Refuge. In return, the Aleut Corporation would agree to transfer to the Secretary of the Interior at least 36,000 acres of land suitable for inclusion in the Alaska Maritime National Wildlife Refuge.

The Senate amendment contained no similar provision.

On August 1, 2002, the Senate passed S. 1325, a bill that was nearly identical to the House provision. The House passed S. 1325 on September 24, 2002, and it was signed into law by the President on October 11, 2002, as Public Law 107–239.

The Senate recedes with an amendment that would amend S. 1325 by adding the language contained in subsection (g) of the House bill regarding the tax basis of property received under the ratified agreement.

Special requirement for adding military installation to closure list (sec. 2854)

The House bill contained a provision (sec. 2864) that would amend the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510) to require that in order for the base closure commission to add a base to the list proposed by the Secretary of Defense in the 2005 base closure round, the commission would have to vote unanimously to add the base to the list, and at least two commissioners would have to visit that base during the commission's review of the list.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would provide that in order for the commission to recommend closure of a base that is added to the Secretary's list for consideration by the commission, at least two commissioners must visit any such base before the commission holds its final vote and submits its recommendations to the President.

Legislative Provisions Not Adopted

Easement for construction of roads or highways, Marine Corps Base, Camp Pendleton, California

The House bill contained a provision (sec. 2861) that would amend section 2851 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261), as previously amended by section 2867 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107), by providing that provisions of California state law could not prevent the Secretary of the Navy from granting an easement for a proposed road or highway across federal property at Camp Pendleton, California, and that State law would not apply to the construction, operation, or maintenance of any such road by the Foothill/Eastern Transportation Corridor Agency.

The Senate amendment contained no similar provision.

The House recedes.

Land acquisition, Boundary Channel Drive Site, Arlington

The Senate amendment contained a provision (sec. 2827) that would authorize the Secretary of Defense, using amounts authorized to be appropriated by section 2401, to acquire approximately 7.2 acres of real property in Arlington County, Virginia, known as the Boundary Channel Drive Site. The provision would direct that, upon the purchase of the site, the property be included in the Pentagon Reservation as defined in section 2674(f)(1) of title 10, United States Code.

The House bill contained no similar provision.

The Senate recedes.

National emergency exemption from screening and other requirements of McKinney-Vento Homeless Assistance Act for property used in support of response activities

The House bill contained a provision (sec. 2813) that would amend section 11411 of title 42, United States Code, to provide an exception to the requirement to screen excess or surplus property for various other uses when the property may be needed by federal, state, or local agencies to support response efforts in times of war, national emergency, or a major disaster.

The Senate amendment contained no similar provision.

The House recedes.

Transfer of funds for acquisition of replacement property for National Wildlife Refuge system lands in Nevada

The Senate amendment contained a provision (sec. 2841) that would authorize the Secretary of the Air Force to transfer $15.0 million in funds authorized to be appropriated to the Air Force for fiscal year 2003 for land acquisition at Nellis Air Force Base, Nevada, to the United States Fish and Wildlife Service to purchase replacement lands for the National Wildlife Refuge (NWR) system in Nevada. These lands would replace lands removed from the NWR system and withdrawn for military training by section 3011(b) of the Military Lands Withdrawal Act of 1999 (title XXX of Public Law 106–65).

The House bill contained no similar provision.

The Senate recedes.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

Title XXXI—Department of Energy National Security Programs

Overview

Title XXXI authorizes appropriations for atomic energy defense activities of the Department of Energy (DOE) for fiscal year 2003, including: the purchase, construction, and acquisition of plant and capital equipment; research and development; nuclear weapons; naval nuclear propulsion; environmental restoration and waste management;

operating expenses; and other expenses necessary to carry out the purposes of the Department of Energy Organization Act (Public Law 95–91). The title would authorize appropriations in four categories: National Nuclear Security Administration (NNSA); defense environmental management; other defense activities; and defense nuclear waste disposal.

The budget request for atomic energy defense activities at the Department of Energy totaled $15.4 billion, a 4.4 percent increase above the fiscal year 2002 level. Of the total amount requested, $8.0 billion would be for the National Nuclear Security Administration, of which $5.9 billion would be for weapons activities, $1.1 billion would be for defense nuclear nonproliferation activities, $708.0 million would be for naval reactors, and $347.7 million would be for the Office of the Administrator; $6.6 billion would be for defense environmental management, of which, $4.6 billion would be for defense environmental restoration and waste management activities, $800.0 million for environmental management cleanup reform, $1.1 billion would be for defense facilities closure projects, and $158.4 million would be for defense environmental management privatization; $472.2 million would be for other defense activities; and $315.0 million would be for defense nuclear waste disposal.

The conferees agree to authorize $15.6 billion for atomic energy defense activities at the Department of Energy, an increase of $142.0 million above the budget request. The conferees agree to authorize $8.0 billion for the NNSA, a reduction of $0.2 million to the budget request. Of the amounts authorized for the NNSA, $5.9 billion would be for weapons activities, $1.1 billion would be for defense nuclear nonproliferation activities, $706.8 million would be for naval reactors, and $325.9 million would be for the Office of the Administrator. The conferees agree to authorize $6.8 billion for the defense environmental management activities, an increase of $151.8 million above the budget request. Of the amounts authorized for defense environmental management, $4.5 billion would be for defense environmental restoration and waste management activities, $982.0 million would be for environmental management cleanup reform, $1.1 billion would be for defense facilities closure projects, and $158.4 million would be for defense environmental management privatization. The conferees agree to authorize $462.7 million for other defense activities, a decrease of $9.5 million. The amount authorized for other defense activities would include $27.7 million for energy security and assurance, $185.5 million for the Office of Security, $41.2 million for intelligence, $46.0 million for counterintelligence, $22.4 million for independent oversight and performance assurance, $99.0 million for environmental safety and health; $19.7 million for worker and community transition, $25.6 million for national security program administration support and $2.9 million for the Office of Hearing and Appeals. The conferees agree to authorize $315.0 million for defense nuclear waste disposal.

The following table summarizes the budget request and the authorizations:

NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2003

(In Thousands of Dollars)

	FY 2003 Request to Congress	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Atomic Energy Defense Activities (053)					
National Nuclear Security Administration					
Weapons Activities	5,869,379	5,937,000	5,988,188	32,262	5,901,641
Defense Nuclear Nonproliferation	1,113,630	1,074,630	1,129,130	-9,500	1,104,130
Naval Reactors	708,020	706,790	707,020	-1,230	706,790
Office of the Administrator	347,705	315,929	335,705	-21,776	325,929
Total, National Nuclear Security Administration	**8,038,734**	**8,034,349**	**8,160,043**	**-244**	**8,038,490**
Environmental and Other Defense Activities:					
Defense Environmental Restoration and Waste Management	4,558,360	4,544,133	4,601,460	-48,227	4,510,133
Defense Environmental Cleanup Reform	800,000	800,000	1,000,000	182,000	982,000
Defense Facilities Closure Projects	1,091,314	1,091,314	1,109,314	18,000	1,109,314
Environmental Management Privatization	158,399	158,399	158,399		158,399
Other Defense Activities	472,156	457,664	489,883	-9,492	462,664
Defense Nuclear Waste Disposal	315,000	315,000	215,000		315,000
Total Department of Energy/NNSA	**15,433,963**	**15,400,859**	**15,734,099**	**142,037**	**15,576,000**
Defense Nuclear Facilities Safety Board	19,494	19,000	19,494	-494	19,000
Formerly Utilized Sites Remedial Action Program	—	—	140,000	—	—
Total Atomic Energy Defense Activities	**15,453,457**	**15,419,859**	**15,893,593**	**141,543**	**15,595,000**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
National Nuclear Security Administration:					
Weapons Activities					
Directed stockpile work					
Stockpile research and development	467,149	467,149	451,649		467,149
Stockpile maintenance	401,157	401,157	401,157		401,157
Stockpile evaluation	197,184	197,184	197,184		197,184
Dismantlement/disposal	24,378	24,378	24,378		24,378
Production support	137,706	137,706	137,706		137,706
Field engineering, training and manuals	6,893	6,893	6,893		6,893
Total, Directed stockpile work	**1,234,467**	**1,234,467**	**1,218,967**	—	**1,234,467**
Campaigns					
Science campaigns					
Primary certification	47,159	47,159	47,159		47,159
Dynamic materials properties	87,594	87,594	87,594		87,594
Advanced radiography					
Operations and maintenance	52,925	52,925	52,925		52,925
Secondary certification and nuclear systems margins	47,790	47,790	47,790		47,790
Total, Science campaigns	**235,468**	**235,468**	**235,468**	—	**235,468**
Engineering campaigns					
Enhanced surety	37,713	37,713	37,713		37,713

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Weapons system engineering certification	27,007	27,007	27,007		27,007
Nuclear survivability	23,394	23,394	23,394		23,394
Enhanced surveillance	77,155	77,155	77,155		77,155
Advanced design and production technologies	74,141	74,141	74,141		74,141
Total, Engineering campaigns	**239,410**	**239,410**	**239,410**	**—**	**239,410**
High energy density physics campaign					
Operations and maintenance	237,748	262,748	248,442	35,694	273,442
Construction:					
96-D-111 National ignition facility (NIF), LLNL, Livermore, CA	214,045	214,045	224,045		214,045
Total, High energy density physics campaign	**451,793**	**476,793**	**472,487**	**35,694**	**487,487**
Advanced simulation and computing					
Operations and maintenance	669,527	669,527	669,527		669,527
Construction:					
01-D-101 Distributed information systems laboratory, SNL, Livermore, CA	13,305	13,305	13,305		13,305
00-D-103, Terascale simulation facility, LLNL, Livermore, CA	35,030	35,030	35,030		35,030

Department of Energy National Security Programs

(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
00-D-107 Joint computational engineering laboratory, SNL, Albuquerque, NM	7,000	7,000	7,000		7,000
Total, Construction	**55,335**	**55,335**	**55,335**	—	**55,335**
Total, Advanced simulation and computing	**724,862**	**724,862**	**724,862**	—	**724,862**
Pit manufacturing and certification	194,484	194,484	199,484	5,000	199,484
Readiness campaigns					
Stockpile readiness	61,027	61,027	61,027		61,027
High explosives manufacturing and weapons assembly/disassembly readiness	12,093	12,093	11,093		12,093
Non-nuclear readiness	22,398	22,398	20,398	-2,000	20,398
Materials readiness	—				
Tritium readiness					
Operations and maintenance	56,134	56,134	56,134		56,134
Construction:					
98-D-125 Tritium extraction facility, Savannah River Site, Aiken SC	70,165	70,165	70,165		70,165
Total, Tritium readiness	**126,299**	**126,299**	**126,299**	—	**126,299**

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Total, Readiness campaigns	221,817	221,817	218,817	-2,000	219,817
Total, Campaigns	2,067,834	2,092,834	2,090,528	38,694	2,106,528
Readiness in technical base and facilities					
Operations of facilities	949,920	994,920	989,920	72,000	1,021,920
Pantex				[+25,000]	
Y-12				[+20,000]	
Center for Combating Terrorism				[+27,000]	
Program readiness	208,089	208,089	208,089		208,089
Special projects	37,744	37,744	44,644	6,900	44,644
Material recycle and recovery	98,816	98,816	98,816		98,816
Containers	17,721	17,721	17,721		17,721
Storage	14,593	14,593	14,593		14,593
Nuclear weapons incident response	91,000	91,000	91,000		91,000
Subtotal, Readiness in technical base and facilities	1,417,883	1,462,883	1,464,783	78,900	1,496,783
Construction:					
03-D-101 Sandia underground reactor facility SURF, SNL, Livermore, CA	2,000	2,000	2,000		2,000

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
03-D-103 Project engineering and design various locations	15,539	15,539	17,839	1,500	17,039
03-D-121 Gas transfer capacity expansion, Kansas City Plant, Kansas City, MO	4,000	4,000	4,000		4,000
03-D-122 Prototype purification facility, Y-12 plant, Oak Ridge, TN	20,800	20,800	20,800		20,800
03-D-123 Special nuclear materials Requalification, Pantex plant, Amarillo, TX	3,000	3,000	3,000		3,000
02-D-103 Project engineering and design, various locations	27,245	27,245	24,945	-1,500	25,745
02-D-105 Engineering technology complex upgrade (ETCU), LLNL, Livermore, CA	10,000	10,000	10,000		10,000
02-D-107 Electrical power systems safety communications and bus upgrades, Nevada Test Site, NV	7,500	7,500	7,500		7,500
01-D-103 Project engineering and design (PE&D), various locations	6,164	6,164	6,164		6,164

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
01-D-107 Atlas relocation and operations Nevada Test Site, NV	4,123	4,123	4,123		4,123
01-D-108 Microsystem and engineering science applications (MESA), SNL, Albuquerque, NM	75,000	75,000	75,000		75,000
01-D-124 HEU storage facility, Y-12 plant, Oak Ridge, TN	25,000	25,000	25,000		25,000
01-D-126 Weapons Evaluation Test Laboratory Pantex Plant, Amarillo, TX	8,650	8,650	8,650		8,650
01-D-800 Sensitive compartmented information facility, LLNL, Livermore, CA	9,611	9,611	9,611		9,611
99-D-103 Isotope sciences facilities, LLNL, Livermore, CA	4,011	4,011	4,011		4,011
99-D-104 Protection of real property (roof reconstruction-Phase II), LLNL, Livermore, CA	5,915	5,915	5,915		5,915

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
99-D-127 Stockpile management restructuring initiative, Kansas City plant, Kansas City, MO	29,900	29,900	29,900		29,900
99-D-128 Stockpile management restructuring initiative, Pantex plant, Amarillo, TX	407	407	407		407
98-D-123 Stockpile management restructuring initiative, Tritium factory modernization and consolidation, Savannah River Site, Aiken, SC	10,481	10,481	10,481		10,481
96-D-102 Stockpile stewardship facilities revitalization, Phase VI, various locations	1,000	1,000	1,000		1,000
Total, Construction	270,346	270,346	270,346	—	270,346
Total, Readiness in technical base and facilities	1,688,229	1,733,229	1,735,129	78,900	1,767,129
Facilities and infrastructure recapitalization program	242,512	242,512	242,512		242,512

Department of Energy National Security Programs

(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Secure transportation asset					
Operations and equipment	100,863	100,863	102,578		100,863
Program direction	54,505	52,126	54,505	-2,379	52,126
Total, Secure transportation asset	**155,368**	**152,989**	**157,083**	**-2,379**	**152,989**
Safeguards and security					
Operations and maintenance	501,054	501,054	566,054		501,054
Construction:					
99-D-132 SMRI nuclear material safeguards and security upgrade project, LANL, Los Alamos, NM	8,900	8,900	8,900		8,900
Total, Safeguards and security	**509,954**	**509,954**	**574,954**	—	**509,954**
Subtotal, Weapons Activities	**5,898,364**	**5,965,985**	**6,019,173**	**115,215**	**6,013,579**
Adjustments					
Use of prior year balances	—			-82,953	-82,953
Less security charge for reimbursable work	-28,985	28,985	-28,985		-28,985
Civilian personnel accrual accounting adjustment			-2,000		—
Total, Weapons Activities	**5,869,379**	**5,937,000**	**5,988,188**	**32,262**	**5,901,641**

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Defense Nuclear Nonproliferation					
Nonproliferation and verification R&D					
Operation and maintenance	283,407	283,407	298,907		283,407
Total, Nonproliferation & verification R&D	**283,407**	**283,407**	**298,907**	—	**283,407**
Nonproliferation and international security	92,668	92,668	92,668		92,668
Nonproliferation programs with Russia					
International nuclear materials protection and cooperation	233,077	233,077	233,077		233,077
Russian transition initiatives	39,334	39,334	39,334		39,334
HEU transparency implementation	17,229	17,229	17,229		17,229
Accelerated disposition of HEU and plutonium			40,000		
International nuclear safety	14,576	11,576	14,576	-1,500	13,076
International safety and security programs			20,000		—
IAEA support			15,000		—
International export control support			5,000		—
International materials protection, control & accounting			5,000		
Elimination of weapons-grade plutonium production program	49,339	19,339	49,339		49,339

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Fissile materials disposition					
U S surplus materials disposition	194,000	198,000	194,000		194,000
Russian surplus materials disposition	98,000	88,000	98,000		98,000
Program oversight		[-10,000]			
Construction:					
01-D-407 Highly enriched uranium (HEU) blend down, Savannah River Site, Aiken, SC	30,000	30,000	30,000		30,000
99-D-141 Pit disassembly and conversion facility, Savannah River Site, Aiken, SC	33,000	33,000	33,000		33,000
99-D-143 Mixed oxide fuel fabrication facility, Savannah River Site, Aiken, SC	93,000	93,000	93,000		93,000
Total, Construction	**156,000**	**156,000**	**156,000**	—	**156,000**
Total, Fissile materials disposition	**448,000**	**442,000**	**448,000**	—	**448,000**
Total, Nonproliferation programs with Russia	**801,555**	**762,555**	**886,555**	**-1,500**	**800,055**
General reduction	—	—	-85,000		—
Program direction	—	—	—		—

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Subtotal, Defense Nuclear Nonproliferation	**1,177,630**	**1,138,630**	**1,193,130**	**-1,500**	**1,176,130**
Adjustments:					
Use of prior year balances	-64,000	-64,000	-64,000	-8,000	-72,000
Total, Defense Nuclear Nonproliferation	**1,113,630**	**1,074,630**	**1,129,130**	**-9,500**	**1,104,130**
Naval Reactors					
Naval reactors development					
Operation and maintenance	671,290	671,290	671,290		671,290
Construction:					
03-D-201 Cleanroom technology facility, West Mifflin, PA	7,200	7,200	7,200		7,200
01-D-200 Major office replacement building, Schenectady, NY	2,100	2,100	2,100		2,100
90-N-102 Expended core facility dry cell project, Naval Reactors Facility, ID	2,000	2,000	2,000		2,000
Total, Construction	**11,300**	**11,300**	**11,300**	**—**	**11,300**
Total, Naval reactors development	**682,590**	**682,590**	**682,590**	**—**	**682,590**
Program direction	25,430	24,200	24,430	-1,230	24,200
Total, Naval Reactors	**708,020**	**706,790**	**707,020**	**-1,230**	**706,790**

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Office Of The Administrator	347,705	315,929	335,705	-21,776	325,929
Civilian personnel accural adjustment				[-11,776]	
Overhead				[-10,000]	
Total, Office of the Administrator	**347,705**	**315,929**	**335,705**	**-21,776**	**325,929**
Total, National Nuclear Security Administration	**8,038,734**	**8,034,349**	**8,160,043**	**-244**	**8,038,490**
Defense Environmental Restoration & Waste Management					
Site/project completion					
Operation and maintenance	779,706	779,706	779,706		779,706
Construction:					
02-D-402 Intec cathodic protection system expansion project, INEEL, Idaho Falls, ID	1,119	1,119	1,119		1,119
02-D-420 Plutonium packaging and stabilization, Savannah River Site, Aiken, SC	2,000	2,000	2,000		2,000
01-D-414 Preliminary project, engineering and design (PE&D), various locations	5,125	5,125	5,125		5,125

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
86-D-103 Decontamination and waste treatment facility, LLNL, Livermore, CA	—	—	6,000		—
Total, Construction	**8,244**	**8,244**	**14,244**	—	**8,244**
Total, Site/project completion	**787,950**	**787,950**	**793,950**	—	**787,950**
Post 2006 completion					
Operation and maintenance	1,702,241	1,702,241	1,704,341		1,702,241
Uranium enrichment D&D fund contribution	—	—	—		—
Construction:					
93-D-187 High-level waste removal from filled waste tanks, Savannah River, Site, Aiken, SC	14,870	14,870	14,870		14,870
Office of river protection					
Operation and maintenance	226,256	226,256	226,256		226,256
Construction:					
03-D-403 Immobilized high-level waste interim storage facility, Richland, WA	6,363	6,363	6,363		6,363
01-D-416 Tank waste remediation system, Richland, WA	619,000	619,000	619,000		619,000

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
97-D-402 Tank farm restoration and safe operations, Richland, WA	25,424	25,424	25,424		25,424
94-D-407 Initial tank retrieval systems, Richland, WA	20,945	20,945	20,945		20,945
Total, Construction	**671,732**	**671,732**	**671,732**	—	**671,732**
Total, Office of river protection	**897,988**	**897,988**	**897,988**	—	**897,988**
Total, Post 2006 completion	**2,615,099**	**2,615,099**	**2,617,199**	—	**2,615,099**
Science and technology	92,000	92,000	92,000		92,000
Excess facilities	1,300	1,300	1,300		1,300
Multi-Site activities					
Uranium enrichment D&D fund contribution	442,000	442,000	441,000		442,000
Other activities	37,871	37,871	—		37,871
Total, Multi-Site activities	**479,871**	**479,871**	**441,000**	—	**479,871**
Safeguards and security	228,260	228,260	278,260		228,260
Program direction	358,227	344,000	396,098	-14,227	344,000
Civilian personnel accrual adjustment				[-14,227]	

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Subtotal, Defense Environmental Restoration and Waste Management	**4,562,707**	**4,548,480**	**4,619,807**	**-14,227**	**4,548,480**
Use of prior year balances	—	—	—	-34,000	-34,000
Civilian personnel accrual adjustment			-14,000		—
Less security charge for reimbursable work	-4,347	-4,347	-4,347		-4,347
Total, Defense Environmental Restoration And Waste Management	**4,558,360**	**4,544,133**	**4,601,460**	**-48,227**	**4,510,133**
Environmental Management Cleanup Reform					
Environmental management cleanup reform	800,000	800,000	1,000,000	182,000	982,000
Construction					
03-D-414, Preliminary project engineering and design, (PE&D) Savannah River Site, Aiken, SC				[8,800]	[8,800]
Defense Facilities Closure Projects					
Site closure	1,054,153	1,054,153	1,054,153		1,054,153
Safeguards and security	37,161	37,161	55,161	18,000	55,161
Total, Defense Facilities Closure Projects	**1,091,314**	**1,091,314**	**1,109,314**	**18,000**	**1,109,314**

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Defense Environmental Management Privatization					
Privatization initiatives, various locations	**158,399**	158,399	158,399		158,399
Total, Defense Environmental Management	**6,608,073**	**6,593,846**	**6,869,173**	**151,773**	**6,759,846**
Other Defense Activities					
Energy security and assurance					
Energy security	23,411	23,411	—		23,411
Program direction	4,275	4,275	—		4,275
Total, Energy security and assurance	**27,686**	**27,686**	**—**	**—**	**27,686**
Office of Security					
Nuclear safeguards and security	91,102	91,102	156,102		91,102
Security investigations	45,870	45,870	45,870		45,870
Program direction	50,246	48,543	50,246	-1,703	48,543
Chief information officer					
Corporate management information program	—	—	—	—	—
Total, Office of Security	**187,218**	**185,515**	**252,218**	**-1,703**	**185,515**
Intelligence	41,559	41,246	43,559	-313	41,246

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Counterintelligence	46,083	45,955	48,083	-128	45,955
Independent oversight and performance assurance	22,615	22,430	22,615	-185	22,430
Environment, safety & health					
Environment, safety and health (defense)	81,892	81,892	86,892		81,892
Program direction	18,018	17,149	18,018	-869	17,149
Management efficiencies		-5,000			
Total, Environment, safety and health	**99,910**	**94,041**	**104,910**	**-869**	**99,041**
Worker and community transition					
Worker and community transition	22,965	22,965	22,965		22,965
Program direction	2,809	2,718	2,809	-91	2,718
Management efficiencies		-6,000		-6,000	-6,000
Total, Worker and community transition	**25,774**	**19,683**	**25,774**	**-6,091**	**19,683**
National security programs administration support	25,587	25,587	—		25,587
Office of hearings and appeals	3,136	2,933	3,136	-203	2,933
Subtotal, Other defense activities	**479,568**	**465,076**	**500,295**	**-9,492**	**470,076**

Department of Energy National Security Programs
(Dollars in Thousands)

	FY 2003 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Adjustments:					
Use of prior year balances	-6,700	-6,700	-6,700		-6,700
Civilian personnel accrual adjustment			-3,000		——
Less security charge for reimbursable work	-712	-712	-712		-712
Total, Adjustments	**-7,412**	**-7,412**	**-10,412**	——	**-7,412**
Total, Other Defense Activities	**472,156**	**457,664**	**489,883**	**-9,492**	**462,664**
Defense Nuclear Waste Disposal					
Defense nuclear waste disposal	315,000	315,000	215,000	——	315,000
Total, Environmental and Other Defense Activities	**7,395,229**	**7,366,510**	**7,574,056**	**142,281**	**7,537,510**
TOTAL, Atomic Energy Defense Activities	**15,433,963**	**15,400,859**	**15,734,099**	**142,037**	**15,576,000**

ITEMS OF SPECIAL INTEREST

Management of the National Nuclear Security Administration

The National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107), which was enacted on December 28, 2001, amended the National Nuclear Security Administration Act, at the request of the Administrator, to create a new position of Deputy Administrator for the National Nuclear Security Administration (NNSA). As of September 2002 the President has not submitted a nominee for that position, and it remains vacant. In July 2002, the Administrator of the NNSA resigned to take a new position. No nominee has been submitted for the Administrator position.

The NNSA was created by Congress to provide clear lines of authority and to streamline the management of the nonproliferation and defense programs at the Department of Energy. The conferees are concerned that without permanent leadership in these two senior NNSA positions, much of the progress that has been made at the NNSA, particularly in efforts to restructure the headquarters and field organizations, may be in jeopardy. The conferees support the work of the two programmatic deputies at the NNSA and believe that each has contributed significantly to the progress of the organization. Nevertheless, the conferees believe that the two most senior positions in the NNSA should be permanently filled. Any individual, no matter how talented and well-qualified, is at a disadvantage when serving in an acting capacity. The conferees strongly encourage the President to submit qualified nominees for the two senior NNSA positions as quickly as possible.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—National Security Programs Authorizations

National Nuclear Security Administration (sec. 3101)

The House bill contained a provision (sec. 3101) that would authorize $8.0 billion for the National Nuclear Security Administration (NNSA).

The Senate amendment contained a similar provision (sec. 3101) that would authorize $8.2 billion for the NNSA.

The conferees agree to include a provision that would authorize $8.0 billion for the activities of the NNSA after offsets, a reduction of $0.2 million to the budget request. The conferees note that each program is authorized at the full amount reflected in the individual program line prior to offsets. The conferees have reduced program direction accounts to reflect the proper accounting for the accrual of civilian personnel benefits under current law.

The budget request included $451.8 million for the high energy density physics campaign, of which $237.7 million was for operation and maintenance and $214.0 million was for construction of the National Ignition Facility (NIF). The conferees agree to include $487.5 million for the campaign, an increase of $35.7 million above the budget request for operation and maintenance to keep the cryogenic target and NIF diagnostics work on schedule to support the planned NIF ignition schedule, and to support the high average power laser and pettawatt laser initiatives.

The budget request included $194.5 million for the pit manufacturing and certification campaign. The conferees agree to include $199.5 million, an increase of $5.0 million above the budget request to support the Environmental Impact Statement for a new pit facility.

The budget request included $1.7 billion for Readiness in Technical Base and Facilities (RTBF) of which $949.9 million was for operation of facilities and $37.7 million was for special projects. The conferees agree to include $1.0 billion for operation of facilities, an increase of $72.0 million above the budget request of which $25.0 million is for the Pantex facility, $20.0 million is for the Y–12 facility, and $27.0 million is for the Nevada Test Site for the Center for Combating Terrorism. The conferees agree to provide $44.7 million for special projects, an increase of $6.9 million above the budget request for the annual payment to the Los Alamos Foundation.

The budget request included $14.6 million for International Nuclear Safety. The conferees agree to include $13.1 million, a reduction of $1.5 million to the budget request. The conferees do not support work related to the operational safety of commercial power reactors outside the Former Soviet Union, and that are not Soviet-designed reactors.

Defense environmental management (sec. 3102)

The House bill contained a provision (sec. 3102) that would authorize $7.4 billion for environmental restoration, waste management, and other defense activities.

The Senate amendment contained a provision (sec. 3102) that would authorize $6.8 billion for defense environmental management activities and a provision (sec. 3104) that would authorize $158.4 million for defense environmental management privatization.

The conferees agree to authorize $6.7 billion for defense environmental management, including defense environmental privatization, an increase of $151.8 million above the budget request. The conferees note that each program is authorized at the full amount reflected in the individual program line prior to offsets. The conferees have reduced program direction accounts to reflect the proper accounting for the accrual of civilian personnel benefits under current law to reflect the civil service accrual adjustment.

The budget request included $800.0 million for environmental management cleanup reform. An amended budget request included an additional $300.0 million. The conferees agree to include $982.0 million, an increase of $182.0 million above the budget request. The conferees note that this will fully fund the Department of Energy commitments to defense sites. In addition, the conferees have included a new construction line item within the environmental management cleanup reform account that would provide $8.8 million for project engineering and design funds, including $7.5 million for design of the salt waste processing facility, and $1.3 million for design of an additional glass waste storage building. Both projects are at the Savannah River Site.

The budget request included $1.1 billion for defense facilities closure projects. The conferees agree to authorize $1.1 billion, an increase of $18.0 million above the budget request, for increased security costs at the Rocky Flats Site.

Other defense activities (sec. 3103)

The Senate amendment contained a provision (sec. 3103) that would authorize $489.9 million for other defense activities.

The House bill contained a provision (sec. 3102) that would authorize $7.4 billion for environmental and other defense activities including $457.7 million for other defense activities.

The conferees agree to authorize $462.7 million, a decrease of $9.5 million to the budget request. The conferees note that each program is authorized at the full amount reflected in the individual program line prior to offsets. The conferees have reduced program direction accounts to reflect the proper accounting for the accrual of civilian personnel benefits under current law.

The budget request included $99.9 million for environment, safety and health. The conferees agree to authorize $99.0 million. In addition to the $13.9 million contained in the budget request for enhanced medical screening, the conferees agree that an additional $2.5 million shall be available for a total of $16.4 million for enhanced medical screening of current and former workers at Department of Energy (DOE) nuclear facilities, including the three gaseous diffusion plants. The conferees believe DOE should promptly take the steps necessary to ensure that medical screening, including the use of advanced techniques for early lung cancer detection, is made available to current and former workers. The conferees encourage DOE to request sufficient funds in the future to conduct medical screening on all current and former workers who wish to have the screening.

The budget request included $25.8 million for the office of worker and community transition. The conferees include $19.7 million, a reduction of $6.1 million to the budget request.

Defense nuclear waste disposal (sec. 3104)

The Senate amendment contained a provision (sec. 3105) that would authorize $215.0 million for payment to the Nuclear Waste Fund (NWF) established by the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)).

The House bill contained a provision (sec. 3102) that would authorize $7.4 billion for environmental and other defense activities including $315.0 million for the payment to the NWF.

The conferees agree to authorize $315.0 million for the payment to the NWF, the amount of the budget request.

Subtitle B—Program Authorizations, Restrictions, and Limitations

Annual assessments and reports to the President and Congress regarding the condition of the United States nuclear weapons stockpile (sec. 3141)

The House bill contained a provision (sec. 3144) that would require an annual certification process regarding the safety, reliability, and performance of the U.S. nuclear stockpile. No later than January 15 of each year, the directors of the national laboratories and the Commander in Chief of the Strategic Command would be required to submit to the Secretary of Energy and the Secretary of Defense, respectively, a certification regarding the safety, reliability, and performance of each nuclear weapon type in the active stockpile of the United States for which each official is responsible. No later than February 1 of each year, the secretaries would be required to submit to the President and the Congress each certification and report that they received together with any other information. The provision would also require that the head of each national laboratory would constitute and use a "red team" as part of the certification process to subject to challenge and provide peer review of matters in the certification. In addition, the head of each national laboratory and the Commander in Chief of the Strategic Command would each submit, with the certification, a report that would assess the Department of Energy stockpile stewardship program.

The Senate amendment contained no similar provision.

The Senate recedes with a number of clarifying amendments. The conferees intend that this provision should generally reflect the ongoing annual certification process of the active stockpile with the addition of the "red teams", including the participation of the Nuclear Weapons Council. The heads of the national security laboratories and the Commander in Chief of the Strategic Command would be required to submit their reports to the Secretary of Energy and the Secretary of Defense, respectively, and to the Nuclear Weapons Council by December 1 of each year beginning in 2003. The Secretaries of Energy and Defense would be required to submit their reports to the President by March 1 of each year beginning in 2004. The President would be required to submit his report, together with all reports required to be submitted to him, to Congress by March 15 of each year beginning in 2004. Each of the various reports would be required to be submitted in classified form but with each portion of the report marked to show its specific classification level.

The conferees note that the various reports should be brief and concise.

Plans for achieving enhanced readiness posture for resumption by the United States of underground nuclear weapons tests (sec. 3142)

The House bill contained a provision (sec. 3145) that would require the Secretary of Energy to submit to Congress with the fiscal year 2004 budget request a report on a plan and a budget to enhance underground nuclear test readiness. The report would detail the plan and budget required to achieve a one-year readiness posture for resumption of underground nuclear weapons tests.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Energy to submit to Congress with the fiscal year 2004 budget request a report on plans and cost estimates for achieving and maintaining test readiness postures of six, 12, 18, and 24 months. In addition, the report would include an assessment of the current test readiness posture of the United States and a recommendation by the Secretary in conjunction with the Secretary of Defense as to the optimal readiness posture for the United States. The conferees encourage the Secretary of Energy to submit plans for achieving and the cost of achieving and maintaining the recommended test readiness posture with, or as part of, the report required by the provision.

Requirements for specific request for new or modified nuclear weapons (sec. 3143)

The Senate amendment contained a provision (sec. 3134) that would require the Secretary of Energy specifically to request funds before beginning research and development and engineering and production activities to support any new or modified nuclear weapon to meet a new military requirement. The provision would require a specific request in a specific line item or items at two distinct points in time for any work on new or modified nuclear weapons. This requirement is consistent with past practices at the Department of Energy (DOE), similar to current acquisition practices for major weapons systems at the Department of Defense (DOD), and similar to the way DOE budgets for construction projects.

A new weapon would be defined by the provision as any weapon that contains a pit or canned subassembly which is not in the stockpile or not in production on the date of enactment of this Act.

The provision would require funding for all research and development activity leading to and including phase 1, 2, and 2A, for new nuclear weapons, and for all research and development activity leading to and including phase 6.1, 6.2 and 6.2A for modified nuclear weapons, be requested in a dedicated line item for each such activity. Funding for work at phase 3 or 6.3 and beyond would be required to be in a single line item for each new or modified nuclear weapon.

The provision would not apply to the nuclear weapon stockpile life extension programs (SLEPs), to modification of an existing nuclear weapon solely to address safety or reliability concerns; or to modifications that would address proliferation concerns.

The provision would not be construed to modify, repeal, or in any way affect the provisions of section 3136 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160).

The House bill contained no similar provision.

The House recedes with an amendment that would require that the budget request for any research and development activities for modifications to nuclear weapons at the 6.2A phase and earlier, and research and development activities for new nuclear weapons at the 2A phase and earlier, would be aggregated in a single line.

The conferees agree that nothing in this section may be construed to modify, repeal, or in any way affect the provisions of section 3136 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) relating to prohibitions on research and development of low-yield nuclear weapons.

Database to track notification and resolution phases of Significant Finding Investigations (sec. 3144)

The Senate amendment contained a provision (sec. 3133) that would establish at the national laboratories of the National Nuclear Security Administration (NNSA) a database to track the notification and resolution phases of significant finding investigations (SFIs). The provision would require the Administrator of the NNSA to develop and implement a laboratory-wide database to monitor the laboratories' progress on resolving SFIs. The Department of Energy's Inspector General (DOE–IG) recommended a central SFI tracking system in a December 2001 report. The DOE–IG determined that DOE was plagued with a system that frequently missed self-imposed time frames for initiating and conducting investigations of defects and malfunctions in nuclear weapons. The committee believes that DOE should place a high priority on correcting this problem.

The House bill contained no similar provision.

The House recedes.

Defense environmental management cleanup reform program (sec. 3145)

The House bill contained a provision (sec. 3151) that would require the Secretary of Energy to carry out a program to reform Department of Energy (DOE) environmental management activities using the funds for the reform account authorized under section 3102(a) of the House bill. The funds would be transferred to and merged with accounts for DOE environmental management activities. Upon transfer and merger of the funds, all funds in the merged account would be available to carry out the site performance management plan at each site. The Secretary would be authorized to transfer the merged funds, which include the reform account funds, to each site upon the execution of a site performance management plan and its submission to the congressional defense committees. The provision would also define "DOE environmental management activities" as environmental restoration and waste management activities of the Department of Energy in carrying out programs necessary for national security.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would prohibit funds in the reform account from being obligated for a particular site until 30 days after the Secretary submits to the congressional defense committees a description of the activities to be carried out at that site.

Limitation on obligation of funds for Robust Nuclear Earth Penetrator program pending submission of report (sec. 3146)

The Senate amendment contained a provision (sec. 3132) that would require the Secretary of Defense, in consultation with the Secretary of Energy, to submit a report to the congressional defense committees no later than February 3, 2003, on the Robust Nuclear Earth Penetrator (RNEP) that sets forth: (1) the military requirements for the RNEP; (2) the nuclear weapons employment policy for the RNEP; (3) the detailed categories or types of targets that the RNEP is designed to hold at risk; and (4) an assessment of the ability of conventional weapons to address the same types of categories of targets that the RNEP is designed to hold at risk.

The House bill contained no similar provision.

The House recedes with an amendment that would fully fund the RNEP but prohibit obligation of any fiscal year 2003 funds for the RNEP until 30 days after the study is submitted to the Committees on Armed Services of the Senate and the House of Representatives.

Subtitle C—Proliferation Matters

Transfer to National Nuclear Security Administration of Department of Defense's Cooperative Threat Reduction program relating to elimination of weapons grade plutonium production in Russia (sec. 3151)

The House bill contained a provision (sec. 3142) that would transfer to the National Nuclear Security Administration (NNSA) the Department of Defense (DOD) Cooperative Threat Reduction (CTR) program to eliminate weapons grade plutonium in Russia and all associated program funds. The funds transferred would remain subject to the limitations applied to such funds before the transfer.

The Senate amendment contained a similar provision (sec. 3151) that would transfer the program from DOD to the NNSA, with all associated program funds but would make the program funds available to the NNSA notwithstanding any provision of law that limits expenditure of DOD funds. The NNSA could use the funds to design, construct, or refurbish, fossil fuel energy plants in Russia to provide alternative sources of energy to the Russian reactors that produce weapons grade plutonium and energy. The funds could also be used for limited safety upgrades of the Russian reactor plants to permit safe shutdown.

The Senate amendment also contained a provision (sec. 3136) that would establish limitations on the funds after they were transferred to the NNSA.

The House recedes with amendments. The conferees agree to include a single provision that will transfer the funds for the program to eliminate weapons grade plutonium in Russia from DOD to the NNSA, removing all prior limitations and establish new limitations. The funds would be available to design, refurbish, or both, fossil fuel energy plants and to carry out limited safety upgrades that would not extend the life of the plants. The provision would prohibit the Administrator from obligating or expending more than $100.0 million for the program until 30 days after the Administrator submits a copy of an agreement or agreements with the Russian Federation to shut down the three plutonium-producing reactors and submits a plan to achieve international cost sharing and participation in the program.

The agreements must specify: (1) a commitment to shut down and the date or dates on which the Russian reactors will be shut down; (2) the schedule with milestones to shut down each reactor; (3) the schedule and milestones for the Russian participation in the construction or refurbishment of the fossil fuel energy plants; (4) a suitable access arrangement for the sites; (5) an arrangement for audit and examination procedures; and (6) any cost-sharing arrangements between the United States and the Russian Federation.

Repeal of requirement for reports on obligation of funds for programs on fissile materials in Russia (sec. 3152)

The House bill contained a provision (sec. 3143) that would repeal the semi-annual report on the Department of Energy fissile Materials Protection, Control, and Accounting (MPC&A) program required by section 3131 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106). This report is no longer needed as the information is now included in the annual MPC&A report.

The Senate amendment contained an identical provision.

The conference agreement includes this provision.

Expansion of annual reports on status of nuclear materials protection, control, and accounting programs (sec. 3153)

The Senate amendment contained a provision (sec. 3153) that would amend the annual reporting requirement for the Department of Energy (DOE) Materials Protection, Control, and Accounting (MPC&A) program to include countries other than Russia. The DOE MPC&A program works to protect weapons grade nuclear materials in the countries of the Former Soviet Union, including Russia. The provision would also amend the MPC&A report to require the Secretary of Energy to identify the nature of the work performed in each country outside of Russia, the amount of material secured, the amount of material remaining to be secured, and the total amount spent by country.

The House bill contained no similar provision.

The House recedes.

Testing of preparedness for emergencies involving nuclear, radiological, chemical, or biological weapons (sec. 3154)

The Senate amendment contained a provision (sec. 3154) that would extend the time that exercises could be carried out under the program for testing and improving the responses of Federal, State, and local agencies to emergencies involving biological, chemical, nuclear, and radiological weapons and related materials from five fiscal years, beginning in fiscal year 1997, to 17 fiscal years, ending in fiscal year 2013.

The House bill contained no similar provision.

The House recedes.

Cooperative program on research, development, and demonstration of technology regarding nuclear or radiological terrorism (sec. 3155)

The Senate amendment contained a provision (sec. 3155) that would direct the Administrator of Nuclear Security to carry out a program of research and technology for protection from nuclear or radiological terrorism in support of homeland security and counterterrorism. As part of the program, the Administrator would coordinate this program with the Office of Homeland Security, the Nuclear Regulatory Commission, the Departments of Defense, State, and Commerce, and the International Atomic Energy Agency. In addition, the Administrator would cooperate with the Russian Federation on research and demonstration of these technologies and, where feasible, provide assistance to other countries on matters relating to nuclear or radiological terrorism. The amendment would also authorize the Office of Defense Nuclear Nonproliferation in the National Nuclear Security Administration to use up to $15.0 million for the development of a new generation of radiation detectors for homeland defense under this program.

The House bill contained no similar provision.

The House recedes with an amendment that would direct the Administrator to establish a cooperative program with the Russian Federation on the research, development, and demonstration of technologies for protection from and response to nuclear or radiological terrorism. The program would conduct research on technologies that could be used for the detection, identification, assessment, control, and disposition of radiological materials that could be used for nuclear terrorism. The program would also provide for the demonstration of the technologies developed by this program to other countries, in cooperation with the Russian Federation. The Administrator would be required to coordinate these research, development, and demonstration efforts with the Department of Energy's Office of Environment, Safety, and Health; the Nuclear Regulatory Commission; the Departments of State, Defense, and Commerce; and the International Atomic Energy Agency. The Administrator would be authorized to use up to $15.0 million to carry out the activities under this program.

Matters relating to the International Materials Protection, Control, and Accounting program of the Department of Energy (sec. 3156)

The Senate amendment contained a provision (sec. 3156) that would authorize the Secretary of Energy to expand the scope of the International Materials Protection, Control and Accounting (MPC&A) program to countries outside Russia and the independent states of the Former Soviet Union and require the Secretary to notify Congress 30 days after funds are obligated for these purposes. The provision would also: (1) authorize the Secretary to provide technical assistance to the Secretary of State to support his efforts to assist nuclear weapons states' nuclear materials security program; (2) require the Secretary to develop a plan to accelerate the conversion or return of weapons-usable nuclear materials to the country of origin; (3) establish within the MPC&A program a radiological dispersal device MPC&A program and require a feasibility study on such a program; and (4) provide a sense of Congress encouraging support of the Convention on Physical Protection of Nuclear Materials. The provision would authorize the Office of Defense Nuclear Nonproliferation in the National Nuclear Security Administration to use up to $5.0 million for these activities.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize the Secretary of Energy to establish within the MPC&A program a new program that would protect, control, and account for radiological dispersal device materials. The provision would also encourage the Secretary to work cooperatively with the Russian Federation to develop a sustainable nuclear materials protection, control and accounting system for nuclear materials in Russia no later than January 1, 2013. This system should be designed to be supported, maintained and operated solely by the Russian Federation. In an effort to support this activity, the provision would also require the Secretary to work with the Russian Federation to identify transparency measures adequate to provide the United States with the assurances that the program is meeting this goal. Up to $5.0 million may be used to carry out the new MPC&A program on radiological dispersal device materials activities.

The conferees expect the United States' support for the Russian Federation MPC&A system should be completed and the system should be sustainable by Russia no later than January 1, 2013. The conferees encourage the Secretary to accelerate efforts to resolve outstanding transparency issues for the MPC&A program to facilitate the required assurances necessary to monitor the progress and successes of this important national security program.

The conferees have agreed to divide this provision into three provisions (secs. 3156, 3160, 3161).

Accelerated disposition of highly enriched uranium (sec. 3157)

The Senate amendment contained a provision (sec. 3157) that would set forth the sense of Congress that the Secretary of Energy, in consultation with the Secretaries of State and Defense, develop a comprehensive program to encourage all countries with nuclear materials to adhere to or adopt International Atomic Energy Agency standards on The Physical Protection of Nuclear Material and Nuclear Facilities (INFCIRC/225/Rev. 4) relating to the security of stockpiles of highly enriched uranium and plutonium. The provision would also authorize the Secretary of Energy to carry out a program with the Russian Federation and any other nation with highly enriched uranium to pursue options for blending the uranium so that the enrichment of uranium U–235 is below 20 percent. As part of these options, the Department of Energy (DOE) Material Consolidation and Conversion program would be expanded, and the Secretary of Energy could provide financial and other incentives to Russia for the consolidation of Russian highly enriched uranium located throughout the Russian Federation. The Secretary would be required to report to Congress no later than July 1, 2003, on the status of this program. The provision would also permit the Secretary to purchase highly enriched uranium or weapons grade plutonium from any country and transport it to and store it in the United States. The Secretary would be encouraged to establish similar transactions between any nation and Russia for storage and blending highly enriched uranium. The provision would allow the Secretary to pay such nation's transportation costs. Finally, the provision would provide that up to $40.0

million could be used to carry out the activities in this section.

The House bill contained no similar provision.

The House recedes with an amendment that would authorize the Secretary of Energy to pursue a program with the Russian Federation on options for blending highly enriched uranium to reduce the concentration of U–235 below 20 percent. These options would include expanding the Material Consolidation and Conversion program within DOE to include additional facilities in Russia for blending the highly enriched uranium and identifying more centralized secure storage facilities in Russia for the secure storage of materials awaiting blend down. The conferees note that both the additional blending facilities and centralized storage facilities must already have complete materials, protection, control and accounting upgrades before highly enriched uranium is blended down or stored at these facilities. The amendment also states that nothing in this program would impact the existing Highly Enriched Uranium Disposition Agreement between the United States and Russia and that the uranium blended down under this program would not be released for sale until the earlier date of either one of the following: (1) January 1, 2014; or (2) the date on which the Secretary certifies that such uranium can be absorbed into the global market without undue disruption to the uranium mining, conversion, and enrichment industry in the United States. Finally, the amendment would enable up to $10.0 million in fiscal year 2003 to be used for activities under this program.

The conferees direct the Secretary of Energy to provide to the congressional defense committees, no later than July 1, 2003, a report on the status of the program with the Russian Federation on options for blending highly enriched uranium so that the concentration of U–235 is below 20 percent. The report should identify the scope of the program and the implementing costs, as well as describe the additional facilities that will participate in the expanded material consolidation and conversion effort.

Strengthened international security for nuclear materials and security of nuclear operations (sec. 3158)

The Senate amendment contained a provision (sec. 3159) that would require the Secretary of Energy to submit to Congress a report on options for an international program to develop strengthened security for all nuclear materials and safety and security for current nuclear operations. As part of the report, the Secretary would consult with the Nuclear Regulatory Commission, the Russian Federation, and the International Atomic Energy Agency. The report would be due 270 days after the date of enactment of this Act. The provision would also direct the Director of the Office of Nuclear Energy Science and Technology and the Secretary to pursue, with the Russian Ministry of Atomic Energy, joint programs on the development of proliferation- resistant nuclear energy technologies, including advanced fuel cycles. In addition, the provision would authorize the Secretary to provide assistance to nuclear facilities abroad on the interdiction of hostile insiders to prevent the disablement of these facilities' vital operations. The provision would authorize the Secretary to carry out a joint program with the Russian Federation and other countries to address and mitigate damage from aircraft impacts on nuclear facilities overseas. Finally, the amendment would authorize the Secretary of Energy to expand and accelerate the programs of the Department of Energy to support the International Atomic Energy Agency in its efforts to strengthen international nuclear safety and security. Up to $35.0 million would be available to carry out these programs in fiscal year 2003.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Energy to submit to Congress a report on options for an international program to develop strengthened security for nuclear reactors and associated materials. This report would be due 270 days after enactment of this Act. In evaluating the options for an international program, the Secretary would be required to consult with the Nuclear Regulatory Commission and the International Atomic Energy Agency on the feasibility and advisability of actions to reduce the risks associated with terrorist attacks on nuclear reactors outside the United States. The provision would also direct the Secretary of Energy to pursue, with the Russian Ministry of Atomic Energy, joint programs on the development of proliferation-resistant nuclear energy technologies, including advanced fuel cycles. Up to $10.0 million would be available for implementing this joint program with Russia. Finally, the provision would authorize the Secretary to provide technical assistance to nuclear facilities abroad on the interdiction of hostile insiders at such facilities and efforts to prevent the disablement of vital systems at these facilities.

Export control programs (sec. 3159)

The Senate amendment contained a provision (sec. 3160) that would authorize the Secretary of Energy to pursue, in the former Soviet Union and regions of concern, principally in South Asia, the Middle East, and the Far East, options for accelerating programs that assist countries in such regions to improve their domestic export control programs for materials, technologies, and expertise relevant to the construction or use of a nuclear or radiological dispersal device. The amendment would authorize up to $5.0 million for this effort.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would authorize the Secretary of Energy, in coordination with the Secretary of State, to pursue, in the Former Soviet Union and other regions of concern, options for accelerating programs that assist countries in these regions to improve their domestic export control programs for materials, technologies, and expertise relevant to the construction or use of a nuclear or radiological dispersal device. Up to $5.0 million may be available for carrying out this effort in fiscal year 2003.

Plan for accelerated return of weapons-usable nuclear material (Sec. 3160)

The Senate amendment contained a provision (sec. 3156) that would authorize the Secretary of Energy to expand the scope of the International Materials Protection, Control and Accounting (MPC&A) program to countries outside Russia and the independent states of the Former Soviet Union and require the Secretary to notify Congress 30 days after funds are obligated for these purposes. The provision would also: (1) authorize the Secretary to provide technical assistance to the Secretary of State to support his efforts to assist nuclear weapons states' nuclear materials security programs; (2) require the Secretary to develop a plan to accelerate the conversion or return of weapons-usable nuclear materials to the country of origin; (3) establish within the MPC&A program a radiological dispersal device MPC&A program and require a feasibility study on such a program; and (4) provide a sense of Congress encouraging support of the Convention on Physical Protection of Nuclear Materials. The provision would authorize the Office of Defense Nuclear Nonproliferation in the National Nuclear Security Administration to use up to $5.0 million for these activities.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Energy to develop, with the Russian Federation, a plan to accelerate the return to Russia of all weapons-usable nuclear materials located in research reactors and other facilities outside Russia that were supplied by the Former Soviet Union. The plan should include the costs and schedules associated with assisting these research reactors and facilities in transferring highly enriched uranium to Russia and providing these facilities and research reactors with MPC&A upgrades until the weapons-usable nuclear materials are returned to Russia.

Sense of Congress on amendment of Convention on Physical Protection of Nuclear Materials (sec. 3161)

The Senate amendment contained a provision (sec. 3156) that would authorize the Secretary of Energy to expand the scope of the International Materials Protection, Control and Accounting (MPC&A) program to countries outside Russia and the independent states of the Former Soviet Union and require the Secretary to notify Congress 30 days after funds are obligated for these purposes. The provision would also: (1) authorize the Secretary to provide technical assistance to the Secretary of State to support his efforts to assist nuclear weapons states' nuclear materials security programs; (2) require the Secretary to develop a plan to accelerate the conversion or return of weapons-usable nuclear materials to the country of origin; (3) establish within the MPC&A program a radiological dispersal device MPC&A program and require a feasibility study on such a program; and (4) provide a sense of Congress encouraging support of the Convention on Physical Protection of Nuclear Materials. The provision would authorize the Office of Defense Nuclear Nonproliferation in the National Nuclear Security Administration to use up to $5.0 million for these activities.

The House bill contained no similar provision.

The House recedes with an amendment that would set forth the sense of Congress that the President should encourage amendment of the Convention on the Physical Protection of Nuclear Materials to: (1) apply to both domestic and international use and transport of nuclear materials; (2) incorporate fundamental practices for the physical protection of these materials; and (3) address protection against sabotage involving nuclear materials.

Sense of Congress on program to secure stockpiles of highly enriched uranium and plutonium (sec. 3162)

The Senate amendment contained a provision (sec. 3157) that would contain a sense of Congress that the Secretary of Energy, in consultation with the Secretaries of State and Defense, develop a comprehensive program to encourage all countries with nuclear materials to adhere to or adopt International Atomic Energy Agency standards on The Physical Protection of Nuclear Material and Nuclear Facilities (INFCIRC/225/Rev.4) relating to the security of stockpiles of highly enriched uranium and plutonium. The amendment would also authorize the Secretary of Energy to carry out a program with the Russian Federation and any other nation with highly enriched uranium to pursue options for blending the uranium so that the uranium of U-235 is below 20 percent. As part of these options, the Department's Material Consolidation and Conversion program would be expanded, and the Secretary of Energy could provide financial and other incentives to Russia for the consolidation of Russian highly enriched uranium located throughout the Russian Federation. The Secretary would be required to report to Congress no later than July 1, 2003, on the status of this program. The provision would also permit the Secretary to purchase highly enriched uranium or weapons grade plutonium from any country and transport it to and store it in the United States. Alternatively, the Secretary may encourage a similar transaction between any nation and Russia, and the Secretary would have the option to pay the nation's costs to transport these nuclear materials to Russia as well as the blenddown costs. Finally, the provision would enable up to $40.0 million to be used to carry out the activities in this section.

The House bill contained no similar provision.

The House recedes with an amendment that would set forth the sense of Congress that the Secretary of Energy, in consultation with the Secretaries of State and Defense, develop a comprehensive program of activities to encourage all countries with nuclear materials to adhere to or adopt International Atomic Energy Agency standards on The Physical Protection of Nuclear Material and Nuclear Facilities (INFCIR/225/Rev.4) relating to the security of stockpiles of highly enriched uranium and plutonium.

Subtitle D—Other Matters

Indemnification of Department of Energy contractors (sec. 3171)

The Senate amendment contained a provision (sec. 3171) that would amend section 170 d.(1)(A) of the Atomic Energy Act of 1954, 42 U.S.C. 2210(d)(1)(A), by extending the authority of the Department of Energy to extend indemnification coverage to its contractors from August 1, 2002 to August 1, 2012.

The House bill contained no similar provision.

The House recedes with an amendment that would extend the authority to December 31, 2004.

Support for public education in the vicinity of Los Alamos National Laboratory, New Mexico (sec. 3172)

The Senate amendment contained a provision (sec. 3174) that would authorize $6.9 million to be paid by the Department of Energy (DOE) to the Los Alamos Education Foundation in fiscal year 2003. The Foundation was established by section 3167(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85). The Foundation provides for educational support to students and schools in the Los Alamos area.

The provision would also amend section 3136 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107- 107) to allow the National Nuclear Security Administration (NNSA) to extend the current contract with the Los Alamos Public Schools to provide for cost of living adjustments for the school teachers through fiscal year 2013. The current contract between the NNSA and the Los Alamos schools, pursuant to which this annual payment is made, expires at the end of fiscal year 2003. This amendment is necessary to allow the NNSA to include the annual payment in its fiscal year 2004 budget request and in subsequent years' budget requests.

The budget request for fiscal year 2003 for the NNSA includes $8.0 million for the Los Alamos Public Schools to offset the cost of living for school teachers teaching in the public schools.

The House bill contained no similar provision.

The House recedes with an amendment that would limit the duration of the contract extension to 2005 and that would direct the Secretary of Energy, in conjunction with the Administrator of the National Nuclear Security Administration, to look at alternatives to the annual authorization and appropriation process to obtain funds to offset the cost of living for school teachers in the Los Alamos Public Schools. While the conferees recognize the need for this payment as well as the high cost of living in Los Alamos, the conferees urge DOE to identify and fund a mechanism to bring this annual process to a close in a reasonable amount of time. In exploring options, the Secretary should look at a buy-out option in the form of several larger payments over a limited number of years that would shift these annual payments to the Los Alamos school system, to local government, or to some other local entity.

Worker health and safety rules for Department of Energy nuclear facilities (sec. 3173)

The Senate amendment contained a provision (sec. 3172) that would add a new section 234C, following 234B of the Atomic Energy Act of 1954 (42 U.S.C. 2282b). This new section would authorize the Secretary of Energy to assess civil penalties against Department of Energy (DOE) contractors who have entered into an agreement of indemnification under section 170d of the Atomic Energy Act of 1954, for violation of any regulation relating to industrial or construction health and safety promulgated by DOE. The provision would also direct the Secretary to promulgate industrial and construction health safety regulations that incorporate the provisions of DOE Order No. 440.1A (1998) no later than 270 days from the date of enactment of this Act. These regulations would go into effect one year after the date of promulgation of the regulations. The provision would cap any fines at $0.1 million per violation and would direct the Secretary to provide in the regulations a variance and exemption process for national security related work and at sites and facilities to be closed or transferred. The provision would cap total fines and penalties under 234A, 234B, and 234C, for nonprofit contractors so that the total fees assessed would not exceed the amount of the annual fee paid by DOE. Activities under the Naval Nuclear Propulsion Program would be excluded from the program.

The House bill contained no similar provision.

The House recedes with an amendment that would direct the Secretary to promulgate regulations for industrial and construction health and safety. The regulations promulgated would provide a level of protection for workers that is substantially equivalent to current levels of protection. The conferees note that the DOE contractors currently operate under DOE order 440.1A (1998) which provides an adequate level of safety.

The Secretary would also be required to establish a mechanism to provide flexibility to implement the regulations. The regulations should establish a process that would allow sites to implement the regulations to account for unique site or mission circumstances or particular work environments and would include national security missions and requirements at closing facilities. In establishing a process for flexible implementation, the Secretary should ensure that there is no diminution of worker health and safety.

The provision would direct the Secretary to assess either civil penalties or contract penalties, but not both, for any individual action and would prohibit the Secretary from assessing a penalty under both 234A and 234C for the same action. The maximum fine for each violation would be $70,000.

Extension of authority to appoint certain scientific, engineering, and technical personnel (sec. 3174)

The conferees agree to include a provision that would extend the current Department of Energy authority to appoint certain specific scientific engineering and technical personnel from September 30, 2002 to September 30, 2004.

One-year extension of panel to assess the reliability, safety, and security of the United States nuclear stockpile (sec. 3175)

The House bill contained a provision (sec. 3141) that would extend the panel to assess the reliability, safety, and security of the United States nuclear stockpile through April 1, 2003. The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would direct the panel to use the extension to assess progress toward meeting the expectations set forth by the panel in previous reports. The panel would submit to the Committees on Armed Services of the Senate and the House of Representatives, by February 1, 2003, a report on the assessment, together with any recommendations for corrective legislative action where progress has been unsatisfactory.

Report on status of environmental management initiatives to accelerate the reduction of environmental risks and challenges posed by the legacy of the Cold War (sec. 3176)

The House bill contained a provision (sec. 3152) that would require the Secretary of Energy to prepare a report on the status of environmental initiatives being undertaken to accelerate cleanup and reduce environmental risks. The report should include a discussion of the progress of such initiatives.

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle E—Disposition of Weapons-Usable Plutonium at Savannah River, South Carolina

Findings (sec. 3181)

The Senate amendment contained a provision (sec. 3181) that would set forth a series of findings with respect to the September 2000 agreement between the Russian Federation and the United States to manage and dispose of 34 tons of excess weapons grade plutonium.

The House bill contained no similar provision.

The House recedes.

Disposition of weapons-usable plutonium at Savannah River Site (sec. 3182)

The Senate amendment contained a provision (sec. 3182) that would direct the Secretary of Energy to submit, by February 1, 2003, a plan to Congress for the construction and operation of a Mixed Oxide (MOX) plutonium facility at the Savannah River Site.

The plan would include a schedule for construction and operations to achieve by January 1, 2009, and thereafter, the MOX production objective, to ensure that one ton of MOX fuel has been produced by December 31, 2009, and that all 34 metric tons of defense plutonium and defense plutonium materials at the Savannah River Site would have to be processed into MOX fuel by January 1, 2019. If in any year the Secretary of Energy does not comply with the plan and the schedule, the Secretary would have to make economic assistance payments to the State of South Carolina at the rate of $1.0 million per day but not to exceed $100.0 million in any year. This payment would be subject to authorization and appropriation.

At various stages in the process, if the Secretary of Energy is not in compliance with the plan or any subsequent corrective action plans, the Secretary would also have to remove all or part of the defense plutonium materials that had been shipped to the Savannah River Site in South Carolina.

If an injunction is obtained by the State of South Carolina that would prevent the Department of Energy from taking actions necessary to meet the deadlines of the provision, any such deadlines would be extended for the period of time during which the court-ordered injunction is in effect.

The provision would also require that if any MOX fuel remains at the MOX facility one year after the MOX facility ceases operation, the Secretary must submit to Congress a report detailing when such fuel would be transferred for use in commercial nuclear reactors or a plan for its removal from the State of South Carolina.

The House bill contained no similar provision.

The House recedes with an amendment providing that any requirement to pay economic assistance payments to the State of South Carolina may be made from any funds available to the Secretary without the requirement for further authorizations or appropriations for such payments and an additional MOX processing requirement for the period between 2011 and 2017.

Study of facilities for storage of plutonium and plutonium materials at Savannah River Site (sec. 3183)

The Senate amendment contained a provision (sec. 3183) that would require the Defense Nuclear Facilities Safety Board (DNFSB) to conduct a study of the adequacy of the K-Area Materials Storage (KAMS) facility and related facilities for the storage of defense plutonium materials in connection with the Department of Energy plutonium disposition program. The DNFSB would be required to complete the study and submit a report on the study to Congress within one year of the date of enactment of this Act. The DNFSB should include in the report any proposals to improve the safety, reliability, or functionality of the KAMS facility. Not later than six months after the report is submitted, the DNFSB and the Secretary of Energy shall each submit a report on the actions taken in response to the proposals, if any.

The House bill contained no similar provision.

The House recedes with a technical amendment.

LEGISLATIVE PROVISIONS NOT ADOPTED

Availability of funds for environmental management cleanup reform

The Senate amendment contained a provision (sec. 3131) that would require the Secretary of Energy to establish and publish selection criteria for the environmental management cleanup reform account. The provision would also provide the Secretary of Energy authority to dissolve the account, in the event the Secretary opts not to establish selection criteria, and redistribute the funds in the account to the sites and projects on a pro rata basis according to fiscal year 2002 funding levels. In addition, the provision would require the Secretary to submit to the congressional defense committees a list of the activities at each site that would be funded by this account 30 days before such funds were obligated or expended.

The House bill contained no similar provision.

The Senate recedes.

The Department of Energy (DOE) budget request for fiscal year 2003 included $800.0 million for a new initiative, the environmental cleanup reform account. An amended budget request sought an additional $300.0 million for a total request of $1.1 billion. According to the DOE budget justification material, the purpose of the new account is "to enable the Department, the States, and the American taxpayer to begin realizing the benefits immediately of alternative cleanup approaches that will produce more real risk reduction, accelerate cleanup, or achieve much needed cost and schedule improvements."

DOE has signed letters of intent, for all but $2.0 million of the $1.1 billion in the cleanup reform account, in the absence of any authorization or appropriation of funds for the reform account. While the conferees support the idea of DOE, the States, and the EPA reviewing the various cleanup agreements to ensure that the cleanup at each site is being conducted as efficiently as possible, the conferees note that DOE has not demonstrated how creation of the reform account will accomplish the goal set forth in the fiscal year 2003 budget justification material.

The conferees note section 3176 of this Act would require the Secretary of Energy to provide a report on the progress being made to streamline the cleanup process, reduce environmental risks quickly, and to provide an assessment of the progress being made to improve the responsiveness and effectiveness of the environmental management program. The conferees expect DOE to provide in the report evidence that this accelerated cleanup program will result in real risk reduction and much needed cost and schedule improvements. This report is due with the submission of the fiscal year 2004 budget request for DOE.

Disposition of plutonium in Russia

The Senate amendment contained a provision (sec. 3158) that would encourage the Secretary of Energy to continue to support the Secretary of State in negotiations with the Ministry of Atomic Energy of the Russia Federation to finalize the terms of the Russian plutonium disposition program. As part of this support, the Secretary of Energy would be authorized to consider using financial incentives to reach a successful agreement with the Ministry of Atomic Energy. The amendment also identifies various elements that would be required as part of the Russian plutonium disposition program including: (1) transparent, verifiable steps; (2) proceeding at approximately the equivalent rate of the United States program for the disposition of plutonium; (3) cost-sharing among various countries; (4) contributions by the Russian Federation; (5) steps to confirm with high confidence that the disposition of plutonium of the Russian Federation will be achieved; and (6) possible research on more speculative, long-term options for the future disposition of additional Russian plutonium.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that while the Russian plutonium disposition program is one of the most critical nonproliferation programs underway between the United States and the Russian Federation, the conferees remain concerned with the slow pace of the Russian program. The conferees believe it is imperative that the Secretary of State work as assiduously as possible to conclude negotiations with the Russian Federation as quickly as possible. The conferees believe, however, that any negotiation should include transparent and verifiable steps to enable the United States to have the necessary assurances that the schedule for the disposition of plutonium will be achieved.

The conferees feel strongly that the program must have cost- sharing arrangements among participating countries and the Russian Federation.

In addition, the conferees believe that the U.S. and Russian programs should proceed at a rate that is generally equivalent to one another. Unfortunately, however, the United States program is lagging behind the Russian lead test assembly program. The conferees note that pushing forward with the U.S. lead test assembly effort will enable the U.S. plutonium disposition program to reach an essential milestone that is important for the success of both the U.S. plutonium disposition program and the Russian disposition plutonium program.

Finally, the conferees direct the Secretary of Energy to conduct research on more speculative, long-term options for the future disposition of the plutonium of the Russian Federation.

Improvements to nuclear materials protection, control, and accounting program of the Russian Federation

The Senate amendment contained a provision (sec. 3161) that would direct the Secretary of Energy to work with the Ministry of Atomic Energy of the Russian Federation to update and improve the Joint Action Plan for the Materials Protection, Control, and Accounting Program to focus on achieving, as soon as practicable, but no later than January 1, 2012, a sustainable nuclear materials protection, control, and accounting system for the nuclear materials of the Russian Federation. The amendment would require the Secretary to work with the Russian Federation to accelerate nuclear materials protection, control and accounting programs at Russian defense nuclear facilities and to identify various transparency alternatives to assure the United States that the program is meeting the goals for improved nuclear materials protection, control, and accounting. The provision would also set forth the sense of Congress that the Secretary should enhance its partnership with Russia to increase the pace and effectiveness of the nuclear materials protection, control, and accounting program and identify the assistance, Russian contribution, and transparency milestones used to assess progress in this program.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree to consolidate all matters dealing with materials protection, control, and accounting in one provision.

One-year extension of authority of Department of Energy to pay voluntary separation incentive payments

The Senate amendment contained a provision (sec. 3173) that would amend section 3161(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65) to provide a one- year extension of the Department of Energy (DOE) authority to make voluntary separation incentive payments. The committee is aware that DOE would like to extend the ability to encourage voluntary separations and avoid any future need to conduct a reduction in force. This provision would allow DOE to do long- term planning for reductions as a result of future reorganizations.

The House bill contained no similar provision.

The Senate recedes.

Prohibition on development of low-yield nuclear weapon

The House bill contained a provision (sec. 3146) that would repeal section 3136 of the National Defense Authorization Act for Fiscal Year 1994 (42 U.S.C. 2121 note) and would prohibit the Secretary of Energy from conducting development which could lead to the production of a low-yield nuclear weapon.

The Senate amendment contained no similar provision.

The House recedes.

The conferees recognize the importance of exercising the nuclear weapon design process in order to maintain skills and capabilities critical to national security. The conferees further understand that many of the Nation's weapon designers with actual test experience have retired or will soon be eligible for retirement. The conferees believe the National Nuclear Security Administration must move aggressively to transfer skills to the next generation.

Requirement for authorization by law for funds obligated or expended for Department of Energy national security activities

The Senate amendment contained a provision (sec. 3135) that would amend section 660 of the Department of Energy Organization Act, 42 U.S.C.7270, to add a new subsection that would require a specific authorization for national security programs and activities at the Department of Energy (DOE) before funds may be obligated or expended.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree that section 660 of the Department of Energy Organization Act applies to all programs and funds at the Department of Energy and that this section established the requirement for an authorization of appropriations for all programs and activities at DOE as a condition of the obligation and expenditure of funds. As a result, the Senate provision, which applied to national security activities, is not needed because national security activities and programs are already included in the scope of section 660.

Utilization of Department of Energy national laboratories and sites in support of counterterrorism and homeland security activities

The Senate amendment contained a provision (sec. 3163) that would authorize the Department of Energy (DOE) to enter into joint sponsorship agreements at DOE laboratories with state, local, or other federal agencies and establish the parameters under which the joint partnership agreements would operate.

The House bill contained no similar provision.

The Senate recedes.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

LEGISLATIVE PROVISIONS ADOPTED

Authorization (sec. 3201)

The House bill contained a provision (sec. 3201) that would authorize $19.0 million for the Defense Nuclear Facilities Safety Board.

The Senate amendment contained a similar provision (sec. 3201) that would authorize $19.5 million.

The Senate recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Authorization of appropriations for the formerly used sites remedial action program of the Corps of Engineers

The Senate amendment contained a provision (sec. 3202) that would authorize $140.0 million for fiscal year 2003 for the Department of the Army.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree to include these funds without specific authorization.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

LEGISLATIVE PROVISIONS ADOPTED

Authorized uses of National Defense Stockpile funds (sec. 3301)

The House bill contained a provision (sec. 3301) that would authorize $76.4 billion for the National Defense Stockpile.

The Senate amendment contained no similar provision.

The Senate recedes.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

LEGISLATIVE PROVISIONS ADOPTED

Authorization of appropriations (sec. 3401)

The House bill contained a provision (sec. 3401) that would authorize $21.1 million for the Secretary of Energy for activities relating to the naval petroleum reserves.

The Senate amendment contained no similar provision.

The Senate recedes.

TITLE XXXV—MARITIME ADMINISTRATION

LEGISLATIVE PROVISIONS ADOPTED

Authorization of appropriations for fiscal year 2003 (sec. 3501)

The House bill contained a provision (sec. 3501) that would authorize appropriations for the Maritime Administration.

The Senate amendment contained no similar provision.

The Senate recedes.

Authority to convey vessel USS SPHINX (ARL-24) (sec. 3502)

The House bill contained a provision (sec. 3502) that would authorize the Secretary of Transportation to convey an obsolete vessel to a nonprofit organization for display as a military museum.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would clarify terms under which the vessel could be transferred.

Independent analysis of title XI insurance guarantee applications (sec. 3503)

The House bill contained a provision (sec. 3504) that would amend the Merchant Marine Act, 1936 to permit the Secretary of Transportation to obtain an independent analysis of an application for a title XI loan guarantee.

The Senate amendment contained no similar provision.

The Senate recedes.

Preparation as artificial reefs and scrapping of obsolete vessels (sec. 3504)

The House bill contained a provision (sec. 3503) that would authorize the Secretary of Transportation to provide financial assistance to States to help them prepare obsolete vessels transferred from the National Defense Reserve Fleet for use as artificial reefs.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would: (1) require the Secretary and the Administrator of the Environmental Protection Agency to jointly develop environmental best management practices to be used in the preparation of vessels for use as artificial reefs; (2) require the establishment of one or more pilot programs to explore the feasibility and advisability of various alternatives for exporting obsolete vessels in the National Defense Reserve Fleet for purposes of the dismantlement and recycling of such vessels; and (3) clarify that the section does not establish a preference for the reefing or export of obsolete vessels in the National Defense Reserve Fleet over other disposal alternatives (such as domestic scrapping) available to the Secretary under existing law. The pilot programs established pursuant to this section would be authorized to include a total of no more than four vessels. The conferees intend that the Secretary of Transportation would have the discretion to choose which vessels to include in the pilot programs.

TITLE XXXVI—ATOMIC ENERGY DEFENSE PROVISIONS

Short title (sec. 3601)

The House bill contained a provision (sec. 3120) that would set out the title of the Department of Energy National Security Authorizations General Provisions Act and define terms to be used in the Act.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment that would establish the name of the act as the Atomic Energy Defense Act.

Permanent provisions of law affecting the Department of Defense are included in title 10, United States Code. Several acts, such as the Department of Energy Organization Act Public Law 95-91, and the Atomic Energy Act of 1954, Public Law 83-703, provide various overarching legal authorities for the Department of Energy (DOE), but there is no act or even a single title or chapter in the United States Code where all permanent provisions of law governing the national security functions of the Department of Energy can be found.

Over the years, as the number of provisions has grown, researching the various provisions that are included in annual defense authorization acts has become increasingly difficult. The conferees believe the time has come to enact a law that will be a comprehensive collection of the various permanent authorities that govern the national security activities of DOE. The goal is to have a single place in the United States Code where these provision could be easily and quickly referenced.

The provisions described in sections 3601 and 3620-3631 will constitute the first sections of title B of the Atomic Energy Defense Act, the DOE National Security Authorizations General Provisions. Over the next several fiscal years, the conferees, working with DOE, hope to reenact various provisions of current law as sections of this new act. In addition, as future provisions are enacted, the conferees anticipate that such new provisions would also be included in the new act. The conferees believe this effort to organize and co-locate the various provisions will simplify efforts to identify various statutory authorities that govern DOE.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—[Reserved]

Subtitle B—Department of Energy National Security Authorization General Provisions

Definitions (sec. 3620)

The House bill contained a provision (sec. 3120) that would set out the title of the Department of Energy National Security Authorizations General Provisions Act and define terms to be used in the Act.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Reprogramming (sec. 3621)

The House bill contained a provision (sec. 3121) that would prohibit the reprogramming of funds in excess of the amounts authorized for national security programs until the Secretary of Energy has notified the congressional defense committees and a period of 30 days has elapsed after the date on which the notification is received.

The Senate amendment contained a similar provision (sec. 3121) that would prohibit the reprogramming of funds in excess of 115 percent of the amount authorized for the program or in excess of $5.0 million above the amount authorized for the program, whichever is less, until the Secretary of Energy submits a report to the congressional defense committees and a period of 30 days has elapsed after the date on which the report is received.

The House recedes with an amendment that would make the provision part of Subtitle B, the Department of Energy National Security Authorizations General Provisions, of the Atomic Energy Defense Act.

Minor construction projects (sec. 3622)

The House bill contained a provision (sec. 3122) that would provide the Secretary of Energy with authority to conduct minor construction projects using funds authorized to the Secretary pursuant to a Department of Energy national security authorization. If at any time during the period of construction of any minor construction project, the most current estimated cost exceeds the minor construction threshold, the Secretary would be required to notify the congressional defense committees and provide a report explaining the reasons for the cost variation.

The Senate amendment contained a similar provision.

The Senate recedes.

Limits on construction projects (sec. 3623)

The House bill contained a provision (sec. 3123) that would permit any construction project to be initiated and continued only if the estimated cost for the project does not exceed, by 25 percent, the higher of either the amount authorized for the project or the most recent total estimated cost presented to Congress as justification for such a project. The Secretary of Energy would be prohibited from exceeding such limits until 30 legislative days after the Secretary submits to the congressional defense committees a detailed report setting forth the reasons for the increase. This provision would also specify that the 25 percent limitation would not apply to projects estimated to be a minor construction project under $5.0 million.

The Senate amendment contained a similar provision.

The Senate recedes.

Fund transfer authority (sec. 3624)

The House bill contained a provision (sec. 3124) that would permit funds authorized for the Department of Energy to be transferred to other agencies of the government for performance of work for which the funds were authorized and appropriated. The provision would permit the merger of such transferred funds with the authorizations of the agency to which they are transferred. The provision would also limit, to no more than five percent of the account, the amount of funds authorized by this Act that may be transferred between authorization accounts within the Department of Energy.

The Senate amendment contained a similar provision.

The Senate recedes.

Conceptual and construction design (sec. 3625)

The House bill contained a provision (sec. 3125) that would limit the Secretary of Energy's authority to request construction funding until the Secretary has completed a conceptual design. This limitation would apply to construction projects with a total estimated cost greater than $5.0 million. If the estimated cost to prepare the construction design exceeds $600,000, the provision would require the Secretary to obtain a specific authorization to obligate such funds. If the estimated cost to prepare a conceptual design exceeds $3.0 million, the provision would require the Secretary to request funds for the conceptual design before requesting funds for construction. The provision would further require the Secretary to submit to Congress a report on each conceptual design completed under this provision. The provision would also provide an exception to these requirements in the case of an emergency.

The Senate amendment contained a similar provision.

The Senate recedes.

Authority for emergency planning, design, and construction activities (sec. 3626)

The House bill contained a provision (sec. 3126) that would permit the Secretary of Energy to perform planning and design with any funds available to the Department of Energy (DOE) pursuant to a DOE national security authorization including those funds authorized for advance planning and construction design, whenever the Secretary determines such activities must proceed expeditiously to protect the public health and safety, to meet the needs of national defense, or to protect property. The provision would require the Secretary of Energy to submit to Congress a report on each construction project to be completed under this provision prior to exercising the authority that would be provided by this provision.

The Senate amendment contained a similar provision.

The Senate recedes.

Scope of authority to carry out plant projects (sec. 3627)

The House bill contained a provision (sec. 3131) that would clarify that the authority of the Secretary of Energy to carry out plant projects includes authority for maintenance, restoration, planning, construction, acquisition, modification of facilities, and continuation of projects authorized in prior years, and related projects.

The Senate amendment contained no similar provision.

The Senate recedes.

Availability of funds (sec. 3628)

The Senate amendment contained a provision (sec. 3128) that would authorize amounts appropriated for operating expenses or for plant and capital equipment for the Department of Energy (DOE) to remain available until expended. Program direction funds would remain available for expenditure until the end of fiscal year 2004.

The House bill contained a similar provision (sec. 3128) that would provide that funds authorized to be appropriated to the National Nuclear Security Administration are available for expenditure for two years with the exception of the funds for the Office of the Administrator, which would be available for expenditure for one year.

The House recedes with a technical amendment that would provide that funds available to DOE pursuant to a national security authorization for program direction are available for obligation for one year—until the end of the fiscal year for which they are authorized. In addition, this provision would become a section in Subtitle B, the Department of Energy National Security Authorizations General Provisions Act, of the Atomic Energy Defense Act.

Transfer of defense environmental management funds (sec. 3629)

The House bill contained a provision (sec. 3129) that would direct the Secretary of Energy to provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental management activities funds from a program or project under the jurisdiction of that office to another such program or project. With certain limitations, only one transfer may be made to or from any program in one fiscal year, and no transfer may exceed $5.0 million. The Secretary of Energy would be required to notify Congress within 30 days after any such transfer.

The Senate amendment contained a similar provision (sec. 3129) that would have provided three transfers per year.

The Senate recedes.

Transfer of weapons activities funds (sec. 3630)

The House bill contained a provision (sec. 3130) that would direct the Secretary of Energy to provide the manager of each field office of the Department of Energy with the authority to transfer weapons activities funds from a program or project under the jurisdiction of that office to another such program or project. With certain limitations only one transfer may be made to or from any program in one fiscal year, and no transfer may exceed $5.0 million. The Secretary of Energy would be required to notify Congress within 30 days after any such transfer.

The Senate amendment contained a similar provision (sec. 3130) that would have provided three transfers per year.

The Senate recedes.

Funds available for all national security programs of the Department of Energy (sec. 3631)

The House bill contained a provision (sec. 3127) that would authorize, subject to section 3121 of the Department of Energy National Security Authorizations General Provisions Act and appropriations acts, amounts appropriated for management and support activities and for general plant projects to be made available for use in connection with all national security programs of the Department of Energy.

The Senate amendment contained a similar provision.

The Senate recedes.

From the Committee on Armed Services, for consideration of the House amendment and the Senate amendment, and modifications committed to conference:

BOB STUMP,
DUNCAN HUNTER,
JAMES V. HANSEN,

CURT WELDON,
JOEL HEFLEY,
JIM SAXTON,
JOHN M. MCHUGH,
TERRY EVERETT,
HOWARD P. "BUCK" MCKEON,
J.C. WATTS, Jr.,
MAC THORNBERRY,
JOHN N. HOSTETTLER,
SAXBY CHAMBLISS,
WALTER B. JONES,
VAN HILLEARY,
LINDSEY GRAHAM,
IKE SKELTON,
JOHN M. SPRATT, Jr.,
SOLOMON P. ORTIZ,
LANE EVANS,
MARTIN T. MEEHAN,
ROBERT A UNDERWOOD,
THOMAS ALLEN,
SILVESTRE REYES,
JIM TURNER,
ELLEN O. TAUSCHER,

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X:

PORTER J. GOSS,
DOUG BEREUTER,

From the Committee on Education and the Workforce, for consideration of secs. 341–343, and 366 of the House amendment, and secs. 331–333, 542, 656, 1064, and 1107 of the Senate amendment, and modifications committed to conference:

JOHNNY ISAKSON,
JOE WILSON,
GEORGE MILLER,

From the Committee on Government Reform, for consideration of secs. 323, 804, 805, 1003, 1004, 1101–1106, 2811, and 2813 of the House amendment, and secs, 241, 654, 817, 907, 1007–1009, 1061, 1101–1106, 2811, and 3173 of the Senate amendment, and modifications committed to conference:

DAN BURTON,
DAVE WELDON,

From the Committee on International Relations, for consideration of secs. 1201, 1202, 1204, title XIII, and sec. 3142 of the House amendment, and subtitle A of title XII, secs. 1212–1216, 3136, 3151, and 3156–3161 of the Senate amendment, and modifications committed to conference:

HENRY HYDE,
BENJAMIN A. GILMAN,

From the Committee on the Judiciary, for consideration of secs. 811 and 1033 of the House amendment, and secs. 1067 and 1070 of the Senate amendment, and modifications committed to conference:

LAMAR SMITH,

From the Committee on Resources, for consideration of secs. 311, 312, 601, title XIV, secs. 2821, 2832, 2841, and 2863 of the House amendment, and secs. 601, 2821, 2823, 2828, and 2841 of the Senate amendment, and modifications committed to conference:

JOHN J. DUNCAN, Jr.,

From the Committee on Science, for consideration of secs. 244, 246, 1216, 3155, 3163 of the Senate amendment, and modifications committed to conference:

SHERWOOD L. BOEHLERT,
NICK SMITH,
RALPH M. HALL,

From the Committee on Small Business for consideration of secs. 243, 824, and 829 of the Senate amendment and modifications committed to conference:

DONALD A. MANZULLO,
SUE KELLY,

From the Committee on Transportation and Infrastructure, for consideration of sec. 601 of the House amendment, and secs. 601 and 1063 of the Senate amendment, and modifications committed to conference:

DON YOUNG,
FRANK A. LOBIONDO,
CORRINE BROWN,

From the Committee on Veterans' Affairs, for consideration of secs. 641, 651, 721, 723, 724, 726, 727, and 728 of the House amendment, and secs. 541 and 641 of the Senate amendment, and modifications committed to conference:

CHRIS SMITH,
Managers on the Part of the House.

CARL LEVIN,
TED KENNEDY,
ROBERT C. BYRD,
JOSEPH I. LIEBERMAN,
MAX CLELAND,
MARY L. LANDRIEU,
JACK REED,
DANIEL K. AKAKA,
BILL NELSON,
BEN NELSON,
JEAN CARNAHAN
MARK DAYTON,
JEFF BINGAMAN,
JOHN W. WARNER,
STROM THURMOND,
JOHN MCCAIN,
JAMES M. INHOFE,
PAT ROBERTS,
JEFF SESSIONS,
SUSAN COLLINS,
JIM BUNNING,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 4546, BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mr. HUNTER. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 4546) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Clerk read the title of the bill:

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

GENERAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4546, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope that we are at the end of a long and difficult struggle that has been engaged in by Democrats and Republicans on this most bipartisan of measures, which is the defense bill passed by the House and now by the Senate and worked in conference over the last many weeks.

□ 1830

This is a $393 billion bill. We have had a very thorough discussion and debate as the House package was moving, as the other body did moving their package. We all understand the urgency. We know that we have large increases in very important elements with respect to the war against terrorism, and in particular, we have included increases of $1.7 billion for aircraft operations and flying hours, $1.7 billion for facility maintenance and base support, $586 million for ground force operations, $562 million for training accounts, and $10 billion for ongoing costs of conducting the war against terrorism.

Also, Mr. Speaker, we have a 4.1 percent military pay raise in this bill, with targeted increases up to 6.5 percent for mid-grade and senior noncommissioned officers and mid-grade officers.

We also extend critical recruiting and retention bonuses through December of 2003. We also reduce out-of-pocket housing costs for military personnel by increasing housing allowances to cover 92.5 percent of housing costs, and we also provide some $10.4 billion for military construction and family housing.

Mr. Speaker, I want to thank my colleague, the gentleman from Missouri (Mr. SKELTON), for his great work to move this bill, which is named after our chairman, the gentleman from Arizona (Mr. STUMP), and which really manifests a lot of his values with respect to rebuilding national defense.

This has been a very difficult conference. Let me address the issue that has been a tough issue. It has been a tough issue out in the countryside, and has been a tough issue in Congress, and the issue that has held up the conference, one of the issues that has held up the conference for a period of time.

We have the so-called "concurrent receipt" issue. That is a question of whether disabled veterans who are also military retirees can receive their military retirement check, and also receive at the same time a disability check.

That issue was voted on in the House, and we voted up a package that said that retirees that were severely disabled, that is, 65 percent and greater disabled, would, in fact, receive both checks at the same time. The other body had a more generous package. We went into conference and we had a lot of arm-wrestling over how we were going to get this thing passed.

Let me tell the Members what we have done in this very important area.

We decided that the people, in this time of limited funds, the first people, the people who should be given priority, were the people who have gone out in combat and put their lives on the line and actually been hit by enemy gunfire. That is the definition of a Purple Heart, when you are injured by enemy fire in combat. That is the only way one can receive a Purple Heart.

For the people who receive Purple Hearts, for those injured in combat, they are going to receive fully both their retirement check and whatever disability they are entitled to as a result of the wounds that they received in the field of combat. That means if it is a 10 percent disability, if it is a 20 percent, if it is a 30 percent, if it is a 40 percent, all the way up to 100 percent, Mr. Speaker, those people who went out and received enemy gunfire and got a disability as a result of that are going to receive both checks.

I think every American veteran would have it that way, that the first people who should receive both disability and a retirement check are the people who put their lives on the line and received wounds at the hands of the enemy.

Now, we have a second category. That second category is what we call combat-related. That means they may be in a combat zone undertaking military operations and may be injured. As they are moving logistics, they may have a truck roll over and disable them. They may have something else happen to them that does not amount to enemy fire and something that would justify a Purple Heart, but nonetheless, they are injured in some type of a role that relates to combat. If that injury is 60 percent or greater, which is the standard that the House had in its concurrent receipt bill, they are going to receive both their disability and their retirement.

Now, we also said, okay, if one is undertaking a hazardous operation, for example, if they are in a submarine or a swift boat or some other activity that is military-related, combat-related, and is a hazardous operation, even though they may not be exchanging gunfire with the enemy in that particular area of operations, and if they have a 60 percent or greater disability they also will receive both checks.

We also said if one is training for combat. That means if one is a paratrooper with the 101st Airborne, or they are with the 82nd Airborne at Fort Bragg and they have a jump operation and the parachute malfunctions and they injure their pelvis in that jump, because they are training for combat, if they have a 60 percent or greater disability, they also are going to receive both checks, Mr. Speaker.

So in this time of limited funds, we have tried to do what we think is the right thing; that is, to go first to our people who have been in combat, and then to people who have been in combat-related activities and also people who have been training for combat and give them both checks, both their disability check and their retirement check.

So, Mr. Speaker, we have worked this out. We think this is a great package. I want to thank the gentleman from Missouri (Mr. SKELTON), who carries on the long tradition, as we do on both sides of the aisle, of trying to put together what I think is the most bipartisan bill that this House produces, which is the defense bill. I want to thank him for everything that he has done.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4546, the National Defense Authorization Act for fiscal year 2003. I will go into the reasons momentarily, but first let me compliment my friend, the gentleman from California (Mr. HUNTER), as well as the committee chairman, the gentleman from Arizona (Mr. STUMP), for the work they did in shaping this conference report.

Mr. Speaker, this was the farewell voyage as our chairman for the gentleman from Arizona (Mr. STUMP). The seas were far from smooth in this legislation and the issues were particularly difficult, so I applaud the efforts of the gentleman from Arizona (Mr. STUMP) and the leadership of the gentleman from California (Mr. DUNCAN) in recognizing the totality of this legislation.

I do want to raise a note of caution, however. Mr. Speaker, it is unusual to consider a conference report on a defense bill under suspension of the rules. I am not totally comfortable with that process. All other things being equal, it would be preferable to consider the bill in a more deliberative fashion.

I also recognize that there is little time remaining in this session. Passage of this bill is vitally important. The fact that we are considering this bill today reflects the commitment of the members of the Committee on Armed Services, who must provide for the men and women of our country when they are sacrificing in so many ways to defend our country.

I am not delighted with the outcome of every issue, either, far from it, but I might point out that our troops need the authorization for the 4.1 percent pay raise. They need authorization for special pay to compensate and help retain those who have special skills. Our bases need military construction and family housing authorization, for those projects are critical to maintaining both adequate infrastructures and quality of life for our servicemen and women. They can now move forward with that authorization.

We need to authorize the money for military operations, flying hours, steaming days, and tank miles, and allow our troops to be the best-trained and the best-prepared in the world.

I would also mention the concurrent receipt. The gentleman from California fully spelled out the end result of the very difficult negotiations that occurred, hard-fought issues, and a very, very important issue to so many of those military retirees who have done so much for our country.

Nevertheless, the conference agreement is a significant step in the right direction, and by providing concurrent receipt to Purple Heart recipients and to other retirees with high-percentage combat-related disabilities, we provide a basis for further consideration of this issue in the years ahead.

I am pleased that we were able to reach satisfactory agreements on the other difficult issues relating to end strength, environmental provisions, missile defense, abortion, and various foreign policy questions. This bill moves the military substantially forward toward new ways of fighting. It helps the Army and Marine Corps move faster and increases the Air Force's qualitative edge.

Perhaps more than at any other time in the last decade it is essential that this House take action to provide for our military men and women and the programs and activities of the Department of Defense. This vote will be seen not only in Kabul and Baghdad, but Diego Garcia, Fort Irwin and Norfolk. We need to send a message to the American public and to our adversaries and allies that we in Congress are prepared to give our men and women in uniform the support and protection they deserve.

I want to commend again the gentleman from California (Mr. HUNTER), and our friend, the gentleman from Arizona (Mr. STUMP), for whom this bill is named, for a job well done and the cooperation they have given.

Mr. Speaker, I reserve the balance of my time.

Mr. HUNTER. Mr. Speaker, I yield 4 minutes to the gentleman from Colorado (Mr. HEFLEY) for the purpose of a colloquy.

Mr. HEFLEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I believe it is essential that the RECORD accurately reflect the intent of the House managers regarding section 315 of this conference report relating to the incidental takings of migratory birds during military readiness activities.

Subsection (b) of this provision requires the Secretary of Defense, in consultation with the Secretary of the Interior, to "identify measures" to minimize, mitigate, and monitor impacts of military readiness activities on migratory birds.

I note that the provision does not state "identify and implement." Am I correct in assuming that this choice of words indicates the conference committee's clear intent that the Department of Defense shall not be required directly, or indirectly through the regulations promulgated by the Department of the Interior under subsection (d), to implement the measures identified pursuant to subsection (b)?

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, the gentleman from Colorado (Mr. HEFLEY) is correct. The language means precisely what it says: The Department of Defense is not required to implement the measures it identifies in subsection (b), nor is the Department of the Interior required or expected to include any of the identified measures in the regulations issued under subsection (d).

To the contrary, subsection (b) merely requires the Department of Defense to inventory measures that it might voluntarily choose to adopt to protect migratory birds during both the interim statutory exemption period created in the legislation and the ultimate regulatory exemption period. It would completely undermine the specific intent of section 315 to read subsection (b) as imposing a new duty to implement the identified measures on the Department of Defense, or to impose on the Department of the Interior a duty to incorporate some or all of the identified measures into the exemptive regulation issued under subsection (d).

Mr. HEFLEY. Mr. Speaker, I thank the gentleman for that.

I would like to further clarify another question related to section 315. Subsection (d)(1) imposes an obligation on the Secretary of the Interior to exercise her authority under section 3(a) of the Migratory Bird Treaty Act not later than 1 year after section 315 is enacted to prescribe regulations to exempt the Armed Forces for incidental takings of migratory birds during authorized military readiness activities.

Subsection (d)2 further specifies that the Secretary of the Interior must obtain the concurrence of the Secretary of Defense in exercising this authority. Since the Secretary of the Interior must obtain the concurrence of the Secretary of Defense, the Secretary of the Interior may find it challenging to complete agency rule-making within 1 year.

Is the Secretary of the Interior required to issue the regulation within 1 year?

Mr. HUNTER. If the gentleman will yield further, Mr. Speaker, this is not the meaning of the plain language of the provision. It does not state that the Secretary of the Interior shall issue regulations under subsection (3)(a) of the Migratory Bird Treaty Act to exempt the Armed Forces. Instead, the Secretary of the Interior is required within the 1-year period to begin the process of exempting the Armed Forces' military readiness activities from the incidental taking prohibition of the Migratory Bird Treaty Act. The Secretary of the Interior is not required to complete the process within 1 year.

Mr. HEFLEY. Mr. Speaker, I thank the gentleman for that. That is my understanding of the intent of the conferees, as well.

I take it, therefore, that if the process is not completed within 1 year, the interim statutory exemption conferred by section (c) would continue to run beyond the 1-year period identified in section (d)(1), plus the 120-day period for seeking judicial review identified in section (e)?

Mr. HUNTER. The gentleman is correct. The language of the provision is absolutely clear on that point. In subsection (c), it is expressly stated that the interim period of legislative exemption ends "on the date on which the Secretary of the Interior publishes in the Federal Register a notice that", among other things, "all legal challenges to the regulations and to the manner of their promulgation (if any) have been exhausted . . . and the regulations have taken effect."

Any number of circumstances could delay that effective date. As I discussed earlier, subsection (d) does not require the Secretary of the Interior to conclude the rulemaking within 1 year, only to commence it.

Securing the concurrence of the Department of Defense as required by subsection (d)(2) could also be time-consuming. Subsection (e) does not require that judicial review be concluded within 120 days, only that it commence.

□ 1845

Mr. Speaker, as the gentleman is aware, such litigation can be quite protracted. If the litigation resulted in the invalidation of the rule, then the rulemaking, concurrence, and judicial review process would commence once again, further extending the interim period of statutory exemption, because that period ends only upon the determination of the Secretary of the Interior upon subsection (c)(2) and (3) and "all legal challenges have been exhausted and the regulations have taken effect."

Mr. HEFLEY. Mr. Speaker, I thank the gentleman for these important clarifications. I think it is important that we are clear on what the conference committee meant when we enacted it in this form.

Mr. SKELTON. Mr. Speaker, I yield 4 minutes to the gentleman from Connecticut (Mr. LARSON).

Mr. LARSON of Connecticut. Mr. Speaker, I rise in strong support of the legislation and with the opportunity to engage the chairman in a colloquy if the gentleman would see fit. I want to associate myself with the remarks of the gentleman from Missouri (Mr. SKELTON) and especially the outstanding work that was done by the gentleman from Arizona (Mr. STUMP), whom this great piece of legislation is named after, and at this point I would like to enter into a colloquy as it relates to concurrent receipt and concerns I have with the language that are outlined in the bill.

With respect to the bill, my specific questions deal with sections that talk about what will happen to any retiree who has at least a 60 percent disability rating or more for combat-related disability and the various categories that it breaks that down into. Under those specific categories are: A, if the disabling condition was incurred as a result of armed conflict; B, while engaged in hazardous service; C, under conditions simulating war; and D, caused by an instrumentality of war, examples of which include a person steps on a mine, accidents involving military combat, sicknesses or caused by fumes or gas or military ordnance. And I want to know if that applies specifically to Agent Orange and Gulf Syndrome?

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. LARSON of Connecticut. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for raising this issue, and I can assure him the conference agreement does nothing to preclude DOD's consideration of disabilities related to Agent Orange or other disabling circumstances for which the VA has a presumption of causality.

The agreement does require the Secretary of Defense to establish a process and criteria for evaluating whether a disability is combat related. We know that DOD already has some criteria in place to evaluate combat disabilities. If the Secretary of Defense builds on these criteria to implement this conference agreement, they would appear to be broad enough.

For example, in looking over the items the gentleman has listed, they are the criteria as he stated, a direct result of armed conflict while engaged in hazardous service or in the performance of duty under conditions simulating war or through an instrumentality of war.

Certainly Agent Orange, which I saw in Vietnam, was intended to defoliate areas of forest that were close to American base camps and areas of operation to keep the enemy from being able to close around you undiscovered. That would be considered to be an instrumentality of war and therefore would be covered as an agent that would be covered under this particular provision.

Mr. LARSON of Connecticut. Mr. Speaker, I appreciate the gentleman's comments, and I assume that would apply to Gulf Syndrome as well.

I know in Connecticut, having constituents that have been afflicted, I believe under the new language that this would be applicable; but inasmuch as it is not specifically outlined here, the gentleman's comments are most appreciated.

Mr. HUNTER. Mr. Speaker, I would say in doing some research into the Gulf War Syndrome and the potential of what I consider to be the actual blow back of agents that went over American troops, that the release of those agents would certainly be considered to be an instrumentality of war, and I think the legislation intends that that is the case.

Mr. LARSON of Connecticut. Mr. Speaker, I thank the gentleman.

Mr. HUNTER. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Speaker, let me take a minute at the outset to talk a little bit about the individual after whom this bill is named. The gentleman from Arizona (Mr. STUMP) comes from Arizona. After the announcement of the gentleman's retirement, this bill was named the Bob Stump Military Authorization Bill of 2003.

Let me discuss the lifetime service of the gentleman from Arizona (Mr. STUMP) that many Members may not know about because it is quite remarkable. At the age of 16 in 1943, during of course World War II, the gentleman from Arizona (Mr. STUMP) joined the Navy and for the rest of the war he played a very active role taking part in the invasion of Iwo Jima and Okinawa, and of course those were very dangerous places to be in those days. But having known the gentleman from Arizona for the last 18 years, dangerous places have never fazed him. He certainly is not a bashful guy with respect to those types of things.

In 1959, the gentleman from Arizona (Mr. STUMP) ran for the first time for the Arizona State legislature and worked his way through the State legislature until he became, in the early 1970s, the President of the State Senate. In 1977, he came here to Congress and became a member of the Committee on Veterans' Affairs and the Committee on Armed Services, and again worked his way to the chairmanship of the Committee on Veterans' Affairs and then on the Committee on Armed Services. Announcing his retirement made us sad, but this bill, the Bob Stump Defense Authorization Bill of 2003, is a tribute to a gentleman with a great lifetime of service to this country and we all thank him for it and want him to know we will miss him.

One other thing about this bill which I think is extremely important, working through this bill with the gentleman from California (Mr. HUNTER) and with the gentleman from Missouri (Mr. SKELTON), this bill worked through an open process with a whole series of compromises, compromises that perhaps did not leave anybody on either side terribly happy, but it was the best we could do with the amount of money that we had at our disposal.

As chairman of the Subcommittee on Military Construction, I worked with the gentleman from Arkansas (Mr. SYNDER) and others to craft the legislation in a way that we could do the best with the dollars that we had available to us, and I think we have done that.

Other compromises involved operational kinds of things. For example, this bill includes funding for 13 additional C–17s in 2003. The gentleman from California (Mr. HUNTER) and I probably did not think that was enough; but again, with the dollars we had available to us, we did what we could.

Actually with regard to this subject of the C–17, I happen to think that with the Army transformation going forward and the ability to deploy to a necessary area within the required time, according to the Army which is 96 hours, I do not think that we will have near enough C–17 airplanes even when the total complement, which is currently 180, is procured. I think the number is probably closer to 300 airplanes that we are going to need, and perhaps some day we will get there. Today, we have our sights set on too few and are getting them too slow, but that is the nature of compromise.

Still it is a good bill in this global atmosphere, worthy of the support of every single Member on both sides of the aisle. I ask Members to support this bill.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I rise in support of the bill, and also want to add my accolades to the gentleman from Arizona (Mr. STUMP). He was the chairman of the Committee on Armed Services and the Committee on Veterans' Affairs.

I do want to express some dissatisfaction with the process here tonight that we have been dealt. The gentleman from Missouri (Mr. SKELTON) mentioned the problems of doing this with a suspension bill, which means a very limited time period for debate. I am more concerned about the notification. I found out about this in the airport late this afternoon that this bill was going to be coming up tonight, when we had been told for several weeks that the conference reports would be coming up on Wednesday or Thursday. I understand we are at the end of the session in a lame duck and we are not sure how long we are going to be here, but democracy was not intended to be an efficient process, and sometimes we can be too efficient. I think there is a substantial number of Members that do not know that this debate is going on tonight.

Like many Members, I spent Veterans Day at events the last couple of days and through the weekend, and a lot of veterans came up to me and asked about the issue of concurrent receipt and why the President threatened to veto it and why the House leadership did not want to do the bill before the election.

I would have liked to have taken the language that is in the bill that we are voting on tonight and send to my veterans back home and have them comment on it before we come to the floor today. But, unfortunately, that did not occur. I would hope that we would have a process more in accord with the open kind of notification that a democracy really demands.

I rise in support of the bill and appreciate all of the work that the staff and Members have put into this, and I thank the gentleman from California (Mr. HUNTER) for stepping in in the absence of the gentleman from Arizona (Mr. STUMP).

Mr. HUNTER. Mr. Speaker, I yield 3½ minutes to the gentleman from New York (Mr. MCHUGH), the chairman of the Subcommittee on Military Personnel.

Mr. MCHUGH. Mr. Speaker, I extend my great appreciation and admiration to the acting chairman, the gentleman from California (Mr. HUNTER), the gentleman from Missouri (Mr. SKELTON), and of course our full committee chairman, the gentleman from Arizona (Mr. STUMP), who has done such yeoman's tasks, as the gentleman from New Jersey (Mr. SAXTON) just described so eloquently a few minutes ago, and to the gentleman from Arkansas (Mr. SNYDER) for his support and his great work on this.

Mr. Speaker, it is obvious from the conversations and statements that have been made here in recent minutes past that this evening's consideration of this particular conference report is surrounded by what I think is an understandable controversy on one issue, and that is of concurrent receipt.

The discussions suggests that for the first time in more than 4 decades, passage of a defense conference report is not a foregone conclusion. And given where the Congress, the Nation, and most importantly our military personnel find themselves on this day in history, such a defeat would be a disastrous failure to fulfill our responsibilities at this fateful point in our history.

I want the record to show that I consider myself a strong supporter of concurrent receipt. It is no secret that in recent years the House version of the defense bill has been silent on this issue. The realities of fully financing the provisions, some $45.8 billion over 10 years routinely cause us to forego any action whatsoever; and as such, veterans suffer.

After having the honor of assuming the chairmanship of the Subcommittee on Military Personnel 2 years ago, I was surprised and very, very pleased to be able to work with both sides of the aisle, the leadership in the House on both sides of the aisle, as well as the bipartisan members of the Committee on the Budget, certainly led by the efforts of the gentleman from Iowa (Mr. NUSSLE) for the first time ever to include some $17.8 billion over 10 years in the House budget resolution that led to our defense bill for the first time ever to provide full retirement and disability benefits to any veteran 60 percent or greater disabled. But like most every Member of this body, I considered that a positive initiative but really a minimum, a first step in correcting toward what we all feel is a very unfair policy.

Unfortunately, there are certain realities in the legislative process that we cannot avoid, and that is it takes three parties to enact a provision into law: The House, the Senate, and the White House.

□ 1900

The fact of the matter is that while this provision is not what many, if not all of us, wanted, certainly it is progress. It takes us a step in the right direction. To defer reaction and answering to our veterans' needs and not passing this bill would be a disastrous abdication of our responsibilities, particularly at this very, very tenuous time in our Nation's history. With all of the other good provisions, pay increase, military end strength, veterans and military health care systems cooperation, I think certainly we should stand forward and support this bill.

I urge all of our colleagues to vote in the affirmative.

Mr. SKELTON. Mr. Speaker, I yield 6 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, along with my colleagues, I would like to wish my very heartfelt thanks and farewell to the gentleman from Arizona (Mr. STUMP). He will be sadly missed. He served this Nation very well since the early 1940s as a young seaman in the Navy and he has been a great Congressman. If the gentleman is watching, we are sure going to miss you. You are a great guy.

Mr. Speaker, the procurement portion of this bill does a lot, but as all of us always feel at the end of the year, we have never done quite enough. The fleet is still the smallest it has been since 1933. But I am pleased to announce that the bill would fund the building of two Aegis class destroyers, one Virginia class submarine, one LPD–17, four service life extensions for LCACs, two submarine conversions, one submarine refueling, two small-waterplane twin-hull mine hunters, one T-AKE, which I hope the gentleman from California (Mr. HUNTER) will help me put some American propellers on; and $54 million to the title XI shipbuilding program for our domestic shipbuilders.

Aircraftwise, we are going to build 23 F–22s, 48 F/A–18s, 12 C–17s, a multiyear procurement for C–130Js, 35 JPATS trainers, one JSTARS, 35 UH–60 Blackhawk variants and a variant for 15 Navy versions of that helicopter; six training helicopters and 11 V–22s.

As far as ground forces, there will be 35 MLRS systems, 45 upgrades to the Bradley armored personnel carriers, 332 Stryker interim armored vehicles, and upgrades to 31 M1A2s.

But like all of my colleagues, Mr. Speaker, I am a bit concerned and somewhat disappointed that we could not do a better job on concurrent receipt. If the gentleman from California would, I would like to engage in a further colloquy.

Mr. Speaker, I know the gentleman from California is a Vietnam vet and he has mentioned this scenario of Agent Orange. I happen to have a staffer who in the past year has become very, very sick as a result of his service in the Gulf War. After much testing, it was determined it was a result of mercury poisoning, and the only thing that any doctor can conclude is that it is from the air he breathed while he was in Desert Storm. My question would be, he was a young man when this occurred so he is not a military retiree. But had that happened to someone who had served 20 years or more, they have no visible scars, they did not receive the Purple Heart, they served, they went when their Nation called, and as a result of that they have been poisoned.

How does this bill address that? Because again, I understand the need to reward, to compensate the person who has lost an arm, a leg, their vision, their ability to have children, but this is someone who has truly been poisoned as a result of his service to our Nation. What will we do for them with this concurrent receipt language?

Mr. HUNTER. If the gentleman will yield, I can offer to my good colleague what would be my intent and my understanding of what we have done and that is this: One category for disability that is compensable is for disabilities that are caused by an instrumentality of war. Just like the Agent Orange spraying that was done in Vietnam was, in my estimation, an instrumentality of war which was meant to defoliate the areas that were around American operations, American base camps, American centers so that the enemy could not close undetected and get up close to American soldiers, that that spray, that herbicide, was definitely an instrumentality of war that was utilized in carrying out the military mission.

Similarly in my analysis, and everybody has their own opinion and has seen their own set of facts and seen the base facts on what happened in the Gulf War, my opinion is that some of the agent that was stockpiled by Saddam Hussein in the last war, the canisters of which were ruptured during the war itself, some of that agent had a blowback over American troops. I think there was some contamination of American troops by that agent. In that situation, if that is found to be the cause of an injury, that blowback of agent would certainly be considered to be an instrumentality of war and carried out in the mission of war.

So my answer is yes, it would be included.

Mr. TAYLOR of Mississippi. Mr. Chairman, if I may, since I have seen a tendency for some people in the bureaucracy of government to somehow lose sight of the value of our veterans, would you consider a letter to that extent to the Secretary? The Secretary has got a lot of things on his plate. Maybe he does not deal with individuals to the extent that you and I as representatives of 700,000 people do, but would you consider a letter to the Secretary along those lines telling him of our strong interest in accomplishing just that?

Mr. HUNTER. Certainly. I would be happy to put what I have just said in a letter and send it to the Secretary.

Mr. TAYLOR of Mississippi. Again, as a part of that letter, I would like to hear the Secretary's response because I would sure as heck hope that we do not have to wait another year before some of these injustices are finally made right. I thank you very much for your explanation. I look forward to working with you on that letter to the Secretary.

Mr. HUNTER. Mr. Speaker, I yield the balance of my time to my great friend, the gentleman from Utah (Mr. HANSEN), who has received short shrift throughout this conference on his issues.

Mr. HANSEN. I thank my friend for yielding me this time.

Mr. Speaker, I rise in support, reluctant support, of this bill. I have great respect for BOB STUMP, my neighbor to the south in Arizona, and my good friend, DUNCAN HUNTER. Mr. Speaker, I rise more as a chairman of the Committee on Resources who has been able to see that there are many things that overlap, many things that are done in Resources that I have signed letters to BOB STUMP because I thought they were important that he has the right to do it.

One of those in the 1906 Migratory Bird Act. The Migratory Bird Act is something that overlaps with military every day when you have bird strikes. More and more, we are having bird strikes. We know about that very poor judicial decision that came out of the Ninth Circuit Court which, in effect, says it is a taking if a fighter plane hits a bird. The Marine and Mammal

Act, which was not acted upon in this bill, will have to be acted upon and the Endangered Species Act. I think some people are more interested in how they are scored with the League of Conservation Voters than they are in training our boys and the girls who fight in this thing.

We stand up here and we always talk about the idea we train the way we fight. Well, we are not doing it this time. This time we are just bending over backwards to make sure that we take more care of the slimy slug than we do the guy in the tank or on the ground or in the airplane.

Sometimes compromise is a good thing and I have heard that politics and compromise are synonyms. I hardly believe it in this particular case. It comes down to the idea that on the Endangered Species Act and on the Migratory Bird Act, it would have been better if we had not have taken it. What we sent from the House was excellent. I have heard from the Pentagon today. They said, "Mr. Chairman, we would just as soon not have had the compromise that came out." I think that should be the case.

On our test and training ranges, when we have now lost most of Camp Pendleton, when we have now lost most of Ford Hood, when we have now lost most of the Utah test and training range and others because of some of these areas, it really pains me that we have found ourselves in that position.

The Committee on Resources today put a shot across the bow in that hopper down there. It will just take the heart out of some people. It will not pass for a while, but I hope some people look at it. That is, to change the Endangered Species Act that it does not apply on military ground, that it does not apply on private property, and that it does not apply on plants. If anyone is just gasping at this and losing their breath, let them take into consideration to go read the 1973 Endangered Species Act because that is what they intended when it was passed, not to go out and ruin the things that we are doing.

I am going to vote for this. I have such great respect for BOB STUMP and DUNCAN HUNTER, I will vote for it. I will sign the report as the second guy after the gentleman from California here and soon to be as just another citizen, I am glad that you have let me say these things.

I thank the Speaker for the time, I thank the gentleman from Missouri for the time, and I thank the gentleman from California for the time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

This bill is appropriately named for Chairman BOB STUMP. We came to Congress together in January 1977 and he has performed great service to our Nation, first as chairman of the Committee on Veterans' Affairs and then as chairman of this committee. It is fully appropriate that we name this bill for him for the great and outstanding work that he did. We thank him for his efforts.

Mr. Speaker, I must also say the staff has done such phenomenal work on a very difficult bill, with issues that seemed unsolvable. A special thanks to Jim Schweiter and his crew, to Robert Rangel and those that work with him and all of the professional staff that we have. We are truly blessed to be able to put together this authorization bill.

These are difficult times, Mr. Speaker, for America. I am convinced that those in uniform will be challenged to the best that is in them. That is why it is important that we in the Congress and that we on the Committee on Armed Services authorize all that we possibly can to help them with their work in defending America, American lives and American interests.

Mr. Speaker, I extend special thanks to DUNCAN HUNTER for his work in putting this bill to a successful conclusion.

Mr. UNDERWOOD. Mr. Speaker, I rise in strong support of the conference report on the National Defense Authorization Act for Fiscal Year 2003. This legislation supports our troops as they continue to wage the war against terrorism and prepares them to engage in additional contingencies to ensure the security of our nation and the world.

I am very pleased that the conference report includes agreement on many provisions directly relevant to Guam. Over $75 million in military construction is authorized for installations and facilities on Guam, including a new water supply system at Andersen Air Force Base and Phase III of the Guam Army National Guard Readiness Center. The people of Guam welcome the military build-up and appreciate the recognition that this legislation provides to the contributions our island offers to U.S. national security. Furthermore, I am especially pleased that agreement was reached in conference to establish a Weapons of Mass Destruction Civil Support Team for Guam. This specially equipped and trained team of the Guam National Guard will prove to prepare us for any disaster involving a weapon of mass destruction.

The Senate has also receded to two House provisions that authorize National Guard members use of the commissary when they are called to state duty during a national emergency, as was experienced after September 11, 2002, and that require a single point of contact to be established within the Department of Defense to address matters involving unexploded ordnance.

Lastly I want to draw attention to agreement on a particular provision that affects Guam and the readiness of our troops. The conference report includes language that will provide flexibility under the Migratory Bird Treaty Act to ensure the restoration and non-interruption of essential training on Farallon de Medinlla (FDM), an island north of Guam in the Northern Marianas.

Mr. Speaker, I urge adoption of the conference report and thank our Chairman and our Ranking Member for their exceptional leadership and continued support of Guam.

Mr. SMITH of New Jersey. Mr. Speaker, as chairman of the House Committee on Veterans' Affairs, I rise in support of the pending conference report on the Bob Stump Defense Authorization Act for fiscal year 2003. I would like to commend the conferees for their hard work in bringing this report to the floor, and particularly for including several provisions within the jurisdiction of the Committee on Veterans' Affairs that will increase the cooperation and resource sharing between medical facilities and programs of the Armed Forces and those of the Department of Veterans Affairs.

Sections 721 through 729 of the conference report would mandate new health care resource sharing programs between the Departments of Defense and Veterans Affairs, and would provide strong, unprecedented incentives for the Departments to work as true partners in delivering health care to the military-veteran community.

Mr. Speaker, last June, I along with Veterans' Affairs Committee Ranking Member LANE EVANS and others, introduced H.R. 2667, the Department of Defense-Department of Veterans Affairs Health Resources Access Improvement Act of 2001, legislation designed to increase the level of cooperation and sharing between the health care systems of DOD and VA. Despite legislation authorizing resource sharing being on the books for two decades, these massive health care systems of VA, Army, Navy and Air Force, have failed to take significant or even commonsense actions to cooperate and collaborate to share their resources when and where appropriate. Our legislation was designed to jump-start this process through practical and achievable means.

On March 7, 2002, our Subcommittee on Health held a joint hearing with the Armed Services Subcommittee on Military Personnel to examine H.R. 2667. At that hearing, we received significant support from veterans' organizations, Administration officials and Members of both Subcommittees. Using the feedback from that hearing, we were able to achieve a significant compromise that is now incorporated in the Conference Report.

Specifically, the Conference agreement would: Mandate, rather than permit sharing where feasible; require VA and DOD to jointly plan for the future of both health care systems; provide funding incentives for facilities that have forged ahead and demonstrated the advantages of sharing resources—initially limited to three sites; make VA and DOD develop information systems and management structures to allow their respective pharmacy services to become interoperable; and encourage combined training for health care providers.

Let me be very clear what these provisions do not do.

They do not combine the Federal health care systems; they do not merge the two systems; they do not reduce overall delivery of medical services; and they do not lower the level of funding for either health care system. Rather, this legislation takes advantage of opportunities to better serve both populations—when and where it makes sense. By sharing equipment, facilities, technology or personnel, VA and DOD can achieve efficiencies that would then be reinvested to provide expanded services to even more veterans, active duty military, retirees, and military dependents and survivors.

I am pleased to report to my colleagues that the Conference language on sharing has the support of The American Legion, the Veterans of Foreign Wars, the National Military Veterans' Alliance, the Military Coalition for Health Care, the Paralyzed Veterans of America, and the Disabled American Veterans.

While legal authority for resource sharing between the departments has existed for 20 years, the level of sharing between the VA and DOD remains abysmally low, accounting for only two-tenths of one percent of their combined $40 billion health care budgets. My committee staff made 16 site visits last year to DOD–VA sites, and just recently during our August recess Health Chairman Moran and fellow Committee Member Jeff Miller visited the Navy Medical Center in Pensacola, Florida and Eglin Air Force Base. They reported to me that this particular Panhandle area, with so many military facilities and a growing population of older veterans and military retirees, is ripe for additional DOD–VA sharing.

All our visits to sites where VA and DOD health care activities are in very close proximity are carefully documented in a Committee staff report filed earlier this year. I commend that report to all the conferees here today, but let me briefly give you a couple of compelling examples of what we believe are the kinds of problems this legislation can solve.

Charleston, South Carolina is home to a Navy Hospital and a VA Medical Center. During a visit last year by our Committee staff, the Navy Hospital's Executive Officer, in the course of discussing the issue of resource sharing, talked about the difficulty he had in recruiting and retaining pharmacy technicians to handle a daily backlog of 500 prescriptions. Directly across the street from the Navy Hospital is a VA Consolidated Mail-out Pharmacy, which fills 60,000 mail-out prescriptions daily for VA's patients. The Navy hospital officer was completely unaware of this facility's capabilities.

Crossing the street with my staff, they visited the VA pharmacy for the first time, took a tour, and talked to the chief pharmacist, who said that he would have no difficulty filling 500 daily prescriptions for the Navy, an amount barely noticeable in his massive workload. To date, a year later, it appears nothing has changed. It's inexcusable in my view to waste such opportunities.

I know from my own experience how difficult it can sometimes be to just get the four service branches to cooperate between themselves. My own congressional district in New Jersey over the past 22 years has either contained or been in close proximity to several military installations, including the Army's Fort Dix, the Air Force's McGuire Air Force Base, and the Navy's Naval Research Laboratory in Lakehurst. I remember visiting them some years ago and it seemed as though you needed to get a passport just to cross from Fort Dix to McGuire.

We all know of institutional resistance to change, but that resistance must be overcome. With the demand for health care services rising, and the cost of care also going up, we cannot wait any longer to take real, meaningful actions to find ways to serve both populations more effectively and more efficiently. For two decades, VA and DOD have had the authority and the charge to improve sharing of health care resources, and the results have been dismal. We don't need more studies or more reports; we need action.

Our VA–DOD sharing language in the Bob Stump Authorization Act will be a major step forward in that regard, and I commend the conferees for retaining the provisions in the final conference agreement that is now before the House. I want to thank our Committee's Ranking Democratic Member, LANE EVANS, Health Subcommittee Chairman JERRY MORAN, and Subcommittee Ranking Member BOB FILNER for their hard work in this legislation. In addition, I want to thank Armed Services Committee Chairman BOB STUMP, a former Chairman of the Veterans' Affairs Committee, Ranking Member IKE SKELTON, Subcommittee Chairman BOB MCHUGH, and Ranking Member Dr. VIC SNYDER, for all of their work to reach this agreement.

Mr. Speaker, the conference report also includes language providing additional benefits to military retirees who have incurred significant combat related disabilities. Unfortunately, this agreement is not as generous as an earlier provision on concurrent receipt that was approved by the House and I expect that many Members will be working on this issue during the 108th Congress. I will support these efforts.

Finally, Mr. Speaker, I cannot let the opportunity pass without also adding some words to commend my dear friend, predecessor and long-term colleague, the Honorable BOB STUMP. It is indeed a fitting tribute to BOB STUMP that this measure be titled the "BOB STUMP National Defense Authorization Act for Fiscal Year 2003". BOB STUMP has been a friend of those who serve in the Armed Forces since his own experience as a Navy corpsman serving in the South Pacific theater during World War II. Although Chairman STUMP has been known to shun the spotlight, his words and actions speak volumes about his dedication to all those who served.

For those who may not be familiar with some of his more notable legislative accomplishments, I would like the record to reflect the following list of his accomplishments during the six years that he served as Chairman of the House Committee on Veterans' Affairs from 1995 to 2000. Working on a bipartisan basis in cooperation with veterans' service organizations, the House Committee on Veterans' Affairs achieved significant legislative success on behalf of our Nation's veterans and their families. The following items only highlight what was accomplished during the six years of BOB STUMP's chairmanship.

VA Health Care Budget—For fiscal year 2000, Congress provided the largest budget increase for VA health care in history, $1.7 billion.

Health Care Eligibility Reform—In 1996, under CHAIRMAN STUMP's leadership, Congress passed eligibility reforms that removed barriers to outpatient care and allowed greater flexibility to the VA so it could pay for care closer to where the veteran lives.

1998 Benefits Expansion—In 1998, Congress passed a significant benefits expansion totaling $1.5 billion over five years for improvement to veterans' and survivors' education benefits and benefits for disabled veterans and surviving spouses of totally disabled veterans.

Veterans Millennium Health Care and Benefits Act—What has been called the Millennium Act is the most comprehensive veterans' benefits improvement legislation in decades. Some of the more significant provisions mandate nursing home and long-term care and allow the VA to pay for some emergency health care services.

Montgomery GI Bill Enhancement—Public Law 106–419 increased the value of the monthly education benefit by nearly $100 per month to $650. During the six years of Chairman Stump's tenure, the Congress increased the monthly benefit by 48 percent.

National Cemetery Expansion—Since 1997, 7 new national veterans' cemeteries have opened, including one in Oklahoma that was required by the Veterans' Committee as part of the Millennium Act. Under Chairman STUMP's guidance, Congress also required the VA to begin immediately the planning for 5 national cemeteries in Atlanta, Miami, Pittsburgh, Oklahoma, Sacramento, and Detroit.

Arlington National Cemetery—Legislation was enacted in 1999 to expand the boundaries of Arlington National Cemetery, extending its useful life beyond the projected closing date of 2025 so that in-ground burials of veterans can continue until approximately the year 2041. Chairman STUMP also cared passionately about preserving the integrity of the Nation's premier National Cemetery at Arlington, Virginia. During the 105th, 106th, and 107th Congress, BOB STUMP sponsored legislation that was approved by the entire House of Representatives to codify eligibility requirements for Arlington. His legislation would have preserved eligibility for career service members while denying eligibility to Members of Congress who did not have the requisite military service.

For these and all of the other measures which Chairman STUMP helped to move through this and many preceding Congresses, I extend the gratitude of the millions of veterans of this nation who benefited so much from BOB STUMP's leadership. We all wish him the very best as he returns to his home in Arizona.

Mr. Speaker, I urge approval of this Conference Report. It deserves to become part of BOB STUMP's legislative legacy.

Mr. ORTIZ. Mr. Speaker, I rise in strong support of H.R. 4546, the Fiscal Year 2003, National Defense Authorization Act. It represents a down payment on military readiness sustainment that we all recognize as critical to national security.

It is not a perfect bill. I wish more money were available to address some of the readiness matters that have been deferred. I remain perplexed when I reflect on the impact that the resource shortages are having on every facet of our military. For example, we need to do more to ensure the readiness of our reserve components. Much more is required to adequately address the training readiness of our dedicated civilian workforce. The core infrastructure maintenance accounts remain short of the desired level of funds.

Let there be no doubt that this bill will not do all that needs to be done. But, Mr. Speaker, this bill is better than no bill.

I am especially pleased that we were able to reach some accommodations with the administration on concurrent receipt. At a time when we are preparing to become engaged in another conflict situation, we can ill afford not to address a matter than affects those who have already served. While concurrent receipt is not addressed as a directly related readiness matter, no one can deny that it does have a potential significant readiness impact. It is the right thing to do at this time. I urge my colleagues to support the conference report. Today provides another opportunity for us to do our part in providing for the national security of this great nation during a very trying period.

Mr. SKELTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and agree to the conference report on the bill, H.R. 4546.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 7 o'clock and 12 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 0756

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DIAZ-BALART) at 7 o'clock and 56 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5710, HOMELAND SECURITY ACT OF 2002

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–773) on the resolution (H. Res. 600) providing for consideration of the bill (H.R. 5710) to establish the Department of Homeland Security, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR WAIVING A REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO THE SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE COMMITTEE ON RULES

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–774) on the resolution (H. Res. 601) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 124, MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2003, AND H.R. 5708, REDUCING PRE-EXISTING PAYGO BALANCES, AND FOR OTHER PURPOSES

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–775) on the resolution (H. Res. 602) providing for consideration of the joint resolution (H.J. Res. 124) making further continuing appropriations for the fiscal year 2003, and for other purposes, and for consideration of the bill (H.R. 5708) to reduce preexisting PAYGO balances, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR WAIVING A REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO THE SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE COMMITTEE ON RULES

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–776) on the resolution (H. Res. 603) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HOUGHTON (at the request of Mr. ARMEY) for today and the balance of the week on account of family illness.

ADJOURNMENT

Mr. LINDER. Mr. Speaker, pursuant to House Resolution 598, I move that the House do now adjourn in memory of the late Hon. PAUL D. WELLSTONE.

The motion was agreed to; accordingly (at 7 o'clock and 58 minutes a.m.), pursuant to House Resolution 598, the House adjourned until today, Wednesday, November 13, 2002, at 10 a.m., in memory of the late Hon. PAUL D. WELLSTONE.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9896. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Amendment to the Beef Promotion and Research Rules and Regulations [No. LS-99-20] received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9897. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Exemption for Shipments of Tree Run Citrus [Docket No. FV02-905-4 IFR] received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9898. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; Decreased Assessment Rate [Docket No. FV02-906-1 IFR] received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9899. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Kiwifruit Grown in California; Increased Assessment Rate [Docket No. FV02-920-4 FR] received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9900. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Removing Dancy and Robinson Tangerine Varieties From the Rules and Regulations [Docket No. FV02-905-3 FIR] received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9901. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon, and Irish Potatoes Imported Into the United States; Modification of Handling and Import Regulations [Docket No. FV00-945-2 FR] received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9902. A letter from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting the Department's final rule — Financial Crimes Enforcement Network; Anti-Money Laundering Programs for Financial Institutions (RIN: 1506-AA28) received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9903. A letter from the Administrator, Rural Housing Service, Department of Agriculture, transmitting the Department's final rule — Farm Labor Housing Technical Assistance (RIN: 0575-AC25) received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9904. A letter from the Assistant Secretary for Management and Chief Information Officer, Department of the Treasury, transmitting the Department of Treasury's Commercial and Government Activities Inventory in accordance with the Federal Activities Inventory Reform (FAIR) Act of 1998; to the Committee on Government Reform.

9905. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Acquisition Regulation: Contractor Performance Evaluations [FRL 7402-8] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

9906. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna [I.D. 100702A] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9907. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Whiting Closure for the Catcher/Processor Sector [Docket No. 020402077-01; I.D. 101502B] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9908. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quota Specifications and General Category Effort Controls [Docket No. 020612146-2211-02; I.D. 042602F] (RIN: 0648-AP90) received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9909. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended: Aliens Ineligible to Transit Without Visas (TWOV) (RIN: 1400-AA48) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9910. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767 Series Airplanes [Docket No. 2002-NM-250-AD; Amendment 39-12932; AD 2002-22-07] (RIN: 2120-AA64) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9911. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pilatus Aircraft Ltd. Model PC-6 Airplanes [Docket No. 2002-CE-08-AD; Amendment 39-12914; AD 2002-21-08] (RIN: 2120-AA64) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9912. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30334; Amdt. No. 3027] (RIN: 2120-AA65) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9913. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30335; Amdt. No. 3028] (RIN: 2120-AA65) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9914. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment Class D Airspace; Huntington, WV [Airspace Docket No. 02-AEA-06] (RIN: 2120-AA66) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9915. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class D Airspace; Titusville, FL [Airspace Docket No. 02-ASO-18] (RIN: 2120-AA66) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9916. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class D Airspace; Knob Noster, Whiteman AFB, MO; Modification of Class E Airspace; Knob Noster, Whiteman AFB, MO [Airspace Docket No. 02-ACE-7] (RIN: 2120-AA66) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9917. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment to Class E Airspace; Gordon, NE [Airspace Docket No. 02-ACE-9] (RIN: 2120-AA66) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9918. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E5 Airspace; Spruce Pine, NC [Airspace Docket No. 02-ASO-14] (RIN: 2120-AA66) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9919. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — IFR Altitudes; Miscellaneous Amendments [Docket No. 30336; Amdt. No. 438] (RIN: 2120-AA63) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9920. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Mission Bay, San Diego, CA [COTP San Diego 02-022] (RIN: 2115-AA97) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9921. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Disaster Assistance; Federal Assistance to Individuals and Households (RIN: 3067-AD25) received November 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9922. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Disaster Assistance; Federal Assistance to Individuals and Households (RIN: 3067-AD25) received November 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9923. A letter from the Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Notice of Open Meeting — received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

9924. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Time for performing certain acts postponed by reason of service in a combat zone or a Presidentially declared disaster (Rev. Proc. 2002-71) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9925. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Unit Livestock Price Method [TD 9019] (RIN: 1545-BA25) received October 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STUMP: Committee of Conference. Conference report on H.R. 4546. A bill to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, and for military construction, to prescribe military personnel strengths for fiscal year 2003, and for other purposes (Rept. 107-772). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ENGLISH (for himself, Mr. BORSKI, Mr. BRADY of Pennsylvania, Mr. COYNE, Mr. FATTAH, Mr. DOYLE, Mr. GREENWOOD, Ms. HART, Mr. HOEFFEL, Mr. HOLDEN, Mr. GEKAS, Mr. KANJORSKI, Mr. PETERSON of Pennsylvania, Mr. MURTHA, Mr. MASCARA, Mr. PITTS, Mr. PLATTS, Mr. SHERWOOD, Mr. SHUSTER, Mr. WELDON of Pennsylvania, and Mr. TOOMEY):

H.R. 5707. A bill to designate the facility of the United States Postal Service located at 141 Erie Street in Linesville, Pennsylvania, as the "James R. Merry Post Office"; to the Committee on Government Reform.

By Mr. NUSSLE:

H.R. 5708. A bill to reduce preexisting PAYGO balances, and for other purposes; to the Committee on the Budget.

By Mr. HANSEN:

H.R. 5709. A bill to amend the Endangered Species Act of 1973 to limit the application of that Act with respect to actions on military land or private land and with respect to plants; to the Committee on Resources.

By Mr. ARMEY (for himself, Mr. DELAY, Mr. WATTS of Oklahoma, Ms. PRYCE of Ohio, Mr. PORTMAN, Mr. THORNBERRY, Mr. GIBBONS, Ms. HARMAN, and Mrs. TAUSCHER):

H.R. 5710. A bill to establish the Department of Homeland Security, and for other purposes; pursuant to H. Res. 449, referred to the Select Committee on Homeland Security.

By Mr. YOUNG of Florida:

H.J. Res. 124. A joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

By Mrs. MORELLA (for herself, Mr. Wolf, Mr. Tom Davis of Virginia, Mr. Moran of Virginia, Mr. Bartlett of Maryland, Ms. Norton, Mr. Cantor, and Mrs. Jo Ann Davis of Virginia):

H. Con. Res. 515. Concurrent resolution expressing the sense of Congress with respect to the recent sniper attacks in the Washington, D.C., area; to the Committee on Government Reform.

By Mr. ROYCE:

H. Res. 597. A resolution congratulating the Anaheim Angels for winning the 2002 World Series championship; to the Committee on Government Reform.

By Mr. OBERSTAR:

H. Res. 598. A resolution expressing the condolences of the House of Representatives on the death of the Honorable Paul D. Wellstone, a Senator from the State of Minnesota; considered and agreed to.

By Mr. COX (for himself, Ms. Sanchez, Mr. Rohrabacher, Mr. Royce, Mr. Gary G. Miller of California, Mr. Calvert, and Mr. Issa):

H. Res. 599. A resolution congratulating the Anaheim Angels for winning the 2002 World Series; to the Committee on Government Reform.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. HOLT introduced A bill (H.R. 5711) for the relief of Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 687: Mr. Rodriguez.

H.R. 822: Ms. Schakowsky.

H.R. 831: Mr. Pombo.

H.R. 840: Mr. Delahunt, Mr. Sanders, Mr. Honda, Mr. Hyde, Mr. Sensenbrenner, and Mr. Andrews.

H.R. 994: Mr. Schiff.

H.R. 1097: Ms. Lofgren.

H.R. 1343: Mr. Mollohan.

H.R. 1490: Mr. Abercrombie.

H.R. 1581: Mrs. Northup.

H.R. 1656: Mr. Frost.

H.R. 1990: Mr. Olver and Mr. Weiner.

H.R. 2020: Mr. Andrews.

H.R. 2036: Mr. Souder, Mr. Murtha, Ms. Lee, and Ms. Ros-Lehtinen.

H.R. 2118: Mrs. Johnson of Connecticut and Mr. Andrews.

H.R. 2349: Mr. Gephardt.

H.R. 2598: Mr. Rangel.

H.R. 2641: Ms. Lee.

H.R. 2874: Mr. Matsui, Ms. Harman, Mr. Rush, Mr. Andrews, Mrs. Tauscher, and Mr. Terry.

H.R. 2908: Ms. Jackson-Lee of Texas.

H.R. 3238: Mr. Serrano, Ms. Norton, and Ms. Lofgren.

H.R. 3267: Mr. Wexler.

H.R. 3332: Mr. Delahunt and Mrs. Lowey.

H.R. 3414: Mr. Mollohan.

H.R. 3424: Mr. Tierney.

H.R. 3497: Mr. Norwood.

H.R. 3974: Mr. Gutierrez.

H.R. 4032: Ms. Rivers and Mr. Engel.

H.R. 4036: Mr. Larsen of Washington.

H.R. 4075: Mr. Kucinich.

H.R. 4152: Mr. Stupak, Mr. Souder, and Mr. Smith of New Jersey.

H.R. 4483: Mr. Payne, Ms. Harman, Mr. Olver, and Mr. Neal of Massachusetts.

H.R. 4579: Ms. Roybal-Allard.

H.R. 4639: Ms. Slaughter.

H.R. 4676: Mr. Baldacci, Mrs. Napolitano, Mr. McIntyre, and Mr. Andrews.

H.R. 4720: Mr. Honda.

H.R. 4760: Mr. Crenshaw and Mr. Baird.

H.R. 4895: Mr. Andrews.

H.R. 4916: Ms. Rivers, Mr. Grucci, Mr. Engel, Ms. Harman, and Mr. Payne.

H.R. 5047: Mr. Delahunt.

H.R. 5194: Mr. Frank, Mr. George Miller of California, and Mr. Visclosky.

H.R. 5227: Mr. Moore.

H.R. 5250: Mr. Green of Wisconsin.

H.R. 5251: Mr. Payne.

H.R. 5293: Mr. Rothman.

H.R. 5403: Mr. Goss and Ms. Pryce of Ohio.

H.R. 5414: Mr. McIntyre and Mr. Ross.

H.R. 5433: Mrs. Biggert, Ms. Hart, and Mr. Moran of Kansas.

H.R. 5434: Mr. Stupak and Mrs. Christensen.

H.R. 5435: Mr. Stupak.

H.R. 5437: Mr. Kucinich and Mr. Stupak.

H.R. 5441: Mr. Owens and Ms. Norton.

H.R. 5445: Mr. Wilson of South Carolina.

H.R. 5485: Mr. Moore.

H.R. 5499: Mr. Kucinich.

H.R. 5510: Mr. Kucinich and Ms. Eddie Bernice Johnson of Texas.

H.R. 5511: Mr. Smith of New Jersey.

H.R. 5533: Mr. Terry.

H.R. 5566: Mr. Ballenger.

H.R. 5573: Mr. Hyde and Ms. Brown of Florida.

H.R. 5614: Ms. McCollum, Mr. Bonior, and Ms. Lee.

H.R. 5624: Ms. Norton, Mr. Fossella, Mr. Owens, and Mr. Rangel.

H.R. 5641: Mr. Paul.

H.R. 5646: Ms. Lofgren, Mr. Serrano, Ms. Norton, Mrs. Christensen, Mr. Olver, Ms. DeLauro, and Mr. Abercrombie.

H.R. 5676: Mr. Israel.

H.J. Res. 93: Mr. Bartlett of Maryland.

H. Con. Res. 86: Mr. Pastor and Mr. Wynn.

H. Con. Res. 507: Mr. Ramstad.

H. Res. 105: Ms. Lofgren, Mr. Towns, and Ms. Eddie Bernice Johnson of Texas.

H. Res. 491: Mr. Price of North Carolina.

H. Res. 582: Mr. Moore and Mr. Walsh.

H. Res. 589: Mr. Lantos, Mr. Deutsch, Mr. Horn, Mr. Foley, Mr. Wynn, Ms. Berkley, Mr. Wexler, Mr. Shimkus, Mr. McGovern, Mr. Berman, and Ms. Watson.

H. Res. 592: Mr. McNulty, Mr. Levin, Mr. McGovern, Mr. Lantos, and Mr. Filner.

EXTENSIONS OF REMARKS

NATIONAL HOSPICE MONTH

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. PAYNE. Mr. Speaker, I rise today to recognize The Hospice of Moorestown Visiting Nurse Association and join with them and the National Hospice and Palliative Care Organization in recognizing November as National Hospice Month. This year marks the 20th anniversary of the establishment of the Medicare Hospice Benefit, which has enabled more than 4 million patients and families hospice services at little or no cost. This hospice care has allowed patients with terminal condition to die in their homes surrounded by family and friends, while at the same time receiving the necessary medical attention that they need.

Each year, approximately 775,000 terminally ill patients and their families rely on end-of-life care provided by the 3,200 hospice locations in communities throughout the United States. Professional staff and volunteers provide comprehensive care to not only the patients, but also to their families who receive counseling and bereavement care to help them cope with the loss of their loved one. Hospice care recognizes the need of every person, regardless of age, health, or social status to be treated with the utmost care in his or her final days of life.

Mr. Speaker, I ask that my colleagues join me today in recognizing November as National Hospice Month, in recognition of those who serve in our nation's hospices, whose hard work and selfless attitude care for the older generation of Americans as they reach the end of their lives.

HONORING CHARLES W. BEGG

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mrs. CAPPS. Mr. Speaker, today I would like to pay tribute to a wonderful member of the Goleta community, Mr. Charles W. Begg, better known as Chuck. On October 26, 2002, Chuck was honored by the Goleta Valley Girls Incorporated. The event was held at the future site of the Girls Inc. new center, which Chuck has been very supportive of.

Born and raised in Goleta, Chuck has been an active member of the community throughout his life. He played on Santa Barbara County's first football team while attending Santa Barbara High School. He was then drafted in 1941 and served in the Army Air Corps. Following his service in the military, Chuck returned to his home on California's central coast and proceeded to pursue a variety of professions, including a stint as a lobster fisherman, a ranch superintendent and an orchid grower.

While professionally he has been a valuable figure in the agricultural community, Chuck has also generously contributed to many local clubs and non-profits. He has supported the Boys Club, the 4–H Club, Girls Inc., the Goleta Amvets, the Scottish Society and the Goleta Cemetery. He is also a familiar face on the planning committees of countless BBQs for schools, churches, and other community organizations.

His sense of humor and generosity are two of the many attributes that make Chuck such a treasure of Santa Barbara County. By supporting the Boys Club and 4–H Club, Chuck has helped to enrich the lives of thousands of children. It is plain to see why Girls Inc. chose to honor this dedicated man.

Chuck Begg truly is a treasure of the Goleta community and I am honored to have the opportunity to pay tribute to him today.

HONORING JOSEPH A. STEGER AS HE ANNOUNCES HIS RETIREMENT AS PRESIDENT OF THE UNIVERSITY OF CINCINNATI

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. PORTMAN. Mr. Speaker, I rise today to honor Joseph Steger, a friend and constituent, who will retire as president of the University of Cincinnati next year.

Dr. Steger has been president of U.C. for more than eighteen years, beginning his service on July 6, 1984. He has served longer than any of U.C.'s former presidents except one, and his accomplishments on behalf of the University have been described as nothing short of phenomenal.

His success touched every segment of the University, from academics and research to fundraising. Dr. Steger brought the University into the digital age. Credited with bringing the Internet into the University's academic programs, Dr. Steger created a $1.5 million fund to help the faculty to adapt the new technology to the school's programs.

Under his direction, the University became a research powerhouse. Research funding quadrupled to more than $260 million, and the University's important National Science Foundation research ranking rose from 76 to 47. It was Dr. Steger who pioneered the international co-op program because, he said, a world class university should have a global presence. The University signed affiliation agreements with more than fifty universities from China to France, and he introduced requirements for language and cultural studies.

Dr. Steger believed the university should operate more like a private institution, so he worked to increase fundraising from $15 million annually to $73 million in the most recent fiscal year. During his tenure, the University's endowment grew from $150 million to nearly $1 billion. He initiated major physical changes to the campus, including new academic and research buildings designed by world renowned architects.

Dr. Steger graduated from Gettysburg College and earned his masters and doctoral degrees from Kansas State University. After working for Prudential Life Insurance, Dr. Steger began his academic career at the State University of New York-Albany, where he was named Outstanding Educator of the State University of New York System. He went on to Rensselaer Polytechnic Institute in Troy, New York, where he served as professor, vice president for administration and budget, and later dean and acting provost. Dr. Steger was director of organizational development and human resources for New York-based Colt Industries Inc. when he was named provost of the University of Cincinnati in 1982.

Joe Steger and his wife, Carol, are a formidable team. We hope they will stay in our area.

All of us in Greater Cincinnati appreciate the remarkable contributions of Dr. Steger. We will miss him as president of the University and we wish him great success in the new challenges to come.

TRIBUTE TO LUKUS CLINTON DUNKIN

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. CRAMER. Mr. Speaker, I rise today to give my sincere commendation to Mr. Lukus Clinton Dunkin, a native of Lawrenceburg, Tennessee and a sophomore at the University of North Alabama, for his heroic actions on October 26, 2001 that saved the life of Mr. Robert Justice of Opelika, Alabama. Luke Dunkin would never admit his heroism, but the people of North Alabama and the United States Coast Guard know that he was a hero on that day.

Luke was fishing in a protected harbor on the Tennessee River during rough weather when he heard the cries of a fisherman, Robert Justice, whose boat had capsized across the lake. Braving the 25 miles per hour winds, 55 degree weather, and three to six foot waves, Luke navigated his fishing boat to reach the distressed fisherman in less than 20 minutes. Risking his own life, he fought to pull Mr. Justice into his own boat and managed to get back to "Safety Harbor" where he rendered first aid until the Florence-Lauderdale EMAs arrived and took Mr. Justice to the hospital, where he made a full recovery.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, the United States Coast Guard has honored Luke Dunkin for his heroism. He is being awarded a Silver Lifesaving Medal from the Admiral Thomas H. Colins, Commandant of the U.S. Coast Guard. This is the second highest award a civilian can receive for heroic deeds from the Coast Guard, and only 2,080 of these awards have been bestowed upon Americans in history.

Mr. Speaker, Luke Dunkin deservingly joins a prestigious group of heroes with this award from the Coast Guard. On behalf of the people of North Alabama and the United States House of Representatives, I commend Mr. Dunkin for risking his own life to rescue Robert Justice on October 26, 2001.

TRIBUTE TO BISHOP CLAUDE L. CAMPBELL

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. PAYNE. Mr. Speaker, it is with great pride that I rise today to recognize Bishop Claude L. Campbell and his 37th Anniversary at St. Paul's Calvary United Church of God in Union, New Jersey. Since 1965, Bishop Campbell has enhanced not only his church and congregation, but also the community of Union.

Born on October 6, 1931 in Raeford, North Carolina, Bishop Campbell was raised in the Presbyterian Church where he was actively involved in the church choir and developed a love of music and singing. It was at an early age that Bishop Campbell knew that he was destined to a life of service.

Bishop Campbell moved to New Jersey in 1954, where he became involved in congregations in the tri-state area, eventually beginning his pastorship at St. Paul's Calvary United Church of God in October 1965. Under his direction, the church has flourished, and has developed an especially strong tie to the younger members of the congregation.

Mr. Speaker, I am sure that my colleagues here in the House of Representatives join me today as we recognize Bishop Claude L. Campbell and his many years of devoted service to St. Paul's Calvary Church of God.

HONORING CHRISTINE TAYLOR OF GROVER HILL, OH

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Ms. KAPTUR. Mr. Speaker, I rise to recognize the contributions to our Nation by Christine Taylor of Grover Hill, OH. In June of this year, Christine was elected State President of the Ladies Auxiliary to the Veterans of Foreign Wars of the United States on June 30, 2002.

Born in Eye, Suffolk, England and the oldest of the four children, Christine immigrated with her family to the United States in 1955. She graduated from Oxnard (California) High School in 1964 and became a naturalized citizen the following year.

She married Roger Taylor, a Navy Seabee veteran in the Vietnam War, in August 1966 and they moved to Ohio. Roger and Christine are the proud parents of three children, Kent, Jennifer, and Matt, and the grandparents of Krystal and Dustin Taylor.

Since 1975, Chris has been employed as a legal secretary and office manager for the DeMuth Law Office in Paulding, OH.

In 1974 she joined the Ladies Auxiliary to the V.F.W. as a charter member of the Grover Hill Auxiliary 2873, under the eligibility of her husband. Serving as the auxiliary's first Treasurer, she progressed through the various chairs to serve as Auxiliary President in 1980–1982. She currently serves as Auxiliary Trustee and program chairman.

Chris's activity on the District level started when she was asked by her friend, Susie Moon, to serve as District Secretary in 1981–1982. Elected as Conductress in 1985, she progressed through the district chairs to serve as District #1 President in 1988–1989, being named as runner-up Outstanding District President for that year.

Commencing in 1987–1988, Chris served as State chairman for number programs, including National Home, Youth Activities and the Voice of Democracy, Community Service, Cancer Aid & Research, Americanism, Buddy Poppy, Safety, Hospital, and Historian, in addition to serving as Assistant Conductress and Chief of Staff.

Elected as Department Guard in 1977, Chris has served as a State officer, culminating in her election and installation as the leader of the Ohio V.F.W. Ladies Auxiliary. During her term of office, Chris will lead the 51,600 members of the Ohio delegation under her theme of "Teamwork—The Key to Success."

Mr. Speaker, I salute the dedication, patriotism, and commitment of Christine Taylor and congratulate her on her election as leader of the Ohio V.F.W. Ladies Auxiliary.

HONORING THE ENVIRONMENTAL DEFENSE CENTER

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mrs. CAPPS. Mr. Speaker, I rise today to pay tribute to the Environmental Defense Center of Santa Barbara, California.

This year, the EDC celebrates its 25th Anniversary. The Central Coast of California and our nation have benefited in countless ways from its leadership. This organization has been a pioneer and champion of environmental and health issues in Ventura, Santa Barbara, and San Luis Obispo counties. EDC provides invaluable legal services, advocacy and public education on behalf of a variety of environmental causes.

There are many issues where the EDC's leadership has been indispensable for our community—improving water quality, protecting endangered species, promoting access to public lands. But I would like to highlight one issue in particular—the fight to end new oil drilling off our beautiful coastline. This is an area where the EDC's expertise is unrivaled and where its counsel to me has been incredibly valuable.

As the U.S. Representative for Santa Barbara and San Luis Obispo counties—and the newly elected Representative for the new 23rd Congressional district which encompasses the coastal communities in those two counties and Ventura County—I have made the fight to stop new offshore oil drilling a top priority.

We have reached a consensus here on the Central Coast that we do not want any more drilling off our coast. We do not want the 36 leases developed and we do not want the life of the current rigs extended. We understand all too well the risk to both our environment and our tourist-based economy that more oil development means. And we are all committed to winning this fight against more oil drilling.

EDC's historic leadership in this struggle, in-depth knowledge of the issue, and bright, aggressive attorneys has been an indispensable resource for me as I wage our fight in Washington.

This year we took an historic first step by getting the House of Representatives to vote in favor of stopping new drilling off our coast. I want to thank the EDC for all its help in getting my amendment passed.

I send my best wishes to the EDC and all of its staff and supporters and look forward to working together to advance our common goals in Washington and on the Central Coast. Good luck on the next 25 years!

TRIBUTE IN HONOR OF DR. DONALD C. HARRISON

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. PORTMAN. Mr. Speaker, I rise today in recognition of Dr. Donald Harrison, a friend and community leader, who will retire as Senior Vice President and Provost of the University of Cincinnati (U.C.) Medical Center next year.

Since 1986, Don has been at the helm of the U.C. Medical Center. Don was recruited from Stanford University, where he held a number of positions while working as a researcher and clinician for 23 years. Under Don's 16 years of leadership, the U.C. Medical Center has become a world-class teaching and research institution.

One of the important reasons for Don's success has been his ability to recruit outstanding medical professionals who are among the best and brightest in the world. With his team, he developed a new concept for U.C. and the University Hospital as a health system. This helped position the U.C. Medical Center as a major medical facility in the nation to provide research education and patient care for the next century.

As one of his early accomplishments, Don was key in the 1990s in helping to save University Hospital, which faced a financial crisis and could have cost Cincinnati one of its most important hospitals. At the same time, Don was looking ahead to turn the Medical Center into one of the most prominent research institutions in the world. Don headed up the

Reaching for the 21st Century plan which aimed to markedly increase research in heart disease, cancer, neurosicences as well as in perinatal and neonatology. During Don's tenure, research funding increased from $30 million annually to $209 million over this past year. The more recent Millennium Plan adds diabetes to its research focus areas. As part of the Millennium Plan, the existing Medical Sciences building will be renovated and expanded and the Genome Research Institute will be established.

During Don's tenure, U.C. Medical Center's programs and experts have become increasingly well known and respected for health sciences, research, education and patient care. And in addition to offering excellent health care to those in the Cincinnati area, the Medical Center has been shown to have an annual $3.05 billion economic impact on our area. These successes can be attributed to Don's vision and hard work over the years.

Don also is an entrepreneur and, among his accomplishments, he established BioStart at the Medical Center to give researchers a place to nurture their work to a point where it may become commercially viable. Throughout his career, Don also continued his work as a practicing, world renown cardiologist.

Mr. Speaker, Don has had a profound impact on the lives and economy of Greater Cincinnati, boosting the national reputation of the U.C. Medical Center and improving the health care available to people in the Ohio, Kentucky and Indiana tristate region. The medical research conducted at the Medical Center under Don's leadership also has enhanced the health care available to people across our nation and throughout the world. All of us in Southwestern Ohio are grateful to Don for his contributions to our community, and we wish him well as he steps down from his post as Senior Vice President and Provost of the U.C. Medical Center.

TRIBUTE TO LEO GREENBERG

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. FARR of California. Mr. Speaker, I rise today to honor a dear friend, Mr. Leo Greenberg, a long-time resident of Aptos, California who passed away on July 13, 2001. Mr. Greenberg was an active member of the community who sought to make our world a better place by tirelessly advocating for democratic principles, human rights, and social justice.

Mr. Greenberg was born 81 years ago in Tulsa, Oklahoma and grew up in Kansas City, Missouri, where his family moved when he was a small child. After graduating from high school, Mr. Greenberg enlisted in the Coast Guard. During World War II, the Coast Guard was militarized under the Department of the Navy, and in the Navy, Mr. Greenberg served admirably for many long years at sea. On his first mission hunting enemy submarines in the North Atlantic, his ship was caught in a "Perfect Storm" and nearly sank. Mr. Greenberg survived that ordeal and was able to participate in five invasions in the European theater, including engagements in Naples, Sicily, the South of France, and D-Day at Normandy where Mr. Greenberg was at the helm of his ship while crossing the Channel on the way to the Normandy invasion.

When Mr. Greenberg returned to the United States after WWII, his commitment to freedom and public service continued. After moving to Santa Cruz County in 1973, Mr. Greenberg and his wife, Bea Greenberg, became active in their community, engaging themselves in civic affairs and local and national politics. They were also devoted supporters and for their local Temple. Mr. Greenberg was especially proud of his role in finding the land where a new Temple now stands. He loved to hear his wife sing in the Choir and loved greeting his friends during services.

Mr. Greenberg also loved politics. He was passionate about social values and civil rights, and worked in his own community to promote these issues. He participated in the San Jose march on the day of the famous March on Washington in 1963. He believed that a strong government could help people and bring them out of suffering and poverty. Locally, he became a leader in Santa Cruz County local politics and was a strong supporter of local elected officials, including Norm Mineta, Leon Panetta, and my father, Fred Farr,

In his later years, Mr. Greenberg lived with the debilitating effects of a brain tumor. For the last five years of his life, he attended classes at the Cabrillo College Stroke Center where he learned to live with his disability and where he could keep up with politics, sports, Israel, and Temple life. About a year ago, I attended a meeting at Leo Greenberg's house where he asked me what I could do to promote stroke centers around our nation. He knew what the stoke center had done for him, and he wanted others who were afflicted with similar disabilities to have the same benefits. As a result of this meeting, the Cabrillo College Stroke center has since been designated a federal demonstration project. Mr. Speaker, it is my hope that stroke centers will spring up across the nation as a lasting memorial to Mr. Greenberg. This would be the ultimate tribute to Leo's humanity and long record of community service.

Leo Greenberg's lifelong dedication to public service and democratic principles should be commended. His efforts improved the quality of life on the Central Coast and his achievements have made lasting impacts on the people with whom he has worked. Mr. Speaker, it is my honor to recognize Leo Greenberg.

TRIBUTE TO THE IMANI BAPTIST CHURCH OF CHRIST, INC.

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. PAYNE. Mr. Speaker, it is with great pride that I rise today to recognize the 10th anniversary of Imani Baptist Church of Christ, Inc. The Imani Baptist Church of Christ has played a strong unifying role in the East Orange community for the past decade, bringing together both church and community.

From its founding on November 22, 1992, in the home of Deacon and Deaconess Browne of Orange, New Jersey, the church and its community have seen amazing growth. By October of 1998, the church had found a permanent home in East Orange, setting down roots and bringing the congregation together.

Under the direction of Reverend Moses A. Knott, Jr. for the first nine years, and under the new direction of Reverend Leonard Smalls, the church congregation has brought together both friends and community to better the surrounding city and community.

Mr. Speaker, I know that my colleagues here in the United States House of Representatives join me today in recognizing the Imani Baptist Church of Christ, Inc. and recognizing their 10th anniversary celebration.

HONORING ANDY GRANATELLI

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mrs. CAPPS. Mr. Speaker, today I would like to pay tribute to a special citizen of Santa Barbara, Mr. Andy Granatelli. Mr. Granatelli is quite an accomplished man and has contributed so much to the Santa Barbara community. It is only fitting that I have the opportunity to honor him today.

Andy Granatelli has been inducted into 20 Halls of Fame, ranging from the American Academy of Achievement to the Indianapolis Motor Speedway Hall of Fame. He's been the winner of two Indy 500 races and the Daytona 500 in 1972 and has appeared in hundreds of television and radio commercials in addition to making appearances on television shows such as Laugh-In and Johnny Carson's Tonight Show. But in addition to all those wonderful accomplishments, Andy Granatelli has been a very dedicated member of the Santa Barbara community, and it is for all his local accomplishments that I truly wish to honor him today.

On November 2, 2002, the United Boys and Girls Clubs of Santa Barbara County honored Mr. Granatelli at their 20th annual kids auction. Andy is on the board of the Boys and Girls Clubs of America and this important organization has greatly benefited from Mr. Granatelli's dedication to our youth. He is also the director of the Unity Shoppe, another important non-profit organization in Santa Barbara.

Founded in 1917, the Unity Shoppe has been called "the mother of all charities". It is the largest direct distributor of food and clothing in Santa Barbara County, and operates as an actual shop, where clients use scrip to purchase items of their choice. The Unity Shoppe does not receive funding from other agencies; it instead relies on the generosity of community members like Mr. Granatelli.

In addition to the Boys and Girls Club and the Unity Shoppe, Andy Granatelli is involved with several other community organizations. He is a board member of the Council on Alcoholism and Drug Abuse Summit Advisory, the Director of the Santa Barbara County Sheriff's Council and is a member of the Navy League of the United States. Andy is also a Council

Advisory Board Member for the Boy Scouts of America.

It always pleases me to be able to honor active community members such as Andy Granatelli. The generosity and dedication of people like Mr. Granatelli make Santa Barbara County a special and wonderful place to live, and I am truly thankful for his devotion.

DEDICATION OF THE NORTH ALABAMA VETERANS MUSEUM AND ARCHIVES

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. CRAMER. Mr. Speaker, I rise today to recognize the achievement of the community of Limestone County in my district on the occasion of the dedication of the North Alabama Veterans Museum and Archives. Located at the historic depot on Pryor Street in downtown Athens, AL, the very location recalls the image of hundreds of North Alabama natives who departed for war, and fewer who returned, from the depot's landing.

I would like to especially recognize the committed group of volunteers who have worked for more than three years to plan for the museum, raise funds for its construction, and oversee the project to completion. This museum and archives will serve as a resource for the community; teaching our youth about the sacrifices of their forebears and reminding all of us of the great and terrible cost of America's foreign conflicts.

Most of all, the North Alabama Veteran's Museum and Archives will serve as a tribute to the men and women who have served our Nation in times of war. In remembering the selfless dedication and patriotism of our veterans, we honor their heroism and preserve the memories of those who fought and those who perished.

Again, I wish to express my sincere appreciation and support of those who have labored to build this working monument. The people of Limestone County have demonstrated that they have not forgotten our veterans. I know the museum and archives will continue to teach, remind, commemorate and serve the actions of those Americans who fought for our freedom.

U.N. RESOLUTION

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Ms. KAPTUR. Mr. Speaker, I would like to insert the following articles into the RECORD.

[From the New York Times, Oct. 17, 2002]

U.S. IS PUTTING HEAVY PRESSURE ON FRANCE AND OTHER SKEPTICS FOR A U.N. RESOLUTION

(By Steven R. Weisman)

The Bush administration is mounting a campaign of public pressure and private diplomatic and economic concessions to persuade France and other skeptical members of the United Nations Security Council to go along with a single resolution threatening military force against Iraq.

With rising concern in Washington that time is short for passage of such a resolution—many experts say military action would be easier in the winter—talks on the resolution's wording are accelerating at the United Nations and in meetings and telephone calls in and between capitals. "There's no sense that the French don't want to do this," an administration official said, referring to a tough United Nations resolution on Iraq. "But there is a growing frustration that we don't yet have an agreement."

President Jacques Chirac of France, in another sign of disagreement with the United States, appeared in remarks published today to take issue with President Bush's arguments that Iraq is cultivating links with Al Qaeda and wants, as he said on Monday, to use it as "a forward army."

"As far as I know, no proof has been found, or at least been made official, for a link between Iraq and Al Qaeda," Mr. Chirac said in the interview in the Beirut-based, French-language newspaper L'Orient-Le Jour. "Even if certain terrorists could have been able to find refuge in Iraq, we must not mix up the issues. The first objective of action by the international community is Iraq, and that means disarmament."

Last month, Mr. Bush won praise, especially among war opponents in Europe, for promising to go to the United Nations for approval before taking military action against Saddam Hussein's government in Baghdad.

But after intense discussions and a certain impatience in Washington, now France, Russia and China—which have vetoes on the Security Council—remain opposed to giving the administration an automatic option to use force if Iraq fails to comply with new weapons inspections.

France wants the United States to go to a second stage and get later authorization for using force if Mr. Hussein rebuffs the United Nations inspectors.

France, which has a history of going its own way in NATO and maintains strong links to the Arab world, has emerged as a bigger stumbling block than Russia or China, which do not consider themselves American allies, administration officials said.

American officials express confidence that if they can persuade Mr. Chirac to go along with a single United Nations resolution, Moscow and Beijing will follow suit by either agreeing to it or not vetoing it.

At least so far, officials say, France is resisting an administration proposal to have the resolution threaten unspecified "consequences," rather than a more explicit reference to force, if the inspection process collapses.

Diplomats familiar with the negotiations said the Bush Administration could interpret the word "consequences" as tantamount to pre-approval for military action. At the same time, they said Washington was offering private assurances that the United States would not ignore the Security Council.

"This could end up with something that is not a one-stage or a two-stage process," said a diplomat familiar with the talks. "The word is that it will be one-and-a-half stages."

"The French really do want to be with us," a senior State Department official said. "The French are worried that if the first resolution authorizes all necessary means to enforce inspections, we might go to war without checking with them. What they want is to keep the Security Council in the picture. We believe that can be done in the context of one resolution. That's our goal."

In a sense, the negotiations at the United Nations are running along the same lines as Mr. Bush's talks with Congress over the last month.

The administration won support of skeptical lawmakers in part because of personal assurances from Mr. Bush that Congress would be consulted in the event of a war. Similarly, the United States is making promises of consultation with United Nations allies if a conflict occurs.

In the background are firm and even threatening words from Mr. Bush, who declared today that the United Nations must "face up" to the danger from the Hussein government. "Those who choose to live in denial may eventually be forced to live in fear," he said at a ceremony at which he signed the resolution passed by Congress last week authorizing the use of force against Baghdad. A White House official said he was not referring to any particular nation.

Mr. Chirac, who was in Alexandria, Egypt, today for the beginning of a Middle East trip, reiterated his support for a two-stage resolution process. He said the Security Council should authorize force only as a last resort if the Iraqis were not acting in good faith.

A separate drama is playing itself out behind the scenes, some administration officials said. That is the role of Secretary of State Colin L. Powell, who is the administration's main advocate of diplomacy as a means to address Iraq, rather than simply threats of force.

Vice President Dick Cheney and Secretary of Defense Donald H. Rumsfeld are said to be most skeptical that diplomacy can work. Their fear, according to officials, is that Mr. Hussein can drag out the diplomatic and inspection process.

Mr. Rumsfeld and Mr. Cheney are also the ones demanding a single resolution at the United Nations that explicitly threatens force if the inspection route fails, officials said.

They are also said to want a swift timetable for inspections and additional measures, like armed escorts for inspectors and removing Iraqi scientists and their families from the country for interviews.

Diplomats in and out of the government say France wants to see the United Nations play a continuing role so that the French can remain part of the process.

"The French want to look like they constrained or shaped what the United States ends up doing," said Dennis Ross, the former Middle East negotiator in the Clinton and first Bush administrations. "They want to be relevant and to make sure that the Security Council remains relevant. But they don't want to be left out if the United States goes to war."

Many experts say France's potential economic interests in a future Iraq are a factor in its wanting eventually to be on the side of Washington if Mr. Hussein is overthrown. Russia also has strong oil interests in Iraq.

"Obviously French oil companies would want to be major players in Iraqi oil fields and in the export and refining of Iraqi oil in a post-Saddam Iraq," said Paul Sullivan, a professor of economics at the National Defense University in Washington. "The French signed oil deals in Iraq, but these deals cannot be implemented until after the sanctions against Iraq are taken off."

The Bush administration has gone out of its way to assure Moscow that in the event of a "regime change" in Baghdad, Russian interests will be looked after.

Recently Secretary Powell told the U.S.-Russia Business Council that the United States fully understood Russia's desire to play a role in Iraq's oil industry. "We are taking fully into account the interest of the nations in the region and the economic impact such a transition might have on them," he said.

[From the New York Times, Oct. 17, 2002]

IRAQ STATES ITS CASE

(By Mohammed Aldouri)

Mohammed Aldouri is the Iraqi ambassador to the United Nations.

After so many years of fear from war, the threat of war and suffering, the people of Iraq and their government in Baghdad are eager for peace. We have no intention of attacking anyone, now or in the future, with weapons of any kind. If we are attacked, we will surely defend ourselves with all means possible. But bear in mind that we have no nuclear or biological or chemical weapons, and we have no intention of acquiring them.

We are not asking the people of the United States or of any member state of the United Nations to trust in our word, but to send the weapons inspectors to our country to look wherever they wish unconditionally. This means unconditional access anywhere, including presidential sites in accordance with a 1998 signed agreement between Iraq and the United Nations—an agreement that ensures respect for Iraq's sovereignty and allows for transparency in the work of the inspectors. We could never make this claim with such openness if we did not ourselves know there is nothing to be found. Still, we continue to read statements by officials of the United States and the United Kingdom that it is not enough that Hans Blix, head of the United Nations Monitoring, Verification and Inspection Commission, and his team of inspectors have unconditional access. They say this is because the Iraqi government may be hiding weapons that will not be found, or is moving weapons from place to place, or is developing new weapons in roving vans or in underground locations.

The United Nations officials with whom our government has worked on these matters know that these concerns have no foundation. In December 1998, when the United Nations weapons inspection team left Iraq on the orders of Richard Butler, the chief United Nations arms inspector at the time, it had exhausted all possibilities after seven years of repeatedly examine all possible sites; only small discrepancies existed.

It is now widely conceded that Iraq possesses no nuclear weapons and that we could not develop them without building facilities that could be spotted by satellite. Since 1999, we have allowed the International Atomic Energy Agency to visit Iraq. If it wishes, it can inspect any building anywhere. The agency's inspectors will find nothing untoward.

Scott Ritter, who led many United Nations inspections, has said that he questions whether Iraq possesses biological weapons. Mr. Ritter also has been on CNN in recent months explaining that his inspection team destroyed plants that could produce chemical weapons. If these plants were reconstructed, Mr. Blix and his team would quickly find them out. Building such weapons costs billions of dollars and requires enormous facilities and huge power sources. The idea that such projects could be moved around in trucks or stashed away in presidential palaces stretches the bounds of imagination.

It is my belief that the American people are not aware of this history because, in my opinion of my government, no American political figure has been seriously interested in discussing these matters with our government. The United Nations was created in 1945 to provide a forum for nations in conflict to come together to work out their disagreements. It was designed expressly for the purpose of making the use of force an absolute last resort.

For more than 11 years, the people of Iraq suffered under United Nations economic sanctions, which have been kept in place largely by American influence. According to statistics compiled by the Iraq Ministry of Health, these sanctions have caused the death of more than 1.7 million of our citizens. The embargo has been so severe that we have been prevented from importing chemicals needed for our sewage, water and sanitation facilities.

At the same time, the last three American presidents have stated that these sanctions could not be lifted as long as our president, Saddam Hussein, remains the nation's leader.

Iraq is not a threat to its neighbors. It certainly is not a threat to the United States or any of its interests in the Middle East. Once the United Nations inspection team comes back into my country and gets up to speed, I am confident that it will certify that Iraq has no weapons of mass destruction—be they chemical, biological or nuclear. Such certification we hope, will remove the shadow of war and help restore peace between our nations.

IN HONOR OF MARILYN BRIGGS UPON HER RETIREMENT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. GEORGE MILLER of California. Mr. Speaker, I rise to commend the lifelong achievements of Marilyn Briggs, who is retiring after 33 years of dedicated service to school children and their nutritional development. Marilyn Briggs, R.D., M.S., S.F.N.S., is the Assistant Superintendent of Public Instruction, Director of the Nutrition Services Division, for the California Department of Education. She is responsible for child nutrition, commodity food distribution and nutrition education programs statewide, where over four million meals are served daily to California's children. In her thirty-three years of work in diverse food and nutrition programs, over twenty of which have been directly involved with child nutrition and nutrition education, Marilyn has effected numerous changes that have advanced good nutrition for children, adults and families not only in California, but also across the nation. As a result of her commitment, leadership, and hard work, she leaves a legacy upon her retirement of many nutrition and nutrition education programs that will continue to be utilized by Child Nutrition Programs in California and other states.

Marilyn's accomplishments are too many to list, however the following are some of the most noteworthy:

She created the concept of the nationally acclaimed 5 A Day program as part of the development of the California Daily Food Guide. This well-known program, aimed at improving the nation's health through increased fruit and vegetable consumption, has received over $1 billion in contributions from the food industry and public and private organizations, and is now used in markets and schools across the country.

She coordinated the Shaping Healthy Choices Initiative including the establishment of statewide SHAPE (Shaping Health As Partners in Education) model programs, which serve as catalysts to improve the quality of comprehensive nutrition programs in California.

She initiated and developed national standards for the Healthy School Meals Initiative, which are now part of the Coordinated Review Effort audit for every National School Lunch Program in the United States.

She reviewed and rewrote the 5-a-Day Adventures CD-Rom for elementary school students, which is now used in over 2 million classrooms.

She developed the conceptual model for the Team Nutrition Schools network based on California's SHAPE program, and mapped out the plan for all materials to be used in the program.

Along with two other Nutrition Education and Training staff, she developed the comprehensive school health initiative, "Healthy Kids, Healthy California", which is now used by the Center for Disease Control as the model program to be implemented nationwide.

She coordinated the development, field-testing, evaluation, and publication of a state nutrition education curriculum series, "Choose Well, Be Well", for students, preschool age through grade twelve.

She coordinated Nutrition, Education and Training Section Publications such as The California Daily Food Guide, Better Breakfast Better Learning, Eat Well Learn Well, and Strategies for Success.

She has provided expert testimony and analysis to both State and Federal Legislators, and answered inquiries from Congress regarding USDA Nutrition Programs.

She has served as a consultant to the USDA in developing regulations for implementation of the National School Lunch Act, such as the highly complex issue of competitive food sales.

Throughout her career, Marilyn Briggs has participated in numerous nutrition and nutrition education professional organizations and councils, where she donates extraordinary amounts of volunteer time and expertise to further child and other nutrition programs. Most recently she has completed a one year term as President of the National Society for Nutrition Education, where she had previously held other Board positions, led their strategic planning process, and founded and chaired the Division of Specialists in Nutrition Education for Children. She has also been President of the National Association of State NET (Nutrition Education and Training) Program Coordinators, where she led a Nutrition Education and Training strategic planning process which resulted in the publication by USDA in 1994 of "Promoting Healthy Eating Habits for Our Children: The Strategic Plan for Nutrition Education" that is still used today as the framework for the national NET Program. As President of the California Nutrition Council, she coordinated a multi-disciplinary process to make policy recommendations in the areas of Food Safety and Quality, Food Security and Delivery, Food Supply and Agriculture, Nutrition Education and Marketing, Nutrition and Health, and Nutrition Research and Professional Development. The Council then used these policy recommendations to establish a statewide food, nutrition, and health policy that prioritized and addressed the nutrition needs of California, to be introduced as legislation during the 1996–1997 California legislative session. Marilyn has clearly been a leader in promoting lifelong nutrition and health for children and their families.

Marilyn has also served on several Boards and Committees, including the Research and Education Advisory Board to the National Food Service Management Institute, the Nutrition Section of the American Public Health Association, the Legislative Committee of the California Dietetic Association, the School Nutrition Practice Group of the American Dietetic Association, the 5 A Day Steering Committee, and the Credentialing and Certification Council, Foundation Board, and Youth Advisory Committee of the American School Food Service Association. She has chaired the American School Food Service Association Nutrition Committee, the American Dietetic Association Public Relations Committee and Education Section of the School Nutrition Practice Group, and the California School Food Service Association Education and Training Committee, Nutrition Standards Committee, and Youth Advisory Councils. She has acted as the California Department of Education liaison to the California School Food Service Association for more than ten years. In addition, Marilyn has authored and acted as an expert reviewer for numerous nutrition publications, and presented keynote speeches on nutrition related topics across the country.

In recognition of her exceptional contributions in the field of child nutrition, Marilyn Briggs has received several awards. They include the "Friends of Agriculture" outstanding public service award by the California Farm Bureau and the California Agriculture in the Classroom Program, the California Department of Education Unit Award, a graduate student fellowship from the University of California at Berkeley, and the "Moscone Commitment to Nutrition and Nutrition Education Award", which has been given to her twice by the California School Food Service Association.

In addition to working as the Assistant Superintendent of Public Instruction, Marilyn has held several positions within the Nutrition Services Division of the California Department of Education since 1981. They include Nutrition Education and Training Specialist, Child Nutrition Consultant, Administrator of Nutrition Education and Training, and Assistant Nutrition Services Division Director. She has also worked in a temporary Intergovernmental Personnel Assignment as a Special Assistant to the Associate Administrator of Food and Consumer Service, United States Department of Agriculture, in Washington, D.C. during 1994 and 1995. In each of these positions, Marilyn has not only demonstrated her passion for child nutrition and nutrition education, but she has worked tirelessly to lead collaborative efforts to develop nutrition programs and curriculum and ensure their implementation.

Marilyn was born Marilyn Mae Briggs on June 6, 1946 in Washington, D.C. to Eleanor Reese Briggs and George McSpadden Briggs, Jr. She attended Bethesda Elementary School in Bethesda, Maryland, where she earned straight A's all seven years, and excelled in music and performing in school plays. She graduated from Leland Junior High School in Bethesda, Maryland, and Acalanes High School in Lafayette, California, where she continued to excel in academics, music, and drama. In 1968, she received a Bachelor of Science Degree in Dietetics and Nutrition from the University of California at Berkeley, where her father was the Chair of the Nutritional Sciences Department. She completed her Dietetic Internship at the United States Public Health Service Hospital in Staten Island, New York, and became a Registered Dietitian in 1969. After working a few years, Marilyn earned her Master of Science Degree in Nutritional Sciences, again from the University of California at Berkeley, and she became Credentialed as a School Foodservice and Nutrition Specialist (S.F.N.S.) through the American School Food Service Association in 2000. Marilyn has three children, Nancy, Catherine, and Robert, two grand daughters, Emma and Samantha, and two sisters, Nancy Louise Briggs and Catherine Briggs Hanafi, in addition to her mother, Eleanor, and her father, the late George Briggs.

Marilyn Briggs's career has been one of continually giving above and beyond what has been required of her. As Assistant Superintendent of Public Instruction, Director of the Nutrition Services Division, for the California Department of Education, she has been responsible for the administration of the National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, Summer Food Service Program, Food Distribution Program, Special Milk Program, and State Meal Mandate in California. While managing these programs with perfection, Marilyn has continually sought development and implementation of new concepts and programs to advance good nutrition and nutrition education in California and beyond. Many of her dreams and ideas have become national models and standards, yet Marilyn seeks no personal credit. She is humble in her success, a strong but gentle leader, and highly respected by everyone with whom she has ever worked. She accomplishes what she sets out to do, finds ways around roadblocks, and is a master of communication, with the ability to bring consensus among dissenting groups when necessary to focus on the common goal of good nutrition. The vision of the Nutrition Services Division, "Working with our partners, we will lead the nation in providing exemplary nutrition programs and services," has definitely been achieved under Marilyn's direction. She is truly a great friend and advocate to all who value nutrition and nutrition education.

SPINA BIFIDA AWARENESS MONTH

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. SMITH of New Jersey. Mr. Speaker, today, I take the opportunity to let my colleagues know that October was National Spina Bifida Awareness Month. I think we should all pause for a moment and pay tribute to the more than 70,000 Americans—and their family members—who are currently affected by Spina Bifida. After all, Spina Bifida is the nation's most common, permanently disabling birth defect. The Spina Bifida Association of America (SBAA), an organization that has helped people with Spina Bifida and their families for nearly 30 years, works every day—not just in the month of October—to prevent and reduce suffering from this devastating birth defect.

The SBAA was founded in 1973 to address the needs of the individuals and families affected by Spina Bifida, and is currently the only national organization solely dedicated to advocating on behalf of the Spina Bifida community. As part of its service through 60 chapters in more than 100 communities across the country, the SBAA puts expecting parents in touch with families who have a child with Spina Bifida. These families answer questions and concerns and help guide expectant mothers and fathers. The SBAA then works to provide lifelong support and assistance for affected children and their families.

Together, the SBAA and the Spina Bifida Association of the Tri-State Region, which is based in Flemington, New Jersey, work tirelessly to help families meet the challenges and enjoy the rewards of raising their child. I would like to acknowledge and thank SBAA and the Spina Bifida Association of the Tri-State Region for all that they have done for the families affected by this birth defect, especially those living in my district. Their work is truly a labor of love.

For those colleagues who don't know, Spina Bifida is a neural tube defect that occurs when the central nervous system does not properly close during the early stages of pregnancy. Spina Bifida affects more than 4,000 pregnancies each year, with more than half ending tragically in abortion. Many times, unborn children with Spina Bifida are killed by abortion because of a false belief that nothing can be done to help victims of this disease. The truth is that today, approximately 90 percent of all new born babies diagnosed with this birth defect live into adulthood, approximately 80 percent have normal IQs, and approximately 75 percent participate in sports and other recreational activities.

With proper medical care, people who suffer from Spina Bifida can lead full and productive lives. However, they must learn how to move around using braces, crutches or wheelchairs, and how to function independently. They also must be careful to avoid a host of secondary health problems ranging from depression and learning disabilities to skin problems and latex allergies.

During this month of October, the SBAA and its chapters make a special push to increase public awareness about Spina Bifida and teach prospective parents about prevention through proper nutrition and pre-natal care. Simply by taking a daily dose of the B vitamin folic acid (which is found in most multivitamins), women of child-bearing age have the power to reduce the incidence of Spina Bifida by up to 75 percent. That such a simple change in habit can have such a profound effect should leave no question as to the importance of awareness and the impact of prevention.

While consumption of folic acid helps with prevention, we must do more to ensure a high quality of life for people already living with Spina Bifida so more families choose the blessing and joy of having a child. The challenges of raising a child with Spina Bifida are significant, but the challenges can be overcome. Fortunately, Spina Bifida is no longer the death sentence if once was, and now most people born with Spina Bifida will likely have a normal or near-normal life expectancy. The challenge now is to ensure that these individuals have the highest quality of life possible.

I call upon my House colleagues to provide $3 million in much-needed funding to establish a National Spina Bifida Program at the National Center for Birth Defects and Developmental Disabilities (NCBDDD) at the Centers for Disease Control and Prevention (CDC) to ensure that those individuals living with Spina Bifida can live active, productive, and meaningful lives. In addition, I urge the House to take up the recently passed Senate version of the "Birth Defects and Developmental Disabilities Prevention Act of 2002," (S. 2980), which takes many critical steps that will work to prevent Spina Bifida and to improve the quality of life for individuals and families affected by this terrible birth defect. I am hopeful that we will act shortly to pass the measure so it can be sent to the President for his signature.

I again wish to thank the SBAA and its chapters for all of their hard work to prevent and reduce suffering from this birth defect, and for their commitment to improve the lives of those 70,000 individuals living with Spina Bifida throughout our nation. Much more work still needs to be done, and I am confident this fine organization and its chapters will lead the effort for decades to come. I wish the Spina Bifida Association of America and the Spina Bifida Association of the Tri-State Region the best of luck in their endeavors and urge all of my colleagues and all Americans to support their important efforts.

TRIBUTE TO CHRISTOPHER J. D'AMELIO

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. FARR of California. Mr. Speaker, I rise today to honor Christopher J. D'Amelio, Boatswain's Mate First Class, United States Coast Guard, a longtime resident of Aptos, California. Petty Officer D'Amelio has been selected to receive the 2002 Gold Medal from the Association for Rescue at Sea for his integral role in a rescue that occurred near Peacock Spit at the mouth of the Columbia River.

Petty Officer D'Amelio deserves recognition for his heroic actions on September 2, 2001. His excellent performance as Surfman aboard Coast Guard Motor Life Boat 47248 was directly responsible for the saving of three lives. Petty Officer D'Amelio expertly maneuvered the MLB through plunging breakers 18 feet high to reach a capsized fishing boat. He calmly squared the bow into the oncoming surf and skillfully backed the MLB to the four individuals clinging to the overturned vessel. With the assistance of a rescue swimmer, Petty Officer D'Amelio successfully retrieved all four survivors and then escaped to calmer water where he and his crew could more accurately evaluate their condition. Upon discovering that one individual required immediate medical attention, Petty Officer D'Amelio quickly coordinated and directed the transfer of the individual to a waiting Coast Guard helicopter. Petty Officer D'Amelio's superb Surfman skills, his leadership, and his poise under great pressure prevented an already disastrous situation from becoming even worse.

Since joining the United States Coast Guard in 1995, Petty Officer D'Amelio has consistently demonstrated the three core values—Honor, Respect, and Devotion to Duty—that have contributed to this service's distinguished heritage. In recognition of his repeated displays of leadership, bravery, and outstanding achievement Petty Officer D'Amelio has twice received the Coast Guard Good Conduct Medal, the Commandant's Letter of Commendation with the Operational Distinguishing Device, the Coast Guard Achievement Medal with the Operational Distinguishing Device, and the Coast Guard Commendation Medal with Operational Distinguishing Device. In addition Petty Officer D'Amelio was named the Enlisted Person of the Year for the Thirteenth Coast Guard District in 2001.

While maintaining his professional excellence, Petty Officer D'Amelio has also maintained the role of devoted husband and father. He and his wife, Courtney, have two children: Taylor Brooke D'Amelio and Matthew John D'Amelio. In all spheres of his life, Petty Officer D'Amelio's extraordinary efforts and superb accomplishments merit respect and appreciation. I offer him congratulations for his years of dedicated service in the United States Coast Guard, and it is my great honor to represent such a courageous constituent.

CITIZEN INPUT

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. SCHAFFER. Mr. Speaker, throughout the 6 years I have represented them in Congress, the people of Colorado have shared with me their thoughtful insights, beliefs, and dreams for a better state and country in a variety of ways. In writing, by telephone, by e-mail and through personal visits, I have enjoyed the input of tens of thousands of Coloradans.

These efforts have been indispensable in my efforts to accurately and completely represent my state in the Congress, and I am grateful to every citizen who has ever taken the time to contribute their best judgment toward resolving the important issues of the day. Thanks to them, I have learned much about often complex issues, about the country and about Colorado.

Through these letters, e-mails, and telephone calls my constituents have expressed the values of hard-working families. Consistently, the themes of less government intervention, more personal freedom, and opportunity for prosperity have been the most vivid expressed by those who have contacted me. It is clear that Coloradans are a self-reliant and outspoken people for whom faith, integrity and an honest day's wage form the foundation of a thriving community.

In particular, I am grateful for the personal artifacts included with so many letters. Items such as pictures, pins, and books truly exhibit the character of the individuals I am elected to serve. These are among the things that have made the greatest impression on me while serving in Congress.

In addition, I am thankful for all the people who have ever attended my weekly breakfast town meetings in Larimer County, CO. Each Monday morning they share their hopes and expectations with me, on legislation and politics. I have found the attendees to be dynamic and sincere. They come from around Colorado, and quite often, other states. They are never timid about stating their opinions, which have been a valuable resource for me. In fact, my work at the nation's capital always reflects the ideas and comments expressed during these meetings.

Surely, among the most significant duties of a U.S. Representative is aiding individuals in fighting the red tape of insensitive government agencies. During my time in Congress, I have had the privilege to help thousands of people who came to me for help. Some common examples include cases of ensuring veterans receive benefits promised in exchange for their years of dedicated service, assisting Social Security recipients in getting monthly checks, helping entrepreneurs fight the Internal Revenue Service, assisting farmers in getting drought relief, and helping immigrants become legal U.S. citizens.

Regardless of the issues confronting the Congress, fighting for Coloradans is the most gratifying work. I am thankful for the people of Colorado who contacted me for help. Serving in this great Congress to represent the values of Colorado has truly been an honor. Those Coloradans who volunteer their opinions have contributed to a solid record for which I am most proud. My voice has been theirs as I have endeavored to be nothing more than a reflection of my constituency. I will forever remain in their debt. They are the best of America.

TRIBUTE TO KRISTA ANDERSON

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. WALDEN of Oregon. Mr. Speaker, I rise today to pay tribute to a member of my Medford, OR, district staff. During her time with us, Krista Anderson has tirelessly served the people of the Second District of Oregon, and will soon be on her way back to Western Oregon University to finish her degree. Her cheerful demeanor and strong work ethic will be greatly missed.

Mr. Speaker, Krista has volunteered countless hours this summer assisting my district staff. Whenever something needed to be done, Krista readily stepped in and offered to help. From simple tasks like answering phones to helping with complex preparations for the visits of President George W. Bush and former Speaker Newt Gingrich to Medford, Krista proved herself to be an extremely reliable and efficient worker. My staff came to rely on her heavily, and she never let them down. I'm sure this strong work ethic will serve her well in any path she chooses to pursue.

Krista is the daughter of John and Renee Anderson of Medford. She graduated from South Medford High School in 2000 with a perfect 4.0 grade point average. While at South Medford, she proved to be not only a top-notch student, but excelled in extracurricular activities, as well. She was a member of the International Thespian Society and helped with the production of eleven plays, earning honors as best technician.

From Medford, Krista moved to Monmouth, OR, to attend Western Oregon University, where she has continued to stand out in her college years. She is a member of the Honor Society Phi Kappa Phi and is currently working toward a degree in Public Policy Administration with a minor in Speech Communication, maintaining a 3.94 grade point average. This is quite a feat given that she also devotes her time to Concert Choir, College Republicans, Campus Crusade for Christ, and a cultural group called Conversation Links.

Mr. Speaker, Krista has proven herself to be a kind, upstanding, hard-working individual, both personally and professionally. Mr. Medford office was very fortunate to have such a dedicated intern during an especially busy summer. I know that Krista will only continue to excel, and I wish her all the best in her future endeavors.

HONORING ROSEMARY DUNCAN

HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. SWEENEY. Mr. Speaker, I rise today to honor Ms. Rosemary Duncan on her outstanding leadership and dedication to helping our military personal at the Samuel S. Stratton VA Medical Center in Albany, New York. Ms. Duncan received her degree as a Nurse Practitioner, from Albany Medical College/Russell Sage College in 1973 and has been a Registered Nurse since 1960. Although a Nurse Practitioner, her activities within the Hospital have extended far beyond the realm of patient care.

Always considering patient care to be very important, Ms. Duncan has permeated many different facets of the Stratton VA Medical Center. By taking on positions in the Public Relations department and becoming the Enrollment Director between 1998–2000, she has aided the Stratton VA Medical Center in many different manners in order to improve patient care. Ms. Duncan has also held many other prestigious positions; she has worked in Internal Medicine and was also the Associate Chief of General Internal Medicine. In addition, she has worked in the Emergency Room at both the Stratton VA Medical Center and at St. Peter's Hospital.

Rosemary Duncan has received many major awards. Most recently, she received the Homeless Veterans Stand Down Appreciation Award of 2002. Some of her past awards include, the National DAV Award in 1999 and the New York State American Legion Award in 1997. With her strong dedication to Veterans affairs and her caring nature, Rosemary has volunteered to be a board member for the Military Heritage Institute as well as Vet Care in 1996. She also participated in the Freihofer's Run for Women in 1994.

Instilled with a strong sense of compassion, Rosemary Duncan has dedicated her life to the well-being of veterans. She serves her country in an admirable capacity through her selfless acts. She is a friend of all people who are in need of care and is an important asset to the Stratton VA Medical Center.

TRIBUTE TO EMMITT SMITH

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. JEFF MILLER of Florida. Mr. Speaker, I rise today to congratulate my constituent and the new National Football League's All-Time leading rusher, Emmitt Smith.

On Sunday, October 27, 2002, Emmitt Smith took a handoff and crashed through the line for an 11-yard gain, giving him 16,728 career rushing yards, breaking the 15-year mark set by the former Chicago Bears great, Walter Payton, and establishing him as the most complete running back in NFL history.

At Escambia High School, Emmitt Smith posted some of the state's highest career rushing and scoring titles with 8,804 yards, 106 touchdowns and two state titles. As a senior, Emmitt Smith was an All-American running back and prep Player of the Year by Parade magazine and USA Today. He was also selected as the "Just Say No" anti-drug campaign's prep football players representative at the White House.

Being one of the nation's top high school recruits, Emmitt Smith decided to stay at home in the Sunshine State and attend the University of Florida. In his seventh game as a Gator, he passed the 1,000-yard mark faster than any other runner in college football history and led the Southeastern Conference in rushing as a freshman with 1,341 yards.

Following his college career, Emmitt was the 17th pick by the Dallas Cowboys in the 1990 NFL draft. Considered too small and too slow by critics, he made an impression few other players can equal. Throughout his 12-year career, he has established himself as one of the games all-time greats. He has won three Super Bowl titles, four NFL rushing titles and a league and Super Bowl Most Valuable Player award.

This same man who is impossible to tackle on the football field has trounced his biggest adversaries not in the football stadiums across the country, but on the streets and neighborhoods of our communities. Emmitt Smith is active in the communities of Northwest Florida, dedicating his time to aiding youth and children. He hosts the annual Feed the Children food drive and is a national spokesman for the "Take a Player to School Program" and is one of the many supporters of Big Brother/Big Sisters and Boys Club of Pensacola.

On behalf of the United States Congress, I would like to congratulate Emmitt Smith, number 22, on his great achievement and offer my sincere thanks for his example to the communities of Northwest Florida.

TRIBUTE TO NEWARK EMERGENCY SERVICES FOR FAMILIES, INC.

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. PAYNE. Mr. Speaker, it is with great pride that I stand today to recognize the 25th anniversary of Newark Emergency Services for Families, Inc. Founded in 1977 by a group of concerned Newark citizens, the organization sought to help residents who had suffered job loss and displacement after the civil uprisings of the 1960's. Opening its doors in 1979 as the "Emergency Service Network", the organization has grown immensely in both breadth and depth.

Since its beginnings, the Newark Emergency Service for Families, Inc. has gone from seeing 1,257 Newarkers annually in 1984, to over 50,000 Essex County citizens annually. Programs now not only include basic emergency services but also long-term programs designed to promote stabilization and self-sufficiency.

The Newark Emergency Service for Families, Inc. has become a vital organization not only in Newark, but also in the Essex County community as a whole. The organization, started by citizens themselves, has reached out to help neighbors in need, thus enriching the lives of many and strengthening our community.

Mr. Speaker, I am sure that my colleagues here in the House of Representatives join with me today in recognizing the vital contributions of the Newark Emergency Services for Families, Inc. on their anniversary of 25 years of service to the Newark community.

PAYING TRIBUTE TO JACKIE ELAINE MEADOWS WALLACE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. McINNIS. Mr. Speaker, it is with great honor that I take this opportunity to recognize Jackie Wallace for her many years of service in Colorado. Jackie, a resident of Mancos, Colorado, is an outstanding example of the hard work and dedication that citizens throughout rural America devote to their communities. It is with great pride that I pay tribute to her today before this body of Congress and this Nation.

Jackie grew up around the agricultural and ranching communities of Colorado where she learned firsthand of the joys and hardships that come with life on the range. Born to Jack and Lucille Meadows on a snowy night in 1932, Jackie was raised on a ranch in McElmo Canyon. The fourth daughter of five, she attended the local Battlerock School until the girls moved to Cortez where they could attend high school.

On Christmas Day 1951, Jackie married Dwight Wallace. When Dwight was drafted to serve two years in the Army, Jackie and Dwight's mother Mary ran the family ranch themselves, with the generous help of Doreen and Jimmy Fitzgerald. But Jackie hasn't restricted herself to just the ranch. As a charter member of the Southwestern Cowbelles, Jackie co-chaired their napkin committee, sold the most brand-quilt tickets, and even presided as their president from 1964 to 1965. For all her efforts with the organization, the Southwestern Cowbelles recently honored Jackie with an Honorary Lifetime Membership.

Mr. Speaker, it is with great admiration that I recognize the dedication of Jackie Wallace. Jackie is an outstanding example of rural American values and it is my honor to extend to her my congratulations before this body of Congress and our Nation. Keep up the good work, Jackie!

OPPOSITION PARTY MEMBERS BEING ARRESTED IN PUNJAB

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. TOWNS. Mr. Speaker, in Punjab, there are elections coming up for the SGPC, the organization that is in charge of all the Gurdwaras, or Sikh temples, in India. According to the Times of India, members of the Shiromani Akali Dal, which used to run the state government until it lost the state elections to the Congress Party earlier this year, are being arrested in connection with these elections. Many members of the party are going into hiding.

The Akali government under the leadership of Parkash Badal was the most corrupt government in Punjab's history. They came up with a new term for bribery. They called it "fee for service." You didn't get the service unless you paid the fee. And they did nothing to get Sikh political prisoners released or to bring police officers who committed murder and other atrocities against the Sikhs to justice. I was proud to be one of the 42 Members of this House from both parties who signed a letter earlier this year asking President Bush to work for the release of these political prisoners.

We all support the prosecution of corrupt and brutal officials who were responsible for crimes against the people. However, those who committed these crimes should be brought to justice for these crimes. They and their followers should not be arrested merely for belonging to the Akali party.

A democracy does not arrest people for their political affiliations. A democracy does not hold political prisoners. Yet these things are happening today in India, which says that it is the "world's largest democracy." A report from the Movement Against State Repression showed that India admitted to holding 52,268 Sikhs as political prisoners. Some have been there since 1984. Tens of thousands of other minorities are also being held, according to Amnesty International.

More than 250,000 Sikhs have been murdered by the Indian government. It has also killed over 80,000 Kashmiri Muslims, over 200,000 Christians in Nagaland, and tens of thousands of other minorities as well. Priests have been killed, nuns have been raped, churches have been burned, prayer halls and schools have been attacked by members of the RSS, the pro-Fascist parent organization of the ruling BJP. Indian soldiers were caught red-handed trying to set fire to some Sikh homes and a Gurdwara in a village in Kashmir. The government has been implicated in the mass murders of Muslims in Gujarat this spring and in the March 2000 massacre of 35 Sikhs in Chithisinghpora. It is clear that the true face of India is not democratic at all, but it is a Hindu theocratic tyranny.

The political arrest of members of the opposition party underline the fact that India is not democratic. Therefore, it is not worthy of U.S. support. We should stop our aid to India and our trade with that corrupt, theocratic state. We should make a public declaration of support for self-determination for Punjab, Khalistan, for predominantly Christian Nagaland, for Kashmir, and for all the peoples and nations seeking their freedom from India. This is the best way to bring real freedom, peace, stability, and security to everyone in that troubled region.

Mr. Speaker, I would like to place the Times of India article into the RECORD at this time.

[The Times of India, Nov. 12, 2002]

BEARDS WERE TIED UP, BLUE DISCARDED

(By Ks Dhaliwal)

JALANDHAR/BEAS/RAYYA.—Gurcharan Singh Channi heard the knock on the door at 2.30 am of November 7. He guessed right. It was the early morning swoop. He slipped out of the back door. From then on till Monday he remained underground, travelling to Nadda Sahib, boldly giving interviews to various TV channels, moving on to Chandigarh, Ludhiana. Only on Monday he reached Harminder Sahib along with thousands of others who were on the run after the Punjab Police went into an overdrive to arrest SAD (Badal) leaders in view of the SGPC elections. Channi is the general secretary, Jalandhar urban unit, SAD (Badal). Many more like Channi reached Harminder Sahib on Monday in disguise. They hoodwinked the nakas en-route by rolling up their flowing beards, switching over from the traditional Akali blue turban to maroon, coffee colour and sky blue.

They even got past nakas adopting urban styles. Instead of the kurta pajama, they switched to trousers, shirts and neckties.

Hundreds of them were taken out of buses. At Nadkodar Chowk on Monday all bearded men were barred from boarding buses. Sucha Singh Langah tied up his beard to get into the Golden Temple. Sarwan Singh Phillaur, who was under house arrest, also managed to give police the slip.

Venturing out from Jalandhar many followed circuitous routes through link roads. One popular route used to reach Amritsar was from Jalandhar to Tanda, Hargobindpur Sahib, Mehta Chowk, Mattewal, Majitha bypass and then the Golden Temple. It took double the time as they traversed twice the distance.

Some went from Jalandhar to Kapurthala, Goindwal Sahib, Tarn Taran, Amritsar. Armarjit Singh took his wife and sister-in-law along posing at the nakes that the latter was sick and was being taken to the hospital.

Resham Singh Thiara, who contested the last assembly elections from Nawanshabr on an Akali Dal ticket, posed as a businessman from Delhi.

Buses entering Punjab on Monday were halted at over 40 nakas on way to Jalandhar. "It was only by evening that the nakas appeared to relent as news spread and probably the signal was beeped to relax the check after the government probably realised that it was having a damaging effect on the psyche of the people," said Thiara.

SAD members shout anti-government slogans at the Golden Temple Complex, on Monday.

TRIBUTE TO FIRE CHIEF GUY WILLIS

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. JEFF MILLER of Florida. Mr. Speaker, I rise today to recognize Fire Chief Guy Willis of the Ocean City-Wright Fire Department. For 55 years, Chief Willis has dedicated his services to our Armed Forces and Okaloosa County, Florida.

Guy J. Willis, Jr., was born in Mt. Ephriam, New Jersey on March 12, 1934, he was the son of Gary J. Willis, Sr. and Anna C. Willis. He spent his early years at "fish town," the oldest section of Northeast Philadelphia.

In 1952, at the age of 17, he entered the United States Air Force receiving his basic training at Samson AFB, New York. After basic training, Chief Willis continued to serve in the Air Force in the fire service industry and retired in 1984 having served honorably for 32 years with the rank of Chief Master Sergeant.

Following his retirement from the Air Force, Chief Willis joined the Ocean City-Wright Fire Control District as a Fire Safety Officer and later was promoted to the Fire Chief position. He has been employed with the department for the past 18 years.

Chief Willis is married to the former Miss Kimi Kato of Nagoya, Japan. He has been married for 46 years and has two sons, Colonel Guy J. Willis III, and Lt. Colonel Steven W. Willis, both of who are Air Force Academy graduates. In addition to his sons, Chief Willis has one brother, Ronald B. Willis, Chief Master Sergeant, USAF, retired, and one daughter-in-law, Judith R. Willis, Lt. Colonel, USAF, retired.

Between the five Willis family members, they have served a total of 125 years of continuous Air Force service to our country.

Chief Willis and his wife, Kimi, claim Florida as their home of record and the Ft. Walton Beach area as their permanent home of residence, as they have resided here longer than any place else since birth.

On behalf of the United States Congress, I would like to recognize this special person for the example he has set in his community. I offer my sincere thanks for all that he has done for Northwest Florida and this great nation.

PAYING TRIBUTE TO DANNY GALLOWAY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to Danny Galloway of Grand Junction, Colorado. The Grand Junction Lions Club recently awarded Danny with the prestigious Home Town Hero award for his years of service to the Grand Junction Special Olympics. As he receives this recognition, I would like to pay tribute to the irreplaceable contributions he has made to the community of Grand Junction.

For the past two decades, Danny has dedicated his time and energy as a Special Olympics coach, organizer and teacher of children with severe disabilities. Danny works closely with School District 51 through a program called "Top Guns," an organization made up of Special Education graduates. Danny also works with a program called "Under Eight Can't Wait," which sponsors involvement for children still too young to participate in the Special Olympics. Through these programs, Danny encourages participation and organizes volunteers necessary to make the Special Olympics a success.

During the 20 years that Danny has worked with the organization, he has played an integral role in helping to increase Special Olympics participation. Through Danny's leadership, School District 51 has expanded its Special Olympics program from only 11 participants at its inception to nearly 200 today. The Grand Junction Special Olympics offers 25 different sports for kids with a variety of physical and mental disabilities. The program provides disabled children with the opportunity necessary to become physically fit, confident and productive members of society.

Mr. Speaker, it is with great admiration that I recognize Danny Galloway of Grand Junction, Colorado before this body of Congress and this nation. Mr. Galloway has committed his time and energy toward improving the lives of a countless number of disabled children. His selfless dedication to helping those in need has served as inspiration to us all, and it is an honor to represent such an outstanding American.

CONGRATULATING SAMUEL NELSON GREENWOOD ON HIS INDUCTION INTO THE VILLANOVA UNIVERSITY HALL OF FAME

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. CAPUANO. Mr. Speaker, I rise to congratulate Samuel Nelson Greenwood upon his induction into to the Villanova University Hall of Fame. He was a premier college athlete who achieved a great deal during his athletic career.

Mr. Greenwood is a 1963 graduate of Somerville High School in Somerville, Massachusetts. He ranked second in his class for scholastics. In addition to his academic accomplishments, Mr. Greenwood was an accomplished baseball player. In fact, the Boston Red Sox drafted Mr. Greenwood after graduation, but he chose, instead, to accept a full four-year scholarship to Villanova University.

Mr. Greenwood played baseball for three years at Villanova University, playing primarily in center field. During his senior year, Mr. Greenwood was the captain of the university's baseball team. In 1967, he graduated from Villanova with a degree in Education.

Mr. Greenwood's baseball career continued when he was drafted by the Cincinnati Reds to play first base and center field. He was a member of the Reds for three years.

It is unusual for someone to get accepted into the Villanova University Hall of Fame the first time they are nominated. Mr. Greenwood will be inducted into the Hall of Fame on November 1, 2002, the first year that his candidacy was considered.

I offer my congratulations and best wishes to Mr. Greenwood.

TRIBUTE TO MONTE VISTA NATIONAL WILDLIFE REFUGE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this moment to pay tribute to the first National Wildlife Refuge in Colorado. The Monte Vista National Wildlife Refuge, established in the San Luis Valley, is an example of how much Coloradans value their lands and wildlife. As the refuge celebrates its golden anniversary, it is my honor to pay tribute to it before this body of Congress and this nation.

Established in June 1952, the Monte Vista National Wildlife Refuge created a safe haven for waterfowl and migratory birds to coexist alongside nearby agricultural communities. The snowy and cattle egrets, American bitterns, white-faced ibis, and black crowned night herons have all found a home in the refuge. Its habitat along the Spring Creek currently boasts some of their largest Colorado nesting populations. The refuge's wetlands witnessed the re-introduction of Canada geese into the San Luis Valley and helped the Aleutian Canada goose recover from its endangered species status.

As an important habitat for so many species, the Monte Vista National Wildlife Refuge lives up to its designation as a land of many uses. Besides alleviating the wildlife impact on local agriculture, the refuge boasts the longest running duck nesting density study in North America, as well as important education and observation facilities. The refuge provides a place to hunt and fish, and holds an annual fishing event for children, as well as a crane festival each April.

To celebrate its 50 years, the refuge marked the anniversary year by opening three new viewing pullouts along Colorado Highway 15. When completed, the pullouts will include information kiosks, viewing scopes, and interpretive signs. It has taken 15 years of staff and local support to obtain the funds for the improvements with 20% of the $190,000 raised locally. Such success is a testament to the local leadership, so it is fitting that former refuge manager, Charles "Pete" Bryant was also recognized as a conservation pioneer and for his immeasurable service to the refuge.

–Mr. Speaker it is my privilege to rise today to honor the Monte Vista National Wildlife Refuge. It stands as a model of 50 years of cooperation between the public's many interests, integrating the refuge seamlessly into the agricultural community around it. The refuge and its partners have shown great dedication to conserving wildlife habitat and I am honored to extend this recognition to them for all they have accomplished.

RECOGNIZING THE CONTRIBUTIONS OF DR. GUY STEVER TO THE UNITED STATES SCIENCE COMMUNITY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mrs. MORELLA. Mr. Speaker, I rise today to honor a very special constituent, a man who was one of the central figures in the twentieth century science community, Dr. Guy Stever. Dr. Stever has recently authored his memoirs titled, "In War and Peace: My Life in Science and Technology." In this thoughtful and well-written work, Dr. Stever retells his extraordinary life as one of the key figures in many of America's scientific developments in the past century.

As a past president of Carnegie Mellon University, former Chief Scientist of the United States Air Force, Director of the National Science Foundation, professor at MIT for 20 years, member of the National Academies of Sciences and Engineering, and as Presidential Science Advisor for both Presidents Nixon and Ford, Guy Stever has spent his entire life committed to excellence in the science community and to service of his country.

He was a key figure in developing America's guided missile program after World War II, and also worked intimately on our country's anti-ballistic missile defense program during the Cold War. He was instrumental to the creation of NASA, and to the founding of Carnegie Mellon University. He also chaired the oversight committee that redesigned NASA's space shuttle boosters after the Challenger disaster.

Mr. Speaker, Dr. Stever's memoirs tell the story of a man who was critical to the United States emergence as a leader in the science and technological advancements of the last century. I think it is only appropriate that the 107th Congress honor and thank him for his outstanding contributions to the world of science and to our nation. May we only hope that our nation is blessed with more outstanding Americans like Dr. Stever to lead our country into the years ahead.

TRIBUTE TO TRACY SPINUZZI

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. MCINNIS. Mr. Speaker, it is with great pride that I recognize Tracy Spinuzzi of Pueblo, Colorado for her outstanding service as a health educator at Centennial High School. Tracy has recently been named Colorado's Outstanding Health Educator of the Year and, as she receives this recognition I would like to pay tribute to her career and the irreplaceable contributions she has made toward educating Colorado's future generation.

Tracy began her career teaching physical education, which she did for almost nine years before realizing that her true passion was in health education. Over the years, Tracy was naturally drawn to many health related issues including nutrition, exercise, communication and healthy habits. By employing her interest in health related subjects and utilizing her expertise as a teacher, Tracy is providing her students with the lessons necessary to become happy and healthy adults.

Perhaps one of Tracy's greatest talents as an educator is her ability to relate and communicate with her students on a daily basis. Although she has been teaching health education for nearly nine years now, she still arrives to school each morning with the same interest and enthusiasm for her subject that has become her hallmark. The passion and energy that Tracy brings to her lectures each day helps to captivate her students' attention and teach them to think critically about the decisions they must confront on a daily basis.

Mr. Speaker, it is with great distinction that I recognize Tracy Spinuzzi of Pueblo, Colorado before this body of Congress and this nation. For nearly 20 years, Tracy has dedicated her time and energy in the service of education. She has provided her students with the information necessary to make healthy and well informed decisions throughout their lives. I commend Tracy for her efforts and wish her luck in all of her future endeavors.

TRIBUTE TO JUDGE ALICE A. LYTLE

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. MATSUI. Mr. Speaker, I rise in tribute to Judge Alice A. Lytle, one of Sacramento's most capable jurists and dedicated public servants. After 20 remarkable years on the bench, Judge Lytle will be retiring from the Sacramento County Superior Court at the end of the year. As her friends and family gather to celebrate Judge Lytle's illustrious career, I ask all of my colleagues to join me in saluting this outstanding judicial officer.

After graduating with a Bachelor of Arts degree in physiology from Hunter College in New York City, Judge Lytle headed out west to attend Hasting College of Law. Judge Lytle was successively secretary and president of the Black Law Students Association, member of the Student Facility Curriculum Committee and the Student Faculty Academic Standards Committee. Throughout law school Judge Lytle was also employed as a law clerk for the National Association for the Advancement of Colored People and various attorneys in private practice.

Soon after completing law school, Judge Lytle became an instructor of Criminal Law at New College of Law in San Francisco. At the same time, she also served as a Rural Housing Specialist with the National Housing and Economic Development Law Project. Eventually, Judge Lytle would make her way to Sacramento where she would serve as the Deputy Legal Affairs Secretary in the office of Governor Edmund G. Brown, Jr.

As a result of her strong civil rights background, Judge Lytle was appointed by Governor Brown to head the Division of Fair Employment Practices with the Department of Industrial Relations.

In this capacity, Judge Lytle managed a staff of approximately 200 workers in 10 offices within the state. She would ultimately be appointed as the Secretary of the State and Consumer Services Agency, a Cabinet-level agency in the State of California that exercises general management, coordinative and liaison responsibility over 13 departments and program entities.

In 1983, Judge Lytle was appointed to the Sacramento Municipal Court, sitting in trial court hearing misdemeanor trials, felony preliminary hearings and civil court as well as jury trials. From June 1988 to September 1989, Judge Lytle served as presiding Judge of the Municipal Court. Judge Lytle also served as the Master Calendar judge for unlawful detainer matters.

Currently serving on special assignment as a Superior Court judge to the Juvenile Division of the Superior Court, she is the Lead Judicial Officer for juvenile dependency cases. Judge Lytle has remained especially giving with her time and energy through financial contributions and services to programs that benefit youth and the underprivileged. Judge Lytle received funding from the Wellness Foundation to create a mentor program for delinquents called the SacraMentor Program. Judge Lytle also established the Healthy Teen Mothers program and served as a mentor for pregnant teens while working with the Birthing Project.

Mr. Speaker, as Judge Lytle's friends and family gather to celebrate her great career, I am honored to pay tribute to one of Sacramento's most honorable citizens. Her successes are considerable, and it is a great honor for me to have the opportunity to pay tribute to her contributions to the city of Sacramento. I ask all of my colleagues to join with me in wishing Judge Lytle continued success in all her future endeavors.

CONGRATULATING THE 38TH DISTRICT'S BLUE RIBBON SCHOOLS

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. HORN. Mr. Speaker, I am very proud that two schools in California's 38th District recently were honored as Blue Ribbon Schools by the U.S. Department of Education for the 2001–2002 school year. Elementary and secondary schools compete for this honor in alternate years. Last year I was proud to recognize the two elementary schools in my district chosen for this honor. This year, I am pleased to announce that St. Matthias High School of Downey and St. Joseph High School of Lakewood have received this prestigious award.

According to Education Secretary Rod Paige, Blue Ribbon Schools share several characteristics, including a clear vision and shared sense of mission, a challenging, up-to-date curriculum, policies and practices to ensure a safe campus conducive to learning, evidence of family involvement, and a commitment to help all students achieve high standards. Moreover, by their very nature, these two schools stress the importance of moral character and community service to their students.

These two schools are examples of what is right in education. They show the remarkable successes that happen when teachers, parents and students are committed to a superior standard of education. I congratulate the faculty, teachers, parents and students of St. Matthias and St. Joseph on this remarkable achievement, and wish them well in their continued pursuit of educational excellence.

TRIBUTE TO CHINA ROEBER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. MCINNIS. Mr. Speaker, I would like to take this moment to pay tribute to an outstanding Colorado restaurateur who has been serving South Fork, Colorado for 25 years. China Roeber, owner of La Casita restaurant, is an example of the entrepreneurial spirit that keeps our country strong. It is for her dedication and service to the South Fork community that I stand to pay tribute to China Roeber before this body of Congress and this nation.

For more than 25 years, China has owned and operated La Casita, with many of those years spent in Creede before the restaurant moved to its present location in South Fork. Because she suffers from Lupus, China can no longer keep La Casita open everyday. Rather, she opens it for the summer and spends her winters with her husband, Mac, in their Creede home.

Since the beginning, China's La Casita restaurant has drawn returning customers from throughout the state and region as people pass though during the summer season. Her exclusive use of corn tortillas, along with her commitment to serving authentic Mexican food, has made her establishment a great choice for dining. The jobs China provides to local Coloradans in the summer are also an important addition to the local economy.

Mr. Speaker, it is my privilege to rise today to honor this outstanding citizen before this body of Congress and this nation. China Roeber has shown great dedication to the communities and people she serves, and I am glad to extend to her my gratitude for all of her service.

HONORING RICHARD E. SCOTT

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. EDWARDS. Mr. Speaker, I rise today to honor Richard E. Scott for his dedication to providing health care to citizens of Central Texas.

On October 31, 2002, Richard retired as President and CEO of Hillcrest Health System after forty years of service. Richard has served Hillcrest in a number of ways during his career, beginning in 1962 as a Registration Clerk and Cashier, and working his way up to President in 1992. At each stage in his career, Richard worked tirelessly to diversify and update the services of Hillcrest. Under his leadership, Hillcrest has invested in needed medical technologies such as MRI and CT services and has expanded important hospice, community clinic and social programs.

Richard has found special meaning in his calling as a healthcare professional and has been active in his commitment to local health care. His dedication has led him to leadership positions in important medical associations such as the American Cancer Society Advisory Board, the Arthritis Foundation Advisory Committee, the board of FirstCare HMO and the Waco Family Practice Foundation.

Richard's lifelong enthusiasm for providing quality healthcare is matched only by his devotion to his community. He is a real friend to all who meet him and is known for his integrity, fairness and honesty. In addition to serving as president of the Dr. Pepper Museum and Education Foundation, chairman of the board of the Waco Business League and Member of the board of directors of the Waco Chamber of Commerce, Richard is a Deacon of First Baptist Waco and was Deacon Chairman at Highland Baptist Church. He is a member of several groups active in community involvement, such as the Rotary Club of Waco, the United Way of McLennan County, Waco ISD Partnership in Education, Waco Conference of Christians and Jews and the Waco Big 12 Steering Committee.

Because of his efforts in healthcare and in his community, Richard has been recognized with numerous honors including the United Way Volunteer of the Year Award, the American Red Cross CEO of the Year Award, the Trinity University Healthcare Alumni Association Leonard A. Duce Award, Honorary Patron Chairman of the Cattle Baron's Ball, the Masonic Grand Lodge of Texas Community Builder Award and the Public Relations Society of America Silver Bridge Award.

Outside of his career, Mr. Scott enjoys spending time with his wife Carol, their two children and seven grandchildren.

I ask all of my colleagues to join me in honoring the life and accomplishments of Richard E. Scott. The people of my District are better off today because of his commitment to health care and community service.

PAYING TRIBUTE TO: LATINO CHAMBER OF COMMERCE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. McINNIS. Mr. Speaker, I would like to take a moment to pay tribute to an outstanding Colorado organization. The Latino Chamber of Commerce, based in Pueblo, Colorado, is an example of the leadership and entrepreneurial spirit that are vital to our country. As the chamber celebrates its 23rd anniversary, it is my honor to pay tribute to this organization of community leaders before this body of Congress and this nation.

The Latino Chamber of Commerce was established in Pueblo in 1979 to organize the Hispanic professional community and give it a clear, unified voice. Many prominent Latino leaders supported the chamber as it grew, doing all they could to promote the organization and its goals. As the chamber steadily grew in size and reputation, it began to function on its own. By the early 1990's, it hired assistants to help manage the increasing administrative load, and soon added a director and support staff. Then, in 1995, the chamber moved into its own building at 215 South Victorian Street, rightfully taking a place in the Historic Union District of Pueblo.

The Latino Chamber can point to many accomplishments in its 23 years. Over 800 individuals, businesses, and corporations are presently members of the Latino Chamber. At the recent United States Hispanic Chamber of Commerce's conference, Pueblo's Latino Chamber was acknowledged with the Hispanic Chamber of the Year Award for being the best in the region. The award recognized the many contributions the chamber has made to the community, as well as the challenges it has overcome. With such an outstanding organization, it is no wonder several of its members walked away from the conference with individual regional awards and are now under consideration for national recognition. The owner of Cortez Construction, Carla Barela, earned the Hispanic Businesswoman of the Year Award; Patrick Avalos received the Government Hispanic Business Advocate of the Year Award for his work on the Pueblo City Council; and Priscilla Lucero took home the Corporate Hispanic Business Advocate of the Year Award for her leadership at Wells Fargo. Leaders like these make the Latino Chamber stand out in the Pueblo community.

Mr. Speaker, it is my privilege to rise today to honor the Latino Chamber of Commerce of Pueblo before this body of Congress and this nation. The chamber has shown great dedication to the community it serves. I am honored to extend my sincere gratitude to the chamber and its members for all they have accomplished, and I wish them all the best.

TRIBUTE TO J.D. BRAY

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. JEFF MILLER of Florida. Mr. Speaker, I rise today to recognize J.D. Bray of Santa Rosa County. Mayor Bray served the town of Jay for forty-four years as Mayor holding the second longest reign in the state of Florida.

Mayor Bray was born Christmas day in 1919 and has been a lifelong resident of Jay. Mayor Bray volunteered for the U.S. Army in 1939 and served 18 months in Europe. He risked his life for our country when he crossed the half intact Remigan Bridge, while being shelled, in the "Battle of the Bulge".

After being discharged from the service in 1946, Mayor Bray worked for Escambia River Electric Cooperative until going into business for himself in 1954. He owned and operated the Bray Service Station until he sold the business in 1962.

He then worked for the Jay Natural Gas System during construction of the system and the conversion of consumer's appliances. Mayor Bray managed the parts department of Burns Tractor Company in 1963 and worked there until he accepted a job with the Santa Rosa County Board of Commissioners in 1968. Mayor Bray was elected to the Town Council of the town of Jay in 1954 and was elected its mayor in 1956.

As mayor, Bray was instrumental in getting natural gas for the town, a sewer system, a second water well, a well-equipped voluntary fire department, Bray-Hendricks Park (named in his honor), which provides recreational facilities for all ages, and a new town hall. He worked to obtain facilities and transportation for over sixty years.

I would also like to recognize Mayor Bray's family, who has had a helping hand in his success. Mayor Bray is married to the former Theda Rae Warrick and they have three children: Debbie Weil, Cheryl Bray, and Stewart Bray.

Mr. Bray has been a part and is currently active in many organizations: Jay Volunteer Fire Department, Quarterback Club, Redrock Lodge number 96, Scottish Rite, Hadji Shrine Temple and Mustang Unit, Veterans of Foreign Wars and member and past commander of American Legion Post number 121.

On behalf of the United States Congress, I would like to recognize this special person for the example he has set in his community. I offer my sincere thanks for all that he has done for Northwest Florida.

MURDER OF 5 DALITS SHOWS THERE IS NO FREEDOM IN INDIA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. TOWNS. Mr. Speaker, much has happened while we were in recess. In Dulena, India, five Dalits, the dark-skinned “Untouchables,” the lowest caste in India's repressive caste system, were murdered because of a rumor that they had killed a cow. Cows are revered in Hinduism.

According to the Washington Post, family members stated that at least one of the Dalits was murdered by the police because the Dalits refused to pay them a bribe. The remainder were killed by upper-caste Hindus after the police planted a rumor that the Dalits had killed a cow.

To make this case even more offensive, charges have been filed against the five Dalit victims, but no charges have been filed against the police who were involved in these murders. In Hindu-dominated India, apparently the life of a cow is worth more than those of five humans. What kind of country protects cows but engages in the massive killing of minorities?

Dalits are converting in large numbers in order to escape from this oppression, prompting the BJP to pass laws in the states it controls banning anyone from converting to any religion other than Hindu.

Unfortunately, this is part of a long pattern of Indian tyranny against the Dalits. Tens of thousands of Dalits have been killed by the Indian government. In an incident several years ago, a Dalit constable went into a Hindu temple on a rainy day and he was stoned to death. A little Dalit girl was blinded by her teacher when she drank water from the community pitcher. And Sikhs, Christians, Muslims, and other minorities have suffered from similar persecution. As you know, over 250,000 Sikhs have been murdered since 1984, over 80,000 Kashmiri Muslims have been killed since 1988, and over 200,000 Christians have been killed in Nagaland, in addition to tens of thousands of Assamese, Bodos, Manipuris, Tamils, and others.

Mr. Speaker, this is not the conduct of a democratic state. If America wants to live by its principles and help spread democracy, it must take action against this kind of repression. India has already been declared a country that violates religious freedom, which seems to be confirmed by these latest incidents. It is time to impose the sanctions that this status brings. We should also cut off our aid and trade with India until human rights are respected and declare our support for self-determination for all the peoples of South, because self-determination is the very essence of democracy. These measures will help bring real freedom, peace, prosperity, and stability to all the peoples and nations of the subcontinent.

Mr. Speaker, I would like to place the Council of Khalista's press release on the killing of these five Dalits into the RECORD at this time.

[Council of Khalistan, Press Release, Oct. 29, 2002]

5 DALITS MURDERED ON RUMOR OF COW KILLING

FUNDAMENTALIST HINDU FASCIST POLICE KILL ONE BECAUSE THEY DID NOT GET A BRIBE, THEN INCITE VILLAGERS TO MURDER OTHER FOUR—LIFE OF A COW WORTH MORE THAN 5 HUMAN LIVES IN HINDU THEOCRACY

WASHINGTON, D.C., Oct. 29, 2002—Five Dalits, the dark-skinned “Untouchables,” were murdered in Dulena, India, about an hour outside Delhi, on a rumor that they had killed a cow. According to a report in the Washington Post, family members stated that one of the Dalits was murdered by the police because the group refused to pay a bribe, then the upper-caste police planted the rumor that the Dalits had killed a cow to get the upper-caste village residents to kill the other four. Cows are revered in Hinduism. No charges have been filed against the killers, but charges have been filed against the five Dalits.

Dalits, also called “Untouchables,” are the lowest casts in the Hindu social structure. Tens of thousands of Dalits have been murdered by the Indian government. Several years ago, a Dalit constable entered a Hundu temple on a rainy day and was stoned to death by upper-casts Brahmins. A few years ago, a five-year-old Dalit girl was hit by her teacher and blinded for drinking water from the community water pitcher.

“This act of Indian tyranny shows that in India, the life a cow is worth more than the lives of five humans,” said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan. The Council of Khalistan, the government pro tempore of Khalistan, leads the peaceful, democratic, nonviolent movement to liberate Khalistan from Indian occupation and tyranny. “This shows that India is not a democracy but a Hindu theocracy in which the lives of lower castes are worthless,” he said. “Are these the acts of a democratic country or a fundamentalist Hindu police state?,” he asked. “The Sikh Nation sympathizes with the Dalits,” he said. “Dalits and other minorities must resist India's racist tyranny.”

Dalits have not been the only ones oppressed. All minorities have suffered under the boot of Indian repression. The Indian government has murdered over 250,000 Sikhs since 1984. Over 80,000 Kashmiri Muslims have been killed since 1988. More than 200,000 Christians have been killed since 1947, along with tens of thousands of Dalits, Tamils, Assamese, Bodos, Manipuris, and other minorities. In February 42 Members of Congress wrote to President Bush to get 52,268 Sikh political prisoners released from Indian prisons. Since Christman 1998, Chrisitans have felt the brunt of the attacks. Priests have been murdered, nuns have been raped, churches have been burned, Christian schools and prayer halls have been destroyed, and no one has been punished for these acts. Militant Hindu fundamentalists allied with the RSS, the pro-Fascist parent organization of the ruling BJP, burned missionary Graham Staines and his two young sons to death. Recently, fundamentalist Hindu fascists murdered about 5,000 Muslims in Gujarat with the connivance of the police.

“This pattern of oppression and tyranny helps to explain the existence of 17 freedom movements within India's artificial borders,” Dr. Aulakh said. “We support the aspirations of the Dalits and all the minorities of South Asia. We must end India's tyranny and brutal violations of Sikh human rights and those of other minorities,” he said. “The time has come to launch a Shantmai Morcha to liberate Khalistan from Indian occupation,” said Dr. Aulakh.

“Sikhs are a separate nation and ruled Punjab until 1849. No Sikh representative has signed the Indian constitution,” Dr. Aulakh said. Sikhism is a sovereign, independent, monotheistic, divenely revealed religion that believes in the equality of the whole human race, including gender equality. Sikhs pray every day for the well being of the whole world. “The people of South Asia must have self-determination now,” Dr. Aulakh said. “India is on the verge of disintegration,” he said. “The Kashmir issue has been internationalized. America is now involved in South Asia. Self-determination in Kashmir is the only solution,” he said. “In a democracy you cannot rule the people against their wishes. Khalistan will be free by 2008.”

SENATE—*Wednesday, November 13, 2002*

The Senate met at 11 a.m. and was called to order by the Honorable DEBBIE STABENOW, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, You have made gratitude the powerful antidote to grief. As a Senate family we thank You for our dear friends Paul and Sheila Wellstone. We are grateful for Senator Wellstone's courageous leadership and his indefatigable commitment to help the poor and disadvantaged of our society. We praise You for his prophetic zeal for righteousness and justice for all people. Thank You for the way Senator Wellstone befriended all the Senate staff and employees, particularly police officers, maintenance personnel, pages, and those who serve to make the Senate run smoothly. He knew people's names, always had time to stop and visit, and made people feel valued. Dear God, You have enriched all our lives with the affirmation and encouragement communicated so generously through Paul and Sheila Wellstone. They have done justly, loved mercy, and walked humbly with You. Heal our grief over their untimely deaths and fill us with Your Shalom. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DEBBIE STABENOW led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 13, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DEBBIE STABENOW, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. STABENOW thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Madam President, today the Senate will have a period of morning business until 12:30 p.m. The Chair will shortly announce that. That time is equally divided between the two leaders or their designees.

We will have our regular party conferences from 12:30 to 2:15 p.m. today. At 2:15, there will be a period of morning business for one-half hour, and at 2:45 p.m. the Senate will vote on cloture on the Gramm-Miller amendment to the homeland defense bill.

There are additional rollcall votes expected today and tomorrow and Friday. We hope we can complete most of the business. It is my understanding the House is going to recess, and they may be in pro forma sessions for some time after that, but basically they are going home this week. So there is a lot of work to do with conference reports. We need cooperation from all Members. We hope we can get that done.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each, and with the time to be equally divided between the two leaders or their designees.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

IN REMEMBRANCE OF PAUL WELLSTONE

Mrs. MURRAY. Madam President, on October 25, I lost a good friend, the Senate lost a leader, and the American people lost an advocate who was never afraid to stand up and speak for those who had no voice.

I rise today to honor my friend and colleague, Senator Paul Wellstone, who inspired so many people to speak up and to serve. Even as I stand here today, I cannot imagine that when I turn around I won't see Paul standing at his desk, his arms flailing in the air, making some point with great passion.

Paul, with his energy and optimism, has left a mark on all of us. In 1990, when Paul Wellstone ran for the Senate, a lot of people were watching him and following his race. Political pundits said he could not win. But as I watched him, I became motivated. At the time, I was serving in the Washington State Senate, and I, too, was frustrated by what I saw happening in Washington, DC.

In Paul I saw someone who cared about the little guy and who spoke passionately. Paul was never afraid to voice his ideas or take on big fights. Not only did he win that Senate race, but in the process he inspired a generation of young people to serve their communities.

On a more personal level, Paul inspired me to run for the U.S. Senate. His brilliant example reminded me that you don't need to be powerful or rich—or even tall—to make a difference. You just need to have an honest concern for others, an optimistic spirit, and the courage to act.

Over the last 10 years, I have agreed—and disagreed—with Paul on any number of issues. But never once did I doubt his conviction, and never once did Paul let his policy disagreements soften the love and friendship he felt for all of us. Paul and I worked on everything from domestic violence and education to providing health care for veterans and protecting families from asbestos.

I could always count on Paul to remind me that so many Americans have been dealt a tough hand in life. So many families, through no fault of their own, find themselves struggling, and they need an advocate to speak out for them in this Congress.

No matter what pressures he faced in the Senate or even with his own health, Paul always reminded me how lucky we are to be able to serve in the U.S. Senate.

One thing I will not forget about Paul is that every one of us was important to him and he proved that time and again. A few months ago, I held a meeting in my office to develop a legislative strategy on a bill. I wanted to keep the discussion small and focused and frank, so I invited two other Senators and told them not to bring any staff members. When it was time to start the meeting, Paul bounced through the door with three people in tow. Even though staff were not invited, Paul didn't mind. But these weren't his staff—they were his interns. He proudly introduced each one of them to us, and they all stayed for the entire meeting. We were still able to get everything done that we needed to do in the short time we had. Those young students got to see democracy up close. They got to sit in on a closed-door meeting, and they got a sense—just for a moment—that they, too, belonged there and they, too, could do it.

Paul never stopped showing people what they could accomplish, and that is because he knew that people—plain old people—were important. He didn't care about pollsters and consultants; he cared about people. His love did not depend on whether they could write him a check.

My favorite all-time campaign event with Paul was not a fundraiser, but—in true Paul style—it was a "time-raiser." On a cold Saturday morning, Paul jammed a hall with folks who could not write a check but who could donate 2 hours of time to call or leaflet or answer phones. Judging from the enthusiasm of that crowd, yelling to the rooftops in the packed room, Paul was their Senator and their guy. He valued them and they valued him.

I remember another event when Paul wasn't even scheduled to speak, but he ended up stealing the show. Earlier this year, I was at a press conference on education in the Dirksen Building. Senators KENNEDY, HARKIN, REED, and others were scheduled to talk about making classrooms less crowded. Out of nowhere, Paul Wellstone rushed into the room looking a bit confused. My colleagues and I looked surprised because Senator Wellstone was not scheduled to speak and was not on the agenda. When Paul got to the podium, the first thing he said was:

> I am not sure if I am in the right room. When I ran into Ted Kennedy on the floor a while ago, he asked me if I was going to the education press conference, and I said I hadn't heard about it, but I would be there.

He continued:

> Frankly, I don't even know if I am talking to the right group, but I am going to tell you why we need to fight for our kids.

Everyone laughed. Paul went on to give a passionate, off-the-cuff speech that wowed and inspired every person in that room.

To me, that really captures Paul's spirit. Wherever some cause needed a voice, he would rush in—regardless of the schedule—and give his impassioned best. If there were a need, he would be there to speak out.

Paul had said he didn't know if he was in the right room, but today I can say with confidence that Paul was in the right place all along.

We are all poorer for the loss of Paul Wellstone, his wife Sheila, his daughter Marcia, the members of his staff, and the pilots who were taken from us on that dark day. It is sad to say that the Senate will no doubt change without Paul. No one will pace down this aisle and speak as passionately as Paul did for so many causes. But I hope that each one of us who are here will take on part of Paul's legacy—for example, the spirit to speak out for the underprivileged, for students in classrooms with leaky roofs, for the woman on welfare not because she wants to be, but because of domestic violence and she is trying to get back on her feet.

I hope we will pick up his legacy and speak out for the workers who are out of a job because this economy has left them behind, or for those who are trying to overcome mental illness and just need some help from their insurance company.

I hope, too, that we will carry on Paul's legacy of respect. Paul spoke from the heart and he spoke passionately. But he never held any disrespect for those with different views. I saw him so many times debate long and hard against another Senator and then step away from the microphone and share a laugh or a hug with the very person he had just debated a few moments before.

If we can remember to fight for all Americans, no matter what challenges they have been dealt, and if we do it with respect and dignity, then Paul's legacy will live on in the Senate, as it lives on in our hearts and in our minds. I, for one, am going to miss him very much. He was all heart and soul. He is impossible to replace.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I rise to speak in morning business to pay tribute to Paul and Sheila Wellstone. It is a difficult thing to do. It is a difficult thing for all of us to do. It is easier for me, right now, to imagine Paul standing over there and articulating a great point, a great point that would be for the consideration of some group of people or an individual about whom he would be deeply concerned—he was clear, passionate, and very forceful in his advocacy for them—rather than to think of him as being gone but he is.

You cannot really measure the height of a tree until it is down. That is, unfortunately, again, the case for Paul and Sheila Wellstone. He was a really tall man. They were really tall trees in what they did.

I had the great fortune to be able to work with both Paul and Sheila on an issue we cared a lot about—the trafficking of individuals across country borders, generally for reasons of prostitution but also for other purposes. We found this was going on.

Actually, Sheila discovered this was happening by visiting with a number of Ukrainian women, some of whom had been trafficked themselves when the Soviet Union fell, when the superstructure that was the Soviet Union came down.

It turned out that gangs, groups came in, the Mafia-type organizations, to operate in the former Soviet Union, and they would run a number of different things. They would run drugs, they would run weaponry, and they would run people. It turned out the trafficking of people was actually their third most profitable operation. It was a real despicable thing they were doing. They would actually go into communities, trick young ladies, generally—sometimes young boys, but generally young girls—saying: We have this great bit of excitement for you. We are going to be able to have you travel to Europe or to the Middle East.

With the fall of the Soviet Union, they didn't see hope or opportunity in their own country, and they would sign on, only to have their papers taken away once they crossed the border. They would be put into a brothel, in some cases chained and tortured until they would submit to prostitution. And then they would even be moved from brothel to brothel. It was a real seamy, dirty, ugly thing that was taking place. It was a dark side of the globalizing economy. It was a dark side of the fall of the Soviet Union. And Sheila found out about it by meeting with Ukrainian women.

Now, I am sure there were not many votes at all in Minnesota that were going to hinge on whether or not Paul or Sheila were going to work on the issue of the trafficking of young girls from the former Soviet Union, Nepal, and India, or from other places. Generally, there was trafficking from poorer countries into richer countries. But Paul was such a champion of the value and the beauty of each person and the needs and the dignity of that individual, and Sheila was as well, that they were willing to put this issue forward and fight for it over a period of a couple years, until we could get the bill passed.

Sheila found out about it. She brought it to Paul's attention. He learned about it and talked with some of these women who had been trafficked. I started to hear about it. I met with women who had been trafficked and found out about the despicable nature of this new form of human slavery, a human slavery of which one person even wrote a book entitled, "Disposable People," because it happened in a situation where they would be moved from one brothel to another, and then, as they would get sick or diseased—in some cases they would get tuberculosis, AIDS—the owners would even throw them out on the street and say: Well, we are done with that one. It was just the most ugly act.

I remember being in a home for girls who had been trafficked and returned to Nepal. There were 50 girls, 16 to 18 years of age. Many of them had been trafficked when they were 12 to 14 years of age. And a lady was helping run this home. This was a recovery house for girls after they would come back from the brothels. This woman was trying to teach them a trade, trying to get them back into the community in Nepal. She would point around the room and say: That girl has tuberculosis and AIDS and she is dying. This girl is dying. That girl has this disease; I don't know if she is going to make it. These were girls who were 16 years of age who should have been in the very flower of their lives, and they were all dying.

They saw it. They were willing to fight for these other people. And we were able to get through legislation on sex trafficking.

Paul joked with me afterwards. He is a more liberal Member and I am a more conservative Member. After that legislative session, he commented that he moved from being the most liberal Member to the second most liberal Member of the Senate, and he blamed it on working with me. I said: Well, just hang around with me, Paul, and we will get you reelected.

He had that kind of humor. He was a friend. He was a friend that was not scared of ideology splitting people apart. He had his beliefs; I had mine. We all do. But he did not let that separate him. He did not judge a person's soul by their ideology. He judged people by their character and their heart, where they would be willing to stand.

I would often see him come over to greet and talk with JESSE HELMS. He and JESSE disagreed on a number of issues, but they both had passion, soul, and heart. That is what they respected and loved about each other, and that is what I continue to see and love about Paul and Sheila Wellstone, that passion, heart, and soul that would carry them forward.

I do not know that there is a better quote one could put forward than from Dr. Martin Luther King. He once noted that the ultimate measure of a man is not where he stands in moments of comfort but where he stands at times of challenge and controversy.

If we measure Paul and Sheila by that measurement, they stand as a very tall tree. Paul knew controversy. He knew difficulty. He knew challenge. It rallied him. It made him taller. It made him stronger. It was not comfort that he sought. It was not comfort that he wanted to have. I have often thought that in this life it is challenges that build us, it is not comfort that builds us; that God has created us to meet challenges, not to sit back and to eat bon-bons or to let things go by in a measurable way, but He puts challenges in front of us. The more we are willing to accept, the more He is willing to give, and the more He is willing to test us.

Paul and Sheila accepted challenge after challenge, controversy after controversy, always with a pure heart, wanting to do the right thing to help people, regardless of what it might mean to themselves. They were there to do it and they wanted to do it. They relished doing it and they grew in doing it. He was a spirited fighter.

I remember reading about—certainly I was not in this body then—when Hubert Humphrey served in this body and was dying of cancer and they had a tribute to him in Time magazine. I remember so vividly reading about it. The title of it was "Happy Warrior," because he was a warrior and he was happy about it, that his course, his challenge, in life was to be a warrior. He relished in the opportunity to be a warrior.

I did not know him personally, but he could not imagine, as I understand his personality, that there would be any calling any better than to be a warrior.

Paul followed in those footsteps in a great and magnificent way. He was a happy warrior, happily fighting for his cause, happily pressing forward, knowing that people disagreed with him. I disagreed with him often, but I could never disagree with that passion. Nor could I ever disagree with that heart. We developed a really good friendship.

He is a man I was very fond of and I am fond of even now. As I say, it is hard to think of him being gone. I suppose that is because he and Sheila really probably still are here.

My prayers have been with them, with the other people who went down in that plane. So tragically their lives were ended early. None of us will know why on this side of eternity, but we can always learn and grow from him. We are caused to grow in our life by each person with whom we come in contact. I was caused to grow in a very profound and very personal way by my contact with Paul and Sheila. I am indebted to them. I pay tribute to them and what they have done. God bless them.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I would like to join my colleague, Senator BROWNBACK, in paying tribute to the life of Paul and Sheila Wellstone. It is also so important for us to remember the staff and others who were on that airplane. We have people in this country who serve every one of us, and their lives were given in service of their country also.

Paul was a unique individual, no doubt about it, a man who made us smile even when we were in debate against him. He was a happy warrior. I think that is a good description of him.

All of this points out, as the Scripture says, that life is but a vapor. We are only here a short time. We might as well pour ourselves into it and fight for what we believe. Else, what is life all about?

He did that. He poured himself into his job, poured himself into his view of the world and life in general and fought for that. His political agenda was an expanded government. He wanted to help people in need. He was passionate about that. He wanted to help people. To a large degree, I suppose the disagreement I had with him was that he believed that government was the way to make that happen, but the goal was good. I know Paul liked me, and I loved him. He was an individual who was very special.

I feel real sad about this entire event, as do all of us in this Senate. I remember his vote against the Iraq resolution, which was something I felt very strongly in favor of. He was the only Member of this body who was up for reelection who had to answer to the voters on that issue. He did not see it the way I saw it, and he did not tack to the wind. He voted against that resolution and went back home and answered to people of Minnesota. He told them why he did it, and either they agreed with him or they forgave him. He was able to cast what many thought was an unpopular vote and not suffer the apparent political consequences.

I believe Paul was a special person. He set a good example for all of us to realize that life is short. We are only given this opportunity to serve in the greatest deliberative body of the greatest country in the history of the world for what we have to assume is a very short time. We might think constantly that therefore we should use this office for the people's good, and if we do that, we will have honored his name, honored the commitment he made to public service, and honored the people of the United States.

I will miss Paul. He was a man of great strength and character. This body will be poorer for his absence. Our thoughts and prayers go out to his family and friends.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, I take a moment to pay my personal tribute to Paul Wellstone. Paul was a dear friend and someone for whom I had a great deal of respect, someone with whom I enjoyed working. We served on the Health, Education, and Labor Committee together. We served on the Workforce Protections Subcommittee together. We had many opportunities to deal on differing positions, obviously, on that committee, but always with great congeniality and with a great deal of affection for one another.

He and I were both in very heated reelection campaigns, very tight reelection campaigns, and oftentimes discussed before the adjournment our mutual desire to be able to campaign in our States.

I share the grief of my colleagues in the loss we have all experienced, the State of Minnesota has experienced, along with his family and what they are enduring. We also look back with a great deal of joy at the life he lived and the contribution he made not only to his State, to his country, but to each one of our lives.

I recall so often Paul standing at his desk. He took the desk of one of my predecessors in the Senate, Dale Bumpers from Arkansas. He was a good successor for that position. Where Senator Bumpers would often walk up and down that aisle with great passion, so, too, Paul Wellstone would use the entire length as he wandered that aisle and as he spoke with such passion and such conviction.

I remember often his referring to himself, as he would speak, "as a Senator from the State of Minnesota." He would use that expression. I don't know if that is as commonly used as he used it—"as the Senator from the State of Minnesota"—and he stated his position and conviction. I thought that phrase, "a Senator from the State of Minnesota," summed up an awful lot of Paul Wellstone. He was proud of the State of Minnesota, representing the State of Minnesota and the people of Minnesota. He was proud also of this institution, being a Senator. He never lost the love and the awe for serving in this great institution. In my mind, I will always be able to hear echoing Paul Wellstone as he spoke on issue after issue as a Senator from the State of Minnesota.

The area in which we found mutual interest and, though from very opposite ends of the political spectrum, similar feelings was the area of human rights, especially on the cause of China and the people of China, telling the world about the human rights abuses that continue even to this day in China. Paul and I held many press conferences with Members, colleagues from the House, who shared concerns about China. He and I made many floor speeches about the remembrance of the Tiananmen Square massacre and some of the tragedies in the past.

I speak today with great affection, great admiration, and a great sense of loss about Paul Wellstone. He was a person who had great convictions. He was a man of great conscience. He was a man who did not mind if he upset the political order. He did not care that it might disrupt someone's schedule if he needed to make a speech on a position about which he felt very deeply. As one who admired him for his conscience and his passion, I simply pause today to express my appreciation and admiration for the contribution he has made to all of us.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Nebraska. Mr. President, I would like to add my voice to the many already heard today in remembrance of a passionate, intelligent, spirited man, Paul Wellstone.

Senator Wellstone was an original in a crowd abounding with characters. Paul first gained notoriety for earning this office logging miles on a green school bus, traveling across the State of Minnesota touching the lives of everyone he came across. Once in Washington, Paul made his mark quickly on each Senator, aide, reporter, and officer who has been lucky enough to serve this institution, with him.

Paul Wellstone was a man of principle who provided thoughtful analysis of every issue, but unlike some passionate statesmen, for Paul it was never personal. He respected differences in opinion though he was unwavering in his own beliefs. And although I only served with him for two years, I saw many times his warmth towards those around him regardless of political ideology.

A few weeks ago we were on the floor giving tribute to another of our Members, Senator JESSE HELMS, who will be retiring this year. Senator Wellstone eloquently praised Senator HELMS, who has been so often on the other side of the ideological divide. At the conclusion of his remarks, he embraced Senator HELMS.

Paul was a man of ideas, but also a man of the people. He will be sorely missed and our thoughts and prayers are with his sons, the Wellstone staff, and the people of Minnesota during this difficult time.

Mr. CONRAD. Mr. President, I rise today to remember a man who is deeply missed. He was a colleague, a leader and a friend: Senator Paul Wellstone of Minnesota. Since joining the Senate in 1990, Paul earned his reputation as a great leader and a man of the people. He had strong convictions and an unparalleled passion for supporting the under-represented.

As a member of the Health, Education, Labor, and Pensions Committee, Senator Wellstone was a tireless advocate for the concerns of working Americans. He pushed for expanded school funding and for improved teacher quality. He championed expanded financial aid to make sure that money was not an insurmountable hurdle for those who wanted to go to college. He fought for a higher minimum wage and better working conditions. He wanted to help the average American by working to provide better, more affordable, more available health care. It was visible to all who watched him that Paul truly loved his work, and the people for whom he did that work.

Paul was a strong voice in the Senate and across the country in the battle for human rights. For example, Paul and his wife Sheila crossed the country fighting against domestic abuse. But his concern for the dignity of human beings did not stop at our country's borders. He championed a trade policy that would protect foreign workers from being exploited by multi-national corporations. He was a vigorous supporter for peace in the Middle East and an advocate of foreign aid to help vulnerable children and the persecuted of all races and religions around the world. There wasn't an issue that affected human beings or our quality of life that Paul did not actively pursue; he fought for the people, stood up for his beliefs and let the political chips fall where they might.

Senator Wellstone was also a leading proponent for American Veterans and their families. Year after year, in ways small and large, Paul Wellstone fought to improve health care and other benefits for those who had served their country. Many veterans disagreed with his views on defense and foreign policy, but that did not matter to Senator Wellstone. He understood that those who had put their lives on the line for their country deserved special treatment and special respect whether they supported him or opposed him.

People didn't always agree with his position, but he was always forthright. There was never a question of motives with Paul. Senator Wellstone never let policy disagreements get personal; he always had a ready wink or smile or joke to share when the debate had ended. And he had a sense of humor that was downright infectious.

I worked most closely with Senator Wellstone on agriculture issues. Paul was a fighter. He worked tirelessly to improve policy for the farmers in Minnesota and other rural states. Minnesota's dairy farmers couldn't have asked for a more vigorous ambassador in the fight for a fairer dairy program;

his efforts paid off in the 2002 farm bill, which made great strides in leveling the playing field for Midwestern dairy farmers. Paul worked on conservation issues, supported farm payment programs to family farmers and worked to improve nutrition programs in the farm bill. Senator Wellstone also understood the value of strong communities in rural areas and tirelessly pushed for rural economic development. As with everything else he worked on, Paul brought a unique passion and unceasing efforts to these battles.

Paul also worked side-by-side with me after the Red River flooded Grand Forks and East Grand Forks in one of the worst flood disasters in our history. His advocacy was invaluable as we secured disaster aid to rebuild the communities that had been devastated by flooding and fires. When a battle was truly important and people's livelihoods were on the line, there was no one who would fight harder than PAUL WELLSTONE.

We also worked together on the issue of mental health parity. I can well remember when Senator Wellstone took this issue to the Senate floor during the debate on health insurance portability. The managers of the bill had crafted a delicately balanced bill and agreed to oppose all amendments in order to preserve their compromise. But that would not stop Paul Wellstone. He offered his amendment, and gave a typically passionate, personal plea to put an end to the injustice that condemns those with mental illnesses to inferior health care coverage. I was privileged to join Senator DOMENICI and former Senator Alan Simpson in making the case for this amendment. And, despite the bipartisan opposition of the leadership on the bill, Paul's passion and the personal stories shared by his allies carried the day overwhelmingly.

Paul's enthusiasm was infectious and deeply respected by his colleagues. No loss on an amendment or other setback could keep Paul down; he was always ready to rejoin the fight and perpetually optimistic that he would expand his coalition and find a way to win the battle the next time. It is his character and good humor that we remember, and it is his unquenchable desire to help human beings of all kinds that will prove to be the greatest loss.

Mr. ROCKEFELLER. Mr. President, Paul Wellstone was a committed and effective Senator who will be deeply missed by millions of often ignored Americans, people who relied on him not only to fight their battles, but to win important victories on their behalf.

I worked closely with Senator Wellstone for many years, in a number of areas important to both of us.

As Chairman of the Senate Committee on Veterans' Affairs, I know that he was a tireless fighter for the men and women who had served in America's armed forces, especially for ill and aging veterans, those least able to fight for themselves, yet most in need of our help.

He fought for children, for their education and health care. And he worked to fashion a welfare system that encouraged work and protected children, without becoming punitive or unreasonable.

He also worked on behalf of the unskilled and unemployed, for a living minimum wage, for job training, and for education benefits to promote workers' 21st century skills. And I knew I could always count on his support for West Virginia's steelworkers and all workers threatened by unfair practices in an increasingly complex economy.

Senator Wellstone's many battles earned him a reputation as an ideologue and a firebrand. But I saw him reach across the aisle many times in his career. His first loyalty was to people, not to party, and his work with Senator DOMENICI on the groundbreaking Mental Health Parity Act stands as testimony to the strength of his priorities and the effectiveness of his approach. I am proud to be able to continue his work to bring equitable treatment to those who suffer from mental illness.

Paul Wellstone never believed that having principles and sticking to them somehow meant you couldn't get things done in the United States Senate. Instead, he believed that you had to stick to your principles, or you couldn't get anything worthwhile done. It was an approach that made him unique and won him unusual respect and admiration from every member of this body.

Senator Wellstone's tragic death, along with the deaths of Sheila and Marcia Wellstone, staffers Tom Lapic, Mary McEvoy, and Will McLaughlin, and pilots Richard Conroy and Michael Guess, have left a void in the Senate and in our hearts.

But all of us who worked with him, or knew of the work he did, will find some cheer in the memory of Minnesota's great voice for justice and opportunity.

Many will remember him for his fiery speeches and outspoken opinions.

But atomic veterans finally receiving treatment for their service-related disabilities, and homeless veterans with a new chance to find their way off the streets; parents whose children are learning from better teachers and enjoying better access to health care; activists who found an ally in their struggle to end violence against women; workers receiving job training; and entrepreneurs, especially women, minorities, and the urban poor, profiting from a changed and expanded federal small business loan regime.

All these people will remember Paul Wellstone, as I will, not just for what he said, but what he did.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:40 having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:40 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. REID).

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 2:45 p.m. today, with the time from now until 2:45 to be equally divided between the two leaders or their designees.

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate recess subject to the call of the Chair.

There being no objection, the Senate, at 2:19 p.m., recessed subject to the call of the Chair and reassembled at 2:29 p.m., when called to order by the Presiding Officer (Mr. EDWARDS).

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, is the Senate in morning business?

The PRESIDING OFFICER. Yes.

Mr. LIEBERMAN. Mr. President, I rise to support the motion for cloture that will be voted on in about 15 minutes. This is a way to begin bringing this debate on the creation of a Department of Homeland Security to a close and to allow our Government to begin the urgent business of creating this new Department.

For those of us who have supported this idea for over a year now, this moment is long overdue.

I am troubled by the draft of the substitute bill that began circulating yesterday which, in my view, has not only a number of very good parts in it which are quite similar to those contained in the bipartisan bill reported out of the Governmental Affairs Committee but also has a number of serious shortcomings that I hope to discuss when it comes to the floor either later today or tomorrow.

I am especially concerned that this new substitute bill creating a Department of Homeland Security also contains a number of special interest provisions that are being sprung on the Senate without prior warning or consideration. This is really not the time for that. We all ought to be focusing on the terrorist threat, the need to create a Department of Homeland Security to meet that threat, and not on using a vehicle that is probably moving to passage to put into it a host of pet personal projects. This is clearly not the time for that, and I hope the President and members of the leadership will discourage Senators and Members of the House from using this homeland security debate as a vehicle for accomplishing those more special purposes.

More than 14 months have now passed since September 11, 2001, that day when terrorists viciously exploited our vulnerability and took the lives of 3,000 of our friends, family, and fellow Americans. Fifteen months have now passed since October of 2001, when Senator SPECTER and I initially proposed legislation creating a Department of Homeland Security to meet and beat the terrorist threat. This measure was not just bipartisan. It was, in fact, intended to be nonpartisan. Our proposal had nothing to do with politics and everything to do with giving our Government the ability to protect the American people from another terrorist attack. I point this out now, not out of pride but to make clear how far we have come, in some ways in the wrong direction, and how much time we have taken before making this urgent transformation.

In the beginning, the vision of a Homeland Security Department was a recommendation and a report issued by a nonpartisan commission chaired by our former colleagues, Warren Rudman and Gary Hart. Then it was put forward in our committee bill. Then, as often happens to good ideas in a democracy, it gained support and steam in Congress.

At the outset, President Bush and most Republicans in Congress resisted our legislation. I never took that resistance to be partisan, and I do not believe it was. The President argued that the coordinating Office of Homeland Security within the White House led by Governor Ridge would be strong enough to do this massive and complex job. So for 8 months, the administration did oppose the creation of a Homeland Security Department.

In the meantime, the Governmental Affairs Committee held a total of 18 hearings, exploring every possible aspect of our homeland defense vulnerabilities and how they should be fixed. On May 22 of this year, the product of that work, a new version of the bill, was reported out of our committee, unfortunately, on a party line vote with all Democrats voting in favor of a Department of Homeland Security and all Republicans opposed.

That partisan split did not last for long. A month or so later, last June, I was very pleased when the President and most of our Republican colleagues endorsed a proposal to create a Department of Homeland Security.

Somebody once said it is common in Washington to see people change their positions but rare to see them change their minds. I like to believe that is exactly what happened in the White House. Based on experience, the President and his assistants changed their minds about the desirability of a Department of Homeland Security. We then worked with the White House and Senate Republicans to build the greatest possible support for a bipartisan bill.

In July of this year, our committee sent such a bipartisan proposal to the Senate floor, which we began to debate in early September. We had a good debate on this proposal. As was acknowledged by all people on both sides, our committee legislation overlapped with the President's proposal and the House-passed bill on 90 or 95 percent of the issues and decisions involved. Somehow, despite finding ourselves on the same page, we could not find a way to turn the page together to create a more secure nation.

The major sticking point was civil service protections and collective bargaining rights for homeland security employees. We tried in good faith to bridge that divide. We pushed repeatedly for a vote on a very reasonable bipartisan proposal.

I ask unanimous consent that I be given 5 additional minutes to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair. We pushed repeatedly for a vote on a very reasonable bipartisan proposal crafted by Senators BREAUX, NELSON, and CHAFEE, to break the unnecessary logjam over the rights of Federal workers. But that was not to be had.

Our colleagues on the other side did not yield. Five times they refused to allow a vote on their own bill, even though Democrats had time and again given ground and simply wanted a vote on the compromise amendment.

As will be remembered, mostly because of Senator DASCHLE's totally justified expression of anger on this floor, the Bush administration even began to question the patriotism of Democratic Senators rather than joining us on this good-faith area of disagreement to try to come to an agreement.

In a new low in the tawdry business of political campaign advertising, two of our colleagues, Senator CLELAND and Senator CARNAHAN, were subjected to ads that took votes they cast out of context on homeland security and questioned their patriotism. That was outrageous and unacceptable. The fact is that these two Senators, CARNAHAN and CLELAND, had been early supporters of a Department of Homeland Security. So what started out as a nonpartisan effort to protect America's national security, unfortunately, became a very partisan effort to decide elections. Now the campaign is over. It is time to turn the page once again.

Benjamin Franklin said, you may delay, but time will not. I say this afternoon we may delay, but the terrorists will not. Senators Hart and Rudman issued another report within the last week or two and they have predicted another terrorist attack:

> The next attack will result in even greater casualties and widespread disruption to American lives and the American economy. The need for immediate action is made more imminent by the prospects of the United States going to war with Iraq and the possibility that Saddam Hussein might threaten the use of weapons of mass destruction in America.

Our vulnerabilities remain painfully serious, our disorganization in terms of our national apparatus to combat terrorism and protect national security, homeland security, dangerously disorganized. That is why it is so critical to pass a bill creating a Department of Homeland Security, led by a strong and accountable Secretary. That will start to close our vulnerabilities and improve our homeland defenses. Safety in this new age is a civil right. When Americans live in fear, their rights are compromised. By invoking cloture and moving toward a resolution on a Department of Homeland Security today, we will be saying loudly and clearly that we as a Nation do not succumb to fear. We will face what threatens us with strength. We will not be shaken by the voice that once again has threatened us on audiotape because we will secure our own future by working together in Congress to better organize our government and thereby to secure more control of our own destiny. Fear, uncertainty, and delay will be overcome by strength, unity, and American ingenuity. We will protect our friends, our family, and our children against the worst designs of our terrorist enemies by drawing on the best in each of us and, hopefully, in the days ahead we will do it together.

I urge my colleagues to vote for cloture on this vital legislation. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I think I have 5 minutes and then we have a vote, so I will try to be brief. It is fair to say at the beginning of the process, no one conceived there could be partisanship on homeland security. Neither party sought the partisanship, but yet in the process it came. We ended up as the session ended with a situation no one may have chosen, but the reality was every Democrat except one was opposed to the President's program, and every Republican except one was for it. The definition of partisanship is when you have an issue that produces a division right down the middle aisle. That is what we had. We had an election. I do think the American people spoke clearly on this issue. If there was a dominant theme in the election, it was that the American people were unhappy that we had not found our way to a bipartisan solution to our homeland security dilemma.

Today we have an opportunity to fix that. We have the opportunity to fix it by the following procedure. We need to vote yes on cloture on the Gramm amendment, which I intend to vote yes on. There will then be a motion to table the Lieberman amendment which, if it is successful, and I hope it will be successful, will knock down the whole superstructure that has been piled on top of the underlying Homeland Security bill. That will give us an opportunity to offer a bipartisan compromise that has been hammered out over the last 4 or 5 days. There is, at least in terms of what people have said in the reported media, a majority of the membership that is in favor of that compromise. Even as we speak, the House is debating a rule under which they will consider that compromise. Tonight, about 6 p.m., it is my understanding they will vote on that compromise. If they adopt it—and we have every reason to believe they will adopt it overwhelmingly—if we do the same, we will have been successful in a bipartisan effort to provide for Homeland Security.

I conclude by simply noting when we have the kind of debate we had for 6 weeks, it is easy to have hard feelings about it, it is easy to say "I want to prevail" after all the effort. I hope now we have had an election, we have all had an opportunity to go home and tell our side of the story, we can now come together.

I do think we have a good agreement. It does not do everything I want to do. It does some things in ways that I would choose not to do. Overall, it has two redeeming qualities. One, it gives the President the power he needs to get the job done, and the President and all those who would be working with him to create and run this new Department say with this compromise, they can get the job done.

Second, at least if everyone stays where they said they are, we have a majority of Members willing to vote for it. No matter what you think, or no matter what perfection would be, if, after 6 weeks of very difficult partisan debate, you have a proposal that will get the job done, a proposal that is supported by the person who has the constitutional responsibility for doing the job—the President—a proposal that those who would implement say they can make work, and a proposal the majority of Members have decided they are for, I am hoping we can get a very big vote here and put this behind us.

Finally, in the waning days of a session, obviously any individual member has extraordinary power. If someone decides they want to try to disrupt the process, they can. This is not an extreme proposal. It is a compromise. It has dealt with many of the issues that have been raised, from the appropriations issue Senator BYRD raised to numerous other issues discussed. I hope we will today begin the process that will quickly allow us to pass this bill.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Gramm-Miller amendment No. 4738 to H.R. 5005, the Homeland Security legislation:

Harry Reid, Ben Nelson of Nebraska, Hillary Rodham Clinton, Debbie Stabenow, Mark Dayton, Patrick Leahy, John Breaux, Tom Carper, Tom Daschle, Byron L. Dorgan, Jack Reed, Jim Jeffords, Tim Johnson, Mary Landrieu, Max Baucus, Daniel K. Inouye.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Gramm amendment No. 4738 to H.R. 5005, an act to establish the Department of Homeland Security, shall be brought to a close? The yeas and nays are required under rule XXII.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Iowa (Mr. HARKIN) and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mr. JOHNSON). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 89, nays 8, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—89

Akaka
Allard
Allen
Barkley
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Johnson
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reid
Roberts
Rockefeller
Santorum
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner
Wyden

NAYS—8

Boxer
Byrd
Corzine
Feingold
Jeffords
Kennedy
Reed
Sarbanes

NOT VOTING—3

Harkin
Helms
Torricelli

The PRESIDING OFFICER (Mr. EDWARDS). On this vote, the yeas are 89, the nays are 8. Three-fifths of the Senate duly chosen and sworn having voted in the affirmative, the motion is agreed to.

HOMELAND SECURITY ACT OF 2002—Resumed

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Lieberman Amendment No. 4471, in the nature of a substitute.

Gramm/Miller Amendment No. 4738 (to Amendment No. 4471), of a perfecting nature, to prevent terrorist attacks within the United States.

Nelson (NE) Amendment No. 4740 (to Amendment No. 4738), to modify certain personnel provisions.

Daschle motion to commit the bill to the Committee on Governmental Affairs and that it be reported back forthwith with the pending Lieberman Amendment No. 4471, listed above, as amended.

Daschle Amendment No. 4742 (to the instructions of the motion to commit H.R. 5005 to the Committee on Governmental Affairs) of a perfecting nature, to prevent terrorist attacks within the United States.

Daschle Amendment No. 4743 (to Amendment No. 4742), to modify certain personnel provisions.

The PRESIDING OFFICER. Cloture having been invoked, the pending motion to recommit falls.

The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I move to table the pending Lieberman amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. It appears there is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. The Senator from West Virginia could not hear the motion. Would the Chair get order? Let's hear the motion again.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. If we can't do this, I will suggest the absence of a quorum.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their conversations to the cloakrooms.

The Senator from West Virginia.

Mr. BYRD. I would just like to hear what the motion was.

The PRESIDING OFFICER. The Senator from Tennessee has moved to table the Lieberman substitute. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Iowa (Mr. HARKIN) and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—50

Allard
Allen
Barkley
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Cochran
Collins
Craig
Crapo
DeWine
Domenici
Ensign
Enzi
Fitzgerald
Frist
Gramm
Grassley
Gregg
Hagel
Hatch
Hutchinson
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—47

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carnahan
Carper
Cleland
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—3

Harkin
Helms
Torricelli

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT REQUEST

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany H.R. 4546, the Department of Defense authorization bill; that there be 75 minutes equally divided and controlled by Senators LEVIN and WARNER or their designees; that upon the use or yielding back of the time with no intervening action or debate the Senate proceed to vote on the adoption of the conference report; that upon the adoption of the conference report and the Senate resuming consideration of H.R. 5005, Senator THOMPSON be recognized to offer a substitute amendment; that immediately upon the reporting of the Thompson amendment Senator LIEBERMAN be recognized to offer an amendment to the Thompson amendment; and, following that, Senator FEINGOLD be recognized to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object——

Mr. REID. I added to the unanimous consent request, which the minority leader did not have a chance to review, that Senator FEINGOLD be recognized following the Thompson amendment, which, as I understand it, deals with the cost-of-living increase.

Mr. GRAMM. Mr. President, maybe something could be worked out, but that was not part of the agreement that we had sent over. On that basis, I have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. The Senator is absolutely right. I only did that to get approval on our side, and I should have checked with the Senator first. I apologize.

Does the Senator from Texas only object to the Feingold part of the unanimous consent?

Mr. GRAMM. Mr. President, if the distinguished Democratic floor leader will yield, we had met and canvased our Members on the original agreement that we had reached. That agreement entailed bringing up the Defense authorization bill, having a 75-minute time limit on it, voting on it, and then having Senator THOMPSON be recognized to offer the Gramm-Miller substitute. Subsequently, the Senator from Nevada made a change in that agreement which has not been canvased on my side. So I am required to object to the unanimous consent request as the Senator has changed it. But the original one we would stand ready to accept.

Mr. REID. The Senator is absolutely right. Standard procedure around here is to check with the other side. I did not do that. I apologize for that.

Would the Senators agree that we could go do the first part of this unanimous consent request; that is, that we would go to the Department of Defense authorization conference report and have 75 minutes of debate on that? And, of course, following the disposal of that, Senator DASCHLE or Senator LOTT or the two managers of the bill would have the first right of recognition. I am sure that would accomplish the same thing anyway.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany H.R. 4546, the Department of Defense authorization bill; that there be 75 minutes of debate equally divided and controlled between Senators LEVIN and WARNER; that following disposition of that matter, the Senate proceed to vote on the adoption of the conference report; that upon adoption of the conference report, we return to the consideration of H.R. 5005, which would be the regular order anyway.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, reserving the right to object—and I shall not—could we be more explicit as to whether or not we believe there should be a recorded vote because that is a time element. At this point, I think I would speak. We want to convenience the leadership in the expediting of the matters before the Senate. I do not know if there has been a request for a recorded vote because you are looking at 30 minutes for that probably. I just make that clarification.

Mr. REID. We have been told that on your side there is a vote required.

Mr. WARNER. OK.

I thank the Chair.

Mr. REID. I say to my friend from Wisconsin, the Senator from Wisconsin is not in any way jeopardized with anything in the first part of this unanimous consent request. If we can go to the Defense Department authorization conference report, H.R. 5005 reappears automatically anyway.

Mr. FEINGOLD. Mr. President, I object to this request.

The PRESIDING OFFICER. Objection is heard.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, if there would be an understanding that my amendment would follow this process as a separate agreement, I would be happy to lift my objection.

Mr. REID. Mr. President, as I said to my friend from Wisconsin, I will do what I can to make sure he has an opportunity to offer an amendment. I cannot guarantee that. I can only do that with a unanimous consent request.

AMENDMENT NO. 4900

(Purpose: To provide that Members of Congress shall not receive a cost of living adjustment in pay during fiscal year 2003)

Mr. FEINGOLD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], proposes an amendment numbered 4900.

At the appropriate place in the bill insert the following sections:

SEC. . COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS.

Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2003.

Mr. FEINGOLD. Mr. President, my amendment is very straightforward. It would eliminate the roughly $5,000 pay raise scheduled to go into effect next January for Members of Congress.

Put simply, this is the wrong time for Congress to give itself a pay hike.

Our economy is still recovering from the recent slowdown. The financial markets have been rocked, wiping out a chunk of the life savings and retirement accounts of many families. Thousands of workers who were laid off have not returned to work, and families face increasing financial pressures.

Our budget is, once again, back in deficit. Even under the most optimistic scenarios, we are facing serious budget deficits for many years to come. The on-budget deficit for the fiscal year that just ended on September 30 is well over $300 billion, and the Office of Management and Budget projects deficits totaling over one trillion dollars over the next five years.

In fact, the Federal Government is spending all of the Social Security Trust Fund surpluses, and then some, something we should do only to meet the most critical national priorities.

A pay raise of nearly $5,000 for Members is not a critical national priority.

Nor can one argue that this pay raise is justified because Members have not had one in a while. This is the fourth pay raise in as many years. On January 1, 2000, Members received a $4,600 pay raise. On January 1, 2001, Members received a $3,800 pay raise. On January 1, 2002, Members received a $4,900 pay raise. And unless we stop it, this coming January, Members will receive a $4,700 pay raise.

That will mean that, as of this coming January, Members will have received four consecutive pay hikes totaling $18,000—$18,000 per year.

That is more than the average annual Social Security benefit for a retired worker and spouse. It is more than the average annual Social Security benefit for a disabled worker, spouse, and child. It is more than someone working minimum wage can make in a year and a half.

This automatic, stealth, pay raise system is absolutely wrong. It is an unusual thing to have the power to raise our own pay. Few people have that ability. Most of our constituents do not have that power.

That this power is so unusual is a good reason for the Congress to exercise that power openly, and to exercise it subject to regular procedures that include debate, amendment, and a vote on the record.

That is why this process of pay raises without accountability must end. It is offensive. It is wrong. And I believe it may be unconstitutional. The 27th Amendment to the Constitution states:

> No law, varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened.

I recognize that some of our colleagues may feel they deserve a pay raise. I certainly respect that position. Last year, a colleague said to me that Members deserved a pay increase because of all that we had been through. Again, I strongly disagreed with that assessment last year, but I understood the sentiment.

But even those who favor a pay hike should support voting for it on the record. Certainly, having an open and public vote on the record for a pay hike is better than the stealth pay raise that takes place with no action.

Standing up and making the case before the public is far better than quietly letting the pay raise take effect.

We really should scrap the current stealth pay raise system, and I have introduced legislation to stop this practice. But the amendment I offer today does not go that far. All it does is to stop the pay raise that is scheduled to go into effect in January—the fourth pay raise in four years.

Let's stop this backdoor pay raise, and then let's enact legislation to end this practice once and for all.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I move to table the Feingold amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Missouri (Mrs. CARNAHAN), the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Idaho (Mr. CRAIG) are necessarily absent.

The PRESIDING OFFICER (Ms. CANTWELL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 36, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—58

Akaka
Allen
Barkley
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Cochran
Conrad
Crapo
Daschle
Dayton
Dodd
Domenici
Durbin
Enzi
Feinstein
Frist
Graham
Gramm
Gregg
Hagel
Hatch
Hollings
Inhofe
Inouye
Jeffords
Kohl
Kyl
Levin
Lieberman
Lott
Lugar
McConnell
Mikulski
Murkowski
Nelson (NE)
Nickles
Reed
Reid
Rockefeller
Santorum
Sarbanes
Shelby
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner

NAYS—36

Allard
Baucus
Bayh
Brownback
Bunning
Cleland
Clinton
Collins
Corzine
DeWine
Dorgan
Edwards
Ensign
Feingold
Fitzgerald
Grassley
Hutchinson
Hutchison
Johnson
Kerry
Landrieu
Leahy
Lincoln
McCain
Miller
Murray
Nelson (FL)
Roberts
Schumer
Sessions
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Wyden

NOT VOTING—6

Carnahan
Craig
Harkin
Helms
Kennedy
Torricelli

Mr. REID. I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FISCAL YEAR 2003—CONFERENCE REPORT

Mr. REID. I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany H.R. 4546, the Department of Defense authorization bill; that there be 75 minutes of debate equally divided and controlled between Senators LEVIN and WARNER or their designees; that upon the use or yielding back of time, without any intervening action or debate, the Senate proceed to vote on adoption of the conference report; that upon adoption of the conference report, Senator SANTORUM be recognized to offer a unanimous consent request; and that following the disposal of that, the Senate resume consideration of H.R. 5005, with Senator THOMPSON recognized to offer a substitute amendment; and immediately upon the reporting of the Thompson amendment, Senator LIEBERMAN be recognized to offer an amendment to the Thompson amendment.

Mr. NICKLES. Reserving the right to object—and I shall not object—is it the assistant Democratic leader's intention to have a rollcall vote on the DOD authorization?

Mr. REID. We had a request from that side of the aisle to have the rollcall vote.

We do not have a rollcall vote request.

Mr. NICKLES. To my knowledge, that request has been withdrawn.

For the information of our colleagues, it may well be possible to pass the Department of Defense authorization bill by a voice vote.

Mr. REID. That sounds good. We have a number of Senators who have other things to do. That would be helpful.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the conference report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 5010), to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, having met, have agreed that the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The report is printed in the House proceedings of the RECORD of November 12, 2002.)

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I yield myself 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Madam President, we are pleased to bring to the floor the conference report on the Bob Stump National Defense Authorization Act for Fiscal Year 2003. The conference report would not have been possible without the dedicated work, over many months, of the members of our committee on both sides of the aisle, particularly our subcommittee chairmen and ranking members who bore the brunt of the workload in bringing this bill to this point.

I particularly thank my dear friend and colleague, Senator WARNER, the ranking minority member, soon to be chairman of the Armed Services Committee, for the absolutely essential role he has played throughout this process. Right up to the last minute, we were not sure we would get a bill. Senator WARNER was able to help us accomplish that and get us to that goal line that we finally think we will cross. I thank him for that.

Mr. WARNER. It was a team effort, Madam President. I thank my distinguished chairman.

Mr. LEVIN. This conference report is named after Congressman BOB STUMP, who will be retiring, in honor of all the work he has done, for the dedication of his entire congressional career supporting our men and women in uniform. The bill is deservedly named in his honor. Of course, IKE SKELTON on the House side, the ranking member of the House Armed Services Committee, made an absolutely essential contribution as well.

Last month, we passed H.J. Res. 114 that authorized the President to use the Armed Forces of the United States as he determines to be necessary and appropriate to defend the national security of the United States against the continuing threat posed by Iraq and to enforce all relevant U.N. Security Council resolutions in that regard.

It has been widely reported that the United States has already started the prepositioning of forces and supplies in anticipation of possible military action against Iraq in accordance with this resolution. As we stand poised on the brink of possible military action, hopefully action that will not be necessary but nonetheless possible military action, this bill will provide the men and women in uniform with the tools they need and the pay and benefits they deserve.

For instance, this bill approves a significant military pay raise, including an across-the-board pay raise at 4.1 percent, with an additional targeted pay raise for midcareer personnel that would result in pay raises ranging from 5.5 percent to 6.5 percent. The bill will authorize a new assignment incentive pay of up to $1,500 per month to encourage service members to volunteer for hard-to-fill assignments. It will authorize $10.4 billion for new construction of military facilities and housing, which is an increase of about $740 million above the requested level. The bill will add more than $900 million to the Navy shipbuilding account. It will authorize an increase of $42 million in funding for the U.S. Special Operations Command. It provides an increase—and we are talking about increases above the requested budget level from the administration, but when I make reference to increase, that is the reference I am making. Here is a reference of more than $100 million for defense against chemical and biological weapons, in addition to approving the budget request of $1.4 billion for such efforts. We approved $2 billion which was requested for force protection improvements to DOD installations around the world and in order to help address shortfalls in the Department's high-demand, low-density assets, including the EC-130 Commando Solo aircraft and the EA-6B electronic warfare aircraft fleet.

Despite all of these important provisions, we came very close to not having a conference report this year, because of the opposition of the White House to a single provision that was included in both the authorization bills passed by both the Senate and the House of Representatives. This provision would permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay earned through years of military service and disability compensation from the Department of Veterans' Affairs based on their disability. Currently, military retirees who receive VA disability pay have their military retired pay offset by the amount of their VA disability pay.

Both the House and Senate versions of our bill included provisions phasing in the payment of both military retired pay and VA disability pay to qualifying military retirees, although the Senate provision was more generous and more expensive than the House version.

In June, the Office of Management and Budget issued a Statement of Administration Position indicating their opposition to authorizing concurrent receipt of military retired pay and VA disability pay. As a result of this veto threat, the House conferees then decided that they would not accept even their own concurrent receipt provision. The House conferees took this position despite the fact that the House voted 391 to 0 to instruct the conferees to agree to the Senate position on current receipt in conference.

When it became clear that the President's veto threat would make it impossible for us to achieve a conference report containing either the Senate concurrent receipt provision or the House concurrent receipt provision, we had the choice of giving up on the defense bill for the year, or finding an alternative that would be acceptable to the White House and the Republican leadership of the House of Representatives. With the yeoman services and the extraordinary efforts of Senator WARNER, we finally agreed to include a provision that would authorize an enhanced special compensation for certain military retirees with 20 years of service equal to the amount of retired pay forfeited because of the receipt of veterans' disability compensation.

That is just a part of what we tried to accomplish. I commend Senator REID of Nevada and others who have fought so hard for this provision.

There are many members of our committee and many Members of this Chamber who have really tried for years to address this concurrent receipt problem. We moved the ball forward perhaps 20 yards this year. It is, as I think Senator WARNER has described, a beachhead. We are glad we were able to do this much. But it is disappointing that the veto threat that was hurled at us by the Office of Management and Budget made it impossible for us to do even more, despite all of our efforts.

Again, I thank Senator WARNER. Without some provision on this subject, frankly, this bill would not have been brought back to the floor. We had to make some progress on this issue before we could, in good conscience, bring a bill back to the floor.

But I emphasize it is just some progress. It is not anywhere near what the Senate did. It is not even close to what the House did. But it is clearly better than not making any progress at all.

The special compensation that is provided for in the bill would be available to retirees who incur a disability attributable to an injury for which a Purple Heart was awarded—that is one group—regardless of the percent of disability, and the other group is a service-connected disability rated at 60 percent or higher that was incurred as a result of any of four circumstances: Either the result of armed conflict, while engaged in hazardous service, in the performance of duty under conditions simulating war, or through an instrumentality of war. Any of those four circumstances, if the disability is rated at 60 percent or higher, will result in the special compensation being made available to our veterans.

These disabilities are sometimes called "combat-related" disabilities for short. But that is really a misnomer. It is actually misleading to call certain of them "combat-related disabilities" because the categories are far broader than simply combat-related.

I see Senator REID on the floor. Again, I extend my thanks to him. Without his driving concern on this issue of concurrent receipt, we would not have been able to even advance the bill to the 20-yard line at which perhaps we are right now. It is progress—but minimal progress. Again, it was the only way we could obtain this bill. We would not have gotten to this point without the tenacity of Senator HARRY REID. There are others who joined with him over the years. But it is that persistence which has gotten us to this point.

Mr. REID. Madam President, will my friend yield? I know there is limited time.

I want to say very briefly this compromise only affects up to 15,000 veterans. But having said that, 15,000 people deserve it as much as anyone deserves anything in the world. They are going to get help. That says a lot. There are hundreds of thousands of other people which the original legislation would have helped. We are going to work on that later.

I say to my friend, the chairman—and the soon-to-be chairman—how much I appreciate their tenacity. We have worked this bill over the years. We have received, frankly, no help from the House in years past. I am happy. And I congratulate the President for easing off on his statement that he was going to veto this legislation if there was anything in it for concurrent receipt. I appreciate the President backing off. I wish he would have allowed us to have everything. He didn't. But I take what we have gotten, and I am happy we have what we have.

I say to those 15,000 veterans that I introduced the first legislation. But this has been a team effort. We have worked very hard to get to this point. It is a large step forward.

I say for the third time this will help 15,000 people, most of whom are Korean and World War II veterans—and a sizable number of Vietnam veterans also, of course. But it is for mostly World War II veterans. I am so happy. I wish we had more.

But I want to say to my two friends who are here on the floor that this is important legislation. It is landmark legislation.

I underline and underscore what I have said in the past about the two managers of this legislation. They could have caved in a month ago, and we would have had a Defense authorization bill, and we could have shouted at the hilltops about this legislation. They did not do that because of this issue. I applaud and commend both of them for sticking to a matter of principle. That was correct. Words cannot adequately convey how strongly I feel about the two of them for sticking with it. I am not on the committee. I couldn't comment. I couldn't be there to give a speech. I didn't have an opportunity to issue a written statement. That is how our conferences work. But the two of them did what they had to do. These 15,000 people owe it all to them.

I have heard some people say we can't afford to take care of our veterans. We can afford to take care of our veterans. This is a tremendous step forward. We are taking care of our veterans.

Mr. WARNER. Madam President, if I might again say how much the two of us—Chairman LEVIN and I—appreciate the strong support of Senator REID throughout particularly this year, building on what he did last year, to see that this issue was kept at the very forefront of our legislative objectives with the annual authorization bill.

I say to my good friend that when the group of us gathered with the President's Chief of Staff at the White House, we were there with Mr. Principi, the chief of the Veterans Administration, the rough calculation was that there are about 33,000 who will be embraced with the formulation we have included in this bill. I think, as you say, and as I have said, it is a beachhead.

Mr. REID. That is even twice as good as I thought. That will amplify my remarks, that 30,000 is twice as good as 15,000.

Mr. LEVIN. Madam President, I can assure also the Senator from Nevada that even though he might not physically be on the Armed Services Committee, he was very much present every step of the way even when he wasn't present. Everyone is very much aware of his effort here, and of Senator BOB SMITH's effort. Senator HUTCHINSON was extremely active, too. Senator WELLSTONE, of course, on this kind of veterans issue, was deeply involved.

Mr. WARNER. We should include Senator MAX CLELAND. Very definitely, he worked very hard.

Mr. LEVIN. I will also mention the role of Senator CLELAND, Senator CARNAHAN, and others on this issue on the Armed Services Committee in a few moments. Again, I thank the Senator for that.

Mr. WARNER. Madam President, Senator REID and I and Senator LEVIN in our colloquy are discussing the importance of this bill including a provision on concurrent receipts. Following the election, recognizing that I would become chairman at the appropriate point in time when the chairmanships are established formally, that I make an effort to try and reconcile the differences and get a provision in this bill because, give or take a few, I would think almost all 435 Members of the House of Representatives, in the course of their campaigns, had a colloquy with their veterans on this subject.

I know from experience on the Senate side, those of us 30 plus who were up for reelection this time and others seeking election had to address this issue and respond to our veterans. Therefore, I felt it was a matter of principle for the Congress of the United States not just to rely on campaign rhetoric, but to include in this very historic bill a provision directed at compensation for those veterans we deemed formed that category deserving of added funds.

I was privileged to work on drafts. I have showed them to our distinguished chairman. While he had views that were somewhat different on this issue in the course of the deliberations, without his final acknowledgment to agree with me that this was as much as we could achieve, we would not be here today. It was a joint effort, I say to the chairman, and he encouraged his colleagues to sign the conference report as I encouraged our colleagues.

I went to the White House with Congressman DUNCAN HUNTER who was standing in for Chairman STUMP in the final days of the conference negotiations. We were joined by Secretary Principi and the Deputy OMB Director, Mrs. Dorn. We met with the President's chief of staff, and in due course worked out what I felt was the best compromise we could achieve.

I wish to say I felt the White House was very cooperative—Mitch Daniels, the Director of the Office of Management and Budget, the chief of staff, and others. Mr. Principi was exceedingly helpful. I had several days before I joined him at the Vietnam Veterans Memorial to read the names of those who bear witness to freedom and their sacrifices on that wall. It was interesting, as we were sitting there on that cold twilight afternoon, I had a little piece of paper, and we were sketching out the framework of what the two of us felt could be achieved. So I thank Mr. Principi for his efforts.

DUNCAN HUNTER was just a tremendously strong working partner throughout this entire deliberation. I thank those individuals, and certainly Mr. Card, who is the President's chief of staff, for at some point in the meeting saying: That's it, we're going to do it.

It is interesting, earlier that day Mr. Principi and I had attended an early meeting at the White House with the President when he addressed a number of veterans. I remember in the front row were a number of Congressional Medal of Honor veterans. We had some veterans from the United Kingdom, and the Chief of Staff of the Army, and the Chief of Staff of the Air Force and others were present.

It was a very moving statement by our President acknowledging this Nation's eternal gratitude to generations of veterans who made possible our life today in these United States, our quality of life, our freedom.

It seemed to be an appropriate time to bring up with the President this issue once again, and he said: We are going to take a good look at it, and that they did. So I am most grateful. Actually, it was not that day, for that day I left that meeting at the White House and went up to Maine to participate in the christening of a destroyer to honor John Chafee, a United States Senator whom the Presiding Officer and I held in the greatest esteem and affection. It was the day following the White House meeting.

I refer to this as a beachhead, and I do so respectfully because throughout this deliberation, in total fairness, we are faced with an extraordinary demand on the Department of Defense now, and particularly the men and women who are currently in uniform, as well as the Guard and Reserve. We are in the course of transitioning in the roles and missions, the equipment, and the training of our military departments to meet the threat of terrorism today. Therefore, the utilization of dollars from the United States taxpayers that go to the Department of Defense has to be prioritized against that threat today.

The dollars involved in this we estimate to be perhaps as much as $10 billion over 10 years. That is a considerable factor to take into consideration in the competition for these dollars.

I, speaking for myself, am ever mindful of the rising public debt necessitated in large part by this war on terrorism.

So in fairness to the President and his advisers who looked at this issue and have looked at it for some period of time, there are other factors that had to be considered. In the final analysis, I believe, with the help of the chairman and others, we crafted the best possible compromise we could get. I thank the distinguished chairman once again.

Mr. LEVIN. Madam President, how much time, may I ask the Chair, is remaining?

The PRESIDING OFFICER. Twenty-three and one-half minutes.

Mr. LEVIN. Are 10 minutes exhausted?

The PRESIDING OFFICER. Yes.

Mr. LEVIN. I thank the Chair. I yield myself 5 additional minutes.

There are a number of other important initiatives in this bill we will enact into law shortly. Here are just a few of them.

In the area of missile defense, the conference report, such as the Senate bill, authorizes the President to reallocate $814 million, should he choose, from missile defense expenditures which, at least to some of us, appears to be unjustified or duplicative in combating terrorism. And he can reallocate the $814 million to the effort to combat terrorism. Again, that is left to his discretion. But this bill does, this year, require that he identify whether or not he has made that choice.

The bill also would ensure better oversight and management of missile defense programs in a number of ways. We are going to require programmatic information on ballistic missile defense programs with the budget justification materials that come to Congress.

We are going to require the Joint Requirements Oversight Council, the so-called JROC, to perform a review of the cost, schedule, and performance criteria for ballistic missile defense programs so that the validity of those criteria in relationship to military requirements can be assessed.

We are going to require the Department of Defense to establish a more disciplined process for the evolutionary acquisition and spiral development of major defense acquisition programs, including missile defense programs, by issuing guidance and instituting a process for the approval of acquisition plans.

Second, in the area of nuclear weapons, we have taken a number of steps to ensure that the Department of Defense and the Department of Energy do not take any precipitous actions to develop new nuclear weapons.

First, we rejected a House provision that would have repealed the current law prohibiting the research, development, and production of low-yield nuclear weapons.

Second, we included a Senate provision that would require the Secretary of Energy to specifically identify any funds requested for new or modified nuclear weapons. If there is such a request, it cannot be buried in some other subject. It has to be identified as such in the budget material.

Third, we prohibited the Secretary of Energy from spending any funds for the Robust Nuclear Earth Penetrator unless and until the Secretary of Defense submits a report setting forth the requirements for such a system and the employment policy behind such a system, as well as the potential for conventional alternatives to that Robust Nuclear Earth Penetrator.

And we prohibited the use of any funds authorized in the bill for nuclear-tipped missile defense interceptors.

We have a number of initiatives to ensure that the resources our taxpayers provide for national defense are spent wisely. Some of these initiatives include a major initiative based on the recommendations of the Defense Science Board and the Department of Defense Director of Operational Test and Evaluation to address budget shortfalls and organizational shortcomings in the Department's test and evaluation infrastructure that have led to inadequate testing of major weapons systems.

We have advanced last year's initiative by the committee to improve the way in which the Department manages its $50 billion of services contracts, which we anticipate will save $600 million.

We included a provision that will address the Department's inability to produce reliable financial information and to achieve $400 million of savings by deferring spending on new financial systems that would be inconsistent with a comprehensive financial management enterprise architecture that is currently being developed by the Department.

We also have required, in this bill, that the Department establish new internal controls to address recurring problems with the abuse of purchase cards and travel cards by military and civilian personnel.

In the area of efforts to combat terrorism and to lessen the danger posed by weapons of mass destruction, we have taken the following initiatives:

A title of the bill sets aside $10 billion to fund ongoing operations in the war against international terrorism during fiscal year 2003. This is a very important provision in the Senate bill. It was very important to the administration that we not use those funds for some other purpose. We did not. This will be the subject of the later appropriation, but, nonetheless, we set aside that $10 billion fund for the ongoing operations in the war against terrorism.

Next, we fully funded the Nunn-Lugar Cooperative Threat Reduction

Program, including funding for the destruction of chemical weapons in Russia. And we fully funded the proliferation preventions at the Department of Energy.

We took an important step to give the President greater flexibility to waive any of the conditions precedent to carrying out that CTR program or the Freedom Support Act programs for three fiscal years. So now the President can proceed with the Comprehensive Threat Reduction programs even if they do not meet technical criteria for spending that money if it is in the national interest that he do so.

He has that waiver authority under this bill for 3 years. He has not had it before. This is an important addition to the fight against proliferation, particularly of chemical and biological weapons.

In addition, and finally, we addressed a number of very difficult environmental issues. The conference report includes, first of all, some environmentally sound provisions that we adopted in the Senate.

Two of these provisions would authorize the Department of Defense to enter into agreements with non-Federal entities to manage lands adjacent to military installations and to create buffer zones between training areas and the surrounding population. Those are two provisions which will help protect the environment.

A third one requires the Department to strengthen its program for the acquisition of procurement items that are environmentally preferable or are made with recycled materials.

We also, in the environmental area, succeeded in removing two ill-advised House provisions. One would have exempted some DOD activities from the Endangered Species Act. That is not within the jurisdiction of our committee. We were able to obtain the removal of that provision. And the other provision which we were able to remove would have provided special exemptions from environmental controls for the training range in Utah.

We were able to modify a House provision which authorized the exemption of certain Department of Defense activities from the provisions of the Migratory Bird Treaty Act. That was a highly controversial action on the part of the House. We were able to obtain some important concessions in the conference relative to that provision, including an agreement to structure the provisions so that the Department of Interior will be required to exercise its regulatory powers over the Department of Defense activities impacting migratory birds and to require appropriate actions to mitigate the impact of Department of Defense actions on migratory birds.

I hope and believe that the tradeoff that we made in dropping the endangered species provision and the Utah provision and getting a modification of the migratory bird provision was a sound one. I believe that we made some real progress, given the point that we were starting with in the Senate, which was facing all this language on the House side, which we had to either remove or to modify, as well as preserving our own provisions which were very supportive of environmental protection.

I was very disappointed that we were unable to include a Senate provision that would repeal the statutory prohibitions on the use of Department of Defense facilities for legal abortions so that military women overseas could get a legal abortion, at their own expense, in a DOD medical facility overseas. This was a provision that, if we were able to maintain it, would have led to a veto of this bill.

Again, we faced the House conferees who were determined that there would be no bill if this provision was in it. So now we continue for another year what I consider to be the absurdity of forcing women who are obtaining a legal abortion to come home. These are women in the military, committed to the service of their country, who are going to be required, for another year, until we face this issue again next year, to return home to obtain an abortion, which is legal, which they have chosen to obtain.

I find this to be an unconscionable provision in our law. And we are going to continue to try, to the best of our ability, to change that provision. But this year we did not prevail, did not succeed, and we would have faced a veto of this bill. The Office of Management and Budget was very clear in a letter that they would recommend the veto of this bill if the Senate provision, which removed this impediment to legal abortions, at their own expense, by women who are serving this Nation—if that, in fact, prevailed, there would have been a veto.

Madam President, our Armed Forces are ready to help keep the peace, to deter traditional and nontraditional threats to our security and our vital interests around the world. And they are prepared to win any conflict decisively. The success of our forces in Afghanistan is a tribute to the men and women of the Armed Forces and the investments in national defense that Congress and the Department of Defense and administrations over time have made for many years.

The investments in previous years, indeed in previous decades, in equipment, in treating our personnel properly, in raising morale, in readiness—these investments by prior Congresses, by this and prior administrations, have paid off. And future success on the battlefield will likewise depend upon the success of Congress and the Department to prepare and to train and to equip our military for tomorrow's missions.

So as we stand on the brink of possible conflict in Iraq, the conference report builds on the considerable strengths of our military forces and their record of success by preserving a high quality of life for U.S. forces and their families, by sustaining readiness, and by our efforts to transform the Armed Forces to meet the threats and the challenges of tomorrow.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I, once again, thank the chairman for his service. We have been together now for 24 years on the Senate Armed Services Committee. And, given the results of the recent elections, we will be here for another 6.

When I yielded the chairmanship 2 years ago, thereabouts, Senator LEVIN just moved one place over. Now I will just move back to that one place. We have conducted the affairs of this committee in a very spirited way, but I think it reflects as high a degree of bipartisanship as can be achieved in this magnificent institution, the Senate.

I commend the chairman, and I commend him for this bill. He has worked long and hard on it, with me at his side, together with our respective Members. It is a good bill, a very good bill.

(Mr. JEFFORDS assumed the Chair.)

Mr. LEVIN. Mr. President, I thank my good friend from Virginia. I had no doubt he would be back. I am glad to see him back. We kept the chair warm for him. The gavel will be handed over with—I will not say with unmixed feelings because, obviously, there are mixed feelings, but I cannot think of anyone I would rather hand the gavel to, if it is not on our side of the aisle, than my dear friend from Virginia.

Mr. WARNER. Mr. President, I thank my colleague.

Mr. President, we, as a Nation, were astonished, once again, in the past few days to see the face of Osama bin Laden and hear the remarks he (allegedly) made. I am not here to in any way lend credence to the validity of this, but nevertheless, those in the position to determine will eventually determine the validity of that piece of tape. But it did bring home to America the threats that this Nation faces and the fact that we, under the leadership of a brilliant President, are engaged in all-out war, together with our allies and others, in a war on terrorism. This bill is an essential building block in that war.

Questions were raised in the course of our deliberations on this bill: Can we as a Nation afford, can the military take on the obligation to engage the enemy of terrorism in the worldwide effort and, at the same time, if it is necessary—and I repeat, if it is necessary—to use force against Saddam Hussein and his regime—not the people of Iraq, but Saddam Hussein and his regime? And I say this bill provides that measure of support such that our President, in his role as Commander in Chief, can conduct the full range of options militarily necessary to protect this Nation, be it from terrorism or the possible use of force in Iraq.

That brings me to another point. As we all watch the developments in Iraq and, indeed, today, very interesting developments, I stop to think we would not as a free world be in the position of having this new resolution from the United Nations had it not been first and foremost for the courageous leadership of our President who, over a period of a year or more, has been constantly reminding the world, not just our citizens, of the threats from Saddam Hussein and his weapons of mass destruction, and the need to address those threats.

Wisely, he sought to go to the United Nations where he put forth that historic speech. Had it not been for the vision, the foresight, and the commitment of this President, we would not be seeing today the unfolding of what I hope will be a successful resolution of the destruction of the weapons of mass destruction now possessed by Saddam Hussein without the use of force.

The second factor in achieving the action by the United Nations was the fact that the men and women in the U.S. military are trained, are ready, and would respond to the Commander in Chief's order, if that were necessary, to resolve this critical worldwide issue by the use of force. They are ready. Saddam Hussein knows that. So I salute the men and women of our Armed Forces who are as much responsible for what we hope will be the successful resolution of this issue pursuant to the most recent resolution of the U.N. It is just as important a factor as the deliberations of the U.N. itself and indeed the valiant efforts of our President, and I wish to acknowledge that.

Congress also played an important role by passing a strong resolution in support of the President; a resolution authorizing the use of force against Iraq. The militaries of the U.S. and our allies stand by, ready to use force if necessary, pursuant to that authorization by the Congress.

I think this bill should remove any doubt of our commitment to fight terrorism, to use force if it becomes necessary in Iraq, and to defend the interests of Americans and our allies throughout the world.

An undertaking of the magnitude of this bill is ultimately a bipartisan effort. Our committee has a long tradition of bipartisanship. Senator LEVIN and I have served under Chairman Stennis, Senator Goldwater, Senator Tower, Senator Nunn, and now the two of us are privileged to have that responsibility, I as ranking member, and Chairman STROM THURMOND, who is now present on the floor, all of whom tried to have the highest possible bipartisanship in this committee. Our chairman and I have continued that tradition.

When it comes to the welfare of the men and women of the armed services, when it comes to the importance of the security of this Nation and the recognition by our allies that we stand to support them, we should have, and do have, that degree of bipartisanship. Consequently, there are many people deserving of recognition and thanks who have kept that tradition.

I especially want to thank my chairman for his leadership. I want to thank all of our subcommittee chairmen and ranking members for their tireless efforts in ensuring that our troops have the tools they need for peace to accomplish such missions as they may have to undertake.

At this point, I would like to pay special tribute to three Republican Members of our Committee who will not be returning next year. Senator STROM THURMOND has proudly served as a Member of the Senate Armed Services Committee since January 14, 1959, during the Eisenhower Administration. During nine successive Administrations, Senator THURMOND has provided a steady hand, sage advice and strong support for our men and women in uniform. He also had a distinguished military career, leading members of the "Greatest Generation" ashore on the beaches in Normandy and rising to the rank of Major General in the Army Reserve. He is a true American hero, and he will be missed in the years ahead. Senator BOB SMITH has been a Member of the Committee since 1991, serving most recently as the Chairman of the Strategic Subcommittee from 1997–1999. A distinguished Navy veteran who served in Vietnam, Senator SMITH has been a champion of veterans issues, joining Senators REID and HUTCHINSON in the efforts on concurrent receipt. And finally, Senator TIM HUTCHINSON has made significant contributions during his four years of service on the Committee. As the Chairman and then Ranking Member of the Personnel Subcommittee, Senator HUTCHINSON has been committed to improving the quality of life of our military personnel. He joined me in crafting legislation—TRICARE for Life—to ensure that we meet our commitment to our military retirees to provide them with health care for life. In addition, he has been instrumental in ensuring significant pay raises for the military for four consecutive years and major improvements in educational benefits. They have all been valuable Members of the Committee and they will all be missed.

No committee succeeds without a dedicated professional staff. I especially want to recognize the unwavering leadership of Judy Ansley of the minority staff, who will soon be moving over to become chief of staff of the majority, and of David Lyles who likewise will shift his desk a slight distance and continue the partnership that these two magnificent professionals have, as well as the wonderful service they render to the Senate, and indeed our country.

I also want to thank Peter Levine, counsel to both sides. He is good, and we call on him. Fortunately, we do not have to pay his salary out of our allocation, but we get the full measure of his brilliance.

Each of them have a marvelous professional staff. I would like to recognize each of them individually. On the Republican staff: Chuck Alsup, David Cherington, Marie Dickinson, Ed Edens, Brian Green, Bill Greenwalt, Gary Hall, Carolyn Hanna, Mary Alice Hayward, Bruce Hock, George Lauffer, Patty Lewis, Tom MacKenzie, Ann Mittermeyer, Joe Sixeas, Leslie Stone, Scott Stucky and Dick Walsh. On the Majority and non-designated staff: Dara Alpert, Ken Barbee, Mike Berger, June Borawski, Leah Brewer, Chris Cowart, Dan Cox, Madelyn Creedon, Mitch Crosswait, Rick DeBobes, Brie Eisen, Evelyn Farkas, Richard Fieldhouse, Daniel Goldsmith, Creighton Greene, Jeremy Hekhuis, Gary Howard, Drew Kent, Jennifer Key, Maren Leed, Gary Leeling, Mike McCord, Tom Moore, Cindy Pearson, Arun Seraphin, Christina Still, Mary Louise Wagner, Nick West, and Bridget Whalen. So I pay my respects, for they deserve credit and recognition.

The conference report before the Senate represents an important step forward in ensuring the readiness of our Armed Forces, protecting our homeland, and ensuring success in the ongoing global war against terrorism. During this critical time in our history, with our Nation at war and preparing, together with the United Nations, to meet the threats posed by Iraq—I should say posed by Saddam Hussein, not posed by the people of Iraq—it is essential that we provide our President and the Armed Forces with the vital resources they need to defend our Nation to fight the scourge of terrorism both at home and abroad, and to prepare for future threats.

I use the word "home" purposely because in my lifetime, I have seen incredible transition, the focal point being 9/11. I look upon the armed services of the United States as one of the greatest assets the American people have, and we should constantly look for ways in which they can, within the legal framework of our laws, be a full partner with those who are entrusted with our homeland defense. I am not just speaking of the Guard, the Reserve and others, but I am talking about the security forces, the police, be they Federal, State or local, the people who provide medical assistance, the people who provide all types of assistance in the event of a problem at home. We have to continue to strengthen and move in that direction, again within the framework of the laws.

As President George Washington stated in his first inaugural address to Congress on January 8, 1790, and I quote:

> To be prepared for war is one of the most effectual means of preserving the peace.

That is what this bill is about, to be prepared. We can all take pride in this legislation. It represents the bipartisan work of all committee members in both Chambers to support our men and women in uniform, and their families.

I want to commend Chairman STUMP, ranking member IKE SKELTON, and DUNCAN HUNTER. They were marvelous working partners in the House for the chairman and I to conclude this conference. This bill is named in honor of Chairman STUMP, a World War II veteran who lied about his age and joined the Navy when he was 15 years old and saw combat before his 18th birthday. I guess that is one of the reasons that generation, of which I am a very small and modest part having come into the tail end, is referred to as the greatest generation.

Chairman STUMP exemplifies that name: The greatest generation. The fact that this legislation is named in his honor is a fitting tribute to that true patriot.

I believe the Presiding Officer served in the House of Representatives at one time with Chairman STUMP.

I also want to thank DUNCAN HUNTER and IKE SKELTON for their unwavering efforts.

Our President sent the first signal to strengthen defense by asking Congress to increase spending, a very considerable increase in this legislation. This conference report sends a further signal to our citizens and to nations around the world that the United States is committed to a strong national defense. More importantly, this conference report sends a clear signal to our men and women in uniform, from the newest private to the most senior flag or general officer, that we are clearly behind them and we support their efforts around the world, and we are behind their families.

We must always pause to remember that the men and women in the Armed Forces rely first and foremost on the support they receive from their loved ones.

I want to thank the Department of Defense. I have had very cordial and strong working relations with Secretary Rumsfeld—we go way back together in the Nixon administration—as well as the Deputy Secretary of Defense and others. I think he has put together a good team. Yes, we do battle with them. We did battle with them on concurrent receipts, but in the end they swung in and gave us the technical advice to write this particular section on concurrent receipts in a way that creates a very special class of deserving career veterans, career military veterans.

To reiterate, I am proud to join Chairman LEVIN in recommending this conference report to the Senate. This has been a long and difficult conference; but, we have achieved our goal of providing for our men and women in uniform.

An undertaking of this magnitude is ultimately a bipartisan team effort. Our Committee has a long tradition of bipartisanship. Consequently, there are many people deserving of recognition and thanks. I especially want to thank my friend and colleague of 24 years in this Chamber and on the committee, Chairman CARL LEVIN, for the leadership he has shown in bringing this conference to a successful conclusion. I also want to thank all of our subcommittee chairs and ranking members for their tireless efforts in ensuring our troops have the tools they need to accomplish their missions. No committee without a dedicated, professional staff. I especially want to recognize the unwavering leadership efforts of David Lyles, Judy Ansley, and Peter Levine in bringing this process to a successful conclusion. They have led a great staff, all of whom deserve great credit and recognition.

The conference report before the Senate represents an important step forward in ensuring the readiness of our armed forces, protecting our homeland, and ensuring success in the on-going global war against terrorism. During this critical time in our history, with our nation at war and preparing—together with the United Nations—to meet the threat posed by Saddam Hussein, it is essential that we provide our President and our armed forces the vital resources they need to defend our Nation, fight the scourge of terrorism at home and abroad, and prepare for future threats.

As President George Washington stated in his first annual address to Congress on January 8, 1790:

> To be prepared for war is one of the most effectual means of preserving the peace.

We can all take pride in this legislation. It represents the bipartisan work of all committee members—in both Chambers—working together to support our men and women in uniform, and their families. I especially want to thank Chairman BOB STUMP for his efforts this year and congratulate him for his outstanding work on behalf of our men and women in uniform for the 26 years he has served on the House Armed Services Committee. The fact that this legislation is named in his honor is a fitting tribute to a true patriot. I also want to thank Congressmen DUNCAN HUNTER and IKE SKELTON for their unwavering efforts to ensure we have a strong defense authorization act for our nation.

Our President sent the first signal by asking Congress to increase defense spending. This conference report sends a further signal to our citizens, and to nations and around the world, that the United States is committed to a strong national defense. More importantly, this conference report sends a clear signal to our men and women in uniform, from the newest private to the most senior flag officers, that we are clearly behind them and we support their efforts around the world.

The conference report before us contains the largest defense increase in over 20 years—an increase of $45.0 billion over the fiscal year 2002 appropriated level. The good news story associated with this much needed increase is that it has the full, bipartisan support of the Congress. While there are always minor disagreements over how some of the money in this bill should be allotted, there was no dissent about the need for this significant increase in the top line for defense. This is a remarkable display of unity behind our President, so important and fitting with our Nation at war.

In line with the request of the President, the conference report significantly increases the major defense accounts over the Fiscal Year 2002 appropriated levels:

It increases spending on military personnel by over 14 percent including a 4.1 percent pay raise for our servicemen and women.

The bill increases the procurement account by over 20 percent. This will enable our military departments to procure the equipment they need to replace aging and heavily used assets, as well as to buy the things they need to protect our facilities, infrastructure and people in these increasingly uncertain and dangerous times.

Additionally, the bill increases spending on research and development by almost 17 percent, ensuring that critical investment is being made to develop the capabilities we need in the future to deter and defeat emerging threats to our national security.

The bill also sets aside a $10.0 billion reserve fund, as requested by the President, to pay for ongoing and future military operations in the global war on terrorism.

The threats to our nation and the ongoing war on terrorism demand this increased investment in national security, both now and in the future.

The bill contains many key provisions which will improve the quality of life of our men and women in uniform, our military retirees, and their families. In addition to the 4.1 percent pay raise I mentioned earlier, additional funding is included for facilities and services that will greatly improve the quality of life for our service personnel and their families, both at home and abroad. This legislation also contains key provisions that will better organize the Department of Defense to support the critical homeland defense mission, including: creation of an Under Secretary of Defense for Intelligence; authorization to add an Assistant Secretary of Defense for Homeland Defense; and, a requirement that the Secretary of Defense establish at least one Weapons of Mass Destruction-Civil Support Team within every state and territory.

One of the most difficult issues facing the conference was how to ensure that our military retirees, who have incurred disabilities, receive a measure of military compensation.

Concurrent receipt of retired pay and disability pay is as complex an issue as I have dealt with in my 24 years on this committee. Here is how I view this issue: success in certain military operations requires extensive planning, establishment of a "beachhead," and then long term effort to determine the equities and priorities for the future.

We have crafted such a "beachhead" in this conference report—I call it "Purple Heart-Plus-Others." The provision in this conference report provides substantial recognition and compensation for those who were injured in combat, that is, all those with disabilities resulting from injuries for which they received the Purple Heart. In addition, those retirees most severely disabled in combat related operations, in preparation for combat, and in performing hazardous service, that is, those with disabilities rated at 60 percent or greater, would receive additional compensation. We will rely on the Secretary of Defense to exercise his discretion to further define the nature of this service. In both cases, those career retirees who have a certain degree of disability would receive the same amount of compensation—under a new, special compensation program—as if we had removed the prohibition on concurrent receipt.

We all know that this is a complex issue and an emotional issue. Inaction is not an option. We must establish our "beachhead" today. I commit to holding early hearings next year to fully establish a body of fact on this issue. I see great merit in establishing a Presidential commission that can objectively examine the many issues related to the adequacy of compensation provided to our disabled veterans. I await the views of the veterans to be expressed at hearings.

It is important to note that this conference report supports and fully funds virtually all of the priorities established by the Department of Defense for the development and procurement of major weapons systems, including the Joint Strike Fighter, the F-22, the Army's Future Combat System, and unmanned aerial vehicle programs. I remain committed to supporting investment in technologies that will enable us to field significant numbers of unmanned aerial and ground combat vehicles, as soon as feasible.

In addition, I am pleased that the conference was able to add $229 million to the CVN(X) aircraft carrier to restore the original development and fielding schedule for this essential program. The carrier has proved its worth again and again in the global war on terrorism—a war which has relied extensively on carrier-based assets. This bill supports acceleration of this important program.

The world as we knew it changed forever on September 11. We lost not only many lives and much property that day, but we also lost our uniquely American feeling of invulnerability. But, from our darkest hour, our nation has quickly emerged stronger and more united than ever. Our President has rallied our country and many nations around the world to fight the evil of terrorism, and to confront those who threaten peace and freedom around the world.

As we conclude the 107th Congress, our nation is at war. U.S. soldiers, sailors, airmen, and marines, together with their coalition partners, are engaged on the front lines in the global war against terrorism, with a mission to root out terrorism at its source in the hopes of preventing future attacks. We are now faced with the possibility of war with Iraq, if the current U.S. led U.N. efforts fail.

Our armed forces have responded to the call of duty in the finest traditions of our nation, and they are prepared to protect our security in future conflicts. It is critical that the Congress keep faith with our troops by providing the resources and capabilities our President—our Commander-in-Chief—has requested.

Homeland security is now, without a doubt, our top priority. We have a solemn obligation to protect our nation and our citizens from all known and anticipated threats—whatever their source or means of delivery. Our President, George W. Bush, has promised our nation that homeland security is his most urgent priority. The fiscal year 2003 budget the President submitted reflected this priority.

The conference report before us funds the urgent security needs of our nation by doubling the funding for combating terrorism at home and abroad, in supporting the President's request for missile defense, and investing in new technologies to detect weapons of mass destruction and to deter their development.

I urge my colleagues to support this conference report that upholds the President's fundamental national security priorities and makes the right investments in future capabilities. It is imperative that we send our President, our fellow citizens and the world a message of resolve from the Congress—a National Defense Authorization Conference Report that provides the resources and authorities our Nation's leaders and our armed forces require to protect our Nation and our vital interests around the world.

Mr. LEVIN. Let me again thank my dear friend from Virginia. I yield 5 minutes to the Senator from Hawaii. If the Senator needs additional time, it will now be available.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise today to express my support for the conference report to the National Defense Authorization Act for Fiscal Year 2003. I thank my ranking member, Senator INHOFE, for his support and cooperation. It is truly an honor to work with him as we both seek to advance the readiness of our armed forces. I also commend Senator LEVIN and Senator WARNER for their tireless efforts during a challenging conference.

As the chairman of the Armed Services Subcommittee on Readiness and Management Support, I want to highlight a few provisions in the conference report which enhance the readiness of the men and women in our armed forces. The bill protects the $10 billion the President requested for operating costs of the ongoing war on terrorism. Fully funding this request reinforces our country's commitment to continuing the war on terrorism, and it also means that in so doing we will not have to rob funds from the operation and maintenance accounts needed to fund all of our other critical ongoing defense activities such as training and maintenance.

Conferees also took actions to ensure that our forces can continue to make the most prudent use of existing training assets. To do this, we authorized exemption of the Department of Defense from the Migratory Bird Treaty Act when training events result in incidental takings, but required DOD to take appropriate actions to avoid any unnecessary takings. We also authorized the Department of Defense to enter into partnerships to purchase land, or easements on land, that would protect training ranges, and provided $7.2 million for improvements to those ranges.

While the conferees believed that this change to the Migratory Bird Treaty Act was necessary to protect readiness in light of recent court actions, the conferees did not believe the administration made the case that the exemptions it sought from the Endangered Species Act for the Department of Defense were warranted. I continue to believe that when the Department's training needs for land, sea and air space conflict with other needs in our society, whether it is protecting the environment or accommodating the surrounding civilian populations, our focus should be first and foremost on ensuring that all parties involved work together in a spirit of cooperation.

To help to address longer term readiness challenges, the conferees, continued our efforts from last year to enhance the Department of Defense's coordination of anti-corrosion programs. Studies estimate that corrosion costs the Department up to $20 billion annually, and that corrosion continues to be a serious maintenance challenge and manpower drain. We therefore recommended that DOD designate a senior official to oversee anti-corrosion plans and policies, and added over $10 million to fund those efforts and other anti-corrosion testing, research, and product applications.

In an effort to continue efforts to improve the quality of life, conferees authorized the requested increases to improve the buildings where servicemembers live and work, and added an additional $740 million in military construction funding, which will be enough to maintain the level of investment in our facilities at last year's level. Included in this amount is over $700 million in funding specifically dedicated to enhancing the security of our installations.

To improve DOD management, the bill includes a number of provisions to expand DOD's authority to acquire major weapon systems more efficiently. With respect to services contracts, we built on last year's legislation requiring improved management of the $50 billion DOD spends annually on services by establishing specific goals for the use of competitive contracts and performance-based contracting. These goals should help ensure that the Department of Defense achieves contract services savings through specific management improvements rather than through program reductions. The conference report also requires DOD to develop a comprehensive financial management enterprise architecture, and addresses recurring problems with the abuse of purchase cards and travel cards by certain military and civilian personnel.

I also want to mention an issue of significant importance to the people of Hawaii—the cleanup of the island of Kahoolawe. I commend the Navy and the State of Hawaii for working to resolve a number of challenges. I am pleased about the Navy's commitment to continue clearance efforts until November 11, 2003, and its continued efforts to meet the intent and goals of the memorandum of agreement between the Navy and the State of Hawaii signed in 1994.

While I am disappointed that the conference report does not include the provisions passed by the Senate with respect to concurrent receipt, I believe the conference report strongly supports the readiness of our forces, both now and in the future. I urge my colleagues to support this bill.

Mr. LEVIN. I thank the Senator from Hawaii for his invaluable service to our committee as well as his statement. He has been the chairman of our Readiness Subcommittee and has done it with a wonderful spirit and great success. I thank him. We do not know what the subcommittee structures will look like next year, but hopefully he will continue to be a valuable part of our committee. I thank him for it.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SESSIONS. Mr. President, how much time is allotted on this side?

The PRESIDING OFFICER. Thirteen minutes is available.

Mr. SESSIONS. I yield myself 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I am very pleased with this defense bill. I congratulate Chairman LEVIN. He is a master leader in the Senate. His skill at managing complex matters is very well known. He works with all members of the committee, Republican and Democrat. We are able to reach agreements that sometimes would not be reached, and I believe he has guided us in a good way. I also appreciate the leadership of the ranking Republican, Senator JOHN WARNER, a man who has given his life to the defense of this country, served it ably in so many different capacities, and all the members of the committee and all the staff. Particularly, I note Archie Galloway on my staff who has worked tirelessly on this effort, a retired colonel infantry combat veteran who does a great job for me.

Money will not tell us everything, but we have the largest increase in spending on this defense bill in over 10 years, nearly a $50 billion increase. That is very healthy in light of the significant declines our Defense Department has suffered since the Gulf War in 1991. After the Berlin wall fell and after the Gulf War, we went into a significant reduction in our spending, virtually 40-percent reduction in personnel, and cuts in many different areas. After the collapse of the Soviet Union, some reductions were appropriate. Most experts would say today we went too far, that we forgot we needed to transform our military, and we forgot to meet the new challenges and to utilize the new equipment and technologies available to make our soldiers more effective, less at risk, able to target enemy troops and not hit enemy civilians, as has happened in previous wars. I am afraid we did not invest enough in the last decade in these efforts.

Within the last several years we moved aggressively forward. When I came on the committee our defense budget was under $300 billion. This year it will hit $393 billion, I believe, nearly $50 billion more than just last year. This allows us to continue to provide quality pay raises and personnel benefits for our men and women in uniform. These efforts have strengthened their ability to make a career of the armed services. Moreover, we authorized incentive income pay of up to $1,500 per month to keep key personnel in key positions, the kind of thing we need to do to maintain the most proficient military in the world.

I have been a critic of our spending habits, thinking we have cut our defense too much. To the American people, let me say we need not underestimate the strength and capability of today's military. Ours is clearly the greatest military in the history of the world. We are much more technologically oriented and as a result, we need personnel who serve longer, who have trained with the newest equipment, who constantly train with our best aircraft, weapons, night vision equipment, and communication systems—all the things that allow them to place the maximum possible threat and force on the enemy, while protecting the lives of our own soldiers and innocent civilians as much as possible. We have done a tremendous job. They are exceptional military men and women. There is no Army, Navy, Air Force, or Marine unit in the world that can compete with ours. They are the best there is, perhaps the best that have ever been. We should be very proud of them.

It allows the President, in times like this, to talk plainly to the United Nations and talk firmly to the Taliban in Afghanistan. It allows the President to speak directly to Saddam Hussein, and Saddam Hussein knows and the Nations around the world know his are not idle threats. We have the capability to carry out any commitments we make in terms of military force. I am pleased with where we are. We are making great progress.

I mentioned a few things that are important in this budget. Progress was made on concurrent receipt. In over 100 years we have not had additional benefits, other than tax advantages, for disabled veterans. This bill takes a big step forward with the "Purple Heart Plus" compromise and will be the first step we have made in that direction. I am pleased with this first step.

This will be the fourth year in a row we have had a significant pay raise, a 4.1 percent across-the-board hike and higher for other pay grades. I am pleased with that.

We have $10.4 billion for new military construction for facilities and housing for our personnel, many of which are below standard. Frankly, we can do a better job, in my view, of providing quality housing. I visited military houses and found out what they cost. They spend almost as much on them as private housing in the suburbs in Alabama and other places that seem to cost less or no more. We need to improve the quality of our construction as we go forward in the future.

We added $900 million to the Navy shipbuilding accounts. I was the ranking Republican on the Ship Seapower Subcommittee, serving with Senator TED KENNEDY, the Chairman. We were pleased in the end that our Navy did not take hits. At one point, it looked like that might occur. We are pleased that the shipbuilding account finally came in with a healthy number. This allows us to move forward for such things as refueling and nuclear submarine, refueling and developing nuclear submarines, providing additional advanced procurement for the CVN next generation of aircraft carrier, providing additional payments for prior incurred shipbuilding costs that we had obligated for the DDG–51 class destroyer, and LPD–17 class amphibious ships. We made some real progress there. We need to continue this transformation.

At one point or another, we may disagree with Secretary Rumsfeld's views regarding one weapons systems or another weapons system. But I think few of us can honestly disagree and ought to do nothing other than support his firm and clear determination—supported by the President of the United States—to transform our military to move us from a cold war configuration to a configuration that helped us meet the challenges we had in 1991 with Iraq, as we have had in Kosovo, as we have had in Afghanistan, and as we might have in the future in Iraq. We need to transform our military forces to do that.

We sometimes accuse the military of being stubborn, and slow to change. I would say that is true of our institution, the Congress. It is also true of the military. But our military is the most transformable, the most committed to change, and the most committed to the introduction of new technology of any military in the history of the world.

I am, all in all, very pleased with the leadership in our military today and their commitment to bring on board as soon as possible new ways of conducting warfare that protect our people, that put threat on the enemy, and that protect innocent civilians. I think we are doing well. I am very pleased with that.

The President has made clear that this Nation—the strongest military power in the world—is the single power capable of protecting its own forces and that of its allies in the most difficult areas of the world. How much more difficult could you find it to protect American forces than in Afghanistan? He is committed to doing that.

Sometimes we may wish it were not so. But my own personal view is that there will be continual challenges around the world and that the wise and proper surgical application of military power can save lives, promote peace, and promote economic prosperity around the world. Indeed, this Nation has the opportunity to help lead the world out of what could be a disintegrating chaos of independent states—many of them rogue nations—and into a more stable environment, and promote peace and prosperity for everybody in the world.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. Mr. President, I will conclude by saying this budget moves us in that direction.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senator from Alabama have whatever time he may need.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I will take a couple more minutes. I thank Chairman LEVIN for his courtesy as always.

But we are at a point where this Nation will have the need from time to time to utilize force around the world to protect our just and legitimate national interests. We don't need to do that recklessly, or arrogantly, or without careful thought. But at times we will be able to help defend our just national interests and at the same time promote peace and prosperity in the world. That is a high calling. I think it is falling to us at this time in history.

I am pleased that we are not only strengthening our defense budget, but that we are strengthening it intelligently. We are strengthening it with technology. We are training our personnel. We are keeping our good men and women longer, so they can become even more proficient in operating our ships, our command centers, our missiles, and so forth.

I am also pleased that we did maintain the President's request for funding for national missile defense. That is a key ingredient in our Nation's defense in the decades to come. We made that commitment in this bill also. I feel good about it.

Again, I would like to thank Senator LEVIN for his leadership, the staff for their work, and Senator WARNER for his leadership and support.

I yield the floor.

Mr. LEVIN. Mr. President, how much time do I have?

The PRESIDING OFFICER. Four minutes fifteen seconds.

Mr. LEVIN. Mr. President, first of all, I thank my friend from Alabama for his very fine presentation as well as for his kind words about me. I enjoy working on the committee with the Senator from Alabama. He has always been willing to listen and try to work out issues. There are all kinds of issues that come up—thank God, rarely on a partisan basis—complicated issues that have to be worked out. He has worked not only on the Seapower Subcommittee but on the full committee to address those issues. I am grateful for that participation.

Senator THURMOND was on the floor a few minutes ago. It reminded me that this will be, of course, his last term. No Senator serving today can appreciate what this body will be like when STROM THURMOND leaves this year. He has served longer in this body than any other Senator in history. His 48 years in the Senate span the terms of 10 Presidents of the United States. He keeps pictures of all 10 of those Presidents on his wall in the office.

When I joined the Armed Services Committee in 1979, Senator THURMOND by then was on the committee already 20 years.

His love for and dedication to the U.S. military goes back even further, though, to his commission as an Army Reserve second lieutenant of infantry in 1924 at the age of 21. He served with distinction in both the European and Pacific Theaters in the Second World War, receiving numerous decorations that include the Legion of Merit, the Bronze Star medal with "V" device, the Army Commendation Medal, the Belgian Order of the Crown, and the French Croix de Guerre. He landed in a glider on Normandy with the 82nd Airborne Division on D-Day and went on to win 5 battle stars. In 1959—the year that he joined the Senate Armed Services Committee—Senator THURMOND was promoted to major general in the U.S. Army Reserve.

During Senator THURMOND's tenure on the Armed Services Committee, our Armed Forces have faced challenge after challenge in Western Europe, Vietnam, the Middle East, the Caribbean basin, the Persian Gulf, the Balkans, and Afghanistan. Through it all, Senator THURMOND has persevered in his unwavering support for our men and women in uniform. His steadfast commitment to our national defense has been a rock upon which they could all rely and has helped ensure that our military has always been ready to answer the call whenever and wherever needed.

Senator THURMOND served as chairman of the Senate Armed Services Committee in the 104th and 105th Congresses. I had the honor and pleasure to serve as his ranking member in 1997 and 1998. I know from personal experience how seriously Senator THURMOND treated his duties as chairman and how hard he worked to be fair and evenhanded with every member of the committee. I am sure that I speak for all of our colleagues in saying just how much we appreciate not only the commitment that Senator THURMOND brought to his duties as chairman, but also his lifelong dedication to the defense of our Nation and to the welfare of the men and women in uniform.

He came to the floor a few minutes ago just to check things out—basically to satisfy himself that this Defense authorization bill was moving along. So he made the effort to come to the floor just to see for himself that things were OK.

I left the floor momentarily to just go out and thank him for coming over and to wish him well on behalf of the entire committee and the Senate, as we will not be seeing too much more of him because he is going to be moving on hopefully to other adventures.

Mr. SESSIONS. Mr. President, if the Senator will yield, I was going to add that Senator THURMOND, at the age of 99 and soon to be 100, was at the Republican Conference luncheon today. And here it is, a quarter to 6, and he just left the floor a few minutes ago. He has been fully engaged all day today. He is a true American.

I remember my first foreign trip with him to China. They respect age in China. So we were well respected. We went out to a Chinese Army military base. They asked him to review the troops. I was standing there—this Senator from rural Alabama—watching the famous STROM THURMOND troop in front of a group of Chinese Communist troops. Afterwards, I told him, "I never thought I would ever see that, STROM." I never thought I would have been there.

He is a remarkable man, a thorough expert in military affairs, and an absolute patriot. I thank Senator LEVIN for recognizing his service to our country.

Mr. LEVIN. Mr. President, if I could yield myself 5 additional minutes—if I am not taking the time of colleagues who are waiting to speak—to ask unanimous consent to add a word or two.

Mr. LIEBERMAN. Mr. President, if the Senator from Michigan will yield, I was hoping the chairman planned for further discussion because I would like a few moments myself to speak in favor of the Defense authorization bill.

Mr. LEVIN. Why don't I finish with a comment about Senator THURMOND and then yield to the Senator from Connecticut. We are going to be here anyway.

I have one other comment about Senator THURMOND, and then I will yield the floor.

My first trip with Senator THURMOND wasn't to a foreign country. It was to California. I will leave it at that.

(Laughter.) But he was only, I guess, 75 years old because it would have been 24 years ago.

I remember we were staying at a military base. We were studying a number of issues. I had just joined the Armed Services Committee. And I heard somebody, at about 5:30 or 6 in the morning, below my window running. I was trying to figure out who was up at 5:30 in the morning running. I knew it was a military base, but still 5:30 is a little early. That was STROM THURMOND running.

He was and is someone who really has put a lot of emphasis not just on his own health but on the health of his colleagues. How many times did he lean over to me, in the Armed Services Committee, and ask, are you watching your diet or are you getting exercise?

Here is a man who is really concerned that his colleagues would take care of themselves. I don't think any of us did the exercising he did and watched our diet quite the way he does, but, at any rate, he will be missed for all kinds of reasons.

The Senator from Connecticut is ready to speak. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair and my friend and colleague from Michigan.

Mr. President, I rise today to support the Defense authorization bill and to thank the chairman of our committee, Senator LEVIN, for his leadership in this effort, obviously supported, in a very strong partnership, by Senator WARNER, the ranking member, and other members of the committee of both parties.

It is particularly important we pass this bill now, not only because our forces are preparing for the possibility of combat to remove the threat Saddam Hussein represents, but also because this proposal has important provisions that will lead to transforming our military to ensure it is even more capable of protecting the American people in the uncertain and dangerous future ahead of us.

I do want to give credit to Senator LEVIN, who really has earned the gratitude of every American for his dedication and commitment not only to our national security in general but to the men and women in our Armed Forces. He has certainly ably explained the important provisions in this bill.

Obviously, there will soon be a transition in the leadership of the committee. Senator WARNER, I presume, will return as chairman. The fact these two colleagues have worked so well and so productively across party lines should give us all a sense of encouragement and hope about the work of this committee in the future.

I have been particularly proud to have been able to have worked on some provisions I believe will improve the readiness of our military in the years to come, and that will help our military become a more important part of the national homeland security team.

It has been a great honor to serve on the Armed Services Committee and to have worked with Senator LEVIN and Senator WARNER in the actions they have taken, particularly to improve the compensation and quality of life of our military.

I have also had the privilege, for the last year and a half—and I should say thanks to the occupant of the chair—to have served as the chair of the Airland Subcommittee, working very closely with Senator SANTORUM of Pennsylvania as my ranking member. We have now spent two sessions of Congress, as chair and ranking member, alternating our roles. I am particularly proud of the work our subcommittee has done with the full committee in providing additional resources to accelerate the Army's future force and to fully resource the combat aircraft that will serve as the backbone of our air forces and ensure our continued dominance of the air far into the future.

It has also been good to work with Senator SANTORUM and others on provisions that will permit more timely transition of promising leap-ahead technologies from research to full utilization, and to require the Department of Defense to fully assess its role in homeland security, each of which are parts of the Defense authorization legislation that is now before the Senate.

I worked with fellow members of both parties on the committee on a controversial matter that has reached resolution. It is a resolution that is unsatisfactory, but I know we have to move ahead with it; that is, the efforts to redress this longstanding inequity of a double standard that has allowed all Government retirees except our military retirees to receive both their full retirement pay and the disability compensation they are entitled to. Our original provision would have allowed all military retirees to draw both full-retired pay and any disability compensation they are entitled to.

To me, this is an issue of fundamental fairness. As Senator LEVIN has explained, we were forced by administration opposition to scale back the provision with regard to military retirees.

The compromise now in this conference report greatly reduces the number of retirees who will be able to draw both benefits I have described and that they are entitled to. It does authorize an enhanced special compensation only for military retirees with 20 or more years of service who incurred a qualifying combat-related disability. That means any rate of disability attributable to an injury for which the retiree was awarded the Purple Heart, or a service-connected disability rated at 60 percent or higher incurred as a direct result of armed conflict, while engaged in hazardous service, in the performance of duty under conditions simulating war, or through an instrumentality of war.

This, unfortunately, does not cover all the retirees who should be eligible. It greatly reduces the number who will be covered. It is a step forward, and a significant step forward, for those who will benefit, but I hope—and I would guess that members of both parties on the Armed Services Committee join in the hope—in the years ahead, beginning next year, we continue to extend the number of retirees who are entitled to receive both retirement pay and disability compensation but do not, and to reach the point where all of them, in fact, receive it. That seems to be our moral responsibility in this case, and we are not yet fully meeting it.

Bottom line, this is a critically important, otherwise not just adequate but adequate to the special needs of the moment, authorization bill. We are, after all, a nation at war. We forget that sometimes because our enemy does not have the normal attributes of enemies in war. They are not able to be seen on a battlefield massing their troops. They are not in ships at sea that we can observe. They certainly are not in the conventional military aircraft. But they are out there. They are plotting. They are planning. They are arming in conventional and unconventional ways to do us damage.

This authorization bill will continue to provide the men and women who serve us in uniform, and those civilians who support them, the resources they need to keep us not only defended but the mightiest Nation in the history of the world.

I thank Senator LEVIN, Senator WARNER, and all the members of the committee for the work they have done on this legislation. I look forward to supporting this conference report.

I thank the Chair and yield the floor.

CUSTOMS SERVICE

Mr. GRASSLEY. I would like to engage in a colloquy with Senator BAUCUS on provisions in the homeland security bill pertaining to commercial operations of the Customs Service.

Mr. BAUCUS. This is a very important topic. As my good friend will recall, the Finance Committee held a hearing on this issue last July, which we followed up with a letter to the Chairman and Ranking Member of the Committee on Governmental Affairs. We stressed the importance of preserving the revenue collection and trade facilitation functions of the U.S. Customs Service, even as that agency moves into a Department with a national security focus. I would be pleased to engage in a colloquy on this topic with the Senator from Iowa.

Mr. GRASSLEY. I appreciate the Senator's recalling our hearing of last July. I would note that following the hearing and our letter to the Committee on Governmental Affairs, we worked closely with that Committee and with the Administration to develop text that would keep intact the commercial functions of the Customs Service. That text has evolved. I note that the bill now before the Senate provides, as a general matter, for the transfer of Customs Service functions and personnel to the new Department of Homeland Security. Notwithstanding that, authorities vested in the Secretary of the Treasury relating to customs revenue functions are to remain with the Secretary of the Treasury unless delegated to the Secretary of Homeland Security. My understanding is that this exclusion from transfer pertains to authorities now exercised by the Secretary of the Treasury to issue revenue regulations developed by the Customs Service, and authority to provide oversight and supervision of the Customs Service in this area, especially with regard to policy matters.

Mr. BAUCUS. I share the Senator's understanding on this point.

Mr. GRASSLEY. I note that, technically, the bill allows even revenue-related authorities to be delegated. However, it is my understanding that a wholesale—or even a large-scale—delegation of such authorities is not contemplated by this legislation.

Mr. BAUCUS. I agree with the Senator from Iowa. This bill should not be read as permission for the Secretary of the Treasury to undertake a wholesale or large-scale transfer of revenue-related authorities to the Secretary of Homeland Security. That would be an abdication of the responsibility that this bill assigns to the Secretary of the Treasury.

Mr. GRASSLEY. I thank the Senator from Montana. I also would note that the issue of Customs' revenue functions is dealt with differently in this bill than in the draft bill originally sent to Congress by the Administration. In the Administration's draft bill, all Customs functions would have been transferred to the Department of Homeland Security without any further action by any government official. That is, no Customs-related authorities would have been retained by the Secretary of the Treasury. Would the Senator from Montana agree that this contrast further supports the point that the bill now before the Senate is not intended to give the Secretary of the Treasury blanket permission to engage in a wholesale or large-scale transfer of revenue-related authorities to the Secretary of Homeland Security?

Mr. BAUCUS. I fully agree with the Senator's observation. The Congress has taken a different approach from the one originally proposed by the Administration. Under the approach in this bill, significant revenue-related authorities remain at the Treasury Department. It would not make sense to take this different approach if the result would be a wholesale delegation of these authorities after enactment. Accordingly, the bill should be interpreted as establishing a presumption that those authorities should not be delegated in the absence of a compelling reason for their delegation. Moreover, while delegations in this area are indeed allowable under the legislation, it is fair to conclude that they will be scrutinized closely by those of us responsible for these provisions.

Mr. GRASSLEY. I appreciate this colloquy, and I thank the Senator for engaging in this colloquy on a very important topic.

MIGRATORY BIRD TREATY ACT

Mr. JEFFORD. Mr. President, I would like to engage my colleague Chairman LEVIN of the Armed Services Committee, in a colloquy on a provision relating to the Migratory Bird Treaty Act.

The Migratory Bird Treaty Act is one of our nation's oldest wildlife protection laws. Before this law was passed in 1918, many migratory birds were on the brink of extinction. However through international coordination and domestic conservation programs, the MBTA has succeeded in restoring many species of migratory birds. This law is within the jurisdiction of the Environment and Public Works Committee which I chair.

As the Chairman is aware, the conference report before us today contains an exemption for the Department of Defense from incidental takings of Migratory Birds related to military readiness activities. I think it is unfortunate that this provision was included, however, I know Chairman LEVIN worked tirelessly on this and many other difficult issues in conference, and I thank him for his efforts.

While I am concerned that these provisions were never subjected to scrutiny in the committee of jurisdiction, I have yet to agree that these provisions, or any other provisions affording special treatment to the Department of Defense, are necessary. For years our military has efficiently and effectively trained for conflict in full compliance with environmental laws. Our defense agencies have taken pride in their stewardship of the environment. I applaud Chairman LEVIN for rightly insisting that these provisions not be included in the Senate DoD Authorization bill.

I would like to confirm my understanding of these provisions with Chairman LEVIN who was a principal negotiator of this legislation. First, it is clear in Subsection (d) that the authority of the Secretary of the Interior to prescribe regulations for the incidental taking of migratory birds during military readiness activities is limited to the Secretary's authority under section 3(a) of the Migratory Bird Treaty Act.

Mr. LEVIN. That is correct. This authority must be consistent with the authority in section 3(a) of the Act, and in no way changes our obligations under the Migratory Bird Treaties.

Mr. JEFFORD. I would also like to point out that the Department of Interior has a mandatory obligation to promulgate regulations to permit the incidental taking of migratory birds by DOD within one year of the enactment of this Act. Subsection (d) of the provision clearly provides that "not later than the expiration of the one-year period beginning on the date of the enactment of this Act, the Secretary of Interior shall exercise the authority . . . to prescribe regulations to exempt the Armed Forces for the incidental taking of migratory birds during military readiness activities."

Mr. LEVIN. Yes, it is quite clear that the Department of Interior has a statutory obligation to promulgate regulations within one year.

Mr. JEFFORDS. Also, according to subsection (b), in the one-year time period between the enactment of this Act and the promulgation of regulations by the Department of Interior, the Secretary of Defense must, "identify measures to minimize and mitigate . . . any adverse impacts of authorized military readiness activities on affected species of migratory birds." Is it the Chairman's understanding that DOD has a mandatory obligation to implement these measures?

Mr. LEVIN. That is correct, the Secretary of Defense must not only take measures to minimize and mitigate adverse impacts on migratory birds, they must also ensure that such measures are implemented.

Mr. JEFFORDS. Finally, according to subsection (b), in the time period in which the regulations promulgated pursuant to subsection (d) are in effect, the Secretary of Defense must, "identify measures to minimize and mitigate . . . any adverse impacts of authorized military readiness activities on affected species of migratory birds" and "monitor the impacts of such military readiness activities on affected species of migratory birds." Is it the Chairman's understanding that these minimization and monitoring measures must be addressed in the regulations promulgated pursuant to subsection (d), to ensure that those regulations are consistent with the Migratory Bird Treaty Act?

Mr. LEVIN. That is correct, the regulations must prescribe measures to minimize, mitigate and monitor impacts of military training activities on migratory birds, so that the regulations are consistent with section 3(a) of the Migratory Bird Treaty Act. The two key changes made by the conferees to the House provisions: (1) require the Department of the Interior to exercise its regulatory authority over DOD activities impacting migratory birds and (2) require appropriate actions to mitigate the impact of DOD actions on migratory birds. The Senate conferees agreed to accept the provision only because of these changes.

Mr. McCAIN. Mr. President, I rise today in support of H.R. 4546, the National Defense Authorization Act for Fiscal Year 2003. Overall, the House and Senate Armed Services Committee Conferees have produced a bill which is deserving of approval and is generally supportive of the brave servicemen and women in our armed forces, in terms of training, pay, family quality-of-life benefits, and providing modern equipment and weapon systems.

Building upon evaluations and recommendations regarding growing readiness and modernization problems throughout the services, the Conference Committee has done an admirable job of addressing some of the more pressing issues contributing to the multiple problems that have been brought to Congress' attention over the past several years.

Unfortunately, there are areas that the Conference Committee did not adequately address. First and foremost is Concurrent Receipt. It was tremendously important to me that the Senate version of the defense authorization bill and report would authorize, at a minimum, payment of retired pay and disability pay for all military retirees with disabilities, a practice known as Concurrent Receipt. For the past eleven years, I have offered legislation on this issue. This matter is of great significance to many of our country's military retirees, because it would reverse existing, unfair regulations that strip retirement pay from military retirees who are also disabled, and costs them any realistic opportunity for post-service earnings.

While I commend the Chairmen and Ranking Members of the Armed Service Committees for going further in addressing a longstanding inequity in the compensation of military retirees' pay, this bill does not go far enough and falls far short of the much broader provision that was included in the Senate, or even the House. However, it was important that a compromise was reached with regards to Concurrent Receipt. The defense authorization bill provides many critical quality-of-life and pay benefits for our servicemen and women. Foregoing a defense authorization bill because full Concurrent Receipt was not included would be wrong because I believe we would be hurting an even greater number of servicemembers who are currently serving, reservists who have been mobilized in support of Operations Noble Eagle and Enduring Freedom, and their families who endure long periods without a spouse or parent during periods of training or deployment. More must be done on Concurrent Receipt. More will be done.

The compromise legislation, in effect, de facto Concurrent Receipt would increase payments under legislation I previously introduced in 1999, Special Compensation for Severely Disabled Military Retirees, in an amount equaling the monthly disability compensation prescribed by the VA for disabling conditions of that percentage.

Eligible recipients would include those military retirees with 20-years military service who have a disability, 10 to 100 percent, that is a result of an injury for which the member was awarded the Purple Heart; or have a 60 percent or more combat-related disability to include disabling conditions incurred as a result of armed conflict, including, PTSD, Agent Orange, and Persian Gulf War disease; while engaged in hazardous service such as atomic veterans; under conditions simulating war such as military training; or caused by an instrumentality of war like accidents involving military equipment.

Again, while this legislative compromise will provide critical help to an additional 35,000 disabled military retirees, it is not good enough to only correct this injustice for a select few no matter how deserving.

We must do more to restore retirement pay for those military retirees who are disabled. I have stated this before, and I am compelled to reiterate now; retirement pay and disability pay are distinct types of pay. Retirement pay is for service rendered through 20 years of military service. Disability pay is for physical or mental pain or suffering that occurs during and as a result of military service. In this case, members with decades of military service receive the same compensation as similarly disabled members who served only a few years. This practice fails to recognize their extended, more demanding careers of service to our country.

This is patently unfair, and I will continue to work diligently to correct this inequity for all career military servicemembers who are disabled.

Fully enacting concurrent receipt, for all who deserve it, is the next step to ensuring that we recognize the military service of those military retirees who by no fault of their own become disabled during their career military service.

Another disappointing action was the removal of language I sponsored, modifying the calculation of back pay for persons who were approved for promotion as members of the Navy and Marine Corps while interned as prisoners of war during World War II. Last year's Defense authorization bill authorized back pay to World War II veterans who were not promoted on time due to the arcane Navy Department rules of the early 1900s. Unfortunately, when the law was changed, an adjustment for inflation was not taken into account. While these men received the back pay they deserved, it was not adjusted for inflation. A simple fix to this problem would be to take into account changes in the Consumer Price Index. Though included in the original version of this year's Defense Authorization Act, the language was removed from the final version of the legislation.

I also am disappointed that the Conferees dropped the Senate Armed Services Committee's recommendation submitted by the Administration to waive certain buy America restrictions. The Senate authorized the Secretary of Defense to waive domestic source or content requirements for close defense allies that provide reciprocal treatment for our defense products. "Buy America" restrictions divert necessary funds to ensure our military is properly equipped. An additional $5 billion can be saved per year by eliminating "Buy America" restrictions that are protected by the Berry amendment that only undermine U.S. competitiveness overseas. Every dollar we spend on archaic procurement policies, such as "Buy America," is a dollar we cannot spend on training our troops, keeping personnel quality of life at an appropriate level, paying full concurrent receipt, maintaining force structure, replacing old weapons systems, and advancing our military technology.

Although I have shown that there are numerous examples of why this bill is far from perfect, I am putting my reservations aside to support the final passage of the Fiscal Year 2003 National Defense Authorization Act Conference Report. I feel that taken as a whole this legislation represents a step forward for our Nation's military.

The bill contains a package of benefits for servicemembers and their families that would go a long way toward addressing the readiness problems facing all the services. It includes a 4.1 percent across-the-board pay raise for all active and reserve servicemembers, with an additional targeted pay raise ranging from 5.5 percent to 6.5 percent for sergeants, petty officers and chiefs.

Military pay, by almost all accounts, has fallen considerably behind civilian pay. Arguments can be made as to the precise pay differential, and at which pay grades and mission areas the gap is greatest, but there is no credible argument as to whether or not we need to address the issue of compensation.

Additionally, the Committee approved a provision that would authorize a new assignment incentive pay of up to $1,500 per month to encourage servicemembers to serve in difficult-to-fill assignments, like Korea or the Persian Gulf region.

The Committee approved a significant legislative provision directing the Secretary of Defense to review personnel compensation laws and policies, including the Reserve retirement system, to determine how well they address the needs of Guard and Reserve servicemembers. This provision is particularly noteworthy since the Secretary of Defense recalled nearly 95,000 Reserve Component servicemembers for Operations Enduring Freedom and Noble Eagle. Oftentimes the collective memory of our active duty, including active duty reserve servicemembers, is short and a comprehensive examination of reserve force policies, if done right, will help address waning retention of reservists and continued support by employers of reservists.

I forcefully endorse the Conference Committee's inclusion of an amendment that will direct the Secretary of the Air Force to obtain specific authorization and appropriation to lease 100 Boeing 767 tanker aircraft that was previously approved by the Department of Defense Appropriations Act of Fiscal Year 2002.

Many Senate Armed Services Committee Members expressed concern that the payment of leasing of major weapon systems, aircraft, vessels, and combat vehicles, should not come from critical funds providing for readiness spending, such as training, spare parts, flying hours, and maintenance of weapons systems and barracks. There appeared to be a sense of agreement that any lease for major weapon systems should instead be funded from the procurement accounts.

During posture hearings, the Service Secretaries and Chiefs confirmed that readiness unfunded requirements still exist and submitted lists to meet their readiness requirements. Robbing "Peter to pay Paul" so that Air Force Secretary Jim Roche can modernize the tanker fleet is questionable at best and several reports by the GAO, OMB and CBO bear this out. I will not take the time of this body today to again articulate the reasons why Secretary Roche's and the Appropriations' Committee Boeing 767 leasing scheme is a rip-off of the taxpayers as I have stated on the floor of the Senate in the past. However, servicemen and women will someday look at this lease of aerial tankers and wonder how Congress was duped into agreeing to a provision that was so costly and in the end irresponsible.

I fully support the Conference Committee's inclusion of the "National Call to Service Act," which provides for strong incentives to encourage young Americans to enlist in the Armed Services.

The Committee adopted provision is the military component of the "Call to Service Act," introduced by Senator EVAN BAYH (D-IN) and myself, which also expands civilian service opportunities in AmeriCorps and SeniorCorps and in other service organizations.

This is a very significant boost to a bill that will give Americans concrete opportunities to serve in causes greater than self interest. By encouraging more military enlistments, this legislation could greatly assist our war against terror.

Under the "National Call to Service Act," individuals who volunteer to serve under this new program would be required to serve on active duty for 15 months in the Armed Services after completion of initial entry training and could complete the remainder of their military service obligation by choosing service on active duty, in the Selected Reserve or in the Individual Ready Reserve. The reserve obligation could also be fulfilled by serving in a civilian national service program such as the Peace Corps or AmeriCorps.

In return for service, the legislation provides the choice of incentives including a $5,000 bonus, repayment of a student loan up to $18,000, an educational allowance under the Montgomery GI Bill.

At this time of national challenge, Americans are yearning for opportunities to serve. I hope Congress will expeditiously take action on this entire legislation to create more options in both the areas of military and civilian service.

In conclusion, I would like to reiterate my belief in the importance of enacting meaningful improvements for active duty and Reserve service members. They risk their lives in Afghanistan and elsewhere to defend our shores and preserve democracy, and we cannot thank them enough for their service. But, we can and should pay them more, improve the benefits for their families, and support the Reserve Components in a manner similar to the active forces. Our service members past, present, and future need these improvements. We also cannot continue with this "business as usual" mindset. We must reform the Department of Defense and not fall prey to the special interest groups that attempt to warp our perspective and misdirect our spending. We owe so much more to our men and women in uniform who defend our country. They are our greatest resource, and I believe they are woefully underrepresented. We must continue to do better.

Mr. BYRD. Mr. President, the Fiscal Year 2003 Defense authorization bill was in conference for nearly 16 weeks. This bill, which creates the policies and programs that will guide the Department of Defense during this fiscal year, is the counterpart to the defense appropriations bill, which was passed by Congress and signed into law last month. After the President challenged Congress to make the defense budget a priority, why did it take so long for Congress to complete action on the defense authorization bill?

This bill has wide support in the Senate, having originally been passed on June 27, 2002, by a vote of 97 to 2. So the bill is not so divisive that controversy among Members of the Senate could have delayed its completion.

The chairman and the ranking member of the Armed Services Committee, Senator LEVIN and Senator WARNER, worked diligently during this extended period of time to be able to produce a defense authorization bill for this year. They cannot be blamed for it taking so long to completing conference on the bill.

The true reason for the delay was the myopic veto threats that emanated from the White House over provisions in the Senate- and House-passed bills that would have expanded benefits to disabled veterans. The reason the White House opposed these benefits is clear: the President's advisors were only looking at the bottom line. It just does not make sense that we can pass a defense budget that will spend a billion dollars a day during the next 12 months, and we can spend more than a billion dollars a month on military operations in Afghanistan, but when it comes to providing benefits to disabled veterans, suddenly we do not have the money.

The veterans' benefit that was proposed in the Senate version of the Defense authorization bill would allow an individual with a disability who retired from the military after 20 years of service to receive the full amount of his military retirement pay and his veterans' disability pay, without reduction from either. Under current law, these two payments are offset, in effect forcing these individuals to pay for their own disability checks.

The Senator from Nevada, Mr. REID, has authored a bill to correct this situation. I am one of 82 cosponsors of that bill. The House version of this bill has 403 cosponsors. These bills are of the highest priority to a great number of veterans' groups and of great importance to thousands of disabled veterans around the country. Despite such broad support, the White House veto threats torpedoed the full expansion of these benefits in the Defense authorization bill.

The conference report to the Fiscal Year 2003 Defense authorization bill that we will soon vote on contains a limited expansion of benefits to some veterans, depending on their level of disability and how their injuries were inflicted. It is well short of what veterans deserve.

I will vote in favor of the conference report, however, because the bill makes improvements to a number of other programs that are important to the men and women who serve our country in uniform. The Defense authorization bill provides for an across the board pay increase, creates new bonus payments for hardship assignments, and reduces housing costs for military families. The bill also authorizes $10.4 billion for military construction, which includes funding to replace dilapidated housing at military bases throughout the United States. This bill will help to improve the quality of life of those who now serve in the military.

Although this bill does not make enough progress in getting veterans the benefits that they have earned, the passage of this Defense authorization bill will not be an end to that issue. There is strong support in Congress to allow disabled veterans to receive the full amount of their military retired pay and their disability compensation, and I am certain that this issue will be raised again.

In the meantime, I urge the thousands of veterans who contacted me in support of expanding these benefits to let the President know how important this issue is to you. No veteran should doubt who is responsible for killing this proposal. Veterans and their families should hold the President accountable for his stand against benefits for disabled veterans.

Mrs. MURRAY. Mr. President, I rise today to express my deep disappointment that the Murray/Snowe amendment was dropped, once again, in conference.

The Murray/Snowe amendment would guarantee that women serving in our military overseas have access to safe, affordable and legal abortions. This amendment passed the Senate on a 52 to 40 vote. A similar amendment also passed in 1996 and was dropped in conference. Once again, reproductive health care needs of women were abandoned behind closed doors.

The DOD authorization bill before us today will ensure that our men and women in the armed forces have the equipment and resources they need to protect us. Every day our service men and women work overtime, often in hostile, dangerous environments to protect our citizens and to secure the freedoms and values we cherish. They deserve our full support.

Suprisingly, as the women of our military fight for our freedoms overseas, they are actually denied some of these freedoms during their service. Here at home, women have the right to choose. They have constitutionally-protected access to safe and legal reproductive health services. But, this is not the case for women serving overseas. The Murray/Snowe amendment would have ensured that women serving in the military are not forced to check their rights at the U.S. border.

Under current restrictions, women who have volunteered to serve their country are not allowed to exercise their legally guaranteed right to make their own reproductive health decisions simply because they are serving overseas.

These women are committed to protecting our rights as free citizens, yet they are denied one of the most basic rights afforded women in this country. Our amendment would not, and let me stress does not require any direct federal funding of abortion related services. The amendment would have required women to pay for any direct costs associated with an abortion in a military facility. The Murray/Snowe amendment does not, and again let me stress does not, compel a medical provider to perform abortions. All branches of the military allow medical personnel who have religious or ethical objections to abortion not to participate. Finally, this amendment would not have changed or altered conscience clauses for military medical personnel. This is an important and critical women's health issue. Women should be able to depend on their base hospital and military health care providers to meet all of their health care needs, including reproductive health. To single out abortion-related services could jeopardize a woman's health.

Opponents of this amendment have argued that the military does ensure access for women. Under current practices, a woman who requires abortion related services can seek the approval of her commanding officer for transport back to the U.S. as unscheduled leave: not medical leave, but unscheduled leave.

In addition to the serious risk posed by delaying an abortion, this policy compromises a woman's privacy rights by forcing her to release her medical condition and needs to her superiors. This policy also forces women to seek abortions outside of the military establishment in foreign countries. Many women have little or no understanding of the laws or restrictions in the host country and may have significant language and cultural barriers as well.

In this country, we take for granted the safety of our health care services. When we seek care in a doctor's office or clinic, we assume that all safety and health standards are adhered to. Unfortunately, this is not the case in many other countries.

In addition, many of our military personnel serve in areas that are hostile to women's reproductive rights and choices. In some countries, women can be severely punished for seeking abortion-related services or family planning. This is the environment that many women face.

Regardless of one's view on abortion, it is simply wrong to place women at risk. This amendment would have required the women to pay the full cost associated with the abortion. It would prohibit any direct federal funding.

Ensuring that women have access to safe, legal and timely abortion related services is an important health guarantee. It is not a political statement. It is essential that women have access to a full range of reproductive health care services. That's why the Murray/Snowe amendment was endorsed by the American College of Obstetricians and Gynecologists, the Americans Medical Women's Association, Physicians for Reproductive Choice and Health, Planned Parenthood of America, National Family Planning and Reproductive Health Association, and the National Partnership for Women and Families.

As we send out troops into the war on terrorism to protect our safety and freedoms, we should ensure that female military personnel are not asked to sacrifice their rights and protections as well. Allowing extreme ideology to dictate military health care policy is simply wrong. Women have suffered a major set back today. Dropping the Murray/Snowe amendment sends the wrong message to our military servicewomen. It is simply wrong to deny women their basic rights behind closed doors.

I will not give up. I will be back again to fight for this important reproductive health care protection. Eventually, we will do the right thing and enact the Murray/Snowe amendment.

Mr. ALLARD. Mr. President, this week our Nation honored our veterans; the men and women who have served the United States with distinction. Although we take one day of the year to recognize what veterans have done for us, it is understood that we are in constant debt to those who defended our country's liberty. It is said that "Freedom is not free". There is a cost, and this cost has been paid by America's veterans. They have sacrificed for our country, and increasingly for our world. Around the globe, from Asia to Europe to the Middle East to right here at home, the millions of men and women who have served in our armed forces deserve as much honor and respect as we can give them.

Knowing this, there is not one member of this body who would not want our veterans to receive benefits that they have earned. Unfortunately, the House and the Senate have chosen not to give full concurrent receipt to our veterans, and for this reason I did not sign the Conference Report to the Defense Authorization. While I applaud the inclusion of a special compensation for some categories of war veterans, I believe that more work needs to be done and I will continue to push for these benefits in the future.

The withholding of my signature to the Conference Report should not, however, be seen as my disapproval for the entire bill. In fact, overall I am very pleased with the outcome of the defense authorization for this year. I believe that the work we have done will continue to ensure that our men and women in the armed forces have access to the tools they need to perform their critical missions across the globe. Also, we should not overlook the impact that increasing basic pay will have on our military personnel, any commitment that Congress shows to our armed services in this regard is a positive gain for the American people.

As I have stated on this floor many times before, it is abundantly clear more and more each day how important missile defense is to our country. The development of this program is central to homeland defense and the protection of our friends, allies and deployed forces against threats that are serious and growing. The authorized levels of funding for critical ballistic missile defense systems and their components is an outstanding accomplishment for this Congress. As the ranking member of the Strategic Subcommittee, ensuring full support of missile defense is my most important priority and it will continue to be as we begin work in the 108th Congress.

The Defense authorization conference also provided for a number of developmental programs critical to space-based systems and technologies. The Network, Information, and Space Security Center will facilitate cooperation for protecting information and information systems, which is becoming increasingly important in the face of cyberterrorism threats from around the world. The Center for Geosciences is a leading-edge environmental research center continuously improving weather forecasts for our military forces around the world. TechSat 21 will demonstrate the technical and operational feasibility of microsatellites, a truly transformational approach to space-based systems. And finally, the GPS Jammer Detection and Location System will enable our military commanders to rely on GPS and GPS-supported systems without the threat of interference or jamming by the enemy.

One of my particular interests for several years has been the use of commercial imagery to help meet the Nation's geospatial and imagery requirements. I do not believe that the Department of Defense has been aggressive enough either in crafting a strategy or in providing funding for this purpose. I am gratified that we have included a substantial increase for commercial imagery acquisition, and some very helpful words in report language that I expect will drive the Department toward establishing a sound relationship with the commercial imagery industry.

Closer to home, I know that my constituents in Colorado are pleased that we not only fully funded the Rocky Flats Environment Technology Site and its cleanup activities but also added an extra $18 million for included security costs at the site. I also appreciate the support of the new Department of Energy environmental cleanup reform initiative that will incentivize cleanup sites to do their important work faster and more efficiently. The accelerated cleanup initiative will reduce risk to the workers, communities and the environment, shorten the schedule by decades, and save tens of billions of dollars over the life of the cleanup.

Let me make it very clear that I chose not to sign the Defense Authorization Conference Report because of our failure to include the full Senate provision for concurrent receipt, but I strongly support the bill for providing the technology and resources our military men and women need to protect our national security.

Mr. NELSON of Florida. Mr. President, I rise to address a number of issues in the Defense authorization bill. I am voting for this bill because it contains many provisions critical to fighting the war on terror and it provides pay raises for the men and women of our military. But it fails to rectify a longstanding inequity for disabled military retirees. It's wrong that disabled retirees are forced to pay for their own disability benefits. While this bill ends the penalty for some 30,000 retirees, there are more than half a million veterans out there who still are forced to pay for their own disability benefits.

For the many good things we have in this bill, I'd like to thank leadership of our Chairman, Senator LEVIN, and Ranking Member, Senator WARNER. Americans can be assured of their devotion to the security of our nation and the welfare of the men and women in uniform around the world today serving in harm's way.

I would also like to say I am grateful for the opportunity to have served on this committee for two years with the Senior Senator from Georgia, MAX CLELAND.

MAX CLELAND has been an inspiration making countless sacrifices during his lifetime of service to our Nation. I have turned to Senator CLELAND again and again over the years on the most challenging issues confronting us—from the war on terror to the welfare of our service members and their families, our military retirees and our veterans.

Deep within the chest of Senator MAX CLELAND beats the heart of an American Soldier, an American who has given much in the defense of freedom; an American who has much, much more to give. I know that I will call upon my friend and colleague again and again, no matter where he is, when I need the clear insight and straightforward counsel of a soldier.

This has been a very important year in American history. We have learned much about the dangers that confront our Nation at home and around the world. We have learned much about the capability of our Armed Forces to confront and defeat these dangers. I am confident we will win the war on terror, there can be no question among the American people, or in the minds of our friends and enemies.

This bill goes beyond the President's request and beefs up our arsenal with additional warships, better fighting aircraft and improved security at our military bases.

This is a strong bill for our service members and their families. This bill provides for important increases in pay, bonuses, special pays, medicare care and family housing.

This is a major piece of legislation that lays the foundation for how this Nation will prosecute the war on terror at home and abroad; how this Nation will transfer its military for the dangers that may confront us in the future; and, how this Nation will care for the soldiers, sailors, airmen and Marines, and their families, that put themselves in harms way everyday.

I would like to highlight two provisions in this bill, for which I am grateful for the support of my colleagues in the Senate and the House's conferees.

Earlier this year, the Defense Department acknowledgement that Navy ship defense and vulnerability experimentation during the Cold War, known as Shipboard Hazard and Defense or Project SHAD, used chemical and biological agents that exposed sailors unwittingly to potentially lethal toxins.

While the military necessity of anticipating, understanding, and mitigating the vulnerability of our fleet to gas attack is indisputable, using our sailors, intentionally or not, as human guinea pigs is reprehensible.

A provision that I sponsored and included in this bill (Section 709) directs the Department of Defense to submit to the Congress, within 90 days, a comprehensive plan for the review, declassification and submission to the Veterans Administration all medical records and information relating to the SHAD project. Subsequent reports are required every six months allowing the Congress to evaluate the Defense Department's progress in executing the plan.

We owe this level of effort to the sailors that may have been exposed to potentially toxic agents and get them the medical care to which they are entitled.

I also sponsored a provision included in this bill, Section 583, that requires the Department of Defense to provide the Congress a report, classified and unclassified, on their progress toward resolving the fate of Navy Captain Michael Scott Speicher. Captain Speicher is the only American still unaccounted for from our war with Iraq nearly twelve years ago. In that time, the Defense Department has painfully mismanaged the search for and subsequent classification of Captain Speicher.

Section 583 of the bill requires the Defense Department to report to Congress not later than 90 days of enactment, and every 120 days thereafter, providing specific details on their efforts to resolve the fate of Captain Speicher. We need to give American service members the certain knowledge that we are not a nation that casually or negligently abandons its military men and women during or after a conflict.

I share the hope of so many of Captain Speicher's shipments, friends and family that we will one day know his fate. I am proud to have sponsored this provision and expect that the Defense Department's efforts will reflect the Nation's interest in bringing peace and comfort to all.

There is also heartbreak in what we were not able to do in this bill, especially for our military retirees. This bill fails to repeal the prohibition on the concurrent receipt of retired pay and disability compensation, as we had provided in our Senate version of the bill.

Instead we have a compromise acceptable to the President who is unwilling to pay the cost of correcting the injustice of requiring our military retirees to pay for their own disability compensation.

This is an intolerable disappointment for the hundreds of thousands of military retirees and their families hurt by the policy. We failed them again and I am deeply disappointed.

It has been clear to all that President Bush has worked hard against the interests of our military retirees in this instance. And, with the help of the civilian leadership in the Department of Defense and the Republican leadership in the House of Representatives, he's got what he wanted, controlling federal spending on the backs of our retired veterans.

I would have preferred that we as a Congress had done the right thing and passed the Senate version of the bill giving our retired military authority to receive their full pay and disability compensation.

I would have preferred that we had passed full concurrent receipt as eighty-two Senators and 403 members of the House have already agreed to support as cosponsors on separate legislation.

I would have preferred that we had passed full concurrent receipt and forced the President's veto. I would have proudly voted to override a veto and fix the injustice once and for all. And, I believe an override could have been easily achieved.

Sadly, this effort was lost in the partisan, election engineering of this Administration, the civilian leadership in the Defense Department, and the Republican leadership in the House of Representatives. For weeks we have delayed resolution of this issue in this bill in order to avoid forcing the President to take an action contrary to the interests of veterans.

Hopefully, veterans will quickly learn that there are those of us who truly care about meeting our obligations to them; and, they do have a place to go where their voices will be heard, where America's promises will be kept, and where their needs will be met.

I am ready to take up this fight in our next session. I am proud to represent the interests of our veterans and our military retirees. I am also proud to represent the interests of our retirees' surviving spouses, military widows, and their children. We have a lot of work to do correcting some of the injustices created over the years with conflicting and inconsistent benefits policies that seem to be concentrated in our Armed Services and Veterans programs. I look forward to taking up these challenges and working with my colleagues to rationalize and simplify our benefits systems so that we keep our promises to those who have given their all to the Nation.

I would like to close with a quintessentially American expression of what we need to do by President Teddy Roosevelt, "A man who is good enough to shed his blood for his country is good enough to be given a square deal afterward." I believe that there should be at least eighty-two of my colleagues in this chamber who will agree with this and be willing to make it a reality next session.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that all time has expired.

The PRESIDING OFFICER. That is correct.

Mr. REID. The chairman of the committee wishes to enter a statement in the RECORD that will take less than 5 minutes. I would only state there are a number of Senators who wish to attend the service for Senator Wellstone and his wife, which begins at 7 o'clock, so I would hope everyone can keep that in mind and we can move forward with this legislation.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. My understanding is there is no need for a rollcall vote on this bill.

Mr. President, just two additional moments I appreciate taking here. One relates to Senator CLELAND.

Senator CLELAND has been a true champion of the men and women who serve our country in uniform. He is directly responsible for a great deal of important legislation, including the transferability of GI bill benefits to a military member's spouse and children. This was a major retention initiative.

Secondly, this year he led the effort for a new special assignment incentive pay to encourage military members to serve in hard-to-fill positions.

This year he warned us that our military services are too small to meet our ongoing and growing commitments, and he is proving to be prescient in that regard because of the needs we see for our military services in the way in which they are involved in so many parts of the world.

But in addition to his role on the Personnel Subcommittee, Senator CLELAND continually reminded us of the pitfalls of committing U.S. Armed Forces to conflict without clearly defined objectives supported by the Congress and the American people.

Senator CLELAND's careful and thoughtful approach to national security has been appreciated by every member of the Armed Services Committee, every Member of this body. His advice and his judgment are going to continue to be needed by us individually, and we will be calling upon him. His indomitable spirit has inspired us, and it will continue to do so.

Senator CARNAHAN has been a valued member of the Armed Services Committee for the last 2 years. She was able to quickly get up to speed. She played an important role in the committee's deliberations on a wide array of issues.

She had a particular interest, and had a significant impact, in a number of areas, including Reserve health care and counterproliferation programs.

In the area of Reserve health care, Senator CARNAHAN played a key role in extending the period during which Reservists remain eligible for military health care after being released from active duty, and in initiating a review of alternative means for providing health care to the Reserves.

In the area of counterproliferation, Senator CARNAHAN played a key role in developing legislation to improve our nonproliferation programs to address the problem of radiological weapons and so-called "dirty bombs."

She has always been a strong advocate of efforts to expand these programs to countries outside of the former Soviet Union. Her thoughtful, balanced approach to legislation will be missed on our committee, and her good and gentle nature will be missed by every Member of this body.

Finally, Senator BOB SMITH and Senator TIM HUTCHINSON were key members of our committee.

I take this opportunity to recognize the contribution that Senator BOB SMITH has made to the work of the Armed Services Committee and the national security of this country over his 12 years of service on this Committee.

Most recently Senator SMITH has served as both the Chairman and Ranking Member of our Strategic Subcommittee where he was a strong advocate of national security space programs, ballistic missile defense programs, and the modernization of our strategic nuclear triad. He did not limit his work on the Committee to the work of one or two subcommittees, however. He made it a point to involve himself in the whole range of issues that came before the Committee and the Committee's deliberations and conclusions were always improved by his involvement. This past year for example, he worked very hard on the issue of concurrent receipt for our deserving veterans.

Every member of the Armed Services Committee will miss Senator SMITH's thoughtful advice and collegial approach to national security issues in the next Congress.

I would also like to take this opportunity to recognize and thank Senator HUTCHINSON for his service on the Armed Services Committee for the last 6 years. In particular, I would like to recognize his service as Chairman and Ranking Member of the Personnel Subcommittee.

Senator HUTCHINSON demonstrated great leadership in helping our military recruiters. He was a major player in enacting TRICARE for Life, significantly increasing the pay of our troops, and reducing the out-of-pocket housing expenses for military personnel not able to live on a military installation. In response to requests for help from enlisted recruiters, he initiated legislation that ensures that military recruiters have the same access to secondary school students as is provided to colleges, universities, and other potential employers.

Our service members and our Nation have greatly benefitted from Senator TIM HUTCHINSON's service here in the Senate on the Armed Services Committee. We thank him.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent to make a few remarks about Senators SMITH and HUTCHINSON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I join with Senator LEVIN in his high compliments of Senators CLELAND and CARNAHAN. Both have served this committee exceedingly well.

BOB SMITH is a true American patriot. He loves his country. He served in the Navy. He was a history teacher. He came down here with a "Mr. Smith Comes to Washington" view of the highest possible values he could bring to bear. He loved the Defense Department. He gave it extraordinary interest. He was a top leader in national missile defense and high technology defense. He was a leader on the Strategic Subcommittee and chaired it for a number of years.

He was a champion for lost POWs. No Senator in this body spent more time and effort fighting to make sure every single prisoner of war of the United States was recovered or we knew about. He led on the Mike Speicher case, the missing pilot in Iraq.

TIM HUTCHINSON came in with me. I love TIM and watched him lead in this body year after year. He was a tremendous contributor to the Armed Services Committee. He chaired the Personnel Subcommittee. In that subcommittee, he fought hard to improve the pay, benefits, and living conditions of our men and women in uniform. He also fought successfully to break down the barriers where some of our colleges would not let military recruiters come on campus to recruit. He led a tough battle to change some of those laws.

He was a leader, as was Senator SMITH, in the concurrent receipt battle to make sure our veterans who have been injured and disabled received better compensation.

I thank Senator LEVIN for mentioning these Senators at this time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, as Senator WARNER did, I add my thanks to our staffs: David Lyles, chief of staff on the Democratic side; Judy Ansley, taking the same responsibility on the Republican side. We are deeply in debt to them and to their entire crew which works with them.

Without our staffs, needless to say, we could not even come close, not just procedurally, not just mechanically, to accomplishing this goal of a conference report, but also for the wisdom, the advice they give us on substantive issues as well which is so important to us.

I don't know of anybody else who wants to speak. I don't know of a request for a roll call. I yield the floor and hope we can adopt the conference report.

The PRESIDING OFFICER. Is there further debate on the conference report?

If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, what is the business now before the Senate?

HOMELAND SECURITY ACT OF 2002—Continued

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized to offer an amendment.

Mr. REID. Mr. President, I appreciate that. I noted previously that Senator SANTORUM was going to be recognized after we disposed of the Defense authorization bill. Senator SANTORUM, due to the fact we are having a ceremony for Senator Wellstone at 7 o'clock, agreed to do that after we bring up the port security legislation tomorrow, after that vote. Everyone should expect Senator SANTORUM to offer a unanimous consent request at that time dealing with the CARE Act.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

AMENDMENT NO. 4901

Mr. THOMPSON. Mr. President, on behalf of Senators GRAMM, MILLER, VOINOVICH, and myself I call up an amendment that is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. THOMPSON], for Mr. GRAMM, for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr.

VOINOVICH, proposes an amendment numbered 4901.

Mr. THOMPSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut is recognized.

AMENDMENT NO. 4902 TO AMENDMENT NO. 4901

Mr. LIEBERMAN. I thank the Chair. Mr. President, I have an amendment which I send to the desk on behalf of Senator MCCAIN and myself.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. MCCAIN, and Mr. NELSON of Nebraska, proposes an amendment numbered 4902 to amendment No. 4901.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. THOMPSON. Mr. President, I send a cloture motion to the desk to the pending substitute amendment.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the substitute amendment No. 4901 for H.R. 5005, the Homeland Security legislation.

John Breaux, Ben Nelson of Nebraska, Larry E. Craig, Jon Kyl, Mike DeWine, Don Nickles, Craig Thomas, Rick Santorum, Trent Lott, Fred Thompson, Phil Gramm, Pete Domenici, Richard G. Lugar, Olympia J. Snowe, Mitch McConnell.

The PRESIDING OFFICER. The Senator from Tennessee.

CLOTURE MOTION

Mr. THOMPSON. Mr. President, I now send a cloture motion to the desk to the pending bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Calendar No. 529, H.R. 5005, the Homeland Security legislation.
>
> John Breaux, Ben Nelson of Nebraska, Larry E. Craig, Jon Kyl, Mike DeWine, Don Nickles, Craig Thomas, Rick Santorum, Trent Lott, Fred Thompson, Phil Gramm, Pete Domenici, Richard G. Lugar, Olympia J. Snowe, Mitch McConnell.

Mr. THOMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the legislative situation in the Senate at this moment?

The PRESIDING OFFICER. There is a pending Lieberman second-degree amendment to the Thompson first-degree amendment to H.R. 5005. Cloture motions have been filed on the Thompson amendment and on the bill itself.

Mr. BYRD. So two cloture motions have been filed?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. And in order of precedence, which is the first?

The PRESIDING OFFICER. The first cloture motion is on the Thompson amendment.

Mr. BYRD. And the second is on the——

The PRESIDING OFFICER. On the underlying bill.

Mr. BYRD. The underlying bill being House bill 5005.

The PRESIDING OFFICER. That is correct.

Mr. BYRD. I thank the Chair. I have nothing further. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDEPENDENT COMMISSION TO INVESTIGATE SEPTEMBER 11 ATTACKS

Mr. MCCAIN. Mr. President, the legislation Senator LIEBERMAN and I introduced last year to create an independent commission to investigate the September 11 attacks passed the Senate as an amendment to the homeland security bill by a vote of 90 to 8 in September. Days before the vote, the administration issued a letter supporting the creation of an independent commission. But Congress is about to adjourn without having done so, to get it done.

The agreement that was reached on the homeland security bill is a welcome development and will make our Nation more secure. But the agreed text does not include our independent commission proposal, despite an overwhelming Senate vote in September and despite its previous inclusion in both the Lieberman and Gramm-Miller bills.

I believe President Bush and his team have responded admirably and with a sense of purpose to the terrorist attacks, and the joint intelligence committee investigation into the associated intelligence failings has added to our understanding of what went wrong. But neither the administration nor Congress is alone capable of conducting a thorough, nonpartisan, independent inquiry into what happened on September 11, or to propose far-reaching measures to protect our people and our institutions against such assault in the future.

To this day, we have little information on how 19 men armed with boxcutters could have so effectively struck America. After every other such tragedy in our Nation's history, like Pearl Harbor and President Kennedy's assassination, independent investigations were immediately appointed to examine what went wrong and recommend needed reforms to prevent such tragedies from happening again. There has been no such review since September 11.

This is what our proposed commission would do. Its goal would be to make a full accounting of the circumstances surrounding the attacks, including how prepared we were, and how well we responded to this unprecedented assault. The commission would also make comprehensive recommendations on how to protect our homeland in the future. It would examine not just intelligence but the range of Government agencies and policies, from border control to aviation security to diplomacy.

Learning the lessons of September 11 will require asking hard questions. It will require digging deep into the resources of the full range of Government agencies. It will demand objective judgment into what went wrong, what we did right, and what else we need to do to deter and defeat depraved assaults by our enemies in the future.

No such review has occurred to date. Passage of the homeland security legislation is a good start to making needed reforms, but to some extent we are flying blind in our efforts to reform our approach to homeland defense because we still do not know what parts and policies of the Government failed the American people last September 11.

We do know, thanks to press leaks and the work of the joint intelligence committee, that significant failures occurred.

The chairman and ranking member of the Senate Intelligence Committee have suggested we might have prevented the September 11 attacks had we properly analyzed available information. They strongly support our independent commission legislation to carry on the work their joint intelligence investigation started. Together with Senators BOB GRAHAM and DICK SHELBY, we have been negotiating intensively with the White House and remain hopeful we might reach an agreement with them to create a commission, but we believe Congress must speak on this issue.

The families of September 11 will not rest until they have answers about how their Government let them down and what we can do to make sure such tragedy never strikes America again. This is not a witch hunt. It is a search for the answers that will enable us to better protect our Nation against future attack by terrorists. It is about the future, not the past. It is worthy of the strong bipartisan support it has already received. I urge my colleagues to support this amendment.

I want to thank my friend from Connecticut for his efforts on behalf of this commission. I want to thank him for his efforts on behalf of the families, and I want to thank the White House for their continued negotiations. It is time we wrapped up these negotiations so this commission can be part of the Homeland Security bill.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my dear friend from Arizona for his strong statement, for joining me in introducing this amendment, and for his characteristic steadfastness in pursuit of an important cause regardless of the opposition and where it comes from.

He and I introduced legislation last December. We are approaching a year ago. It was a few months after the tragic attacks of September 11. We felt there should be an independent citizen commission, nonpartisan, with full powers of subpoena and adequate resources to investigate how could September 11 have happened, because clearly the fact it did happen said we were not adequately protecting the American people. We were insistent that this kind of investigation occur so we could learn how to prevent it from ever happening again.

There have been roadblocks along the way, but we have continued to state, and we state again, we are not going to give up this fight until such an independent commission is created because we cannot rest until the truth and the whole truth, so help us God, as best as anyone is able to find it, is determined about September 11. Because without that unlimited, unvarnished, uninhibited truth, we are not going to be able to inform this new Department of Homeland Security adequately.

This measure of ours passed the Senate earlier this year when we were considering the Homeland Security measure. It passed overwhelmingly with bipartisan support. In fact, the so-called Gramm-Miller substitute incorporated this provision, which I was very grateful to Senator GRAMM and Senator MILLER for doing, and Senator McCAIN was a great advocate for that cause.

In the substitute introduced by Senator THOMPSON, in coordination with the White House and the House, the commission proposal is not in it, and that is not acceptable. Senator McCAIN has said happily we continue to negotiate with the White House up until this moment, hopeful that an agreement can be secured that will create the aggressive, independent, nonpolitical commission this tragedy requires. But if it is not, and we have not reached an agreement yet, we are going to do everything we can to reinsert this commission into this Homeland Security bill where it belongs.

I think I can say for my friend from Arizona and myself if for some reason that does not work, we are going to keep introducing it wherever and whenever we think we can get a vote that will make it law. We owe this to the families of the September 11 victims.

I have met with them, as Senator McCAIN has, several times. Their desire for this commission is in some ways the strongest and most compelling argument anyone can make on its behalf, because they asked us and they asked America, having lost loved ones, how could September 11 have happened? We owe them an answer to that question, and we have not given it to them yet.

As Senator McCAIN said, the work by the Joint Intelligence Committee has revealed information, media investigations have revealed information, that only increases our understanding of how much more we need to know. The Senate coleaders of the Intelligence Committee, Senator GRAHAM and Senator SHELBY, are now strong supporters of this commission idea.

Going back to the families of the September 11 victims, I do want to say the persistent advocacy of these families, led by Steve Push, Kristen Breitweiser, Mary Fetchet, Beverly Eckert, and so many others, despite their great personal loss, has inspired not only my deep admiration but our continuing commitment to fight for this commission until it comes to fruition. We are not interested in pointing fingers. This is all about our common security, and improving it is our common responsibility.

I hope our colleagues will join us in supporting this amendment to the Homeland Security bill and restoring this provision to create an independent commission on September 11.

Mr. McCAIN. Will the Senator yield?

Mr. LIEBERMAN. I yield to my friend.

Mr. McCAIN. Will the Senator agree it is a bit surprising we have not been able to make greater progress on this commission since there was a recorded vote in the Senate of 90 to 8, and it was included in the Homeland Security bills prior to this latest iteration?

Again, I want to thank the White House for their active participation, but I hope that mandate would be felt by one and all. A 90-to-8 vote usually does not seem to have difficulty, at least from the Senate side, in becoming a part of legislation.

Interestingly, we do not find it in the Homeland Security bill. In the interest of straight talk, if there is a cloture vote and it is not in there at that time, then the amendment for a commission will fall because of nongermaneness, a situation which I do not think is really what was intended when we had a 90-to-8 vote on this issue in the Senate.

Mr. LIEBERMAN. The Senator from Arizona is quite right. He remembers the numbers exactly. It was a 90-to-8 vote—very strong bipartisan support for this idea. That support ought not be frustrated.

I have seen public opinion surveys that say it represents the desire and opinion, quite naturally, not just of the families of September 11 victims but of the American people. So while I join my friend from Arizona in expressing my gratitude that the White House has again today restarted negotiations to try to reach an agreement, I must say leaving this proposal for a commission out of this substitute that is now put in to create a Department of Homeland Security is inexplicable. I hope we can explain it by either putting it back in or coming to an agreement with the White House. It is that critical.

Mr. McCAIN. Will the Senator yield for one more question?

Mr. LIEBERMAN. I would be glad to.

Mr. McCAIN. Is it not true, from conversations with the families, that the families do not want this commission created by executive order because then it would not have the input of the legislative branch? And second of all, that other commissions in the past have all been created by acts of Congress, not by executive order? Is that the Senator's understanding?

Mr. LIEBERMAN. The Senator from Arizona again is correct. There have been some commissions created by other bodies. But the ones in the most important cases have been created by Congress. On the first point, which is a powerful point, it is the clear desire of the families of the victims of September 11 that this commission be created by Congress. We ought to create it. This was a national catastrophe.

As we create a Department of Homeland Security to protect the American people from that ever happening again, we ought to, as the representatives of all the people of this country, all of them in this terrible new era we have entered, potentially victims of terrorism—we, as their representatives, ought to say loudly and together, hopefully together with the administration, we can never know too much about how September 11 happened. We do not know enough now how September 11 happened. The one best way to know as much as we can of the truth about September 11 is to create a strong, nonpolitical commission with full resources and powers of subpoena to get to the truth.

The day for this commission will come. The arguments for it are irresistible. Let us hope that day is sooner than later. I thank my friend from Arizona for his persistence and advocacy. Also, it is an honor to work with him. We will stand shoulder to shoulder with a lot of other Members, of both parties, of this body to get this commission created.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

MORNING BUSINESS

Mr. DURBIN. Madam President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CONFIRMATION OF JOHNNY MACK BROWN TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF SOUTH CAROLINA

Mr. THURMOND. Mr. President, I am pleased that the Senate has confirmed Johnny Mack Brown to be United States Marshal for the District of South Carolina. Johnny Mack Brown is a man of outstanding character and is highly qualified to serve as a United States Marshal. He will serve our Nation well.

Johnny Mack has over 30 years' experience in law enforcement. In 1966, he went to work for the South Carolina Department of Probation, Parole & Pardon, serving as a probation officer. From there, he joined the Thirteenth Circuit Solicitor's Office and worked as an investigator for four years.

Mr. Brown's success soon provided him with opportunities to showcase his substantial leadership skills. In 1973, he became the director of the Municipal Offender Program at the Greenville City Municipal Court in Greenville, SC. From 1974 to 1976, he served as Director of the Pre-Trial Diversion Program in the Thirteenth Circuit Solicitor's Office.

After his time at the Solicitor's office, Johnny Mack decided to run for office himself. He was elected in 1976 as the Sheriff of Greenville County, SC. He was subsequently re-elected five times and served a total of 24 years as Greenville's beloved sheriff.

As sheriff, Johnny Mack Brown served with distinction. He proved himself to be a strong leader, and it is no wonder that he was elected to a total of six terms. There is no doubt that Johnny Mack Brown's constituents felt secure with him as their sheriff. The voters' repeated endorsement of Johnny Mack is a tribute to his skill and professionalism.

During his time as sheriff, Johnny Mack contributed to the State and national law enforcement community in various ways. For example, he has written numerous articles for law enforcement publications. These writings have dealt with topics such as the professionalizing of sheriff's offices, the use of information technologies, and the implementation of community programs for crime prevention.

Mr. Brown has also served in prominent leadership positions at both the state and national levels. In 1983, he served as President of the South Carolina Sheriffs' Association. Ten years later, he was elected President of the National Sheriff's Association. Johnny Mack's selection to these prestigious positions is a testament to his capacity to lead others.

Johnny Mack Brown has also been the recipient of numerous awards. In 1990, the Lion's Club of Greenville awarded Johnny Mack the Distinguished Citizen Award, and in 1998, the Blue Ridge Council of the Boy Scouts of America awarded him another Distinguished Citizen Award. In 1999, the Pleasantburg Lion's Club named him as its Citizen of the Year. Johnny Mack Brown is also a 1993 recipient of the Order of the Palmetto, South Carolina's highest civilian award.

Johnny Mack Brown's law enforcement credentials and his leadership skills will serve him well as United States Marshal in the District of South Carolina. He is truly a deserving man who has striven to serve the public with honor and integrity for many years. He will be a very successful United States Marshal, and I am proud to see him confirmed.

TRIBUTE TO JESSE HELMS

Mr. CONRAD. Madam President, I take this opportunity to recognize the distinguished career of one of our retiring colleagues, the senior Senator from North Carolina, Senator HELMS.

Senator HELMS began his service in the U.S. Senate in January of 1973. When he retires at the end of this year, at the conclusion of his fifth term, he will have served the public as a U.S. Senator for a full 30 years. Those of us who have had the privilege of being a member of this institution understand well the commitment, hard work, dedication, and personal sacrifice that make such a record possible.

Senator HELMS' lengthy career in the Senate actually represented the continuation of an already notable and varied public life that included, among other things, service in the U.S. Navy from 1942 to 1945, senior staff positions under two U.S. Senators, two terms on the Raleigh, NC, City Council, and a host of leadership positions with civic, business, and educational organizations.

During our time in the Senate, I have come to know Senator HELMS best as a fellow member of the Committee on Agriculture, Nutrition, and Forestry. While on the Committee, he proved to be an outspoken and vigorous defender of those commodities, such as peanuts and tobacco, that are important to North Carolina's vital agricultural sector. But he has also shown himself to be a leader for all of U.S. agriculture, as when he chaired the Agriculture Committee during the period when Congress wrote the Food Security Act of 1985, otherwise known as the 1985 farm bill. That legislation is recognized even today for its groundbreaking commitment to keeping U.S. agriculture competitive in the international marketplace through such programs as the Export Enhancement Program and the Targeted Export Assistance program—now the Market Access Program—and for its landmark provisions in support of natural resource conservation, such as the Conservation Reserve Program.

When I think of Senator HELMS as a person, two characteristics stand out. First and foremost, I think of him as a gentleman always, one who gives current meaning to an old-fashioned term: courtly. Refined in his manners and respectful toward others, he brings a Southern charm and grace to all that he does, and a civility to political discourse that sadly is too often lacking today.

Second, he has displayed even in the twilight of his career an openness and a tolerance toward others who hold views that he may not always have shared. In that respect, he has displayed a capacity for growth and understanding that should serve as an inspiration to the rest of us.

I know that I am joined by all of my colleagues in wishing Senator HELMS and his wife Dorothy a long restful, and fulfilling retirement together in North Carolina.

PASSAGE OF S. 1868

Mr. BIDEN. Madam President, I am pleased the Senate passed S. 1868 by unanimous consent on October 17, along with a Biden-Thurmond substitute. Enactment of this measure will make our children safer, and I rise today to explain several of the bill's provisions.

Today, 87 million of our children are involved in activities provided by child and youth organizations which depend heavily on volunteers to deliver their services. Millions more elderly and disabled adults are served by public and private service organizations. Organizations across the country, like the Boys and Girls Clubs, often rely solely on volunteers to make these safe havens for kids a place where they can learn. The Boys and Girls Clubs and others don't just provide services to kids, their work reverberates throughout our communities, as the afterschool programs they provide help keep kids out of trouble. This is juvenile crime prevention at its best, and I salute the volunteers who help make these programs work.

Unfortunately, some of these volunteers and employees come to their jobs with less than the best of intentions. According to the National Mentoring Partnership, incidents of child sexual abuse in child care settings, foster homes and schools ranges from 1 to 7 percent. Organizations have tried to weed out bad apples, and today most conduct background checks on applicants who seek to work with children. Unfortunately, these checks can often take months to complete, can be expensive, and many organizations do not have access to the FBI's national fingerprint database. These time delays and scope limitations are dangerous: a prospective volunteer could pass a name-based background check in one State, only to have a past felony committed in another jurisdiction go undetected.

The intent of S. 1868 and the substitute, the Biden-Thurmond National Child Protection and Volunteers for Children Improvement Act, are to streamline the process for organizations to check the backgrounds of potential volunteers and employees. A review of the statutory background in this area is appropriate.

Effective December 20, 1993, the National Child Protection Act, "NCPA," P.L. 103-209, encouraged States to adopt legislation to authorize a national criminal history background check to determine an employee's or volunteer's fitness to care for the safety and well-being of children. On September 13, 1994, the Violent Crime Control and Law Enforcement Act of 1994, P.L. 103-322, expanded the scope of the NCPA to include the elderly and individuals with disabilities.

As envisioned by Congress, the NCPA was to encourage States to have in effect national background check procedures that enable a "qualified entity" to determine whether an individual applicant is fit to care for the safety and well-being of children, the elderly, or individuals with disabilities. The procedures permit this entity to ask an authorized State agency to request that the Attorney General run a nationwide criminal history background check on an applicant provider. "Qualified entity" is defined at 42 U.S.C. 5119c as "a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services. . . ." The authorized agency should access and review State and Federal criminal history records through the national criminal history background check system and make reasonable efforts to respond to an inquiry within 15 business days.

Congress addressed this issue again in 1998 through enactment of the Volunteers for Children Act, Sections 221 and 222 of P.L. 105-251, "VCA". The VCA amended the NCPA to permit child care, elder care, and volunteer organizations to request background checks through State agencies in the absence of state laws implementing the NCPA.

Thus, the NCPA, as amended by the VCA, authorizes national fingerprint-based criminal history background checks of volunteers and employees, including applicants for employment, of qualified entities who provide care for children, the elderly, or individuals with disabilities, and those who have unsupervised access to such populations, regardless of employment or volunteer status, for the purpose of determining whether they have been convicted of crimes that bear upon their fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities.

Two years ago, organizations seeking to conduct background checks on their employees and volunteers made me aware of serious problems with the current background check system, problems that were jeopardizing the safety of children. Groups like the Boys and Girls Clubs of America alerted me that, despite the authorities provided in the NCPA and the VCA, national check requests were often delayed, in some jurisdictions they were never processed, and that the prohibitive costs of some of these checks were discouraging entities from seeking the reviews.

Under current law, whether they want a State or national criminal background check, organizations must apply through their state-authorized agency. The State agency then performs the State check and forwards the request to the FBI for a national check. The FBI responds back to the State agency, which then forwards the information back to the volunteer organization. In Delaware, the State Police Bureau of Identification works with groups to fingerprint prospective workers and check their backgrounds.

A patchwork of statutes and regulations govern background checks at the State level; there are currently over 1,200 State statutes concerning criminal record checks. This has led to widely different situations in each State: different agencies are authorized to perform the checks for different types of organizations, distinct forms and information are required, and the results are returned in various formats that can be difficult to interpret. States have not been consistent in their interpretation of the NCPA and VCA. Put simply, the current system is extremely cumbersome, particularly for those organizations that must check criminal records in multiple States, and for those groups employing seasonal workers, such as summer camps, for whom time is of the essence when seeking the results of background checks.

After careful study of this issue it became clear to me that the concerns of groups such as the National Mentoring Partnership and the Boys and Girls Clubs are not merely anecdotal. In 1998, the FBI's Criminal Justice Information Services, "CJIS", Division performed an analysis of fingerprints submitted for civil applicant purposes. CJIS found that the average transmission time from the point of fingerprint to the State bureau was 51.0 days, and from the State bureau to the FBI was another 66.6 days, for a total of 117.6 days from fingerprinting to receipt by the FBI. The worst performing jurisdiction took 544.8 days from fingerprinting to receipt by the FBI. In a survey conducted by the National Mentoring Partnership, mentoring organizations on average waited 6 weeks for the results of a national criminal background check to be returned.

The danger these delays pose to mentoring groups and others cannot be overstated. Suppose a group seeks to hire a volunteer who grew up in a neighboring jurisdiction to work with children. The group has the volunteer fingerprinted at their local police department, forwards those prints along to the agency designated by State statute or procedure to receive such requests, and then waits for the national results. FBI data indicates they will wait close to four months, on average, for the final results of the background check. That's too long. It forces groups to choose between taking a risk on someone's background, not making the hire at all, or seeking out only candidates from their jurisdiction for whom a full national background check may not be necessary.

Delay is not the only problem with the current system. The NCPA/VCA caps the fees the FBI can charge for national background checks at $24 for employees. For State fees, the NCPA/VCA requires States to "establish fee systems that insure that fees to non-profit entities for background checks do not discourage volunteers from participating in child care programs." In a survey of mentoring organizations, the National Mentoring Partnership found that organizations were paying on average $10 for a State records check, plus the fee for a national check. For organizations utilizing hundreds of volunteers and employees, the costs of conducting thorough background checks can be exorbitant. Small, community-based organizations with limited funding often must choose between funding services to children or checking the criminal history records of prospective volunteers.

In an attempt at addressing some of these concerns with the current NCPA/VCA system, at the conclusion of the 106th Congress I introduced S. 3252. I reintroduced the same bill as S. 1868 in this Congress, and I am proud to have Senator THURMOND as a cosponsor. As introduced, S. 1868 would have permitted qualified entities like the Boys and Girls Clubs to apply to a clearinghouse within the Justice Department for national criminal history background checks. Checks would have been affordable and results would have been quickly returned to the qualified entities. The Judiciary Committee took up and passed the bill, along with a Biden/Thurmond/DeWine amendment in the nature of a substitute.

On June 18, 2002, the Justice Department sent me a letter outlining their views on the legislation as reported by the Committee. In its letter, the Department noted that the bill's goal of providing effective, efficient national criminal history background checks will "help to protect children and other vulnerable segments of the nation's population, [and will] promote volunteerism in the United States, which is one of the President's priorities."

The Department went on to raise several concerns with the legislation. First, they noted that the funds authorized by the bill to perform the checks and operate a new clearinghouse within the Department may be prohibitive. The Biden-Thurmond substitute the Senate considers today addresses those concerns. In a change from the measure reported by the committee, the substitute authorizes the Attorney General to charge a modest fee $5 for volunteer checks. In addition, the substitute dramatically scales back the duties of the clearinghouse, now labeled the "Office for Volunteer and Provider Screening." Where the bill as reported charged the clearinghouse with developing model fitness standards and applying standards against each applicant utilizing the resources of the clearinghouse, the version we consider today eliminates this fitness determination requirement. While I still feel it would be preferable for the Department to assist qualified entities in making these fitness determinations, the substitute provides that model standards will be developed and envisions qualified entities then using these standards to make their own fitness determinations. S. 1868 as reported by committee authorized $180 million over five years to cover the costs of volunteer checks and to establish the clearinghouse. The vision we consider today has scaled this authorization back to $100 million.

Second, the Department expressed concerns with language in S. 1868, added in Committee at the behest of Senator DEWINE and drawn directly from his S. 1830, which made amendments to the National Criminal History Access an Child Protection Act. There is a difference of opinion between the Justice Department and SEARCH, a group created by the States to improve the criminal justice system and the quality of justice, as to the impact of this language. Resolution has not been reached on the matter, and because I do not believe the issue raised by language drawn from S. 1830 to be directly related to the issue at hand of providing quick and effective background check results to qualified entities, the substitute the Senate considers today deletes the language objected to by the Justice Department.

Third, the Department expressed administrative and constitutional concerns with the makeup and operations of the clearinghouse described in the bill reported out of Committee. I have reviewed the Department's concerns and find them to be valid. The language objected to by the Department is not a part of the substitute amendment considered today.

Since introduction of S. 1868, through the Committee markup process, and stemming from extensive discussions regarding this measure over the past several months, I have agreed to modify the impact of the bill in several critical ways. Raised first in Committee by Senator DEWINE, and then later by SEARCH and other groups, arguments were made to me that S. 1868 could unintentionally undercut the work done in many States to process background check requests. Senator DEWINE rightfully pointed out to me that in some States, the system that the Congress put in place after enactment of the National Child Protection Act in 1993 and the Volunteers for Children Act in 1998 is working. In those cases, we should not uproot a system that is effective. The substitute we consider today acknowledges this concern. Upon enactment, the clock will toll on a one-year period during which the Attorney General will review the extent to which States have participated in the NCPA/VCA system. At the conclusion of that one year period, the Attorney General is charged with designating states as having "qualified state programs". The substitute lays out several objective criteria designed to guide the Attorney General's decision. States that are quickly, cheaply, and reliably processing background checks will be recognized as having a "qualified State program" by the Attorney General and will continue to process background check requests as under current law. But if the Attorney General determines that a State does not have a qualified State program, based upon the criteria delineated in the version of S. 1868 we consider today, qualified entities in those jurisdictions are permitted to apply directly to the Justice Department for background checks. This legislation thus creates a separate track for qualified entities seeking national criminal history background checks. This track will only be available, however, to qualified entities doing business in States without a qualified State program, as determined by the Attorney General.

A concern has been raised during drafting of this measure that the substitute does not give the Attorney General the discretion to label a State's program as qualified for one category of qualified entities, but not qualified for another. The intention of the authors of S. 1868 is to give the Attorney General that discretion. The language of the substitute considered by the Senate today does not require the Attorney General to make a blanket determination for a State's entire universe of qualified entities. The substitute should be interpreted by the Attorney General to permit States to be qualified for some categories of qualified entities but not all categories if necessary.

Other provisions of the version of S. 1868 we consider today deserve mention. SEARCH and others have suggested to me that one of the main impediments States face in fully implementing the NCPA/VCA is that current law does not authorize the Attorney General and States to deliver criminal history records information directly to qualified entities. S. 1868 changes this and makes clear that the Attorney General and States may provide this information to qualified entities should they desire to do so.

Also, we have authorized in this measure grants to the States so they can purchase so-called Live-Scan fingerprint technology. These devices permit prints to be electronically transmitted, obviating the need for fingerprint cards. Wide dissemination of this technology would facilitate nationwide background checks, and I am hopeful this grant program will be adequately funded so that this equipment can be installed throughout the country.

I would like to thank Robbie Callaway and Steve Salem of the Boys and Girls Clubs of America, Margo Pedroso of the National Mentoring Partnership, and Abby Shannon of the National Center for Missing and Exploited Children for their tireless advocacy on behalf of S. 1868. Captain David Deputy of the Delaware State Police and Director of Delaware's State Bureau of Identification offered invaluable comments throughout the drafting of this measure, and I thank him for his assistance. Thanks also to Bob Belair, General Counsel of SEARCH, for his helpful suggestions. I would like to pay a special tribute to Senator THURMOND, as well as to his Judiciary Committee counsel Scott Frick, for their dedication to this bill. I appreciate the assistance of Chairman LEAHY and Senator HATCH for agreeing to report S. 1868 out of Committee last spring. I am also appreciative of the efforts made by Senator DEWINE and his staff to move this legislation along. Finally, I thank Congressman MARK FOLEY, the author of the Volunteers for Children Act, as well as Elizabeth Nicolson and Bradley Schreiber of his staff, for agreeing to introduce this legislation as H.R. 5556 in the other body.

I remain hopeful that S. 1868 can be taken up by the other body and sent to the President for signature this year.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 11, 2001 in College Park, MD. Around 1 p.m. on National Coming Out Day, a 22 year-old woman wearing gay-supportive pins was hanging her bicycle on her car rack when a man approached her from behind and struck her on the back of the head, pushing her head into the rack and knocking her to the ground. The assailant kicked her several times and hurled anti-gay epithets, according to police. The victim was treated at the university health center for injuries sustained during the attack.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

VETERANS DAY

Mr. KERRY. Madam President, on Monday I was privileged to stand with thousands upon thousands of veterans and their families who traveled to Washington to visit the Vietnam Wall for its 20th anniversary, to reconnect with those with whom we had served, and above all to honor our fallen brothers and sisters.

These veterans, some of whom traveled for days and all at their own expense, proved something I think every American knows deep down in their heart—something that cuts to the quick of what we as Americans stand for—that part of being an American means keeping faith with our citizens and those heroes who gave so much to our country. That responsibility extends to those of us who have the honor to serve here in the Chambers of Congress.

Today, my friends, after another Veterans Day where words of praise for America's veterans were spoken, at a time when it is an increasingly real possibility that more Americans will be sent into harm's way for their Nation, we must keep faith—in deeds and not just words—with the veterans of our country. We must do the duty we were sent here to do, as they did their duty wearing the uniform of our country.

Because of a 111 year-old law, when our soldiers have returned from combat wounded, debilitated by illness, missing limbs, confined to wheelchairs—disabled for life these veterans have been told that their retired pay would be reduced dollar-for-dollar for any VA disability benefits they received. Yesterday the House and Senate reached a compromise on the issue of concurrent receipt in the National Defense Authorization Act. The authorization act has been held up for weeks because the administration has threatened a veto if concurrent receipt language was included in this bill. The compromise that was reached yesterday begins to correct the injustice created by this archaic law but it does not go nearly far enough.

The compromise language applies only to veterans injured during combat, combat-oriented training, or certain other hazardous activities, with a disability rating of 60 percent or greater, and those with a rating of at least 10 percent if they received a Purple Heart. This compromise leaves a bitter taste in the mouths of anyone who believes we have a faith to keep with our veterans. On October 10, the House passed overwhelmingly a motion to instruct their conferees to accept the far more comprehensive Senate-passed concurrent receipt language—which would have provided all disabled veterans the full amount of their disability benefits and their retirement pay. There is strong bipartisan support for full concurrent receipt in both Chambers of Congress, yet because of the considerable pressure from this administration we have been forced to accept a compromise that will leave hundreds of thousands of our veterans behind.

I cannot believe that this administration is willing to tell a veteran who, through service to his country, has suffered an injury leaving him 50 percent disabled, that he is not entitled to both disability compensation and retirement pay earned for 20 years of service. Military retirees are the only category of federal employees who are required to relinquish a portion of their retirement pay when they receive VA disability benefits. Not only does this practice unjustly penalize our disabled career soldiers—it weakens our military by effectively encouraging injured servicemembers to leave the military early in their careers. We have been working for years to right this wrong. This change in law is a beginning, but much remains to be done.

The issue of compensation for our disabled veterans is only one aspect of a much larger problem—we are failing to meet our promises to the people who have so courageously served our country. Nothing punctuates this fact more than the ongoing financial crisis facing the veterans health care system.

We must address simple mathematics. From 1996 to the present, the number of veterans seeking health care from the VA has grown from 2.9 million to 4.5 million, while the VA's health care staff has decreased from 195,000 to 183,000—forcing many veterans to wait 6 months or longer for care. But this administration's continued refusal to fully fund our VA has done nothing to help them hire new staff, let alone offer better care to our Nation's veterans.

The overall thrust of their approach to this funding crisis has been to push reforms aimed at reducing enrollment in the veterans health system rather than providing the funds necessary to ensure that every veteran gets the best health care we have to offer. Even VA Secretary Principi identified a $400 million shortfall in the fiscal year 2002 budget of the VA health care system. But the administration requested only $142 million to compensate for this shortfall, and plans to make up much of the remainder of the shortfall by imposing "efficiencies" on a system that's already reached a crashing point.

In July Congress passed $417 million for veterans health care as part of the fiscal year 2002 emergency supplemental—to reduce waiting times for health care, keep clinics open, and establish new Community Based Out-patient Clinics. But in August the President blocked $275 million of the amount provided by Congress, announcing the administration would only spend the $142 million it requested for VA health care.

This is not the way to keep faith with our veterans. They are aging and in need of medicine and health care, they are sitting in our waiting rooms, and struggling to pay hefty bills and still afford rent and food. Many are homeless—in fact, nearly one quarter of all homeless Americans are veterans. By any measure, we are not doing enough for those who have done so much for us.

That is why I am asking the Congress to provide full funding for veterans medical care in the fiscal year 2003 VA/HUD Appropriations bill. The committee reported bills in the Senate and House both provide $25.3 billion for the VA health system, an increase of $3.3 billion over the fiscal year 2002 level, and $1.8 billion more than the administration's request for 2003.

Because we are not doing enough for our veterans, I am asking the Senate to reject the President's proposed $1,500 health care deductible for Priority 7 veterans included in his fiscal year 2003 VA/HUD budget. So far the House and the Senate have rejected the President's request to include this deductible in the VA/HUD Appropriations bill.

I am also asking this body to join me in urging the administration to rescind the VA memo dated July 18, 2002 that ordered the directors of every veterans health care network in the country to cease outreach activities such as health fairs, open houses, newsletters, and public service announcements.

And I ask the Senate to call on the VA to rescind its new regulations which require the rationing of health care. These regulations—which give priority for health care to veterans with service-connected conditions, without taking into account the medical needs of patients—could add to the VA's red tape, making the already long waiting times at many VA facilities even longer.

I believe it is also important the Senate join in supporting Senator JOHNSON's Veterans Health Care Funding Guarantee Act, which would assure adequate funding of these important priorities.

Regrettably, this administration has launched an assault on Priority 7 veterans, those who lack a service-connected disability and whose income is higher than the current VA eligibility standard—$24,500 for a single person. Priority 7 veterans have grown from 2 percent of VA patients in 1995 to about 33 percent currently—a total of 1.6 million veterans. Although this increase coincides with the 1996 law that changed the VA's eligibility system, veterans have turned to the VA mainly because they have nowhere else to go for affordable prescription drugs. These are the same people who would benefit most from a Medicare prescription drug benefit—their incomes are too high for Medicaid, but too low to handle the health system's growing reliance on expensive prescription drugs. Where are our priorities when we are content with not passing a prescription benefit plan for our seniors—including these honorable men and women—and then say that we will not fight for adequate funding for our VA hospitals? I find these misplaced priorities disturbing and I think it high time we finally did something about it.

We should remember the words of George Washington: "The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive the veterans of earlier wars were treated and appreciated by their nation." Today, after one of the most meaningful days in our year, it is time for us to show our commitment to our veterans and, by doing so, show our soldiers that their service means something to this country and to this government—that we won't just send them into harms way and forget about them when they come home. We will remember their service and always keep faith.

AMERICA'S POWER

Mr. SESSIONS. Madam President, I join my colleagues today to commemorate September 11, 2002, and the Special Joint Session of Congress held in New York City. Americans are a generous people, with both our time and our money. We are a people committed to our religious beliefs. We are a people who place great value on education and the individual. We seek opportunity at every turn for our children, and we strive to take care of those who are elderly, infirm, and less fortunate.

We are also a people who take great pride in the protections we collectively offer one another through a common defense. We wear most humbly the mantle of "Super Power."

Last September 11, our collective vulnerability in securing the borders of our nation was made known to all. In those initial chaotic hours, we watched the opening battle of what is now called the "War on Terror."

Like many states, Alabama lost sons and daughters that day. Indeed, five Alabamians died in the Pentagon. Families were broken and great symbols of our might and entrepreneurial achievement made waste. We felt, and I believe we still feel, a collective pain in our hearts that will never heal. But the world has witnessed the development of a new resolve among Americans. A resolve too quiet for too long.

In the past year, we have taken a long and hard look at our defense posture. We have found great problems that must be fixed. We have found strength. We have committed our uniform services to battle, and we must give our President tools and the authority to get the job done.

Nearly a year has elapsed. Our emotions still run high.

America is demanding much from itself and its governmental leaders. The creation of the Department of Homeland Security has resulted in a vigorous and healthy debate and a strong interest in making our homeland safer and improving our intelligence gathering capabilities.

Fundamentally, the homeland defense debate is about change. Specifically, it is about protection of American citizens.

I am proud of this country and how we have reacted. Everything has not been perfect, but great progress has been made. Noted columnist Mr. Charles Krauthammer recently wrote, "National character does not change in a day. September 11 did not alter the American character, it merely revealed it." I could not agree more.

The American character displayed "courage, resolve, resourcefulness and above all resilience" Krauthammer wrote and I agree. We are a great power and indeed a super power.

We are a nation that believes in freedom and progress and are forgiving and slow to anger, but when aroused we have proven once again we can be a terrible force.

Our President is leading us with strength and resolve. Homeland defense is but a part—an important part—of that resolve. Foreign policy initiatives, social policy changes and prosecution of the War on Terror are other aspects as well. Of the latter, winning is no simple matter. Patience, superior planning, and the support of the military are all required to complete the tasks which lie ahead.

The nation has met the challenge this year. Now we must work hard as the memories of the horror of September 11 fade, to finish the job of making our homeland safe and ensuring that our magnificent military continues to expand its capabilities and world leadership. We must not sleep.

CLARENCE MILLER POST OFFICE

Mr. VOINOVICH. Madam President, I speak today on behalf of a bill considered by the Senate, H.R. 4755, to designate a post office in Lancaster, OH, as the "Clarence Miller Post Office Building." I strongly support this bill honoring a long-time Member of the Ohio Congressional delegation.

Clarence Miller is a native and lifelong resident of Lancaster, OH. The third of six children, Clarence grew up during the difficult times of the Great Depression. He learned the value of hard work at an early age and began his professional life by delivering newspapers for the Lancaster Eagle Gazette. After graduating from high school, he started his career at Ohio Fuel and Gas digging ditches. Through determination and hard work he eventually earned a position of electrical engineer. While employed full time at Ohio Fuel, he joined his family in opening a small electric wiring business in Lancaster and worked there during his "off" hours.

At Ohio Fuel, Clarence was introduced to politics when he participated in a civics course offered to help employees better understand government. Clarence was enthralled by the subject and soon began teaching the course.

He was able to put into practice all he learned when he was appointed to fill a vacancy on the Lancaster City Council. Subsequently, he was elected to a full term and then was elected mayor. Following his term as mayor, Clarence served the people of 10th District of Ohio in the U.S. House of Representatives for 27 years, from 1966–1993. Representative Miller served for 6 years on the House Agriculture Committee and the Public Works and Transportation Committee, and then he was selected to serve on the Appropriations Committee, where he served for 20 years, and fought hard to reduce Federal spending during times of skyrocketing deficits.

Mr. Miller's achievements did not go unrecognized by his fellow Ohioans. His many awards include honorary doctorate degrees from Marietta College and Rio Grande College, and the Phillips Medal of Public Service from Ohio University.

I thank my colleagues for their consideration of this matter important to the people of Ohio.

ADDITIONAL STATEMENTS

CHANDLER RAYMOND KELLER: IN MEMORIAM

• Mrs. BOXER. Mr. President, I take this opportunity to share with my colleagues the memory of one of my constituents, Chandler Keller, of Manhattan Beach, California, who lost his life on September 11, 2001. He was a passenger on American Airlines Flight 77. As we all know, that plane crashed into the Pentagon, killing everyone on board. Mr. Keller was a 29 year-old lead propulsion engineer and project manager with Boeing Satellite Systems in El Segundo, California.

Chandler Keller was known to his family and friends as "Chad". He was born in Manhattan Beach, California. Chad mostly grew up there, with the exception of some time spent in Hong Kong, New York and Sydney, Australia due to his father's work assignments with Security Pacific Corporation.

As a child, Chad enjoyed a great love of rocketry and an avid interest in space. As a young boy he had an innate ability to understand machines and how to make them work. In 1993, Chad graduated from the University of Colorado's aerospace engineering program and pursued his career at Hughes/Boeing, working in their satellite launching program.

Chad and his wife, Lisa Hurley Keller, were married on July 22, 2000 at the Old Mission in Santa Barbara. During their brief time together Chad and Lisa enjoyed travel, outdoor activities, and most of all, being with one another.

Chad Keller enjoyed surfing, skiing and snowboarding. He loved to cook and possessed a wonderful sense of humor. "He had the ability to bond with people, and he touched many lives during his short life. He lived his life to its fullest," says his father, Dick Keller.

In celebration of his life, the Keller family established the Chandler Keller Memorial Scholarship at the University of Colorado. It is to be awarded to well-rounded aerospace engineering students. Chad was posthumously awarded the Defense of Freedom medal for his work with the Department of Defense in conjunction with Boeing Satellite Systems.

Chad Keller is survived by his wife, Lisa Hurley Keller; parents Kathy and Dick Keller; brothers Brandon and Gavin; mother-in-law and father-in-law Shirley Ann and Jim Hurley; and brother-in-law James Hurley.

Mr. President, none of us is untouched by the terror of September 11th, and many Californians were part of each tragic moment of that tragic day. Some were trapped in the World Trade Center towers. Some were at work in the Pentagon. And the fates of some were sealed as they boarded planes bound for San Francisco or Los Angeles.

I offer this tribute to one of the 54 Californians who perished on that awful morning. I want to assure the family of Chad Keller, and the families of all the victims, that their fathers and mothers, sons and daughters, aunts, uncles, brothers and sisters will not be forgotten.•

DINO XAVIER SUAREZ RAMIREZ: IN MEMORIAM

• Mrs. BOXER. Mr. President, I take this opportunity to share with my colleagues the memory of one of my constituents, Dino Xavier Suarez Ramirez, who lost his life on September 11, 2001. Mr. Ramirez was a 41-year-old civil engineer returning to Los Angeles from vacation when the flight he was on, American Airlines Flight 11, was hijacked by terrorists. As we all know, that plane crashed into the World Trade Center, killing everyone on board.

Xavier Ramirez was born in Guayaquil, Ecuador and completed his primary and secondary education there, receiving certification in mathematics, physics, chemistry and biology. Mr. Ramirez achieved his goal of becoming a civil engineer by working during the day and completing his university studies at night. He majored in civil engineering at the University Laica Vicenete Rocafuerte de Guayaquil. "He was very intelligent, and his hobby was reading. He knew very much about the history of nations because of his reading," recalls his mother, Blanca Vilma Ramirez.

Upon coming to this country, Mr. Ramirez worked to have his degree recognized here. In his native country of Ecuador he worked in the construction of roads. His mother further recalls that, "He worked very hard and was not afraid of any kind of job, wanting only to go beyond himself in what he did." Xavier Ramirez is survived by his mother, Blanca and his brother, Klinger David Suarez Ramirez.

Mr. President, none of us is untouched by the terror of September 11th, and many Californians were part of each tragic moment of that tragic day. Some were trapped in the World Trade Center towers. Some were at work in the Pentagon. And the fates of some were sealed as they boarded planes bound for San Francisco or Los Angeles.

I offer today this tribute to one of the 54 Californians who perished on that awful morning. I want to assure the family of Xavier Ramirez, and the families of all the victims, that their fathers and mothers, sons and daughters, aunts, uncles, brothers and sisters will not be forgotten.•

JOHN D. YAMNICKY, SR.: IN MEMORIAM

• Mrs. BOXER. Mr. President, I take this opportunity to share with the Senate the memory of Captain John D. Yamnicky, Sr., of Waldorf, Maryland, who lost his life on September 11, 2001. He was a passenger on American Airlines Flight 77. As we all know, that flight was hijacked by terrorists and crashed into the Pentagon, killing everyone on board. Captain Yamnicky was a 71-year-old retired naval aviator who, since his retirement from the United States Navy in 1979, continued to work as a defense contractor for Veridian Engineering.

Captain Yamnicky was a gentleman and a scholar. He graduated from the Naval Academy in 1952, and devoted a 26-year career in service to this country. He served a combat tour in Korea and served two tours in Southeast Asia flying from aircraft carriers. He earned several military honors, including the Distinguished Flying Cross.

After graduating from the Naval Test Pilot School at Patuxent River, Maryland, in 1961, one of his first assignments was to determine the minimum acceptable airspeed for the A-4 aircraft after a catapult launch from an aircraft carrier. He was inducted into the Society of Experimental Test Pilots in recognition of his contributions. In 1963, after that honor, Captain Yamnicky reported to VA-146 at NAS in Lemoore, California.

Captain Yamnicky met his wife, Jann, while she was working as a nurse at Jacksonville Naval Hospital. They married in 1959 and had four children. Their son John David, of California, said of his father, "This guy was the head of the family, he made everyone feel safe. If he ever talked about accomplishing something, it was as a group or a team. He was a modest man."

Friend and colleague, Dennis Plautz, commented that, "John Yamnicky emphasized teamwork. His style was never to leave a teammate straggling, rather work with them, help them, encourage them to maximize their potential."

He applied this attitude in all areas of his life, including his community contributions. Captain Yamnicky served on the Board of Directors at his daughter Lorraine's high school, St. Mary's Academy, was a member of the Knights of Columbus, and the Elks Lodge. He was proud of his volunteer contributions to the De La Brooke Foxhounds Hunt Club, where he and Jann were members for 25 years.

His best times were spent away from the office, riding on a tractor through the fields of his Waldorf horse farm. "He loved being out there. His nature was not to stand around. He was always out in the fields, always working on something," remembers his son, John.

Captain Yamnicky is survived by his wife Jann and their four children, John, Jr., Lorraine, Mark and Jennifer.

Mr. President, none of us is untouched by the terror of September 11th, and many Californians were part of each tragic moment of that tragic day. Some were trapped in the World Trade Center towers. Some were at work in the Pentagon. And the fates of some were sealed as they boarded planes bound for San Francisco or Los Angeles.

I offer today this tribute to one American who perished on that awful morning. I want to assure the family of Captain John D. Yamnicky, Sr., and the families of all the victims, that their fathers and mothers, sons and daughters, aunts, uncles, brothers and sisters will not be forgotten.●

DOROTHY A. DEARAUJO: IN MEMORIAM

● Mrs. BOXER. Mr. President, I take this opportunity to share with my colleagues the memory of one of my constituents, Dorothy A. deAraujo, of Long Beach, California, who lost her life on September 11, 2001. Mrs. deAraujo was an 80-year-old retiree when the flight she was on, United Airlines Flight 175, was hijacked by terrorists. As we all know, that flight crashed into the World Trade Center killing everyone on board.

Mrs. deAraujo was returning to her home in Long Beach after enjoying a lengthy visit with her son, Joaquim ("Tim"), his wife Rita and their two sons, Jonathan and Jason in Bedford, Massachusetts.

Dorothy worked as an Executive Administrative Assistant in the business office of California State University, Long Beach for 20 years. She retired in 1979 and returned to the University as a student, earning her Bachelor's Degree in Fine Art. During her retirement, Mrs. deAraujo traveled extensively and pursued her passion for watercolor painting. She was a talented artist, and her paintings won several prizes in various competitions.

During the 1970's Dorothy successfully overcame breast cancer. She was active in her community and devoted her spare time to the American Cancer Society. She was especially involved in operating the American Cancer Society's Discovery Shop in Belmont Shore.

Mr. President, none of us is untouched by the terror of September 11th, and many Californians were part of each tragic moment of that tragic day. Some were trapped in the World Trade Center towers. Some were at work in the Pentagon. And the fates of some were sealed as they boarded planes bound for San Francisco or Los Angeles.

I offer today this tribute to one of the 54 Californians who perished on that awful morning. I want to assure the family of Dorothy deAraujo, and the families of all the victims, that their fathers and mothers, sons and daughters, aunts, uncles, brothers and sisters will not be forgotten.●

ALAN BEAVEN: IN MEMORIAM

● Mrs. BOXER. Mr. President, I take this opportunity to share with my colleagues the memory of one of my constituents, Alan Beaven, who lost his life on September 11, 2001. Mr. Beaven was a 48-year-old environmental lawyer when the flight he was on, United Airlines Flight 93, was hijacked by terrorists. As we all know, that plane crashed in a Pennsylvania field, killing everyone on board.

Mr. Beaven was born in New Zealand and was educated at the University of Auckland, New Zealand where he was a recipient of the Butterworth Prize. He taught law and practiced in the areas of securities, class actions and environmental law in New Zealand, England, New York and California.

Considered one of our nation's leading environmental lawyers, over the past nine years Mr. Beaven prosecuted nearly 100 clean water cases. His law firm partner, Joe Tabbacco, observes, "This is an absolutely remarkable record. Alan's efforts had almost single-handedly cleaned up the waters in Northern California through his aggressive prosecutions."

California lost an environmental champion, and Mr. Beaven's family lost a loving and devoted husband and father. His proudest achievement was his family. His wife, Kimi Beaven, recalls, "He would do anything for his children and spent hour after hour reading to Sonali, playing ball with John and scuba diving with Chris."

Mr. Beaven was flying back to California to prosecute one more water pollution case before taking a sabbatical in India where he was to volunteer his services as an environmental lawyer. Alan Beaven was one of many heroes on Flight 93 who, aware of the terrorist attacks on the World Trade Center and the Pentagon, chose to fight back against the hijacking terrorists. His voice was recognized by his family on the cockpit voice recorder, and his remains were found in the wreckage of the cockpit.

His son John perhaps describes Alan Beaven best when he writes, "His love for simplicity and genuine appreciation for the happiness he held within was not lost on others; friends would always leave his company with uplifted spirits."

Mr. President, none of us is untouched by the terror of September 11th, and many Californians were part of each tragic moment of that tragic day. Some were trapped in the World Trade Center towers. Some were at work in the Pentagon. And the fates of some were sealed as they boarded planes bound for San Francisco or Los Angeles.

I offer today this tribute to one of the 54 Californians who perished on that awful morning. I want to assure the family of Alan Beaven, and the families of all the victims, that their fathers and mothers, sons and daughters, aunts, uncles, brothers and sisters will not be forgotten.●

TRIBUTE TO DOUG DENLER

● Mr. BURNS. Madam President, I rise today to ask my colleagues to join me in paying tribute to a dedicated member of the Montana Department of Fish, Wildlife and Parks, FWP, as he concludes over 30 years of service to his State and Nation. We are proud that much of this Montanan's working life has been dedicated to serving the citizens of and visitors to our great State.

Mr. Doug Denler deserves this honor. We owe our gratitude for his contributions to the conservation of Montana's wildlife and natural resources, as well as preserving the outdoor heritage in the Rocky Mountain west.

Doug Denler's personal and professional career accomplishments truly reflect the values of rural life under the big sky. His loyal service with our military forces, followed by public service in several Montana State agencies are a testament to all who find value in outdoor experiences. I would like to take a moment to reflect upon Doug's career as he embarks on a new phase of life beyond government service.

Doug was born and raised in Boise, ID and attended college at Montana State University in Bozeman. Following graduation he was commissioned as a Second Lieutenant in the U.S. Army and shortly thereafter received orders to join a unit deployed to South Viet Nam. During that assignment Doug was highly decorated for service in combat, receiving the Air Medal and Bronze Star. Subsequently he continued uniformed service, and having completed 10 years on active duty he then elected to resign his commission and move his family to Montana.

Doug's first job in State government was as human resource manager with the Department of Administration where he was instrumental in crafting legislation to enable hiring temporary workers in State government. His approach for quickly and efficiently engaging short-term workers continues today as a foundation for many State agencies whose missions include part-time and seasonal tasks. He then spent two years at the Department of Highways before being selected in 1989 to be the Human Resource Bureau Chief at FWP.

Bringing diverse experience and unbounded enthusiasm to his assignment Doug embarked on innovative ventures in pay plans, safety, training, labor relations, recruitment, and retention. Among his first achievements was crafting a comprehensive Policy Manual that is now widely used by FWP managers and is an essential component of new employee orientation.

Turning his attention toward safe operating practices, he created an FWP statewide safety program that incorporated management oversight, documentation of mishap statistics and costs, and funding generated by savings from lowered accident rates. Demonstrating leadership ability and dedication, Doug volunteered to chair the new safety committee. A measure of his success is reflected in the fact that during the past three years FWP has twice received Governor's Award recognition for surpassing accident prevention goals.

In 1999 Doug took the lead to initiate an Alternative Pay Plan for the Department's employees. This effort required his team to analyze market data, establish performance standards, initiate agency wide competencies, and obtain funding. Among the first of such plans approved by the Legislature and implemented the next year, the pay plan in use at FWP today typifies Doug's tireless efforts to find common ground and craft sensible solutions for both management and rank and file employees.

Over the past year Doug stepped up yet again when asked to take on additional duties following the unexpected retirement of an executive manager. For eight months Doug served as the acting Chief of Administration and Finance. Along with performing his normal duties he provided oversight for a troubled $8 million computer development project, assisted with the preparations for a special session of the Legislature, and finalized a $62 million biennium budget.

Doug Denler is highly regarded among his peers and the public for his devotion to resource conservation and his unmatched appreciation for Montana's hunting and fishing lifestyle. Embracing the FWP mission both in and outside the office makes Doug a consummate professional, and his retirement will leave a gap in knowledge and ability that FWP will find difficult to replace.

It is a great honor for me to present these credentials of Doug Denler before the Senate today. It is clear through his many accomplishments that Doug has dedicated himself to public service, in and out of uniform, and to further the many benefits we enjoy as Americans. His actions consistently reflect a true leader who has served with courage and commitment.

As Doug departs from public service I ask my colleagues to join with me in delivering an appreciative tribute from a grateful State and Nation, along with our best wishes for a rewarding retirement.●

TRIBUTE TO REX ROBLEY

● Mr. BUNNING. Madam President, I rise today among my fellow colleagues to honor and pay tribute to Kentucky's last surviving World War I veteran. Of the 84,000 Kentuckians who were sent to fight in World War I, Rex Robley, 91 years young from Louisville, KY, is believed to be the only one still alive. This man has sacrificed and accomplished so much in just one lifetime. He truly exemplifies the American spirit.

Monday, we as a Nation came together to celebrate Veterans Day. On this very important day, every American has the opportunity and the obligation to thank and honor those who so valiantly fought for our freedoms, rights and liberties in the trenches of France, the beaches of Normandy, the jungles of Korea and Vietnam and the deserts of Iraq. These men and women fought so that future generations would be able to live under a blanket of freedom that reaches from coast to coast.

Sadly, thousands of these veterans are dying off in large numbers every year. During the 1990s, the number of World War II veterans in Kentucky decreased by nearly 54,000. The Kentucky Department of Veteran Affairs calculates that, on an average day, Kentucky loses 22 military veterans, of whom 17 were in World War II. To ensure that this country continues to build and prosper, we must make a promise to ourselves to never forget the sacrifices these individuals have made. It is their memory that will guide us in the right direction.●

TRIBUTE TO BILL CAPPEL

● Mr. BUNNING. Madam President, I rise today to honor Bill Cappel of Covington, KY for his years of dedicated and selfless service to this nation and to the Commonwealth of Kentucky. Yesterday, Mr. Cappel celebrated his 90th birthday.

In honor of this event, city officials in Covington presented Mr. Cappel with a key to the city, read a proclamation in his honor and even provided him with a special police escort as they officially named the Bill Cappel Youth Sports Complex after him.

Bill Cappel is one of those rare individuals in life who has the innate ability to put a positive spin on every situation. The only thing harder than getting him out in a softball game is getting him to take that permanent smile off his face. As a soldier in World War II, not only did Bill Cappel earn the Legion of Merit and the Bronze Star for his courageous military service, he also organized baseball and softball games for the soldiers while on tours of duty in Africa and Europe as a way for the men to escape the darkness that surrounds war. It is this type of service that has led many to think of Bill Cappel as a saint.

In 1933, Mr. Cappel organized a women's softball league in Covington as a way to get more women involved in the sporting world. Nearly 30 years later, he founded the Covington Major Girls League at Meinken Field. Three of the teams from the Covington Major Girls League won national championships. Bill learned that when you treat people like champions, they play and act like champions.

Throughout his life, Bill Cappel has given much to his country and the people of Northern Kentucky. He has always found a way to give back to the local community. In his mind, his actions do not merit any sort of special attention. He is simply trying to do for others what they have done for him. Whether it has been as a soldier, umpire, coach, player or friend, Bill Cappel has managed to make the world around him a better place for people to live. It truly is amazing how the actions of one man could positively affect so many.

I believe we all can take something away from the life Bill Cappel has lived. In politics, we each took an oath to serve the people and uphold the Constitution of the United States of America. While Mr. Cappel never swore an oath, he has demonstrated to thousands of people how far the human spirit can travel.•

RETIREMENT OF DOCTOR IRVING GUTTENBERG

• Mr. DODD. Madam President, I rise today to honor a constituent of mine, Dr. Irving Guttenberg, on the occasion of his retirement.

For 35 years, Dr. Guttenberg has specialized in ear, nose, and throat medicine in Meriden, CT. Over the course of his career, he treated and cured virtually thousands of neighbors in Meriden and surrounding communities, gradually earning the trust and admiration of an entire region.

I had the pleasure of having Dr. Guttenberg's daughter, Lisa Guttenberg Weiss, on my Connecticut staff for many years. Last month, I was deeply touched by an affectionate letter Lisa wrote to the Meriden Record Journal describing her father's dedication to his patients and chosen profession. I would like that letter printed in the CONGRESSIONAL RECORD following my remarks.

I know that the people of Meriden and central Connecticut will truly miss Dr. Guttenberg. Once again, I commend Dr. Guttenberg on the occasion of his retirement, and I wish him success in all of his future endeavors.

The letter follows:

AN END OF AN ERA FOR DR. GUTTENBERG

It is with a sense of pride and a few tears that I write to mark the end of an era and the retirement of Dr. Irving Guttenberg, my father. With my mother's help, he opened his medical office, now known as Ear, Nose and Throat Specialists, P.C. in 1967 at 219 West Main Street in Meriden. He officially retired September 30.

I imagine he has treated at least half the people in town, not to mention Wallingford and Cheshire. I cannot even guess how many tonsils he has removed or strep throats and sinus infections he has treated. But, I know that he has performed well over 50,000 pressure-equalizing tubes procedures (because he told me so). I also know that he is greatly admired, if not beloved, by his patients. My knowledge comes from the school vacations I spent working in his offices when I would schedule patient appointments, often triple-booking his days because so many patients wanted to see "Dr. G". As a young girl and now as an adult in my late thirties, I have seen Dad's patients' come up to him at the movies, at restaurants, at the grocery store, everywhere to thank him for all his good work and kindness. People still come up to me and tell me how great and dedicated and smart my father is. I know and I agree.

My father has always taken his responsibilities for his patients seriously. Even after he purchased his first pager and cell phone, it seemed like he would not leave the house if he were "on call". Forget about going to the movies. Do not even think about asking him to change his schedule to go away for some occasion. If he was on call, he was staying home, close to the phone and close to the hospital.

When I was growing up, my father left early in the morning and returned home relatively late, often eating dinner well after the rest of the family had finished. During weekends Dad had early morning and late afternoon "rounds" at Meriden's two hospitals. Sometimes he brought my brother and me with him and we would wait for an eternity in the doctor's lounge or near the nurses' station. (We are rumored to have been wheelchair racers, but there is no proof.) Other times, when we awoke Mom told us that Dad went to the hospital in the middle of the night to operate on someone.

Now, after 35 years in practice and after having served as Chief of Surgery and Chief of Ear Nose and Throat (ENT) at WWII Veterans' Memorial Hospital and Chief of ENT at MidState Medical Center and as a clinical instructor at Yale School of Medicine, my father is retiring. I do not know what he will do next. He told me he would sleep for a week and then baby-sit for my kids. I think there is some talk about travel too. Was that Dad or was that Mom? Whatever they do, I hope they both enjoy Dad's retirement. It is well deserved. Best wishes from me and everyone who knows and appreciates you.

Your daughter,

LISA GUTTENBERG WEISS.•

BENEFICIARY ACCESS AND MEDICARE PAYMENT EQUITY

• Mr. NELSON of Nebraska. Madam President, today I urge the Senate to act on the Beneficiary Access and Medicare Payment Equity package before the end of the session. Nebraska's health care providers are hurting financially. They need help from Congress to stop these Medicare reimbursement cuts or many will not be able to provide treatment to Medicare patients. Our 40 million seniors who depend on the Medicare system for their health care coverage need to know they have access to quality, affordable care. The bill addresses a number of Medicare inequities including cuts to hospitals, home health care providers, physical therapists, physicians, and skilled nursing facilities.

The Nebraska Hospital Association estimates that in this bill Nebraska hospitals would receive approximately $56 million in additional revenue for one year and $120 million over three years. the hospitals in my State need this funding to survive financially.

This legislation would have a tremendous impact on Nebraska's teaching hospitals. Teaching hospitals receive indirect medical education (IME) payments because they have higher patient care costs than non-teaching hospitals due to the extra costs incurred for teaching. The Balanced Budget Act, BBA, of 1997 cut these payments, and a provision in this bill would provide for additional relief. Nebraska has two academic medical centers—the University of Nebraska Medical Center and Creighton University Medical Center—and both would benefit from this legislation. Other hospitals in my State would also benefit including: Alegent Bergan Mercy in Omaha, Alegent Immanuel in Omaha, Nebraska Methodist in Omaha, BryanLGH Medical Center in Lincoln, St. Elizabeth Regional Medical Center in Lincoln, Good Samaritan in Kearney, and St. Francis in Grand Island.

The legislation also increases the Federal Medicaid disproportionate share hospital, DSH, allotment in extremely low-DSH States, such as Nebraska, from 1 percent to 3 percent of program costs. Even though the allotment percentage would be tripled, it is still far less than the national average. The DSH program provides relief to safety net hospitals that provide critical health care access to 42 million uninsured people in our country. Nebraska and 14 other States receive far less funding through the Medicaid DSH program per Medicaid and uninsured resident than the rest of the Nation and this lack of funding threatens the viability of many safety net hospitals.

A number of other important provisions are included that would help Nebraska's hospitals including: equalizing the standardized amount for rural and other urban hospitals; adjusting the wage index rate; increasing Medicare DSH payments to rural hospitals; extending the hold harmless provision for rural hospitals for outpatient services for an other year; and improving the Critical Access Hospital program by allowing more flexibility in allocating swing and inpatient acute care beds.

In addition to providing much-needed relief to hospitals, the bill also eliminates the 15 percent reduction in home health payments. This cut would reduce payments to home health care providers in my State by nearly $2 million per year. Nebraska providers cannot afford this cut. The legislation also recognizes the additional costs incurred by rural home health care providers and give them an addition 10 percent in payments.

I am also pleased that the bill eliminates the $1500 outpatient therapy cap for two years. This arbitrary limit discriminates against Medicare beneficiaries who desperately need outpatient therapy to help them recuperate from surgery, a stroke, or other medical condition.

As I mentioned last month, we also need to rectify the physician payment cut. Under current law, Medicare's physician payment rates are projected to fall by 12 percent over the next three years. Nebraska physicians' losses due to the 2003–2005 cuts will total about $63 million or $17,230 per physician. This comes on top of a 5.4 percent payment cut which cost Nebraska doctors a total of $12.9 million or about $3,875 per physician in 2002.

I also spoke of the need to help skilled nursing facilities which are experiencing severe financial difficulty.

If action isn't taken, Nebraska's facilities will lose $28.48 per patient per day next year for a total of $10 million.

Finally, I have spoken many times about providing fiscal relief to our States. This legislation also includes $5 billion in fiscal relief to States by increasing the Federal Medicaid matching rate and by providing a temporary social services block grant. This provision, that I helped author, would give Governors some needed flexibility in assessing the needs of their States. States would be eligible for the Medicaid funding increase as long as the eligibility levels they had in place on January 2, 2002 are maintained. Unfortunately, the Nebraska Legislature made Medicaid eligibility cuts in the recent special session, and these cuts would prevent our State from receiving the full funding available. However, I crafted a provision that would allow Nebraska to receive the funding if they reinstate these Medicaid cuts in the future.

We need to pass this legislation before the session ends. Our Nation's seniors need to know that they can depend on the Medicare system for their health care needs. I look forward to working with my colleagues in addressing these important issues.●

IDAHO'S TEACHER OF THE YEAR

● Mr. CRAIG. Madam President, I rise today to salute a very special teacher in my State, Patti Perry, who was recently named as Idaho's Teacher of the Year.

Patti Perry teaches first grade at Skyway Elementary School in Coeur d'Alene. She has taught in Coeur d'Alene for 30 years, and there are many people in the community who look back fondly on the lessons they learned from her. In fact, one of her former students said that she has "been in my heart since the first day of first grade." I'm sure this is a sentiment shared by many.

I come from a family of teachers, so I know how much a good teacher can affect the life of a student. What that teacher imparts in a classroom can stay with a student for the rest of his or her life. It's obvious that Mrs. Perry has had such an impact. She assesses every student individually and tailors her lessons to them. She is a leader in the school and a mentor to other teachers. And, most important of all, she inspires her students to strive for their highest possible performance, academically and otherwise.

It's not really a surprise that Mrs. Perry won this award. What is remarkable, though, is that she's Coeur d'Alene School District's third teacher in five years to be named as Idaho's Teacher of the Year. It's clear that the Coeur d'Alene District is doing something right. Kootenai County, which has Coeur d'Alene as its county seat, is one of the fastest growing counties in Idaho, and I suspect this might have something to do with the outstanding quality of schools in the county. I'm very proud of Mrs. Perry, and I'm also very proud of the Coeur D'Alene School District. They are both setting a great example for the rest of Idaho, and the rest of the Nation, to follow.●

MESSAGES FROM THE HOUSE

At 11:04 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4546) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At 2:33 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 124. A joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

The message also announced that the House has agreed to the following resolution:

H. Res. 598. Resolution stating that the House has heard with profound sorrow of the death of the Honorable Paul D. Wellstone, a Senator from the State of Minnesota.

The message further announced that pursuant to section 491 of the Higher Education Act (20 U.S.C. 1098(c)), and upon recommendation for the Majority Leader, the Speaker reappoints the following member on the part of the House of Representatives to the Advisory Committee on Student Financial Assistance for a 3-year term: Ms. Judith Flink of Morton Grove, Illinois.

The message also announced that pursuant to section 4404(c)(2) of Public Law 107–171, the Majority Leader appoints the following individual on the part of the House of Representatives to the Board of Trustees of the Congressional Hunger Fellows Program: Mr. Max Finberg of New York.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 1070) to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to carry out projects and research for remediation of sediment contamination in areas of concern in the Great Lakes, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2546) to amend title 49, United States Code, to prohibit States from requiring a license or fee on account of the fact that a motor vehicle is providing interstate pre-arranged ground transportation service, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3389) to reauthorize the National Sea Grant College Program Act, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3394) to authorize funding for computer and network security research and development and research fellowship programs, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4878) to provide for estimates and reports of improper payments by Federal agencies.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–9429. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney Models JT8D–209, 217, 217A, 217C and 219 Turbofan Engines" ((RIN2120–AA64)(2002–0438)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9430. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D & Class E Airspace; Bloomington, IN: Correction; Docket No. 01–AGL–06 "((2120–AA66)(2002–0160)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9431. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrumental Approach Procedures; Miscellaneous Amendments (33); Amdt No. 3026" ((2120–AA65)(2002–0053)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9432. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Aircraft Ground Deicing and Anti Icing Program and Training and Checking in Ground Icing Conditions" ((RINS2120–AE70)(2120–AF09)) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9433. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ":Revisions to Digital Flight Recorder Requirements" (2120–AH81) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9434. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Vehicle Safety Standards; Child Restraint Systems; Labeling Requirements (the TREAD Act)" (RIN2127–AI55) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9435. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Vehicle Safety Standards; Child Restraint Systems; Interim Final Rule on Seat-Mounted Vests" (RIN2127–AI88) received on October 21, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9436. A communication from the Deputy Assistant Administrator, Office of Response and Restoration/Damage Assessment Center, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Final Rule, Natural Resource Damage Assessments, Oil Pollution Act of 1990", received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9437. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI) . This action is necessary to prevent exceeding the 2002 Atka mackerel total allowable catch in this area"; received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9438. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications; Pacific Mackerel Fishery" (RIN0648–AP43) received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9439. A communication from the Attorney/Advisor, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a nomination confirmed for the position of Administrator, Federal Aviation Administration, received on October 28, 2002; to the Committee on Commerce, Science, and Transportation.

EC–9440. A communication from the Undersecretary of Defense, transmitting, pursuant to law, the report of fiscal year 2000 Defense Environmental Restoration Program; to the Committee on Armed Services.

EC–9441. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, the report on the Third Party Collection Program; received on October 9, 2002; to the Committee on Armed Services.

EC–9442. A communication from the Secretary of Defense, transmitting, pursuant to law, a report regarding the President's approval of changes to the 2002 Unified Command Plan (UCP) that specifies the missions and responsibilities of the unified combatant command; to the Committee on Armed Services.

EC–9443. A communication from the Assistant Secretary of Defense (Health Affairs), transmitting, a report relative to the Department of Defense Operational Use of Mefloquine; to the Committee on Armed Services.

EC–9444. A communication from the Under Secretary of Defense, Technology and Logistics, transmitting, pursuant to law, a report on Nuclear-Powered Submarine Force Structure; to the Committee on Armed Services.

EC–9445. A communication from the Under Secretary of Defense, Technology and Logistics, transmitting, a report relative to the Defense Environmental Technology Program; to the Committee on Armed Services.

EC–9446. A communication from the Chairman, United States International Trade Commission, transmitting, a report on the Andean Trade Preference Act-Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution; to the Committee on Finance.

EC–9447. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "Clean Coal Technology Demonstration Program, Program Update 2001"; to the Committee on Energy and Natural Resources.

EC–9448. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of the Agriculture, transmitting, pursuant to law, the report of a rule entitled "Cold Treatment of Fruit"; received on October 17, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9449. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Annual Animal Welfare Enforcement Report for Fiscal Year 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9450. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of the Agriculture, transmitting, pursuant to law, the report of a rule entitled "Change in Disease Status of Poland Because of BSE" (Docket No. 02–068–2) received on October 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9451. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of the Agriculture, transmitting, pursuant to law, the report of a rule entitled "Karnal Bunt; Regulated Areas" (Docket No. 02–037–1) received on October 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9452. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of the Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oriental Fruit Fly; Designation of Quarantined Area" (Docket No. 02–096–1) received on October 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9453. A communication from the Under Secretary of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Rural Business Opportunity Grants; Definition of 'rural and rural areas'" (RIN0570–AA37) received on October 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9454. A communication from the Under Secretary of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Rural Business Enterprise Grants and Television Demonstration Grants" received on October 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9455. A communication from the Director, Federal Emergency Management Agency, transmitting, pursuant to law, the Annual Performance and Accountability Report Fiscal Year 2001; received on October 16, 2002; to the Committee on Governmental Affairs.

EC–9456. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Annual Report to Congress on EPA Implementation of the Federal Financial Assistance Management Improvement Act of 1999; received on October 9, 2002; to the Committee on Governmental Affairs.

EC–9457. A communication from the Director, Federal Emergency Management Agency, transmitting, pursuant to law, a report relative to the Federal Emergency Management Agency's grant making processes; to the Committee on Governmental Affairs.

E–9458. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Certification of the Fiscal Year 2002 Revenue Projection in Support of the District's $283,870,000 Multimodal General Obligation Bonds and Refunding Bonds"; to the Committee on Governmental Affairs.

EC–9459. A communication from the Under Secretary of Defense, Technology and Logistics, transmitting, pursuant to law, a report on the Performance of Commercial Activities; to the Committee on Governmental Affairs.

EC–9460. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Mismanaged Special Education Payment System Vulnerable to Fraud, Waste, and Abuse"; to the Committee on Governmental Affairs.

EC–9461. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Audit of Advisory Neighborhood Commission 2B For Fiscal Years 2000, 2001, 2002 Through March 31, 2002"; to the Committee on Governmental Affairs.

EC–9462. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office Reports for April 2002; to the Committee on Governmental Affairs.

EC–9463. A communication from the Acting Director of the Peace Corps of the United States, transmitting, pursuant to law, the semi-annual report of the Peace Corps' Inspector General for the six-month period ending March 31, 2002; to the Committee on Governmental Affairs.

EC–9464. A communication from the Comptroller General of the United States, Government Accounting Office, transmitting, pursuant to law, the report of the list of General Accounting Office reports for July 2002; to the Committee on Governmental Affairs.

EC–9465. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period April 1, 2002 through September 30, 2002; ordered to lie on the table.

EC–9466. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administrator, transmitting, pursuant to law, the report of a rule amending the NASA Federal Acquisition Regulation (FAR) Supplement to require when relevant, consideration of safety and risk-based acquisition management; to the Committee on Commerce, Science, and Transportation.

EC–9467. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administrator, transmitting, pursuant to law, the report of a rule amending the NASA Federal Acquisition Regulation (FAR) Supplement to specify the approval authority for contract actions; to the Committee on Commerce, Science, and Transportation.

EC-9468. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a nomination for the position of Inspector General, received on October 15, 2002; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with amendments:

S. 2928: A bill to amend the Federal Water Pollution Control Act and the Water Resources Development Act of 2000 to modify provisions relating to the Lake Champlain basin. (Rept. No. 107-339).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

H.R. 1989: To reauthorize various fishing conservation management programs, and for other purposes. (Rept. No. 107-340).

NOMINATIONS DISCHARGED

The following nominations were discharged from the Committee on Foreign Relations and placed on the Executive Calendar pursuant to the order of November 13, 2002:

OVERSEAS PRIVATE INVESTMENT CORPORATION

Collister Johnson, Jr., of Virginia, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2004. (Reappointment)

DEPARTMENT OF STATE

John Randle Hamilton, of North Carolina, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guatemala.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: John R. Hamilton.

Post Guatemala.

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse: Donna Jean Hamilton, none.

3. Children and Spouses: Kathryn Jean Hamilton, none; Erin Randle Hamilton, none.

4. Parents: Susan Gordon Hamilton, none; John P. Hamilton (deceased).

5. Grandparents: Deceased.

6. Brothers and Spouses: Joshua Pearre and Judy H. Hamilton, none; James Gordon and Brenda H. Hamilton, none; Joseph Lytton and Catherine H. Hamilton, none.

7. Sisters and Spouses: Mary Louisa and Thom W. Blair, none.

John F. Keane of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: John Francis Keane.

Post: Asuncion, Paraguay.

Contributions, Amounts, Date, and Donee:

1. Self, $2,000, November 29, 2000, Bush/Cheney Transition Team.

2. Spouse: Graciela C. Keane, none.

3. Children and Spouses: Robert A. Keane and Edward A. Keane, none.

4. Parents: Gustave R. and Constance V. Keane (deceased).

5. Grandparents: Deceased.

6. Brothers and Spouses: Robert V. Keane, none.

7. Sisters and Spouses: None.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Irene B. Brooks, of Pennsylvania, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada, vice Susan Bayh.

Allen I. Olson, of Minnesota, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada, vice Alice Chamberlin.

DEPARTMENT OF STATE

David N. Greenlee, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bolivia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: David N. Greenlee.

Post: Republic of Bolivia.

Contributions, Amount, Date, and Donee:

1. Self, None.

2. Spouse: Clara Murillo Greenlee, none.

3. Children and Spouses: Nicole M. Greenlee, none; Gabrielle M. Greenlee, none; Daniel N. Greenlee (Martina Smetanove, none; Patrick A. Greenlee (Teresa Cuesta de Greenlee), none.

4. Parents: Virginia T. and Richard S. Greenlee (deceased).

5. Grandparents: Not available.

6. Brothers and Spouses: Richard S. Greenlee, III, none.

7. Sisters and Spouses: Ann Sinton Stafford (widow), none; Virginia Powers and Thomas Kirkwood, $50, 1999, Democratic Party.

Peter DeShazo, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during tenure of service as Deputy Permanent Representative of the United States of America to the Organization of American States.

OVERSEAS PRIVATE INVESTMENT CORPORATION

John L. Morrison, of Minnesota, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2004, vice John J. Pikarski, Jr., term expired.

DEPARTMENT OF STATE

J. Cofer Black, of Virginia, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large, vice Francis Xavier Taylor.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: J. Cofer Black.

Post: Ambassador-at-Large, S/CT.

Contributions, Amount, Date, and Donee:

1. Self, None.

2. Spouse: Suzanne S. Black, none.

3. Children and Spouses: Nicolas Black, none.

4. Parents: Thelma and Edward Black (deceased).

5. Grandparents: (deceased).

6. Brothers and Spouses: Not applicable.

7. Sisters and Spouses: Laura Ellen Black, none.

BROADCASTING BOARD OF GOVERNORS

Blanquita Walsh Cullum, of Virginia, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2005, vice Cheryl F. Halpern, term expired.

FOREIGN SERVICE

Nominations in the Foreign Service received by the Senate on October 8, 2002, beginning with William Joseph Burns, of Pennsylvania, and ending with Michael L. Young, of Colorado.

Nominations in the Foreign Service received by the Senate on October 8, 2002, beginning with Jon Christopher Karber, of Arizona, and ending with Peter Fernandez, of New York.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAMM:

S. 3150. A bill to authorize negotiation of free trade agreements with Turkey, and for other purposes; to the Committee on Finance.

By Mr. GRAMM:

S. 3151. A bill to authorize negotiation of free trade agreements with Afghanistan, and for other purposes; to the Committee on Finance.

By Mr. ALLEN:

S. 3152. A bill to clarify the boundaries of the Plum Island Unit of the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 3153. A bill to amend the Internal Revenue Code of 1986 to make technical corrections, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 3154. A bill to amend the Internal Revenue Code of 1986 to combat fuel excise tax fraud; to the Committee on Finance.

By Mr. HELMS:

S. 3155. A bill to authorize the President to establish and maintain the Foreign Language and Cultural Institute program; to the Committee on Foreign Relations.

By Mr. INOUYE:

S.J. Res. 52. A joint resolution approving the location of the commemorative work in the District of Columbia honoring Dwight D. Eisenhower; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE (for himself and Mr. LOTT):

S. Res. 355. A resolution extending the authorities relating to the Senate National Security Working Group; considered and agreed to.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. Con. Res. 156. A concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month", and for other purposes; to the Committee on the Judiciary.

By Mrs. LINCOLN:

S. Con. Res. 157. A concurrent resolution expressing the sense of Congress that United States Diplomatic missions should provide the full and complete protection of the United States to certain citizens of the United States living abroad; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 677

At the request of Mr. HATCH, the names of the Senator from Missouri (Mr. BOND), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 719

At the request of Mr. CORZINE, his name was added as a cosponsor of S. 719, a bill to amend Federal election law to provide for clean elections funded by clean money.

S. 2521

At the request of Mr. KERRY, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2521, a bill to amend title II of the Social Security Act to restrict the application of the windfall elimination provision to individuals whose combined monthly income from benefits under such title and other monthly periodic payments exceeds $2,000 and to provide for a graduated implementation of such provision on amounts above such $2,000 amount.

S. 2869

At the request of Mr. KERRY, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. 2874

At the request of Mr. DAYTON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2874, a bill to provide benefits to domestic partners of Federal employees.

S. 2903

At the request of Mr. JOHNSON, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2903, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care.

S. 3018

At the request of Mr. BAUCUS, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 3018, a bill to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program, and for other purposes.

S. 3096

At the request of Mr. KOHL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 3096, a bill to amend chapter 44 of title 18, United States Code, to require ballistics testing of all firearms manufactured and all firearms in custody of Federal agencies.

S. 3098

At the request of Mr. GRAHAM, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 3098, a bill to amend title XVIII of the Social Security Act to establish a program for the competitive acquisition of items and services under the medicare program.

S. 3118

At the request of Ms. CANTWELL, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 3118, a bill to strengthen enforcement of provisions of the Animal Welfare Act relating to animal fighting, and for other purposes.

S.RES. 307

At the request of Mr. TORRICELLI, the names of the Senator from North Carolina (Mr. EDWARDS) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 307, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S.RES. 322

At the request of Mrs. LINCOLN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. Res. 322, a resolution designating November 2002, as "National Epilepsy Awareness Month."

S. CON. RES. 129

At the request of Mr. CRAPO, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. Con. Res. 129, a concurrent resolution expressing the sense of Congress regarding the establishment of the month of November each year as "Chronic Obstructive Pulmonary Disease Awareness Month."

S. CON. RES. 138

At the request of Mr. REID, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Con. Res. 138, a concurrent resolution expressing the sense of Congress that the Secretary of Health and Human Services should conduct or support research on certain tests to screen for ovarian cancer, and Federal health care programs and group and individual health plans should cover the tests if demonstrated to be effective, and for other purposes.

S. CON. RES. 154

At the request of Mr. CORZINE, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Con. Res. 154, a concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued honoring Gunnery Sergeant John Basilone, a great American hero.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAMM:

S. 3150. A bill to authorize negotiation of free trade agreements with Turkey, and for other purposes; to the Committee on Finance.

By Mr. GRAMM:

S. 3151. A bill to authorize negotiation of free trade agreements with Afghanistan, and for other purposes; to the Committee on Finance.

Mr. GRAMM. Mr. President, today I am introducing legislation to authorize the President to negotiate free trade agreements with the countries of Turkey and Afghanistan. Trade is a powerful engine in the promotion of prosperity and in the strengthening of freedom. The more we promote trade, the more we benefit and the more our trading partners benefit.

The legislation builds upon the Bipartisan Trade Promotion Authority Act of 2002, enacted earlier in the year. Within the structure of that Act, each of these bills would give the sanction of the Congress to undertaking free trade negotiations with Turkey and with Afghanistan. That sanction would remain in place for five years, ample time to conclude these important agreements.

Turkey has correctly been called the eastern anchor of NATO, an ally of the United States across some five decades in the effort to keep the world free. Turkey is a secular nation with a predominantly Muslim population and historic ties to the United States. For nearly one hundred years Turkey has served as an important force for modernization in the eastern Mediterranean and central Asian area.

Turkey's successes have provided important examples to many of the new nations of the former Soviet Union located on the southern border of Russia. As these nations map out their future, they do so with frequent reference to the experience of Turkey. A free trade agreement with Turkey would mean that we would be a lasting, positive part of that future, contributing to Turkey's continued growth and democratic development, and influence that would be sure to have a beneficial effect on Turkey's neighbors. Such an agreement would operate well in light of our existing free trade agreements with Israel and with Jordan.

Afghanistan is at an historical turning point. What better way to rebuild the Afghan economy and set the Afghan people firmly on the road to prosperity than with a free trade agreement with the United States?

In addition, history has shown the powerful effect of trade and other economic freedoms in creating a stable basis for the growth and maintenance of political freedom. In Germany, Italy, Japan, Taiwan, South Korea, Chile, and elsewhere, we have seen authoritarian regimes replaced by stable, free societies preceded by the growth of trade and economic freedom. A free trade agreement between the United States and Afghanistan can and should be a powerful tool in our efforts to bring peace and prosperity to a land that has known little of either.

I ask unanimous consent that the text of the two bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 3150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Turkey Free Trade Agreement Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The economic prosperity of the United States and Turkey will increase by reducing trade barriers between the 2 countries.

(2) Trade protection endangers economic prosperity in the United States and Turkey and undermines civil liberty and constitutionally limited government.

(3) The successful establishment of a North American Free Trade Area sets the pattern for the reduction of trade barriers throughout the world, enhancing prosperity in place of the cycle of increasing trade barriers and deepening poverty that results from a resort to protectionism and trade retaliation.

(4) The reduction of government interference in the foreign and domestic sectors of a nation's economy and the concomitant promotion of economic opportunity and freedoms promote civil liberty and constitutionally limited government.

(5) Countries that observe a consistent policy of free trade, the promotion of free enterprise and other economic freedoms (including effective protection of private property rights), and the removal of barriers to foreign direct investment, in the context of constitutionally limited government and minimal interference in the economy, will follow the surest and most effective prescription to alleviate poverty and provide for economic, social, and political development.

SEC. 3. FREE TRADE AREA FOR TURKEY.

(a) IN GENERAL.—The President shall take action to initiate negotiations to obtain trade agreements with Turkey, the terms of which provide for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade.

(b) RECIPROCAL BASIS.—An agreement entered into under subsection (a) shall be reciprocal and provide mutual reductions in trade barriers to promote trade, economic growth, and employment.

SEC. 4. FAST-TRACK CONSIDERATION OF IMPLEMENTING BILLS.

(a) IN GENERAL.—Notwithstanding the prenegotiation notification and consultation requirement described in section 2104(a) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3804(a)), subsection (b) shall apply to any agreement negotiated under section 3(a), subject to subsection (c).

(b) TREATMENT OF AGREEMENTS.—Subject to subsection (c), in the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 2104(a) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3804(a)) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 2105(b)(1)(B) of such Act shall not be in order on the basis of a failure or refusal to comply with the provisions of section 2104(a) of such Act; and

(2) the President shall, as soon as feasible after the commencement of negotiations under section 3(a)—

(A) notify the Congress of such negotiations, the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred to in section 2104(a)(2) of such Act and the Congressional Oversight Group convened under section 2107 of such Act.

(c) TERMINATION OF AUTHORITY.—The authority of this section shall apply only to agreements entered into before January 1, 2008.

S. 3151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Afghanistan Free Trade Agreement Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The economic prosperity of the United States and Afghanistan will increase by reducing trade barriers.

(2) Trade protection endangers economic prosperity in the United States and Afghanistan and undermines civil liberty and constitutionally limited government.

(3) Free trade between the United States and Afghanistan will help in strengthening of Afghanistan's economic security.

(4) The successful establishment of a North American Free Trade Area sets the pattern for the reduction of trade barriers throughout the world, enhancing prosperity in place of the cycle of increasing trade barriers, and deepening poverty that results from a resort to protectionism and trade retaliation.

(5) The reduction of government interference in the foreign and domestic sectors of a nation's economy and the concomitant promotion of economic opportunity and freedoms promote civil liberty and constitutionally limited government.

(6) Countries that observe a consistent policy of free trade, the promotion of free enterprise and other economic freedoms (including effective protection of private property rights), and the removal of barriers to foreign direct investment, in the context of constitutionally limited government and minimal interference in the economy, will follow the surest and most effective prescription to alleviate poverty and provide for economic, social, and political development.

SEC. 3. FREE TRADE AGREEMENT WITH AFGHANISTAN.

(a) IN GENERAL.—The President shall take action to initiate negotiations to obtain trade agreements with Afghanistan, the terms of which provide for the reduction and ultimate elimination of tariffs and other nontariff barriers to trade.

(b) RECIPROCAL BASIS.—An agreement entered into under subsection (a) shall be reciprocal and provide mutual reductions in trade barriers to promote trade, economic growth, and employment.

SEC. 4. FAST-TRACK CONSIDERATION OF IMPLEMENTING BILLS.

(a) IN GENERAL.—Notwithstanding the prenegotiation notification and consultation requirement described in section 2104(a) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3804(a)), subsection (b) shall apply to any agreement negotiated under section 3(a), subject to subsection (c).

(b) TREATMENT OF AGREEMENTS.—Subject to subsection (c), in the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 2104(a) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3804(a)) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 2105(b)(1)(B) of such Act shall not be in order on the basis of a failure or refusal to comply with the provisions of section 2104(a) of such Act; and

(2) the President shall, as soon as feasible after the commencement of negotiations under section 3(a)—

(A) notify the Congress of such negotiations, the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred to in section 2104(a)(2) of such Act and the Congressional Oversight Group convened under section 2107 of such Act.

(c) TERMINATION OF AUTHORITY.—The authority of this section shall apply only to agreements entered into before January 1, 2008.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 3154. A bill to amend the Internal Revenue Code of 1986 to combat fuel excise tax fraud; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER BY REGISTERED PIPELINE OR VESSEL REQUIRED FOR FUEL TAX EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) of the Internal Revenue Code of 1986 (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting "by pipeline or vessel" after "transferred in bulk", and

(2) by inserting ", the operator of the pipeline or vessel," after "the taxable fuel".

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 of the Internal Revenue Code of 1986 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6717. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

"(a) IMPOSITION OF PENALTY.—If any taxable fuel (as defined in section 4083(a)(1)) is willfully carried by pipeline or vessel the operator of which is not registered under section 4101, then such operator shall pay a penalty in addition to the tax (if any).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be $10,000.

"(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

"(c) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.".

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 of such Code is amended by adding at the end the following new item:

"Sec. 6717. Carrying taxable fuels by nonregistered pipelines or vessels.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2003.

SEC. 2. RETURNS FILED ELECTRONICALLY.

(a) IN GENERAL.—Section 4083 of the Internal Revenue Code of 1986 (relating to definitions; special rule; administrative authority) is amended by adding at the end the following new subsection:

"(d) RETURNS REQUIRED TO BE FILED ELECTRONICALLY.—

"(1) FUEL.—Any registered operator of a terminal, refinery, pipeline, or vessel, or any registered dealer in aviation fuel, having more than 25 transactions in a month shall file by electronic format any return required by the Secretary for the tracking of fuel.

"(2) VEHICLES.—Any person required to file a return under section 4481 having at least 25 vehicles shall file such return by electronic format.".

(b) FORMAT FOR FILING.—The Secretary of the Treasury shall describe the electronic format for filing—

(1) in the case of returns described in section 4083(d)(1) of the Internal Revenue Code of 1986 (as added by subsection (a)), not later than 30 days after the date of the enactment of this Act, and

(2) in the case of returns described in section 4083(d)(2) of such Code (as so added), not later than 90 days after such date.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to returns due after the date the Secretary of the Treasury describes the format for filing under subsection (b).

SEC. 3. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) of the Internal Revenue Code of 1986 (defining diesel fuel) is amended by adding at the end the following new sentence: "For purposes of section 4081(a)(1)(A)(iv), such term includes any liquid (other than gasoline) sold or offered for sale whether or not such fuel is suitable for such use.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 4. CIVIL PENALTY FOR REFUSAL OF ENTRY.

(a) IN GENERAL.—Part II of subchapter B of chapter 68 of the Internal Revenue Code of 1986 (relating to assessable penalties), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 6718. REFUSAL OF ENTRY.

"In addition to any criminal penalty provided by law, in the case of any person with the intent to transport and distribute untaxed, adulterated fuel mixtures or to transport and distribute dyed diesel for taxable use, if such person refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(c)(1), then such person shall pay a penalty of $1,000 for such refusal.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(c)(3) of the Internal Revenue Code of 1986 is amended—

(A) by striking "ENTRY.—The penalty" and inserting: "ENTRY.—

"(A) FORFEITURE.—The penalty", and

(B) by adding at the end the following new subparagraph:

"(B) CIVIL PENALTY.—For a civil penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6718.".

(2) The table of sections for part II of subchapter B of chapter 68 of such Code, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 6718. Refusal of entry.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2003.

SEC. 5. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Section 4101 of the Internal Revenue Code of 1986 (relating to registration and bond) is amended by adding at the end the following new subsection:

"(e) DISPLAY OF REGISTRATION.—Every person required by the Secretary to register under this section with respect to tax imposed by section 4041(a)(1), 4081, or 4091 shall receive and display proof of registration on vessels used in transporting fuel.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2003.

SEC. 6. UNTAXED ADULTERATED FUEL MIXTURES TREATED AS DYED FUELS UNDER PENALTY PROVISION.

(a) IN GENERAL.—Section 6715(c)(1) of the Internal Revenue Code of 1986 (defining dyed fuel) is amended by inserting ", any dyed diesel fuel or kerosene which has been chemically altered in an attempt to remove the dye, or any other adulterated fuel mixture not previously taxed" after "section 4082".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 7. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) IN GENERAL.—Section 4081(a)(1) of the Internal Revenue Code of 1986 (relating to tax on entry, removal, or sale) is amended by adding at the end the following new subparagraph:

"(C) TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(iii), if the person entering the taxable fuel is not registered under section 4101, the imposition of the tax is at the time and point of entry.

"(ii) JEOPARDY ASSESSMENT.—The collection of any tax imposed on fuel described in clause (i) shall be deemed to be in jeopardy and the Secretary shall make an immediate assessment under section 6862.

"(iii) ENFORCEMENT OF ASSESSMENT.—The fuel described in clause (i) and the vehicle or vessel in which such fuel was transported shall be detained for the period ending with—

"(I) the filing of a bond by the importer of record under section 6863(a), or

"(II) if such a bond is not filed within the 5-day period beginning with such detaining, the sale of such fuel as provided under section 6336.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 8. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) INCREASE IN RATE OF TAX.—The table contained in section 4481(a) of the Internal Revenue Code of 1986 (relating to imposition of tax) is amended by striking "$550" and inserting "$600".

(b) NO PRORATION OF TAX UNLESS VEHICLE IS DESTROYED OR STOLEN.—

(1) IN GENERAL.—Section 4481(c) of the Internal Revenue Code of 1986 (relating to proration of tax) is amended to read as follows:

"(c) PRORATION OF TAX WHERE VEHICLE DESTROYED OR STOLEN.—

"(1) IN GENERAL.—If in any taxable period a highway motor vehicle is destroyed or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was destroyed or stolen.

"(2) DESTROYED.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.".

(2) DISPLAY OF TAX CERTIFICATE.—Paragraph (2) of section 4481(d) of such Code (relating to one tax liability for period) is amended to read as follows:

"(2) DISPLAY OF TAX CERTIFICATE.—Every person, agency, or instrumentality which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than October 1 with respect to each taxable period, receive and display on such vehicle a proof of payment decal.".

(3) CONFORMING AMENDMENTS.—

(A) Section 6156 of such Code (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 of such Code is amended by striking the item relating to section 6156.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

SEC. 9. ADDITIONAL RULES REGARDING INSPECTIONS OF RECORDS.

(a) PROVISION OF COPIES OF RECORDS.—Section 4102 of the Internal Revenue Code of 1986 (relating to inspection of records by local officers) is amended by inserting ", and copies shall be furnished upon request of," after "inspection by".

(b) INSPECTION BY OTHER ENFORCEMENT AGENCIES.—Section 4102 of the Internal Revenue Code of 1986, as amended by subsection (a), is amended by inserting ", and information on returns required to be filed with respect to taxes under section 4481 shall be open to inspection by officers of any State agency charged with the registration and licensing of vehicles described in such section and officers of any other Federal or State agency charged with the enforcement of Federal or State law regarding motor fuels or criminal activities regarding motor fuels" after "section 4083)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 10. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) IN GENERAL.—Section 4083(c)(1)(A) of the Internal Revenue Code of 1986 (relating to administrative authority) is amended by striking "and" at the end of clause (i) and by inserting after clause (ii) the following new clause:

"(iii) inspecting any books and records to determine the names and addresses of the persons selling or purchasing such fuel, and".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 11. PROHIBITION OF ADMINISTRATIVE REVIEW OF PENALTY FOR TAXABLE USE OF DYED DIESEL FUEL.

(a) IN GENERAL.—Section 6406 of the Internal Revenue Code of 1986 (relating to prohibition of administrative review of decisions) is amended—

(1) by striking "In the absence" and inserting "(a) IN GENERAL.—In the absence", and

(2) by adding at the end the following new subsection:

"(b) PENALTY DECISION REGARDING TAXABLE USE OF DYED DIESEL FUEL.—In the absence of fraud or mistake in chemical analysis or mathematical calculation, if the findings of fact by chemical analysis show the presence of dye in diesel fuel being used on the highway, the assertion of the penalty under section 6715 shall not be subject to appeal to or review by any other administrative or accounting officer, employee, or agent of the United States.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

By Mr. HELMS:

S. 3155. A bill to authorize the President to establish and maintain the Foreign Language and Cultural Institute program; to the Committee on Foreign Relations.

Mr. HELMS. Mr. President, I am today introducing a bill entitled the Language Mastery Support Act of 2002. I don't expect this Senate to act on it this year, but I hope and believe it can serve as a model for the 108th Congress.

This bill addresses the dangerous shortage of government officials who possess critical foreign languages skills and expert knowledge of foreign cultures. A report issue this year by the General Accounting Office concluded that foreign language skills are critical to the success of our diplomatic and intelligence agencies and that the shortage of skilled personnel has adversely affected American law enforcement, intelligence, counter-terrorism, diplomatic and military efforts.

The end of the Cold War and the rise of terrorism have exacerbated this problem because the most serious shortages involved those languages found in Asia and the Middle East. In fact, we have received warning signals. For example, the disclosure that intercepts of suspected terrorists were translated long after the events they discussed had taken place should be viewed with alarm.

Even before 9/11, Senator COCHRAN referred to a "crisis in federal language capabilities" when the intelligence community disclosed that the United States could be faced with a "technical surprise" because thousands of foreign scientific papers could not be translated due to the lack of skilled translators.

Our governments has experienced this shortage of skilled personnel going back to the beginning of the Cold War. Intermittent attempts to solve the problem over the years have left us with an accumulation of patchwork fixes. As the recent GAO report demonstrates clearly, this approach has not succeeded. It is time to take a fresh approach and seek a broader, long-term solution.

This bill will establish a national program in our academic institutions that encourages students to pursue critical language skills, supports their academic careers and provides a clear employment path to Federal agencies. It does so by making maximum use of existing academic programs and facilities with minimal additional resources.

Students enrolled in this program would be required to meet certain academic standards for which they would receive reasonable stipends, equivalent to those provided under the ROTC program.

During the academic summers, under this legislation, participants would receive specialized training at underutilization Federal and academic facilities, instructed by a faculty composed of both Federal Government and civilian instructors. The participants could also travel to overseas posts for so-called "immersion" training in foreign languages and cultures at U.S. diplomatic and military facilities.

At the beginning of their senior year, participants would receive offers of employment from interests Federal agencies which they must accept or reject within 30 days. This would allow their processing to be completed by the time they graduate, allowing them to enter the Federal workforce without the current delays attributable to security clearances and administrative processing.

The program would be embodied in an Institute. This Institute would not be composed of bricks and mortar but of a nationwide enrollment of students at colleges and universities who would receive specialized training during their academic summers. The Institute would be run by a Chairman of the Board, appointed by the President. The Chairman would be supported by a Board composed of representatives from each of the participating Federal agencies. Staff would be minimal and provided by the participating agencies.

Each agency would still be able to set its own qualifications issue its own employment offers and maintain its own security requirements. But it could do so in a manner that is competitive with private industry employment opportunities that are available to graduates, after an opportunity to evaluate potential employees throughout the course of their involvement in the Institute and with the added benefit of the financial incentive that the Institute would provide.

This program will broaden the pool of available candidates for Federal employment, allow Federal agencies to compete efficiently for these skilled language specialists and make Federal employment more attractive.

So far, we have avoided serious consequences from the lack of language skills in the Federal Government. This bill constitutes a new approach to this problem. It is long overdue and desperately needed. I ask that each of my colleagues give it prompt and serious consideration.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Language Mastery Support Act of 2002".

SEC. 2. PURPOSE.

The purpose of this Act is to establish a program of study and overseas training in critical foreign languages and cultures, including the establishment of a Foreign Language and Cultural Institute, in order to—

(1) increase in Federal Government service the number of persons possessing critical skills that are in short supply;

(2) create a pool of prospective candidates for employment in those agencies of the Federal Government that rely on significant levels of overseas assignments;

(3) provide monetary and employment incentives for candidates to participate in the program;

(4) facilitate the identification of potential Federal Government employees with the pool of prospective candidates;

(5) provide additional opportunities for candidate development and evaluation;

(6) substantially shorten the delay between identification of a desirable candidate and entry upon service by the candidate;

(7) minimize the necessity for training during the initial period of employment;

(8) provide for "cross-fertilization" through the incorporation of both private sector and Government instructors in the faculty of the Institute;

(9) reduce the underutilization of existing Government and educational facilities; and

(10) achieve these objectives for a minimal cost, that would be partially offset by a reduction in the amount of initial training provided by participating agencies for new employees.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROVED FACILITIES.—The term "approved facilities" means—

(A) excess Government facilities, including former military installations; and

(B) institutions of higher education that are underutilized in the summer months.

(2) BOARD.—The term "Board" means the Interagency Critical Foreign Languages and Cultures Board established by section 4(c).

(3) CRITICAL FOREIGN LANGUAGES AND CULTURES.—The term "critical foreign languages and cultures" means foreign languages and cultures—

(A) identified by the Board as necessary for the effective implementation of United States national security policy; and

(B) with respect to which there exists a shortage of skilled personnel among the personnel of participating agencies.

(4) INSTITUTE.—The term "Institute" means the program established under section 4(a).

(5) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(6) PARTICIPANT.—The term "participant" means a person who is enrolled in the Institute.

(7) PARTICIPATING AGENCY.—The term "participating agency" means the Department of State, the Department of Defense, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and the Federal Bureau of Investigation.

(8) PARTICIPATION AGREEMENT.—The term "participation agreement" means an agreement between the Institute and a person otherwise eligible for enrollment in the Institute under which—

(A) the person agrees—

(i) to respond to any offer of employment extended by a participating agency, not later than 30 days after the commencement of the participant's final academic year, by accepting or rejecting such employment; and

(ii) to serve in that agency for a period not less than the period specified in the agreement; and

(B) the Institute agrees to provide the allowances established by the Board pursuant to section 4(g)(1).

SEC. 4. ESTABLISHMENT OF THE INSTITUTE.

(a) IN GENERAL.—To carry out the purpose of section 2, the President is authorized to establish and maintain a study and training program described in section 5 that shall be known as the "Foreign Language and Cultural Institute".

(b) IMPLEMENTATION.—The President shall exercise the authority of subsection (a) through the Interagency Critical Foreign Languages and Cultures Board established in subsection (c).

(c) ESTABLISHMENT OF INTERAGENCY BOARD.—

(1) ESTABLISHMENT.—There is established an Interagency Critical Foreign Languages and Cultures Board that shall consist of seven members, as follows:

(A) One member appointed by the President from among individuals in the private sector having expertise in matters within the purpose of this Act, who shall serve as Chairman of the Board.

(B) Six members, of whom one each shall be an official of a participating agency, who shall be designated by the head of the agency to serve on the Board.

(2) DUTIES OF THE BOARD.—The Board shall, under the supervision of the Chairman—

(A) develop the curriculum of the Institute;

(B) provide policy recommendations to the President regarding the administration of the Institute;

(C) establish procedures for the operation of the Institute; and

(D) provide oversight for the operation of the Institute.

(3) TERMS.—The term of office for the Chairman and for each other member of the Board shall be three years.

(4) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each member of the Board shall serve without compensation.

(B) COMPENSATION OF THE CHAIRMAN.—The Chairman shall be paid at the rate of basic pay for positions classified at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(C) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Board.

(5) ADMINISTRATIVE SUPPORT.—The Secretary of State shall provide such staff personnel and other administrative services as may be necessary to support the Board. Additional staff may be provided by participating agencies.

SEC. 5. PROGRAM DESCRIPTION.

(a) REGULAR PROGRAM.—Each participant in the Institute shall undertake a program of study and training in critical foreign languages and cultures that shall primarily consist of courses of study or training taken at accredited institutions of higher learning during the normal academic year.

(b) SUPPLEMENTAL INSTRUCTION.—

(1) IN GENERAL.—The program described in subsection (a) shall be supplemented by instruction at Institute facilities approved by the Board, at least one of which shall be located in each major geographic region in the United States.

(2) PROGRAM PERIODS.—Such supplemental instruction shall be given through the Institute during specified periods in each of three consecutive years, as follows:

(A) For the first year of participation, courses of study taken during the summer period between the participant's sophomore and junior undergraduate years.

(B) For the second year of participation, courses of study or training which may include training at diplomatic missions or consular posts, taken during the summer period between the participant's junior and senior undergraduate years or at such times as the Board may determine.

(C) For the third year of participation, courses of study, or training which may include training at diplomatic or consular posts, taken during the summer period that follows award of a baccalaureate or equivalent degree to the participant or at such times as the Board may determine.

(3) ADDITIONAL ACTIVITIES.—Supplemental instruction under this subsection may include such other activities as the Board may determine. The Board may modify the instruction provided for under subparagraph (A), (B), or (C) of paragraph (2).

(c) ELIGIBILITY.—To be enrolled as a participant in the Institute a person shall—

(1) be a citizen of the United States;

(2) be enrolled as a sophomore, junior, or senior in an institution of higher education or graduate of such an institution during the preceding year;

(3) be selected for participation in the Institute under procedures prescribed by the Board; and

(4) have entered into a participation agreement pursuant to procedures established by the Board.

(d) CONDITIONAL OFFER OF EMPLOYMENT.—

(1) IN GENERAL.—If a participating agency elects to employ a participant, the agency shall extend to the participant, not later than the commencement of the final academic year of the participant, an offer of employment in the agency conditioned upon satisfactory completion of the Institute program by the participant as specified in the participation agreement.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act is intended to alter or restrict any qualifications for employment established by any of the participating agencies.

(e) SUCCESSFUL COMPLETION.—The Board shall establish criteria to be met by participants the satisfaction of which shall entitle participants to a certificate acknowledging their satisfactory completion of the Institute program.

(f) CURRICULUM.—

(1) IN GENERAL.—The Board shall develop the Institute curriculum and shall assign such personnel provided under section 4(c)(4) as may be necessary for instruction under the curriculum and for adequate administrative support. In addition, the Board is authorized under section 3109(b) of title 5, United States Code, to enter into contracts with instructors employed at institutions

of higher education or equivalent institutions and for other services necessary to provide for the establishment and operation of the Institute.

(2) SUPPLEMENTAL INSTRUCTION.—With the prior approval of the Board, a participant may enroll in courses of study at institutions of higher education with advanced syllabi in foreign affairs, languages, economics, religion, art, and history in lieu of one of the periods of instruction provided for under paragraph (1), (2), or (3) of subsection (b).

(g) FINANCIAL ASSISTANCE.—

(1) STIPEND.—The Board shall establish a schedule of stipends to be provided to program participants to offset the costs of tuition, fees, and books, not to exceed the comparable allowances established for the Reserve Officer Training Corps pursuant to section 209 of title 37, United States Code.

(2) DEBT RELIEF.—

(A) IN GENERAL.—The head of a participating agency that employs an individual who has satisfactorily completed the Institute program is authorized to provide for the repayment of student loans made to the participant for expenses incurred while the participant was enrolled in the Institute.

(B) FACTORS FOR EXERCISE OF DISCRETION.—In determining whether, or to what extent, to provide loan repayment under subparagraph (A), the head of the participating agency shall consider the individual's length of Government service, acceptance of hardship postings, possession of critical foreign languages and cultural skills, and proficiency in critical foreign languages.

SEC. 6. ANNUAL REPORT.

Not later than December 1 of each year, the Chairman of the Board shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report that—

(1) summarizes the activities of the Institute over the previous academic year ending on September 30;

(2) describes the programs planned for the current and succeeding two academic years; and

(3) provides statistical data on—

(A) the number of applicants for participation in the Institute;

(B) the number of participants enrolled in the Institute;

(C) the number of participants who have successfully completed the Institute program;

(D) the number of employment offers extended to participants from participating agencies;

(E) the number of employment offers accepted by participants;

(F) the costs associated with the operations of the Institute, together with an itemization of the costs associated with the operations of the Board; and

(G) any other information that the Chairman of the Board determines to be useful for evaluating the operations of the Institute.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the President $7,500,000 for the fiscal year 2003 to carry out this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 355—EXTENDING THE AUTHORITIES RELATING TO THE SENATE NATIONAL SECURITY WORKING GROUP

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 355

Resolved, That Senate Resolution 105 of the One Hundred First Congress, agreed to April 13, 1989, as amended by Senate Resolution 383 of the One Hundred Sixth Congress, agreed to October 27, 2000, is further amended by adding at the end the following new section:

"SEC. 4. The provisions of this resolution shall remain in effect until December 31, 2004.".

SENATE CONCURRENT RESOLUTION 156—RECOGNIZING AND HONORING AMERICA'S JEWISH COMMUNITY ON THE OCCASSION OF ITS 350TH ANNIVERSARY, SUPPORTING THE DESIGNATION OF AN "AMERICAN JEWISH HISTORY MONTH", AND FOR OTHER PURPOSES

Mr. VOINOVICH (for himself and Mr. DEWINE) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 156

Whereas in 1654, Jewish refugees from Brazil arrived on North American shores and formally established North America's first Jewish community in New Amsterdam, now New York City;

Whereas America welcomed Jews among the millions of immigrants that streamed through our Nation's history;

Whereas the waves of Jewish immigrants arriving in America helped shape our Nation;

Whereas the American Jewish community has been intimately involved in our Nation's civic, social, economic, and cultural life;

Whereas the American Jewish community has sought to actualize the broad principles of liberty and justice that are enshrined in the Constitution of the United States;

Whereas the American Jewish community is an equal participant in the religious life of our Nation;

Whereas American Jews have fought valiantly for the United States in every one of our Nation's military struggles, from the American Revolution to Operation Enduring Freedom;

Whereas not less than 16 American Jews have received the Medal of Honor;

Whereas 2004 marks the 350th anniversary of the American Jewish community;

Whereas the Library of Congress, the National Archives and Records Administration, the American Jewish Historical Society, and the Jacob Rader Marcus Center of the American Jewish Archives have formed "The Commission for Commemorating 350 Years of American Jewish History" (referred to in this resolution as the "Commission") to mark this historic milestone;

Whereas the Commission will use the combined resources of its participants to promote the celebration of the Jewish experience in the United States throughout 2004; and

Whereas the Commission is designating September 2004 as "American Jewish History Month": Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) honors and recognizes—

(A) the 350th anniversary of the American Jewish community; and

(B) "The Commission for Commemorating 350 Years of American Jewish History" and its efforts to plan, coordinate, and execute commemorative events celebrating 350 years of American Jewish history;

(2) supports the designation of an "American Jewish History Month"; and

(3) urges all Americans to share in this commemoration so as to have a greater appreciation of the role the American Jewish community has had in helping to defend and further the liberties and freedom of all Americans.

SENATE CONCURRENT RESOLUTION 157—EXPRESSING THE SENSE OF CONGRESS THAT UNITED STATES DIPLOMATIC MISSIONS SHOULD PROVIDE THE FULL AND COMPLETE PROTECTION OF THE UNITED STATES TO CERTAIN CITIZENS OF THE UNITED STATES LIVING ABROAD

Mrs. LINCOLN submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 157

Whereas there are numerous cases in which citizens of the United States are prevented from leaving Saudi Arabia against their will or in violation of United States law;

Whereas Amjad Radwan and Rasheed Radwan, 2 United States citizens, were prevented from leaving Saudi Arabia by their Saudi-national father in 1985;

Whereas Monica Stowers, the mother of Amjad Radwan and Rasheed Radwan and a United States citizen, traveled to Saudi Arabia in November 1990 and heard directly from her children of the physical and sexual abuse they had endured there;

Whereas upon learning of the abuse, Ms. Stowers brought her children to the United States Embassy in Riyadh, displayed their United States passports, and sought the protection of the Embassy and assistance in returning home to the United States;

Whereas personnel from the Department of State told Ms. Stowers and her children that the Embassy was "not a hotel" and urged them to leave;

Whereas personnel from the Department of State informed Ms. Stowers' ex-husband, without her permission and in total disregard for her safety, that she and her children were in the Embassy;

Whereas personnel from the Department of State ordered United States Marines to physically eject Ms. Stowers and her children from the Embassy;

Whereas following her ejection, Ms. Stowers was arrested for refusing to leave Saudi Arabia without her children and sent to a women's prison;

Whereas the current Ambassador to Saudi Arabia, Robert W. Jordan, has pledged that no United States citizen will be similarly removed from the Embassy while he is ambassador;

Whereas American women in Saudi Arabia have directly informed Members of Congress of the physical abuse inflicted upon them by their Saudi husbands, the lack of support or protection for battered women in Saudi society, and the inability to leave Saudi Arabia with their children unless their husbands give permission;

Whereas these women and personnel from the Department of State estimate that there are hundreds of abused American women in Saudi Arabia who do not report their cases due to fear and hopelessness;

Whereas many of these abused American women do not attempt to escape for fear that failure would result in death or serious bodily injury to them and their children;

Whereas abused American women in Saudi Arabia are discouraged from seeking assistance from the United States Embassy or consulate in escaping with their children and are told that nothing can be done for them;

Whereas many of these women and their children are denied religious freedoms and other basic human rights while detained in Saudi Arabia;

Whereas a primary purpose of United States diplomatic missions is to protect the interests of United States citizens;

Whereas international law recognizes certain privileges and immunities for United States embassies, ambassadors' residences, and consulates; and

Whereas such privileges and immunities enable United States diplomatic personnel to provide sanctuary to United States citizens abroad: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that United States diplomatic and counselor missions should provide the full and complete protection of the United States to citizens of the United States who—

(1) are living or traveling abroad;

(2) are victims of international child abduction, domestic violence, or sexual abuse; and

(3) seek sanctuary in a United States diplomatic or counselor mission.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4898. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4899. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4900. Mr. FEINGOLD proposed an amendment to the bill H.R. 5005, supra.

SA 4901. Mr. THOMPSON (for Mr. Gramm (for himself, Mr. Miller, Mr. Thompson, Mr. Barkley, and Mr. Voinovich)) proposed an amendment to the bill H.R. 5005, supra.

SA 4902. Mr. LIEBERMAN (for himself, Mr. McCain, and Mr. Nelson, of Nebraska) proposed an amendment to amendment SA 4901 proposed by Mr. Thompson (for Mr. Gramm (for himself, Mr. Miller, Mr. Thompson, Mr. Barkley, and Mr. Voinovich) to the bill H.R. 5005, supra.

SA 4903. Mr. DURBIN (for Mr. Dorgan (for himself, Mr. Ensign, Mr. Hollings, and Mr. Allen)) submitted an amendment intended to be proposed by Mr. Durbin to the bill H.R. 3833, to facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes.

SA 4904. Mr. DURBIN (for Mr. McCain (for himself and Mr. Hollings)) proposed an amendment to the bill H.R. 3609, to amend title 49, United States Code, to enhance the security and safety of pipelines.

SA 4905. Mr. DURBIN (for Mr. Thompson) proposed an amendment to the bill S. 3067, to amend title 44, United States Code, to extend certain Government information security reform for one year, and for other purposes.

TEXT OF AMENDMENTS

SA 4898. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 24, strike line 4 and insert the following:

(19) On behalf of the Secretary, subject to disapproval by the President, to direct the agencies described under subsection (f)(2) to provide intelligence information, analyses of intelligence information, and such other intelligence-related information as the Assistant Secretary for Information Analysis determines necessary.

(20) To perform such other duties relating to

SA 4899. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4738 proposed by Mr. Gramm (for himself, Mr. Miller, Mr. McConnell, Mr. Thompson, Mr. Stevens, Mr. Hagel, Mr. Hutchinson, and Mr. Bunning) to the amendment SA 4471 proposed by Mr. Lieberman to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 96, strike line 2 and all that follows through page 109, line 13, and insert the following:

SEC. 730. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) Authority.—

(1) Sense of congress.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) In general.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

“CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

“Sec.
“9701. Establishment of human resources management system by the Secretary.
“9702. Establishment of human resources management system by the President.

“§ 9701. Establishment of human resources management system by the Secretary

“(a) In General.—Notwithstanding any other provision of this part, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security.

“(b) System Requirements.—Any system established under subsection (a) shall—

“(1) be flexible;

“(2) be contemporary;

“(3) not waive, modify, or otherwise affect—

“(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

“(B) any provision of section 2302, relating to prohibited personnel practices;

“(C)(i) any provision of law referred to in section 2302(b)(1); or

“(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1) by—

“(I) providing for equal employment opportunity through affirmative action; or

“(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

“(D) any other provision of this part (as described in subsection (c)); or

“(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

“(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

“(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

“(c) Other Nonwaivable Provisions.—The other provisions of this part, as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

“(1) subparts A, B, E, G, and H of this part; and

“(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, and 79, and this chapter.

“(d) Limitations Relating to Pay.—Nothing in this section shall constitute authority—

“(1) to modify the pay of any employee who serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

"(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

"(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

"(3) to exempt any employee from the application of such section 5307.

"(e) Provisions To Ensure Collaboration With Employee Representatives.—

"(1) In general.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the direct participation of employee representatives in the planning development, and implementation of any human resources management system or adjustments under this section, the Secretary and the Director of the Office of Personnel Management shall provide for the following:

"(A) Notice of proposal.—The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give each representative at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) Preimplementation requirements.—If the Secretary and the Director decide to implement a proposal described in subparagraph (A), they shall before implementation—

"(i) give each representative details of the decision to implement the proposal, together with the information upon which the decision is based;

"(ii) give each representative an opportunity to make recommendations with respect to the proposal; and

"(iii) give such recommendation full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

"(C) Continuing collaboration.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

"(ii) give each employee representative adequate access to information to make that participation productive.

"(2) Procedures.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure—

"(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

"(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection; and

"(C) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(f) Provisions Relating to Appellate Procedures.—

"(1) Sense of congress.—It is the sense of Congress that—

"(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

"(i) should ensure that employees of the Department are afforded the protections of due process; and

"(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) Requirements.—Any regulations under this section which relate to any matters within the purview of chapter 77—

"(A) shall be issued only after consultation with the Merit Systems Protection Board;

"(B) shall ensure the availability of procedures which shall—

"(i) be fully consistent with requirements of due process; and

"(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) Sunset Provision.—Effective 5 years after the conclusion of the transition period defined under section 801 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section and section 9702) shall cease to be available.

"§9702. Establishment of human resources management system by the President

"The authority under section 9701 to establish a human resources management system shall be exercised only when the President issues an order determining that—

"(1) the affected agency or subdivision has, as a primary function, intelligence, counterintelligence, investigative, or national security work;

"(2) the provisions of chapter 43, 51, 53, 71, 75, or 77 cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations;

"(3) the mission and responsibilities of the affected agency or subdivision have materially changed; and

"(4) a majority of the employees within that agency or subdivision have, as their primary duty, intelligence, counterintelligence, or investigative work directly related to terrorism investigation.".

(3) Clerical amendment.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) Effect on Personnel.—

(1) Nonseparation or nonreduction in grade or compensation of full-time personnel and part-time personnel holding permanent positions.—Except as otherwise provided in this Act, the transfer pursuant to this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(2) Positions compensated in accordance with executive schedule.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) Coordination rule.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 731. LABOR-MANAGEMENT RELATIONS.

(a) Exclusionary Authority.—

(1) In general.—Subject to paragraph (2), the President may issue an order excluding any executive agency, or subdivision thereof, from coverage under chapter 71 of title 5, United States Code, if the President determines that—

(A) the agency or subdivision has, as a primary function, intelligence, counterintelligence, investigative, or national security work; and

(B) the provisions of such chapter 71 cannot be applied to that agency or subdivision in a matter consistent with national security requirements and considerations.

(2) Additional determination.—In addition to the requirements under paragraph (1), the President may issue an order excluding any executive agency, or subdivision thereof, transferred to the Department under this Act, from coverage under chapter 71 of title 5, United States Code, only if the President determines that—

(A) the mission and responsibilities of the agency or subdivision materially change; and

(B) a majority of the employees within such agency or subdivision have, as their primary duty, intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(3) Exclusions allowable.—Nothing in paragraph (1) or (2) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of title 5, United States Code; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) Provisions Relating to Bargaining Units.—Each unit, which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department under this Act, continue to be so recognized for such purposes, unless—

(1) the mission and responsibilities of the personnel in such unit (or subdivision), or

the threats of domestic terrorism being addressed by the personnel in such unit (or subdivision), materially change; and

(2) a substantial number of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(c) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

SA 4900. Mr. FEINGOLD proposed an amendment to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

At the appropriate place in the bill insert the following sections:

SEC. . COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS.

Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2003.

SA 4901. Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) proposed an amendment to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Homeland Security Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Construction; severability.
Sec. 4. Effective date.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Sec. 101. Executive department; mission.
Sec. 102. Secretary; functions.
Sec. 103. Other officers.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Directorate for Information Analysis and Infrastructure Protection; Access to Information

Sec. 201. Directorate for Information Analysis and Infrastructure Protection.
Sec. 202. Access to information.

Subtitle B—Critical Infrastructure Information

Sec. 211. Short title.
Sec. 212. Definitions.
Sec. 213. Designation of critical infrastructure protection program.
Sec. 214. Protection of voluntarily shared critical infrastructure information.
Sec. 215. No private right of action.

Subtitle C—Information Security

Sec. 221. Procedures for sharing information.
Sec. 222. Privacy Officer.
Sec. 223. Enhancement of non-Federal cybersecurity.
Sec. 224. Net guard.
Sec. 225. Cyber Security Enhancement Act of 2002.

Subtitle D—Office of Science and Technology

Sec. 231. Establishment of office; Director.
Sec. 232. Mission of office; duties.
Sec. 233. Definition of law enforcement technology.
Sec. 234. Abolishment of Office of Science and Technology of National Institute of Justice; transfer of functions.
Sec. 235. National Law Enforcement and Corrections Technology Centers.
Sec. 236. Coordination with other entities within Department of Justice.
Sec. 237. Amendments relating to National Institute of Justice.

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

Sec. 301. Under Secretary for Science and Technology.
Sec. 302. Responsibilities and authorities of the Under Secretary for Science and Technology.
Sec. 303. Functions transferred.
Sec. 304. Conduct of certain public health-related activities.
Sec. 305. Federally funded research and development centers.
Sec. 306. Miscellaneous provisions.
Sec. 307. Homeland Security Advanced Research Projects Agency.
Sec. 308. Conduct of research, development, demonstration, testing and evaluation.
Sec. 309. Utilization of Department of Energy national laboratories and sites in support of homeland security activities.
Sec. 310. Transfer of Plum Island Animal Disease Center, Department of Agriculture.
Sec. 311. Homeland Security Science and Technology Advisory Committee.
Sec. 312. Homeland Security Institute.
Sec. 313. Technology clearinghouse to encourage and support innovative solutions to enhance homeland security.

TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

Subtitle A—Under Secretary for Border and Transportation Security

Sec. 401. Under Secretary for Border and Transportation Security.
Sec. 402. Responsibilities.
Sec. 403. Functions transferred.

Subtitle B—United States Customs Service

Sec. 411. Establishment; Commissioner of Customs.
Sec. 412. Retention of customs revenue functions by Secretary of the Treasury.
Sec. 413. Preservation of customs funds.
Sec. 414. Separate budget request for customs.
Sec. 415. Definition.
Sec. 416. GAO report to Congress.
Sec. 417. Allocation of resources by the Secretary.
Sec. 418. Reports to Congress.
Sec. 419. Customs user fees.

Subtitle C—Miscellaneous Provisions

Sec. 421. Transfer of certain agricultural inspection functions of the Department of Agriculture.
Sec. 422. Functions of Administrator of General Services.
Sec. 423. Functions of Transportation Security Administration.
Sec. 424. Preservation of Transportation Security Administration as a distinct entity.
Sec. 425. Explosive detection systems.
Sec. 426. Transportation security.
Sec. 427. Coordination of information and information technology.
Sec. 428. Visa issuance.
Sec. 429. Information on visa denials required to be entered into electronic data system.
Sec. 430. Office for Domestic Preparedness.

Subtitle D—Immigration Enforcement Functions

Sec. 441. Transfer of functions to Under Secretary for Border and Transportation Security.
Sec. 442. Establishment of Bureau of Border Security.
Sec. 443. Professional responsibility and quality review.
Sec. 444. Employee discipline.
Sec. 445. Report on improving enforcement functions.
Sec. 446. Sense of Congress regarding construction of fencing near San Diego, California.

Subtitle E—Citizenship and Immigration Services

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SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) Each of the terms "American homeland" and "homeland" means the United States.

(2) The term "appropriate congressional committee" means any committee of the House of Representatives or the Senate having legislative or oversight jurisdiction under the Rules of the House of Representatives or the Senate, respectively, over the matter concerned.

(3) The term "assets" includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(4) The term "critical infrastructure" has the meaning given that term in section 1016(e) of Public Law 107-56 (42 U.S.C. 5195c(e)).

(5) The term "Department" means the Department of Homeland Security.

(6) The term "emergency response providers" includes Federal, State, and local emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities.

(7) The term "executive agency" means an executive agency and a military department, as defined, respectively, in sections 105 and 102 of title 5, United States Code.

(8) The term "functions" includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, and responsibilities.

(9) The term "key resources" means publicly or privately controlled resources essential to the minimal operations of the economy and government.

(10) The term "local government" means—

(A) a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government;

(B) an Indian tribe or authorized tribal organization, or in Alaska a Native village or Alaska Regional Native Corporation; and

(C) a rural community, unincorporated town or village, or other public entity.

(11) The term "major disaster" has the meaning given in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(12) The term "personnel" means officers and employees.

(13) The term "Secretary" means the Secretary of Homeland Security.

(14) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any possession of the United States.

(15) The term "terrorism" means any activity that—

(A) involves an act that—

(i) is dangerous to human life or potentially destructive of critical infrastructure or key resources; and

(ii) is a violation of the criminal laws of the United States or of any State or other subdivision of the United States; and

(B) appears to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping.

(16)(A) The term "United States", when used in a geographic sense, means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any possession of the United States, and any waters within the jurisdiction of the United States.

(B) Nothing in this paragraph or any other provision of this Act shall be construed to modify the definition of "United States" for the purposes of the Immigration and Nationality Act or any other immigration or nationality law.

SEC. 3. CONSTRUCTION; SEVERABILITY.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of enactment.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

SEC. 101. EXECUTIVE DEPARTMENT; MISSION.

(a) ESTABLISHMENT.—There is established a Department of Homeland Security, as an executive department of the United States within the meaning of title 5, United States Code.

(b) MISSION.—

(1) IN GENERAL.—The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States;

(B) reduce the vulnerability of the United States to terrorism;

(C) minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States;

(D) carry out all functions of entities transferred to the Department, including by acting as a focal point regarding natural and manmade crises and emergency planning;

(E) ensure that the functions of the agencies and subdivisions within the Department that are not related directly to securing the homeland are not diminished or neglected except by a specific explicit Act of Congress;

(F) ensure that the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland; and

(G) monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking.

(2) RESPONSIBILITY FOR INVESTIGATING AND PROSECUTING TERRORISM.—Except as specifically provided by law with respect to entities transferred to the Department under this Act, primary responsibility for investigating and prosecuting acts of terrorism shall be vested not in the Department, but rather in Federal, State, and local law enforcement agencies with jurisdiction over the acts in question.

SEC. 102. SECRETARY; FUNCTIONS.

(a) SECRETARY.—

(1) IN GENERAL.—There is a Secretary of Homeland Security, appointed by the President, by and with the advice and consent of the Senate.

(2) HEAD OF DEPARTMENT.—The Secretary is the head of the Department and shall have direction, authority, and control over it.

(3) FUNCTIONS VESTED IN SECRETARY.—All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.

(b) FUNCTIONS.—The Secretary—

(1) except as otherwise provided by this Act, may delegate any of the Secretary's functions to any officer, employee, or organizational unit of the Department;

(2) shall have the authority to make contracts, grants, and cooperative agreements, and to enter into agreements with other executive agencies, as may be necessary and proper to carry out the Secretary's responsibilities under this Act or otherwise provided by law; and

(3) shall take reasonable steps to ensure that information systems and databases of the Department are compatible with each other and with appropriate databases of other Departments.

(c) COORDINATION WITH NON-FEDERAL ENTITIES.—With respect to homeland security, the Secretary shall coordinate through the Office of State and Local Coordination (established under section 801) (including the provision of training and equipment) with State and local government personnel, agencies, and authorities, with the private sector, and with other entities, including by—

(1) coordinating with State and local government personnel, agencies, and authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities;

(2) coordinating and, as appropriate, consolidating, the Federal Government's communications and systems of communications relating to homeland security with State and local government personnel, agencies, and authorities, the private sector, other entities, and the public; and

(3) distributing or, as appropriate, coordinating the distribution of, warnings and information to State and local government personnel, agencies, and authorities and to the public.

(d) Meetings of National Security Council.—The Secretary may, subject to the direction of the President, attend and participate in meetings of the National Security Council.

(e) Issuance of Regulations.—The issuance of regulations by the Secretary shall be governed by the provisions of chapter 5 of title 5, United States Code, except as specifically provided in this Act, in laws granting regulatory authorities that are transferred by this Act, and in laws enacted after the date of enactment of this Act.

(f) Special Assistant to the Secretary.—The Secretary shall appoint a Special Assistant to the Secretary who shall be responsible for—

(1) creating and fostering strategic communications with the private sector to enhance the primary mission of the Department to protect the American homeland;

(2) advising the Secretary on the impact of the Department's policies, regulations, processes, and actions on the private sector;

(3) interfacing with other relevant Federal agencies with homeland security missions to assess the impact of these agencies' actions on the private sector;

(4) creating and managing private sector advisory councils composed of representatives of industries and associations designated by the Secretary to—

(A) advise the Secretary on private sector products, applications, and solutions as they relate to homeland security challenges; and

(B) advise the Secretary on homeland security policies, regulations, processes, and actions that affect the participating industries and associations;

(5) working with Federal laboratories, Federally funded research and development centers, other Federally funded organizations, academia, and the private sector to develop innovative approaches to address homeland security challenges to produce and deploy the best available technologies for homeland security missions;

(6) promoting existing public-private partnerships and developing new public-private partnerships to provide for collaboration and mutual support to address homeland security challenges; and

(7) assisting in the development and promotion of private sector best practices to secure critical infrastructure.

(g) Standards Policy.—All standards activities of the Department shall be conducted in accordance with section 12(d) of the National Technology Transfer Advancement Act of 1995 (15 U.S.C. 272 note) and Office of Management and Budget Circular A–119.

SEC. 103. OTHER OFFICERS.

(a) Deputy Secretary; Under Secretaries.—There are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(1) A Deputy Secretary of Homeland Security, who shall be the Secretary's first assistant for purposes of subchapter III of chapter 33 of title 5, United States Code.

(2) An Under Secretary for Information Analysis and Infrastructure Protection.

(3) An Under Secretary for Science and Technology.

(4) An Under Secretary for Border and Transportation Security.

(5) An Under Secretary for Emergency Preparedness and Response.

(6) A Director of the Bureau of Citizenship and Immigration Services.

(7) An Under Secretary for Management.

(8) Not more than 12 Assistant Secretaries.

(9) A General Counsel, who shall be the chief legal officer of the department.

(b) Inspector General.—There is an Inspector General, who shall be appointed as provided in section 3(a) of the Inspector General Act of 1978.

(c) Commandant of the Coast Guard.—To assist the Secretary in the performance of the Secretary's functions, there is a Commandant of the Coast Guard, who shall be appointed as provided in section 44 of title 14, United States Code, and who shall report directly to the Secretary. In addition to such duties as may be provided in this Act and as assigned to the Commandant by the Secretary, the duties of the Commandant shall include those required by section 2 of title 14, United States Code.

(d) Other Officers.—To assist the Secretary in the performance of the Secretary's functions, there are the following officers, appointed by the President:

(1) A Director of the Secret Service.

(2) A Chief Information Officer.

(3) A Chief Human Capital Officer.

(4) A Chief Financial Officer.

(5) An Officer for Civil Rights and Civil Liberties.

(e) Performance of Specific Functions.—Subject to the provisions of this Act, every officer of the Department shall perform the functions specified by law for the official's office or prescribed by the Secretary.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Directorate for Information Analysis and Infrastructure Protection; Access to Information

SEC. 201. DIRECTORATE FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.

(a) Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection.—

(1) In general.—There shall be in the Department a Directorate for Information Analysis and Infrastructure Protection headed by an Under Secretary for Information Analysis and Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Responsibilities.—The Under Secretary shall assist the Secretary in discharging the responsibilities assigned by the Secretary.

(b) Assistant Secretary for Information Analysis; Assistant Secretary for Infrastructure Protection.—

(1) Assistant secretary for information analysis.—There shall be in the Department an Assistant Secretary for Information Analysis, who shall be appointed by the President.

(2) Assistant secretary for infrastructure protection.—There shall be in the Department an Assistant Secretary for Infrastructure Protection, who shall be appointed by the President.

(3) Responsibilities.—The Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection shall assist the Under Secretary for Information Analysis and Infrastructure Protection in discharging the responsibilities of the Under Secretary under this section.

(c) Discharge of Information Analysis and Infrastructure Protection.—The Secretary shall ensure that the responsibilities of the Department regarding information analysis and infrastructure protection are carried out through the Under Secretary for Information Analysis and Infrastructure Protection.

(d) Responsibilities of Under Secretary.—Subject to the direction and control of the Secretary, the responsibilities of the Under Secretary for Information Analysis and Infrastructure Protection shall be as follows:

(1) To access, receive, and analyze law enforcement information, intelligence information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities, and to integrate such information in order to—

(A) identify and assess the nature and scope of terrorist threats to the homeland;

(B) detect and identify threats of terrorism against the United States; and

(C) understand such threats in light of actual and potential vulnerabilities of the homeland.

(2) To carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States (including an assessment of the probability of success of such attacks and the feasibility and potential efficacy of various countermeasures to such attacks).

(3) To integrate relevant information, analyses, and vulnerability assessments (whether such information, analyses, or assessments are provided or produced by the Department or others) in order to identify priorities for protective and support measures by the Department, other agencies of the Federal Government, State and local government agencies and authorities, the private sector, and other entities.

(4) To ensure, pursuant to section 202, the timely and efficient access by the Department to all information necessary to discharge the responsibilities under this section, including obtaining such information from other agencies of the Federal Government.

(5) To develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States, including power production, generation, and distribution systems, information technology and telecommunications systems (including satellites), electronic financial and property record storage and transmission systems, emergency preparedness communications systems, and the physical and technological assets that support such systems.

(6) To recommend measures necessary to protect the key resources and critical infrastructure of the United States in coordination with other agencies of the Federal Government and in cooperation with State and local government agencies and authorities, the private sector, and other entities.

(7) To administer the Homeland Security Advisory System, including—

(A) exercising primary responsibility for public advisories related to threats to homeland security; and

(B) in coordination with other agencies of the Federal Government, providing specific warning information, and advice about appropriate protective measures and countermeasures, to State and local government agencies and authorities, the private sector, other entities, and the public.

(8) To review, analyze, and make recommendations for improvements in the policies and procedures governing the sharing of law enforcement information, intelligence information, intelligence-related information, and other information relating to homeland security within the Federal Government and between the Federal Government and State and local government agencies and authorities.

(9) To disseminate, as appropriate, information analyzed by the Department within the Department, to other agencies of the Federal Government with responsibilities relating to homeland security, and to agencies of State and local governments and private sector entities with such responsibilities in order to assist in the deterrence, prevention, preemption of, or response to, terrorist attacks against the United States.

(10) To consult with the Director of Central Intelligence and other appropriate intelligence, law enforcement, or other elements of the Federal Government to establish collection priorities and strategies for information, including law enforcement-related information, relating to threats of terrorism against the United States through such means as the representation of the Department in discussions regarding requirements and priorities in the collection of such information.

(11) To consult with State and local governments and private sector entities to ensure appropriate exchanges of information, including law enforcement-related information, relating to threats of terrorism against the United States.

(12) To ensure that—

(A) any material received pursuant to this Act is protected from unauthorized disclosure and handled and used only for the performance of official duties; and

(B) any intelligence information under this Act is shared, retained, and disseminated consistent with the authority of the Director of Central Intelligence to protect intelligence sources and methods under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures and, as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information.

(13) To request additional information from other agencies of the Federal Government, State and local government agencies, and the private sector relating to threats of terrorism in the United States, or relating to other areas of responsibility assigned by the Secretary, including the entry into cooperative agreements through the Secretary to obtain such information.

(14) To establish and utilize, in conjunction with the chief information officer of the Department, a secure communications and information technology infrastructure, including data-mining and other advanced analytical tools, in order to access, receive, and analyze data and information in furtherance of the responsibilities under this section, and to disseminate information acquired and analyzed by the Department, as appropriate.

(15) To ensure, in conjunction with the chief information officer of the Department, that any information databases and analytical tools developed or utilized by the Department—

(A) are compatible with one another and with relevant information databases of other agencies of the Federal Government; and

(B) treat information in such databases in a manner that complies with applicable Federal law on privacy.

(16) To coordinate training and other support to the elements and personnel of the Department, other agencies of the Federal Government, and State and local governments that provide information to the Department, or are consumers of information provided by the Department, in order to facilitate the identification and sharing of information revealed in their ordinary duties and the optimal utilization of information received from the Department.

(17) To coordinate with elements of the intelligence community and with Federal, State, and local law enforcement agencies, and the private sector, as appropriate.

(18) To provide intelligence and information analysis and support to other elements of the Department.

(19) To perform such other duties relating to such responsibilities as the Secretary may provide.

(e) Staff.—

(1) In general.—The Secretary shall provide the Directorate with a staff of analysts having appropriate expertise and experience to assist the Directorate in discharging responsibilities under this section.

(2) Private sector analysts.—Analysts under this subsection may include analysts from the private sector.

(3) Security clearances.—Analysts under this subsection shall possess security clearances appropriate for their work under this section.

(f) Detail of Personnel.—

(1) In general.—In order to assist the Directorate in discharging responsibilities under this section, personnel of the agencies referred to in paragraph (2) may be detailed to the Department for the performance of analytic functions and related duties.

(2) Covered agencies.—The agencies referred to in this paragraph are as follows:

(A) The Department of State.

(B) The Central Intelligence Agency.

(C) The Federal Bureau of Investigation.

(D) The National Security Agency.

(E) The National Imagery and Mapping Agency.

(F) The Defense Intelligence Agency.

(G) Any other agency of the Federal Government that the President considers appropriate.

(3) Cooperative agreements.—The Secretary and the head of the agency concerned may enter into cooperative agreements for the purpose of detailing personnel under this subsection.

(4) Basis.—The detail of personnel under this subsection may be on a reimbursable or non-reimbursable basis.

(g) Functions Transferred.—In accordance with title XV, there shall be transferred to the Secretary, for assignment to the Under Secretary for Information Analysis and Infrastructure Protection under this section, the functions, personnel, assets, and liabilities of the following:

(1) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section), including the functions of the Attorney General relating thereto.

(2) The National Communications System of the Department of Defense, including the functions of the Secretary of Defense relating thereto.

(3) The Critical Infrastructure Assurance Office of the Department of Commerce, including the functions of the Secretary of Commerce relating thereto.

(4) The National Infrastructure Simulation and Analysis Center of the Department of Energy and the energy security and assurance program and activities of the Department, including the functions of the Secretary of Energy relating thereto.

(5) The Federal Computer Incident Response Center of the General Services Administration, including the functions of the Administrator of General Services relating thereto.

(h) Inclusion of Certain Elements of the Department as Elements of the Intelligence Community.—Section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(a)) is amended—

(1) by striking "and" at the end of subparagraph (I);

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following new subparagraph:

"(J) the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information; and".

SEC. 202. ACCESS TO INFORMATION.

(a) In General.—

(1) Threat and vulnerability information.—Except as otherwise directed by the President, the Secretary shall have such access as the Secretary considers necessary to all information, including reports, assessments, analyses, and unevaluated intelligence relating to threats of terrorism against the United States and to other areas of responsibility assigned by the Secretary, and to all information concerning infrastructure or other vulnerabilities of the United States to terrorism, whether or not such information has been analyzed, that may be collected, possessed, or prepared by any agency of the Federal Government.

(2) Other information.—The Secretary shall also have access to other information relating to matters under the responsibility of the Secretary that may be collected, possessed, or prepared by an agency of the Federal Government as the President may further provide.

(b) Manner of Access.—Except as otherwise directed by the President, with respect to information to which the Secretary has access pursuant to this section—

(1) the Secretary may obtain such material upon request, and may enter into cooperative arrangements with other executive agencies to provide such material or provide Department officials with access to it on a regular or routine basis, including requests or arrangements involving broad categories of material, access to electronic databases, or both; and

(2) regardless of whether the Secretary has made any request or entered into any cooperative arrangement pursuant to paragraph (1), all agencies of the Federal Government shall promptly provide to the Secretary—

(A) all reports (including information reports containing intelligence which has not been fully evaluated), assessments, and analytical information relating to threats of terrorism against the United States and to other areas of responsibility assigned by the Secretary;

(B) all information concerning the vulnerability of the infrastructure of the United States, or other vulnerabilities of the United States, to terrorism, whether or not such information has been analyzed;

(C) all other information relating to significant and credible threats of terrorism against the United States, whether or not such information has been analyzed; and

(D) such other information or material as the President may direct.

(c) Treatment Under Certain Laws.—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, immigration, or national security official, and shall be provided with all information from law enforcement agencies that is required to be given to the Director of Central Intelligence, under any provision of the following:

(1) The USA PATRIOT Act of 2001 (Public Law 107–56).

(2) Section 2517(6) of title 18, United States Code.

(3) Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.

(d) Access to Intelligence and Other Information.—

(1) Access by elements of federal government.—Nothing in this title shall preclude any element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)), or other any element of the Federal Government with responsibility for analyzing terrorist threat information, from receiving any intelligence or other information relating to terrorism.

(2) Sharing of information.—The Secretary, in consultation with the Director of Central Intelligence, shall work to ensure that intelligence or other information relating to terrorism to which the Department has access is appropriately shared with the elements of the Federal Government referred to in paragraph (1), as well as with State and local governments, as appropriate.

Subtitle B—Critical Infrastructure Information

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "Critical Infrastructure Information Act of 2002".

SEC. 212. DEFINITIONS.

In this subtitle:

(1) Agency.—The term "agency" has the meaning given it in section 551 of title 5, United States Code.

(2) Covered federal agency.—The term "covered Federal agency" means the Department of Homeland Security.

(3) Critical infrastructure information.—The term "critical infrastructure information" means information not customarily in the public domain and related to the security of critical infrastructure or protected systems—

(A) actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates Federal, State, or local law, harms interstate commerce of the United States, or threatens public health or safety;

(B) the ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk management planning, or risk audit; or

(C) any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, reconstruction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.

(4) Critical infrastructure protection program.—The term "critical infrastructure protection program" means any component or bureau of a covered Federal agency that has been designated by the President or any agency head to receive critical infrastructure information.

(5) Information sharing and analysis organization.—The term "Information Sharing and Analysis Organization" means any formal or informal entity or collaboration created or employed by public or private sector organizations, for purposes of—

(A) gathering and analyzing critical infrastructure information in order to better understand security problems and interdependencies related to critical infrastructure and protected systems, so as to ensure the availability, integrity, and reliability thereof;

(B) communicating or disclosing critical infrastructure information to help prevent, detect, mitigate, or recover from the effects of a interference, compromise, or a incapacitation problem related to critical infrastructure or protected systems; and

(C) voluntarily disseminating critical infrastructure information to its members, State, local, and Federal Governments, or any other entities that may be of assistance in carrying out the purposes specified in subparagraphs (A) and (B).

(6) Protected system.—The term "protected system"—

(A) means any service, physical or computer-based system, process, or procedure that directly or indirectly affects the viability of a facility of critical infrastructure; and

(B) includes any physical or computer-based system, including a computer, computer system, computer or communications network, or any component hardware or element thereof, software program, processing instructions, or information or data in transmission or storage therein, irrespective of the medium of transmission or storage.

(7) Voluntary.—

(A) In general.—The term "voluntary", in the case of any submittal of critical infrastructure information to a covered Federal agency, means the submittal thereof in the absence of such agency's exercise of legal authority to compel access to or submission of such information and may be accomplished by a single entity or an Information Sharing and Analysis Organization on behalf of itself or its members.

(B) Exclusions.—The term "voluntary"—

(i) in the case of any action brought under the securities laws as is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))—

(I) does not include information or statements contained in any documents or materials filed with the Securities and Exchange Commission, or with Federal banking regulators, pursuant to section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 781(I)); and

(II) with respect to the submittal of critical infrastructure information, does not include any disclosure or writing that when made accompanied the solicitation of an offer or a sale of securities; and

(ii) does not include information or statements submitted or relied upon as a basis for making licensing or permitting determinations, or during regulatory proceedings.

SEC. 213. DESIGNATION OF CRITICAL INFRASTRUCTURE PROTECTION PROGRAM.

A critical infrastructure protection program may be designated as such by one of the following:

(1) The President.

(2) The Secretary of Homeland Security.

SEC. 214. PROTECTION OF VOLUNTARILY SHARED CRITICAL INFRASTRUCTURE INFORMATION.

(a) Protection.—

(1) In general.—Notwithstanding any other provision of law, critical infrastructure information (including the identity of the submitting person or entity) that is voluntarily submitted to a covered Federal agency for use by that agency regarding the security of critical infrastructure and protected systems, analysis, warning, interdependency study, recovery, reconstitution, or other informational purpose, when accompanied by an express statement specified in paragraph (2)—

(A) shall be exempt from disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(B) shall not be subject to any agency rules or judicial doctrine regarding ex parte communications with a decision making official;

(C) shall not, without the written consent of the person or entity submitting such information, be used directly by such agency, any other Federal, State, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith;

(D) shall not, without the written consent of the person or entity submitting such information, be used or disclosed by any officer or employee of the United States for purposes other than the purposes of this subtitle, except—

(i) in furtherance of an investigation or the prosecution of a criminal act; or

(ii) when disclosure of the information would be—

(I) to either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee thereof or subcommittee of any such joint committee; or

(II) to the Comptroller General, or any authorized representative of the Comptroller General, in the course of the performance of the duties of the General Accounting Office.

(E) shall not, if provided to a State or local government or government agency—

(i) be made available pursuant to any State or local law requiring disclosure of information or records;

(ii) otherwise be disclosed or distributed to any party by said State or local government or government agency without the written consent of the person or entity submitting such information; or

(iii) be used other than for the purpose of protecting critical infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act; and

(F) does not constitute a waiver of any applicable privilege or protection provided under law, such as trade secret protection.

(2) EXPRESS STATEMENT.—For purposes of paragraph (1), the term "express statement", with respect to information or records, means—

(A) in the case of written information or records, a written marking on the information or records substantially similar to the following: "This information is voluntarily submitted to the Federal Government in expectation of protection from disclosure as provided by the provisions of the Critical Infrastructure Information Act of 2002."; or

(B) in the case of oral information, a similar written statement submitted within a reasonable period following the oral communication.

(b) LIMITATION.—No communication of critical infrastructure information to a covered Federal agency made pursuant to this subtitle shall be considered to be an action subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(c) INDEPENDENTLY OBTAINED INFORMATION.—Nothing in this section shall be construed to limit or otherwise affect the ability of a State, local, or Federal Government entity, agency, or authority, or any third party, under applicable law, to obtain critical infrastructure information in a manner not covered by subsection (a), including any information lawfully and properly disclosed generally or broadly to the public and to use such information in any manner permitted by law.

(d) TREATMENT OF VOLUNTARY SUBMITTAL OF INFORMATION.—The voluntary submittal to the Government of information or records that are protected from disclosure by this subtitle shall not be construed to constitute compliance with any requirement to submit such information to a Federal agency under any other provision of law.

(e) PROCEDURES.—

(1) IN GENERAL.—The Secretary of the Department of Homeland Security shall, in consultation with appropriate representatives of the National Security Council and the Office of Science and Technology Policy, establish uniform procedures for the receipt, care, and storage by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government. The procedures shall be established not later than 90 days after the date of the enactment of this subtitle.

(2) ELEMENTS.—The procedures established under paragraph (1) shall include mechanisms regarding—

(A) the acknowledgement of receipt by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government;

(B) the maintenance of the identification of such information as voluntarily submitted to the Government for purposes of and subject to the provisions of this subtitle;

(C) the care and storage of such information; and

(D) the protection and maintenance of the confidentiality of such information so as to permit the sharing of such information within the Federal Government and with State and local governments, and the issuance of notices and warnings related to the protection of critical infrastructure and protected systems, in such manner as to protect from public disclosure the identity of the submitting person or entity, or information that is proprietary, business sensitive, relates specifically to the submitting person or entity, and is otherwise not appropriately in the public domain.

(f) PENALTIES.—Whoever, being an officer or employee of the United States or of any department or agency thereof, knowingly publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law, any critical infrastructure information protected from disclosure by this subtitle coming to him in the course of this employment or official duties or by reason of any examination or investigation made by, or return, report, or record made to or filed with, such department or agency or officer or employee thereof, shall be fined under title 18 of the United States Code, imprisoned not more than 1 year, or both, and shall be removed from office or employment.

(g) AUTHORITY TO ISSUE WARNINGS.—The Federal Government may provide advisories, alerts, and warnings to relevant companies, targeted sectors, other governmental entities, or the general public regarding potential threats to critical infrastructure as appropriate. In issuing a warning, the Federal Government shall take appropriate actions to protect from disclosure—

(1) the source of any voluntarily submitted critical infrastructure information that forms the basis for the warning; or

(2) information that is proprietary, business sensitive, relates specifically to the submitting person or entity, or is otherwise not appropriately in the public domain.

(h) AUTHORITY TO DELEGATE.—The President may delegate authority to a critical infrastructure protection program, designated under section 213, to enter into a voluntary agreement to promote critical infrastructure security, including with any Information Sharing and Analysis Organization, or a plan of action as otherwise defined in section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158).

SEC. 215. NO PRIVATE RIGHT OF ACTION.

Nothing in this subtitle may be construed to create a private right of action for enforcement of any provision of this Act.

Subtitle C—Information Security

SEC. 221. PROCEDURES FOR SHARING INFORMATION.

The Secretary shall establish procedures on the use of information shared under this title that—

(1) limit the redissemination of such information to ensure that it is not used for an unauthorized purpose;

(2) ensure the security and confidentiality of such information;

(3) protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(4) provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

SEC. 222. PRIVACY OFFICER.

The Secretary shall appoint a senior official in the Department to assume primary responsibility for privacy policy, including—

(1) assuring that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;

(2) assuring that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices as set out in the Privacy Act of 1974;

(3) evaluating legislative and regulatory proposals involving collection, use, and disclosure of personal information by the Federal Government;

(4) conducting a privacy impact assessment of proposed rules of the Department or that of the Department on the privacy of personal information, including the type of personal information collected and the number of people affected; and

(5) preparing a report to Congress on an annual basis on activities of the Department that affect privacy, including complaints of privacy violations, implementation of the Privacy Act of 1974, internal controls, and other matters.

SEC. 223. ENHANCEMENT OF NON-FEDERAL CYBERSECURITY.

In carrying out the responsibilities under section 201, the Under Secretary for Information Analysis and Infrastructure Protection shall—

(1) as appropriate, provide to State and local government entities, and upon request to private entities that own or operate critical information systems—

(A) analysis and warnings related to threats to, and vulnerabilities of, critical information systems; and

(B) in coordination with the Under Secretary for Emergency Preparedness and Response, crisis management support in response to threats to, or attacks on, critical information systems; and

(2) as appropriate, provide technical assistance, upon request, to the private sector and other government entities, in coordination with the Under Secretary for Emergency Preparedness and Response, with respect to emergency recovery plans to respond to major failures of critical information systems.

SEC. 224. NET GUARD.

The Under Secretary for Information Analysis and Infrastructure Protection may establish a national technology guard, to be known as "NET Guard", comprised of local teams of volunteers with expertise in relevant areas of science and technology, to assist local communities to respond and recover from attacks on information systems and communications networks.

SEC. 225. CYBER SECURITY ENHANCEMENT ACT OF 2002.

(a) SHORT TITLE.—This section may be cited as the "Cyber Security Enhancement Act of 2002".

(b) AMENDMENT OF SENTENCING GUIDELINES RELATING TO CERTAIN COMPUTER CRIMES.—

(1) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 1030 of title 18, United States Code.

(2) REQUIREMENTS.—In carrying out this subsection, the Sentencing Commission shall—

(A) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in paragraph (1), the growing incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(B) consider the following factors and the extent to which the guidelines may or may not account for them—

(i) the potential and actual loss resulting from the offense;

(ii) the level of sophistication and planning involved in the offense;

(iii) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(iv) whether the defendant acted with malicious intent to cause harm in committing the offense;

(v) the extent to which the offense violated the privacy rights of individuals harmed;

(vi) whether the offense involved a computer used by the government in furtherance of national defense, national security, or the administration of justice;

(vii) whether the violation was intended to or had the effect of significantly interfering with or disrupting a critical infrastructure; and

(viii) whether the violation was intended to or had the effect of creating a threat to public health or safety, or injury to any person;

(C) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(D) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(E) make any necessary conforming changes to the sentencing guidelines; and

(F) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) Study and Report on Computer Crimes.—Not later than May 1, 2003, the United States Sentencing Commission shall submit a brief report to Congress that explains any actions taken by the Sentencing Commission in response to this section and includes any recommendations the Commission may have regarding statutory penalties for offenses under section 1030 of title 18, United States Code.

(d) Emergency Disclosure Exception.—

(1) In general.—Section 2702(b) of title 18, United States Code, is amended—

(A) in paragraph (5), by striking "or" at the end;

(B) in paragraph (6)(A), by inserting "or" at the end;

(C) by striking paragraph (6)(C); and

(D) by adding at the end the following:

"(7) to a Federal, State, or local governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency.".

(2) Reporting of disclosures.—A government entity that receives a disclosure under section 2702(b) of title 18, United States Code, shall file, not later than 90 days after such disclosure, a report to the Attorney General stating the paragraph of that section under which the disclosure was made, the date of the disclosure, the entity to which the disclosure was made, the number of customers or subscribers to whom the information disclosed pertained, and the number of communications, if any, that were disclosed. The Attorney General shall publish all such reports into a single report to be submitted to Congress 1 year after the date of enactment of this Act.

(e) Good Faith Exception.—Section 2520(d)(3) of title 18, United States Code, is amended by inserting "or 2511(2)(i)" after "2511(3)".

(f) Internet Advertising of Illegal Devices.—Section 2512(1)(c) of title 18, United States Code, is amended—

(1) by inserting "or disseminates by electronic means" after "or other publication"; and

(2) by inserting "knowing the content of the advertisement and" before "knowing or having reason to know".

(g) Strengthening Penalties.—Section 1030(c) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) in each of subparagraphs (A) and (C) of paragraph (4), by inserting "except as provided in paragraph (5)," before "a fine under this title";

(3) in paragraph (4)(C), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(5)(A) if the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for not more than 20 years, or both; and

"(B) if the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for any term of years or for life, or both.".

(h) Provider Assistance.—

(1) Section 2703.—Section 2703(e) of title 18, United States Code, is amended by inserting ", statutory authorization" after "subpoena".

(2) Section 2511.—Section 2511(2)(a)(ii) of title 18, United States Code, is amended by inserting ", statutory authorization," after "court order" the last place it appears.

(i) Emergencies.—Section 3125(a)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the comma at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(C) an immediate threat to a national security interest; or

"(D) an ongoing attack on a protected computer (as defined in section 1030) that constitutes a crime punishable by a term of imprisonment greater than one year;".

(j) Protecting Privacy.—

(1) Section 2511.—Section 2511(4) of title 18, United States Code, is amended—

(A) by striking paragraph (b); and

(B) by redesignating paragraph (c) as paragraph (b).

(2) Section 2701.—Section 2701(b) of title 18, United States Code, is amended—

(A) in paragraph (1), by inserting ", or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State" after "commercial gain";

(B) in paragraph (1)(A), by striking "one year" and inserting "5 years";

(C) in paragraph (1)(B), by striking "two years" and inserting "10 years"; and

(D) by striking paragraph (2) and inserting the following:

"(2) in any other case—

"(A) a fine under this title or imprisonment for not more than 1 year or both, in the case of a first offense under this paragraph; and

"(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under this subparagraph that occurs after a conviction of another offense under this section.".

Subtitle D—Office of Science and Technology

SEC. 231. ESTABLISHMENT OF OFFICE; DIRECTOR.

(a) Establishment.—

(1) In general.—There is hereby established within the Department of Justice an Office of Science and Technology (hereinafter in this title referred to as the "Office").

(2) Authority.—The Office shall be under the general authority of the Assistant Attorney General, Office of Justice Programs, and shall be established within the National Institute of Justice.

(b) Director.—The Office shall be headed by a Director, who shall be an individual appointed based on approval by the Office of Personnel Management of the executive qualifications of the individual.

SEC. 232. MISSION OF OFFICE; DUTIES.

(a) Mission.—The mission of the Office shall be—

(1) to serve as the national focal point for work on law enforcement technology; and

(2) to carry out programs that, through the provision of equipment, training, and technical assistance, improve the safety and effectiveness of law enforcement technology and improve access to such technology by Federal, State, and local law enforcement agencies.

(b) Duties.—In carrying out its mission, the Office shall have the following duties:

(1) To provide recommendations and advice to the Attorney General.

(2) To establish and maintain advisory groups (which shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.)) to assess the law enforcement technology needs of Federal, State, and local law enforcement agencies.

(3) To establish and maintain performance standards in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) for, and test and evaluate law enforcement technologies that may be used by, Federal, State, and local law enforcement agencies.

(4) To establish and maintain a program to certify, validate, and mark or otherwise recognize law enforcement technology products that conform to standards established and maintained by the Office in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113). The program may, at the discretion of the Office, allow for supplier's declaration of conformity with such standards.

(5) To work with other entities within the Department of Justice, other Federal agencies, and the executive office of the President to establish a coordinated Federal approach on issues related to law enforcement technology.

(6) To carry out research, development, testing, evaluation, and cost-benefit analyses in fields that would improve the safety, effectiveness, and efficiency of law enforcement technologies used by Federal, State, and local law enforcement agencies, including, but not limited to—

(A) weapons capable of preventing use by unauthorized persons, including personalized guns;

(B) protective apparel;

(C) bullet-resistant and explosion-resistant glass;

(D) monitoring systems and alarm systems capable of providing precise location information;

(E) wire and wireless interoperable communication technologies;

(F) tools and techniques that facilitate investigative and forensic work, including computer forensics;

(G) equipment for particular use in counterterrorism, including devices and technologies to disable terrorist devices;

(H) guides to assist State and local law enforcement agencies;

(I) DNA identification technologies; and

(J) tools and techniques that facilitate investigations of computer crime.

(7) To administer a program of research, development, testing, and demonstration to improve the interoperability of voice and data public safety communications.

(8) To serve on the Technical Support Working Group of the Department of Defense, and on other relevant interagency panels, as requested.

(9) To develop, and disseminate to State and local law enforcement agencies, technical assistance and training materials for law enforcement personnel, including prosecutors.

(10) To operate the regional National Law Enforcement and Corrections Technology Centers and, to the extent necessary, establish additional centers through a competitive process.

(11) To administer a program of acquisition, research, development, and dissemination of advanced investigative analysis and forensic tools to assist State and local law enforcement agencies in combating cybercrime.

(12) To support research fellowships in support of its mission.

(13) To serve as a clearinghouse for information on law enforcement technologies.

(14) To represent the United States and State and local law enforcement agencies, as requested, in international activities concerning law enforcement technology.

(15) To enter into contracts and cooperative agreements and provide grants, which may require in-kind or cash matches from the recipient, as necessary to carry out its mission.

(16) To carry out other duties assigned by the Attorney General to accomplish the mission of the Office.

(c) COMPETITION REQUIRED.—Except as otherwise expressly provided by law, all research and development carried out by or through the Office shall be carried out on a competitive basis.

(d) INFORMATION FROM FEDERAL AGENCIES.—Federal agencies shall, upon request from the Office and in accordance with Federal law, provide the Office with any data, reports, or other information requested, unless compliance with such request is otherwise prohibited by law.

(e) PUBLICATIONS.—Decisions concerning publications issued by the Office shall rest solely with the Director of the Office.

(f) TRANSFER OF FUNDS.—The Office may transfer funds to other Federal agencies or provide funding to non-Federal entities through grants, cooperative agreements, or contracts to carry out its duties under this section.

(g) ANNUAL REPORT.—The Director of the Office shall include with the budget justification materials submitted to Congress in support of the Department of Justice budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report on the activities of the Office. Each such report shall include the following:

(1) For the period of 5 fiscal years beginning with the fiscal year for which the budget is submitted—

(A) the Director's assessment of the needs of Federal, State, and local law enforcement agencies for assistance with respect to law enforcement technology and other matters consistent with the mission of the Office; and

(B) a strategic plan for meeting such needs of such law enforcement agencies.

(2) For the fiscal year preceding the fiscal year for which such budget is submitted, a description of the activities carried out by the Office and an evaluation of the extent to which those activities successfully meet the needs assessed under paragraph (1)(A) in previous reports.

SEC. 233. DEFINITION OF LAW ENFORCEMENT TECHNOLOGY.

For the purposes of this title, the term "law enforcement technology" includes investigative and forensic technologies, corrections technologies, and technologies that support the judicial process.

SEC. 234. ABOLISHMENT OF OFFICE OF SCIENCE AND TECHNOLOGY OF NATIONAL INSTITUTE OF JUSTICE; TRANSFER OF FUNCTIONS.

(a) AUTHORITY TO TRANSFER FUNCTIONS.—The Attorney General may transfer to the Office any other program or activity of the Department of Justice that the Attorney General, in consultation with the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, determines to be consistent with the mission of the Office.

(b) TRANSFER OF PERSONNEL AND ASSETS.—With respect to any function, power, or duty, or any program or activity, that is established in the Office, those employees and assets of the element of the Department of Justice from which the transfer is made that the Attorney General determines are needed to perform that function, power, or duty, or for that program or activity, as the case may be, shall be transferred to the Office.

(c) REPORT ON IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the implementation of this title. The report shall—

(1) provide an accounting of the amounts and sources of funding available to the Office to carry out its mission under existing authorizations and appropriations, and set forth the future funding needs of the Office; and

(2) include such other information and recommendations as the Attorney General considers appropriate.

SEC. 235. NATIONAL LAW ENFORCEMENT AND CORRECTIONS TECHNOLOGY CENTERS.

(a) IN GENERAL.—The Director of the Office shall operate and support National Law Enforcement and Corrections Technology Centers (hereinafter in this section referred to as "Centers") and, to the extent necessary, establish new centers through a merit-based, competitive process.

(b) PURPOSE OF CENTERS.—The purpose of the Centers shall be to—

(1) support research and development of law enforcement technology;

(2) support the transfer and implementation of technology;

(3) assist in the development and dissemination of guidelines and technological standards; and

(4) provide technology assistance, information, and support for law enforcement, corrections, and criminal justice purposes.

(c) ANNUAL MEETING.—Each year, the Director shall convene a meeting of the Centers in order to foster collaboration and communication between Center participants.

(d) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Director shall transmit to the Congress a report assessing the effectiveness of the existing system of Centers and identify the number of Centers necessary to meet the technology needs of Federal, State, and local law enforcement in the United States.

SEC. 236. COORDINATION WITH OTHER ENTITIES WITHIN DEPARTMENT OF JUSTICE.

Section 102 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended in subsection (a)(5) by inserting "coordinate and" before "provide".

SEC. 237. AMENDMENTS RELATING TO NATIONAL INSTITUTE OF JUSTICE.

Section 202(c) of the Omnibus Crime Control and Safety Streets Act of 1968 (42 U.S.C. 3722(c)) is amended—

(1) in paragraph (3) by inserting ", including cost effectiveness where practical," before "of projects"; and

(2) by striking "and" after the semicolon at the end of paragraph (8), striking the period at the end of paragraph (9) and inserting "; and", and by adding at the end the following:

"(10) research and development of tools and technologies relating to prevention, detection, investigation, and prosecution of crime; and

"(11) support research, development, testing, training, and evaluation of tools and technology for Federal, State, and local law enforcement agencies.".

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

SEC. 301. UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

There shall be in the Department a Directorate of Science and Technology headed by an Under Secretary for Science and Technology.

SEC. 302. RESPONSIBILITIES AND AUTHORITIES OF THE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

The Secretary, acting through the Under Secretary for Science and Technology, shall have the responsibility for—

(1) advising the Secretary regarding research and development efforts and priorities in support of the Department's missions;

(2) developing, in consultation with other appropriate executive agencies, a national policy and strategic plan for, identifying priorities, goals, objectives and policies for, and coordinating the Federal Government's civilian efforts to identify and develop countermeasures to chemical, biological, radiological, nuclear, and other emerging terrorist threats, including the development of comprehensive, research-based definable goals for such efforts and development of annual measurable objectives and specific targets to accomplish and evaluate the goals for such efforts;

(3) supporting the Under Secretary for Information Analysis and Infrastructure Protection, by assessing and testing homeland security vulnerabilities and possible threats;

(4) conducting basic and applied research, development, demonstration, testing, and evaluation activities that are relevant to any or all elements of the Department, through both intramural and extramural programs, except that such responsibility does not extend to human health-related research and development activities;

(5) establishing priorities for, directing, funding, and conducting national research, development, test and evaluation, and procurement of technology and systems for—

(A) preventing the importation of chemical, biological, radiological, nuclear, and related weapons and material; and

(B) detecting, preventing, protecting against, and responding to terrorist attacks;

(6) establishing a system for transferring homeland security developments or technologies to federal, state, local government, and private sector entities;

(7) entering into work agreements, joint sponsorships, contracts, or any other agreements with the Department of Energy regarding the use of the national laboratories

or sites and support of the science and technology base at those facilities;

(8) collaborating with the Secretary of Agriculture and the Attorney General as provided in section 212 of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401), as amended by section 1709(b);

(9) collaborating with the Secretary of Health and Human Services and the Attorney General in determining any new biological agents and toxins that shall be listed as "select agents" in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a);

(10) supporting United States leadership in science and technology;

(11) establishing and administering the primary research and development activities of the Department, including the long-term research and development needs and capabilities for all elements of the Department;

(12) coordinating and integrating all research, development, demonstration, testing, and evaluation activities of the Department;

(13) coordinating with other appropriate executive agencies in developing and carrying out the science and technology agenda of the Department to reduce duplication and identify unmet needs; and

(14) developing and overseeing the administration of guidelines for merit review of research and development projects throughout the Department, and for the dissemination of research conducted or sponsored by the Department.

SEC. 303. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The following programs and activities of the Department of Energy, including the functions of the Secretary of Energy relating thereto (but not including programs and activities relating to the strategic nuclear defense posture of the United States):

(A) The chemical and biological national security and supporting programs and activities of the nonproliferation and verification research and development program.

(B) The nuclear smuggling programs and activities within the proliferation detection program of the nonproliferation and verification research and development program. The programs and activities described in this subparagraph may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy.

(C) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(D) Such life sciences activities of the biological and environmental research program related to microbial pathogens as may be designated by the President for transfer to the Department.

(E) The Environmental Measurements Laboratory.

(F) The advanced scientific computing research program and activities at Lawrence Livermore National Laboratory.

(2) The National Bio-Weapons Defense Analysis Center of the Department of Defense, including the functions of the Secretary of Defense related thereto.

SEC. 304. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) IN GENERAL.—With respect to civilian human health-related research and development activities relating to countermeasures for chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities, goals, objectives, and policies and develop a coordinated strategy for such activities in collaboration with the Secretary of Homeland Security to ensure consistency with the national policy and strategic plan developed pursuant to section 302(2).

(b) EVALUATION OF PROGRESS.—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

(c) ADMINISTRATION OF COUNTERMEASURES AGAINST SMALLPOX.—Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended by adding the following:

"(p) ADMINISTRATION OF SMALLPOX COUNTERMEASURES BY HEALTH PROFESSIONALS.—

"(1) IN GENERAL.—For purposes of this section, and subject to other provisions of this subsection, a covered person shall be deemed to be an employee of the Public Health Service with respect to liability arising out of administration of a covered countermeasure against smallpox to an individual during the effective period of a declaration by the Secretary under paragraph (2)(A).

"(2) DECLARATION BY SECRETARY CONCERNING COUNTERMEASURE AGAINST SMALLPOX.—

"(A) AUTHORITY TO ISSUE DECLARATION.—

"(i) IN GENERAL.—The Secretary may issue a declaration, pursuant to this paragraph, concluding that an actual or potential bioterrorist incident or other actual or potential public health emergency makes advisable the administration of a covered countermeasure to a category or categories of individuals.

"(ii) COVERED COUNTERMEASURE.—The Secretary shall specify in such declaration the substance or substances that shall be considered covered countermeasures (as defined in paragraph (8)(A)) for purposes of administration to individuals during the effective period of the declaration.

"(iii) EFFECTIVE PERIOD.—The Secretary shall specify in such declaration the beginning and ending dates of the effective period of the declaration, and may subsequently amend such declaration to shorten or extend such effective period, provided that the new closing date is after the date when the declaration is amended.

"(iv) PUBLICATION.—The Secretary shall promptly publish each such declaration and amendment in the Federal Register.

"(B) LIABILITY OF UNITED STATES ONLY FOR ADMINISTRATIONS WITHIN SCOPE OF DECLARATION.—Except as provided in paragraph (5)(B)(ii), the United States shall be liable under this subsection with respect to a claim arising out of the administration of a covered countermeasure to an individual only if—

"(i) the countermeasure was administered by a qualified person, for a purpose stated in paragraph (7)(A)(i), and during the effective period of a declaration by the Secretary under subparagraph (A) with respect to such countermeasure; and

"(ii)(I) the individual was within a category of individuals covered by the declaration; or

"(II) the qualified person administering the countermeasure had reasonable grounds to believe that such individual was within such category.

"(C) PRESUMPTION OF ADMINISTRATION WITHIN SCOPE OF DECLARATION IN CASE OF ACCIDENTAL VACCINIA INOCULATION.—

"(i) IN GENERAL.—If vaccinia vaccine is a covered countermeasure specified in a declaration under subparagraph (A), and an individual to whom the vaccinia vaccine is not administered contracts vaccinia, then, under the circumstances specified in clause (ii), the individual—

"(I) shall be rebuttably presumed to have contracted vaccinia from an individual to whom such vaccine was administered as provided by clauses (i) and (ii) of subparagraph (B); and

"(II) shall (unless such presumption is rebutted) be deemed for purposes of this subsection to be an individual to whom a covered countermeasure was administered by a qualified person in accordance with the terms of such declaration and as described by subparagraph (B).

"(ii) CIRCUMSTANCES IN WHICH PRESUMPTION APPLIES.—The presumption and deeming stated in clause (i) shall apply if—

"(I) the individual contracts vaccinia during the effective period of a declaration under subparagraph (A) or by the date 30 days after the close of such period; or

"(II) the individual resides or has resided with an individual to whom such vaccine was administered as provided by clauses (i) and (ii) of subparagraph (B) and contracts vaccinia after such date.

"(3) EXCLUSIVITY OF REMEDY.—The remedy provided by subsection (a) shall be exclusive of any other civil action or proceeding for any claim or suit this subsection encompasses.

"(4) CERTIFICATION OF ACTION BY ATTORNEY GENERAL.—Subsection (c) applies to actions under this subsection, subject to the following provisions:

"(A) NATURE OF CERTIFICATION.—The certification by the Attorney General that is the basis for deeming an action or proceeding to be against the United States, and for removing an action or proceeding from a State court, is a certification that the action or proceeding is against a covered person and is based upon a claim alleging personal injury or death arising out of the administration of a covered countermeasure.

"(B) CERTIFICATION OF ATTORNEY GENERAL CONCLUSIVE.—The certification of the Attorney General of the facts specified in subparagraph (A) shall conclusively establish such facts for purposes of jurisdiction pursuant to this subsection.

"(5) DEFENDANT TO COOPERATE WITH UNITED STATES.—

"(A) IN GENERAL.—A covered person shall cooperate with the United States in the processing and defense of a claim or action under this subsection based upon alleged acts or omissions of such person.

"(B) CONSEQUENCES OF FAILURE TO COOPERATE.—Upon the motion of the United States or any other party and upon finding that such person has failed to so cooperate—

"(i) the court shall substitute such person as the party defendant in place of the United States and, upon motion, shall remand any such suit to the court in which it was instituted if it appears that the court lacks subject matter jurisdiction;

"(ii) the United States shall not be liable based on the acts or omissions of such person; and

"(iii) the Attorney General shall not be obligated to defend such action.

"(6) RECOURSE AGAINST COVERED PERSON IN CASE OF GROSS MISCONDUCT OR CONTRACT VIOLATION.—

"(A) IN GENERAL.—Should payment be made by the United States to any claimant bringing a claim under this subsection, either by way of administrative determination, settlement, or court judgment, the United States shall have, notwithstanding any provision of State law, the right to recover for that portion of the damages so awarded or paid, as well as interest and any costs of litigation, resulting from the failure of any covered person to carry out any obligation or responsibility assumed by such person under a contract with the United States or from any grossly negligent, reckless, or illegal conduct or willful misconduct on the part of such person.

"(B) VENUE.—The United States may maintain an action under this paragraph against such person in the district court of the United States in which such person resides or has its principal place of business.

"(7) DEFINITIONS.—As used in this subsection, terms have the following meanings:

"(A) COVERED COUNTERMEASURE.—The term 'covered countermeasure', or 'covered countermeasure against smallpox', means a substance that is—

"(i)(I) used to prevent or treat smallpox (including the vaccinia or another vaccine); or

"(II) vaccinia immune globulin used to control or treat the adverse effects of vaccinia inoculation; and

"(ii) specified in a declaration under paragraph (2).

"(B) COVERED PERSON.—The term 'covered person', when used with respect to the administration of a covered countermeasure, includes any person who is—

"(i) a manufacturer or distributor of such countermeasure;

"(ii) a health care entity under whose auspices such countermeasure was administered;

"(iii) a qualified person who administered such countermeasure; or

"(iv) an official, agent, or employee of a person described in clause (i), (ii), or (iii).

"(C) QUALIFIED PERSON.—The term 'qualified person', when used with respect to the administration of a covered countermeasure, means a licensed health professional or other individual who is authorized to administer such countermeasure under the law of the State in which the countermeasure was administered.".

SEC. 305. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

The Secretary, acting through the Under Secretary for Science and Technology, shall have the authority to establish or contract with 1 or more federally funded research and development centers to provide independent analysis of homeland security issues, or to carry out other responsibilities under this Act, including coordinating and integrating both the extramural and intramural programs described in section 308.

SEC. 306. MISCELLANEOUS PROVISIONS.

(a) CLASSIFICATION.—To the greatest extent practicable, research conducted or supported by the Department shall be unclassified.

(b) CONSTRUCTION.—Nothing in this title shall be construed to preclude any Under Secretary of the Department from carrying out research, development, demonstration, or deployment activities, as long as such activities are coordinated through the Under Secretary for Science and Technology.

(c) REGULATIONS.—The Secretary, acting through the Under Secretary for Science and Technology, may issue necessary regulations with respect to research, development, demonstration, testing, and evaluation activities of the Department, including the conducting, funding, and reviewing of such activities.

(d) NOTIFICATION OF PRESIDENTIAL LIFE SCIENCES DESIGNATIONS.—Not later than 60 days before effecting any transfer of Department of Energy life sciences activities pursuant to section 303(1)(D) of this Act, the President shall notify the appropriate congressional committees of the proposed transfer and shall include the reasons for the transfer and a description of the effect of the transfer on the activities of the Department of Energy.

SEC. 307. HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY.

(a) DEFINITIONS.—In this section:

(1) FUND.—The term "Fund" means the Acceleration Fund for Research and Development of Homeland Security Technologies established in subsection (c).

(2) HOMELAND SECURITY RESEARCH.—The term "homeland security research" means research relevant to the detection of, prevention of, protection against, response to, attribution of, and recovery from homeland security threats, particularly acts of terrorism.

(3) HSARPA.—The term "HSARPA" means the Homeland Security Advanced Research Projects Agency established in subsection (b).

(4) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary for Science and Technology.

(b) HSARPA.—

(1) ESTABLISHMENT.—There is established the Homeland Security Advanced Research Projects Agency.

(2) DIRECTOR.—HSARPA shall be headed by a Director, who shall be appointed by the Secretary. The Director shall report to the Under Secretary.

(3) RESPONSIBILITIES.—The Director shall administer the Fund to award competitive, merit-reviewed grants, cooperative agreements or contracts to public or private entities, including businesses, federally funded research and development centers, and universities. The Director shall administer the Fund to—

(A) support basic and applied homeland security research to promote revolutionary changes in technologies that would promote homeland security;

(B) advance the development, testing and evaluation, and deployment of critical homeland security technologies; and

(C) accelerate the prototyping and deployment of technologies that would address homeland security vulnerabilities.

(4) TARGETED COMPETITIONS.—The Director may solicit proposals to address specific vulnerabilities identified by the Director.

(5) COORDINATION.—The Director shall ensure that the activities of HSARPA are coordinated with those of other relevant research agencies, and may run projects jointly with other agencies.

(6) PERSONNEL.—In hiring personnel for HSARPA, the Secretary shall have the hiring and management authorities described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261). The term of appointments for employees under subsection (c)(1) of that section may not exceed 5 years before the granting of any extension under subsection (c)(2) of that section.

(7) DEMONSTRATIONS.—The Director, periodically, shall hold homeland security technology demonstrations to improve contact among technology developers, vendors and acquisition personnel.

(c) FUND.—

(1) ESTABLISHMENT.—There is established the Acceleration Fund for Research and Development of Homeland Security Technologies, which shall be administered by the Director of HSARPA.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000,000 to the Fund for fiscal year 2003 and such sums as may be necessary thereafter.

(3) COAST GUARD.—Of the funds authorized to be appropriated under paragraph (2), not less than 10 percent of such funds for each fiscal year through fiscal year 2005 shall be authorized only for the Under Secretary, through joint agreement with the Commandant of the Coast Guard, to carry out research and development of improved ports, waterways and coastal security surveillance and perimeter protection capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from non-homeland security missions to the ports, waterways and coastal security mission.

SEC. 308. CONDUCT OF RESEARCH, DEVELOPMENT, DEMONSTRATION, TESTING AND EVALUATION.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall carry out the responsibilities under section 302(4) through both extramural and intramural programs.

(b) EXTRAMURAL PROGRAMS.—

(1) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall operate extramural research, development, demonstration, testing, and evaluation programs so as to—

(A) ensure that colleges, universities, private research institutes, and companies (and consortia thereof) from as many areas of the United States as practicable participate;

(B) ensure that the research funded is of high quality, as determined through merit review processes developed under section 302(14); and

(C) distribute funds through grants, cooperative agreements, and contracts.

(2) UNIVERSITY-BASED CENTERS FOR HOMELAND SECURITY.—

(A) ESTABLISHMENT.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish within 1 year of the date of enactment of this Act a university-based center or centers for homeland security. The purpose of this center or centers shall be to establish a coordinated, university-based system to enhance the Nation's homeland security.

(B) CRITERIA FOR SELECTION.—In selecting colleges or universities as centers for homeland security, the Secretary shall consider the following criteria:

(i) Demonstrated expertise in the training of first responders.

(ii) Demonstrated expertise in responding to incidents involving weapons of mass destruction and biological warfare.

(iii) Demonstrated expertise in emergency medical services.

(iv) Demonstrated expertise in chemical, biological, radiological, and nuclear countermeasures.

(v) Strong affiliations with animal and plant diagnostic laboratories.

(vi) Demonstrated expertise in food safety.

(vii) Affiliation with Department of Agriculture laboratories or training centers.

(viii) Demonstrated expertise in water and wastewater operations.

(ix) Demonstrated expertise in port and waterway security.

(x) Demonstrated expertise in multi-modal transportation.

(xi) Nationally recognized programs in information security.

(xii) Nationally recognized programs in engineering.

(xiii) Demonstrated expertise in educational outreach and technical assistance.

(xiv) Demonstrated expertise in border transportation and security.

(xv) Demonstrated expertise in interdisciplinary public policy research and communication outreach regarding science, technology, and public policy.

(C) DISCRETION OF SECRETARY.—The Secretary shall have the discretion to establish such centers and to consider additional criteria as necessary to meet the evolving needs of homeland security and shall report to Congress concerning the implementation of this paragraph as necessary.

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

(c) INTRAMURAL PROGRAMS.—

(1) CONSULTATION.—In carrying out the duties under section 302, the Secretary, acting through the Under Secretary for Science and Technology, may draw upon the expertise of any laboratory of the Federal Government, whether operated by a contractor or the Government.

(2) LABORATORIES.—The Secretary, acting through the Under Secretary for Science and Technology, may establish a headquarters laboratory for the Department at any laboratory or site and may establish additional laboratory units at other laboratories or sites.

(3) CRITERIA FOR HEADQUARTERS LABORATORY.—If the Secretary chooses to establish a headquarters laboratory pursuant to paragraph (2), then the Secretary shall do the following:

(A) Establish criteria for the selection of the headquarters laboratory in consultation with the National Academy of Sciences, appropriate Federal agencies, and other experts.

(B) Publish the criteria in the Federal Register.

(C) Evaluate all appropriate laboratories or sites against the criteria.

(D) Select a laboratory or site on the basis of the criteria.

(E) Report to the appropriate congressional committees on which laboratory was selected, how the selected laboratory meets the published criteria, and what duties the headquarters laboratory shall perform.

(4) LIMITATION ON OPERATION OF LABORATORIES.—No laboratory shall begin operating as the headquarters laboratory of the Department until at least 30 days after the transmittal of the report required by paragraph (3)(E).

SEC. 309. UTILIZATION OF DEPARTMENT OF ENERGY NATIONAL LABORATORIES AND SITES IN SUPPORT OF HOMELAND SECURITY ACTIVITIES.

(a) AUTHORITY TO UTILIZE NATIONAL LABORATORIES AND SITES.—

(1) IN GENERAL.—In carrying out the missions of the Department, the Secretary may utilize the Department of Energy national laboratories and sites through any 1 or more of the following methods, as the Secretary considers appropriate:

(A) A joint sponsorship arrangement referred to in subsection (b).

(B) A direct contract between the Department and the applicable Department of Energy laboratory or site, subject to subsection (c).

(C) Any "work for others" basis made available by that laboratory or site.

(D) Any other method provided by law.

(2) ACCEPTANCE AND PERFORMANCE BY LABS AND SITES.—Notwithstanding any other law governing the administration, mission, use, or operations of any of the Department of Energy national laboratories and sites, such laboratories and sites are authorized to accept and perform work for the Secretary, consistent with resources provided, and perform such work on an equal basis to other missions at the laboratory and not on a noninterference basis with other missions of such laboratory or site.

(b) JOINT SPONSORSHIP ARRANGEMENTS.—

(1) LABORATORIES.—The Department may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work.

(2) SITES.—The Department may be a joint sponsor of a Department of Energy site in the performance of work as if such site were a federally funded research and development center and the work were performed under a multiple agency sponsorship arrangement with the Department.

(3) PRIMARY SPONSOR.—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement referred to in paragraph (1) or (2).

(4) LEAD AGENT.—The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship arrangement under this subsection between the Department and a Department of Energy national laboratory or site.

(5) FEDERAL ACQUISITION REGULATION.—Any work performed by a Department of Energy national laboratory or site under a joint sponsorship arrangement under this subsection shall comply with the policy on the use of federally funded research and development centers under the Federal Acquisition Regulations.

(6) FUNDING.—The Department shall provide funds for work at the Department of Energy national laboratories or sites, as the case may be, under a joint sponsorship arrangement under this subsection under the same terms and conditions as apply to the primary sponsor of such national laboratory under section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253 (b)(1)(C)) or of such site to the extent such section applies to such site as a federally funded research and development center by reason of this subsection.

(c) SEPARATE CONTRACTING.—To the extent that programs or activities transferred by this Act from the Department of Energy to the Department of Homeland Security are being carried out through direct contracts with the operator of a national laboratory or site of the Department of Energy, the Secretary of Homeland Security and the Secretary of Energy shall ensure that direct contracts for such programs and activities between the Department of Homeland Security and such operator are separate from the direct contracts of the Department of Energy with such operator.

(d) AUTHORITY WITH RESPECT TO COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS AND LICENSING AGREEMENTS.—In connection with any utilization of the Department of Energy national laboratories and sites under this section, the Secretary may permit the director of any such national laboratory or site to enter into cooperative research and development agreements or to negotiate licensing agreements with any person, any agency or instrumentality, of the United States, any unit of State or local government, and any other entity under the authority granted by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a). Technology may be transferred to a non-Federal party to such an agreement consistent with the provisions of sections 11 and 12 of that Act (15 U.S.C. 3710, 3710a).

(e) REIMBURSEMENT OF COSTS.—In the case of an activity carried out by the operator of a Department of Energy national laboratory or site in connection with any utilization of such laboratory or site under this section, the Department of Homeland Security shall reimburse the Department of Energy for costs of such activity through a method under which the Secretary of Energy waives any requirement for the Department of Homeland Security to pay administrative charges or personnel costs of the Department of Energy or its contractors in excess of the amount that the Secretary of Energy pays for an activity carried out by such contractor and paid for by the Department of Energy.

(f) LABORATORY DIRECTED RESEARCH AND DEVELOPMENT BY THE DEPARTMENT OF ENERGY.—No funds authorized to be appropriated or otherwise made available to the Department in any fiscal year may be obligated or expended for laboratory directed research and development activities carried out by the Department of Energy unless such activities support the missions of the Department of Homeland Security.

(g) OFFICE FOR NATIONAL LABORATORIES.—There is established within the Directorate of Science and Technology an Office for National Laboratories, which shall be responsible for the coordination and utilization of the Department of Energy national laboratories and sites under this section in a manner to create a networked laboratory system for the purpose of supporting the missions of the Department.

(h) DEPARTMENT OF ENERGY COORDINATION ON HOMELAND SECURITY RELATED RESEARCH.—The Secretary of Energy shall ensure that any research, development, test, and evaluation activities conducted within the Department of Energy that are directly or indirectly related to homeland security are fully coordinated with the Secretary to minimize duplication of effort and maximize the effective application of Federal budget resources.

SEC. 310. TRANSFER OF PLUM ISLAND ANIMAL DISEASE CENTER, DEPARTMENT OF AGRICULTURE.

(a) IN GENERAL.—In accordance with title XV, the Secretary of Agriculture shall transfer to the Secretary of Homeland Security the Plum Island Animal Disease Center of the Department of Agriculture, including the assets and liabilities of the Center.

(b) CONTINUED DEPARTMENT OF AGRICULTURE ACCESS.—On completion of the transfer of the Plum Island Animal Disease Center under subsection (a), the Secretary of Homeland Security and the Secretary of Agriculture shall enter into an agreement to ensure that the Department of Agriculture is able to carry out research, diagnostic, and other activities of the Department of Agriculture at the Center.

(c) DIRECTION OF ACTIVITIES.—The Secretary of Agriculture shall continue to direct the research, diagnostic, and other activities of the Department of Agriculture at the Center described in subsection (b).

(d) NOTIFICATION.—

(1) IN GENERAL.—At least 180 days before any change in the biosafety level at the Plum Island Animal Disease Center, the President shall notify Congress of the change and describe the reasons for the change.

(2) LIMITATION.—No change described in paragraph (1) may be made earlier than 180 days after the completion of the transition period (as defined in section 1501.

SEC. 311. HOMELAND SECURITY SCIENCE AND TECHNOLOGY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established within the Department a Homeland Security Science and Technology Advisory Committee (in this section referred to as the "Advisory Committee"). The Advisory Committee shall make recommendations with respect to the activities of the Under Secretary for Science and Technology, including identifying research areas of potential importance to the security of the Nation.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Advisory Committee shall consist of 20 members appointed by the Under Secretary for Science and Technology, which shall include emergency first-responders or representatives of organizations or associations of emergency first-responders. The Advisory Committee shall also include representatives of citizen groups, including economically disadvantaged communities. The individuals appointed as members of the Advisory Committee—

(A) shall be eminent in fields such as emergency response, research, engineering, new product development, business, and management consulting;

(B) shall be selected solely on the basis of established records of distinguished service;

(C) shall not be employees of the Federal Government; and

(D) shall be so selected as to provide representation of a cross-section of the research, development, demonstration, and deployment activities supported by the Under Secretary for Science and Technology.

(2) NATIONAL RESEARCH COUNCIL.—The Under Secretary for Science and Technology may enter into an arrangement for the National Research Council to select members of the Advisory Committee, but only if the panel used by the National Research Council reflects the representation described in paragraph (1).

(c) TERMS OF OFFICE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the term of office of each member of the Advisory Committee shall be 3 years.

(2) ORIGINAL APPOINTMENTS.—The original members of the Advisory Committee shall be appointed to three classes of three members each. One class shall have a term of 1 year, 1 a term of 2 years, and the other a term of 3 years.

(3) VACANCIES.—A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

(d) ELIGIBILITY.—A person who has completed two consecutive full terms of service on the Advisory Committee shall thereafter be ineligible for appointment during the 1-year period following the expiration of the second such term.

(e) MEETINGS.—The Advisory Committee shall meet at least quarterly at the call of the Chair or whenever one-third of the members so request in writing. Each member shall be given appropriate notice of the call of each meeting, whenever possible not less than 15 days before the meeting.

(f) QUORUM.—A majority of the members of the Advisory Committee not having a conflict of interest in the matter being considered by the Advisory Committee shall constitute a quorum.

(g) CONFLICT OF INTEREST RULES.—The Advisory Committee shall establish rules for determining when 1 of its members has a conflict of interest in a matter being considered by the Advisory Committee.

(h) REPORTS.—

(1) ANNUAL REPORT.—The Advisory Committee shall render an annual report to the Under Secretary for Science and Technology for transmittal to Congress on or before January 31 of each year. Such report shall describe the activities and recommendations of the Advisory Committee during the previous year.

(2) ADDITIONAL REPORTS.—The Advisory Committee may render to the Under Secretary for transmittal to Congress such additional reports on specific policy matters as it considers appropriate.

(i) FACA EXEMPTION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee.

(j) TERMINATION.—The Department of Homeland Security Science and Technology Advisory Committee shall terminate 3 years after the effective date of this Act.

SEC. 312. HOMELAND SECURITY INSTITUTE.

(a) ESTABLISHMENT.—The Secretary shall establish a federally funded research and development center to be known as the "Homeland Security Institute" (in this section referred to as the "Institute").

(b) ADMINISTRATION.—The Institute shall be administered as a separate entity by the Secretary.

(c) DUTIES.—The duties of the Institute shall be determined by the Secretary, and may include the following:

(1) Systems analysis, risk analysis, and simulation and modeling to determine the vulnerabilities of the Nation's critical infrastructures and the effectiveness of the systems deployed to reduce those vulnerabilities.

(2) Economic and policy analysis to assess the distributed costs and benefits of alternative approaches to enhancing security.

(3) Evaluation of the effectiveness of measures deployed to enhance the security of institutions, facilities, and infrastructure that may be terrorist targets.

(4) Identification of instances when common standards and protocols could improve the interoperability and effective utilization of tools developed for field operators and first responders.

(5) Assistance for Federal agencies and departments in establishing testbeds to evaluate the effectiveness of technologies under development and to assess the appropriateness of such technologies for deployment.

(6) Design of metrics and use of those metrics to evaluate the effectiveness of homeland security programs throughout the Federal Government, including all national laboratories.

(7) Design of and support for the conduct of homeland security-related exercises and simulations.

(8) Creation of strategic technology development plans to reduce vulnerabilities in the Nation's critical infrastructure and key resources.

(d) CONSULTATION ON INSTITUTE ACTIVITIES.—In carrying out the duties described in subsection (c), the Institute shall consult widely with representatives from private industry, institutions of higher education, nonprofit institutions, other Government agencies, and federally funded reseach and development centers.

(e) USE OF CENTERS.—The Institute shall utilize the capabilities of the National Infrastructure Simulation and Analysis Center.

(f) ANNUAL REPORTS.—The Institute shall transmit to the Secretary and Congress an annual report on the activities of the Institute under this section.

(g) TERMINATION.—The Homeland Security Institute shall terminate 3 years after the effective date of this Act.

SEC. 313. TECHNOLOGY CLEARINGHOUSE TO ENCOURAGE AND SUPPORT INNOVATIVE SOLUTIONS TO ENHANCE HOMELAND SECURITY.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish and promote a program to encourage technological innovation in facilitating the mission of the Department (as described in section 101).

(b) ELEMENTS OF PROGRAM.—The program described in subsection (a) shall include the following components:

(1) The establishment of a centralized Federal clearinghouse for information relating to technologies that would further the mission of the Department for dissemination, as appropriate, to Federal, State, and local government and private sector entities for additional review, purchase, or use.

(2) The issuance of announcements seeking unique and innovative technologies to advance the mission of the Department.

(3) The establishment of a technical assistance team to assist in screening, as appropriate, proposals submitted to the Secretary (except as provided in subsection (c)(2)) to assess the feasibility, scientific and technical merits, and estimated cost of such proposals, as appropriate.

(4) The provision of guidance, recommendations, and technical assistance, as appropriate, to assist Federal, State, and local government and private sector efforts to evaluate and implement the use of technologies described in paragraph (1) or (2).

(5) The provision of information for persons seeking guidance on how to pursue proposals to develop or deploy technologies that would enhance homeland security, including information relating to Federal funding, regulation, or acquisition.

(c) MISCELLANEOUS PROVISIONS.—

(1) IN GENERAL.—Nothing in this section shall be construed as authorizing the Secretary or the technical assistance team established under subsection (b)(3) to set standards for technology to be used by the Department, any other executive agency, any State or local government entity, or any private sector entity.

(2) CERTAIN PROPOSALS.—The technical assistance team established under subsection (b)(3) shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.

(3) COORDINATION.—In carrying out this section, the Secretary shall coordinate with the Technical Support Working Group (organized under the April 1982 National Security Decision Directive Numbered 30).

TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

Subtitle A—Under Secretary for Border and Transportation Security

SEC. 401. UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

There shall be in the Department a Directorate of Border and Transportation Security headed by an Under Secretary for Border and Transportation Security.

SEC. 402. RESPONSIBILITIES.

The Secretary, acting through the Under Secretary for Border and Transportation Security, shall be responsible for the following:

(1) Preventing the entry of terrorists and the instruments of terrorism into the United States.

(2) Securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating those functions transferred to the Department at ports of entry.

(3) Carrying out the immigration enforcement functions vested by statute in, or performed by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the date on which the transfer of functions specified under section 441 takes effect.

(4) Establishing and administering rules, in accordance with section 428, governing the granting of visas or other forms of permission, including parole, to enter the United States to individuals who are not a citizen or an alien lawfully admitted for permanent residence in the United States.

(5) Establishing national immigration enforcement policies and priorities.

(6) Except as provided in subtitle C, administering the customs laws of the United States.

(7) Conducting the inspection and related administrative functions of the Department of Agriculture transferred to the Secretary of Homeland Security under section 421.

(8) In carrying out the foregoing responsibilities, ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce.

SEC. 403. FUNCTIONS TRANSFERRED.

In accordance with title XV (relating to transition provisions), there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of—

(1) the United States Customs Service of the Department of the Treasury, including the functions of the Secretary of the Treasury relating thereto;

(2) the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto;

(3) the Federal Protective Service of the General Services Administration, including the functions of the Administrator of General Services relating thereto;

(4) the Federal Law Enforcement Training Center of the Department of the Treasury; and

(5) the Office for Domestic Preparedness of the Office of Justice Programs, including the functions of the Attorney General relating thereto.

Subtitle B—United States Customs Service

SEC. 411. ESTABLISHMENT; COMMISSIONER OF CUSTOMS.

(a) ESTABLISHMENT.—There is established in the Department the United States Customs Service, under the authority of the Under Secretary for Border and Transportation Security, which shall be vested with those functions including, but not limited to those set forth in section 415(7), and the personnel, assets, and liabilities attributable to those functions.

(b) COMMISSIONER OF CUSTOMS.—

(1) IN GENERAL.—There shall be at the head of the Customs Service a Commissioner of Customs, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) COMPENSATION.—Section 5314 of title 5, United States Code, is amended by striking

"Commissioner of Customs, Department of the Treasury"

and inserting

"Commissioner of Customs, Department of Homeland Security.".

(3) CONTINUATION IN OFFICE.—The individual serving as the Commissioner of Customs on the day before the effective date of this Act may serve as the Commissioner of Customs on and after such effective date until a Commissioner of Customs is appointed under paragraph (1).

SEC. 412. RETENTION OF CUSTOMS REVENUE FUNCTIONS BY SECRETARY OF THE TREASURY.

(a) RETENTION OF CUSTOMS REVENUE FUNCTIONS BY SECRETARY OF THE TREASURY.—

(1) RETENTION OF AUTHORITY.—Notwithstanding section 403(a)(1), authority related to Customs revenue functions that was vested in the Secretary of the Treasury by law before the effective date of this Act under those provisions of law set forth in paragraph (2) shall not be transferred to the Secretary by reason of this Act, and on and after the effective date of this Act, the Secretary of the Treasury may delegate any such authority to the Secretary at the discretion of the Secretary of the Treasury. The Secretary of the Treasury shall consult with the Secretary regarding the exercise of any such authority not delegated to the Secretary.

(2) STATUTES.—The provisions of law referred to in paragraph (1) are the following: the Tariff Act of 1930; section 249 of the Revised Statutes of the United States (19 U.S.C. 3); section 2 of the Act of March 4, 1923 (19 U.S.C. 6); section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c); section 251 of the Revised Statutes of the United States (19 U.S.C. 66); section 1 of the Act of June 26, 1930 (19 U.S.C. 68); the Foreign Trade Zones Act (19 U.S.C. 81a et seq.); section 1 of the Act of March 2, 1911 (19 U.S.C. 198); the Trade Act of 1974; the Trade Agreements Act of 1979; the North American Free Trade Area Implementation Act; the Uruguay Round Agreements Act; the Caribbean Basin Economic Recovery Act; the Andean Trade Preference Act; the African Growth and Opportunity Act; and any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(b) MAINTENANCE OF CUSTOMS REVENUE FUNCTIONS.—

(1) MAINTENANCE OF FUNCTIONS.—Notwithstanding any other provision of this Act, the Secretary may not consolidate, discontinue, or diminish those functions described in paragraph (2) performed by the United States Customs Service (as established under section 411) on or after the effective date of this Act, reduce the staffing level, or reduce the resources attributable to such functions, and the Secretary shall ensure that an appropriate management structure is implemented to carry out such functions.

(2) FUNCTIONS.—The functions referred to in paragraph (1) are those functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(c) NEW PERSONNEL.—The Secretary of the Treasury is authorized to appoint up to 20 new personnel to work with personnel of the Department in performing customs revenue functions.

SEC. 413. PRESERVATION OF CUSTOMS FUNDS.

Notwithstanding any other provision of this Act, no funds available to the United States Customs Service or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 may be transferred for use by any other agency or office in the Department.

SEC. 414. SEPARATE BUDGET REQUEST FOR CUSTOMS.

The President shall include in each budget transmitted to Congress under section 1105 of title 31, United States Code, a separate budget request for the United States Customs Service.

SEC. 415. DEFINITION.

In this subtitle, the term "customs revenue function" means the following:

(1) Assessing and collecting customs duties (including antidumping and countervailing duties and duties imposed under safeguard provisions), excise taxes, fees, and penalties due on imported merchandise, including classifying and valuing merchandise for purposes of such assessment.

(2) Processing and denial of entry of persons, baggage, cargo, and mail, with respect to the assessment and collection of import duties.

(3) Detecting and apprehending persons engaged in fraudulent practices designed to circumvent the customs laws of the United States.

(4) Enforcing section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks.

(5) Collecting accurate import data for compilation of international trade statistics.

(6) Enforcing reciprocal trade agreements.

(7) Functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(8) Functions performed by the following offices, with respect to any function described in any of paragraphs (1) through (7), and associated support staff, of the United States Customs Service on the day before the effective date of this Act: the Office of Information and Technology, the Office of Laboratory Services, the Office of the Chief Counsel, the Office of Congressional Affairs, the Office of International Affairs, and the Office of Training and Development.

SEC. 416. GAO REPORT TO CONGRESS.

Not later than 3 months after the effective date of this Act, the Comptroller General of the United States shall submit to Congress a report that sets forth all trade functions performed by the executive branch, specifying each agency that performs each such function.

SEC. 417. ALLOCATION OF RESOURCES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary shall ensure that adequate staffing is provided to assure that levels of customs revenue services provided on the day before the effective date of this Act shall continue to be provided.

(b) NOTIFICATION OF CONGRESS.—The Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate at least 90 days prior to taking any action which would—

(1) result in any significant reduction in customs revenue services, including hours of operation, provided at any office within the Department or any port of entry;

(2) eliminate or relocate any office of the Department which provides customs revenue services; or

(3) eliminate any port of entry.

(c) DEFINITION.—In this section, the term "customs revenue services" means those customs revenue functions described in paragraphs (1) through (6) and paragraph (8) of section 415.

SEC. 418. REPORTS TO CONGRESS.

(a) CONTINUING REPORTS.—The United States Customs Service shall, on and after the effective date of this Act, continue to submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate any report required, on the day before such the effective date of this Act, to be so submitted under any provision of law.

(b) REPORT ON CONFORMING AMENDMENTS.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under section 412(a)(2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this section.

SEC. 419. CUSTOMS USER FEES.

(a) IN GENERAL.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(1) in paragraph (1), by striking subparagraph (B) and inserting the following:

"(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).";

(2) in paragraph (4), by striking "(other than the excess fees determined by the Secretary under paragraph (5))"; and

(3) by striking paragraph (5) and inserting the following:

"(5)(A) There is created within the general fund of the Treasury a separate account that shall be known as the 'Customs Commercial and Homeland Security Automation Account'. In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A), $350,000,000.

"(B) There is authorized to be appropriated from the Account in fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

"(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.".

(b) CONFORMING AMENDMENT.—Section 311(b) of the Customs Border Security Act of 2002 (Public Law 107-210) is amended by striking paragraph (2).

Subtitle C—Miscellaneous Provisions

SEC. 421. TRANSFER OF CERTAIN AGRICULTURAL INSPECTION FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE.

(a) TRANSFER OF AGRICULTURAL IMPORT AND ENTRY INSPECTION FUNCTIONS.—There shall be transferred to the Secretary the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under the laws specified in subsection (b).

(b) COVERED ANIMAL AND PLANT PROTECTION LAWS.—The laws referred to in subsection (a) are the following:

(1) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading "Bureau of Animal Industry" in the Act of March 4, 1913; 21 U.S.C. 151 et seq.).

(2) Section 1 of the Act of August 31, 1922 (commonly known as the Honeybee Act; 7 U.S.C. 281).

(3) Title III of the Federal Seed Act (7 U.S.C. 1581 et seq.).

(4) The Plant Protection Act (7 U.S.C. 7701 et seq.).

(5) The Animal Health Protection Act (subtitle E of title X of Public Law 107-171; 7 U.S.C. 8301 et seq.).

(6) The Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

(7) Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540).

(c) EXCLUSION OF QUARANTINE ACTIVITIES.—For purposes of this section, the term "functions" does not include any quarantine activities carried out under the laws specified in subsection (b).

(d) EFFECT OF TRANSFER.—

(1) COMPLIANCE WITH DEPARTMENT OF AGRICULTURE REGULATIONS.—The authority transferred pursuant to subsection (a) shall be exercised by the Secretary in accordance with the regulations, policies, and procedures issued by the Secretary of Agriculture regarding the administration of the laws specified in subsection (b).

(2) RULEMAKING COORDINATION.—The Secretary of Agriculture shall coordinate with the Secretary whenever the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the functions transferred under subsection (a) under a law specified in subsection (b).

(3) EFFECTIVE ADMINISTRATION.—The Secretary, in consultation with the Secretary of Agriculture, may issue such directives and guidelines as are necessary to ensure the effective use of personnel of the Department of Homeland Security to carry out the functions transferred pursuant to subsection (a).

(e) TRANSFER AGREEMENT.—

(1) AGREEMENT REQUIRED; REVISION.—Before the end of the transition period, as defined in section 1501, the Secretary of Agriculture and the Secretary shall enter into an agreement to effectuate the transfer of functions required by subsection (a). The Secretary of Agriculture and the Secretary may jointly revise the agreement as necessary thereafter.

(2) REQUIRED TERMS.—The agreement required by this subsection shall specifically address the following:

(A) The supervision by the Secretary of Agriculture of the training of employees of the Secretary to carry out the functions transferred pursuant to subsection (a).

(B) The transfer of funds to the Secretary under subsection (f).

(3) COOPERATION AND RECIPROCITY.—The Secretary of Agriculture and the Secretary may include as part of the agreement the following:

(A) Authority for the Secretary to perform functions delegated to the Animal and Plant Health Inspection Service of the Department of Agriculture regarding the protection of domestic livestock and plants, but not transferred to the Secretary pursuant to subsection (a).

(B) Authority for the Secretary of Agriculture to use employees of the Department of Homeland Security to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(f) PERIODIC TRANSFER OF FUNDS TO DEPARTMENT OF HOMELAND SECURITY.—

(1) TRANSFER OF FUNDS.—Out of funds collected by fees authorized under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a), the Secretary of Agriculture shall transfer, from time to time in accordance with the agreement under subsection (e), to the Secretary funds for activities carried out by the Secretary for which such fees were collected.

(2) LIMITATION.—The proportion of fees collected pursuant to such sections that are transferred to the Secretary under this subsection may not exceed the proportion of the costs incurred by the Secretary to all costs incurred to carry out activities funded by such fees.

(g) TRANSFER OF DEPARTMENT OF AGRICULTURE EMPLOYEES.—Not later than the completion of the transition period defined under section 1501, the Secretary of Agriculture shall transfer to the Secretary not more than 3,200 full-time equivalent positions of the Department of Agriculture.

(h) PROTECTION OF INSPECTION ANIMALS.—Title V of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 2279e, 2279f) is amended—

(1) in section 501(a)—

(A) by inserting "or the Department of Homeland Security" after "Department of Agriculture"; and

(B) by inserting "or the Secretary of Homeland Security" after "Secretary of Agriculture";

(2) by striking "Secretary" each place it appears (other than in sections 501(a) and 501(e)) and inserting "Secretary concerned"; and

(3) by adding at the end of section 501 the following new subsection:

"(e) SECRETARY CONCERNED DEFINED.—In this title, the term 'Secretary concerned' means—

"(1) the Secretary of Agriculture, with respect to an animal used for purposes of official inspections by the Department of Agriculture; and

"(2) the Secretary of Homeland Security, with respect to an animal used for purposes of official inspections by the Department of Homeland Security.".

SEC. 422. FUNCTIONS OF ADMINISTRATOR OF GENERAL SERVICES.

(a) OPERATION, MAINTENANCE, AND PROTECTION OF FEDERAL BUILDINGS AND GROUNDS.—Nothing in this Act may be construed to affect the functions or authorities of the Administrator of General Services with respect to the operation, maintenance, and protection of buildings and grounds owned or occupied by the Federal Government and under the jurisdiction, custody, or control of the Administrator. Except for the law enforcement and related security functions transferred under section 403(3), the Administrator shall retain all powers, functions, and authorities vested in the Administrator under chapter 10 of title 40, United States Code, and other provisions of law that are necessary for the operation, maintenance, and protection of such buildings and grounds.

(b) Collection of Rents and Fees; Federal Buildings Fund.—

(1) Statutory construction.—Nothing in this Act may be construed—

(A) to direct the transfer of, or affect, the authority of the Administrator of General Services to collect rents and fees, including fees collected for protective services; or

(B) to authorize the Secretary or any other official in the Department to obligate amounts in the Federal Buildings Fund established by section 490(f) of title 40, United States Code.

(2) Use of transferred amounts.—Any amounts transferred by the Administrator of General Services to the Secretary out of rents and fees collected by the Administrator shall be used by the Secretary solely for the protection of buildings or grounds owned or occupied by the Federal Government.

SEC. 423. FUNCTIONS OF TRANSPORTATION SECURITY ADMINISTRATION.

(a) Consultation With Federal Aviation Administration.—The Secretary and other officials in the Department shall consult with the Administrator of the Federal Aviation Administration before taking any action that might affect aviation safety, air carrier operations, aircraft airworthiness, or the use of airspace. The Secretary shall establish a liaison office within the Department for the purpose of consulting with the Administrator of the Federal Aviation Administration.

(b) Report to Congress.—Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report containing a plan for complying with the requirements of section 44901(d) of title 49, United States Code, as amended by section 425 of this Act.

(c) Limitations on Statutory Construction.—

(1) Grant of authority.—Nothing in this Act may be construed to vest in the Secretary or any other official in the Department any authority over transportation security that is not vested in the Under Secretary of Transportation for Security, or in the Secretary of Transportation under chapter 449 of title 49, United States Code, on the day before the date of enactment of this Act.

(2) Obligation of AIP funds.—Nothing in this Act may be construed to authorize the Secretary or any other official in the Department to obligate amounts made available under section 48103 of title 49, United States Code.

SEC. 424. PRESERVATION OF TRANSPORTATION SECURITY ADMINISTRATION AS A DISTINCT ENTITY.

(a) In General.—Notwithstanding any other provision of this Act, and subject to subsection (b), the Transportation Security Administration shall be maintained as a distinct entity within the Department under the Under Secretary for Border Transportation and Security.

(b) Sunset.—Subsection (a) shall cease to apply 2 years after the date of enactment of this Act.

SEC. 425. EXPLOSIVE DETECTION SYSTEMS.

Section 44901(d) of title 49, United States Code, is amended by adding at the end the following:

"(2) Deadline.—

"(A) In general.—If, in his discretion or at the request of an airport, the Under Secretary of Transportation for Security determines that the Transportation Security Administration is not able to deploy explosive detection systems required to be deployed under paragraph (1) at all airports where explosive detection systems are required by December 31, 2002, then with respect to each airport for which the Under Secretary makes that determination—

"(i) the Under Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a detailed plan (which may be submitted in classified form) for the deployment of the number of explosive detection systems at that airport necessary to meet the requirements of paragraph (1) as soon as practicable at that airport but in no event later than December 31, 2003; and

"(ii) the Under Secretary shall take all necessary action to ensure that alternative means of screening all checked baggage is implemented until the requirements of paragraph (1) have been met.

"(B) Criteria for determination.—In making a determination under subparagraph (A), the Under Secretary shall take into account—

"(i) the nature and extent of the required modifications to the airport's terminal buildings, and the technical, engineering, design and construction issues;

"(ii) the need to ensure that such installations and modifications are effective; and

"(iii) the feasibility and cost-effectiveness of deploying explosive detection systems in the baggage sorting area or other non-public area rather than the lobby of an airport terminal building.

"(C) Response.—The Under Secretary shall respond to the request of an airport under subparagraph (A) within 14 days of receiving the request. A denial of request shall create no right of appeal or judicial review.

"(D) Airport effort required.—Each airport with respect to which the Under Secretary makes a determination under subparagraph (A) shall—

"(i) cooperate fully with the Transportation Security Administration with respect to screening checked baggage and changes to accommodate explosive detection systems; and

"(ii) make security projects a priority for the obligation or expenditure of funds made available under chapter 417 or 471 until explosive detection systems required to be deployed under paragraph (1) have been deployed at that airport.

"(3) Reports.—Until the Transportation Security Administration has met the requirements of paragraph (1), the Under Secretary shall submit a classified report every 30 days after the date of enactment of this Act to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure describing the progress made toward meeting such requirements at each airport.".

SEC. 426. TRANSPORTATION SECURITY.

(a) Transportation Security Oversight Board.—

(1) Establishment.—Section 115(a) of title 49, United States Code, is amended by striking "Department of Transportation" and inserting "Department of Homeland Security".

(2) Membership.—Section 115(b)(1) of title 49, United States Code, is amended—

(A) by striking subparagraph (G);

(B) by redesignating subparagraphs (A) through (F) as subparagraphs (B) through (G), respectively; and

(C) by inserting before subparagraph (B) (as so redesignated) the following:

"(A) The Secretary of Homeland Security, or the Secretary's designee.".

(3) Chairperson.—Section 115(b)(2) of title 49, United States Code, is amended by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security".

(b) Approval of AIP Grant Applications for Security Activities.—Section 47106 of title 49, United States Code, is amended by adding at the end the following:

"(g) Consultation With Secretary of Homeland Security.—The Secretary shall consult with the Secretary of Homeland Security before approving an application under this subchapter for an airport development project grant for activities described in section 47102(3)(B)(ii) only as they relate to security equipment or section 47102(3)(B)(x) only as they relate to installation of bulk explosive detection system.".

SEC. 427. COORDINATION OF INFORMATION AND INFORMATION TECHNOLOGY.

(a) Definition of Affected Agency.—In this section, the term "affected agency" means—

(1) the Department;

(2) the Department of Agriculture;

(3) the Department of Health and Human Services; and

(4) any other department or agency determined to be appropriate by the Secretary.

(b) Coordination.—The Secretary, in coordination with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall ensure that appropriate information (as determined by the Secretary) concerning inspections of articles that are imported or entered into the United States, and are inspected or regulated by 1 or more affected agencies, is timely and efficiently exchanged between the affected agencies.

(c) Report and Plan.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall submit to Congress—

(1) a report on the progress made in implementing this section; and

(2) a plan to complete implementation of this section.

SEC. 428. VISA ISSUANCE.

(a) Definition.—In this subsection, the term "consular office" has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(b) In General.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided in subsection (c) of this section, the Secretary—

(1) shall be vested exclusively with all authorities to issue regulations with respect to, administer, and enforce the provisions of such Act, and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas, and shall have the authority to refuse visas in accordance with law and to develop programs of homeland security training for consular officers (in addition to consular training provided by the Secretary of State),

which authorities shall be exercised through the Secretary of State, except that the Secretary shall not have authority to alter or reverse the decision of a consular officer to refuse a visa to an alien; and

(2) shall have authority to confer or impose upon any officer or employee of the United States, with the consent of the head of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in paragraph (1).

(c) AUTHORITY OF THE SECRETARY OF STATE.—

(1) IN GENERAL.—Notwithstanding subsection (b), the Secretary of State may direct a consular officer to refuse a visa to an alien if the Secretary of State deems such refusal necessary or advisable in the foreign policy or security interests of the United States.

(2) CONSTRUCTION REGARDING AUTHORITY.—Nothing in this section, consistent with the Secretary of Homeland Security's authority to refuse visas in accordance with law, shall be construed as affecting the authorities of the Secretary of State under the following provisions of law:

(A) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)).

(B) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1154) (as it will take effect upon the entry into force of the Convention on Protection of Children and Cooperation in Respect to Inter-Country adoption).

(C) Section 212(a)(3)(B)(i)(IV)(bb) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IV)(bb)).

(D) Section 212(a)(3)(B)(i)(VI) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(VI)).

(E) Section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)(II)).

(F) Section 212(a)(3(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(G) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(H) Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(I) Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(J) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).

(K) Section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6034; Public Law 104–114).

(L) Section 613 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of Public Law 105–277) (Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999); 112 Stat. 2681; H.R. 4328 (originally H.R. 4276) as amended by section 617 of Public Law 106–553.

(M) Section 103(f) of the Chemical Weapon Convention Implementation Act of 1998 (112 Stat. 2681–865).

(N) Section 801 of H.R. 3427, the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, as enacted by reference in Public Law 106–113.

(O) Section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115).

(P) Section 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723).

(d) CONSULAR OFFICERS AND CHIEFS OF MISSIONS.—

(1) IN GENERAL.—Nothing in this section may be construed to alter or affect—

(A) the employment status of consular officers as employees of the Department of State; or

(B) the authority of a chief of mission under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(2) CONSTRUCTION REGARDING DELEGATION OF AUTHORITY.—Nothing in this section shall be construed to affect any delegation of authority to the Secretary of State by the President pursuant to any proclamation issued under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)), consistent with the Secretary of Homeland Security's authority to refuse visas in accordance with law.

(e) ASSIGNMENT OF HOMELAND SECURITY EMPLOYEES TO DIPLOMATIC AND CONSULAR POSTS.—

(1) IN GENERAL.—The Secretary is authorized to assign employees of the Department to each diplomatic and consular post at which visas are issued, unless the Secretary determines that such an assignment at a particular post would not promote homeland security.

(2) FUNCTIONS.—Employees assigned under paragraph (1) shall perform the following functions:

(A) Provide expert advice and training to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(B) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(C) Conduct investigations with respect to consular matters under the jurisdiction of the Secretary.

(3) EVALUATION OF CONSULAR OFFICERS.—The Secretary of State shall evaluate, in consultation with the Secretary, as deemed appropriate by the Secretary, the performance of consular officers with respect to the processing and adjudication of applications for visas in accordance with performance standards developed by the Secretary for these procedures.

(4) REPORT.—The Secretary shall, on an annual basis, submit a report to Congress that describes the basis for each determination under paragraph (1) that the assignment of an employee of the Department at a particular diplomatic post would not promote homeland security.

(5) PERMANENT ASSIGNMENT; PARTICIPATION IN TERRORIST LOOKOUT COMMITTEE.—When appropriate, employees of the Department assigned to perform functions described in paragraph (2) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional responsibility. If the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee established under section 304 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(6) TRAINING AND HIRING.—

(A) IN GENERAL.—The Secretary shall ensure, to the extent possible, that any employees of the Department assigned to perform functions under paragraph (2) and, as appropriate, consular officers, shall be provided the necessary training to enable them to carry out such functions, including training in foreign languages, interview techniques, and fraud detection techniques, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.

(B) USE OF CENTER.—The Secretary is authorized to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training described in subparagraph (A).

(7) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of State shall submit to Congress—

(A) a report on the implementation of this subsection; and

(B) any legislative proposals necessary to further the objectives of this subsection.

(8) EFFECTIVE DATE.—This subsection shall take effect on the earlier of—

(A) the date on which the President publishes notice in the Federal Register that the President has submitted a report to Congress setting forth a memorandum of understanding between the Secretary and the Secretary of State governing the implementation of this section; or

(B) the date occurring 1 year after the date of enactment of this Act.

(f) NO CREATION OF PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to create or authorize a private right of action to challenge a decision of a consular officer or other United States official or employee to grant or deny a visa.

(g) STUDY REGARDING USE OF FOREIGN NATIONALS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall conduct a study of the role of foreign nationals in the granting or refusal of visas and other documents authorizing entry of aliens into the United States. The study shall address the following:

(A) The proper role, if any, of foreign nationals in the process of rendering decisions on such grants and refusals.

(B) Any security concerns involving the employment of foreign nationals.

(C) Whether there are cost-effective alternatives to the use of foreign nationals.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report containing the findings of the study conducted under paragraph (1) to the Committee on the Judiciary, the Committee on International Relations, and the Committee on Government Reform of the House of Representatives, and the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Government Affairs of the Senate.

(h) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report on how the provisions of this section will affect procedures for the issuance of student visas.

(i) VISA ISSUANCE PROGRAM FOR SAUDI ARABIA.—Notwithstanding any other provision of law, after the date of the enactment of this Act all third party screening programs in Saudi Arabia shall be terminated. On-site personnel of the Department of Homeland Security shall review all visa applications prior to adjudication.

SEC. 429. INFORMATION ON VISA DENIALS REQUIRED TO BE ENTERED INTO ELECTRONIC DATA SYSTEM.

(a) IN GENERAL.—Whenever a consular officer of the United States denies a visa to an applicant, the consular officer shall enter the fact and the basis of the denial and the name of the applicant into the interoperable electronic data system implemented under section 202(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1722(a)).

(b) PROHIBITION.—In the case of any alien with respect to whom a visa has been denied under subsection (a)—

(1) no subsequent visa may be issued to the alien unless the consular officer considering the alien's visa application has reviewed the information concerning the alien placed in the interoperable electronic data system, has indicated on the alien's application that the information has been reviewed, and has stated for the record why the visa is being issued or a waiver of visa ineligibility recommended in spite of that information; and

(2) the alien may not be admitted to the United States without a visa issued in accordance with the procedures described in paragraph (1).

SEC. 430. OFFICE FOR DOMESTIC PREPAREDNESS.

(a) In General.—The Office for Domestic Preparedness shall be within the Directorate of Border and Transportation Security.

(b) Director.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Border and Transportation Security.

(c) Responsibilities.—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(1) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(2) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(3) directing and supervising terrorism preparedness grant programs of the Federal Government (other than those programs administered by the Department of Health and Human Services) for all emergency response providers;

(4) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(5) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(6) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States;

(7) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities of State, local, and tribal governments consistent with the mission and functions of the Directorate; and

(8) those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(d) Fiscal Years 2003 and 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

Subtitle D—Immigration Enforcement Functions

SEC. 441. TRANSFER OF FUNCTIONS TO UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

In accordance with title XV (relating to transition provisions), there shall be transferred from the Commissioner of Immigration and Naturalization to the Under Secretary for Border and Transportation Security all functions performed under the following programs, and all personnel, assets, and liabilities pertaining to such programs, immediately before such transfer occurs:

(1) The Border Patrol program.

(2) The detention and removal program.

(3) The intelligence program.

(4) The investigations program.

(5) The inspections program.

SEC. 442. ESTABLISHMENT OF BUREAU OF BORDER SECURITY.

(a) Establishment of Bureau.—

(1) In general.—There shall be in the Department of Homeland Security a bureau to be known as the "Bureau of Border Security".

(2) Assistant secretary.—The head of the Bureau of Border Security shall be the Assistant Secretary of the Bureau of Border Security, who—

(A) shall report directly to the Under Secretary for Border and Transportation Security; and

(B) shall have a minimum of 5 years professional experience in law enforcement, and a minimum of 5 years of management experience.

(3) Functions.—The Assistant Secretary of the Bureau of Border Security—

(A) shall establish the policies for performing such functions as are—

(i) transferred to the Under Secretary for Border and Transportation Security by section 441 and delegated to the Assistant Secretary by the Under Secretary for Border and Transportation Security; or

(ii) otherwise vested in the Assistant Secretary by law;

(B) shall oversee the administration of such policies; and

(C) shall advise the Under Secretary for Border and Transportation Security with respect to any policy or operation of the Bureau of Border Security that may affect the Bureau of Citizenship and Immigration Services established under subtitle E, including potentially conflicting policies or operations.

(4) Program to collect information relating to foreign students.—The Assistant Secretary of the Bureau of Border Security shall be responsible for administering the program to collect information relating to nonimmigrant foreign students and other exchange program participants described in section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), including the Student and Exchange Visitor Information System established under that section, and shall use such information to carry out the enforcement functions of the Bureau.

(5) Managerial rotation program.—

(A) In general.—Not later than 1 year after the date on which the transfer of functions specified under section 441 takes effect, the Assistant Secretary of the Bureau of Border Security shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS–14 or above, shall—

(i) gain some experience in all the major functions performed by such bureau; and

(ii) work in at least one local office of such bureau.

(B) Report.—Not later than 2 years after the date on which the transfer of functions specified under section 441 takes effect, the Secretary shall submit a report to the Congress on the implementation of such program.

(b) Chief of Policy and Strategy.—

(1) In general.—There shall be a position of Chief of Policy and Strategy for the Bureau of Border Security.

(2) Functions.—In consultation with Bureau of Border Security personnel in local offices, the Chief of Policy and Strategy shall be responsible for—

(A) making policy recommendations and performing policy research and analysis on immigration enforcement issues; and

(B) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services (established under subtitle E), as appropriate.

(c) Legal Advisor.—There shall be a principal legal advisor to the Assistant Secretary of the Bureau of Border Security. The legal advisor shall provide specialized legal advice to the Assistant Secretary of the Bureau of Border Security and shall represent the bureau in all exclusion, deportation, and removal proceedings before the Executive Office for Immigration Review.

SEC. 443. PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.

The Under Secretary for Border and Transportation Security shall be responsible for—

(1) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of the Bureau of Border Security that are not subject to investigation by the Inspector General for the Department;

(2) inspecting the operations of the Bureau of Border Security and providing assessments of the quality of the operations of such bureau as a whole and each of its components; and

(3) providing an analysis of the management of the Bureau of Border Security.

SEC. 444. EMPLOYEE DISCIPLINE.

The Under Secretary for Border and Transportation Security may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Border Security who willfully deceives the Congress or agency leadership on any matter.

SEC. 445. REPORT ON IMPROVING ENFORCEMENT FUNCTIONS.

(a) In General.—The Secretary, not later than 1 year after being sworn into office, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Border Security, after the transfer of functions specified under section 441 takes effect, will enforce comprehensively, effectively, and fairly all the enforcement provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) relating to such functions.

(b) CONSULTATION.—In carrying out subsection (a), the Secretary of Homeland Security shall consult with the Attorney General, the Secretary of State, the Director of the Federal Bureau of Investigation, the Secretary of the Treasury, the Secretary of Labor, the Commissioner of Social Security, the Director of the Executive Office for Immigration Review, and the heads of State and local law enforcement agencies to determine how to most effectively conduct enforcement operations.

SEC. 446. SENSE OF CONGRESS REGARDING CONSTRUCTION OF FENCING NEAR SAN DIEGO, CALIFORNIA.

It is the sense of the Congress that completing the 14-mile border fence project required to be carried out under section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) should be a priority for the Secretary.

Subtitle E—Citizenship and Immigration Services

SEC. 451. ESTABLISHMENT OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.

(a) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There shall be in the Department a bureau to be known as the "Bureau of Citizenship and Immigration Services".

(2) DIRECTOR.—The head of the Bureau of Citizenship and Immigration Services shall be the Director of the Bureau of Citizenship and Immigration Services, who—

(A) shall report directly to the Deputy Secretary;

(B) shall have a minimum of 5 years of management experience; and

(C) shall be paid at the same level as the Assistant Secretary of the Bureau of Border Security.

(3) FUNCTIONS.—The Director of the Bureau of Citizenship and Immigration Services—

(A) shall establish the policies for performing such functions as are transferred to the Director by this section or this Act or otherwise vested in the Director by law;

(B) shall oversee the administration of such policies;

(C) shall advise the Deputy Secretary with respect to any policy or operation of the Bureau of Citizenship and Immigration Services that may affect the Bureau of Border Security of the Department, including potentially conflicting policies or operations;

(D) shall establish national immigration services policies and priorities;

(E) shall meet regularly with the Ombudsman described in section 452 to correct serious service problems identified by the Ombudsman; and

(F) shall establish procedures requiring a formal response to any recommendations submitted in the Ombudsman's annual report to Congress within 3 months after its submission to Congress.

(4) MANAGERIAL ROTATION PROGRAM.—

(A) IN GENERAL.—Not later than 1 year after the effective date specified in section 455, the Director of the Bureau of Citizenship and Immigration Services shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS–14 or above, shall—

(i) gain some experience in all the major functions performed by such bureau; and

(ii) work in at least one field office and one service center of such bureau.

(B) REPORT.—Not later than 2 years after the effective date specified in section 455, the Secretary shall submit a report to Congress on the implementation of such program.

(5) PILOT INITIATIVES FOR BACKLOG ELIMINATION.—The Director of the Bureau of Citizenship and Immigration Services is authorized to implement innovative pilot initiatives to eliminate any remaining backlog in the processing of immigration benefit applications, and to prevent any backlog in the processing of such applications from recurring, in accordance with section 204(a) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)). Such initiatives may include measures such as increasing personnel, transferring personnel to focus on areas with the largest potential for backlog, and streamlining paperwork.

(b) TRANSFER OF FUNCTIONS FROM COMMISSIONER.—In accordance with title XV (relating to transition provisions), there are transferred from the Commissioner of Immigration and Naturalization to the Director of the Bureau of Citizenship and Immigration Services the following functions, and all personnel, infrastructure, and funding provided to the Commissioner in support of such functions immediately before the effective date specified in section 455:

(1) Adjudications of immigrant visa petitions.

(2) Adjudications of naturalization petitions.

(3) Adjudications of asylum and refugee applications.

(4) Adjudications performed at service centers.

(5) All other adjudications performed by the Immigration and Naturalization Service immediately before the effective date specified in section 455.

(c) CHIEF OF POLICY AND STRATEGY.—

(1) IN GENERAL.—There shall be a position of Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—In consultation with Bureau of Citizenship and Immigration Services personnel in field offices, the Chief of Policy and Strategy shall be responsible for—

(A) making policy recommendations and performing policy research and analysis on immigration services issues; and

(B) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Border Security of the Department.

(d) LEGAL ADVISOR.—

(1) IN GENERAL.—There shall be a principal legal advisor to the Director of the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The legal advisor shall be responsible for—

(A) providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Director of the Bureau of Citizenship and Immigration Services with respect to legal matters affecting the Bureau of Citizenship and Immigration Services; and

(B) representing the Bureau of Citizenship and Immigration Services in visa petition appeal proceedings before the Executive Office for Immigration Review.

(e) BUDGET OFFICER.—

(1) IN GENERAL.—There shall be a Budget Officer for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—

(A) IN GENERAL.—The Budget Officer shall be responsible for—

(i) formulating and executing the budget of the Bureau of Citizenship and Immigration Services;

(ii) financial management of the Bureau of Citizenship and Immigration Services; and

(iii) collecting all payments, fines, and other debts for the Bureau of Citizenship and Immigration Services.

(f) CHIEF OF OFFICE OF CITIZENSHIP.—

(1) IN GENERAL.—There shall be a position of Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services shall be responsible for promoting instruction and training on citizenship responsibilities for aliens interested in becoming naturalized citizens of the United States, including the development of educational materials.

SEC. 452. CITIZENSHIP AND IMMIGRATION SERVICES OMBUDSMAN.

(a) IN GENERAL.—Within the Department, there shall be a position of Citizenship and Immigration Services Ombudsman (in this section referred to as the "Ombudsman"). The Ombudsman shall report directly to the Deputy Secretary. The Ombudsman shall have a background in customer service as well as immigration law.

(b) FUNCTIONS.—It shall be the function of the Ombudsman—

(1) to assist individuals and employers in resolving problems with the Bureau of Citizenship and Immigration Services;

(2) to identify areas in which individuals and employers have problems in dealing with the Bureau of Citizenship and Immigration Services; and

(3) to the extent possible, to propose changes in the administrative practices of the Bureau of Citizenship and Immigration Services to mitigate problems identified under paragraph (2).

(c) ANNUAL REPORTS.—

(1) OBJECTIVES.—Not later than June 30 of each calendar year, the Ombudsman shall report to the Committee on the Judiciary of the House of Representatives and the Senate on the objectives of the Office of the Ombudsman for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and—

(A) shall identify the recommendations the Office of the Ombudsman has made on improving services and responsiveness of the Bureau of Citizenship and Immigration Services;

(B) shall contain a summary of the most pervasive and serious problems encountered by individuals and employers, including a description of the nature of such problems;

(C) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action has been taken and the result of such action;

(D) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action remains to be completed and the period during which each item has remained on such inventory;

(E) shall contain an inventory of the items described in subparagraphs (A) and (B) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and shall identify any official of the Bureau of Citizenship and Immigration Services who is responsible for such inaction;

(F) shall contain recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers, including problems created by excessive backlogs in the adjudication and processing of immigration benefit petitions and applications; and

(G) shall include such other information as the Ombudsman may deem advisable.

(2) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subsection shall be provided directly to the committees described in paragraph (1) without any prior comment or amendment from the Secretary, Deputy Secretary, Director of the Bureau of Citizenship and Immigration Services, or any other officer or employee of the Department or the Office of Management and Budget.

(d) OTHER RESPONSIBILITIES.—The Ombudsman—

(1) shall monitor the coverage and geographic allocation of local offices of the Ombudsman;

(2) shall develop guidance to be distributed to all officers and employees of the Bureau of Citizenship and Immigration Services outlining the criteria for referral of inquiries to local offices of the Ombudsman;

(3) shall ensure that the local telephone number for each local office of the Ombudsman is published and available to individuals and employers served by the office; and

(4) shall meet regularly with the Director of the Bureau of Citizenship and Immigration Services to identify serious service problems and to present recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers.

(e) PERSONNEL ACTIONS.—

(1) IN GENERAL.—The Ombudsman shall have the responsibility and authority—

(A) to appoint local ombudsmen and make available at least 1 such ombudsman for each State; and

(B) to evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of the Ombudsman.

(2) CONSULTATION.—The Ombudsman may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services in carrying out the Ombudsman's responsibilities under this subsection.

(f) RESPONSIBILITIES OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.—The Director of the Bureau of Citizenship and Immigration Services shall establish procedures requiring a formal response to all recommendations submitted to such director by the Ombudsman within 3 months after submission to such director.

(g) OPERATION OF LOCAL OFFICES.—

(1) IN GENERAL.—Each local ombudsman—

(A) shall report to the Ombudsman or the delegate thereof;

(B) may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services regarding the daily operation of the local office of such ombudsman;

(C) shall, at the initial meeting with any individual or employer seeking the assistance of such local office, notify such individual or employer that the local offices of the Ombudsman operate independently of any other component of the Department and report directly to Congress through the Ombudsman; and

(D) at the local ombudsman's discretion, may determine not to disclose to the Bureau of Citizenship and Immigration Services contact with, or information provided by, such individual or employer.

(2) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the Ombudsman shall maintain a phone, facsimile, and other means of electronic communication access, and a post office address, that is separate from those maintained by the Bureau of Citizenship and Immigration Services, or any component of the Bureau of Citizenship and Immigration Services.

SEC. 453. PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.

(a) IN GENERAL.—The Director of the Bureau of Citizenship and Immigration Services shall be responsible for—

(1) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of the Bureau of Citizenship and Immigration Services that are not subject to investigation by the Inspector General for the Department;

(2) inspecting the operations of the Bureau of Citizenship and Immigration Services and providing assessments of the quality of the operations of such bureau as a whole and each of its components; and

(3) providing an analysis of the management of the Bureau of Citizenship and Immigration Services.

(b) SPECIAL CONSIDERATIONS.—In providing assessments in accordance with subsection (a)(2) with respect to a decision of the Bureau of Citizenship and Immigration Services, or any of its components, consideration shall be given to—

(1) the accuracy of the findings of fact and conclusions of law used in rendering the decision;

(2) any fraud or misrepresentation associated with the decision; and

(3) the efficiency with which the decision was rendered.

SEC. 454. EMPLOYEE DISCIPLINE.

The Director of the Bureau of Citizenship and Immigration Services may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Citizenship and Immigration Services who willfully deceives Congress or agency leadership on any matter.

SEC. 455. EFFECTIVE DATE.

Notwithstanding section 4, sections 451 through 456, and the amendments made by such sections, shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

SEC. 456. TRANSITION.

(a) REFERENCES.—With respect to any function transferred by this subtitle to, and exercised on or after the effective date specified in section 455 by, the Director of the Bureau of Citizenship and Immigration Services, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Bureau of Citizenship and Immigration Services; or

(2) to such component is deemed to refer to the Bureau of Citizenship and Immigration Services.

(b) OTHER TRANSITION ISSUES.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this subtitle may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in section 455.

(2) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel of the Department of Justice employed in connection with the functions transferred by this subtitle (and functions that the Secretary determines are properly related to the functions of the Bureau of Citizenship and Immigration Services), and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this subtitle, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Bureau of Citizenship and Immigration Services for allocation to the appropriate component of the Department. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated. The Secretary shall have the right to adjust or realign transfers of funds and personnel effected pursuant to this subtitle for a period of 2 years after the effective date specified in section 455.

SEC. 457. FUNDING FOR CITIZENSHIP AND IMMIGRATION SERVICES.

Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking "services, including the costs of similar services provided without charge to asylum applicants or other immigrants." and inserting "services.".

SEC. 458. BACKLOG ELIMINATION.

Section 204(a)(1) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)(1)) is amended by striking "not later than one year after the date of enactment of this Act;" and inserting "1 year after the date of the enactment of the Homeland Security Act of 2002;".

SEC. 459. REPORT ON IMPROVING IMMIGRATION SERVICES.

(a) IN GENERAL.—The Secretary, not later than 1 year after the effective date of this Act, shall submit to the Committees on the Judiciary and Appropriations of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Citizenship and Immigration Services, after the transfer of functions specified in this subtitle takes effect, will complete efficiently, fairly, and within a reasonable time, the adjudications described in paragraphs (1) through (5) of section 451(b).

(b) CONTENTS.—For each type of adjudication to be undertaken by the Director of the Bureau of Citizenship and Immigration Services, the report shall include the following:

(1) Any potential savings of resources that may be implemented without affecting the quality of the adjudication.

(2) The goal for processing time with respect to the application.

(3) Any statutory modifications with respect to the adjudication that the Secretary considers advisable.

(c) CONSULTATION.—In carrying out subsection (a), the Secretary shall consult with the Secretary of State, the Secretary of Labor, the Assistant Secretary of the Bureau of Border Security of the Department, and the Director of the Executive Office for Immigration Review to determine how to streamline and improve the process for applying for and making adjudications described in section 451(b) and related processes.

SEC. 460. REPORT ON RESPONDING TO FLUCTUATING NEEDS.

Not later than 30 days after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on changes in law, including changes in authorizations of appropriations and in appropriations, that are needed to permit the Immigration and Naturalization Service, and, after the transfer of functions specified in this subtitle takes effect, the Bureau of Citizenship and Immigration Services of the Department, to ensure a prompt and timely response to emergent, unforeseen, or impending changes in the number of applications for immigration benefits, and otherwise to ensure the accommodation of changing immigration service needs.

SEC. 461. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) Establishment of Tracking System.—The Secretary, not later than 1 year after the effective date of this Act, in consultation with the Technology Advisory Committee established under subsection (c), shall establish an Internet-based system, that will permit a person, employer, immigrant, or nonimmigrant who has filings with the Secretary for any benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), access to online information about the processing status of the filing involved.

(b) Feasibility Study for Online Filing and Improved Processing.—

(1) Online filing.—The Secretary, in consultation with the Technology Advisory Committee established under subsection (c), shall conduct a feasibility study on the online filing of the filings described in subsection (a). The study shall include a review of computerization and technology of the Immigration and Naturalization Service relating to the immigration services and processing of filings related to immigrant services. The study shall also include an estimate of the timeframe and cost and shall consider other factors in implementing such a filing system, including the feasibility of fee payment online.

(2) Report.—A report on the study under this subsection shall be submitted to the Committees on the Judiciary of the House of Representatives and the Senate not later than 1 year after the effective date of this Act.

(c) Technology Advisory Committee.—

(1) Establishment.—The Secretary shall establish, not later than 60 days after the effective date of this Act, an advisory committee (in this section referred to as the "Technology Advisory Committee") to assist the Secretary in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

The Technology Advisory Committee shall be established after consultation with the Committees on the Judiciary of the House of Representatives and the Senate.

(2) Composition.—The Technology Advisory Committee shall be composed of representatives from high technology companies capable of establishing and implementing the system in an expeditious manner, and representatives of persons who may use the tracking system described in subsection (a) and the online filing system described in subsection (b)(1).

SEC. 462. CHILDREN'S AFFAIRS.

(a) Transfer of Functions.—There are transferred to the Director of the Office of Refugee Resettlement of the Department of Health and Human Services functions under the immigration laws of the United States with respect to the care of unaccompanied alien children that were vested by statute in, or performed by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the effective date specified in subsection (d).

(b) Functions.—

(1) In general.—Pursuant to the transfer made by subsection (a), the Director of the Office of Refugee Resettlement shall be responsible for—

(A) coordinating and implementing the care and placement of unaccompanied alien children who are in Federal custody by reason of their immigration status, including developing a plan to be submitted to Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each such child, consistent with the law regarding appointment of counsel that is in effect on the date of the enactment of this Act;

(B) ensuring that the interests of the child are considered in decisions and actions relating to the care and custody of an unaccompanied alien child;

(C) making placement determinations for all unaccompanied alien children who are in Federal custody by reason of their immigration status;

(D) implementing the placement determinations;

(E) implementing policies with respect to the care and placement of unaccompanied alien children;

(F) identifying a sufficient number of qualified individuals, entities, and facilities to house unaccompanied alien children;

(G) overseeing the infrastructure and personnel of facilities in which unaccompanied alien children reside;

(H) reuniting unaccompanied alien children with a parent abroad in appropriate cases;

(I) compiling, updating, and publishing at least annually a state-by-state list of professionals or other entities qualified to provide guardian and attorney representation services for unaccompanied alien children;

(J) maintaining statistical information and other data on unaccompanied alien children for whose care and placement the Director is responsible, which shall include—

(i) biographical information, such as a child's name, gender, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the child came into Federal custody by reason of his or her immigration status;

(iii) information relating to the child's placement, removal, or release from each facility in which the child has resided;

(iv) in any case in which the child is placed in detention or released, an explanation relating to the detention or release; and

(v) the disposition of any actions in which the child is the subject;

(K) collecting and compiling statistical information from the Department of Justice, the Department of Homeland Security, and the Department of State on each department's actions relating to unaccompanied alien children; and

(L) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(2) Coordination with other entities; no release on own recognizance.—In making determinations described in paragraph (1)(C), the Director of the Office of Refugee Resettlement—

(A) shall consult with appropriate juvenile justice professionals, the Director of the Bureau of Citizenship and Immigration Services, and the Assistant Secretary of the Bureau of Border Security to ensure that such determinations ensure that unaccompanied alien children described in such subparagraph—

(i) are likely to appear for all hearings or proceedings in which they are involved;

(ii) are protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitive activity; and

(iii) are placed in a setting in which they not likely to pose a danger to themselves or others; and

(B) shall not release such children upon their own recognizance.

(3) Duties with respect to foster care.—In carrying out the duties described in paragraph (1)(G), the Director of the Office of Refugee Resettlement is encouraged to use the refugee children foster care system established pursuant to section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)) for the placement of unaccompanied alien children.

(c) Rule of Construction.—Nothing in this section may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) from the authority of any official of the Department of Justice, the Department of Homeland Security, or the Department of State.

(d) Effective Date.—Notwithstanding section 4, this section shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

(e) References.—With respect to any function transferred by this section, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Office of Refugee Resettlement; or

(2) to such component is deemed to refer to the Office of Refugee Resettlement of the Department of Health and Human Services.

(f) Other Transition Issues.—

(1) Exercise of authorities.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this section may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in subsection (d).

(2) Savings provisions.—Subsections (a), (b), and (c) of section 1512 shall apply to a transfer of functions under this section in the same manner as such provisions apply to a transfer of functions under this Act to the Department of Homeland Security.

(3) Transfer and allocation of appropriations and personnel.—The personnel of the Department of Justice employed in connection with the functions transferred by this section, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this section, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Office of Refugee Resettlement for allocation to the appropriate component of the Department of Health and Human Services. Unexpended funds transferred pursuant to this paragraph shall be

used only for the purposes for which the funds were originally authorized and appropriated.

(g) DEFINITIONS.—As used in this section—

(1) the term "placement" means the placement of an unaccompanied alien child in either a detention facility or an alternative to such a facility; and

(2) the term "unaccompanied alien child" means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained 18 years of age; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

Subtitle F—General Immigration Provisions

SEC. 471. ABOLISHMENT OF INS.

(a) IN GENERAL.—Upon completion of all transfers from the Immigration and Naturalization Service as provided for by this Act, the Immigration and Naturalization Service of the Department of Justice is abolished.

(b) PROHIBITION.—The authority provided by section 1502 may be used to reorganize functions or organizational units within the Bureau of Border Security or the Bureau of Citizenship and Immigration Services, but may not be used to recombine the two bureaus into a single agency or otherwise to combine, join, or consolidate functions or organizational units of the two bureaus with each other.

SEC. 472. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who—

(A) has completed at least 3 years of current continuous service with 1 or more covered entities; and

(B) is serving under an appointment without time limitation;

but does not include any person under subparagraphs (A)–(G) of section 663(a)(2) of Public Law 104–208 (5 U.S.C. 5597 note);

(2) the term "covered entity" means—

(A) the Immigration and Naturalization Service;

(B) the Bureau of Border Security of the Department of Homeland Security; and

(C) the Bureau of Citizenship and Immigration Services of the Department of Homeland Security; and

(3) the term "transfer date" means the date on which the transfer of functions specified under section 441 takes effect.

(b) STRATEGIC RESTRUCTURING PLAN.—Before the Attorney General or the Secretary obligates any resources for voluntary separation incentive payments under this section, such official shall submit to the appropriate committees of Congress a strategic restructuring plan, which shall include—

(1) an organizational chart depicting the covered entities after their restructuring pursuant to this Act;

(2) a summary description of how the authority under this section will be used to help carry out that restructuring; and

(3) the information specified in section 663(b)(2) of Public Law 104–208 (5 U.S.C. 5597 note).

As used in the preceding sentence, the "appropriate committees of Congress" are the Committees on Appropriations, Government Reform, and the Judiciary of the House of Representatives, and the Committees on Appropriations, Governmental Affairs, and the Judiciary of the Senate.

(c) AUTHORITY.—The Attorney General and the Secretary may, to the extent necessary to help carry out their respective strategic restructuring plan described in subsection (b), make voluntary separation incentive payments to employees. Any such payment—

(1) shall be paid to the employee, in a lump sum, after the employee has separated from service;

(2) shall be paid from appropriations or funds available for the payment of basic pay of the employee;

(3) shall be equal to the lesser of—

(A) the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(B) an amount not to exceed $25,000, as determined by the Attorney General or the Secretary;

(4) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before the end of—

(A) the 3-month period beginning on the date on which such payment is offered or made available to such employee; or

(B) the 3-year period beginning on the date of the enactment of this Act,

whichever occurs first;

(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any payments which it is otherwise required to make, the Department of Justice and the Department of Homeland Security shall, for each fiscal year with respect to which it makes any voluntary separation incentive payments under this section, remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund the amount required under paragraph (2).

(2) AMOUNT REQUIRED.—The amount required under this paragraph shall, for any fiscal year, be the amount under subparagraph (A) or (B), whichever is greater.

(A) FIRST METHOD.—The amount under this subparagraph shall, for any fiscal year, be equal to the minimum amount necessary to offset the additional costs to the retirement systems under title 5, United States Code (payable out of the Civil Service Retirement and Disability Fund) resulting from the voluntary separation of the employees described in paragraph (3), as determined under regulations of the Office of Personnel Management.

(B) SECOND METHOD.—The amount under this subparagraph shall, for any fiscal year, be equal to 45 percent of the sum total of the final basic pay of the employees described in paragraph (3).

(3) COMPUTATIONS TO BE BASED ON SEPARATIONS OCCURRING IN THE FISCAL YEAR INVOLVED.—The employees described in this paragraph are those employees who receive a voluntary separation incentive payment under this section based on their separating from service during the fiscal year with respect to which the payment under this subsection relates.

(4) FINAL BASIC PAY DEFINED.—In this subsection, the term "final basic pay" means, with respect to an employee, the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who receives a voluntary separation incentive payment under this section and who, within 5 years after the date of the separation on which the payment is based, accepts any compensated employment with the Government or works for any agency of the Government through a personal services contract, shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment. Such payment shall be made to the covered entity from which the individual separated or, if made on or after the transfer date, to the Deputy Secretary or the Under Secretary for Border and Transportation Security (for transfer to the appropriate component of the Department of Homeland Security, if necessary).

(f) EFFECT ON EMPLOYMENT LEVELS.—

(1) INTENDED EFFECT.—Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in any covered entity.

(2) USE OF VOLUNTARY SEPARATIONS.—A covered entity may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

SEC. 473. AUTHORITY TO CONDUCT A DEMONSTRATION PROJECT RELATING TO DISCIPLINARY ACTION.

(a) IN GENERAL.—The Attorney General and the Secretary may each, during a period ending not later than 5 years after the date of the enactment of this Act, conduct a demonstration project for the purpose of determining whether one or more changes in the policies or procedures relating to methods for disciplining employees would result in improved personnel management.

(b) SCOPE.—A demonstration project under this section—

(1) may not cover any employees apart from those employed in or under a covered entity; and

(2) shall not be limited by any provision of chapter 43, 75, or 77 of title 5, United States Code.

(c) PROCEDURES.—Under the demonstration project—

(1) the use of alternative means of dispute resolution (as defined in section 571 of title 5, United States Code) shall be encouraged, whenever appropriate; and

(2) each covered entity under the jurisdiction of the official conducting the project shall be required to provide for the expeditious, fair, and independent review of any action to which section 4303 or subchapter II of chapter 75 of such title 5 would otherwise apply (except an action described in section 7512(5) of such title 5).

(d) ACTIONS INVOLVING DISCRIMINATION.—Notwithstanding any other provision of this section, if, in the case of any matter described in section 7702(a)(1)(B) of title 5, United States Code, there is no judicially reviewable action under the demonstration project within 120 days after the filing of an appeal or other formal request for review (referred to in subsection (c)(2)), an employee shall be entitled to file a civil action to the same extent and in the same manner as provided in section 7702(e)(1) of such title 5 (in the matter following subparagraph (C) thereof).

(e) Certain Employees.—Employees shall not be included within any project under this section if such employees are—

(1) neither managers nor supervisors; and

(2) within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code.

Notwithstanding the preceding sentence, an aggrieved employee within a unit (referred to in paragraph (2)) may elect to participate in a complaint procedure developed under the demonstration project in lieu of any negotiated grievance procedure and any statutory procedure (as such term is used in section 7121 of such title 5).

(f) Reports.—The General Accounting Office shall prepare and submit to the Committees on Government Reform and the Judiciary of the House of Representatives and the Committees on Governmental Affairs and the Judiciary of the Senate periodic reports on any demonstration project conducted under this section, such reports to be submitted after the second and fourth years of its operation. Upon request, the Attorney General or the Secretary shall furnish such information as the General Accounting Office may require to carry out this subsection.

(g) Definition.—In this section, the term "covered entity" has the meaning given such term in section 472(a)(2).

SEC. 474. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the missions of the Bureau of Border Security and the Bureau of Citizenship and Immigration Services are equally important and, accordingly, they each should be adequately funded; and

(2) the functions transferred under this subtitle should not, after such transfers take effect, operate at levels below those in effect prior to the enactment of this Act.

SEC. 475. DIRECTOR OF SHARED SERVICES.

(a) In General.—Within the Office of Deputy Secretary, there shall be a Director of Shared Services.

(b) Functions.—The Director of Shared Services shall be responsible for the coordination of resources for the Bureau of Border Security and the Bureau of Citizenship and Immigration Services, including—

(1) information resources management, including computer databases and information technology;

(2) records and file management; and

(3) forms management.

SEC. 476. SEPARATION OF FUNDING.

(a) In General.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other deposits available for the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(b) Separate Budgets.—To ensure that the Bureau of Citizenship and Immigration Services and the Bureau of Border Security are funded to the extent necessary to fully carry out their respective functions, the Director of the Office of Management and Budget shall separate the budget requests for each such entity.

(c) Fees.—Fees imposed for a particular service, application, or benefit shall be deposited into the account established under subsection (a) that is for the bureau with jurisdiction over the function to which the fee relates.

(d) Fees Not Transferable.—No fee may be transferred between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security for purposes not authorized by section 286 of the Immigration and Nationality Act (8 U.S.C. 1356).

SEC. 477. REPORTS AND IMPLEMENTATION PLANS.

(a) Division of Funds.—The Secretary, not later than 120 days after the effective date of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report on the proposed division and transfer of funds, including unexpended funds, appropriations, and fees, between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(b) Division of Personnel.—The Secretary, not later than 120 days after the effective date of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report on the proposed division of personnel between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(c) Implementation Plan.—

(1) In general.—The Secretary, not later than 120 days after the effective date of this Act, and every 6 months thereafter until the termination of fiscal year 2005, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate an implementation plan to carry out this Act.

(2) Contents.—The implementation plan should include details concerning the separation of the Bureau of Citizenship and Immigration Services and the Bureau of Border Security, including the following:

(A) Organizational structure, including the field structure.

(B) Chain of command.

(C) Procedures for interaction among such bureaus.

(D) Fraud detection and investigation.

(E) The processing and handling of removal proceedings, including expedited removal and applications for relief from removal.

(F) Recommendations for conforming amendments to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(G) Establishment of a transition team.

(H) Methods to phase in the costs of separating the administrative support systems of the Immigration and Naturalization Service in order to provide for separate administrative support systems for the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(d) Comptroller General Studies and Reports.—

(1) Status reports on transition.—Not later than 18 months after the date on which the transfer of functions specified under section 441 takes effect, and every 6 months thereafter, until full implementation of this subtitle has been completed, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the House of Representatives and the Senate a report containing the following:

(A) A determination of whether the transfers of functions made by subtitles D and E have been completed, and if a transfer of functions has not taken place, identifying the reasons why the transfer has not taken place.

(B) If the transfers of functions made by subtitles D and E have been completed, an identification of any issues that have arisen due to the completed transfers.

(C) An identification of any issues that may arise due to any future transfer of functions.

(2) Report on management.—Not later than 4 years after the date on which the transfer of functions specified under section 441 takes effect, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the House of Representatives and the Senate a report, following a study, containing the following:

(A) Determinations of whether the transfer of functions from the Immigration and Naturalization Service to the Bureau of Citizenship and Immigration Services and the Bureau of Border Security have improved, with respect to each function transferred, the following:

(i) Operations.

(ii) Management, including accountability and communication.

(iii) Financial administration.

(iv) Recordkeeping, including information management and technology.

(B) A statement of the reasons for the determinations under subparagraph (A).

(C) Any recommendations for further improvements to the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(3) Report on fees.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report examining whether the Bureau of Citizenship and Immigration Services is likely to derive sufficient funds from fees to carry out its functions in the absence of appropriated funds.

SEC. 478. IMMIGRATION FUNCTIONS.

(a) Annual Report.—

(1) In general.—One year after the date of the enactment of this Act, and each year thereafter, the Secretary shall submit a report to the President, to the Committees on the Judiciary and Government Reform of the House of Representatives, and to the Committees on the Judiciary and Government Affairs of the Senate, on the impact the transfers made by this subtitle has had on immigration functions.

(2) Matter included.—The report shall address the following with respect to the period covered by the report:

(A) The aggregate number of all immigration applications and petitions received, and processed, by the Department;

(B) Region-by-region statistics on the aggregate number of immigration applications and petitions filed by an alien (or filed on behalf of an alien) and denied, disaggregated by category of denial and application or petition type.

(C) The quantity of backlogged immigration applications and petitions that have been processed, the aggregate number awaiting processing, and a detailed plan for eliminating the backlog.

(D) The average processing period for immigration applications and petitions, disaggregated by application or petition type.

(E) The number and types of immigration-related grievances filed with any official of the Department of Justice, and if those grievances were resolved.

(F) Plans to address grievances and improve immigration services.

(G) Whether immigration-related fees were used consistent with legal requirements regarding such use.

(H) Whether immigration-related questions conveyed by customers to the Department (whether conveyed in person, by telephone, or by means of the Internet) were answered effectively and efficiently.

(b) SENSE OF CONGRESS REGARDING IMMIGRATION SERVICES.—It is the sense of Congress that—

(1) the quality and efficiency of immigration services rendered by the Federal Government should be improved after the transfers made by this subtitle take effect; and

(2) the Secretary should undertake efforts to guarantee that concerns regarding the quality and efficiency of immigration services are addressed after such effective date.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.

There shall be in the Department a Directorate of Emergency Preparedness and Response headed by an Under Secretary for Emergency Preparedness and Response.

SEC. 502. RESPONSIBILITIES.

The Secretary, acting through the Under Secretary for Emergency Preparedness and Response, shall include—

(1) helping to ensure the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this title)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

(3) providing the Federal Government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the Strategic National Stockpile, the National Disaster Medical System, and (when operating as an organizational unit of the Department pursuant to this title) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources in the event of a terrorist attack or major disaster;

(4) aiding the recovery from terrorist attacks and major disasters;

(5) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;

(6) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan; and

(7) developing comprehensive programs for developing interoperative communications technology, and helping to ensure that emergency response providers acquire such technology.

SEC. 503. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto.

(2) The Integrated Hazard Information System of the National Oceanic and Atmospheric Administration, which shall be renamed "FIRESAT".

(3) The National Domestic Preparedness Office of the Federal Bureau of Investigation, including the functions of the Attorney General relating thereto.

(4) The Domestic Emergency Support Teams of the Department of Justice, including the functions of the Attorney General relating thereto.

(5) The Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness relating thereto.

(6) The Strategic National Stockpile of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.

SEC. 504. NUCLEAR INCIDENT RESPONSE.

(a) IN GENERAL.—At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency in the United States), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this title) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

SEC. 505. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) IN GENERAL.—With respect to all public health-related activities to improve State, local, and hospital preparedness and response to chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities and preparedness goals and further develop a coordinated strategy for such activities in collaboration with the Secretary.

(b) EVALUATION OF PROGRESS.—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

SEC. 506. DEFINITION.

In this title, the term "Nuclear Incident Response Team" means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and

(2) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions.

SEC. 507. ROLE OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) IN GENERAL.—The functions of the Federal Emergency Management Agency include the following:

(1) All functions and authorities prescribed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Carrying out its mission to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a comprehensive, risk-based emergency management program—

(A) of mitigation, by taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects;

(B) of planning for building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) of response, by conducting emergency operations to save lives and property through positioning emergency equipment and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services;

(D) of recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards; and

(E) of increased efficiencies, by coordinating efforts relating to mitigation, planning, response, and recovery.

(b) FEDERAL RESPONSE PLAN.—

(1) ROLE OF FEMA.—Notwithstanding any other provision of this Act, the Federal Emergency Management Agency shall remain the lead agency for the Federal Response Plan established under Executive Order 12148 (44 Fed. Reg. 43239) and Executive Order 12656 (53 Fed. Reg. 47491).

(2) REVISION OF RESPONSE PLAN.—Not later than 60 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall revise the Federal Response Plan to reflect the establishment of and incorporate the Department.

SEC. 508. USE OF NATIONAL PRIVATE SECTOR NETWORKS IN EMERGENCY RESPONSE.

To the maximum extent practicable, the Secretary shall use national private sector networks and infrastructure for emergency response to chemical, biological, radiological, nuclear, or explosive disasters, and other major disasters.

SEC. 509. USE OF COMMERCIALLY AVAILABLE TECHNOLOGY, GOODS, AND SERVICES.

It is the sense of Congress that—

(1) the Secretary should, to the maximum extent possible, use off-the-shelf commercially developed technologies to ensure that the Department's information technology systems allow the Department to collect, manage, share, analyze, and disseminate information securely over multiple channels of communication; and

(2) in order to further the policy of the United States to avoid competing commercially with the private sector, the Secretary should rely on commercial sources to supply the goods and services needed by the Department.

TITLE VI—TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS

SEC. 601. TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS.

(a) FINDINGS.—Congress finds the following:

(1) Members of the Armed Forces of the United States defend the freedom and security of our Nation.

(2) Members of the Armed Forces of the United States have lost their lives while battling the evils of terrorism around the world.

(3) Personnel of the Central Intelligence Agency (CIA) charged with the responsibility of covert observation of terrorists around the world are often put in harm's way during their service to the United States.

(4) Personnel of the Central Intelligence Agency have also lost their lives while battling the evils of terrorism around the world.

(5) Employees of the Federal Bureau of Investigation (FBI) and other Federal agencies charged with domestic protection of the United States put their lives at risk on a daily basis for the freedom and security of our Nation.

(6) United States military personnel, CIA personnel, FBI personnel, and other Federal agents in the service of the United States are patriots of the highest order.

(7) CIA officer Johnny Micheal Spann became the first American to give his life for his country in the War on Terrorism declared by President George W. Bush following the terrorist attacks of September 11, 2001.

(8) Johnny Micheal Spann left behind a wife and children who are very proud of the heroic actions of their patriot father.

(9) Surviving dependents of members of the Armed Forces of the United States who lose their lives as a result of terrorist attacks or military operations abroad receive a $6,000 death benefit, plus a small monthly benefit.

(10) The current system of compensating spouses and children of American patriots is inequitable and needs improvement.

(b) DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Any charitable corporation, fund, foundation, or trust (or separate fund or account thereof) which otherwise meets all applicable requirements under law with respect to charitable entities and meets the requirements described in subsection (c) shall be eligible to characterize itself as a "Johnny Micheal Spann Patriot Trust".

(c) REQUIREMENTS FOR THE DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—The requirements described in this subsection are as follows:

(1) Not taking into account funds or donations reasonably necessary to establish a trust, at least 85 percent of all funds or donations (including any earnings on the investment of such funds or donations) received or collected by any Johnny Micheal Spann Patriot Trust must be distributed to (or, if placed in a private foundation, held in trust for) surviving spouses, children, or dependent parents, grandparents, or siblings of 1 or more of the following:

(A) members of the Armed Forces of the United States;

(B) personnel, including contractors, of elements of the intelligence community, as defined in section 3(4) of the National Security Act of 1947;

(C) employees of the Federal Bureau of Investigation; and

(D) officers, employees, or contract employees of the United States Government, whose deaths occur in the line of duty and arise out of terrorist attacks, military operations, intelligence operations, or law enforcement operations or accidents connected with activities occurring after September 11, 2001, and related to domestic or foreign efforts to curb international terrorism, including the Authorization for Use of Military Force (Public Law 107-40; 115 Stat. 224).

(2) Other than funds or donations reasonably necessary to establish a trust, not more than 15 percent of all funds or donations (or 15 percent of annual earnings on funds invested in a private foundation) may be used for administrative purposes.

(3) No part of the net earnings of any Johnny Micheal Spann Patriot Trust may inure to the benefit of any individual based solely on the position of such individual as a shareholder, an officer or employee of such Trust.

(4) None of the activities of any Johnny Micheal Spann Patriot Trust shall be conducted in a manner inconsistent with any law that prohibits attempting to influence legislation.

(5) No Johnny Micheal Spann Patriot Trust may participate in or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, including by publication or distribution of statements.

(6) Each Johnny Micheal Spann Patriot Trust shall comply with the instructions and directions of the Director of Central Intelligence, the Attorney General, or the Secretary of Defense relating to the protection of intelligence sources and methods, sensitive law enforcement information, or other sensitive national security information, including methods for confidentially disbursing funds.

(7) Each Johnny Micheal Spann Patriot Trust that receives annual contributions totaling more than $1,000,000 must be audited annually by an independent certified public accounting firm. Such audits shall be filed with the Internal Revenue Service, and shall be open to public inspection, except that the conduct, filing, and availability of the audit shall be consistent with the protection of intelligence sources and methods, of sensitive law enforcement information, and of other sensitive national security information.

(8) Each Johnny Micheal Spann Patriot Trust shall make distributions to beneficiaries described in paragraph (1) at least once every calendar year, beginning not later than 12 months after the formation of such Trust, and all funds and donations received and earnings not placed in a private foundation dedicated to such beneficiaries must be distributed within 36 months after the end of the fiscal year in which such funds, donations, and earnings are received.

(9)(A) When determining the amount of a distribution to any beneficiary described in paragraph (1), a Johnny Micheal Spann Patriot Trust should take into account the amount of any collateral source compensation that the beneficiary has received or is entitled to receive as a result of the death of an individual described in paragraph (1).

(B) Collateral source compensation includes all compensation from collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the death of an individual described in paragraph (1).

(d) TREATMENT OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Each Johnny Micheal Spann Patriot Trust shall refrain from conducting the activities described in clauses (i) and (ii) of section 301(20)(A) of the Federal Election Campaign Act of 1971 so that a general solicitation of funds by an individual described in paragraph (1) of section 323(e) of such Act will be permissible if such solicitation meets the requirements of paragraph (4)(A) of such section.

(e) NOTIFICATION OF TRUST BENEFICIARIES.—Notwithstanding any other provision of law, and in a manner consistent with the protection of intelligence sources and methods and sensitive law enforcement information, and other sensitive national security information, the Secretary of Defense, the Director of the Federal Bureau of Investigation, or the Director of Central Intelligence, or their designees, as applicable, may forward information received from an executor, administrator, or other legal representative of the estate of a decedent described in subparagraph (A), (B), (C), or (D) of subsection (c)(1), to a Johnny Micheal Spann Patriot Trust on how to contact individuals eligible for a distribution under subsection (c)(1) for the purpose of providing assistance from such Trust; provided that, neither forwarding nor failing to forward any information under this subsection shall create any cause of action against any Federal department, agency, officer, agent, or employee.

(f) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense, in coordination with the Attorney General, the Director of the Federal Bureau of Investigation, and the Director of Central Intelligence, shall prescribe regulations to carry out this section.

TITLE VII—MANAGEMENT

SEC. 701. UNDER SECRETARY FOR MANAGEMENT.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Management, shall be responsible for the management and administration of the Department, including the following:

(1) The budget, appropriations, expenditures of funds, accounting, and finance.

(2) Procurement.

(3) Human resources and personnel.

(4) Information technology and communications systems.

(5) Facilities, property, equipment, and other material resources.

(6) Security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources.

(7) Identification and tracking of performance measures relating to the responsibilities of the Department.

(8) Grants and other assistance management programs.

(9) The transition and reorganization process, to ensure an efficient and orderly transfer of functions and personnel to the Department, including the development of a transition plan.

(10) The conduct of internal audits and management analyses of the programs and activities of the Department.

(11) Any other management duties that the Secretary may designate.

(b) IMMIGRATION.—

(1) IN GENERAL.—In addition to the responsibilities described in subsection (a), the Under Secretary for Management shall be responsible for the following:

(A) Maintenance of all immigration statistical information of the Bureau of Border Security and the Bureau of Citizenship and Immigration Services. Such statistical information shall include information and statistics of the type contained in the publication entitled "Statistical Yearbook of the Immigration and Naturalization Service" prepared by the Immigration and Naturalization Service (as in effect immediately before the date on which the transfer of functions specified under section 441 takes effect), including region-by-region statistics on the aggregate number of applications and petitions filed by an alien (or filed on behalf of an alien) and denied by such bureau, and the reasons for such denials, disaggregated by category of denial and application or petition type.

(B) Establishment of standards of reliability and validity for immigration statistics collected by such bureaus.

(2) TRANSFER OF FUNCTIONS.—In accordance with title XV, there shall be transferred to the Under Secretary for Management all functions performed immediately before such transfer occurs by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service with respect to the following programs:

(A) The Border Patrol program.

(B) The detention and removal program.

(C) The intelligence program.

(D) The investigations program.

(E) The inspections program.

(F) Adjudication of immigrant visa petitions.

(G) Adjudication of naturalization petitions.

(H) Adjudication of asylum and refugee applications.

(I) Adjudications performed at service centers.

(J) All other adjudications performed by the Immigration and Naturalization Service.

SEC. 702. CHIEF FINANCIAL OFFICER.

The Chief Financial Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 703. CHIEF INFORMATION OFFICER.

The Chief Information Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 704. CHIEF HUMAN CAPITAL OFFICER.

The Chief Human Capital Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct and shall ensure that all employees of the Department are informed of their rights and remedies under chapters 12 and 23 of title 5, United States Code, by—

(1) participating in the 2302(c) Certification Program of the Office of Special Counsel;

(2) achieving certification from the Office of Special Counsel of the Department's compliance with section 2302(c) of title 5, United States Code; and

(3) informing Congress of such certification not later than 24 months after the date of enactment of this Act.

SEC. 705. ESTABLISHMENT OF OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.

(a) IN GENERAL.—The Secretary shall appoint in the Department an Officer for Civil Rights and Civil Liberties, who shall—

(1) review and assess information alleging abuses of civil rights, civil liberties, and racial and ethnic profiling by employees and officials of the Department; and

(2) make public through the Internet, radio, television, or newspaper advertisements information on the responsibilities and functions of, and how to contact, the Officer.

(b) REPORT.—The Secretary shall submit to the President of the Senate, the Speaker of the House of Representatives, and the appropriate committees and subcommittees of Congress on an annual basis a report on the implementation of this section, including the use of funds appropriated to carry out this section, and detailing any allegations of abuses described under subsection (a)(1) and any actions taken by the Department in response to such allegations.

SEC. 706. CONSOLIDATION AND CO-LOCATION OF OFFICES.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop and submit to Congress a plan for consolidating and co-locating—

(1) any regional offices or field offices of agencies that are transferred to the Department under this Act, if such officers are located in the same municipality; and

(2) portions of regional and field offices of other Federal agencies, to the extent such offices perform functions that are transferred to the Secretary under this Act.

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

SEC. 801. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to oversee and coordinate departmental programs for and relationships with State and local governments.

(b) RESPONSIBILITIES.—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland; and

(4) develop a process for receiving meaningful input from State and local government to assist the development of the national strategy for combating terrorism and other homeland security activities.

Subtitle B—Inspector General

SEC. 811. AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—Notwithstanding the last two sentences of section 3(a) of the Inspector General Act of 1978, the Inspector General shall be under the authority, direction, and control of the Secretary with respect to audits or investigations, or the issuance of subpoenas, that require access to sensitive information concerning—

(1) intelligence, counterintelligence, or counterterrorism matters;

(2) ongoing criminal investigations or proceedings;

(3) undercover operations;

(4) the identity of confidential sources, including protected witnesses;

(5) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3 of such Code, or any provision of the Presidential Protection Assistance Act of 1976; or

(6) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to national security.

(b) PROHIBITION OF CERTAIN INVESTIGATIONS.—With respect to the information described in subsection (a), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described in subsection (a), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

(c) NOTIFICATION REQUIRED.—If the Secretary exercises any power under subsection (a) or (b), the Secretary shall notify the Inspector General of the Department in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice and a written response thereto that includes—

(1) a statement as to whether the Inspector General agrees or disagrees with such exercise; and

(2) the reasons for any disagreement, to the President of the Senate and the Speaker of the House of Representatives and to appropriate committees and subcommittees of Congress.

(d) ACCESS TO INFORMATION BY CONGRESS.—The exercise of authority by the Secretary described in subsection (b) should not be construed as limiting the right of Congress or any committee of Congress to access any information it seeks.

(e) OVERSIGHT RESPONSIBILITY—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 8I the following:

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8J. Notwithstanding any other provision of law, in carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Homeland Security shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the United States Customs Service and the Office of Inspections of the United States Secret Service. The head of each such office shall promptly report to the Inspector General the significant activities being carried out by such office.".

SEC. 812. LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS.

(a) IN GENERAL.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(e)(1) In addition to the authority otherwise provided by this Act, each Inspector General appointed under section 3, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

"(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

"(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

"(C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

"(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

"(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

"(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

"(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

"(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

"(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

"(5)(A) Powers authorized for an Office of Inspector General under paragraph (1) may be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

"(B) Powers authorized to be exercised by any individual under paragraph (1) may be rescinded or suspended with respect to that individual upon a determination by the Attorney General that such individual has not complied with guidelines promulgated by the Attorney General under paragraph (4).

"(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

"(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

"(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.".

(b) PROMULGATION OF INITIAL GUIDELINES.—

(1) DEFINITION.—In this subsection, the term "memoranda of understanding" means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) that—

(A) are in effect on the date of enactment of this Act; and

(B) authorize such offices to exercise authority that is the same or similar to the authority under section 6(e)(1) of such Act.

(2) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(3) MINIMUM REQUIREMENTS.—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) NO LAPSE OF AUTHORITY.—The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

(2) INITIAL GUIDELINES.—Subsection (b) shall take effect on the date of enactment of this Act.

Subtitle C—United States Secret Service

SEC. 821. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and obligations of the United States Secret Service, which shall be maintained as a distinct entity within the Department, including the functions of the Secretary of the Treasury relating thereto.

Subtitle D—Acquisitions

SEC. 831. RESEARCH AND DEVELOPMENT PROJECTS.

(a) AUTHORITY.—During the 5-year period following the effective date of this Act, the Secretary may carry out a pilot program under which the Secretary may exercise the following authorities:

(1) IN GENERAL.—When the Secretary carries out basic, applied, and advanced research and development projects, including the expenditure of funds for such projects, the Secretary may exercise the same authority (subject to the same limitations and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f)), after making a determination that the use of a contract, grant, or cooperative agreement for such project is not feasible or appropriate. The annual report required under subsection (b) of this section, as applied to the Secretary by this paragraph, shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

(2) PROTOTYPE PROJECTS.—The Secretary may, under the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160). In applying the authorities of that section 845, subsection (c) of that section shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) thereof.

(b) REPORT.—Not later than 2 years after the effective date of this Act, and annually thereafter, the Comptroller General shall report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate on—

(1) whether use of the authorities described in subsection (a) attracts nontraditional Government contractors and results in the acquisition of needed technologies; and

(2) if such authorities were to be made permanent, whether additional safeguards are needed with respect to the use of such authorities.

(c) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Secretary may—

(1) procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5, United States Code; and

(2) whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

(d) DEFINITION OF NONTRADITIONAL GOVERNMENT CONTRACTOR.—In this section, the term "nontraditional Government contractor" has the same meaning as the term "nontraditional defense contractor" as defined in section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note).

SEC. 832. PERSONAL SERVICES.

The Secretary—

(1) may procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109 of title 5, United States Code; and

(2) may, whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 833. SPECIAL STREAMLINED ACQUISITION AUTHORITY.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may use the authorities set forth in this section with respect to any procurement made during the period beginning on the effective date of this Act and ending September 30, 2007, if the Secretary determines in writing that the mission of the Department (as described in section 101) would be seriously impaired without the use of such authorities.

(2) DELEGATION.—The authority to make the determination described in paragraph (1) may not be delegated by the Secretary to an

officer of the Department who is not appointed by the President with the advice and consent of the Senate.

(3) NOTIFICATION.—Not later than the date that is 7 days after the date of any determination under paragraph (1), the Secretary shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate—

(A) notification of such determination; and

(B) the justification for such determination.

(b) INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.—

(1) IN GENERAL.—The Secretary may designate certain employees of the Department to make procurements described in subsection (a) for which in the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $7,500.

(2) NUMBER OF EMPLOYEES.—The number of employees designated under paragraph (1) shall be—

(A) fewer than the number of employees of the Department who are authorized to make purchases without obtaining competitive quotations, pursuant to section 32(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(c));

(B) sufficient to ensure the geographic dispersal of the availability of the use of the procurement authority under such paragraph at locations reasonably considered to be potential terrorist targets; and

(C) sufficiently limited to allow for the careful monitoring of employees designated under such paragraph.

(3) REVIEW.—Procurements made under the authority of this subsection shall be subject to review by a designated supervisor on not less than a monthly basis. The supervisor responsible for the review shall be responsible for no more than 7 employees making procurements under this subsection.

(c) SIMPLIFIED ACQUISITION PROCEDURES.—

(1) IN GENERAL.—With respect to a procurement described in subsection (a), the Secretary may deem the simplified acquisition threshold referred to in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) to be—

(A) in the case of a contract to be awarded and performed, or purchase to be made, within the United States, $200,000; and

(B) in the case of a contract to be awarded and performed, or purchase to be made, outside of the United States, $300,000.

(2) CONFORMING AMENDMENTS.—Section 18(c)(1) of the Office of Federal Procurement Policy Act is amended—

(A) by striking "or" at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting "; or"; and

(C) by adding at the end the following:

"(H) the procurement is by the Secretary of Homeland Security pursuant to the special procedures provided in section 833(c) of the Homeland Security Act of 2002.".

(d) APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES.—

(1) IN GENERAL.—With respect to a procurement described in subsection (a), the Secretary may deem any item or service to be a commercial item for the purpose of Federal procurement laws.

(2) LIMITATION.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)) and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall be deemed to be $7,500,000 for purposes of property or services under the authority of this subsection.

(3) CERTAIN AUTHORITY.—Authority under a provision of law referred to in paragraph (2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for a procurement described in subsection (a).

(e) REPORT.—Not later than 180 days after the end of fiscal year 2005, the Comptroller General shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on the use of the authorities provided in this section. The report shall contain the following:

(1) An assessment of the extent to which property and services acquired using authorities provided under this section contributed to the capacity of the Federal workforce to facilitate the mission of the Department as described in section 101.

(2) An assessment of the extent to which prices for property and services acquired using authorities provided under this section reflected the best value.

(3) The number of employees designated by each executive agency under subsection (b)(1).

(4) An assessment of the extent to which the Department has implemented subsections (b)(2) and (b)(3) to monitor the use of procurement authority by employees designated under subsection (b)(1).

(5) Any recommendations of the Comptroller General for improving the effectiveness of the implementation of the provisions of this section.

SEC. 834. UNSOLICITED PROPOSALS.

(a) REGULATIONS REQUIRED.—Within 1 year of the date of enactment of this Act, the Federal Acquisition Regulation shall be revised to include regulations with regard to unsolicited proposals.

(b) CONTENT OF REGULATIONS.—The regulations prescribed under subsection (a) shall require that before initiating a comprehensive evaluation, an agency contact point shall consider, among other factors, that the proposal—

(1) is not submitted in response to a previously published agency requirement; and

(2) contains technical and cost information for evaluation and overall scientific, technical or socioeconomic merit, or cost-related or price-related factors.

SEC. 835. PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b).

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity completes after the date of enactment of this Act, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) DEFINITIONS AND SPECIAL RULES.—

(1) RULES FOR APPLICATION OF SUBSECTION (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity; or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is after the date of enactment of this Act and which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all domestic partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as 1 partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary to—

(i) treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock; and

(ii) treat stock as not stock.

(2) EXPANDED AFFILIATED GROUP.—The term "expanded affiliated group" means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504 of such Code shall be applied by substituting "more than 50 percent" for "at least 80 percent" each place it appears.

(3) FOREIGN INCORPORATED ENTITY.—The term "foreign incorporated entity" means any entity which is, or but for subsection (b) would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) OTHER DEFINITIONS.—The terms "person", "domestic", and "foreign" have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701 (a) of the Internal Revenue Code of 1986, respectively.

(d) WAIVERS.—The Secretary shall waive subsection (a) with respect to any specific contract if the Secretary determines that the waiver is required in the interest of homeland security, or to prevent the loss of any jobs in the United States or prevent the Government from incurring any additional costs that otherwise would not occur.

Subtitle E—Human Resources Management

SEC. 841. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) Authority.—

(1) Sense of congress.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) In general.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

"Sec.
"9701. Establishment of human resources management system.

"§ 9701. Establishment of human resources management system

"(a) In General.—Notwithstanding any other provision of this part, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security.

"(b) System Requirements.—Any system established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1), (8), and (9); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1), (8), and (9) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

"(D) any other provision of this part (as described in subsection (c)); or

"(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

"(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

"(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

"(c) Other Nonwaivable Provisions.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, and 79, and this chapter.

"(d) Limitations Relating to Pay.—Nothing in this section shall constitute authority—

"(1) to modify the pay of any employee who serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

"(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

"(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

"(3) to exempt any employee from the application of such section 5307.

"(e) Provisions to Ensure Collaboration With Employee Representatives.—

"(1) In general.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the participation of employee representatives in the planning, development, and implementation of any human resources management system or adjustments to such system under this section, the Secretary of Homeland Security and the Director of the Office of Personnel Management shall provide for the following:

"(A) Notice of proposal.—The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give each representative 30 calendar days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) Pre-implementation congressional notification, consultation, and mediation.—Following receipt of recommendations, if any, from employee representatives with respect to a proposal described in subparagraph (A), the Secretary and the Director shall accept such modifications to the proposal in response to the recommendations as they determine advisable and shall, with respect to any parts of the proposal as to which they have not accepted the recommendations—

"(i) notify Congress of those parts of the proposal, together with the recommendations of employee representatives;

"(ii) meet and confer for not less than 30 calendar days with any representatives who have made recommendations, in order to attempt to reach agreement on whether or how to proceed with those parts of the proposal; and

"(iii) at the Secretary's option, or if requested by a majority of the employee representatives who have made recommendations, use the services of the Federal Mediation and Conciliation Service during such meet and confer period to facilitate the process of attempting to reach agreement.

"(C) Implementation.—

"(i) Any part of the proposal as to which the representatives do not make a recommendation, or as to which their recommendations are accepted by the Secretary and the Director, may be implemented immediately.

"(ii) With respect to any parts of the proposal as to which recommendations have been made but not accepted by the Secretary and the Director, at any time after 30 calendar days have elapsed since the initiation of the congressional notification, consultation, and mediation procedures set forth in subparagraph (B), if the Secretary determines, in the Secretary's sole and unreviewable discretion, that further consultation and mediation is unlikely to produce agreement, the Secretary may implement any or all of such parts, including any modifications made in response to the recommendations as the Secretary determines advisable.

"(iii) The Secretary shall promptly notify Congress of the implementation of any part of the proposal and shall furnish with such notice an explanation of the proposal, any changes made to the proposal as a result of recommendations from employee representatives, and of the reasons why implementation is appropriate under this subparagraph.

"(D) Continuing collaboration.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

"(ii) give each employee representative adequate access to information to make that participation productive.

"(2) Procedures.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly as internal rules of departmental procedure which shall not be subject to review. Such procedures shall include measures to ensure—

"(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

"(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection;

"(C) the fair and expeditious handling of the consultation and mediation process described in subparagraph (B) of paragraph (1), including procedures by which, if the number of employee representatives providing recommendations exceeds 5, such representatives select a committee or other unified representative with which the Secretary and Director may meet and confer; and

"(D) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(f) Provisions Relating to Appellate Procedures.—

(1) Sense of congress.—It is the sense of Congress that—

"(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

"(i) should ensure that employees of the Department are afforded the protections of due process; and

"(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) Requirements.—Any regulations under this section which relate to any matters within the purview of chapter 77—

"(A) shall be issued only after consultation with the Merit Systems Protection Board;

"(B) shall ensure the availability of procedures which shall—

"(i) be consistent with requirements of due process; and

"(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) Provisions Relating to Labor-Management Relations.—Nothing in this section shall be construed as conferring authority on the Secretary of Homeland Security to modify any of the provisions of section 842 of the Homeland Security Act of 2002.

"(h) Sunset Provision.—Effective 5 years after the conclusion of the transition period defined under section 1501 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.".

(3) Technical and conforming amendment.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) Effect on Personnel.—

(1) Nonseparation or nonreduction in grade or compensation of full-time personnel and part-time personnel holding permanent positions.—Except as otherwise provided in this Act, the transfer under this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Department.

(2) Positions compensated in accordance with executive schedule.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) Coordination rule.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 842. LABOR-MANAGEMENT RELATIONS.

(a) Limitation on Exclusionary Authority.—

(1) In general.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) Exclusions allowable.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of such title 5; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) Provisions Relating to Bargaining Units.—

(1) Limitation relating to appropriate units.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) Limitation relating to positions or employees.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of such title 5, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employees first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) Waiver.—If the President determines that the application of subsections (a), (b), and (d) would have a substantial adverse impact on the ability of the Department to protect homeland security, the President may waive the application of such subsections 10 days after the President has submitted to Congress a written explanation of the reasons for such determination.

(d) Coordination Rule.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

(e) Rule of construction.—Nothing in section 9701(e) of title 5, United States Code, shall be considered to apply with respect to any agency or subdivision of any agency, which is excluded from the coverage of chapter 71 of title 5, United States Code, by virtue of an order issued in accordance with section 7103(b) of such title and the preceding provisions of this section (as applicable), or to any employees of any such agency or subdivision or to any individual or entity representing any such employees or any representatives thereof.

Subtitle F—Federal Emergency Procurement Flexibility

SEC. 851. DEFINITION.

In this subtitle, the term "executive agency" has the meaning given that term under section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 852. PROCUREMENTS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

The authorities provided in this subtitle apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on the date of the enactment of this Act.

SEC. 853. INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR PROCUREMENTS IN SUPPORT OF HUMANITARIAN OR PEACEKEEPING OPERATIONS OR CONTINGENCY OPERATIONS.

(a) Temporary Threshold Amounts.—For a procurement referred to in section 852 that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provided for such an operation in those definitions were—

(1) in the case of a contract to be awarded and performed, or purchase to be made, inside the United States, $200,000; or

(2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, $300,000.

(b) Simplified Acquisition Threshold Definitions.—In this section, the term "simplified acquisition threshold definitions" means the following:

(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)).

(3) Section 2302(7) of title 10, United States Code.

(c) Small Business Reserve.—For a procurement carried out pursuant to subsection (a), section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall be applied as if the maximum anticipated value identified therein is equal to the amounts referred to in subsection (a).

SEC. 854. INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.

In the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) with respect to a procurement referred to in section 852, the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $7,500.

SEC. 855. APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES TO CERTAIN PROCUREMENTS.

(a) Authority.—

(1) In general.—The head of an executive agency may apply the provisions of law listed in paragraph (2) to a procurement referred

to in section 852 without regard to whether the property or services are commercial items.

(2) Commercial item laws.—The provisions of law referred to in paragraph (1) are as follows:

(A) Sections 31 and 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 427, 430).

(B) Section 2304(g) of title 10, United States Code.

(C) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)).

(b) Inapplicability of Limitation on Use of Simplified Acquisition Procedures.—

(1) In general.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)), section 2304(g)(1)(B) of title 10, United States Code, and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall not apply to purchases of property or services to which any of the provisions of law referred to in subsection (a) are applied under the authority of this section.

(2) OMB guidance.—The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of $5,000,000 under the authority of this section.

(c) Continuation of Authority for Simplified Purchase Procedures.—Authority under a provision of law referred to in subsection (a)(2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

SEC. 856. USE OF STREAMLINED PROCEDURES.

(a) Required Use.—The head of an executive agency shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement referred to in section 852, including authorities and procedures that are provided under the following provisions of law:

(1) Federal property and administrative services act of 1949.—In title III of the Federal Property and Administrative Services Act of 1949:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 303 (41 U.S.C. 253), relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 303J (41 U.S.C. 253j), relating to orders under task and delivery order contracts.

(2) Title 10, united states code.—In chapter 137 of title 10, United States Code:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 2304, relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 2304c, relating to orders under task and delivery order contracts.

(3) Office of federal procurement policy act.—Paragraphs (1)(B), (1)(D), and (2) of section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)), relating to inapplicability of a requirement for procurement notice.

(b) Waiver of Certain Small Business Threshold Requirements.—Subclause (II) of section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) and clause (ii) of section 31(b)(2)(A) of such Act (15 U.S.C. 657a(b)(2)(A)) shall not apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 852.

SEC. 857. REVIEW AND REPORT BY COMPTROLLER GENERAL.

(a) Requirements.—Not later than March 31, 2004, the Comptroller General shall—

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this subtitle; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) Content of Report.—The report under subsection (a)(2) shall include the following matters:

(1) Assessment.—The Comptroller General's assessment of—

(A) the extent to which property and services procured in accordance with this title have contributed to the capacity of the workforce of Federal Government employees within each executive agency to carry out the mission of the executive agency; and

(B) the extent to which Federal Government employees have been trained on the use of technology.

(2) Recommendations.—Any recommendations of the Comptroller General resulting from the assessment described in paragraph (1).

(c) Consultation.—In preparing for the review under subsection (a)(1), the Comptroller shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the specific issues and topics to be reviewed. The extent of coverage needed in areas such as technology integration, employee training, and human capital management, as well as the data requirements of the study, shall be included as part of the consultation.

SEC. 858. IDENTIFICATION OF NEW ENTRANTS INTO THE FEDERAL MARKETPLACE.

The head of each executive agency shall conduct market research on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of commercially available market research methods, including use of commercial databases, to carry out the research.

Subtitle G—Support Anti-terrorism by Fostering Effective Technologies Act of 2002

SEC. 861. SHORT TITLE.

This subtitle may be cited as the "Support Anti-terrorism by Fostering Effective Technologies Act of 2002" or the "SAFETY Act".

SEC. 862. ADMINISTRATION.

(a) In General.—The Secretary shall be responsible for the administration of this subtitle.

(b) Designation of Qualified Anti-Terrorism Technologies.—The Secretary may designate anti-terrorism technologies that qualify for protection under the system of risk management set forth in this subtitle in accordance with criteria that shall include, but not be limited to, the following:

(1) Prior United States government use or demonstrated substantial utility and effectiveness.

(2) Availability of the technology for immediate deployment in public and private settings.

(3) Existence of extraordinarily large or extraordinarily unquantifiable potential third party liability risk exposure to the Seller or other provider of such anti-terrorism technology.

(4) Substantial likelihood that such anti-terrorism technology will not be deployed unless protections under the system of risk management provided under this subtitle are extended.

(5) Magnitude of risk exposure to the public if such anti-terrorism technology is not deployed.

(6) Evaluation of all scientific studies that can be feasibly conducted in order to assess the capability of the technology to substantially reduce risks of harm.

(7) Anti-terrorism technology that would be effective in facilitating the defense against acts of terrorism, including technologies that prevent, defeat or respond to such acts.

(c) Regulations.—The Secretary may issue such regulations, after notice and comment in accordance with section 553 of title 5, United States, Code, as may be necessary to carry out this subtitle.

SEC. 863. LITIGATION MANAGEMENT.

(a) Federal Cause of Action.—

(1) In general.—There shall exist a Federal cause of action for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller. The substantive law for decision in any such action shall be derived from the law, including choice of law principles, of the State in which such acts of terrorism occurred, unless such law is inconsistent with or preempted by Federal law. Such Federal cause of action shall be brought only for claims for injuries that are proximately caused by sellers that provide qualified anti-terrorism technology to Federal and non-Federal government customers.

(2) Jurisdiction.—Such appropriate district court of the United States shall have original and exclusive jurisdiction over all actions for any claim for loss of property, personal injury, or death arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller.

(b) Special Rules.—In an action brought under this section for damages the following provisions apply:

(1) Punitive damages.—No punitive damages intended to punish or deter, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment.

(2) Noneconomic damages.—

(A) In general.—Noneconomic damages may be awarded against a defendant only in an amount directly proportional to the percentage of responsibility of such defendant for the harm to the plaintiff, and no plaintiff may recover noneconomic damages unless the plaintiff suffered physical harm.

(B) Definition.—For purposes of subparagraph (A), the term "noneconomic damages" means damages for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and any other nonpecuniary losses.

(c) Collateral Sources.—Any recovery by a plaintiff in an action under this section shall be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of such acts of terrorism that result or may result in loss to the Seller.

(d) Government Contractor Defense.—

(1) In general.—Should a product liability or other lawsuit be filed for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in paragraphs (2) and (3) of this subsection, have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller, there shall be a rebuttable presumption that the government contractor defense applies in such lawsuit. This presumption shall only be overcome by evidence showing that the Seller acted fraudulently or with willful misconduct in submitting information to the Secretary during the course of the Secretary's consideration of such technology under this subsection. This presumption of the government contractor defense shall apply regardless of whether the claim against the Seller arises from a sale of the product to Federal Government or non-Federal Government customers.

(2) Exclusive responsibility.—The Secretary will be exclusively responsible for the review and approval of anti-terrorism technology for purposes of establishing a government contractor defense in any product liability lawsuit for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in this paragraph and paragraph (3), have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller. Upon the Seller's submission to the Secretary for approval of anti-terrorism technology, the Secretary will conduct a comprehensive review of the design of such technology and determine whether it will perform as intended, conforms to the Seller's specifications, and is safe for use as intended. The Seller will conduct safety and hazard analyses on such technology and will supply the Secretary with all such information.

(3) Certificate.—For anti-terrorism technology reviewed and approved by the Secretary, the Secretary will issue a certificate of conformance to the Seller and place the anti-terrorism technology on an Approved Product List for Homeland Security.

(e) Exclusion.—Nothing in this section shall in any way limit the ability of any person to seek any form of recovery from any person, government, or other entity that—

(1) attempts to commit, knowingly participates in, aids and abets, or commits any act of terrorism, or any criminal act related to or resulting from such act of terrorism; or

(2) participates in a conspiracy to commit any such act of terrorism or any such criminal act.

SEC. 864. RISK MANAGEMENT.

(a) In General.—

(1) Liability insurance required.—Any person or entity that sells or otherwise provides a qualified anti-terrorism technology to Federal and non-Federal government customers ("Seller") shall obtain liability insurance of such types and in such amounts as shall be required in accordance with this section and certified by the Secretary to satisfy otherwise compensable third-party claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act.

(2) Maximum amount.—For the total claims related to 1 such act of terrorism, the Seller is not required to obtain liability insurance of more than the maximum amount of liability insurance reasonably available from private sources on the world market at prices and terms that will not unreasonably distort the sales price of Seller's anti-terrorism technologies.

(3) Scope of coverage.—Liability insurance obtained pursuant to this subsection shall, in addition to the Seller, protect the following, to the extent of their potential liability for involvement in the manufacture, qualification, sale, use, or operation of qualified anti-terrorism technologies deployed in defense against or response or recovery from an act of terrorism:

(A) Contractors, subcontractors, suppliers, vendors and customers of the Seller.

(B) Contractors, subcontractors, suppliers, and vendors of the customer.

(4) Third party claims.—Such liability insurance under this section shall provide coverage against third party claims arising out of, relating to, or resulting from the sale or use of anti-terrorism technologies.

(b) Reciprocal Waiver of Claims.—The Seller shall enter into a reciprocal waiver of claims with its contractors, subcontractors, suppliers, vendors and customers, and contractors and subcontractors of the customers, involved in the manufacture, sale, use or operation of qualified anti-terrorism technologies, under which each party to the waiver agrees to be responsible for losses, including business interruption losses, that it sustains, or for losses sustained by its own employees resulting from an activity resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act.

(c) Extent of Liability.—Notwithstanding any other provision of law, liability for all claims against a Seller arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller, whether for compensatory or punitive damages or for contribution or indemnity, shall not be in an amount greater than the limits of liability insurance coverage required to be maintained by the Seller under this section.

SEC. 865. DEFINITIONS.

For purposes of this subtitle, the following definitions apply:

(1) Qualified anti-terrorism technology.—For purposes of this subtitle, the term "qualified anti-terrorism technology" means any product, equipment, service (including support services), device, or technology (including information technology) designed, developed, modified, or procured for the specific purpose of preventing, detecting, identifying, or deterring acts of terrorism or limiting the harm such acts might otherwise cause, that is designated as such by the Secretary.

(2) Act of terrorism.—(A) The term "act of terrorism" means any act that the Secretary determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the Secretary.

(B) Requirements.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States-flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States; and

(iii) uses or attempts to use instrumentalities, weapons or other methods designed or intended to cause mass destruction, injury or other loss to citizens or institutions of the United States.

(3) Insurance carrier.—The term "insurance carrier" means any corporation, association, society, order, firm, company, mutual, partnership, individual aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurance carrier.

(4) Liability insurance.—

(A) In general.—The term "liability insurance" means insurance for legal liabilities incurred by the insured resulting from—

(i) loss of or damage to property of others;

(ii) ensuing loss of income or extra expense incurred because of loss of or damage to property of others;

(iii) bodily injury (including) to persons other than the insured or its employees; or

(iv) loss resulting from debt or default of another.

(5) Loss.—The term "loss" means death, bodily injury, or loss of or damage to property, including business interruption loss.

(6) Non-Federal government customers.—The term "non-Federal Government customers" means any customer of a Seller that is not an agency or instrumentality of the United States Government with authority under Public Law 85-804 to provide for indemnification under certain circumstances for third-party claims against its contractors, including but not limited to State and local authorities and commercial entities.

Subtitle H—Miscellaneous Provisions

SEC. 871. ADVISORY COMMITTEES.

(a) In General.—The Secretary may establish, appoint members of, and use the services of, advisory committees, as the Secretary may deem necessary. An advisory committee established under this section may be exempted by the Secretary from Public Law 92-463, but the Secretary shall publish notice in the Federal Register announcing the establishment of such a committee and identifying its purpose and membership. Notwithstanding the preceding sentence, members of an advisory committee that is exempted by the Secretary under the preceding sentence who are special Government employees (as that term is defined in section 202 of title 18, United States Code) shall be eligible for certifications under subsection (b)(3) of section 208 of title 18, United States Code, for official actions taken as a member of such advisory committee.

(b) Termination.—Any advisory committee established by the Secretary shall terminate 2 years after the date of its establishment, unless the Secretary makes a written determination to extend the advisory committee to a specified date, which shall not be more than 2 years after the date on which such determination is made. The Secretary may make any number of subsequent extensions consistent with this subsection.

SEC. 872. REORGANIZATION.

(a) REORGANIZATION.—The Secretary may allocate or reallocate functions among the officers of the Department, and may establish, consolidate, alter, or discontinue organizational units within the Department, but only—

(1) pursuant to section 1502(b); or

(2) after the expiration of 60 days after providing notice of such action to the appropriate congressional committees, which shall include an explanation of the rationale for the action.

(b) LIMITATIONS.—

(1) IN GENERAL.—Authority under subsection (a)(1) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by this Act.

(2) ABOLITIONS.—Authority under subsection (a)(2) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by statute.

SEC. 873. USE OF APPROPRIATED FUNDS.

(a) DISPOSAL OF PROPERTY.—

(1) STRICT COMPLIANCE.—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485).

(2) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(b) GIFTS.—Gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(c) BUDGET REQUEST.—Under section 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004, and for each subsequent fiscal year.

SEC. 874. FUTURE YEAR HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, shall, at or about the same time, be accompanied by a Future Years Homeland Security Program.

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and for any subsequent fiscal year, except that the first Future Years Homeland Security Program shall be submitted not later than 90 days after the Department's fiscal year 2005 budget request is submitted to Congress.

SEC. 875. MISCELLANEOUS AUTHORITIES.

(a) SEAL.—The Department shall have a seal, whose design is subject to the approval of the President.

(b) PARTICIPATION OF MEMBERS OF THE ARMED FORCES.—With respect to the Department, the Secretary shall have the same authorities that the Secretary of Transportation has with respect to the Department of Transportation under section 324 of title 49, United States Code.

(c) REDELEGATION OF FUNCTIONS.—Unless otherwise provided in the delegation or by law, any function delegated under this Act may be redelegated to any subordinate.

SEC. 876. MILITARY ACTIVITIES.

Nothing in this Act shall confer upon the Secretary any authority to engage in warfighting, the military defense of the United States, or other military activities, nor shall anything in this Act limit the existing authority of the Department of Defense or the Armed Forces to engage in warfighting, the military defense of the United States, or other military activities.

SEC. 877. REGULATORY AUTHORITY AND PREEMPTION.

(a) REGULATORY AUTHORITY.—Except as otherwise provided in sections 306(c), 862(c), and 1706(b), this Act vests no new regulatory authority in the Secretary or any other Federal official, and transfers to the Secretary or another Federal official only such regulatory authority as exists on the date of enactment of this Act within any agency, program, or function transferred to the Department pursuant to this Act, or that on such date of enactment is exercised by another official of the executive branch with respect to such agency, program, or function. Any such transferred authority may not be exercised by an official from whom it is transferred upon transfer of such agency, program, or function to the Secretary or another Federal official pursuant to this Act. This Act may not be construed as altering or diminishing the regulatory authority of any other executive agency, except to the extent that this Act transfers such authority from the agency.

(b) PREEMPTION OF STATE OR LOCAL LAW.—Except as otherwise provided in this Act, this Act preempts no State or local law, except that any authority to preempt State or local law vested in any Federal agency or official transferred to the Department pursuant to this Act shall be transferred to the Department effective on the date of the transfer to the Department of that Federal agency or official.

SEC. 878. COUNTERNARCOTICS OFFICER.

The Secretary shall appoint a senior official in the Department to assume primary responsibility for coordinating policy and operations within the Department and between the Department and other Federal departments and agencies with respect to interdicting the entry of illegal drugs into the United States, and tracking and severing connections between illegal drug trafficking and terrorism. Such official shall—

(1) ensure the adequacy of resources within the Department for illicit drug interdiction; and

(2) serve as the United States Interdiction Coordinator for the Director of National Drug Control Policy.

SEC. 879. OFFICE OF INTERNATIONAL AFFAIRS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary an Office of International Affairs. The Office shall be headed by a Director, who shall be a senior official appointed by the Secretary.

(b) DUTIES OF THE DIRECTOR.—The Director shall have the following duties:

(1) To promote information and education exchange with nations friendly to the United States in order to promote sharing of best practices and technologies relating to homeland security. Such exchange shall include the following:

(A) Exchange of information on research and development on homeland security technologies.

(B) Joint training exercises of first responders.

(C) Exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange where the United States has a demonstrated weakness and another friendly nation or nations have a demonstrated expertise.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage international activities within the Department in coordination with other Federal officials with responsibility for counter-terrorism matters.

SEC. 880. PROHIBITION OF THE TERRORISM INFORMATION AND PREVENTION SYSTEM.

Any and all activities of the Federal Government to implement the proposed component program of the Citizen Corps known as Operation TIPS (Terrorism Information and Prevention System) are hereby prohibited.

SEC. 881. REVIEW OF PAY AND BENEFIT PLANS.

Notwithstanding any other provision of this Act, the Secretary shall, in consultation with the Director of the Office of Personnel Management, review the pay and benefit plans of each agency whose functions are transferred under this Act to the Department and, within 90 days after the date of enactment, submit a plan to the President of the Senate and the Speaker of the House of Representatives and the appropriate committees and subcommittees of Congress, for ensuring, to the maximum extent practicable, the elimination of disparities in pay and benefits throughout the Department, especially among law enforcement personnel, that are inconsistent with merit system principles set forth in section 2301 of title 5, United States Code.

SEC. 882. OFFICE FOR NATIONAL CAPITAL REGION COORDINATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Office of the Secretary the Office of National Capital Region Coordination, to oversee and coordinate Federal programs for and relationships with State, local, and regional authorities in the National Capital Region, as defined under section 2674(f)(2) of title 10, United States Code.

(2) DIRECTOR.—The Office established under paragraph (1) shall be headed by a Director, who shall be appointed by the Secretary.

(3) COOPERATION.—The Secretary shall cooperate with the Mayor of the District of Columbia, the Governors of Maryland and Virginia, and other State, local, and regional officers in the National Capital Region to integrate the District of Columbia, Maryland, and Virginia into the planning, coordination, and execution of the activities of the Federal Government for the enhancement of domestic preparedness against the consequences of terrorist attacks.

(b) RESPONSIBILITIES.—The Office established under subsection (a)(1) shall—

(1) coordinate the activities of the Department relating to the National Capital Region, including cooperation with the Office for State and Local Government Coordination;

(2) assess, and advocate for, the resources needed by State, local, and regional authorities in the National Capital Region to implement efforts to secure the homeland;

(3) provide State, local, and regional authorities in the National Capital Region with regular information, research, and technical support to assist the efforts of State, local, and regional authorities in the National Capital Region in securing the homeland;

(4) develop a process for receiving meaningful input from State, local, and regional authorities and the private sector in the National Capital Region to assist in the development of the homeland security plans and activities of the Federal Government;

(5) coordinate with Federal agencies in the National Capital Region on terrorism preparedness, to ensure adequate planning, information sharing, training, and execution of the Federal role in domestic preparedness activities;

(6) coordinate with Federal, State, local, and regional agencies, and the private sector in the National Capital Region on terrorism preparedness to ensure adequate planning, information sharing, training, and execution of domestic preparedness activities among these agencies and entities; and

(7) serve as a liaison between the Federal Government and State, local, and regional authorities, and private sector entities in the National Capital Region to facilitate access to Federal grants and other programs.

(c) ANNUAL REPORT.—The Office established under subsection (a) shall submit an annual report to Congress that includes—

(1) the identification of the resources required to fully implement homeland security efforts in the National Capital Region;

(2) an assessment of the progress made by the National Capital Region in implementing homeland security efforts; and

(3) recommendations to Congress regarding the additional resources needed to fully implement homeland security efforts in the National Capital Region.

(d) LIMITATION.—Nothing contained in this section shall be construed as limiting the power of State and local governments.

SEC. 883. REQUIREMENT TO COMPLY WITH LAWS PROTECTING EQUAL EMPLOYMENT OPPORTUNITY AND PROVIDING WHISTLEBLOWER PROTECTIONS.

Nothing in this Act shall be construed as exempting the Department from requirements applicable with respect to executive agencies—

(1) to provide equal employment protection for employees of the Department (including pursuant to the provisions in section 2302(b)(1) of title 5, United States Code, and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (Pub. L. 107-174)); or

(2) to provide whistleblower protections for employees of the Department (including pursuant to the provisions in section 2302(b)(8) and (9) of such title and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002).

SEC. 884. FEDERAL LAW ENFORCEMENT TRAINING CENTER.

(a) IN GENERAL.—The transfer of an authority or an agency under this Act to the Department of Homeland Security does not affect training agreements already entered into with the Federal Law Enforcement Training Center with respect to the training of personnel to carry out that authority or the duties of that transferred agency.

(b) CONTINUITY OF OPERATIONS.—All activities of the Federal Law Enforcement Training Center transferred to the Department of Homeland Security under this Act shall continue to be carried out at the locations such activities were carried out before such transfer.

SEC. 885. JOINT INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—The Secretary may establish and operate a permanent Joint Interagency Homeland Security Task Force composed of representatives from military and civilian agencies of the United States Government for the purposes of anticipating terrorist threats against the United States and taking appropriate actions to prevent harm to the United States.

(b) STRUCTURE.—It is the sense of Congress that the Secretary should model the Joint Interagency Homeland Security Task Force on the approach taken by the Joint Interagency Task Forces for drug interdiction at Key West, Florida and Alameda, California, to the maximum extent feasible and appropriate.

SEC. 886. SENSE OF CONGRESS REAFFIRMING THE CONTINUED IMPORTANCE AND APPLICABILITY OF THE POSSE COMITATUS ACT.

(a) FINDINGS.—Congress finds the following:

(1) Section 1385 of title 18, United States Code (commonly known as the "Posse Comitatus Act"), prohibits the use of the Armed Forces as a posse comitatus to execute the laws except in cases and under circumstances expressly authorized by the Constitution or Act of Congress.

(2) Enacted in 1878, the Posse Comitatus Act was expressly intended to prevent United States Marshals, on their own initiative, from calling on the Army for assistance in enforcing Federal law.

(3) The Posse Comitatus Act has served the Nation well in limiting the use of the Armed Forces to enforce the law.

(4) Nevertheless, by its express terms, the Posse Comitatus Act is not a complete barrier to the use of the Armed Forces for a range of domestic purposes, including law enforcement functions, when the use of the Armed Forces is authorized by Act of Congress or the President determines that the use of the Armed Forces is required to fulfill the President's obligations under the Constitution to respond promptly in time of war, insurrection, or other serious emergency.

(5) Existing laws, including chapter 15 of title 10, United States Code (commonly known as the "Insurrection Act"), and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), grant the President broad powers that may be invoked in the event of domestic emergencies, including an attack against the Nation using weapons of mass destruction, and these laws specifically authorize the President to use the Armed Forces to help restore public order.

(b) SENSE OF CONGRESS.—Congress reaffirms the continued importance of section 1385 of title 18, United States Code, and it is the sense of Congress that nothing in this Act should be construed to alter the applicability of such section to any use of the Armed Forces as a posse comitatus to execute the laws.

SEC. 887. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—The annual Federal response plan developed by the Department shall be consistent with section 319 of the Public Health Service Act (42 U.S.C. 247d).

(b) DISCLOSURES AMONG RELEVANT AGENCIES.—

(1) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) PUBLIC HEALTH EMERGENCY.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), the Secretary of Health and Human Services shall keep relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, fully and currently informed.

(3) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), has been made, all relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

SEC. 888. PRESERVING COAST GUARD MISSION PERFORMANCE.

(a) DEFINITIONS.—In this section:

(1) NON-HOMELAND SECURITY MISSIONS.—The term "non-homeland security missions" means the following missions of the Coast Guard:

(A) Marine safety.

(B) Search and rescue.

(C) Aids to navigation.

(D) Living marine resources (fisheries law enforcement).

(E) Marine environmental protection.

(F) Ice operations.

(2) HOMELAND SECURITY MISSIONS.—The term "homeland security missions" means the following missions of the Coast Guard:

(A) Ports, waterways and coastal security.

(B) Drug interdiction.

(C) Migrant interdiction.

(D) Defense readiness.

(E) Other law enforcement.

(b) TRANSFER.—There are transferred to the Department the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.

(c) MAINTENANCE OF STATUS OF FUNCTIONS AND ASSETS.—Notwithstanding any other provision of this Act, the authorities, functions, and capabilities of the Coast Guard to perform its missions shall be maintained intact and without significant reduction after the transfer of the Coast Guard to the Department, except as specified in subsequent Acts.

(d) CERTAIN TRANSFERS PROHIBITED.—No mission, function, or asset (including for purposes of this subsection any ship, aircraft, or helicopter) of the Coast Guard may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, except for details or assignments that do not reduce the Coast Guard's capability to perform its missions.

(e) CHANGES TO MISSIONS.—

(1) PROHIBITION.—The Secretary may not substantially or significantly reduce the missions of the Coast Guard or the Coast Guard's capability to perform those missions, except as specified in subsequent Acts.

(2) WAIVER.—The Secretary may waive the restrictions under paragraph (1) for a period of not to exceed 90 days upon a declaration and certification by the Secretary to Congress that a clear, compelling, and immediate need exists for such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot respond effectively if the restrictions under paragraph (1) are not waived.

(f) ANNUAL REVIEW.—

(1) In general.—The Inspector General of the Department shall conduct an annual review that shall assess thoroughly the performance by the Coast Guard of all missions of the Coast Guard (including non-homeland security missions and homeland security missions) with a particular emphasis on examining the non-homeland security missions.

(2) Report.—The report under this paragraph shall be submitted to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Government Reform of the House of Representatives;

(C) the Committees on Appropriations of the Senate and the House of Representatives;

(D) the Committee on Commerce, Science, and Transportation of the Senate; and

(E) the Committee on Transportation and Infrastructure of the House of Representatives.

(g) Direct Reporting to Secretary.—Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary without being required to report through any other official of the Department.

(h) Operation as a Service in the Navy.—None of the conditions and restrictions in this section shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

(i) Report on Accelerating the Integrated Deepwater System.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Commandant of the Coast Guard, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives that—

(1) analyzes the feasibility of accelerating the rate of procurement in the Coast Guard's Integrated Deepwater System from 20 years to 10 years;

(2) includes an estimate of additional resources required;

(3) describes the resulting increased capabilities;

(4) outlines any increases in the Coast Guard's homeland security readiness;

(5) describes any increases in operational efficiencies; and

(6) provides a revised asset phase-in time line.

SEC. 889. HOMELAND SECURITY FUNDING ANALYSIS IN PRESIDENT'S BUDGET.

(a) In General.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

"(33)(A)(i) a detailed, separate analysis, by budget function, by agency, and by initiative area (as determined by the administration) for the prior fiscal year, the current fiscal year, the fiscal years for which the budget is submitted, and the ensuing fiscal year identifying the amounts of gross and net appropriations or obligational authority and outlays that contribute to homeland security, with separate displays for mandatory and discretionary amounts, including—

"(I) summaries of the total amount of such appropriations or new obligational authority and outlays requested for homeland security;

"(II) an estimate of the current service levels of homeland security spending;

"(III) the most recent risk assessment and summary of homeland security needs in each initiative area (as determined by the administration); and

"(IV) an estimate of user fees collected by the Federal Government on behalf of homeland security activities;

"(ii) with respect to subclauses (I) through (IV) of clause (i), amounts shall be provided by account for each program, project and activity; and

"(iii) an estimate of expenditures for homeland security activities by State and local governments and the private sector for the prior fiscal year and the current fiscal year.

"(B) In this paragraph, consistent with the Office of Management and Budget's June 2002 'Annual Report to Congress on Combatting Terrorism', the term 'homeland security' refers to those activities that detect, deter, protect against, and respond to terrorist attacks occurring within the United States and its territories.

"(C) In implementing this paragraph, including determining what Federal activities or accounts constitute homeland security for purposes of budgetary classification, the Office of Management and Budget is directed to consult periodically, but at least annually, with the House and Senate Budget Committees, the House and Senate Appropriations Committees, and the Congressional Budget Office.".

(b) Repeal of Duplicative Reports.—The following sections are repealed:

(1) Section 1051 of Public Law 105–85.

(2) Section 1403 of Public Law 105–261.

(c) Effective Date.—This section and the amendment made by this section shall apply beginning with respect to the fiscal year 2005 budget submission.

SEC. 890. AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT.

The Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in section 408 by striking the last sentence of subsection (c); and

(2) in section 402 by striking paragraph (1) and inserting the following:

"(1) Air carrier.—The term 'air carrier' means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents (including persons engaged in the business of providing air transportation security and their affiliates) of such citizen. For purposes of the preceding sentence, the term 'agent', as applied to persons engaged in the business of providing air transportation security, shall only include persons that have contracted directly with the Federal Aviation Administration on or after and commenced services no later than February 17, 2002, to provide such security, and had not been or are not debarred for any period within 6 months from that date.".

Subtitle I—Information Sharing

SEC. 891. SHORT TITLE; FINDINGS; AND SENSE OF CONGRESS.

(a) Short Title.—This subtitle may be cited as the "Homeland Security Information Sharing Act".

(b) Findings.—Congress finds the following:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.

(2) The Federal Government relies on State and local personnel to protect against terrorist attack.

(3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland security.

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attack.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected status of such information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without the need for granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(c) Sense of Congress.—It is the sense of Congress that Federal, State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SEC. 892. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.

(a) Procedures for Determining Extent of Sharing of Homeland Security Information.—

(1) The President shall prescribe and implement procedures under which relevant Federal agencies—

(A) share relevant and appropriate homeland security information with other Federal agencies, including the Department, and appropriate State and local personnel;

(B) identify and safeguard homeland security information that is sensitive but unclassified; and

(C) to the extent such information is in classified form, determine whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(b) Procedures for Sharing of Homeland Security Information.—

(1) Under procedures prescribed by the President, all appropriate agencies, including the intelligence community, shall,

through information sharing systems, share homeland security information with Federal agencies and appropriate State and local personnel to the extent such information may be shared, as determined in accordance with subsection (a), together with assessments of the credibility of such information.

(2) Each information sharing system through which information is shared under paragraph (1) shall—

(A) have the capability to transmit unclassified or classified information, though the procedures and recipients for each capability may differ;

(B) have the capability to restrict delivery of information to specified subgroups by geographic location, type of organization, position of a recipient within an organization, or a recipient's need to know such information;

(C) be configured to allow the efficient and effective sharing of information; and

(D) be accessible to appropriate State and local personnel.

(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1)—

(A) to limit the redissemination of such information to ensure that such information is not used for an unauthorized purpose;

(B) to ensure the security and confidentiality of such information;

(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(D) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

(4) The procedures prescribed under paragraph (1) shall ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(5) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.

(6) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.

(c) Sharing of Classified Information and Sensitive but Unclassified Information With State and Local Personnel.—

(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include 1 or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into nondisclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Terrorism Early Warning Groups.

(d) Responsible Officials.—For each affected Federal agency, the head of such agency shall designate an official to administer this Act with respect to such agency.

(e) Federal Control of Information.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.

(f) Definitions.—As used in this section:

(1) The term "homeland security information" means any information possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization; or

(D) would improve the response to a terrorist act.

(2) The term "intelligence community" has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term "State and local personnel" means any of the following persons involved in prevention, preparation, or response for terrorist attack:

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private-sector entities that affect critical infrastructure, cyber, economic, or public health security, as designated by the Federal government in procedures developed pursuant to this section.

(4) The term "State" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

(g) Construction.—Nothing in this Act shall be construed as authorizing any department, bureau, agency, officer, or employee of the Federal Government to request, receive, or transmit to any other Government entity or personnel, or transmit to any State or local entity or personnel otherwise authorized by this Act to receive homeland security information, any information collected by the Federal Government solely for statistical purposes in violation of any other provision of law relating to the confidentiality of such information.

SEC. 893. REPORT.

(a) Report Required.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to the congressional committees specified in subsection (b) a report on the implementation of section 892. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements of section 892, to increase the effectiveness of sharing of information between and among Federal, State, and local entities.

(b) Specified Congressional Committees.—The congressional committees referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 894. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out section 892.

SEC. 895. AUTHORITY TO SHARE GRAND JURY INFORMATION.

Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (2), by inserting ", or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6," after "Rule 6"; and

(2) in paragraph (3)—

(A) in subparagraph (A)(ii), by inserting "or of a foreign government" after "(including personnel of a state or subdivision of a state";

(B) in subparagraph (C)(i)—

(i) in subclause (I), by inserting before the semicolon the following: "or, upon a request by an attorney for the government, when sought by a foreign court or prosecutor for use in an official criminal investigation";

(ii) in subclause (IV)—

(I) by inserting "or foreign" after "may disclose a violation of State";

(II) by inserting "or of a foreign government" after "to an appropriate official of a State or subdivision of a State"; and

(III) by striking "or" at the end;

(iii) by striking the period at the end of subclause (V) and inserting "; or"; and

(iv) by adding at the end the following:

"(VI) when matters involve a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate federal, state, local, or foreign government official for the purpose of preventing or responding to such a threat."; and

(C) in subparagraph (C)(iii)—

(i) by striking "Federal";

(ii) by inserting "or clause (i)(VI)" after "clause (i)(V)"; and

(iii) by adding at the end the following: "Any state, local, or foreign official who receives information pursuant to clause (i)(VI) shall use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

SEC. 896. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.

Section 2517 of title 18, United States Code, is amended by adding at the end the following:

"(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

"(8) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

SEC. 897. FOREIGN INTELLIGENCE INFORMATION.

(a) DISSEMINATION AUTHORIZED.—Section 203(d)(1) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107-56; 50 U.S.C. 403-5d) is amended by adding at the end the following: "Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, obtained as part of a criminal investigation to be disclosed to any appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

(b) CONFORMING AMENDMENTS.—Section 203(c) of that Act is amended—

(1) by striking "section 2517(6)" and inserting "paragraphs (6) and (8) of section 2517 of title 18, United States Code,"; and

(2) by inserting "and (VI)" after "Rule 6(e)(3)(C)(i)(V)".

SEC. 898. INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE.

Section 106(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806) is amended by inserting after "law enforcement officers" the following: "or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)".

SEC. 899. INFORMATION ACQUIRED FROM A PHYSICAL SEARCH.

Section 305(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by inserting after "law enforcement officers" the following: "or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)".

TITLE IX—NATIONAL HOMELAND SECURITY COUNCIL

SEC. 901. NATIONAL HOMELAND SECURITY COUNCIL.

There is established within the Executive Office of the President a council to be known as the "Homeland Security Council" (in this title referred to as the "Council").

SEC. 902. FUNCTION.

The function of the Council shall be to advise the President on homeland security matters.

SEC. 903. MEMBERSHIP.

The members of the Council shall be the following:

(1) The President.

(2) The Vice President.

(3) The Secretary of Homeland Security.

(4) The Attorney General.

(5) The Secretary of Defense.

(6) Such other individuals as may be designated by the President.

SEC. 904. OTHER FUNCTIONS AND ACTIVITIES.

For the purpose of more effectively coordinating the policies and functions of the United States Government relating to homeland security, the Council shall—

(1) assess the objectives, commitments, and risks of the United States in the interest of homeland security and to make resulting recommendations to the President;

(2) oversee and review homeland security policies of the Federal Government and to make resulting recommendations to the President; and

(3) perform such other functions as the President may direct.

SEC. 905. STAFF COMPOSITION.

The Council shall have a staff, the head of which shall be a civilian Executive Secretary, who shall be appointed by the President. The President is authorized to fix the pay of the Executive Secretary at a rate not to exceed the rate of pay payable to the Executive Secretary of the National Security Council.

SEC. 906. RELATION TO THE NATIONAL SECURITY COUNCIL.

The President may convene joint meetings of the Homeland Security Council and the National Security Council with participation by members of either Council or as the President may otherwise direct.

TITLE X—INFORMATION SECURITY

SEC. 1001. INFORMATION SECURITY.

(a) SHORT TITLE.—This title may be cited as the "Federal Information Security Management Act of 2002".

(b) INFORMATION SECURITY.—

(1) IN GENERAL.—Subchapter II of chapter 35 of title 44, United States Code, is amended to read as follows:

"SUBCHAPTER II—INFORMATION SECURITY

"§ 3531. Purposes

"The purposes of this subchapter are to—

"(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

"(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

"(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

"(4) provide a mechanism for improved oversight of Federal agency information security programs;

"(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and

"(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.".

"§ 3532. Definitions

"(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

"(b) ADDITIONAL DEFINITIONS.—As used in this subchapter—

"(1) the term 'information security' means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

"(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

"(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information;

"(C) availability, which means ensuring timely and reliable access to and use of information; and

"(D) authentication, which means utilizing digital credentials to assure the identity of users and validate their access;

"(2) the term 'national security system' means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency, the function, operation, or use of which—

"(A) involves intelligence activities;

"(B) involves cryptologic activities related to national security;

"(C) involves command and control of military forces;

"(D) involves equipment that is an integral part of a weapon or weapons system; or

"(E) is critical to the direct fulfillment of military or intelligence missions provided that this definition does not apply to a system that is used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications);

"(3) the term 'information technology' has the meaning given that term in section 11101 of title 40; and

"(4) the term 'information system' means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, and includes—

"(A) computers and computer networks;

"(B) ancillary equipment;

"(C) software, firmware, and related procedures;

"(D) services, including support services; and

"(E) related resources.".

"§ 3533. Authority and functions of the Director

"(a) The Director shall oversee agency information security policies and practices, by—

"(1) promulgating information security standards under section 11331 of title 40;

"(2) overseeing the implementation of policies, principles, standards, and guidelines on information security;

"(3) requiring agencies, consistent with the standards promulgated under such section 11331 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

"(A) information collected or maintained by or on behalf of an agency; or

"(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

"(4) coordinating the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

"(5) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 11303(b)(5) of title 40, to enforce accountability for compliance with such requirements;

"(6) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3534(b);

"(7) coordinating information security policies and procedures with related information resources management policies and procedures; and

"(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

"(A) a summary of the findings of evaluations required by section 3535;

"(B) significant deficiencies in agency information security practices;

"(C) planned remedial action to address such deficiencies; and

"(D) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology under section 20(d)(9) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).".

"(b) Except for the authorities described in paragraphs (4) and (7) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

"§ 3534. Federal agency responsibilities

"(a) The head of each agency shall—

"(1) be responsible for—

"(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

"(i) information collected or maintained by or on behalf of the agency; and

"(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

"(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

"(i) information security standards promulgated by the Director under section 11331 of title 40; and

"(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

"(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

"(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

"(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

"(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 11331 of title 40 for information security classifications and related requirements;

"(C) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

"(D) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

"(3) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the requirements imposed on the agency under this subchapter, including—

"(A) designating a senior agency information security officer who shall—

"(i) carry out the Chief Information Officer's responsibilities under this section;

"(ii) possess professional qualifications, including training and experience, required to administer the functions described under this section;

"(iii) have information security duties as that official's primary duty; and

"(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

"(B) developing and maintaining an agencywide information security program as required by subsection (b);

"(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3533 of this title, and section 11331 of title 40;

"(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

"(E) assisting senior agency officials concerning their responsibilities under paragraph (2);

"(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

"(5) ensure that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

"(b) Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3533(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

"(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;

"(2) policies and procedures that—

"(A) are based on the risk assessments required by paragraph (1);

"(B) cost-effectively reduce information security risks to an acceptable level;

"(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

"(D) ensure compliance with—

"(i) the requirements of this subchapter;

"(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 11331 of title 40;

"(iii) minimally acceptable system configuration requirements, as determined by the agency; and

"(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

"(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

"(4) security awareness training to inform personnel, including contractors and other users of information systems that support the operations and assets of the agency, of—

"(A) information security risks associated with their activities; and

"(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

"(5) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

"(A) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3505(c); and

"(B) may include testing relied on in a evaluation under section 3535;

"(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

"(7) procedures for detecting, reporting, and responding to security incidents, including—

"(A) mitigating risks associated with such incidents before substantial damage is done; and

"(B) notifying and consulting with, as appropriate—

"(i) law enforcement agencies and relevant Offices of Inspector General;

"(ii) an office designated by the President for any incident involving a national security system; and

"(iii) any other agency or office, in accordance with law or as directed by the President; and

"(8) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

"(c) Each agency shall—

"(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b);

"(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

"(A) annual agency budgets;

"(B) information resources management under subchapter 1 of this chapter;

"(C) information technology management under subtitle III of title 40;

"(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

"(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101-576) (and the amendments made by that Act);

"(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

"(G) internal accounting and administrative controls under section 3512 of title 31, United States Code, (known as the 'Federal Managers Financial Integrity Act'); and

"(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

"(A) as a material weakness in reporting under section 3512 of title 31; and

"(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note).

"(d)(1) In addition to the requirements of subsection (c), each agency, in consultation with the Director, shall include as part of the performance plan required under section 1115 of title 31 a description of—

"(A) the time periods, and

"(B) the resources, including budget, staffing, and training,

that are necessary to implement the program required under subsection (b).

"(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1).

"(e) Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

"§ 3535. Annual independent evaluation

"(a)(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

"(2) Each evaluation by an agency under this section shall include—

"(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the agency's information systems;

"(B) an assessment (made on the basis of the results of the testing) of compliance with—

"(i) the requirements of this subchapter; and

"(ii) related information security policies, procedures, standards, and guidelines; and

"(C) separate presentations, as appropriate, regarding information security relating to national security systems.

"(b) Subject to subsection (c)—

"(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

"(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

"(c) For each agency operating or exercising control of a national security system, that portion of the evaluation required by this section directly relating to a national security system shall be performed—

"(1) only by an entity designated by the agency head; and

"(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

"(d) The evaluation required by this section—

"(1) shall be performed in accordance with generally accepted government auditing standards; and

"(2) may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

"(e) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

"(f) Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

"(g)(1) The Director shall summarize the results of the evaluations conducted under this section in the report to Congress required under section 3533(a)(8).

"(2) The Director's report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

"(3) Evaluations and any other descriptions of information systems under the authority and control of the Director of Central Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

"(h) The Comptroller General shall periodically evaluate and report to Congress on—

"(1) the adequacy and effectiveness of agency information security policies and practices; and

"(2) implementation of the requirements of this subchapter.

"§ 3536. National security systems

"The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

"(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

"(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

"(3) complies with the requirements of this subchapter.

"§ 3537. Authorization of appropriations

"There are authorized to be appropriated to carry out the provisions of this subchapter such sums as may be necessary for each of fiscal years 2003 through 2007.

"§ 3538. Effect on existing law

"Nothing in this subchapter, section 11331 of title 40, or section 20 of the National Standards and Technology Act (15 U.S.C. 278g-3) may be construed as affecting the authority of the President, the Office of Management and Budget or the Director thereof, the National Institute of Standards and Technology, or the head of any agency, with respect to the authorized use or disclosure of information, including with regard to the protection of personal privacy under section 552a of title 5, the disclosure of information under section 552 of title 5, the management and disposition of records under chapters 29, 31, or 33 of title 44, the management of information resources under subchapter I of chapter 35 of this title, or the disclosure of information to Congress or the Comptroller General of the United States.".

(2) CLERICAL AMENDMENT.—The items in the table of sections at the beginning of such chapter 35 under the heading "SUBCHAPTER II" are amended to read as follows:

"3531. Purposes.
"3532. Definitions.
"3533. Authority and functions of the Director.

"3534. Federal agency responsibilities.
"3535. Annual independent evaluation.
"3536. National security systems.
"3537. Authorization of appropriations.
"3538. Effect on existing law.".

(c) Information Security Responsibilities of Certain Agencies.—

(1) National security responsibilities.—(A) Nothing in this Act (including any amendment made by this Act) shall supersede any authority of the Secretary of Defense, the Director of Central Intelligence, or other agency head, as authorized by law and as directed by the President, with regard to the operation, control, or management of national security systems, as defined by section 3532(3) of title 44, United States Code.

(B) Section 2224 of title 10, United States Code, is amended—

(i) in subsection 2224(b), by striking "(b) Objectives and Minimum Requirements.—(1)" and inserting "(b) Objectives of the Program.—";

(ii) in subsection 2224(b), by striking "(2) the program shall at a minimum meet the requirements of section 3534 and 3535 of title 44, United States Code."; and

(iii) in subsection 2224(c), by inserting ", including through compliance with subtitle II of chapter 35 of title 44" after "infrastructure".

(2) Atomic energy act of 1954.—Nothing in this Act shall supersede any requirement made by or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Restricted Data or Formerly Restricted Data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 1002. MANAGEMENT OF INFORMATION TECHNOLOGY.

(a) In General.—Section 11331 of title 40, United States Code, is amended to read as follows:

"§11331. Responsibilities for Federal information systems standards

"(a) Definition.—In this section, the term 'information security' has the meaning given that term in section 3532(b)(1) of title 44.

"(b) Requirement to Prescribe Standards.—

"(1) In general.—

"(A) Requirement.—Except as provided under paragraph (2), the Director of the Office of Management and Budget shall, on the basis of proposed standards developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)) and in consultation with the Secretary of Homeland Security, promulgate information security standards pertaining to Federal information systems.

"(B) Required standards.—Standards promulgated under subparagraph (A) shall include—

"(i) standards that provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(b)); and

"(ii) such standards that are otherwise necessary to improve the efficiency of operation or security of Federal information systems.

"(C) Required standards binding.—Information security standards described under subparagraph (B) shall be compulsory and binding.

"(2) Standards and guidelines for national security systems.—Standards and guidelines for national security systems, as defined under section 3532(3) of title 44, shall be developed, promulgated, enforced, and overseen as otherwise autnorized by law and as directed by the President.

"(c) Application of More Stringent Standards.—The head of an agency may employ standards for the cost-effective information security for all operations and assets within or under the supervision of that agency that are more stringent than the standards promulgated by the Director under this section, if such standards—

"(1) contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Director; and

"(2) are otherwise consistent with policies and guidelines issued under section 3533 of title 44.

"(d) Requirements Regarding Decisions by Director.—

"(1) Deadline.—The decision regarding the promulgation of any standard by the Director under subsection (b) shall occur not later than 6 months after the submission of the proposed standard to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

"(2) Notice and comment.—A decision by the Director to significantly modify, or not promulgate, a proposed standard submitted to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), shall be made after the public is given an opportunity to comment on the Director's proposed decision.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 113 of title 40, United States Code, is amended by striking the item relating to section 11331 and inserting the following:

"11331. Responsibilities for Federal information systems standards.".

SEC. 1003. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), is amended by striking the text and inserting the following:

"(a) The Institute shall—

"(1) have the mission of developing standards, guidelines, and associated methods and techniques for information systems;

"(2) develop standards and guidelines, including minimum requirements, for information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency, other than national security systems (as defined in section 3532(b)(2) of title 44, United States Code);

"(3) develop standards and guidelines, including minimum requirements, for providing adequate information security for all agency operations and assets, but such standards and guidelines shall not apply to national security systems; and

"(4) carry out the responsibilities described in paragraph (3) through the Computer Security Division.

"(b) The standards and guidelines required by subsection (a) shall include, at a minimum—

"(1)(A) standards to be used by all agencies to categorize all information and information systems collected or maintained by or on behalf of each agency based on the objectives of providing appropriate levels of information security according to a range of risk levels;

"(B) guidelines recommending the types of information and information systems to be included in each such category; and

"(C) minimum information security requirements for information and information systems in each such category;

"(2) a definition of and guidelines concerning detection and handling of information security incidents; and

"(3) guidelines developed in coordination with the National Security Agency for identifying an information system as a national security system consistent with applicable requirements for national security systems, issued in accordance with law and as directed by the President.

"(c) In developing standards and guidelines required by subsections (a) and (b), the Institute shall—

"(1) consult with other agencies and offices (including, but not limited to, the Director of the Office of Management and Budget, the Departments of Defense and Energy, the National Security Agency, the General Accounting Office, and the Secretary of Homeland Security) to assure—

"(A) use of appropriate information security policies, procedures, and techniques, in order to improve information security and avoid unnecessary and costly duplication of effort; and

"(B) that such standards and guidelines are complementary with standards and guidelines employed for the protection of national security systems and information contained in such systems;

"(2) provide the public with an opportunity to comment on proposed standards and guidelines;

"(3) submit to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code—

"(A) standards, as required under subsection (b)(1)(A), no later than 12 months after the date of the enactment of this section; and

"(B) minimum information security requirements for each category, as required under subsection (b)(1)(C), no later than 36 months after the date of the enactment of this section;

"(4) issue guidelines as required under subsection (b)(1)(B), no later than 18 months after the date of the enactment of this Act;

"(5) ensure that such standards and guidelines do not require specific technological solutions or products, including any specific hardware or software security solutions;

"(6) ensure that such standards and guidelines provide for sufficient flexibility to permit alternative solutions to provide equivalent levels of protection for identified information security risks; and

"(7) use flexible, performance-based standards and guidelines that, to the greatest extent possible, permit the use of off-the-shelf commercially developed information security products.

"(d) The Institute shall—

"(1) submit standards developed pursuant to subsection (a), along with recommendations as to the extent to which these should be made compulsory and binding, to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code;

"(2) provide assistance to agencies regarding—

"(A) compliance with the standards and guidelines developed under subsection (a);

"(B) detecting and handling information security incidents; and

"(C) information security policies, procedures, and practices;

"(3) conduct research, as needed, to determine the nature and extent of information security vulnerabilities and techniques for providing cost-effective information security;

"(4) develop and periodically revise performance indicators and measures for agency information security policies and practices;

"(5) evaluate private sector information security policies and practices and commercially available information technologies to assess potential application by agencies to strengthen information security;

"(6) evaluate security policies and practices developed for national security systems to assess potential application by agencies to strengthen information security;

"(7) periodically assess the effectiveness of standards and guidelines developed under this section and undertake revisions as appropriate;

"(8) solicit and consider the recommendations of the Information Security and Privacy Advisory Board, established by section 21, regarding standards and guidelines developed under subsection (a) and submit such recommendations to the Director of the Office of Management and Budget with such standards submitted to the Director; and

"(9) prepare an annual public report on activities undertaken in the previous year, and planned for the coming year, to carry out responsibilities under this section.

"(e) As used in this section—

"(1) the term 'agency' has the same meaning as provided in section 3502(1) of title 44, United States Code;

"(2) the term 'information security' has the same meaning as provided in section 3532(1) of such title;

"(3) the term 'information system' has the same meaning as provided in section 3502(8) of such title;

"(4) the term 'information technology' has the same meaning as provided in section 11101 of title 40, United States Code; and

"(5) the term 'national security system' has the same meaning as provided in section 3532(b)(2) of such title.".

SEC. 1004. INFORMATION SECURITY AND PRIVACY ADVISORY BOARD.

Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-4), is amended—

(1) in subsection (a), by striking "Computer System Security and Privacy Advisory Board" and inserting "Information Security and Privacy Advisory Board";

(2) in subsection (a)(1), by striking "computer or telecommunications" and inserting "information technology";

(3) in subsection (a)(2)—

(A) by striking "computer or telecommunications technology" and inserting "information technology"; and

(B) by striking "computer or telecommunications equipment" and inserting "information technology";

(4) in subsection (a)(3)—

(A) by striking "computer systems" and inserting "information system"; and

(B) by striking "computer systems security" and inserting "information security";

(5) in subsection (b)(1) by striking "computer systems security" and inserting "information security";

(6) in subsection (b) by striking paragraph (2) and inserting the following:

"(2) to advise the Institute and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems, including through review of proposed standards and guidelines developed under section 20; and";

(7) in subsection (b)(3) by inserting "annually" after "report";

(8) by inserting after subsection (e) the following new subsection:

"(f) The Board shall hold meetings at such locations and at such time and place as determined by a majority of the Board.";

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(10) by striking subsection (h), as redesignated by paragraph (9), and inserting the following:

"(h) As used in this section, the terms "information system" and "information technology" have the meanings given in section 20.".

SEC. 1005. TECHNICAL AND CONFORMING AMENDMENTS.

(a) FEDERAL COMPUTER SYSTEM SECURITY TRAINING AND PLAN.—

(1) REPEAL.—Section 11332 of title 40, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 40, United States Code, as amended by striking the item relating to section 11332.

(b) FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) is amended by striking subtitle G of title X (44 U.S.C. 3531 note).

(c) PAPERWORK REDUCTION ACT.—(1) Section 3504(g) of title 44, United States Code, is amended—

(A) by adding "and" at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking "sections 11331 and 11332(b) and (c) of title 40" and inserting "section 11331 of title 40 and subchapter II of this title"; and

(ii) by striking the semicolon and inserting a period; and

(C) by striking paragraph (3).

(2) Section 3505 of such title is amended by adding at the end the following:

"(c) INVENTORY OF INFORMATION SYSTEMS.—(1) The head of each agency shall develop and maintain an inventory of the information systems (including national security systems) operated by or under the control of such agency;

"(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency;

"(3) Such inventory shall be—

"(A) updated at least annually;

"(B) made available to the Comptroller General; and

"(C) used to support information resources management, including—

"(i) preparation and maintenance of the inventory of information resources under section 3506(b)(4);

"(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), subtitle III of title 40, and related laws and guidance;

"(iii) monitoring, testing, and evaluation of information security controls under subchapter II;

"(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and

"(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33.

"(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.".

(3) Section 3506(g) of such title is amended—

(A) by adding "and" at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking "section 11332 of title 40" and inserting "subchapter II of this chapter"; and

(ii) by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

SEC. 1006. CONSTRUCTION.

Nothing in this Act, or the amendments made by this Act, affects the authority of the National Institute of Standards and Technology or the Department of Commerce relating to the development and promulgation of standards or guidelines under paragraphs (1) and (2) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(a)).

TITLE XI—DEPARTMENT OF JUSTICE DIVISIONS

Subtitle A—Executive Office for Immigration Review

SEC. 1101. LEGAL STATUS OF EOIR.

(a) EXISTENCE OF EOIR.—There is in the Department of Justice the Executive Office for Immigration Review, which shall be subject to the direction and regulation of the Attorney General under section 103(g) of the Immigration and Nationality Act, as added by section 1102.

SEC. 1102. AUTHORITIES OF THE ATTORNEY GENERAL.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) as amended by this Act, is further amended by—

(1) amending the heading to read as follows:

"POWERS AND DUTIES OF THE SECRETARY, THE UNDER SECRETARY, AND THE ATTORNEY GENERAL";

(2) in subsection (a)—

(A) by inserting "Attorney General," after "President,"; and

(B) by redesignating paragraphs (8), (9), (8) (as added by section 372 of Public Law 104–208), and (9) (as added by section 372 of Public Law 104–208) as paragraphs (8), (9), (10), and (11), respectively; and

(3) by adding at the end the following new subsection:

"(g) ATTORNEY GENERAL.—

"(1) IN GENERAL.—The Attorney General shall have such authorities and functions under this Act and all other laws relating to the immigration and naturalization of aliens as were exercised by the Executive Office for Immigration Review, or by the Attorney General with respect to the Executive Office for Immigration Review, on the day before the effective date of the Immigration Reform, Accountability and Security Enhancement Act of 2002.

"(2) POWERS.—The Attorney General shall establish such regulations, prescribe such forms of bond, reports, entries, and other papers, issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out this section.".

SEC. 1103. STATUTORY CONSTRUCTION.

Nothing in this Act, any amendment made by this Act, or in section 103 of the Immigration and Nationality Act, as amended by section 1102, shall be construed to limit judicial deference to regulations, adjudications, interpretations, orders, decisions, judgments, or any other actions of the Secretary of Homeland Security or the Attorney General.

Subtitle B—Transfer of the Bureau of Alcohol, Tobacco and Firearms to the Department of Justice

SEC. 1111. BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department of Justice under the general authority of the Attorney General the Bureau of Alcohol, Tobacco, Firearms, and Explosives (in this section referred to as the "Bureau").

(2) DIRECTOR.—There shall be at the head of the Bureau a Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives (in this subtitle referred to as the "Director"). The Director shall be appointed by the Attorney General and shall perform such functions as the Attorney General shall direct. The Director shall receive compensation at the rate prescribed by law under section 5314 of title V, United States Code, for positions at level III of the Executive Schedule.

(3) COORDINATION.—The Attorney General, acting through the Director and such other officials of the Department of Justice as the Attorney General may designate, shall provide for the coordination of all firearms, explosives, tobacco enforcement, and arson enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among any officer, employee, or agency of the Department of Justice involved in the performance of these and related functions.

(4) PERFORMANCE OF TRANSFERRED FUNCTIONS.—The Attorney General may make such provisions as the Attorney General determines appropriate to authorize the performance by any officer, employee, or agency of the Department of Justice of any function transferred to the Attorney General under this section.

(b) RESPONSIBILITIES.—Subject to the direction of the Attorney General, the Bureau shall be responsible for investigating—

(1) criminal and regulatory violations of the Federal firearms, explosives, arson, alcohol, and tobacco smuggling laws;

(2) the functions transferred by subsection (c); and

(3) any other function related to the investigation of violent crime or domestic terrorism that is delegated to the Bureau by the Attorney General.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—Subject to paragraph (2), but notwithstanding any other provision of law, there are transferred to the Department of Justice the authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms, which shall be maintained as a distinct entity within the Department of Justice, including the related functions of the Secretary of the Treasury.

(2) ADMINISTRATION AND REVENUE COLLECTION FUNCTIONS.—There shall be retained within the Department of the Treasury the authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms relating to the administration and enforcement of chapters 51 and 52 of the Internal Revenue Code of 1986, sections 4181 and 4182 of the Internal Revenue Code of 1986, and title 27, United States Code.

(3) BUILDING PROSPECTUS.—Prospectus PDC–98W10, giving the General Services Administration the authority for site acquisition, design, and construction of a new headquarters building for the Bureau of Alcohol, Tobacco and Firearms, is transferred, and deemed to apply, to the Bureau of Alcohol, Tobacco, Firearms, and Explosives established in the Department of Justice under subsection (a).

(d) TAX AND TRADE BUREAU.—

(1) ESTABLISHMENT.—There is established within the Department of the Treasury the Tax and Trade Bureau.

(2) ADMINISTRATOR.—The Tax and Trade Bureau shall be headed by an Administrator, who shall perform such duties as assigned by the Under Secretary for Enforcement of the Department of the Treasury. The Administrator shall occupy a career-reserved position within the Senior Executive Service.

(3) RESPONSIBILITIES.—The authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms that are not transferred to the Department of Justice under this section shall be retained and administered by the Tax and Trade Bureau.

SEC. 1112. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 8D(b)(1) by striking "Bureau of Alcohol, Tobacco and Firearms" and inserting "Tax and Trade Bureau"; and

(2) in section 9(a)(1)(L)(i), by striking "Bureau of Alcohol, Tobacco, and Firearms" and inserting "Tax and Trade Bureau".

(b) Section 1109(c)(2)(A)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (7 U.S.C. 1445–3(c)(2)(A)(i)) is amended by striking "(on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms" and inserting "by manufacturers of tobacco products to the Tax and Trade Bureau".

(c) Section 2(4)(J) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173; 8 U.S.C.A. 1701(4)(J)) is amended by striking "Bureau of Alcohol, Tobacco, and Firearms" and inserting "Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice".

(d) Section 3(1)(E) of the Firefighters' Safety Study Act (15 U.S.C. 2223b(1)(E)) is amended by striking "the Bureau of Alcohol, Tobacco, and Firearms," and inserting "the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice,".

(e) Chapter 40 of title 18, United States Code, is amended—

(1) by striking section 841(k) and inserting the following:

"(k) 'Attorney General' means the Attorney General of the United States.";

(2) in section 846(a), by striking "the Attorney General and the Federal Bureau of Investigation, together with the Secretary" and inserting "the Federal Bureau of Investigation, together with the Bureau of Alcohol, Tobacco, Firearms, and Explosives"; and

(3) by striking "Secretary" each place it appears and inserting "Attorney General".

(f) Chapter 44 of title 18, United States Code, is amended—

(1) in section 921(a)(4)(B), by striking "Secretary" and inserting "Attorney General";

(2) in section 921(a)(4), by striking "Secretary of the Treasury" and inserting "Attorney General";

(3) in section 921(a), by striking paragraph (18) and inserting the following:

"(18) The term 'Attorney General' means the Attorney General of the United States";

(4) in section 922(p)(5)(A), by striking "after consultation with the Secretary" and inserting "after consultation with the Attorney General";

(5) in section 923(*l*), by striking "Secretary of the Treasury" and inserting "Attorney General"; and

(6) by striking "Secretary" each place it appears, except before "of the Army" in section 921(a)(4) and before "of Defense" in section 922(p)(5)(A), and inserting the term "Attorney General".

(g) Section 1261(a) of title 18, United States Code, is amended to read as follows:

"(a) The Attorney General—

"(1) shall enforce the provisions of this chapter; and

"(2) has the authority to issue regulations to carry out the provisions of this chapter.".

(h) Section 1952(c) of title 18, United States Code, is amended by striking "Secretary of the Treasury" and inserting "Attorney General".

(i) Chapter 114 of title 18, United States Code, is amended—

(1) by striking section 2341(5), and inserting the following:

"(5) the term 'Attorney General' means the Attorney General of the United States"; and

(2) by striking "Secretary" each place it appears and inserting "Attorney General".

(j) Section 6103(i)(8)(A)(i) of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by striking "or the Bureau of Alcohol, Tobacco and Firearms" and inserting ", the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, or the Tax and Trade Bureau, Department of the Treasury,".

(k) Section 7801(a) of the Internal Revenue Code of 1986 (relating to the authority of the Department of the Treasury) is amended—

(1) by striking "SECRETARY.—Except" and inserting "SECRETARY.—

"(1) IN GENERAL.—Except"; and

(2) by adding at the end the following:

"(2) ADMINISTRATION AND ENFORCEMENT OF CERTAIN PROVISIONS BY ATTORNEY GENERAL.—

"(A) IN GENERAL.—The administration and enforcement of the following provisions of this title shall be performed by or under the supervision of the Attorney General; and the term 'Secretary' or 'Secretary of the Treasury' shall, when applied to those provisions, mean the Attorney General; and the term 'internal revenue officer' shall, when applied to those provisions, mean any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives so designated by the Attorney General:

"(i) Chapter 53.

"(ii) Chapters 61 through 80, to the extent such chapters relate to the enforcement and administration of the provisions referred to in clause (i).

"(B) USE OF EXISTING RULINGS AND INTERPRETATIONS.—Nothing in this Act alters or repeals the rulings and interpretations of the Bureau of Alcohol, Tobacco, and Firearms in effect on the effective date of the Homeland Security Act of 2002, which concern the provisions of this title referred to in subparagraph (A). The Attorney General shall consult with the Secretary to achieve uniformity and consistency in administering provisions under chapter 53 of title 26, United States Code.".

(l) Section 2006(2) of title 28, United States Code, is amended by inserting ", the Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice," after "the Secretary of the Treasury".

(m) Section 713 of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 713. Audit of Internal Revenue Service, Tax and Trade Bureau, and Bureau of Alcohol, Tobacco, Firearms, and Explosives";

(2) in subsection (a), by striking "Bureau of Alcohol, Tobacco, and Firearms," and inserting "Tax and Trade Bureau, Department of the Treasury, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice"; and

(3) in subsection (b)

(A) in paragraph (1)(B), by striking "or the Bureau" and inserting "or either Bureau";

(B) in paragraph (2)—

(i) by striking "or the Bureau" and inserting "or either Bureau"; and

(ii) by striking "and the Director of the Bureau" and inserting "the Tax and Trade Bureau, Department of the Treasury, and the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice"; and

(C) in paragraph (3), by striking "or the Bureau" and inserting "or either Bureau".

(n) Section 9703 of title 31, United States Code, is amended—

(1) in subsection (a)(2)(B)—

(A) in clause (iii)(III), by inserting "and" after the semicolon;

(B) in clause (iv), by striking "; and" and inserting a period; and

(C) by striking clause (v);

(2) by striking subsection (o);

(3) by redesignating existing subsection (p) as subsection (o); and

(4) in subsection (o)(1), as redesignated by paragraph (3), by striking "Bureau of Alcohol, Tobacco and Firearms" and inserting "Tax and Trade Bureau".

(o) Section 609N(2)(L) of the Justice Assistance Act of 1984 (42 U.S.C. 10502(2)(L)) is amended by striking "Bureau of Alcohol, Tobacco, and Firearms" and inserting "Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice".

(p) Section 32401(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13921(a)) is amended—

(1) by striking "Secretary of the Treasury" each place it appears and inserting "Attorney General"; and

(2) in subparagraph (3)(B), by striking "Bureau of Alcohol, Tobacco and Firearms" and inserting "Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice".

(q) Section 80303 of title 49, United States Code, is amended—

(1) by inserting "or, when the violation of this chapter involves contraband described in paragraph (2) or (5) of section 80302(a), the Attorney General" after "section 80304 of this title."; and

(2) by inserting ", the Attorney General," after "by the Secretary".

(r) Section 80304 of title 49, United States Code, is amended—

(1) in subsection (a), by striking "(b) and (c)" and inserting "(b), (c), and (d)";

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c), the following:

"(d) ATTORNEY GENERAL.—The Attorney General, or officers, employees, or agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice designated by the Attorney General, shall carry out the laws referred to in section 80306(b) of this title to the extent that the violation of this chapter involves contraband described in section 80302 (a)(2) or (a)(5).".

(s) Section 103 of the Gun Control Act of 1968 (Public Law 90-618; 82 Stat. 1226) is amended by striking "Secretary of the Treasury" and inserting "Attorney General".

SEC. 1113. POWERS OF AGENTS OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

Chapter 203 of title 18, United States Code, is amended by adding the following:

"§ 3051. Powers of Special Agents of Bureau of Alcohol, Tobacco, Firearms, and Explosives.

"(a) Special agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, as well as any other investigator or officer charged by the Attorney General with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of the laws of the United States, may carry firearms, serve warrants and subpoenas issued under the authority of the United States and make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

"(b) Any special agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives may, in respect to the performance of his or her duties, make seizures of property subject to forfeiture to the United States.

"(c)(1) Except as provided in paragraphs (2) and (3), and except to the extent that such provisions conflict with the provisions of section 983 of title 18, United States Code, insofar as section 983 applies, the provisions of the Customs laws relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property;

"(B) the disposition of such property;

"(C) the remission or mitigation of such forfeiture; and

"(D) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable provision of law enforced or administered by the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

"(2) For purposes of paragraph (1), duties that are imposed upon a customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws of the United States shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as may be authorized or designated for that purpose by the Attorney General.

"(3) Notwithstanding any other provision of law, the disposition of firearms forfeited by reason of a violation of any law of the United States shall be governed by the provisions of section 5872(b) of the Internal Revenue Code of 1986.".

SEC. 1114. EXPLOSIVES TRAINING AND RESEARCH FACILITY.

(a) ESTABLISHMENT.—There is established within the Bureau an Explosives Training and Research Facility at Fort AP Hill, Fredericksburg, Virginia.

(b) PURPOSE.—The facility established under subsection (a) shall be utilized to train Federal, State, and local law enforcement officers to—

(1) investigate bombings and explosions;

(2) properly handle, utilize, and dispose of explosive materials and devices;

(3) train canines on explosive detection; and

(4) conduct research on explosives.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to establish and maintain the facility established under subsection (a).

(2) AVAILABILITY OF FUNDS.—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 1115. PERSONNEL MANAGEMENT DEMONSTRATION PROJECT.

Notwithstanding any other provision of law, the Personnel Management Demonstration Project established under section 102 of title I of Division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 (Pub. L. 105-277; 122 Stat. 2681-585) shall be transferred to the Attorney General of the United States for continued use by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, and the Secretary of the Treasury for continued use by the Tax and Trade Bureau.

Subtitle C—Explosives

SEC. 1121. SHORT TITLE.

This subtitle may be referred to as the "Safe Explosives Act".

SEC. 1122. PERMITS FOR PURCHASERS OF EXPLOSIVES.

(a) DEFINITIONS.—Section 841 of title 18, United States Code, is amended—

(1) by striking subsection (j) and inserting the following:

"(j) 'Permittee' means any user of explosives for a lawful purpose, who has obtained either a user permit or a limited permit under the provisions of this chapter."; and

(2) by adding at the end the following:

"(r) 'Alien' means any person who is not a citizen or national of the United States.

"(s) 'Responsible person' means an individual who has the power to direct the management and policies of the applicant pertaining to explosive materials.".

(b) PERMITS FOR PURCHASE OF EXPLOSIVES.—Section 842 of title 18, United States Code, is amended—

(1) in subsection (a)(2), by striking "and" at the end;

(2) by striking subsection (a)(3) and inserting the following:

"(3) other than a licensee or permittee knowingly—

"(A) to transport, ship, cause to be transported, or receive any explosive materials; or

"(B) to distribute explosive materials to any person other than a licensee or permittee; or

"(4) who is a holder of a limited permit—

"(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials; or

"(B) to receive explosive materials from a licensee or permittee, whose premises are located outside the State of residence of the limited permit holder, or on more than 6 separate occasions, during the period of the permit, to receive explosive materials from 1 or more licensees or permittees whose premises are located within the State of residence of the limited permit holder."; and

(3) by striking subsection (b) and inserting the following:

"(b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—

"(1) a licensee;

"(2) a holder of a user permit; or

"(3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.".

(c) LICENSES AND USER PERMITS.—Section 843(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by inserting "or limited permit" after "user permit"; and

(B) by inserting before the period at the end the following: ", including the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials, as well as fingerprints and a photograph of each responsible person'';

(2) in the second sentence, by striking ''$200 for each'' and inserting ''$50 for a limited permit and $200 for any other''; and

(3) by striking the third sentence and inserting ''Each license or user permit shall be valid for not longer than 3 years from the date of issuance and each limited permit shall be valid for not longer than 1 year from the date of issuance. Each license or permit shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit, and upon payment of a renewal fee not to exceed one-half of the original fee.''.

(d) CRITERIA FOR APPROVING LICENSES AND PERMITS.—Section 843(b) of title 18, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) the applicant (or, if the applicant is a corporation, partnership, or association, each responsible person with respect to the applicant) is not a person described in section 842(i);'';

(2) in paragraph (4)—

(A) by inserting ''(A) the Secretary verifies by inspection or, if the application is for an original limited permit or the first or second renewal of such a permit, by such other means as the Secretary determines appropriate, that'' before ''the applicant''; and

(B) by adding at the end the following:

''(B) subparagraph (A) shall not apply to an applicant for the renewal of a limited permit if the Secretary has verified, by inspection within the preceding 3 years, the matters described in subparagraph (A) with respect to the applicant; and'';

(3) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(6) none of the employees of the applicant who will be authorized by the applicant to possess explosive materials is any person described in section 842(i); and

''(7) in the case of a limited permit, the applicant has certified in writing that the applicant will not receive explosive materials on more than 6 separate occasions during the 12-month period for which the limited permit is valid.''.

(e) APPLICATION APPROVAL.—Section 843(c) of title 18, United States Code, is amended by striking ''forty-five days'' and inserting ''90 days for licenses and permits,''.

(f) INSPECTION AUTHORITY.—Section 843(f) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking ''permittees'' and inserting ''holders of user permits''; and

(B) by inserting ''licensees and permittees'' before ''shall submit'';

(2) in the second sentence, by striking ''permittee'' the first time it appears and inserting ''holder of a user permit''; and

(3) by adding at the end the following: ''The Secretary may inspect the places of storage for explosive materials of an applicant for a limited permit or, at the time of renewal of such permit, a holder of a limited permit, only as provided in subsection (b)(4).

(g) POSTING OF PERMITS.—Section 843(g) of title 18, United States Code, is amended by inserting ''user'' before ''permits''.

(h) BACKGROUND CHECKS; CLEARANCES.—Section 843 of title 18, United States Code, is amended by adding at the end the following:

''(h)(1) If the Secretary receives, from an employer, the name and other identifying information of a responsible person or an employee who will be authorized by the employer to possess explosive materials in the course of employment with the employer, the Secretary shall determine whether the responsible person or employee is one of the persons described in any paragraph of section 842(i). In making the determination, the Secretary may take into account a letter or document issued under paragraph (2).

''(2)(A) If the Secretary determines that the responsible person or the employee is not one of the persons described in any paragraph of section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue, to the responsible person or employee, a letter of clearance, which confirms the determination.

''(B) If the Secretary determines that the responsible person or employee is one of the persons described in any paragraph of section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue to the responsible person or the employee, as the case may be, a document that—

''(i) confirms the determination;

''(ii) explains the grounds for the determination;

''(iii) provides information on how the disability may be relieved; and

''(iv) explains how the determination may be appealed.''.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

(2) EXCEPTION.—Notwithstanding any provision of this Act, a license or permit issued under section 843 of title 18, United States Code, before the date of enactment of this Act, shall remain valid until that license or permit is revoked under section 843(d) or expires, or until a timely application for renewal is acted upon.

SEC. 1123. PERSONS PROHIBITED FROM RECEIVING OR POSSESSING EXPLOSIVE MATERIALS.

(a) DISTRIBUTION OF EXPLOSIVES.—Section 842(d) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking ''or'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''or who has been committed to a mental institution;''; and

(3) by adding at the end the following:

''(7) is an alien, other than an alien who—

''(A) is lawfully admitted for permanent residence (as defined in section 101 (a)(20) of the Immigration and Nationality Act); or

''(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

''(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business;

''(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

''(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Secretary in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

''(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

''(8) has been discharged from the armed forces under dishonorable conditions;

''(9) having been a citizen of the United States, has renounced the citizenship of that person.''.

(b) POSSESSION OF EXPLOSIVE MATERIALS.—Section 842(i) of title 18, United States Code, is amended—

(1) in paragraph (3), by striking ''or'' at the end; and

(2) by inserting after paragraph (4) the following:

''(5) who is an alien, other than an alien who—

''(A) is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act); or

''(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

''(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business;

''(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

''(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Secretary in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

''(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

''(6) who has been discharged from the armed forces under dishonorable conditions;

''(7) who, having been a citizen of the United States, has renounced the citizenship of that person''; and

(3) by inserting ''or affecting'' before ''interstate'' each place that term appears.

SEC. 1124. REQUIREMENT TO PROVIDE SAMPLES OF EXPLOSIVE MATERIALS AND AMMONIUM NITRATE.

Section 843 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

"(i) FURNISHING OF SAMPLES.—

"(1) IN GENERAL.—Licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate shall, when required by letter issued by the Secretary, furnish—

"(A) samples of such explosive materials or ammonium nitrate;

"(B) information on chemical composition of those products; and

"(C) any other information that the Secretary determines is relevant to the identification of the explosive materials or to identification of the ammonium nitrate.

"(2) REIMBURSEMENT.—The Secretary shall, by regulation, authorize reimbursement of the fair market value of samples furnished pursuant to this subsection, as well as the reasonable costs of shipment.".

SEC. 1125. DESTRUCTION OF PROPERTY OF INSTITUTIONS RECEIVING FEDERAL FINANCIAL ASSISTANCE.

Section 844(f)(1) of title 18, United States Code, is amended by inserting before the word "shall" the following: "or any institution or organization receiving Federal financial assistance,".

SEC. 1126. RELIEF FROM DISABILITIES.

Section 845(b) of title 18, United States Code, is amended to read as follows:

"(b)(1) A person who is prohibited from shipping, transporting, receiving, or possessing any explosive under section 842(i) may apply to the Secretary for relief from such prohibition.

"(2) The Secretary may grant the relief requested under paragraph (1) if the Secretary determines that the circumstances regarding the applicability of section 842(i), and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of such relief is not contrary to the public interest.

"(3) A licensee or permittee who applies for relief, under this subsection, from the disabilities incurred under this chapter as a result of an indictment for or conviction of a crime punishable by imprisonment for a term exceeding 1 year shall not be barred by such disability from further operations under the license or permit pending final action on an application for relief filed pursuant to this section.".

SEC. 1127. THEFT REPORTING REQUIREMENT.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(p) THEFT REPORTING REQUIREMENT.—

"(1) IN GENERAL.—A holder of a license or permit who knows that explosive materials have been stolen from that licensee or permittee, shall report the theft to the Secretary not later than 24 hours after the discovery of the theft.

"(2) PENALTY.—A holder of a license or permit who does not report a theft in accordance with paragraph (1), shall be fined not more than $10,000, imprisoned not more than 5 years, or both.".

SEC. 1128. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as necessary to carry out this subtitle and the amendments made by this subtitle.

TITLE XII—AIRLINE WAR RISK INSURANCE LEGISLATION

SEC. 1201. AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.

Section 44303 of title 49, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Secretary of Transportation";

(2) by moving the text of paragraph (2) of section 201(b) of the Air Transportation Safety and System Stabilization Act (115 Stat. 235) to the end and redesignating such paragraph as subsection (b);

(3) in subsection (b) (as so redesignated)—

(A) by striking the subsection heading and inserting "AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—";

(B) in the first sentence by striking "the 180-day period following the date of enactment of this Act, the Secretary of Transportation" and inserting "the period beginning on September 22, 2001, and ending on December 31, 2003, the Secretary"; and

(C) in the last sentence by striking "this paragraph" and inserting "this subsection".

SEC. 1202. EXTENSION OF INSURANCE POLICIES.

Section 44302 of title 49, United States Code, is amended by adding at the end the following:

"(f) EXTENSION OF POLICIES.—

"(1) IN GENERAL.—The Secretary shall extend through August 31, 2003, and may extend through December 31, 2003, the termination date of any insurance policy that the Department of Transportation issued to an air carrier under subsection (a) and that is in effect on the date of enactment of this subsection on no less favorable terms to the air carrier than existed on June 19, 2002; except that the Secretary shall amend the insurance policy, subject to such terms and conditions as the Secretary may prescribe, to add coverage for losses or injuries to aircraft hulls, passengers, and crew at the limits carried by air carriers for such losses and injuries as of such date of enactment and at an additional premium comparable to the premium charged for third-party casualty coverage under such policy.

"(2) SPECIAL RULES.—Notwithstanding paragraph (1)—

"(A) in no event shall the total premium paid by the air carrier for the policy, as amended, be more than twice the premium that the air carrier was paying to the Department of Transportation for its third party policy as of June 19, 2002; and

"(B) the coverage in such policy shall begin with the first dollar of any covered loss that is incurred.".

SEC. 1203. CORRECTION OF REFERENCE.

Effective November 19, 2001, section 147 of the Aviation and Transportation Security Act (Public Law 107–71) is amended by striking "(b)" and inserting "(c)".

SEC. 1204. REPORT.

Not later than 90 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(A) evaluates the availability and cost of commercial war risk insurance for air carriers and other aviation entities for passengers and third parties;

(B) analyzes the economic effect upon air carriers and other aviation entities of available commercial war risk insurance; and

(C) describes the manner in which the Department could provide an alternative means of providing aviation war risk reinsurance covering passengers, crew, and third parties through use of a risk-retention group or by other means.

TITLE XIII—FEDERAL WORKFORCE IMPROVEMENT

Subtitle A—Chief Human Capital Officers

SEC. 1301. SHORT TITLE.

This title may be cited as the "Chief Human Capital Officers Act of 2002".

SEC. 1302. AGENCY CHIEF HUMAN CAPITAL OFFICERS.

(a) IN GENERAL.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

"Sec.
"1401. Establishment of agency Chief Human Capital Officers.
"1402. Authority and functions of agency Chief Human Capital Officers.

"§ 1401. Establishment of agency Chief Human Capital Officers

"The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

"(1) advise and assist the head of the agency and other agency officials in carrying out the agency's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

"(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and

"(3) carry out such functions as the primary duty of the Chief Human Capital Officer.

"§ 1402. Authority and functions of agency Chief Human Capital Officers

"(a) The functions of each Chief Human Capital Officer shall include—

"(1) setting the workforce development strategy of the agency;

"(2) assessing workforce characteristics and future needs based on the agency's mission and strategic plan;

"(3) aligning the agency's human resources policies and programs with organization mission, strategic goals, and performance outcomes;

"(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

"(5) identifying best practices and benchmarking studies, and

"(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

"(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—

"(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

"(A) are the property of the agency or are available to the agency; and

"(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

"(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"14. Agency Chief Human Capital Officers .... 1401".

SEC. 1303. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) ESTABLISHMENT.—There is established a Chief Human Capital Officers Council, consisting of—

(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) FUNCTIONS.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

(c) EMPLOYEE LABOR ORGANIZATIONS AT MEETINGS.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

(d) ANNUAL REPORT.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

SEC. 1304. STRATEGIC HUMAN CAPITAL MANAGEMENT.

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

"(c)(1) The Office of Personnel Management shall design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies.

"(2) The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for—

"(A)(i) aligning human capital strategies of agencies with the missions, goals, and organizational objectives of those agencies; and

"(ii) integrating those strategies into the budget and strategic plans of those agencies;

"(B) closing skill gaps in mission critical occupations;

"(C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;

"(D) sustaining a culture that cultivates and develops a high performing workforce;

"(E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and

"(F) holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.".

SEC. 1305. EFFECTIVE DATE.

This subtitle shall take effect 180 days after the date of enactment of this Act.

Subtitle B—Reforms Relating to Federal Human Capital Management

SEC. 1311. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAMS PERFORMANCE REPORTS.

(a) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

"(3) provide a description of how the performance goals and objectives are to be achieved, including the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

"(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).".

(b) PROGRAM PERFORMANCE REPORTS.—Section 1116(d) of title 31, United States Code, is amended—

(1) in paragraph (4), by striking "and" after the semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

"(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management; and".

SEC. 1312. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended—

(1) in section 3304(a)—

(A) in paragraph (1), by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period and inserting "; and"; and

(C) by adding at the end of the following:

"(3) authority for agencies to appoint, without regard to the provision of sections 3309 through 3318, candidates directly to positions for which—

"(A) public notice has been given; and

"(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria."; and

(2) by inserting after section 3318 the following:

"§ 3319. Alternative ranking and selection procedures

"(a) The Office, in exercising its authority under section 3304, or an agency to which the Office has delegated examining authority under section 1104(a)(2), may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

"(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS–9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

"(c)(1) An appointing official may select any applicant in the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

"(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

"(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on—

"(1) the number of employees hired under that system;

"(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islanders; and

"(3) the way in which managers were trained in the administration of that system.

"(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisions of this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3319 and inserting the following:

"3319. Alternative ranking and selection procedures.".

SEC. 1313. PERMANENT EXTENSION, REVISION, AND EXPANSION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—

(A) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Chapter 35 of title 5, United States Code, is amended by inserting after subchapter I the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"§ 3521. Definitions

"In this subchapter, the term—

"(1) 'agency' means an Executive agency as defined under section 105; and

"(2) 'employee'—

"(A) means an employee as defined under section 2105 employed by an agency and an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) who—

"(i) is serving under an appointment without time limitation; and

"(ii) has been currently employed for a continuous period of at least 3 years; and

"(B) shall not include—

"(i) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

"(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government.

"(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

"(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this subchapter or any other authority;

"(v) an employee covered by statutory reemployment rights who is on transfer employment with another organization; or

"(vi) any employee who—

"(I) during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379;

"(II) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or relocation bonus was or is to be paid under section 5753; or

"(III) during the 12-month period preceding the date of separation of that employee, performed service for which a retention bonus was or is to be paid under section 5754.

"§ 3522. Agency plans; approval

"(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

"(b) The plan of an agency under subsection (a) shall include—

"(1) the specific positions and functions to be reduced or eliminated;

"(2) a description of which categories of employees will be offered incentives;

"(3) the time period during which incentives may be paid;

"(4) the number and amounts of voluntary separation incentive payments to be offered; and

"(5) a description of how the agency will operate without the eliminated positions and functions.

"(c) The Director of the Office of Personnel Management shall review each agency's plan an may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Directive of the Office of Personnel Management.

"§ 3523. Authority to provide voluntary separation incentive payments

"(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

"(b) A voluntary incentive payment—

"(1) shall be offered to agency employees on the basis of—

"(A) 1 or more organizational units;

"(B) 1 or more occupational series or levels;

"(C) 1 or more geographical locations;

"(D) skills, knowledge, or other factors related to a position;

"(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

"(F) any appropriate combination of such factors;

"(2) shall be paid in a lump sum after the employee's separation;

"(3) shall be equal to the lesser of—

"(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

"(B) an amount determined by the agency head, not to exceed $25,000;

"(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

"(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

"(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on another other separation; and

"(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

"§ 3524. Effect of subsequent employment with the Government

"(a) The term 'employment'—

"(1) in subsection (b) includes employment under a personal services contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

"(2) in subsection (c) does not include employment under such a contract.

"(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States with 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

"(c)(1) If the employment under this section is with an agency, other than the General Accounting Office, the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, may waive the repayment if—

"(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

"(B) in case of an emergency involving a direct threat to life or property, the individual—

"(i) has skills directly related to resolving the emergency; and

"(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

"(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"§ 3525. Regulations

"The Office of Personnel Management may prescribe regulations to carry out this subchapter.".

(B) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 35 of title 5, United States Code, is amended—

(i) by striking the chapter heading and inserting the following:

"CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT";

and

(ii) in the table of sections by inserting after the item relating to section 3504 the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"3521. Definitions.
"3522. Agency plans; approval.
"3523. Authority to provide voluntary separation incentive payments.
"3524. Effect of subsequent employment with the Government.
"3525. Regulations.".

(2) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

(3) CONTINUATION OF OTHER AUTHORITY.—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.

(4) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this Act.

(b) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

"(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

"(B) is serving under an appointment that is not time limited;

"(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(D) is separated from the service voluntarily during a period in which, as determined by the office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(ii) a significant percentage of employees servicing in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(iii) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(i) 1 or more organizational units;

"(ii) 1 or more occupational series or levels;

"(iii) 1 or more geographical locations;

"(iv) specific periods;

"(v) skills, knowledge, or other factors related to a position; or

"(vi) any appropriate combination of such factors;".

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8414(b)(1) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

"(ii) is serving under an appointment that is not time limited;

"(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(iv) is separate from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(II) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(III) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(I) 1 or more organizational units;

"(II) 1 or more occupational series or levels;

"(III) 1 or more geographical locations;

"(IV) specific periods;

"(V) skills, knowledge, or other factors related to a position; or

"(VI) any appropriate combination of such factors.".

(3) GENERAL ACCOUNTING OFFICE AUTHORITY.—The amendments made by this subsection shall not be construed to affect the authority under section 1 of Public Law 106–303 (5 U.S.C. 8336 note; 114 State. 1063).

(4) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7001 of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 91) is repealed.

(5) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this subsection.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 1314. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL.—Section 7905(a)(1) of title 5, United States Code, is amended by striking "and a member of a uniformed service" and inserting ", a member of a uniformed service, and a student who provides voluntary services under section 3111".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3111(c)(1) of title 5, United States Code, is amended by striking "chapter 81 of this title" and inserting "section 7905 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81".

Subtitle C—Reforms Relating to the Senior Executive Service

SEC. 1321. REPEAL OF RECERTIFICATION REQUIREMENTS OF SENIOR EXECUTIVES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in chapter 33—

(A) in section 3393(g) by striking "3393a";

(B) by repealing section 3393a; and

(C) in the table of sections by striking the item relating to section 3393a;

(2) in chapter 35—

(A) in section 3592(a)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end;

(iii) by striking paragraph (3); and

(iv) by striking the last sentence;

(B) in section 3593(a), by striking paragraph (2) and inserting the following:

"(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43."; and

(C) in section 3594(b)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end; and

(iii) by striking paragraph (3);

(3) in section 7701(c)(1)(A), by striking "or removal from the Senior Executive Service for failure to be recertified under section 3393a";

(4) in chapter 83—

(A) in section 8336(h)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8339(h), in the first sentence, by striking ", except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive"; and

(5) in chapter 84—

(A) in section 8414(a)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8421(a)(2), by striking ", except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable retirement age".

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a)(2)(A), an appeal under the final sentence of section 3592(a) of title 5, United States Code, that is pending on the day before the effective date of this section—

(1) shall not abate by reason of the enactment of the amendments made by subsection (a)(2)(A); and

(2) shall continue as if such amendments had not been enacted.

(c) APPLICATION.—The amendment made by subsection (a)(2)(B) shall not apply with respect to an individual who, before the effective date of this section, leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.

SEC. 1322. ADJUSTMENT OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

(a) IN GENERAL.—Section 5307 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) Notwithstanding any other provision of this section, subsection (a)(1) shall be applied by substituting 'the total annual compensation payable to the Vice President under section 104 of title 3' for 'the annual rate of basic pay payable for level I of the Executive Schedule' in the case of any employee who—

"(A) is paid under section 5376 or 5383 of this title or section 332(f), 603, or 604 of title 28; and

"(B) holds a position in or under an agency which is described in paragraph (2).

"(2) An agency described in this paragraph is any agency which, for purposes of the calendar year involved, has been certified under this subsection as having a performance appraisal system which (as designed and applied) makes meaningful distinctions based on relative performance.

"(3)(A) The Office of Personnel Management and the Office of Management and Budget jointly shall promulgate such regulations as may be necessary to carry out this subsection, including the criteria and procedures in accordance with which any determinations under this subsection shall be made.

"(B) An agency's certification under this subsection shall be for a period of 2 calendar years, except that such certification may be terminated at any time, for purposes of either or both of those years, upon a finding that the actions of such agency have not remained in conformance with applicable requirements.

"(C) Any certification or decertification under this subsection shall be made by the Office of Personnel Management, with the concurrence of the Office of Management and Budget.

"(4) Notwithstanding any provision of paragraph (3), any regulations, certifications, or other measures necessary to carry out this subsection with respect to employees within the judicial branch shall be the responsibility of the Director of the Administrative Office of the United States Courts. However, the regulations under this paragraph shall be consistent with those promulgated under paragraph (3).".

(b) CONFORMING AMENDMENTS.—(1) Section 5307(a) of title 5, United States Code, is amended by inserting "or as otherwise provided under subsection (d)," after "under law,".

(2) Section 5307(c) of such title is amended by striking "this section," and inserting "this section (subject to subsection (d)),".

Subtitle D—Academic Training

SEC. 1331. ACADEMIC TRAINING.

(a) ACADEMIC DEGREE TRAINING.—Section 4107 of title 5, United States Code, is amended to read as follows:

"§ 4107. Academic degree training

"(a) Subject to subsection (b), an agency may select and assign an employee to academic degree training and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training—

"(1) contributes significantly to—

"(A) meeting an identified agency training need;

"(B) resolving an identified agency staffing problem; or

"(C) accomplishing goals in the strategic plan of the agency;

"(2) is part of a planned, systemic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

"(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

"(b) In exercising authority under subsection (a), an agency shall—

"(1) consistent with the merit system principles set forth in paragraphs (2) and (7) of section 2301(b), take into consideration the need to—

"(A) maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are appropriately represented in Government service; and

"(B) provide employees effective education and training to improve organizational and individual performance;

"(2) assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or qualify for appointment to a particular position for which the academic degree is a basic requirement;

"(3) assure that no authority under this subsection is exercised on behalf of any employee occupying or seeking to qualify for—

"(A) a noncareer appointment in the senior Executive Service; or

"(B) appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policy-making or policy-advocating character; and

"(4) to the greatest extent practicable, facilitate the use of online degree training.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by striking the item relating to section 4107 and inserting the following:

"4107. Academic degree training.".

SEC. 1332. MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) FINDINGS AND POLICIES.—

(1) FINDINGS.—Congress finds that—

(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

(2) POLICY.—It shall be the policy of the United States Government to—

(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving financial support for education and training from the United States Government.

(b) FULFILLMENT OF SERVICE REQUIREMENT IF NATIONAL SECURITY POSITIONS ARE UNAVAILABLE.—Section 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or"; and

(2) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); and".

TITLE XIV—ARMING PILOTS AGAINST TERRORISM

SEC. 1401. SHORT TITLE.

This title may be cited as the "Arming Pilots Against Terrorism Act".

SEC. 1402. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§ 44921. Federal flight deck officer program

"(a) ESTABLISHMENT.—The Under Secretary of Transportation for Security shall establish a program to deputize volunteer pilots of air carriers providing passenger air transportation or intrastate passenger air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy. Such officers shall be known as 'Federal flight deck officers'.

"(b) PROCEDURAL REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 3 months after the date of enactment of this section, the Under Secretary shall establish procedural requirements to carry out the program under this section.

"(2) COMMENCEMENT OF PROGRAM.—Beginning 3 months after the date of enactment of this section, the Under Secretary shall begin the process of training and deputizing pilots who are qualified to be Federal flight deck officers as Federal flight deck officers under the program.

"(3) ISSUES TO BE ADDRESSED.—The procedural requirements established under paragraph (1) shall address the following issues:

"(A) The type of firearm to be used by a Federal flight deck officer.

"(B) The type of ammunition to be used by a Federal flight deck officer.

"(C) The standards and training needed to qualify and requalify as a Federal flight deck officer.

"(D) The placement of the firearm of a Federal flight deck officer on board the aircraft to ensure both its security and its ease of retrieval in an emergency.

"(E) An analysis of the risk of catastrophic failure of an aircraft as a result of the discharge (including an accidental discharge) of a firearm to be used in the program into the avionics, electrical systems, or other sensitive areas of the aircraft.

"(F) The division of responsibility between pilots in the event of an act of criminal violence or air piracy if only 1 pilot is a Federal flight deck officer and if both pilots are Federal flight deck officers.

"(G) Procedures for ensuring that the firearm of a Federal flight deck officer does not leave the cockpit if there is a disturbance in the passenger cabin of the aircraft or if the pilot leaves the cockpit for personal reasons.

"(H) Interaction between a Federal flight deck officer and a Federal air marshal on board the aircraft.

"(I) The process for selection of pilots to participate in the program based on their fitness to participate in the program, including whether an additional background check should be required beyond that required by section 44936(a)(1).

"(J) Storage and transportation of firearms between flights, including international flights, to ensure the security of the firearms, focusing particularly on whether such security would be enhanced by requiring storage of the firearm at the airport when the pilot leaves the airport to remain overnight away from the pilot's base airport.

"(K) Methods for ensuring that security personnel will be able to identify whether a pilot is authorized to carry a firearm under the program.

"(L) Methods for ensuring that pilots (including Federal flight deck officers) will be able to identify whether a passenger is a law enforcement officer who is authorized to carry a firearm aboard the aircraft.

"(M) Any other issues that the Under Secretary considers necessary.

"(N) The Under Secretary's decisions regarding the methods for implementing each of the foregoing procedural requirements shall be subject to review only for abuse of discretion.

"(4) PREFERENCE.—In selecting pilots to participate in the program, the Under Secretary shall give preference to pilots who are former military or law enforcement personnel.

"(5) CLASSIFIED INFORMATION.—Notwithstanding section 552 of title 5 but subject to section 40119 of this title, information developed under paragraph (3)(E) shall not be disclosed.

"(6) NOTICE TO CONGRESS.—The Under Secretary shall provide notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate after completing the analysis required by paragraph (3)(E).

"(7) MINIMIZATION OF RISK.—If the Under Secretary determines as a result of the analysis under paragraph (3)(E) that there is a significant risk of the catastrophic failure of an aircraft as a result of the discharge of a firearm, the Under Secretary shall take such actions as may be necessary to minimize that risk.

"(c) TRAINING, SUPERVISION, AND EQUIPMENT.—

"(1) IN GENERAL.—The Under Secretary shall only be obligated to provide the training, supervision, and equipment necessary for a pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot.

"(2) TRAINING.—

"(A) IN GENERAL.—The Under Secretary shall base the requirements for the training of Federal flight deck officers under subsection (b) on the training standards applicable to Federal air marshals; except that the Under Secretary shall take into account the differing roles and responsibilities of Federal flight deck officers and Federal air marshals.

"(B) ELEMENTS.—The training of a Federal flight deck officer shall include, at a minimum, the following elements:

"(i) Training to ensure that the officer achieves the level of proficiency with a firearm required under subparagraph (C)(i).

"(ii) Training to ensure that the officer maintains exclusive control over the officer's firearm at all times, including training in defensive maneuvers.

"(iii) Training to assist the officer in determining when it is appropriate to use the officer's firearm and when it is appropriate to use less than lethal force.

"(C) TRAINING IN USE OF FIREARMS.—

"(i) STANDARD.—In order to be deputized as a Federal flight deck officer, a pilot must achieve a level of proficiency with a firearm that is required by the Under Secretary. Such level shall be comparable to the level of proficiency required of Federal air marshals.

"(ii) Conduct of training.—The training of a Federal flight deck officer in the use of a firearm may be conducted by the Under Secretary or by a firearms training facility approved by the Under Secretary.

"(iii) Requalification.—The Under Secretary shall require a Federal flight deck officer to requalify to carry a firearm under the program. Such requalification shall occur at an interval required by the Under Secretary.

"(d) Deputization.—

"(1) In general.—The Under Secretary may deputize, as a Federal flight deck officer under this section, a pilot who submits to the Under Secretary a request to be such an officer and whom the Under Secretary determines is qualified to be such an officer.

"(2) Qualification.—A pilot is qualified to be a Federal flight deck officer under this section if—

"(A) the pilot is employed by an air carrier;

"(B) the Under Secretary determines (in the Under Secretary's discretion) that the pilot meets the standards established by the Under Secretary for being such an officer; and

"(C) the Under Secretary determines that the pilot has completed the training required by the Under Secretary.

"(3) Deputization by other federal agencies.—The Under Secretary may request another Federal agency to deputize, as Federal flight deck officers under this section, those pilots that the Under Secretary determines are qualified to be such officers.

"(4) Revocation.—The Under Secretary may, (in the Under Secretary's discretion) revoke the deputization of a pilot as a Federal flight deck officer if the Under Secretary finds that the pilot is no longer qualified to be such an officer.

"(e) Compensation.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer. The Federal Government and air carriers shall not be obligated to compensate a pilot for participating in the program or for the pilot's training or qualification and requalification to carry firearms under the program.

"(f) Authority To Carry Firearms.—

"(1) In general.—The Under Secretary shall authorize a Federal flight deck officer to carry a firearm while engaged in providing air transportation or intrastate air transportation. Notwithstanding subsection (c)(1), the officer may purchase a firearm and carry that firearm aboard an aircraft of which the officer is the pilot in accordance with this section if the firearm is of a type that may be used under the program.

"(2) Preemption.—Notwithstanding any other provision of Federal or State law, a Federal flight deck officer, whenever necessary to participate in the program, may carry a firearm in any State and from 1 State to another State.

"(3) Carrying firearms outside united states.—In consultation with the Secretary of State, the Under Secretary may take such action as may be necessary to ensure that a Federal flight deck officer may carry a firearm in a foreign country whenever necessary to participate in the program.

"(g) Authority To Use Force.—Notwithstanding section 44903(d), the Under Secretary shall prescribe the standards and circumstances under which a Federal flight deck officer may use, while the program under this section is in effect, force (including lethal force) against an individual in the defense of the flight deck of an aircraft in air transportation or intrastate air transportation.

"(h) Limitation on Liability.—

"(1) Liability of air carriers.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of a Federal flight deck officer's use of or failure to use a firearm.

"(2) Liability of federal flight deck officers.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending the flight deck of an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

"(3) Liability of federal government.—For purposes of an action against the United States with respect to an act or omission of a Federal flight deck officer in defending the flight deck of an aircraft, the officer shall be treated as an employee of the Federal Government under chapter 171 of title 28, relating to tort claims procedure.

"(i) Procedures Following Accidental Discharges.—If an accidental discharge of a firearm under the pilot program results in the injury or death of a passenger or crew member on an aircraft, the Under Secretary—

"(1) shall revoke the deputization of the Federal flight deck officer responsible for that firearm if the Under Secretary determines that the discharge was attributable to the negligence of the officer; and

"(2) if the Under Secretary determines that a shortcoming in standards, training, or procedures was responsible for the accidental discharge, the Under Secretary may temporarily suspend the program until the shortcoming is corrected.

"(j) Limitation on Authority of Air Carriers.—No air carrier shall prohibit or threaten any retaliatory action against a pilot employed by the air carrier from becoming a Federal flight deck officer under this section. No air carrier shall—

"(1) prohibit a Federal flight deck officer from piloting an aircraft operated by the air carrier, or

"(2) terminate the employment of a Federal flight deck officer, solely on the basis of his or her volunteering for or participating in the program under this section.

"(k) Applicability.—

"(1) Exemption.—This section shall not apply to air carriers operating under part 135 of title 14, Code of Federal Regulations, and to pilots employed by such carriers to the extent that such carriers and pilots are covered by section 135.119 of such title or any successor to such section.

"(2) Pilot defined.—The term 'pilot' means an individual who has final authority and responsibility for the operation and safety of the flight or, if more than 1 pilot is required for the operation of the aircraft or by the regulations under which the flight is being conducted, the individual designated as second in command.".

(b) Conforming Amendments.—

(1) Chapter analysis.—The analysis for such chapter is amended by inserting after the item relating to section 44920 the following:

"44921. Federal flight deck officer program.".

(2) Flight deck security.—Section 128 of the Aviation and Transportation Security Act (Public Law 107–71) is repealed.

(c) Federal Air Marshal Program.—

(1) Sense of congress.—It is the sense of Congress that the Federal air marshal program is critical to aviation security.

(2) Limitation on statutory construction.—Nothing in this Act, including any amendment made by this Act, shall be construed as preventing the Under Secretary of Transportation for Security from implementing and training Federal air marshals.

SEC. 1403. CREW TRAINING.

(a) In General.—Section 44918(e) of title 49, United States Code, is amended—

(1) by striking "The Administrator" and inserting the following:

"(1) In general.—The Under Secretary";

(2) by adding at the end the following:

"(2) Additional requirements.—In updating the training guidance, the Under Secretary, in consultation with the Administrator, shall issue a rule to—

"(A) require both classroom and effective hands-on situational training in the following elements of self defense:

"(i) recognizing suspicious activities and determining the seriousness of an occurrence;

"(ii) deterring a passenger who might present a problem;

"(iii) crew communication and coordination;

"(iv) the proper commands to give to passengers and attackers;

"(v) methods to subdue and restrain an attacker;

"(vi) use of available items aboard the aircraft for self-defense;

"(vii) appropriate and effective responses to defend oneself, including the use of force against an attacker;

"(viii) use of protective devices assigned to crew members (to the extent such devices are approved by the Administrator or Under Secretary);

"(ix) the psychology of terrorists to cope with their behavior and passenger responses to that behavior;

"(x) how to respond to aircraft maneuvers that may be authorized to defend against an act of criminal violence or air piracy;

"(B) require training in the proper conduct of a cabin search, including the duty time required to conduct the search;

"(C) establish the required number of hours of training and the qualifications for the training instructors;

"(D) establish the intervals, number of hours, and elements of recurrent training;

"(E) ensure that air carriers provide the initial training required by this paragraph within 24 months of the date of enactment of this subparagraph; and

"(F) ensure that no person is required to participate in any hands-on training activity that that person believes will have an adverse impact on his or her health or safety.

"(3) Responsibility of under secretary.—(A) Consultation.—In developing the rule under paragraph (2), the Under Secretary shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, and representatives of air carriers, the provider of self-defense training for Federal air marshals, flight attendants, labor organizations representing flight attendants, and educational institutions offering law enforcement training programs.

"(B) Designation of official.—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for overseeing the implementation of the training program under this subsection.

"(C) Necessary resources and knowledge.—The Under Secretary shall ensure that employees of the Administration responsible for monitoring the training program have the necessary resources and knowledge."; and

(3) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this section) with paragraphs (2) and (3) (as added by paragraph (2) of this section).

(b) Enhance Security Measures.—Section 109(a) of the Aviation and Transportation Security Act (49 U.S.C. 114 note; 115 Stat. 613–614) is amended by adding at the end the following:

"(9) Require that air carriers provide flight attendants with a discreet, hands-free, wireless method of communicating with the pilots.".

(c) Benefits and Risks of Providing Flight Attendants With Nonlethal Weapons.—

(1) Study.—The Under Secretary of Transportation for Security shall conduct a study to evaluate the benefits and risks of providing flight attendants with nonlethal weapons to aide in combating air piracy and criminal violence on commercial airlines.

(2) Report.—Not later than 6 months after the date of enactment of this Act, the Under Secretary shall transmit to Congress a report on the results of the study.

SEC. 1404. COMMERCIAL AIRLINE SECURITY STUDY.

(a) Study.—The Secretary of Transportation shall conduct a study of the following:

(1) The number of armed Federal law enforcement officers (other than Federal air marshals), who travel on commercial airliners annually and the frequency of their travel.

(2) The cost and resources necessary to provide such officers with supplemental training in aircraft anti-terrorism training that is comparable to the training that Federal air marshals are provided.

(3) The cost of establishing a program at a Federal law enforcement training center for the purpose of providing new Federal law enforcement recruits with standardized training comparable to the training that Federal air marshals are provided.

(4) The feasibility of implementing a certification program designed for the purpose of ensuring Federal law enforcement officers have completed the training described in paragraph (2) and track their travel over a 6-month period.

(5) The feasibility of staggering the flights of such officers to ensure the maximum amount of flights have a certified trained Federal officer on board.

(b) Report.—Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study. The report may be submitted in classified and redacted form.

SEC. 1405. AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.

(a) In General.—Section 44903(i) of title 49, United States Code (as redesignated by section 6 of this Act) is amended by adding at the end the following:

"(3) Request of air carriers to use less-than-lethal weapons.—If, after the date of enactment of this paragraph, the Under Secretary receives a request from an air carrier for authorization to allow pilots of the air carrier to carry less-than-lethal weapons, the Under Secretary shall respond to that request within 90 days.".

(b) Conforming Amendments.—Such section is further amended—

(1) in paragraph (1) by striking "Secretary" the first and third places it appears and inserting "Under Secretary"; and

(2) in paragraph (2) by striking "Secretary" each place it appears and inserting "Under Secretary".

SEC. 1406. TECHNICAL AMENDMENTS.

Section 44903 of title 49, United States Code, is amended—

(1) by redesignating subsection (i) (relating to short-term assessment and deployment of emerging security technologies and procedures) as subsection (j);

(2) by redesignating the second subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons) as subsection (i); and

(3) by redesignating the third subsection (h) (relating to limitation on liability for acts to thwart criminal violence for aircraft piracy) as subsection (k).

TITLE XV—TRANSITION

Subtitle A—Reorganization Plan

SEC. 1501. DEFINITIONS.

For purposes of this title:

(1) The term "agency" includes any entity, organizational unit, program, or function.

(2) The term "transition period" means the 12-month period beginning on the effective date of this Act.

SEC. 1502. REORGANIZATION PLAN.

(a) Submission of Plan.—Not later than 60 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a reorganization plan regarding the following:

(1) The transfer of agencies, personnel, assets, and obligations to the Department pursuant to this Act.

(2) Any consolidation, reorganization, or streamlining of agencies transferred to the Department pursuant to this Act.

(b) Plan Elements.—The plan transmitted under subsection (a) shall contain, consistent with this Act, such elements as the President deems appropriate, including the following:

(1) Identification of any functions of agencies transferred to the Department pursuant to this Act that will not be transferred to the Department.under the plan.

(2) Specification of the steps to be taken by the Secretary to organize the Department, including the delegation or assignment of functions transferred to the Department among officers of the Department in order to permit the Department to carry out the functions transferred under the plan.

(3) Specification of the funds available to each agency that will be transferred to the Department as a result of transfers under the plan.

(4) Specification of the proposed allocations within the Department of unexpended funds transferred in connection with transfers under the plan.

(5) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of agencies transferred under the plan.

(6) Specification of the proposed allocations within the Department of the functions of the agencies and subdivisions that are not related directly to securing the homeland.

(c) Modification of Plan.—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan until that part of the plan becomes effective in accordance with subsection (d).

(d) Effective Date.—

(1) In general.—The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (d), shall become effective for an agency on the earlier of—

(A) the date specified in the plan (or the plan as modified pursuant to subsection (d)), except that such date may not be earlier than 90 days after the date the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a); or

(B) the end of the transition period.

(2) Statutory construction.—Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balances of appropriations, or other assets of an agency on a single date.

(3) Supersedes existing law.—Paragraph (1) shall apply notwithstanding section 905(b) of title 5, United States Code.

SEC. 1503. REVIEW OF CONGRESSIONAL COMMITTEE STRUCTURES.

It is the sense of Congress that each House of Congress should review its committee structure in light of the reorganization of responsibilities within the executive branch by the establishment of the Department.

Subtitle B—Transitional Provisions

SEC. 1511. TRANSITIONAL AUTHORITIES.

(a) Provision of Assistance by Officials.—Until the transfer of an agency to the Department, any official having authority over or functions relating to the agency immediately before the effective date of this Act shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may request in preparing for the transfer and integration of the agency into the Department.

(b) Services and Personnel.—During the transition period, upon the request of the Secretary, the head of any executive agency may, on a reimbursable basis, provide services or detail personnel to assist with the transition.

(c) Acting Officials.—(1) During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this Act to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent and who was such an officer immediately before the effective date of this Act (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act. While so acting, such officers shall receive compensation at the higher of—

(A) the rates provided by this Act for the respective offices in which they act; or

(B) the rates provided for the offices held at the time of designation.

(2) Nothing in this Act shall be understood to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer whose agency is transferred to the Department pursuant to this Act and whose duties following such transfer are germane to those performed before such transfer.

(d) Transfer of Personnel, Assets, Obligations, and Functions.—Upon the transfer of an agency to the Department—

(1) the personnel, assets, and obligations held by or available in connection with the agency shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget and in accordance with the provisions of section 1531(a)(2) of title 31, United States Code; and

(2) the Secretary shall have all functions relating to the agency that any other official could by law exercise in relation to the agency immediately before such transfer, and shall have in addition all functions vested in the Secretary by this Act or other law.

(e) PROHIBITION ON USE OF TRANSPORTATION TRUST FUNDS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, no funds derived from the Highway Trust Fund, Airport and Airway Trust Fund, Inland Waterway Trust Fund, or Harbor Maintenance Trust Fund, may be transferred to, made available to, or obligated by the Secretary or any other official in the Department.

(2) LIMITATION.—This subsection shall not apply to security-related funds provided to the Federal Aviation Administration for fiscal years preceding fiscal year 2003 for (A) operations, (B) facilities and equipment, or (C) research, engineering, and development.

SEC. 1512. SAVINGS PROVISIONS.

(a) COMPLETED ADMINISTRATIVE ACTIONS.—(1) Completed administrative actions of an agency shall not be affected by the enactment of this Act or the transfer of such agency to the Department, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) For purposes of paragraph (1), the term "completed administrative action" includes orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(b) PENDING PROCEEDINGS.—Subject to the authority of the Secretary under this Act—

(1) pending proceedings in an agency, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this Act or the transfer of the agency to the Department, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted or the agency had not been transferred, and any such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(c) PENDING CIVIL ACTIONS.—Subject to the authority of the Secretary under this Act, pending civil actions shall continue notwithstanding the enactment of this Act or the transfer of an agency to the Department, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment or transfer had not occurred.

(d) REFERENCES.—References relating to an agency that is transferred to the Department in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede such transfer or the effective date of this Act shall be deemed to refer, as appropriate, to the Department, to its officers, employees, or agents, or to its corresponding organizational units or functions. Statutory reporting requirements that applied in relation to such an agency immediately before the effective date of this Act shall continue to apply following such transfer if they refer to the agency by name.

(e) EMPLOYMENT PROVISIONS.—(1) Notwithstanding the generality of the foregoing (including subsections (a) and (d)), in and for the Department the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, adopt the rules, procedures, terms, and conditions, established by statute, rule, or regulation before the effective date of this Act, relating to employment in any agency transferred to the Department pursuant to this Act; and

(2) except as otherwise provided in this Act, or under authority granted by this Act, the transfer pursuant to this Act of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

(f) STATUTORY REPORTING REQUIREMENTS.—Any statutory reporting requirement that applied to an agency, transferred to the Department under this Act, immediately before the effective date of this Act shall continue to apply following that transfer if the statutory requirement refers to the agency by name.

SEC. 1513. TERMINATIONS.

Except as otherwise provided in this Act, whenever all the functions vested by law in any agency have been transferred pursuant to this Act, each position and office the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V, of the Executive Schedule, shall terminate.

SEC. 1514. NATIONAL IDENTIFICATION SYSTEM NOT AUTHORIZED.

Nothing in this Act shall be construed to authorize the development of a national identification system or card.

SEC. 1515. CONTINUITY OF INSPECTOR GENERAL OVERSIGHT.

Notwithstanding the transfer of an agency to the Department pursuant to this Act, the Inspector General that exercised oversight of such agency prior to such transfer shall continue to exercise oversight of such agency during the period of time, if any, between the transfer of such agency to the Department pursuant to this Act and the appointment of the Inspector General of the Department of Homeland Security in accordance with section 103(b).

SEC. 1516. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, in consultation with the Secretary, is authorized and directed to make such additional incidental dispositions of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this Act, as the Director may determine necessary to accomplish the purposes of this Act.

SEC. 1517. REFERENCE.

With respect to any function transferred by or under this Act (including under a reorganization plan that becomes effective under section 1502) and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which such function is so transferred.

TITLE XVI—CORRECTIONS TO EXISTING LAW RELATING TO AIRLINE TRANSPORTATION SECURITY

SEC. 1601. RETENTION OF SECURITY SENSITIVE INFORMATION AUTHORITY AT DEPARTMENT OF TRANSPORTATION.

(a) Section 40119 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "and the Administrator of the Federal Aviation Administration each" after "for Security"; and

(B) by striking "criminal violence and aircraft piracy" and inserting "criminal violence, aircraft piracy, and terrorism and to ensure security"; and

(2) in subsection (b)(1)—

(A) by striking ", the Under Secretary" and inserting "and the establishment of a Department of Homeland Security, the Secretary of Transportation";

(B) by striking "carrying out" and all that follows through "if the Under Secretary" and inserting "ensuring security under this title if the Secretary of Transportation"; and

(C) in subparagraph (C) by striking "the safety of passengers in transportation" and inserting "transportation safety".

(b) Section 114 of title 49, United States Code, is amended by adding at the end the following:

"(s) NONDISCLOSURE OF SECURITY ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding section 552 of title 5, the Under Secretary shall prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out security under authority of the Aviation and Transportation Security Act (Public Law 107–71) or under chapter 449 of this title if the Under Secretary decides that disclosing the information would—

"(A) be an unwarranted invasion of personal privacy;

"(B) reveal a trade secret or privileged or confidential commercial or financial information; or

"(C) be detrimental to the security of transportation.

"(2) AVAILABILITY OF INFORMATION TO CONGRESS.—Paragraph (1) does not authorize information to be withheld from a committee of Congress authorized to have the information.

"(3) LIMITATION ON TRANSFERABILITY OF DUTIES.—Except as otherwise provided by law, the Under Secretary may not transfer a duty or power under this subsection to another department, agency, or instrumentality of the United States.".

SEC. 1602. INCREASE IN CIVIL PENALTIES.

Section 46301(a) of title 49, United States Code, is amended by adding at the end the following:

"(8) AVIATION SECURITY VIOLATIONS.—Notwithstanding paragraphs (1) and (2) of this subsection, the maximum civil penalty for violating chapter 449 or another requirement under this title administered by the Under Secretary of Transportation for Security shall be $10,000; except that the maximum civil penalty shall be $25,000 in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman).".

SEC. 1603. ALLOWING UNITED STATES CITIZENS AND UNITED STATES NATIONALS AS SCREENERS.

Section 44935(e)(2)(A)(ii) of title 49, United States Code, is amended by striking "citizen of the United States" and inserting "citizen of the United States or a national of the

United States, as defined in section 1101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))".

TITLE XVII—CONFORMING AND TECHNICAL AMENDMENTS

SEC. 1701. INSPECTOR GENERAL ACT OF 1978.

Section 11 of the Inspector General Act of 1978 (Public Law 95-452) is amended—

(1) by inserting "Homeland Security," after "Transportation," each place it appears; and

(2) by striking "; and" each place it appears in paragraph (1) and inserting ";";

SEC. 1702. EXECUTIVE SCHEDULE.

(a) In General.—Title 5, United States Code, is amended—

(1) in section 5312, by inserting "Secretary of Homeland Security." as a new item after "Affairs.";

(2) in section 5313, by inserting "Deputy Secretary of Homeland Security." as a new item after "Affairs.";

(3) in section 5314, by inserting "Under Secretaries, Department of Homeland Security.", "Director of the Bureau of Citizenship and Immigration Services." as new items after "Affairs." the third place it appears;

(4) in section 5315, by inserting "Assistant Secretaries, Department of Homeland Security.", "General Counsel, Department of Homeland Security.", "Officer for Civil Rights and Civil Liberties, Department of Homeland Security.", "Chief Financial Officer, Department of Homeland Security.", "Chief Information Officer, Department of Homeland Security.", and "Inspector General, Department of Homeland Security." as new items after "Affairs." the first place it appears; and

(5) in section 5315, by striking "Commissioner of Immigration and Naturalization, Department of Justice.".

(b) Special Effective Date.—Notwithstanding section 4, the amendment made by subsection (a)(5) shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

SEC. 1703. UNITED STATES SECRET SERVICE.

(a) In General.—(1) The United States Code is amended in section 202 of title 3, and in section 3056 of title 18, by striking "of the Treasury", each place it appears and inserting "of Homeland Security".

(2) Section 208 of title 3, United States Code, is amended by striking "of Treasury" each place it appears and inserting "of Homeland Security".

(b) Effective Date.—The amendments made by this section shall take effect on the date of transfer of the United States Secret Service to the Department.

SEC. 1704. COAST GUARD.

(a) Title 14, U.S.C.—Title 14, United States Code, is amended in sections 1, 3, 53, 95, 145, 516, 666, 669, 673, 673a (as redesignated by subsection (e)(1)), 674, 687, and 688 by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(b) Title 10, U.S.C.—(1) Title 10, United States Code, is amended in sections 101(9), 130b(a), 130b(c)(4), 130c(h)(1), 379, 513(d), 575(b)(2), 580(e)(6), 580a(e), 651(a), 671(c)(2), 708(a), 716(a), 717, 806(d)(2), 815(e), 888, 946(c)(1), 973(d), 978(d), 983(b)(1), 985(a), 1033(b)(1), 1033(d), 1034, 1037(c), 1044d(f), 1058(c), 1059(a), 1059(k)(1), 1073(a), 1074(c)(1), 1089(g)(2), 1090, 1091(a), 1124, 1143, 1143a(h), 1144, 1145(e), 1148, 1149, 1150(c), 1152(a), 1152(d)(1), 1153, 1175, 1212(a), 1408(h)(2), 1408(h)(8), 1463(a)(2), 1482a(b), 1510, 1552(a)(1), 1565(f), 1588(f)(4), 1589, 2002(a), 2302(1), 2306b(b), 2323(j)(2), 2376(2), 2396(b)(1), 2410a(a), 2572(a), 2575(a), 2578, 2601(b)(4), 2634(e), 2635(a), 2734(g), 2734a, 2775, 2830(b)(2), 2835, 2836, 4745(a), 5013a(a), 7361(b), 10143(b)(2), 10146(a), 10147(a), 10149(b), 10150, 10202(b), 10203(d), 10205(b), 10301(b), 12103(b), 12103(d), 12304, 12311(c), 12522(c), 12527(a)(2), 12731(b), 12731a(e), 16131(a), 16136(a), 16301(g), and 18501 by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(2) Section 801(1) of such title is amended by striking "the General Counsel of the Department of Transportation" and inserting "an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security".

(3) Section 983(d)(2)(B) of such title is amended by striking "Department of Transportation" and inserting "Department of Homeland Security".

(4) Section 2665(b) of such title is amended by striking "Department of Transportation" and inserting "Department in which the Coast Guard is operating".

(5) Section 7045 of such title is amended—

(A) in subsections (a)(1) and (b), by striking "Secretaries of the Army, Air Force, and Transportation" both places it appears and inserting "Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security"; and

(B) in subsection (b), by striking "Department of Transportation" and inserting "Department of Homeland Security".

(6) Section 7361(b) of such title is amended in the subsection heading by striking "Transportation" and inserting "Homeland Security".

(7) Section 12522(c) of such title is amended in the subsection heading by striking "Transportation" and inserting "Homeland Security".

(c) Title 37, U.S.C.—Title 37, United States Code, is amended in sections 101(5), 204(i)(4), 301a(a)(3), 306(d), 307(c), 308(a)(1), 308(d)(2), 308(f), 308b(e), 308c(c), 308d(a), 308e(f), 308g(g), 308h(f), 308i(e), 309(d), 316(d), 323(b), 323(g)(1), 325(i), 402(d), 402a(g)(1), 403(f)(3), 403(l)(1), 403b(i)(5), 406(b)(1), 417(a), 417(b), 418(a), 703, 1001(c), 1006(f), 1007(a), and 1011(d) by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(d) Title 38, U.S.C.—Title 38, United States Code, is amended in sections 101(25)(d), 1560(a), 3002(5), 3011(a)(1)(A)(ii)(I), 3011(a)(1)(A)(ii)(II), 3011(a)(1)(B)(ii)(III), 3011(a)(1)(C)(iii)(II)(cc), 3012(b)(1)(A)(v), 3012(b)(1)(B)(ii)(V), 3018(b)(3)(B)(iv), 3018A(a)(3), 3018B(a)(1)(C), 3018B(a)(2)(C), 3018C(a)(5), 3020(m), 3035(b)(2), 3035(c), 3035(d), 3035(e), 3680A(g), and 6105(c) by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(e) Other Defense-Related Laws.—(1) Section 363 of Public Law 104–193 (110 Stat. 2247) is amended—

(A) in subsection (a)(1) (10 U.S.C. 113 note), by striking "of Transportation" and inserting "of Homeland Security"; and

(B) in subsection (b)(1) (10 U.S.C. 704 note), by striking "of Transportation" and inserting "of Homeland Security".

(2) Section 721(1) of Public Law 104–201 (10 U.S.C. 1073 note) is amended by striking "of Transportation" and inserting "of Homeland Security".

(3) Section 4463(a) of Public Law 102–484 (10 U.S.C. 1143a note) is amended by striking "after consultation with the Secretary of Transportation".

(4) Section 4466(h) of Public Law 102–484 (10 U.S.C. 1143 note) is amended by striking "of Transportation" and inserting "of Homeland Security".

(5) Section 542(d) of Public Law 103–337 (10 U.S.C. 1293 note) is amended by striking "of Transportation" and inserting "of Homeland Security".

(6) Section 740 of Public Law 106–181 (10 U.S.C. 2576 note) is amended in subsections (b)(2), (c), and (d)(1) by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(7) Section 1407(b)(2) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(b)) is amended by striking "of Transportation" both places it appears and inserting "of Homeland Security".

(8) Section 2301(5)(D) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671(5)(D)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(9) Section 2307(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6677(a)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(10) Section 1034(a) of Public Law 105–85 (21 U.S.C. 1505a(a)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(11) The Military Selective Service Act is amended—

(A) in section 4(a) (50 U.S.C. App. 454(a)), by striking "of Transportation" in the fourth paragraph and inserting "of Homeland Security";

(B) in section 4(b) (50 U.S.C. App. 454(b)), by striking "of Transportation" both places it appears and inserting "of Homeland Security";

(C) in section 6(d)(1) (50 U.S.C. App. 456(d)(1)), by striking "of Transportation" both places it appears and inserting "of Homeland Security";

(D) in section 9(c) (50 U.S.C. App. 459(c)), by striking "Secretaries of Army, Navy, Air Force, or Transportation" and inserting "Secretary of a military department, and the Secretary of Homeland Security with respect to the Coast Guard,"; and

(E) in section 15(e) (50 U.S.C. App. 465(e)), by striking "of Transportation" both places it appears and inserting "of Homeland Security".

(f) Technical Correction.—(1) Title 14, United States Code, is amended by redesignating section 673 (as added by section 309 of Public Law 104–324) as section 673a.

(2) The table of sections at the beginning of chapter 17 of such title is amended by redesignating the item relating to such section as section 673a.

(g) Effective Date.—The amendments made by this section (other than subsection (f)) shall take effect on the date of transfer of the Coast Guard to the Department.

SEC. 1705. STRATEGIC NATIONAL STOCKPILE AND SMALLPOX VACCINE DEVELOPMENT.

(a) In General.—Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188; 42 U.S.C. 300hh–12) is amended—

(1) in subsection (a)(1)—

(A) by striking "Secretary of Health and Human Services" and inserting "Secretary of Homeland Security";

(B) by inserting "the Secretary of Health and Human Services and" between "in coordination with" and "the Secretary of Veterans Affairs"; and

(C) by inserting "of Health and Human Services" after "as are determined by the Secretary"; and

(2) in subsections (a)(2) and (b), by inserting "of Health and Human Services" after "Secretary" each place it appears.

(b) Effective Date.—The amendments made by this section shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SEC. 1706. TRANSFER OF CERTAIN SECURITY AND LAW ENFORCEMENT FUNCTIONS AND AUTHORITIES.

(a) AMENDMENT TO TITLE 40.—Section 581 of title 40, United States Code, is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by inserting "and" after the semicolon at the end of paragraph (1);

(B) by striking "; and" at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3).

(b) LAW ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—Section 1315 of title 40, United States Code, is amended to read as follows:

"§1315. Law enforcement authority of Secretary of Homeland Security for protection of public property

"(a) IN GENERAL.—To the extent provided for by transfers made pursuant to the Homeland Security Act of 2002, the Secretary of Homeland Security (in this section referred to as the 'Secretary') shall protect the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government (including any agency, instrumentality, or wholly owned or mixed-ownership corporation thereof) and the persons on the property.

"(b) OFFICERS AND AGENTS.—

"(1) DESIGNATION.—The Secretary may designate employees of the Department of Homeland Security, including employees transferred to the Department from the Office of the Federal Protective Service of the General Services Administration pursuant to the Homeland Security Act of 2002, as officers and agents for duty in connection with the protection of property owned or occupied by the Federal Government and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

"(2) POWERS.—While engaged in the performance of official duties, an officer or agent designated under this subsection may—

"(A) enforce Federal laws and regulations for the protection of persons and property;

"(B) carry firearms;

"(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or agent or for any felony cognizable under the laws of the United States if the officer or agent has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

"(D) serve warrants and subpoenas issued under the authority of the United States; and

"(E) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Federal Government or persons on the property.

"(F) carry out such other activities for the promotion of homeland security as the Secretary may prescribe.

"(c) REGULATIONS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Administrator of General Services, may prescribe regulations necessary for the protection and administration of property owned or occupied by the Federal Government and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in paragraph (2), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

"(2) PENALTIES.—A person violating a regulation prescribed under this subsection shall be fined under title 18, United States Code, imprisoned for not more than 30 days, or both.

"(d) DETAILS.—

"(1) REQUESTS OF AGENCIES.—On the request of the head of a Federal agency having charge or control of property owned or occupied by the Federal Government, the Secretary may detail officers and agents designated under this section for the protection of the property and persons on the property.

"(2) APPLICABILITY OF REGULATIONS.—The Secretary may—

"(A) extend to property referred to in paragraph (1) the applicability of regulations prescribed under this section and enforce the regulations as provided in this section; or

"(B) utilize the authority and regulations of the requesting agency if agreed to in writing by the agencies.

"(3) FACILITIES AND SERVICES OF OTHER AGENCIES.—When the Secretary determines it to be economical and in the public interest, the Secretary may utilize the facilities and services of Federal, State, and local law enforcement agencies, with the consent of the agencies.

"(e) AUTHORITY OUTSIDE FEDERAL PROPERTY.—For the protection of property owned or occupied by the Federal Government and persons on the property, the Secretary may enter into agreements with Federal agencies and with State and local governments to obtain authority for officers and agents designated under this section to enforce Federal laws and State and local laws concurrently with other Federal law enforcement officers and with State and local law enforcement officers.

"(f) SECRETARY AND ATTORNEY GENERAL APPROVAL.—The powers granted to officers and agents designated under this section shall be exercised in accordance with guidelines approved by the Secretary and the Attorney General.

"(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) preclude or limit the authority of any Federal law enforcement agency; or

"(2) restrict the authority of the Administrator of General Services to promulgate regulations affecting property under the Administrator's custody and control.".

(2) DELEGATION OF AUTHORITY.—The Secretary may delegate authority for the protection of specific buildings to another Federal agency where, in the Secretary's discretion, the Secretary determines it necessary for the protection of that building.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 40, United States Code, is amended by striking the item relating to section 1315 and inserting the following:

"1315. Law enforcement authority of Secretary of Homeland Security for protection of public property.".

SEC. 1707. TRANSPORTATION SECURITY REGULATIONS.

Title 49, United States Code, is amended—

(1) in section 114(l)(2)(B), by inserting "for a period not to exceed 90 days" after "effective"; and

(2) in section 114(l)(2)(B), by inserting "ratified or" after "unless".

SEC. 1708. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

There is established in the Department of Defense a National Bio-Weapons Defense Analysis Center, whose mission is to develop countermeasures to potential attacks by terrorists using weapons of mass destruction.

SEC. 1709. COLLABORATION WITH THE SECRETARY OF HOMELAND SECURITY.

(a) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The second sentence of section 351A(e)(1) of the Public Health Service Act (42 U.S.C. 262A(e)(1)) is amended by striking "consultation with" and inserting "collaboration with the Secretary of Homeland Security and".

(b) DEPARTMENT OF AGRICULTURE.—The second sentence of section 212(e)(1) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401) is amended by striking "consultation with" and inserting "collaboration with the Secretary of Homeland Security and".

SEC. 1710. RAILROAD SAFETY TO INCLUDE RAILROAD SECURITY.

(a) INVESTIGATION AND SURVEILLANCE ACTIVITIES.—Section 20105 of title 49, United States Code, is amended—

(1) by striking "Secretary of Transportation" in the first sentence of subsection (a) and inserting "Secretary concerned";

(2) by striking "Secretary" each place it appears (except the first sentence of subsection (a)) and inserting "Secretary concerned";

(3) by striking "Secretary's duties under chapters 203–213 of this title" in subsection (d) and inserting "duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)";

(4) by striking "chapter." in subsection (f) and inserting "chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)."; and

(5) by adding at the end the following new subsection:

"(g) DEFINITIONS.—In this section—

"(1) the term 'safety' includes security; and

"(2) the term 'Secretary concerned' means—

"(A) the Secretary of Transportation, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary; and

"(B) the Secretary of Homeland Security, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary.".

(b) REGULATIONS AND ORDERS.—Section 20103(a) of such title is amended by inserting after "1970." the following: "When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.".

(c) NATIONAL UNIFORMITY OF REGULATION.—Section 20106 of such title is amended—

(1) by inserting "and laws, regulations, and orders related to railroad security" after "safety" in the first sentence;

(2) by inserting "or security" after "safety" each place it appears after the first sentence; and

(3) by striking "Transportation" in the second sentence and inserting "Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters),".

SEC. 1711. HAZMAT SAFETY TO INCLUDE HAZMAT SECURITY.

(a) GENERAL REGULATORY AUTHORITY.—Section 5103 of title 49, United States Code, is amended—

(1) by striking "transportation" the first place it appears in subsection (b)(1) and inserting "transportation, including security,";

(2) by striking "aspects" in subsection (b)(1)(B) and inserting "aspects, including security,"; and

(3) by adding at the end the following:

"(C) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.".

(b) PREEMPTION.—Section 5125 of that title is amended—

(1) by striking "chapter or a regulation prescribed under this chapter" in subsection (a)(1) and inserting "chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security";

(2) by striking "chapter or a regulation prescribed under this chapter." in subsection (a)(2) and inserting "chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security."; and

(3) by striking "chapter or a regulation prescribed under this chapter," in subsection (b)(1) and inserting "chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security,".

SEC. 1712. OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended—

(1) in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting "homeland security," after "national security,"; and

(2) in section 208(a)(1) (42 U.S.C. 6617(a)(1)), by inserting "the Office of Homeland Security," after "National Security Council,".

SEC. 1713. NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM.

Section 7902(b) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(13) The Under Secretary for Science and Technology of the Department of Homeland Security.

"(14) Other Federal officials the Council considers appropriate.".

SEC. 1714. CLARIFICATION OF DEFINITION OF MANUFACTURER.

Section 2133(3) of the Public Health Service Act (42 U.S.C. 300aa-33(3)) is amended—

(1) in the first sentence, by striking "under its label any vaccine set forth in the Vaccine Injury Table" and inserting "any vaccine set forth in the Vaccine Injury table, including any component or ingredient of any such vaccine"; and

(2) in the second sentence, by inserting "including any component or ingredient of any such vaccine" before the period.

SEC. 1715. CLARIFICATION OF DEFINITION OF VACCINE-RELATED INJURY OR DEATH.

Section 2133(5) of the Public Health Service Act (42 U.S.C. 300aa-33(5)) is amended by adding at the end the following: "For purposes of the preceding sentence, an adulterant or contaminant shall not include any component or ingredient listed in a vaccine's product license application or product label.".

SEC. 1716. CLARIFICATION OF DEFINITION OF VACCINE.

Section 2133 of the Public Health Service Act (42 U.S.C. 300aa-33) is amended by adding at the end the following:

"(7) The term 'vaccine' means any preparation or suspension, including but not limited to a preparation or suspension containing an attenuated or inactive microorganism or subunit thereof or toxin, developed or administered to produce or enhance the body's immune response to a disease or diseases and includes all components and ingredients listed in the vaccines's product license application and product label.".

SEC. 1717. EFFECTIVE DATE.

The amendments made by sections 1714, 1715, and 1716 shall apply to all actions or proceedings pending on or after the date of enactment of this Act, unless a court of competent jurisdiction has entered judgment (regardless of whether the time for appeal has expired) in such action or proceeding disposing of the entire action or proceeding.

SA 4902. Mr. LIEBERMAN (for himself, Mr. MCCAIN, and Mr. NELSON of Nebraska) proposed an amendment to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

At the appropriate place add the following:

TITLE —NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SEC. 601. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the "Commission").

SEC. 602. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York, Somerset County, Pennsylvania, and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001; and

(B) other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally;

(4) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and immediate response to, the attacks; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC, 603. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as a co-chairperson of the Commission;

(2) 1 member shall be appointed by the leader of the Senate (majority or minority leader, as the case may be) who is of the Democratic party, in consultation with the leader of the House of Representatives (majority or minority leader, as the case may be) who is of the Democratic party, who shall serve as a co-chairperson of the Commission;

(3) 2 members shall be appointed by the majority leader leader of the Senate;

(4) 2 members shall be appointed by the Speaker of the House of Representatives;

(5) 2 members shall be appointed by the minority leader of the Senate; and

(6) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, legal practice, public administration, intelligence gathering, commerce, including aviation matters, and foreign affairs.

(4) INITIAL MEETING.—If 90 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, begin the operations of the Commission.

(c) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the co-chairpersons or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 604. FUNCTIONS OF THE COMMISSION.

(a) IN GENERAL.—The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(B) may include relevant facts and circumstances relating to—

(i) intelligence agencies;

(ii) law enforcement agencies;

(iii) diplomacy;

(iv) immigration, nonimmigrant visas, and border control;

(v) the flow of assets to terrorist organizations;

(vi) commercial aviation;

(vii) the role of congressional oversight and resource allocation; and

(viii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure,

coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(b) Relationship to Intelligence Committees' Inquiry.—When investigating facts and circumstances relating to the intelligence community, the Commission shall—

(1) first review the information compiled by, and the findings, conclusions, and recommendations of, the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001 (referred to in this subsection as the "Joint Inquiry"); and

(2) after that review pursue any appropriate area of inquiry if the Commission determines that—

(A) the Joint Inquiry had not investigated that area;

(B) the Joint Inquiry's investigation of that area had not been complete; or

(C) new information not reviewed by the Joint Inquiry had become available with respect to that area.

SEC. 605. POWERS OF THE COMMISSION.

(a) In General.—

(1) Hearings and evidence.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) Subpoenas.—

(A) Issuance.—

(i) In general.—A subpoena may be issued under this subsection only upon—

(I) the agreement of the co-chairpersons; or

(II) the affirmative vote of 5 members of the Commission.

(ii) Signature.—Subject to clause (i), subpoenas issued under paragraph (1)(B) may be issued under the signature of either co-chairperson or both co-chairpersons of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the co-chairperson, subcommittee chairperson, or member.

(B) Enforcement.—

(i) In general.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) Additional enforcement.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) Contracting.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts enable the Commission to discharge its duties under this title.

(c) Information From Federal Agencies.—

(1) In general.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, of the Government information, suggestions, estimates, and statistics for the purpose of this title. Each department, bureau, agency, board, commission, office, independent establishment or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by either co-chairperson, the chairperson of any subcommittee created by a majority of the Commissioner or any member designated by a majority of the Commission.

(2) Receipt, handling, storage, and dissemination.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) Assistance From Federal Agencies.—

(1) General services administration.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for performance of the Commission's functions.

(2) Other departments and agencies.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 606. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) In General.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) Public Meetings and Release of Public Versions of Reports.—The Commission shall—

(1) hold public hearings and meetings to the greatest extent feasible; and

(2) release public versions of the reports required under section 610 (a) and (b).

(c) Public Hearings.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or executive order.

SEC. 607. STAFF OF THE COMMISSION.

(a) In General.—

(1) Appointment and compensation.—The co-chairpersons, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) Personnel as federal employees.—

(A) In general.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) Members of commission.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) Detailees.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) Consultant Services.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 608. COMPENSATION AND TRAVEL EXPENSES.

(a) Compensation.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) Travel Expenses.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 609. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 610. REPORTS OF THE COMMISSION; TERMINATION.

(a) Interim Reports.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) Final Report.—Not later than 2 years after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) Termination.—

(1) In general.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the second report is submitted under subsection (b).

(2) Administrative activities before termination.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the second report.

SEC. 611. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

SA 4903. Mr. DURBIN (for Mr. Dorgan (for himself, Mr. Ensign, Mr. Hollings, and Mr. Allen)) submitted an amendment intended to be proposed by Mr. Durbin to the bill H.R. 3833, to facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Dot Kids Implementation and Efficiency Act of 2002”.

SEC. 2. FINDINGS AND PURPOSES

(a) Findings.—The Congress finds that—

(1) the World Wide Web presents a stimulating and entertaining opportunity for children to learn, grow, and develop educationally and intellectually;

(2) Internet technology also makes available an extensive amount of information that is harmful to children, as studies indicate that a significant portion of all material available on the Internet is related to pornography;

(3) young children, when trying to use the World Wide Web for positive purposes, are often presented—either mistakenly or intentionally—with material that is inappropriate for their age, which can be extremely frustrating for children, parents, and educators;

(4) exposure of children to material that is inappropriate for them, including pornography, can distort the education and development of the Nation's youth and represents a serious harm to American families that can lead to a host of other problems for children, including appropriate use of chat rooms, physical molestation, harassment, and legal and financial difficulties;

(5) young boys and girls, older teens, troubled youth, frequent Internet users, chat room participants, online risk takers, and those who communicate online with strangers are at greater risk for receiving unwanted sexual solication on the Internet;

(6) studies have shown that 19 percent of youth (ages 10 to 17) who used the Internet regularly were the targets of unwanted sexual solicitation, but less than 10 percent of the solicitations were reported to the police;

(7) children who come across illegal content should report it to the congressionally authorized CyberTipline, an online mechanism developed by the National Center for Missing and Exploited Children, for citizens to report sexual crimes against children;

(8) the CyberTipline has received more than 64,400 reports, including reports of child pornography, online enticement for sexual acts, child molestation (outside the family), and child prostitution;

(9) although the computer software and hardware industries, and other related industries, have developed innovative ways to help parents and educators restrict material that is harmful to minors through parental control protections and self-regulation, to date such efforts have not provided a national solution to the problem of minors accessing harmful material on the World Wide Web;

(10) the creation of a “green-light” area within the United States country code Internet domain, that will contain only content that is appropriate for children under the age of 13, is analogous to the creation of a children's section within a library and will promote the positive experiences of children and families in the United States; and

(11) while custody, care, and nurture of the child reside first with the parent, the protection of the physical and psychological well-being of minors by shielding them from material that is harmful to them is a compelling governmental interest.

(b) Purposes.—The purposes of this Act are—

(1) to facilitate the creation of a second-level domain within the United States country code Internet domain for the location of material that is suitable for minors and not harmful to minors; and

(2) to ensure that the National Telecommunications and Information Administration oversees the creation of such a second-level domain and ensures the effective and efficient establishment and operation of the new domain.

SEC. 3. NTIA AUTHORITY.

Section 103(b)(3) of the National Telecommunications and Information Administration Organization Act (47 U.S.C 902(b)(3)) is amended—

(1) in subparagraph (A), by striking “and” at the end;

(2) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(C) shall assign to the NTIA responsibility for providing for the establishment, and overseeing operation, of a second-level Internet domain within the United States country code domain in accordance with section 157.”.

SEC. 4 CHILD-FRIENDLY SECOND-LEVEL INTERNET DOMAIN.

The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended in part C by adding at the end the following new section:

“SEC. 157. CHILD-FRIENDLY SECOND-LEVEL INTERNET DOMAIN.

“(a) Responsibilities.—The NTIA shall require the registry selected to operate and maintain the United States country code Internet domain to establish, operate, and maintain a second-level domain within the United States country code domain that provides access only to material that is suitable for minors and not harmful to minors (in this section referred to as the ‘new domain’).

“(b) Conditions of Contracts.—

“(1) Initial resistry.—The NTIA shall not exercise any option periods under any contract between the NTIA and the initial registry to operate and maintain the United States country code Internet domain unless the initial registry agrees, during the 90-day period beginning upon the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002, to carry out, and to operate the new domain in accordance with, the requirements under subsection (c). Nothing in this subsection shall be construed to prevent the initial registry of the United States country code Internet domain from participating in the NTIA's process for selecting a successor registry or to prevent the NTIA from awarding, to the initial registry, the contract to be successor registry subject to the requirements of paragraph (2).

“(2) Successor registries.—The NTIA shall not enter into any contract for operating and maintaining the United States country code Internet domain with any successor registry unless such registry enters into an agreement with the NTIA, during the 90-day period after selection of such registry, that provides for the registry to carry out, and the new domain to operate in accordance with, the requirements under section (c).

(c) Requirements of New Domain.—The registry and new domain shall be subject to the following requirements:

“(1) Written content standards for the new domain, except that the NTIA shall not have any authority to establish such standards.

“(2) Written agreements with each registrar for the new domain that require that use of the new domain is in accordance with the standards and requirements of the registry.

“(3) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to use the new domain in accordance with the standards and requirements of the registry.

“(4) Rules and procedures for enforcement and oversight that minimize the possibility that the new domain provides access to content that is not in accordance with the standards and requirements of the registry.

“(5) A process for removing from the new domain any content that is not in accordance with the standards and requirements of the registry.

“(6) A process to provide registrants to the new domain with an opportunity for a prompt, expeditious, and impartial dispute resolution process regarding any material of the registrant excluded from the new domain.

“(7) Continuous and uninterrupted service for the new domain during any transition to a new registry selected to operate and maintain new domain or the United States country code domain.

“(8) Procedures and mechanisms to promote the accuracy of contact information submitted by registrants and retained by registrars in the new domain.

“(9) Operationality of the new domain not later than one year after the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002.

“(10) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to prohibit two-way and multiuser interactive services in the new domain, unless the registrant certifies to the registrar that such service will be offered in compliance with the content standards established pursuant to paragraph (1) and is designed to reduce the risk of exploitation of minors using such two-way and multiuser interactive services.

"(11) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to prohibit hyperlinks in the new domain that take new domain users outside of the new domain.

"(12) Any other action that the NTIA considers necessary to establish, operate, or maintain the new domain in accordance with the purposes of this section.

"(d) Option Periods for Initial Registry.—The NTIA shall grant the initial registry the option periods available under the contract between the NTIA and the initial registry to operate and maintain the United States country code Internet domain if, and may not grant such option periods unless, the NTIA finds that the initial registry has satisfactorily performed its obligations under this Act and under the contract. Nothing in this section shall preempt or alter the NTIA's authority to terminate such contract for the operation of the United States country code Internet domain for cause or for convenience.

"(e) Treatment of Registry and Other Entities.—

"(1) In general.—Only to the extent that such entities carry out functions under this section, the following entities are deemed to be interactive computer services for purposes of section 230(c) of the Communications Act of 1934 (47 U.S.C. 230(c)):

"(A) The registry that operates and maintains the new domain.

"(B) Any entity that contracts with such registry to carry out functions to ensure that content accessed through the new domain complies with the limitations applicable to the new domain.

"(C) Any registrar for the registry of the new domain that is operating in compliance with its agreement with the registry.

"(2) Savings provision.—Nothing in paragraph (1) shall be construed to affect the applicability of any other provision of title II of the Communications Act of 1934 to the entities covered by subparagraph (A), (B), or (C) of paragraph (1).

"(f) Education.—The NTIA shall carry out a program to publicize the availability of the new domain and to educate the parents of minors regarding the process for utilizing the new domain in combination and coordination with hardware and software technologies that provide for filtering or blocking. The program under this subsection shall be commenced not later than 30 days after the date that the new domain first becomes operational and accessible by the public.

"(g) Coordination With Federal Government.—The registry selected to operate and maintain the new domain shall—

"(1) consult with appropriate agencies of the Federal Government regarding procedures and actions to prevent minors and families who use the new domain from being targeted by adults and other children for predatory behavior, exploitation, or illegal actions; and

"(2) based upon the consultations conducted pursuant to paragraph (1), establish such procedures and take such actions as the registry may deem necessary to prevent such targeting.

The consultations, procedures, and actions required under this subsection shall be commenced not later than 30 days after the date that the new domain first becomes operational and accessible by the public.

"(h) Compliance Report.—The registry shall prepare, on an annual basis, a report on the registry's monitoring and enforcement procedures for the new domain. The registry shall submit each such report, setting forth the results of the review of its monitoring and enforcement procedures for the new domain, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(i) Suspension of New Domain.—If the NTIA finds, pursuant to its own review or upon a good faith petition by the registry, that the new domain is not serving its intended purpose, the NTIA shall instruct the registry to suspend operation of the new domain until such time as the NTIA determines that the new domain can be operated as intended.

"(j) Definitions.—For purposes of this section, the following definitions shall apply:

"(1) Harmful to minors.—The term 'harmful to minors' means, with respect to material, that—

"(A) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, that it is designed to appeal to, or is designed to pander to, the prurient interest;

"(B) the material depicts, describes, or represents, in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals or post-pubescent female breast; and

"(C) taken as a whole, the material lacks serious, literary, artistic, political, or scientific value for minors.

"(2) Minor.—The term 'minor' means any person under 13 years of age.

"(3) Registry.—The term 'registry' means the registry selected to operate and maintain the United States country code Internet domain.

"(4) Successor registry.—The term 'successor registry' means any entity that enters into a contract with the NTIA to operate and maintain the United States country code Internet domain that covers any period after the termination or expiration of the contract to operate and maintain the United States country code Internet domain, and any option periods under such contract, that was signed on October 26, 2001.

"(5) Suitable for minors.—The term 'suitable for minors' means, with respect to material, that it—

"(A) is not psychologically or intellectually inappropriate for minors; and

"(B) serves—

"(i) the educational, informational, intellectual, or cognitive needs of minors; or

"(ii) the social, emotional, or entertainment needs of minors.".

SA 4904. Mr. DURBIN (for Mr. McCain (for himself and Mr. Hollings)) proposed an amendment to the bill H.R. 3609, to amend title 49, United States Code, to enhance the security and safety of pipelines; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) Short Title.—This title may be cited as the "Pipeline Safety Improvement Act of 2002".

(b) Amendment of Title 49, United States Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2. ONE-CALL NOTIFICATION PROGRAMS.

(a) Minimum Standards.—Section 6103 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting ", including all government operators" before the semicolon at the end; and

(B) in paragraph (2) by inserting ", including all government and contract excavators" before the semicolon at the end; and

(2) in subsection (c) by striking "provide for" and inserting "provide for and document".

(b) Compliance With Minimum Standards.—Section 6104(d) is amended by striking "Within 3 years after the date of the enactment of this chapter, the Secretary shall begin to" and inserting "The Secretary shall".

(c) Implementation of Best Practices Guidelines.—

(1) In general.—Section 6105 is amended to read as follows:

"§6105. Implementation of best practices guidelines

"(a) Adoption of Best Practices.—The Secretary of Transportation shall encourage States, operators of one-call notification programs, excavators (including all government and contract excavators), and underground facility operators to adopt and implement practices identified in the best practices report entitled 'Common Ground', as periodically updated.

"(b) Technical Assistance.—The Secretary shall provide technical assistance to and participate in programs sponsored by a non-profit organization specifically established for the purpose of reducing construction-related damage to underground facilities.

"(c) Grants.—

"(1) In general.—The Secretary may make grants to a non-profit organization described in subsection (b).

"(2) Authorization of appropriations.—In addition to amounts authorized under section 6107, there is authorized to be appropriated for making grants under this subsection $500,000 for each of fiscal years 2003 through 2006. Such sums shall remain available until expended.

"(3) General revenue funding.—Any sums appropriated under this subsection shall be derived from general revenues and may not be derived from amounts collected under section 60301.".

(2) Conforming amendment.—The analysis for chapter 61 is amended by striking the item relating to section 6105 and inserting the following:

"6105. Implementation of best practices guidelines.".

(d) Authorization of Appropriations.—

(1) For grants for states.—Section 6107(a) is amended by striking "$1,000,000 for fiscal year 2000" and all that follows before the period at the end of the first sentence and inserting "$1,000,000 for each of fiscal years 2003 through 2006".

(2) For administration.—Section 6107(b) is amended by striking "for fiscal years 1999, 2000, and 2001" and inserting "for fiscal years 2003 through 2006".

SEC. 3. ONE-CALL NOTIFICATION OF PIPELINE OPERATORS.

(a) Limitation on Preemption.—Section 60104(c) is amended by adding at the end the following: "Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.".

(b) Minimum Requirements.—Section 60114(a)(2) is amended by inserting ", including a government employee or contractor," after "person".

(c) Criminal Penalties.—Section 60123(d) is amended—

(1) in the matter preceding paragraph (1) by striking "knowingly and willfully";

(2) in paragraph (1) by inserting "knowingly and willfully" before "engages";

(3) by striking paragraph (2)(B) and inserting the following:

"(B) a pipeline facility, and knows or has reason to know of the damage, but does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or"; and

(4) by adding after paragraph (2) the following:

"Penalties under this subsection may be reduced in the case of a violation that is promptly reported by the violator.".

SEC. 4. STATE OVERSIGHT ROLE.

(a) State Agreements With Certification.—Section 60106 is amended—

(1) in subsection (a) by striking "General Authority.—" and inserting "Agreements Without Certification.—";

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(3) by inserting after subsection (a) the following:

"(b) Agreements With Certification.—

"(1) In general.—If the Secretary accepts a certification under section 60105 and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards for interstate pipeline facilities prescribed under this chapter to a State authority.

"(2) Determinations required.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines in writing that—

"(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

"(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

"(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

"(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

"(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

"(3) Existing agreements.—If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after January 31, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2002 if—

"(A) the State authority fails to comply with the terms of the agreement;

"(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or

"(C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.".

(b) Ending Agreements.—Subsection (e) of section 60106 (as redesignated by subsection (a)(2) of this section) is amended to read as follows:

"(e) Ending Agreements.—

"(1) Permissive termination.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

"(2) Mandatory termination of agreement.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—

"(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

"(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

"(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

"(3) Procedural requirements.—The Secretary shall give notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.".

(c) Secretary's Response to State Notices of Violations.—Subsection (c) of section 60106 (as redesignated by subsection (a)(2) of this section) is amended—

(1) by striking "Each agreement" and inserting the following:

"(1) In general.—Each agreement";

(2) by adding at the end the following:

"(2) Response by secretary.—If a State authority notifies the Secretary under paragraph (1) of a violation or probable violation of an applicable safety standard, the Secretary, not later than 60 days after the date of receipt of the notification, shall—

"(A) issue an order under section 60118(b) or take other appropriate enforcement actions to ensure compliance with this chapter; or

"(B) provide the State authority with a written explanation as to why the Secretary has determined not to take such actions."; and

(3) by aligning the text of paragraph (1) (as designated by this subsection) with paragraph (2) (as added by this subsection).

SEC. 5. PUBLIC EDUCATION PROGRAMS.

Section 60116 is amended to read as follows:

"§60116. Public education programs

"(a) In General.—Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.

"(b) Modification of Existing Programs.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, each owner or operator of a gas or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed program shall include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program shall be submitted to the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency, and shall be periodically reviewed by the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency.

"(c) Standards.—The Secretary may issue standards prescribing the elements of an effective public education program. The Secretary may also develop material for use in the program.".

SEC. 6. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION.

(a) In General.—Chapter 601 is amended by adding at the end the following:

"§60129. Protection of employees providing pipeline safety information

"(a) Discrimination Against Employee.—

"(1) In general.—No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(A) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard under this chapter or any other Federal law relating to pipeline safety;

"(B) refused to engage in any practice made unlawful by this chapter or any other Federal law relating to pipeline safety, if the employee has identified the alleged illegality to the employer;

"(C) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this chapter or any other Federal law relating to pipeline safety;

"(D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter or any other Federal law relating to pipeline safety, or a proceeding for the administration or enforcement of any requirement imposed under this chapter or any other Federal law relating to pipeline safety;

"(E) provided, caused to be provided, or is about to provide or cause to be provided, testimony in any proceeding described in subparagraph (D); or

"(F) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this chapter or any other Federal law relating to pipeline safety.

"(2) EMPLOYER DEFINED.—In this section, the term 'employer' means—

"(A) a person owning or operating a pipeline facility; or

"(B) a contractor or subcontractor of such a person.

"(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

"(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person or persons named in the complaint and the Secretary of Transportation of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person or persons under paragraph (2).

"(2) INVESTIGATION; PRELIMINARY ORDER.—

"(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person or persons named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary of Labor to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person or persons alleged to have committed a violation of subsection (a) of the Secretary of Labor's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary of Labor shall include with the Secretary of Labor's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 60 days after the date of notification of findings under this subparagraph, any person alleged to have committed a violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 60-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

"(B) REQUIREMENTS.—

"(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary of Labor that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary of Labor may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(3) FINAL ORDER.—

"(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 90 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person or persons alleged to have committed the violation.

"(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person or persons who committed such violation to—

"(i) take affirmative action to abate the violation;

"(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

"(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person or persons against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

"(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

"(4) REVIEW.—

"(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

"(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

"(6) ENFORCEMENT OF ORDER BY PARTIES.—

"(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person or persons to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award of costs is appropriate.

"(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

"(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an action of an employee of an employer who, acting without direction from the employer (or such employer's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.".

(b) CIVIL PENALTY.—Section 60122(a) is amended by adding at the end the following:

"(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than $1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

"60129. Protection of employees providing pipeline safety information.".

SEC. 7. SAFETY ORDERS.

Section 60117 is amended by adding at the end the following:

"(l) SAFETY ORDERS.—If the Secretary decides that a pipeline facility has a potential safety-related condition, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, replacement, or other appropriate action to remedy the safety-related condition.".

SEC. 8. PENALTIES.

(a) PIPELINE FACILITIES HAZARDOUS TO LIFE AND PROPERTY.—(Environment)

(1) GENERAL AUTHORITY.—Section 60112(a) is amended to read as follows:

"(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide that a pipeline facility is hazardous if the Secretary decides that—

"(1) operation of the facility is or would be hazardous to life, property, or the environment; or

"(2) the facility is or would be constructed or operated, or a component of the facility is or would be constructed or operated, with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.".

(2) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended by striking "is hazardous" and inserting "is or would be hazardous".

(b) ENFORCEMENT.—

(1) GENERAL PENALTIES.—Section 60122(a)(1) is amended—

(A) by striking "$25,000" and inserting "$100,000"; and

(B) by striking "$500,000" and inserting "$1,000,000".

(2) PENALTY CONSIDERATIONS.—Section 60122(b) is amended by striking "under this section" and all that follows through paragraph (4) and inserting "under this section—

"(1) the Secretary shall consider—

"(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

"(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business; and

"(C) good faith in attempting to comply; and

"(2) the Secretary may consider—

"(A) the economic benefit gained from the violation without any reduction because of subsequent damages; and

"(B) other matters that justice requires.".

(3) CIVIL ACTIONS.—Section 60120(a) is amended—

(A) by striking "(a) CIVIL ACTIONS.—(1)" and all that follows through "(2) At the request" and inserting the following:

"(a) CIVIL ACTIONS.—

"(1) CIVIL ACTIONS TO ENFORCE THIS CHAPTER.—At the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties, considering the same factors as prescribed for the Secretary in an administrative case under section 60122.

"(2) CIVIL ACTIONS TO REQUIRE COMPLIANCE WITH SUBPOENAS OR ALLOW FOR INSPECTIONS.—At the request"; and

(B) by aligning the remainder of the text of paragraph (2) with the text of paragraph (1).

(c) CRIMINAL PENALTIES FOR DAMAGING OR DESTROYING A FACILITY.—Section 60123(b) is amended—

(1) by striking "or" after "gas pipeline facility" and inserting ", an"; and

(2) by inserting after "liquid pipeline facility" the following: ", or either an intrastate gas pipeline facility or intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce".

(d) COMPTROLLER GENERAL STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the actions, policies, and procedures of the Secretary of Transportation for assessing and collecting fines and penalties on operators of hazardous liquid and gas transmission pipelines.

(2) ANALYSIS.—In conducting the study, the Comptroller General shall examine, at a minimum, the following:

(A) The frequency with which the Secretary has substituted corrective orders for fines and penalties.

(B) Changes in the amounts of fines recommended by safety inspectors, assessed by the Secretary, and actually collected.

(C) An evaluation of the overall effectiveness of the Secretary's enforcement strategy.

(D) The extent to which the Secretary has complied with the report of the Government Accounting Office entitled "Pipeline Safety: The Office of Pipeline Safety is Changing How it Oversees the Pipeline Industry".

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report on the results of the study.

SEC. 9. PIPELINE SAFETY INFORMATION GRANTS TO COMMUNITIES.

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

"§ 60130. Pipeline safety information grants to communities

"(a) GRANT AUTHORITY.—

"(1) IN GENERAL.—The Secretary of Transportation may make grants for technical assistance to local communities and groups of individuals (not including for-profit entities) relating to the safety of pipeline facilities in local communities, other than facilities regulated under Public Law 93-153 (43 U.S.C. 1651 et seq.). The Secretary shall establish competitive procedures for awarding grants under this section and criteria for selecting grant recipients. The amount of any grant under this section may not exceed $50,000 for a single grant recipient. The Secretary shall establish appropriate procedures to ensure the proper use of funds provided under this section.

"(2) TECHNICAL ASSISTANCE DEFINED.—In this subsection, the term 'technical assistance' means engineering and other scientific analysis of pipeline safety issues, including the promotion of public participation in official proceedings conducted under this chapter.

"(b) PROHIBITED USES.—Funds provided under this section may not be used for lobbying or in direct support of litigation.

"(c) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than 90 days after the last day of each fiscal year for which grants are made by the Secretary under this section, the Secretary shall report to the Committees on Commerce, Science, and Transportation and Energy and Natural Resources of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives on grants made under this section in the preceding fiscal year.

"(2) CONTENTS.—The report shall include—

"(A) a listing of the identity and location of each recipient of a grant under this section in the preceding fiscal year and the amount received by the recipient;

"(B) a description of the purpose for which each grant was made; and

"(C) a description of how each grant was used by the recipient.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation for carrying out this section $1,000,000 for each of the fiscal years 2003 through 2006. Such amounts shall not be derived from user fees collected under section 60301.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

"60130. Pipeline safety information grants to communities.".

SEC. 10. OPERATOR ASSISTANCE IN INVESTIGATIONS.

(a) IN GENERAL.—Section 60118 is amended by adding at the end the following:

"(e) OPERATOR ASSISTANCE IN INVESTIGATIONS.—If the Secretary or the National Transportation Safety Board investigate an accident involving a pipeline facility, the operator of the facility shall make available to the Secretary or the Board all records and information that in any way pertain to the accident (including integrity management plans and test results), and shall afford all reasonable assistance in the investigation of the accident.".

(b) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended—

(1) by striking "If the Secretary" and inserting the following:

"(1) IN GENERAL.—If the Secretary";

(2) by adding the end the following:

"(2) ACTIONS ATTRIBUTABLE TO AN EMPLOYEE.—If, in the case of a corrective action order issued following an accident, the Secretary determines that the actions of an employee carrying out an activity regulated under this chapter, including duties under section 60102(a), may have contributed substantially to the cause of the accident, the Secretary shall direct the operator to relieve the employee from performing those activities, reassign the employee, or place the employee on leave until the earlier of the date on which—

"(A) the Secretary, after notice and an opportunity for a hearing, determines that the employee's actions did not contribute substantially to the cause of the accident; or

"(B) the Secretary determines the employee has been re-qualified or re-trained as provided for in section 60131 and can safely perform those activities.

"(3) EFFECT OF COLLECTIVE BARGAINING AGREEMENTS.—An action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement."; and

(3) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this subsection) with paragraph (2) (as added by paragraph (2) of this subsection).

(c) LIMITATION ON STATUTORY CONSTRUCTION.—Section 60118 is amended by adding at the end the following:

"(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to infringe upon the constitutional rights of an operator or its employees.".

SEC. 11. POPULATION ENCROACHMENT AND RIGHTS-OF-WAY.

(a) IN GENERAL.—Section 60127 is amended to read as follows:

"§ 60127. Population encroachment and rights-of-way

"(a) STUDY.—The Secretary of Transportation, in conjunction with the Federal Energy Regulatory Commission and in consultation with appropriate Federal agencies and State and local governments, shall undertake a study of land use practices, zoning ordinances, and preservation of environmental resources with regard to pipeline rights-of-way and their maintenance.

"(b) PURPOSE OF STUDY.—The purpose of the study shall be to gather information on land use practices, zoning ordinances, and preservation of environmental resources—

"(1) to determine effective practices to limit encroachment on existing pipeline rights-of-way;

"(2) to address and prevent the hazards and risks to the public, pipeline workers, and the environment associated with encroachment on pipeline rights-of-way;

"(3) to raise the awareness of the risks and hazards of encroachment on pipeline rights-of-way; and

"(4) to address how to best preserve environmental resources in conjunction with maintaining pipeline rights-of-way, recognizing pipeline operators' regulatory obligations to maintain rights-of-way and to protect public safety.

"(c) CONSIDERATIONS.—In conducting the study, the Secretary shall consider, at a minimum, the following:

"(1) The legal authority of Federal agencies and State and local governments in controlling land use and the limitations on such authority.

"(2) The current practices of Federal agencies and State and local governments in addressing land use issues involving a pipeline easement.

"(3) The most effective way to encourage Federal agencies and State and local governments to monitor and reduce encroachment upon pipeline rights-of-way.

"(d) REPORT.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish a report identifying practices, laws, and ordinances that are most successful in addressing issues of encroachment and maintenance on pipeline rights-of-way so as to more effectively protect public safety, pipeline workers, and the environment.

"(2) DISTRIBUTION OF REPORT.—The Secretary shall provide a copy of the report to—

"(A) Congress and appropriate Federal agencies; and

"(B) States for further distribution to appropriate local authorities.

"(3) ADOPTION OF PRACTICES, LAWS, AND ORDINANCES.—The Secretary shall encourage Federal agencies and State and local governments to adopt and implement appropriate practices, laws, and ordinances, as identified in the report, to address the risks and hazards associated with encroachment upon pipeline rights-of-way and to address the potential methods of preserving environmental resources while maintaining pipeline rights-of-way, consistent with pipeline safety.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by striking the item relating to section 60127 and inserting the following:

"60127. Population encroachment and rights-of-way.".

SEC. 12. PIPELINE INTEGRITY, SAFETY, AND RELIABILITY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The heads of the participating agencies shall carry out a program of research, development, demonstration, and standardization to ensure the integrity of pipeline facilities.

(b) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the heads of the participating agencies shall enter into a memorandum of understanding detailing their respective responsibilities in the program authorized by subsection (a).

(2) AREAS OF EXPERTISE.—Under the memorandum of understanding, each of the participating agencies shall have the primary responsibility for ensuring that the elements of the program within its expertise are implemented in accordance with this section. The Department of Transportation's responsibilities shall reflect its lead role in pipeline safety and expertise in pipeline inspection, integrity management, and damage prevention. The Department of Energy's responsibilities shall reflect its expertise in system reliability, low-volume gas leak detection, and surveillance technologies. The National Institute of Standards and Technology's responsibilities shall reflect its expertise in materials research and assisting in the development of consensus technical standards, as that term is used in section 12(d)(4) of Public Law 104-13 (15 U.S.C. 272 note).

(c) PROGRAM ELEMENTS.—The program authorized by subsection (a) shall include research, development, demonstration, and standardization activities related to—

(1) materials inspection;

(2) stress and fracture analysis, detection of cracks, corrosion, abrasion, and other abnormalities inside pipelines that lead to pipeline failure, and development of new equipment or technologies that are inserted into pipelines to detect anomalies;

(3) internal inspection and leak detection technologies, including detection of leaks at very low volumes;

(4) methods of analyzing content of pipeline throughput;

(5) pipeline security, including improving the real-time surveillance of pipeline rights-of-way, developing tools for evaluating and enhancing pipeline security and infrastructure, reducing natural, technological, and terrorist threats, and protecting first response units and persons near an incident;

(6) risk assessment methodology, including vulnerability assessment and reduction of third-party damage;

(7) communication, control, and information systems surety;

(8) fire safety of pipelines;

(9) improved excavation, construction, and repair technologies; and

(10) other appropriate elements.

(d) PROGRAM PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary of Transportation, in coordination with the Secretary of Energy and the Director of the National Institute of Standards and Technology, shall prepare and transmit to Congress a 5-year program plan to guide activities under this section. Such program plan shall be submitted to the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee for review, and the report to Congress shall include the comments of the committees. The 5-year program plan shall be based on the memorandum of understanding under subsection (b) and take into account related activities of other Federal agencies.

(2) CONSULTATION.—In preparing the program plan and selecting and prioritizing appropriate project proposals, the Secretary of Transportation shall consult with or seek the advice of appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries, utilities, manufacturers, institutions of higher learning, Federal agencies, pipeline research institutions, national laboratories, State pipeline safety officials, labor organizations, environmental organizations, pipeline safety advocates, and professional and technical societies.

(e) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the heads of the participating agencies shall transmit jointly to Congress a report on the status and results to date of the implementation of the program plan prepared under subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) DEPARTMENT OF TRANSPORTATION.—There is authorized to be appropriated to the Secretary of Transportation for carrying out this section $10,000,000 for each of the fiscal years 2003 through 2006.

(2) DEPARTMENT OF ENERGY.—There is authorized to be appropriated to the Secretary of Energy for carrying out this section $10,000,000 for each of the fiscal years 2003 through 2006.

(3) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There is authorized to be appropriated to the Director of the National Institute of Standards and Technology for carrying out this section $5,000,000 for each of the fiscal years 2003 through 2006.

(4) GENERAL REVENUE FUNDING.—Any sums appropriated under this subsection shall be derived from general revenues and may not be derived from amounts collected under section 60301 of title 49, United States Code.

(g) PIPELINE INTEGRITY PROGRAM.—Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), $3,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs for detection, prevention, and mitigation of oil spills for each of the fiscal years 2003 through 2006.

(h) PARTICIPATING AGENCIES DEFINED.—In this section, the term "participating agencies" means the Department of Transportation, the Department of Energy, and the National Institute of Standards and Technology.

SEC. 3. PIPELINE QUALIFICATION PROGRAMS.

(a) VERIFICATION PROGRAM.—

(1) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

"§ 60131. Verification of pipeline qualification programs

"(a) IN GENERAL.—Subject to the requirements of this section, the Secretary of Transportation shall require the operator of a pipeline facility to develop and adopt a qualification program to ensure that the individuals who perform covered tasks are qualified to conduct such tasks.

"(b) STANDARDS AND CRITERIA.—

"(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of this section, the Secretary shall ensure that the Department of Transportation has in place standards and criteria for qualification programs referred to in subsection (a).

"(2) CONTENTS.—The standards and criteria shall include the following:

"(A) The establishment of methods for evaluating the acceptability of the qualifications of individuals described in subsection (a).

"(B) A requirement that pipeline operators develop and implement written plans and procedures to qualify individuals described in subsection (a) to a level found acceptable using the methods established under subparagraph (A) and evaluate the abilities of individuals described in subsection (a) according to such methods.

"(C) A requirement that the plans and procedures adopted by a pipeline operator under subparagraph (B) be reviewed and verified under subsection (e).

"(c) DEVELOPMENT OF QUALIFICATION PROGRAMS BY PIPELINE OPERATORS.—The Secretary shall require each pipeline operator to develop and adopt, not later than 2 years after the date of enactment of this section, a qualification program that complies with the standards and criteria described in subsection (b).

"(d) ELEMENTS OF QUALIFICATION PROGRAMS.—A qualification program adopted by an operator under subsection (a) shall include, at a minimum, the following elements:

"(1) A method for examining or testing the qualifications of individuals described in subsection (a). The method may include written examination, oral examination, observation during on-the-job performance, on-the-job training, simulations, and other forms of assessment. The method may not be limited to observation of on-the-job performance, except with respect to tasks for which the Secretary has determined that such observation is the best method of examining or testing qualifications. The Secretary shall ensure that the results of any such observations are documented in writing.

"(2) A requirement that the operator complete the qualification of all individuals described in subsection (a) not later than 18 months after the date of adoption of the qualification program.

"(3) A periodic requalification component that provides for examination or testing of individuals in accordance with paragraph (1).

"(4) A program to provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.

"(e) Review and Verification of Programs.—

"(1) In general.—The Secretary shall review the qualification program of each pipeline operator and verify its compliance with the standards and criteria described in subsection (b) and that it includes the elements described in subsection (d). The Secretary shall record the results of that review for use in the next review of an operator's program.

"(2) Deadline for completion.—Reviews and verifications under this subsection shall be completed not later than 3 years after the date of the enactment of this section.

"(3) Inadequate programs.—If the Secretary decides that a qualification program is inadequate for the safe operation of a pipeline facility, the Secretary shall act as under section 60108(a)(2) to require the operator to revise the qualification program.

"(4) Program modifications.—If the operator of a pipeline facility significantly modifies a program that has been verified under this subsection, the operator shall notify the Secretary of the modifications. The Secretary shall review and verify such modifications in accordance with paragraph (1).

"(5) Waivers and modifications.—In accordance with section 60118(c), the Secretary may waive or modify any requirement of this section if the waiver or modification is not inconsistent with pipeline safety.

"(6) Inaction by the secretary.—Notwithstanding any failure of the Secretary to prescribe standards and criteria as described in subsection (b), an operator of a pipeline facility shall develop and adopt a qualification program that complies with the requirement of subsection (b)(2)(B) and includes the elements described in subsection (d) not later than 2 years after the date of enactment of this section.

"(f) Intrastate Pipeline Facilities.—In the case of an intrastate pipeline facility operator, the duties and powers of the Secretary under this section with respect to the qualification program of the operator shall be vested in the appropriate State regulatory agency, consistent with this chapter.

"(g) Covered Task Defined.—In this section, the term 'covered task'—

"(1) with respect to a gas pipeline facility, has the meaning such term has under section 192.801 of title 49, Code of Federal Regulations, including any subsequent modifications; and

"(2) with respect to a hazardous liquid pipeline facility, has the meaning such term has under section 195.501 of such title, including any subsequent modifications.

"(h) Report.—Not later than 4 years after the date of enactment of this section, the Secretary shall transmit to Congress a report on the status and results to date of the personnel qualification regulations issued under this chapter.".

(2) Conforming amendment.—The analysis for chapter 601 is amended by adding at end the following:

"60131. Verification of pipeline qualification programs.".

(b) Pilot Program for Certification of Certain Pipeline Workers.—

(1) In general.—Not later than 36 months after the date of enactment of this Act, the Secretary of Transportation shall—

(A) develop tests and other requirements for certifying the qualifications of individuals who operate computer-based systems for controlling the operations of pipelines; and

(B) establish and carry out a pilot program for 3 pipeline facilities under which the individuals operating computer-based systems for controlling the operations of pipelines at such facilities are required to be certified under the process established under subparagraph (A).

(2) Report.—The Secretary shall include in the report required under section 60131(h), as added by subsection (a) of this section, the results of the pilot program. The report shall include—

(A) a description of the pilot program and implementation of the pilot program at each of the 3 pipeline facilities;

(B) an evaluation of the pilot program, including the effectiveness of the process for certifying individuals who operate computer-based systems for controlling the operations of pipelines;

(C) any recommendations of the Secretary for requiring the certification of all individuals who operate computer-based systems for controlling the operations of pipelines; and

(D) an assessment of the ramifications of requiring the certification of other individuals performing safety-sensitive functions for a pipeline facility.

(3) Computer-based systems defined.—In this subsection, the term "computer-based systems" means supervisory control and data acquisition systems.

SEC. 14. RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS FOR GAS PIPELINES.

(a) In General.—Section 60109 is amended by adding at the end the following:

"(c) Risk Analysis and Integrity Management Programs.—

"(1) Requirement.—Each operator of a gas pipeline facility shall conduct an analysis of the risks to each facility of the operator located in an area identified pursuant to subsection (a)(1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, and shall adopt and implement a written integrity management program for such facility to reduce the risks.

"(2) Regulations.—

"(A) In general.—Not later than 12 months after the date of enactment of this subsection, the Secretary shall issue regulations prescribing standards to direct an operator's conduct of a risk analysis and adoption and implementation of an integrity management program under this subsection. The regulations shall require an operator to conduct a risk analysis and adopt an integrity management program within a time period prescribed by the Secretary, ending not later than 24 months after such date of enactment. Not later than 18 months after such date of enactment, each operator of a gas pipeline facility shall begin a baseline integrity assessment described in paragraph (3).

"(B) Authority to issue regulations.—The Secretary may satisfy the requirements of this paragraph through the issuance of regulations under this paragraph or under other authority of law.

"(3) Minimum requirements of integrity management programs.—An integrity management program required under paragraph (1) shall include, at a minimum, the following requirements:

"(A) A baseline integrity assessment of each of the operator's facilities in areas identified pursuant to subsection (a)(1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, by internal inspection device, pressure testing, direct assessment, or an alternative method that the Secretary determines would provide an equal or greater level of safety. The operator shall complete such assessment not later than 10 years after the date of enactment of this subsection. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

"(B) Subject to paragraph (5), periodic reassessment of the facility, at a minimum of once every 7 years, using methods described in subparagraph (A).

"(C) Clearly defined criteria for evaluating the results of assessments conducted under subparagraphs (A) and (B) and for taking actions based on such results.

"(D) A method for conducting an analysis on a continuing basis that integrates all available information about the integrity of the facility and the consequences of releases from the facility.

"(E) A description of actions to be taken by the operator to promptly address any integrity issue raised by an evaluation conducted under subparagraph (C) or the analysis conducted under subparagraph (D).

"(F) A description of measures to prevent and mitigate the consequences of releases from the facility.

"(G) A method for monitoring cathodic protection systems throughout the pipeline system of the operator to the extent not addressed by other regulations.

"(H) If the Secretary raises a safety concern relating to the facility, a description of the actions to be taken by the operator to address the safety concern, including issues raised with the Secretary by States and local authorities under an agreement entered into under section 60106.

"(4) Treatment of baseline integrity assessments.—In the case of a baseline integrity assessment conducted by an operator in the period beginning on the date of enactment of this subsection and ending on the date of issuance of regulations under this subsection, the Secretary shall accept the assessment as complete, and shall not require the operator to repeat any portion of the assessment, if the Secretary determines that the assessment was conducted in accordance with the requirements of this subsection.

"(5) Waivers and modifications.—In accordance with section 60118(c), the Secretary may waive or modify any requirement for reassessment of a facility under paragraph (3)(B) for reasons that may include the need to maintain local product supply or the lack of internal inspection devices if the Secretary determines that such waiver is not inconsistent with pipeline safety.

"(6) STANDARDS.—The standards prescribed by the Secretary under paragraph (2) shall address each of the following factors:

"(A) The minimum requirements described in paragraph (3).

"(B) The type or frequency of inspections or testing of pipeline facilities, in addition to the minimum requirements of paragraph (3)(B).

"(C) The manner in which the inspections or testing are conducted.

"(D) The criteria used in analyzing results of the inspections or testing.

"(E) The types of information sources that must be integrated in assessing the integrity of a pipeline facility as well as the manner of integration.

"(F) The nature and timing of actions selected to address the integrity of a pipeline facility.

"(G) Such other factors as the Secretary determines appropriate to ensure that the integrity of a pipeline facility is addressed and that appropriate mitigative measures are adopted to protect areas identified under subsection (a)(1).

In prescribing those standards, the Secretary shall ensure that all inspections required are conducted in a manner that minimizes environmental and safety risks, and shall take into account the applicable level of protection established by national consensus standards organizations.

"(7) ADDITIONAL OPTIONAL STANDARDS.—The Secretary may also prescribe standards requiring an operator of a pipeline facility to include in an integrity management program under this subsection—

"(A) changes to valves or the establishment or modification of systems that monitor pressure and detect leaks based on the operator's risk analysis; and

"(B) the use of emergency flow restricting devices.

"(8) LACK OF REGULATIONS.—In the absence of regulations addressing the elements of an integrity management program described in this subsection, the operator of a pipeline facility shall conduct a risk analysis and adopt and implement an integrity management program described in this subsection not later than 24 months after the date of enactment of this subsection and shall complete the baseline integrity assessment described in this subsection not later than 10 years after such date of enactment. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

"(9) REVIEW OF INTEGRITY MANAGEMENT PROGRAMS.—

"(A) REVIEW OF PROGRAMS.—

"(i) IN GENERAL.—The Secretary shall review a risk analysis and integrity management program under paragraph (1) and record the results of that review for use in the next review of an operator's program.

"(ii) CONTEXT OF REVIEW.—The Secretary may conduct a review under clause (i) as an element of the Secretary's inspection of an operator.

"(iii) INADEQUATE PROGRAMS.—If the Secretary determines that a risk analysis or integrity management program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), or is inadequate for the safe operation of a pipeline facility, the Secretary shall act under section 60108(a)(2) to require the operator to revise the risk analysis or integrity management program.

"(B) AMENDMENTS TO PROGRAMS.—In order to facilitate reviews under this paragraph, an operator of a pipeline facility shall notify the Secretary of any amendment made to the operator's integrity management program not later than 30 days after the date of adoption of the amendment. The Secretary shall review any such amendment in accordance with this paragraph.

"(C) TRANSMITTAL OF PROGRAMS TO STATE AUTHORITIES.—The Secretary shall provide a copy of each risk analysis and integrity management program reviewed by the Secretary under this paragraph to any appropriate State authority with which the Secretary has entered into an agreement under section 60106.

"(10) STATE REVIEW OF INTEGRITY MANAGEMENT PLANS.—A State authority that enters into an agreement pursuant to section 60106, permitting the State authority to review the risk analysis and integrity management program pursuant to paragraph (9), may provide the Secretary with a written assessment of the risk analysis and integrity management program, make recommendations, as appropriate, to address safety concerns not adequately addressed by the operator's risk analysis or integrity management program, and submit documentation explaining the State-proposed revisions. The Secretary shall consider carefully the State's proposals and work in consultation with the States and operators to address safety concerns.

"(11) APPLICATION OF STANDARDS.—Section 60104(b) shall not apply to this section.".

(b) INTEGRITY MANAGEMENT REGULATIONS.—Section 60109 is further amended by adding at the end the following:

"(d) EVALUATION OF INTEGRITY MANAGEMENT REGULATIONS.—Not later than 4 years after the date of enactment of this subsection, the Comptroller General shall complete an assessment and evaluation of the effects on public safety and the environment of the requirements for the implementation of integrity management programs contained in the standards prescribed as described in subsection (c)(2).".

(c) CONFORMING AMENDMENT.—Section 60118(a) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) conduct a risk analysis, and adopt and implement an integrity management program, for pipeline facilities as required under section 60109(c).".

(d) STUDY OF REASSESSMENT INTERVALS.—

(1) STUDY.—The Comptroller General shall conduct a study to evaluate the 7-year reassessment interval required by section 60109(c)(3)(B) of title 49, United States Code, as added by subsection (a) of this section.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the study conducted under paragraph (1).

SEC. 15. NATIONAL PIPELINE MAPPING SYSTEM.

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

"§ 60132. National pipeline mapping system

"(a) INFORMATION TO BE PROVIDED.—Not later than 6 months after the date of enactment of this section, the operator of a pipeline facility (except distribution lines and gathering lines) shall provide to the Secretary of Transportation the following information with respect to the facility:

"(1) Geospatial data appropriate for use in the National Pipeline Mapping System or data in a format that can be readily converted to geospatial data.

"(2) The name and address of the person with primary operational control to be identified as its operator for purposes of this chapter.

"(3) A means for a member of the public to contact the operator for additional information about the pipeline facilities it operates.

"(b) UPDATES.—A person providing information under subsection (a) shall provide to the Secretary updates of the information to reflect changes in the pipeline facility owned or operated by the person and as otherwise required by the Secretary.

"(c) TECHNICAL ASSISTANCE TO IMPROVE LOCAL RESPONSE CAPABILITIES.—The Secretary may provide technical assistance to State and local officials to improve local response capabilities for pipeline emergencies by adapting information available through the National Pipeline Mapping System to software used by emergency response personnel responding to pipeline emergencies.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

"60132. National pipeline mapping system.".

SEC. 16. COORDINATION OF ENVIRONMENTAL REVIEWS.

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

"§ 60133. Coordination of environmental reviews

"(a) INTERAGENCY COMMITTEE.—

"(1) ESTABLISHMENT AND PURPOSE.—Not later than 30 days after the date of enactment of this section, the President shall establish an Interagency Committee to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary.

"(2) MEMBERSHIP.—The Chairman of the Council on Environmental Quality (or a designee of the Chairman) shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects, including each of the following persons (or a designee thereof):

"(A) The Secretary of Transportation.

"(B) The Administrator of the Environmental Protection Agency.

"(C) The Director of the United States Fish and Wildlife Service.

"(D) The Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

"(E) The Director of the Bureau of Land Management.

"(F) The Director of the Minerals Management Service.

"(G) The Assistant Secretary of the Army for Civil Works.

"(H) The Chairman of the Federal Energy Regulatory Commission.

"(3) EVALUATION.—The Interagency Committee shall evaluate Federal permitting requirements to which access, excavation, and restoration activities in connection with pipeline repairs described in paragraph (1) may be subject. As part of its evaluation, the Interagency Committee shall examine the access, excavation, and restoration practices of the pipeline industry in connection with such pipeline repairs, and may develop a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair.

"(4) MEMORANDUM OF UNDERSTANDING.—Based upon the evaluation required under paragraph (3) and not later than 1 year after the date of enactment of this section, the members of the Interagency Committee shall enter into a memorandum of understanding to provide for a coordinated and expedited pipeline repair permit review process to carry out the purpose set forth in paragraph (1). The Interagency Committee shall include provisions in the memorandum of understanding identifying those repairs or categories of repairs described in paragraph (1) for which the best practices identified under paragraph (3), when properly employed by a pipeline operator, would result in no more than minimal adverse effects on the environment and for which discretionary administrative reviews may therefore be minimized or eliminated. With respect to pipeline repairs described in paragraph (1) to which the preceding sentence would not be applicable, the Interagency Committee shall include provisions to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary. The Interagency Committee shall include in the memorandum of understanding criteria under which permits required for such pipeline repair activities should be prioritized over other less urgent agency permit application reviews. The Interagency Committee shall not enter into a memorandum of understanding under this paragraph except by unanimous agreement of the members of the Interagency Committee.

"(5) STATE AND LOCAL CONSULTATION.—In carrying out this subsection, the Interagency Committee shall consult with appropriate State and local environmental, pipeline safety, and emergency response officials, and such other officials as the Interagency Committee considers appropriate.

"(b) IMPLEMENTATION.—Not later than 180 days after the completion of the memorandum of understanding required under subsection (a)(4), each agency represented on the Interagency Committee shall revise its regulations as necessary to implement the provisions of the memorandum of understanding.

"(c) SAVINGS PROVISIONS; NO PREEMPTION.—Nothing in this section shall be construed—

"(1) to require a pipeline operator to obtain a Federal permit, if no Federal permit would otherwise have been required under Federal law; or

"(2) to preempt applicable Federal, State, or local environmental law.

"(d) INTERIM OPERATIONAL ALTERNATIVES.—

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this section, and subject to the limitations in paragraph (2), the Secretary of Transportation shall revise the regulations of the Department, to the extent necessary, to permit a pipeline operator subject to time periods for repair specified by rule by the Secretary to implement alternative mitigation measures until all applicable permits have been granted.

"(2) LIMITATIONS.—The regulations issued by the Secretary pursuant to this subsection shall not allow an operator to implement alternative mitigation measures pursuant to paragraph (1) unless—

"(A) allowing the operator to implement such measures would be consistent with the protection of human health, public safety, and the environment;

"(B) the operator, with respect to a particular repair project, has applied for and is pursuing diligently and in good faith all required Federal, State, and local permits to carry out the project; and

"(C) the proposed alternative mitigation measures are not incompatible with pipeline safety.

"(e) OMBUDSMAN.—The Secretary shall designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, State, and local permitting agencies and the pipeline operator during agency review of any pipeline repair activity, consistent with protection of human health, public safety, and the environment.

"(f) STATE AND LOCAL PERMITTING PROCESSES.—The Secretary shall encourage States and local governments to consolidate their respective permitting processes for pipeline repair projects subject to any time periods for repair specified by rule by the Secretary. The Secretary may request other relevant Federal agencies to provide technical assistance to States and local governments for the purpose of encouraging such consolidation.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

"60133. Coordination of environmental reviews.".

SEC. 17. NATIONWIDE TOLL-FREE NUMBER SYSTEM.

Within 1 year after the date of the enactment of this Act, the Secretary of Transportation shall, in conjunction with the Federal Communications Commission, facility operators, excavators, and one-call notification system operators, provide for the establishment of a 3-digit nationwide toll-free telephone number system to be used by State one-call notification systems.

SEC. 18. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.

(a) IN GENERAL.—Except as otherwise required by this title, the Secretary of Transportation shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General's Report (RT–2000–069).

(b) REPORTS BY THE SECRETARY.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until each of the recommendations referred to in subsection (a) has been implemented, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report on the specific actions taken to implement such recommendations.

(c) REPORTS BY THE INSPECTOR GENERAL.—The Inspector General shall periodically transmit to the committees referred to in subsection (b) a report assessing the Secretary's progress in implementing the recommendations referred to in subsection (a) and identifying options for the Secretary to consider in accelerating recommendation implementation.

SEC. 19. NTSB SAFETY RECOMMENDATIONS.

(a) IN GENERAL.—The Secretary of Transportation, the Administrator of Research and Special Program Administration, and the Director of the Office of Pipeline Safety shall fully comply with section 1135 of title 49, United States Code, to ensure timely responsiveness to National Transportation Safety Board recommendations about pipeline safety.

(b) PUBLIC AVAILABILITY.—The Secretary, Administrator, or Director, respectively, shall make a copy of each recommendation on pipeline safety and response, as described in subsections (a) and (b) of section 1135, title 49, United States Code.

(c) REPORTS TO CONGRESS.—The Secretary, Administrator, or Director, respectively, shall submit to Congress by January 1 of each year a report containing each recommendation on pipeline safety made by the Board during the prior year and a copy of the response to each such recommendation.

SEC. 20. MISCELLANEOUS AMENDMENTS.

(a) GENERAL AUTHORITY AND PURPOSE.—

(1) IN GENERAL.—Section 60102(a) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by striking "(a)(1)" and all that follows through "The Secretary of Transportation" and inserting the following:

"(a) PURPOSE AND MINIMUM SAFETY STANDARDS.—

"(1) PURPOSE.—The purpose of this chapter is to provide adequate protection against risks to life and property posed by pipeline transportation and pipeline facilities by improving the regulatory and enforcement authority of the Secretary of Transportation.

"(2) MINIMUM SAFETY STANDARDS.—The Secretary";

(C) by moving the remainder of the text of paragraph (2) (as so redesignated), including subparagraphs (A) and (B) but excluding subparagraph (C), 2 ems to the right; and

(D) in paragraph (3) (as so redesignated) by inserting "QUALIFICATIONS OF PIPELINE OPERATORS.—" before "The qualifications".

(2) CONFORMING AMENDMENTS.—Chapter 601 is amended—

(A) by striking the heading for section 60102 and inserting the following:

"§ 60102. Purpose and general authority"; and

(B) in the analysis for such chapter by striking the item relating to section 60102 and inserting the following:

"60102. Purpose and general authority.".

(b) CONFLICTS OF INTEREST.—Section 60115(b)(4) is amended by adding at the end the following:

"(D) None of the individuals selected for a committee under paragraph (3)(C) may have a significant financial interest in the pipeline, petroleum, or gas industry.".

SEC. 21. TECHNICAL AMENDMENTS.

Chapter 601 is amended—

(1) in section 60110(b) by striking "circumstances" and all that follows through "operator" and inserting the following: "circumstances, if any, under which an operator";

(2) in section 60114 by redesignating subsection (d) as subsection (c);

(3) in section 60122(a)(1) by striking "section 60114(c)" and inserting "section 60114(b)"; and

(4) in section 60123(a) by striking "60114(c)" and inserting "60114(b)".

SEC. 22. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.—Section 60125(a) is amended to read as follows:

"(a) Gas and Hazardous Liquid.—To carry out this chapter (except for section 60107) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Department of Transportation:

"(1) $45,800,000 for fiscal year 2003, of which $31,900,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

"(2) $46,800,000 for fiscal year 2004, of which $35,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

"(3) $47,100,000 for fiscal year 2005, of which $41,100,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

"(4) $50,000,000 for fiscal year 2006, of which $45,000,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.".

(b) State Grants.—Section 60125 is amended—

(1) by striking subsections (b), (d), and (f) and redesignating subsection (c) as subsection (b); and

(2) in subsection (b)(1) (as so redesignated) by striking subparagraphs (A) through (H) and inserting the following:

"(A) $19,800,000 for fiscal year 2003, of which $14,800,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

"(B) $21,700,000 for fiscal year 2004, of which $16,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

"(C) $24,600,000 for fiscal year 2005, of which $19,600,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

"(D) $26,500,000 for fiscal year 2006, of which $21,500,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.".

(c) Oil Spills; Emergency Response Grants.—Section 60125 is amended by inserting after subsection (b) (as redesignated by subsection (b)(1) of this section) the following:

"(c) Oil Spill Liability Trust Fund.—Of the amounts available in the Oil Spill Liability Trust Fund, $8,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs authorized in this chapter for each of fiscal years 2003 through 2006.

"(d) Emergency Response Grants.—

"(1) In general.—The Secretary may establish a program for making grants to State, county, and local governments in high consequence areas, as defined by the Secretary, for emergency response management, training, and technical assistance.

"(2) Authorization of appropriations.—There is authorized to be appropriated $6,000,000 for each of fiscal years 2003 through 2006 to carry out this subsection.".

(d) Conforming Amendment.—Section 60125(e) is amended by striking "or (b) of this section".

SEC. 23. INSPECTIONS BY DIRECT ASSESSMENT.

Section 60102, as amended by this Act, is further amended by adding at the end the following:

"(m) Inspections by Direct Assessment.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing standards for inspection of a pipeline facility by direct assessment.".

SEC. 24. STATE PIPELINE SAFETY ADVISORY COMMITTEES.

Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the Governor of any State, the Secretary of Transportation shall respond in writing to the committee setting forth what action, if any, the Secretary will take on those recommendations and the Secretary's reasons for acting or not acting upon any of the recommendations.

SEC. 25. PIPELINE BRIDGE RISK STUDY.

(a) In General.—The Secretary of Transportation shall conduct a study to determine whether cable-suspension pipeline bridges pose structural or other risks warranting particularized attention in connection with pipeline operators risk assessment programs and whether particularized inspection standards need to be developed by the Department of Transportation to recognize the peculiar risks posed by such bridges.

(b) Public Participation and Comments.—In conducting the study, the Secretary shall provide, to the maximum extent practicable, for public participation and comment and shall solicit views and comments from the public and interested persons, including participants in the pipeline industry with knowledge and experience in inspection of pipeline facilities.

(c) Completion and Report.—Within 2 years after the date of enactment of this Act, the Secretary shall complete the study and transmit to Congress a report detailing the results of the study.

(d) Funding.—The Secretary may carry out this section using only amounts that are specifically appropriated to carry out this section.

SEC. 26. STUDY AND REPORT ON NATURAL GAS PIPELINE AND STORAGE FACILITIES IN NEW ENGLAND.

(a) Study.—The Federal Energy Regulatory Commission, in consultation with the Department of Energy, shall conduct a study on the natural gas pipeline transmission network in New England and natural gas storage facilities associated with that network.

(b) Consideration.—In carrying out the study, the Commission shall consider the ability of natural gas pipeline and storage facilities in New England to meet current and projected demand by gas-fired power generation plants and other consumers.

(c) Report.—Not later than 1 year after the date of enactment of this Act, the Federal Energy Regulatory Commission shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report containing the results of the study conducted under subsection (a), including recommendations for addressing potential natural gas transmission and storage capacity problems in New England.

SA 4905. Mr. DURBIN (for Mr. THOMPSON) proposed an amendment to the bill S. 3067, to amend title 44, United States Code, to extend certain government information security reform for one year, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. ONE-YEAR EXTENSION OF GOVERNMENT INFORMATION SECURITY REFORM.

Section 3536 of title 44, United States Code, is amended by striking "after the date" and all that follows and inserting "after November 30, 2003.".

SEC. 2. DESIGNATION OF LAW AS GOVERNMENT INFORMATION SECURITY REFORM ACT.

Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-266) is amended by inserting after the heading for the subtitle the following new section:

"SEC. 1060. SHORT TITLE.

"This subtitle may be cited as the 'Government Information Security Reform Act'.".

Amend the title so as to read: "A bill to amend title 44, United States Code, to extend certain Government information security reform for one year, and for other purposes.".

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, November 13, 2002 at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATIONS DISCHARGED

Mr. DURBIN. Madam President, in executive session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nominations and that they be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list is as follows:

OVERSEAS PRIVATE INVESTMENT CORPORATION

Collister Johnson, Jr., of Virginia, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2004. (Reappointment)

DEPARTMENT OF STATE

John Randle Hamilton, of North Carolina, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guatemala.

John F. Keane, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Irene B. Brooks, of Pennsylvania, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada, vice Susan Bayh.

Allen I. Olson, of Minnesota, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada, vice Alice Chamberlin.

DEPARTMENT OF STATE

David N. Greenlee, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bolivia.

Peter DeShazo, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during tenure of service as Deputy Permanent Representative of the United States of America to the Organization of American States.

OVERSEAS PRIVATE INVESTMENT CORPORATION

John L. Morrison, of Minnesota, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2004, vice John J. Pikarski, Jr., term expired.

DEPARTMENT OF STATE

J. Cofer Black, of Virginia, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large, vice Francis Xavier Taylor.

BROADCASTING BOARD OF GOVERNORS

Blanquita Walsh Cullum, of Virginia, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2005, vice Cheryl F. Halpern, term expired.

FOREIGN SERVICE

Nominations in the Foreign Service received by the Senate on October 8, 2002, beginning with William Joseph Burns, of Pennsylvania, and ending with Michael L. Young, of Colorado.

Nominations in the Foreign Service received by the Senate on October 8, 2002, beginning with Jon Christopher Karber, of Arizona, and ending with Peter Fernandez, of New York.

Mr. DURBIN. Madam President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nomination: Alan Olson, of Minnesota, to be a commissioner on the part of the United States on the International Joint Commission, United States and Canada, the nomination placed on the Executive Calendar, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

UNANIMOUS CONSENT AGREEMENT—S. 1214 AND CARE ACT

Mr. DURBIN. Madam President, I ask unanimous consent that at 9:30 a.m., Thursday, November 14, the Senate proceed to the consideration of the conference report to accompany S. 1214, the port and maritime security legislation; that there be 60 minutes for debate with respect to the conference report, with the time equally divided and controlled between the chairman and ranking member of the Commerce Committee; that at 10:30 a.m., without further intervening action or debate, the Senate proceed to vote on the adoption of the conference report; that immediately following adoption of the conference report, Senator SANTORUM be recognized to propound a unanimous consent request relating to the CARE Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENDING AUTHORITIES RELATING TO THE NATIONAL SECURITY WORKING GROUP

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 355, submitted earlier today by the majority leader and the Republican leader.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 355) extending the authorities relating to the Senate National Security Working Group.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Madam President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table, en bloc, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 355) was agreed to, as follows:

S. RES. 355

Resolved, That Senate Resolution 105 of the One Hundred First Congress, agreed to April 13, 1989, as amended by Senate Resolution 383 of the One Hundred Sixth Congress, agreed to October 27, 2000, is further amended by adding at the end the following new section:

SEC. 4. THE PROVISIONS OF THIS RESOLUTION SHALL REMAIN IN EFFECT UNTIL DECEMBER 31, 2004.".

ALLOWING CERTAIN CATCH-UP CONTRIBUTIONS

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3340, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3340) to amend title 5, United States Code, to allow certain catch-up contributions to the Thrift Savings Plan to be made by participants age 50 or over.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Madam President, I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3340) was read the third time and passed.

COURT SERVICES AND OFFENDER SUPERVISION AGENCY INTERSTATE SUPERVISION ACT OF 2002

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 717, S. 3044.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3044) to authorize the Court Services and Offender Supervision Agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation, and supervised release.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Madam President, I ask unanimous consent that the bill be read a third time and passed; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3044) was read the third time and passed, as follows:

S. 3044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Court Services and Offender Supervision Agency Interstate Supervision Act of 2002".

SEC. 2. INTERSTATE SUPERVISION.

Section 11233(b)(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (sec. 24–133(b)(2), D.C. Official Code) is amended—

(1) by amending subparagraph (G) to read as follows:

"(G) arrange for the supervision of District of Columbia offenders on parole, probation, and supervised release who seek to reside in jurisdictions outside the District of Columbia;";

(2) by striking the period at the end of subparagraph (H) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(I) arrange for the supervision of offenders on parole, probation, and supervised release from jurisdictions outside the District of Columbia who seek to reside in the District of Columbia; and

"(J) have the authority to enter into agreements, including the Interstate Compact for Adult Offender Supervision, with any State or group of States in accordance with the Agency's responsibilities under subparagraphs (G) and (I).".

FACILITATING USE OF PORTION OF FORMER O'REILLY GENERAL HOSPITAL IN SPRINGFIELD, MISSOURI

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5349, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5349) to facilitate the use of a portion of the former O'Reilly General Hospital in Springfield, Missouri, by the local

Boys and Girls Club through the release of the reversionary interest and other interests retained by the United States in 1955 when the land was conveyed to the State of Missouri.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5349) was read the third time and passed.

WESTERN SHOSHONE CLAIMS DISTRIBUTION ACT

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 634, S. 958.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 958) to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326–A–1, 326–A–3, 326–K, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part printed in black brackets and insert the part printed in italic.]

S. 958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Western Shoshone Claims Distribution Act".

[SEC. 2. DISTRIBUTION OF DOCKET 326–K FUNDS.

[The funds appropriated in satisfaction of the judgment award granted to the Western Shoshone Indians in Docket Number 326–K before the Indian Claims Commission, including all earned interest, shall be distributed as follows:

[(1) The Secretary shall establish a Western Shoshone Judgment Roll consisting of all Western Shoshones who—

[(A) have at least ¼ degree of Western Shoshone Blood;

[(B) are citizens of the United States; and

[(C) are living on the date of enactment of this Act.

[(2) Any individual determined or certified as eligible by the Secretary to receive a per capita payment from any other judgment fund awarded by the Indian Claims Commission, the United States Claims Court, or the United States Court of Federal Claims, that was appropriated on or before the date of enactment of this Act, shall not be eligible for enrollment under this Act.

[(3) The Secretary shall publish in the Federal Register rules and regulations governing the establishment of the Western Shoshone Judgment Roll and shall utilize any documents acceptable to the Secretary in establishing proof of eligibility. The Secretary's determination on all applications for enrollment under this paragraph shall be final.

[(4) Upon completing the Western Shoshone Judgment Roll under paragraph (1), the Secretary shall make a per capita distribution of 100 percent of the funds described in this section, in a sum as equal as possible, to each person listed on the Roll.

[(5)(A) With respect to the distribution of funds under this section, the per capita shares of living competent adults who have reached the age of 19 years on the date of the distribution provided for under paragraph (4), shall be paid directly to them.

[(B) The per capita shares of deceased individuals shall be distributed to their heirs and legatees in accordance with regulations prescribed by the Secretary.

[(C) The shares of legally incompetent individuals shall be administered pursuant to regulations and procedures established by the Secretary under section 3(b)(3) of Public Law 93–134 (25 U.S.C. 1403(b)(3)).

[(D) The shares of minors and individuals who are under the age of 19 years on the date of the distribution provided for under paragraph (4) shall be held by the Secretary in supervised individual Indian money accounts. The funds from such accounts shall be disbursed over a period of 4 years in payments equaling 25 percent of the principal, plus the interest earned on that portion of the per capita share. The first payment shall be disbursed to individuals who have reached the age of 18 years if such individuals are deemed legally competent. Subsequent payments shall be disbursed within 90 days of the individual's following 3 birthdays.

[(6) All funds distributed under this Act are subject to the provisions of section 7 of Public Law 93–134 (25 U.S.C. 1407).

[(7) All per capita shares belonging to living competent adults certified as eligible to share in the judgment fund distribution under this section, and the interest earned on those shares, that remain unpaid for a period of 6-years shall be added to the principal funds that are held and invested in accordance with section 3, except that in the case of a minor, such 6-year period shall not begin to run until the minor reaches the age of majority.

[(8) Any other residual principal and interest funds remaining after the distribution under paragraph (4) is complete shall be added to the principal funds that are held and invested in accordance with section 3.

[(9) Receipt of a share of the judgment funds under this section shall not be construed as a waiver of any existing treaty rights pursuant to the "1863 Treaty of Ruby Valley", inclusive of all Articles I through VIII, and shall not prevent any Western Shoshone Tribe or Band or individual Shoshone Indian from pursuing other rights guaranteed by law.

[SEC. 3. DISTRIBUTION OF DOCKETS 326–A–1 AND 326–A–3.

[The funds appropriated in satisfaction of the judgment awards granted to the Western Shoshone Indians in Docket Numbers 326–A–1 and 326–A–3 before the United States Court of Claims, and the funds referred to under paragraphs (7) and (8) of section 2, together with all earned interest, shall be distributed as follows:

[(1)(A) Not later than 120 days after the date of enactment of this Act, the Secretary shall establish in the Treasury of the United States a trust fund to be known as the "Western Shoshone Educational Trust Fund" for the benefit of the Western Shoshone members. There shall be credited to the Trust Fund the funds described in the matter preceding this paragraph.

[(B) The principal in the Trust Fund shall not be expended or disbursed. The Trust Fund shall be invested as provided for in section 1 of the Act of June 24, 1938 (25 U.S.C. 162a).

[(C)(i) All accumulated and future interest and income from the Trust Fund shall be distributed, subject to clause (ii)—

[(I) as educational grants and as other forms of educational assistance determined appropriate by the Administrative Committee established under paragraph (2) to individual Western Shoshone members as required under this Act; and

[(II) to pay the reasonable and necessary expenses of such Administrative Committee (as defined in the written rules and procedures of such Committee).

[(ii) Funds shall not be distributed under this paragraph on a per capita basis.

[(2)(A) An Administrative Committee to oversee the distribution of the educational grants and assistance authorized under paragraph (1)(C) shall be established as provided for in this paragraph.

[(B) The Administrative Committee shall consist of 1 representative from each of the following organizations:

[(i) The Western Shoshone Te-Moak Tribe.

[(ii) The Duckwater Shoshone Tribe.

[(iii) The Yomba Shoshone Tribe.

[(iv) The Ely Shoshone Tribe.

[(v) The Western Shoshone Business Council of the Duck Valley Reservation.

[(vi) The Fallon Band of Western Shoshone.

[(vii) The at large community.

[(C) Each member of the Committee shall serve for a term of 4 years. If a vacancy remains unfilled in the membership of the Committee for a period in excess of 60 days, the Committee shall appoint a replacement from among qualified members of the organization for which the replacement is being made and such member shall serve until the organization to be represented designates a replacement.

[(D) The Secretary shall consult with the Committee on the management and investment of the funds subject to distribution under this section.

[(E) The Committee shall have the authority to disburse the accumulated interest fund under this Act in accordance with the terms of this Act. The Committee shall be responsible for ensuring that the funds provided through grants and assistance under paragraph (1)(C) are utilized in a manner consistent with the terms of this Act. In accordance with paragraph (1)(C)(i)(II), the Committee may use a portion of the interest funds to pay all of the reasonable and necessary expenses of the Committee, including per diem rates for attendance at meetings that are the same as those paid to Federal employees in the same geographic location.

[(F) The Committee shall develop written rules and procedures that include such matters as operating procedures, rules of conduct, eligibility criteria for receipt of educational grants or assistance (such criteria to be consistent with this Act), application selection procedures, appeal procedures, fund disbursement procedures, and fund recoupment procedures. Such rules and procedures shall be subject to the approval of the Secretary. A portion of the interest funds in the Trust Fund, not to exceed $100,000, may be used by the Committee to pay the expenses associated with developing such rules and procedures. At the discretion of the Committee, and with the approval of the appropriate tribal governing body, jurisdiction to hear appeals of the Committee's decisions may be exercised by a tribal court, or a court of Indian offenses operated under section 11 of title 25, Code of Federal Regulations.

[(G) The Committee shall employ an independent certified public accountant to prepare an annual financial statement that includes the operating expenses of the Committee and the total amount of educational grants or assistance disbursed for the fiscal year for which the statement is being prepared under this section. The Committee shall compile a list of names of all individuals approved to receive such grants or assistance during such fiscal year. The financial statement and the list shall be distributed to each organization represented on the Committee and the Secretary and copies shall be made available to the Western Shoshone members upon request.

[SEC. 4. DEFINITIONS.

[In this Act:

[(1) ADMINISTRATIVE COMMITTEE; COMMITTEE.—The terms "Administrative Committee" and "Committee" mean the Administrative Committee established under section 3(2).

[(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[(3) TRUST FUND.—The term "Trust Fund" means the Western Shoshone Educational Trust Fund established under section 3(1).

[(4) WESTERN SHOSHONE MEMBERS.—The term "Western Shoshone members" means an individual who appears on the Western Shoshone Judgment Roll established under section 2(1), or an individual who is the lineal descendant of an individual appearing on the roll, and who—

[(A) satisfies all eligibility criteria established by the Administrative Committee under section 3(F);

[(B) fulfills all application requirements established by the Committee; and

[(C) agrees to utilize funds distributed in accordance with section 3(1)(C)(i)(I) in a manner approved by the Committee for educational purposes.

[SEC. 5. REGULATIONS.

[The Secretary may promulgate such regulations as are necessary to carry out this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Western Shoshone Claims Distribution Act".

SEC. 2. DISTRIBUTION OF DOCKET 326–K FUNDS.

The funds appropriated in satisfaction of the judgment award granted to the Western Shoshone Indians in Docket Number 326–K before the Indian Claims Commission, including all earned interest, shall be distributed as follows:

(1) The Secretary shall establish a Western Shoshone Judgment Roll consisting of all Western Shoshones who—

(A) have at least ¼ degree of Western Shoshone Blood;

(B) are citizens of the United States; and

(C) are living on the date of enactment of this Act.

(2) Any individual determined or certified as eligible by the Secretary to receive a per capita payment from any other judgment fund awarded by the Indian Claims Commission, the United States Claims Court, or the United States Court of Federal Claims, that was appropriated on or before the date of enactment of this Act, shall not be eligible for enrollment under this Act.

(3) The Secretary shall publish in the Federal Register rules and regulations governing the establishment of the Western Shoshone Judgment Roll and shall utilize any documents acceptable to the Secretary in establishing proof of eligibility. The Secretary's determination on all applications for enrollment under this paragraph shall be final.

(4) Upon completing the Western Shoshone Judgment Roll under paragraph (1), the Secretary shall make a per capita distribution of 100 percent of the funds described in this section, in a sum as equal as possible, to each person listed on the Roll.

(5)(A) With respect to the distribution of funds under this section, the per capita shares of living competent adults who have reached the age of 19 years on the date of the distribution provided for under paragraph (4), shall be paid directly to them.

(B) The per capita shares of deceased individuals shall be distributed to their heirs and legatees in accordance with regulations prescribed by the Secretary.

(C) The shares of legally incompetent individuals shall be administered pursuant to regulations and procedures established by the Secretary under section 3(b)(3) of Public Law 93–134 (25 U.S.C. 1403(b)(3)).

(D) The shares of minors and individuals who are under the age of 19 years on the date of the distribution provided for under paragraph (4) shall be held by the Secretary in supervised individual Indian money accounts. The funds from such accounts shall be disbursed over a period of 4 years in payments equaling 25 percent of the principal, plus the interest earned on that portion of the per capita share. The first payment shall be disbursed to individuals who have reached the age of 18 years if such individuals are deemed legally competent. Subsequent payments shall be disbursed within 90 days of the individual's following 3 birthdays.

(6) Notwithstanding section 7 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407), the per capita shares (or the availability of those shares) shall not—

(A) be subject to Federal or State income taxation;

(B) be considered to be income or resources; or

(C) be used as a basis for denying or reducing financial assistance or any other benefit to which a household or member would otherwise be entitled under—

(i) the Social Security Act (42 U.S.C. 301 et seq.); or

(ii) any other Federal or federally-assisted program.

(7) All per capita shares belonging to living competent adults certified as eligible to share in the judgment fund distribution under this section, and the interest earned on those shares, that remain unpaid for a period of 6-years shall be added to the principal funds that are held and invested in accordance with section 3, except that in the case of a minor, such 6-year period shall not begin to run until the minor reaches the age of majority.

(8) Any other residual principal and interest funds remaining after the distribution under paragraph (4) is complete shall be added to the principal funds that are held and invested in accordance with section 3.

SEC. 3. DISTRIBUTION OF DOCKETS 326–A–1 AND 326–A–3.

The funds appropriated in satisfaction of the judgment awards granted to the Western Shoshone Indians in Docket Numbers 326–A–1 and 326–A–3 before the United States Court of Claims, and the funds referred to under paragraphs (7) and (8) of section 2, together with all earned interest, shall be distributed as follows:

(1)(A) Not later than 120 days after the date of enactment of this Act, the Secretary shall establish in the Treasury of the United States a trust fund to be known as the "Western Shoshone Educational Trust Fund" for the benefit of the Western Shoshone members. There shall be credited to the Trust Fund the funds described in the matter preceding this paragraph.

(B) The principal in the Trust Fund shall not be expended or disbursed. The Trust Fund shall be invested as provided for in section 1 of the Act of June 24, 1938 (25 U.S.C. 162a).

(C)(i) All accumulated and future interest and income from the Trust Fund shall be distributed, subject to clause (ii)—

(I) as educational grants and as other forms of educational assistance determined appropriate by the Administrative Committee established under paragraph (2) to individual Western Shoshone members as required under this Act; and

(II) to pay the reasonable and necessary expenses of such Administrative Committee (as defined in the written rules and procedures of such Committee).

(ii) Funds shall not be distributed under this paragraph on a per capita basis.

(2)(A) An Administrative Committee to oversee the distribution of the educational grants and assistance authorized under paragraph (1)(C) shall be established as provided for in this paragraph.

(B) The Administrative Committee shall consist of 1 representative from each of the following organizations:

(i) The Western Shoshone Te-Moak Tribe.

(ii) The Duckwater Shoshone Tribe.

(iii) The Yomba Shoshone Tribe.

(iv) The Ely Shoshone Tribe.

(v) The Western Shoshone Committee of the Duck Valley Reservation.

(vi) The Fallon Band of Western Shoshone.

(vii) The at large community.

(C) Each member of the Committee shall serve for a term of 4 years. If a vacancy remains unfilled in the membership of the Committee for a period in excess of 60 days, the Committee shall appoint a replacement from among qualified members of the organization for which the replacement is being made and such member shall serve until the organization to be represented designates a replacement.

(D) The Secretary shall consult with the Committee on the management and investment of the funds subject to distribution under this section.

(E) The Committee shall have the authority to disburse the accumulated interest fund under this Act in accordance with the terms of this Act. The Committee shall be responsible for ensuring that the funds provided through grants and assistance under paragraph (1)(C) are utilized in a manner consistent with the terms of this Act. In accordance with paragraph (1)(C)(i)(II), the Committee may use a portion of the interest funds to pay all of the reasonable and necessary expenses of the Committee, including per diem rates for attendance at meetings that are the same as those paid to Federal employees in the same geographic location.

(F) The Committee shall develop written rules and procedures that include such matters as operating procedures, rules of conduct, eligibility criteria for receipt of educational grants or assistance (such criteria to be consistent with this Act), application selection procedures, appeal procedures, fund disbursement procedures, and fund recoupment procedures. Such rules and procedures shall be subject to the approval of the Secretary. A portion of the interest funds in the Trust Fund, not to exceed $100,000, may be used by the Committee to pay the expenses associated with developing such rules and procedures. At the discretion of the Committee, and with the approval of the appropriate tribal governing body, jurisdiction to hear appeals of the Committee's decisions may be exercised by a tribal court, or a court of Indian offenses operated under section 11 of title 25, Code of Federal Regulations.

(G) The Committee shall employ an independent certified public accountant to prepare an annual financial statement that includes the operating expenses of the Committee and the total amount of educational grants or assistance disbursed for the fiscal year for which the statement is being prepared under this section. The Committee shall compile a list of names of all individuals approved to receive such grants or assistance during such fiscal year. The financial statement and the list shall be distributed to each organization represented on the Committee and the Secretary and copies shall be made available to the Western Shoshone members upon request.

SEC. 4. DEFINITIONS.

In this Act:

(1) ADMINISTRATIVE COMMITTEE; COMMITTEE.—The terms "Administrative Committee" and "Committee" mean the Administrative Committee established under section 3(2).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) TRUST FUND.—The term "Trust Fund" means the Western Shoshone Educational Trust Fund established under section 3(1).

(4) WESTERN SHOSHONE MEMBERS.—The term "Western Shoshone members" means an individual who appears on the Western Shoshone Judgment Roll established under section 2(1), or an individual who is the lineal descendant of an individual appearing on the roll, and who—

(A) satisfies all eligibility criteria established by the Administrative Committee under section 3(F);

(B) fulfills all application requirements established by the Committee; and

(C) agrees to utilize funds distributed in accordance with section 3(1)(C)(i)(I) in a manner approved by the Committee for educational purposes.

SEC. 5. REGULATIONS.

The Secretary may promulgate such regulations as are necessary to carry out this Act.

Mr. DURBIN. I ask unanimous consent that the committee substitute amendment be agreed to; the bill, as amended, be read the third time and passed;. the motions to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 958), as amended, was read the third time and passed.

EXTENDING PROCEDURAL RELIEF UNDER USA PATRIOT ACT

Mr. DURBIN. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 2845 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2845) to extend for one year procedural relief provided under the USA PATRIOT Act for individuals who were or are victims or survivors of victims of a terrorist attack on the United States on September 11, 2001.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Madam President, I ask unanimous consent that the bill be read the third time and passed; the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2845) was read the third time and passed, as follows:

S. 2845

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF PERIOD OF LAWFUL PRESENCE IN THE UNITED STATES FOR CERTAIN ALIEN VICTIMS OF TERRORIST ATTACK ON UNITED STATES ON SEPTEMBER 11, 2001.

Section 422(a)(1)(B) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107-56; 115 Stat. 357) is amended by striking "1 year" and inserting "2 years".

AMENDMENTS TO THE MICROENTERPRISE FOR SELF-RELIANCE ACT OF 2000 AND THE FOREIGN ASSISTANCE ACT OF 1961

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 689, H.R. 4073.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4073) to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those acts, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

H.R. 4073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. AMENDMENTS TO THE MICROENTERPRISE FOR SELF-RELIANCE ACT OF 2000.

[(a) PURPOSES.—Section 103 of the Microenterprise for Self-Reliance Act of 2000 (Public Law 106–309) is amended—

[(1) in paragraph (3), by striking "microentrepreneurs" and inserting "microenterprise households";

[(2) in paragraph (4), by striking "and" at the end;

[(3) in paragraph (5)—

[(A) by striking "microfinance policy" and inserting "microenterprise policy";

[(B) by striking "the poorest of the poor" and inserting "the very poor"; and

[(C) by striking the period at the end and inserting "; and"; and

[(4) by adding at the end the following:

["(6) to encourage the United States Agency for International Development to develop, assess, and implement effective outreach methods and tools to ensure that all microenterprise assistance authorized under this title, and the amendments made by this title, is used to assist the greatest absolute number of economically viable clients among the very poor, and that at least 50 percent of all microenterprise assistance authorized under this title, and the amendments made under this title, is used in support of programs or lines of service that target the very poor.".

[(b) DEFINITIONS.—Section 104 of such Act is amended—

[(1) in paragraph (2), by striking "for microentrepreneurs" and inserting "to microentrepreneurs and their households"; and

[(2) by adding at the end the following:

["(5) VERY POOR; POOREST PEOPLE IN DEVELOPING COUNTRIES.—The terms 'very poor' and 'poorest people in developing countries' mean those persons living either in the bottom 50 percent below the poverty line as established by the national government of the country or on less than the equivalent of $1 per day.".

[SEC. 2. AMENDMENTS TO THE MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS PROGRAM UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

[(a) FINDINGS AND POLICY.—Section 108(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151f(a)(2)) is amended by striking "the development of the enterprises of the poor" and inserting "the access to financial services and the development of microenterprises".

[(b) PROGRAM.—Section 108(b) of such Act (22 U.S.C. 2151f(b)) is amended to read as follows:

["(b) PROGRAM.—To carry out the policy set forth in subsection (a), the President is authorized to provide assistance to increase the availability of financial services to microenterprise households lacking full access to credit, including through—

["(1) loans and guarantees to microfinance institutions for the purpose of expanding the availability of savings and credit to poor and low-income households;

["(2) training programs for microfinance institutions in order to enable them to better meet the financial services needs of their clients; and

["(3) training programs for clients in order to enable them to make better use of credit, increase their financial literacy, and to better manage their enterprises.".

[(c) ELIGIBILITY CRITERIA.—Section 108(c) of such Act (22 U.S.C. 2151f(c)) is amended—

[(1) in the first sentence of the matter preceding paragraph (1)—

[(A) by striking "credit institutions" and inserting "microfinance institutions"; and

[(B) by striking "micro- and small enterprises" and inserting "microenterprise households"; and

[(2) in paragraphs (1) and (2), by striking "credit" each place it appears and inserting "financial services".

[(d) ADDITIONAL REQUIREMENT.—Section 108(d) of such Act (22 U.S.C. 2151f(d)) is amended by striking "micro- and small enterprise programs" and inserting "programs for microenterprise households".

[(e) AVAILABILITY OF FUNDS.—Section 108(f)(1) of such Act (22 U.S.C. 2151f(f)(1)) is amended by striking "for each of fiscal years 2001 and 2002" and inserting "for each of fiscal years 2001 through 2004".

[(f) CONFORMING AMENDMENT.—Section 108 of such Act (22 U.S.C. 2151f) is amended in the heading to read as follows:

["SEC. 108. MICROENTERPRISE DEVELOPMENT CREDITS.".

[SEC. 3. AMENDMENTS TO THE MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE PROGRAM UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

[(a) FINDINGS AND POLICY.—Section 131(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152a(a)) is amended to read as follows:

["(a) FINDINGS AND POLICY.—Congress finds and declares that—

["(1) access to financial services and the development of microenterprise are vital factors in the stable growth of developing countries and in the development of free, open, and equitable international economic systems;

["(2) it is therefore in the best interest of the United States to facilitate access to financial services and assist the development of microenterprise in developing countries;

["(3) access to financial services and the development of microenterprises can be supported by programs providing credit, savings, training, technical assistance, business development services, and other financial and non-financial services; and

["(4) given the relatively high percentage of populations living in rural areas of developing countries, and the combined high incidence of poverty in rural areas and growing income inequality between rural and urban markets, microenterprise programs should target both rural and urban poor.".

[(b) AUTHORIZATION.—Section 131(b) of such Act (22 U.S.C. 2152a(b)) is amended—

[(1) in paragraph (3)—

[(A) in the first sentence of the matter preceding subparagraph (A), by striking "targeted to very poor entrepreneurs" and all that follows and inserting "used in support of programs or lines of service under which 50 percent or more of the incoming or prospective clients are initially very poor."; and

[(B) in subparagraph (A)(i) , by striking "entrepreneurs" and inserting "clients"; and

[(2) in paragraph (4)(D)—

[(A) in clause (i), by striking "very small loans" and inserting "financial services to poor entrepreneurs"; and

[(B) in clause (ii), by striking "microfinance" and inserting "microenterprise".

[(c) MONITORING SYSTEM.—Section 131(c) of such Act (22 U.S.C. 2152a(c)) is amended by striking paragraph (4) and inserting the following:

["(4) adopts the widespread use of proven and effective poverty assessment tools to successfully identify the very poor and ensure that they receive needed microenterprise credits, loans, and assistance."

[(d) DEVELOPMENT AND APPLICATION OF POVERTY MEASUREMENT METHODS.—Section 131 of such Act (22 U.S.C. 2152a) is amended—

[(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

[(2) by inserting after subsection (c) the following:

["(d) DEVELOPMENT AND CERTIFICATION OF POVERTY MEASUREMENT METHODS; APPLICATION OF METHODS.—

["(1) DEVELOPMENT AND CERTIFICATION.—(A) The Administrator of the United States Agency for International Development, in consultation with appropriate microfinance institutions, microenterprise institutions, and other appropriate entities shall develop no fewer than two low-cost methods for measuring the poverty levels of the current or prospective clients of microenterprise organizations for purposes of assistance under this section. In developing such methods, the Administrator shall give consideration to methods already in use by practitioner institutions.

["(B) The Administrator shall field-test the methods developed under this paragraph, and as part of the testing, institutions and programs may use these methods on a voluntary basis to demonstrate their ability to reach the very poor.

["(C) Not later than October 1, 2004, the Administrator shall, from among the low-cost poverty measurement methods developed under this paragraph, certify no fewer than two of such methods as approved methods for measuring the poverty levels of the current or prospective clients of microenterprise organizations for purposes of assistance under this section.

["(2) APPLICATION.—Beginning on and after October 1, 2004, assistance furnished under this section to a program or to a line of service within an institution shall qualify, in whole or in part, as targeted assistance to the very poor if one or more of the measurement methods approved under paragraph (1), or one or more of the measurement methods approved in accordance with paragraph (1) after October 1, 2004, verifies that at least 50 percent of the incoming or prospective clients of the program or line of service are initially among the very poor.".

[(e) LEVEL OF ASSISTANCE.—Section 131(e) of such Act, as redesignated by subsection (d), is amended by inserting "and $175,000,000 for fiscal year 2003 and $200,000,000 for fiscal year 2004" after "fiscal years 2001 and 2002".

[(f) DEFINITIONS.—Section 131(f) of such Act, as redesignated by subsection (d), is amended by adding at the end the following:

["(5) VERY POOR; POOREST PEOPLE IN DEVELOPING COUNTRIES.—The terms 'very poor' and 'poorest people in developing countries' mean those persons living either in the bottom 50 percent below the poverty line as established by the national government of the country or on less than the equivalent of $1 per day.".

[SEC. 4. REPORT TO CONGRESS.

[Not later than July 1, 2004, the Administrator of the United States Agency for International Development shall submit to Congress a report that contains—

[(1) a description of the interim poverty measurement methods developed and implemented pursuant to section 131(d)(1) of the Foreign Assistance Act of 1961, as added by section 3(d);

[(2) an analysis of the results of the application of such interim poverty measurement methods to sustainable poverty-focused programs under such section; and

[(3) a description of the proposed final poverty measurement methods to be implemented beginning on October 1, 2004, in accordance with section 131(d)(2) of such Act, as added by section 3(d).]

SECTION 1. AMENDMENTS TO THE MICROENTERPRISE FOR SELF-RELIANCE ACT OF 2000.

(a) PURPOSES.—Section 103 of the Microenterprise for Self-Reliance Act of 2000 (Public Law 106–309) is amended—

(1) in paragraph (3), by striking "microentrepreneurs" and inserting "microenterprise households";

(2) in paragraph (4), by striking "and" at the end;

(3) in paragraph (5)—

(A) by striking "microfinance policy" and inserting "microenterprise policy";

(B) by striking "the poorest of the poor" and inserting "the very poor"; and

(C) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(6) to ensure that in the implementation of this title at least 50 percent of all microenterprise assistance under this title, and the amendments made under this title, shall be targeted to the very poor.".

(b) DEFINITIONS.—Section 104 of such Act is amended—

(1) in paragraph (2), by striking "for microentrepreneurs" and inserting "to microentrepreneurs and their households"; and

(2) by adding at the end the following:

"(5) VERY POOR.—The term 'very poor' means individuals—

"(A) living in the bottom 50 percent below the poverty line established by the national government of the country in which those individuals live; or

"(B) living on the equivalent of less than $1 per day.".

SEC. 2. AMENDMENTS TO THE MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS PROGRAM UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

(a) FINDINGS AND POLICY.—Section 108(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151f(a)(2)) is amended by striking "the development of the enterprises of the poor" and inserting "the access to financial services and the development of microenterprises".

(b) PROGRAM.—Section 108(b) of such Act (22 U.S.C. 2151f(b)) is amended to read as follows:

"(b) PROGRAM.—To carry out the policy set forth in subsection (a), the President is authorized to provide assistance to increase the availability of financial services to microenterprise households lacking full access to credit, including through—

"(1) loans and guarantees to microfinance institutions for the purpose of expanding the availability of savings and credit to poor and low-income households;

"(2) training programs for microfinance institutions in order to enable them to better meet the financial services needs of their clients; and

"(3) training programs for clients in order to enable them to make better use of credit, increase their financial literacy, and to better manage their enterprises to improve their quality of life.".

(c) ELIGIBILITY CRITERIA.—Section 108(c) of such Act (22 U.S.C. 2151f(c)) is amended—

(1) in the first sentence of the matter preceding paragraph (1)—

(A) by striking "credit institutions" and inserting "microfinance institutions"; and

(B) by striking "micro- and small enterprises" and inserting "microenterprise households"; and

(2) in paragraphs (1) and (2), by striking "credit" each place it appears and inserting "financial services".

(d) ADDITIONAL REQUIREMENT.—Section 108(d) of such Act (22 U.S.C. 2151f(d)) is amended by striking "micro- and small enterprise programs" and inserting "programs for microenterprise households".

(e) AVAILABILITY OF FUNDS.—Section 108(f)(1) of such Act (22 U.S.C. 2151f(f)(1)) is amended by striking "for each of fiscal years 2001 and 2002" and inserting "for each of fiscal years 2001 through 2004".

(f) CONFORMING AMENDMENT.—Section 108 of such Act (22 U.S.C. 2151f) is amended in the heading to read as follows:

"SEC. 108. MICROENTERPRISE DEVELOPMENT CREDITS.".

SEC. 3. AMENDMENTS TO THE MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE PROGRAM UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

(a) FINDINGS AND POLICY.—Section 131(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152a(a)) is amended to read as follows:

"(a) FINDINGS AND POLICY.—Congress finds and declares that—

"(1) access to financial services and the development of microenterprise are vital factors in the stable growth of developing countries and in the development of free, open, and equitable international economic systems;

"(2) it is therefore in the best interest of the United States to facilitate access to financial services and assist the development of microenterprise in developing countries;

"(3) access to financial services and the development of microenterprises can be supported by programs providing credit, savings, training, technical assistance, business development services, and other financial and non-financial services; and

"(4) given the relatively high percentage of populations living in rural areas of developing countries, and the combined high incidence of poverty in rural areas and growing income inequality between rural and urban markets, microenterprise programs should target both rural and urban poor.".

(b) AUTHORIZATION.—Section 131(b) of such Act (22 U.S.C. 2152a(b)) is amended—

(1) in paragraph (3)(A)(i), by striking "entrepreneurs" and inserting "clients"; and

(2) in paragraph (4)(D)—

(A) in clause (i), by striking "very small loans" and inserting "financial services to poor entrepreneurs"; and

(B) in clause (ii), by striking "microfinance" and inserting "microenterprise".

(c) MONITORING SYSTEM.—Section 131(c) of such Act (22 U.S.C. 2152a(c)) is amended by striking paragraph (4) and inserting the following:

"(4) adopts the widespread use of proven and effective poverty assessment tools to successfully identify the very poor and ensure that they receive needed microenterprise loans, savings, and assistance.".

(d) DEVELOPMENT AND APPLICATION OF POVERTY MEASUREMENT METHODS.—Section 131 of such Act (22 U.S.C. 2152a) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following:

"(d) DEVELOPMENT AND CERTIFICATION OF POVERTY MEASUREMENT METHODS; APPLICATION OF METHODS.—

"(1) DEVELOPMENT AND CERTIFICATION.—(A) The Administrator of the United States Agency for International Development, in consultation with microenterprise institutions and other appropriate organizations, shall develop no fewer than two low-cost methods for partner institutions to use to assess the poverty levels of their current or prospective clients. The United States Agency for International Development shall develop poverty indicators that correlate with the circumstances of the very poor.

"(B) The Administrator shall field-test the methods developed under subparagraph (A). As part of the testing, institutions and programs may use the methods on a voluntary basis to demonstrate their ability to reach the very poor.

"(C) Not later than October 1, 2004, the Administrator shall, from among the low-cost poverty measurement methods developed under subparagraph (A), certify no fewer than two such methods as approved methods for measuring the poverty levels of current or prospective clients of microenterprise institutions for purposes of assistance under this section.

"(2) APPLICATION.—The Administrator shall require that, with reasonable exceptions, all organizations applying for microenterprise assistance under this Act use one of the certified methods, beginning no later than October 1, 2005, to determine and report the poverty levels of current or prospective clients.".

(e) LEVEL OF ASSISTANCE.—Section 131(e) of such Act, as redesignated by subsection (d), is amended by inserting "and $175,000,000 for fiscal year 2003 and $200,000,000 for fiscal year 2004" after "fiscal years 2001 and 2002".

(f) DEFINITIONS.—Section 131(f) of such Act, as redesignated by subsection (d), is amended by adding at the end the following:

"(5) VERY POOR.—The term 'very poor' means those individuals—

"(A) living in the bottom 50 percent below the poverty line established by the national government of the country in which those individuals live; or

"(B) living on less than the equivalent of $1 per day.".

SEC. 4. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than September 30, 2005, the Administrator of the United States Agency for International Development shall submit to Congress a report that documents the process of developing and applying poverty assessment procedures with its partners.

(b) REPORTS FOR FISCAL YEAR 2006 AND BEYOND.—Beginning with fiscal year 2006, the Administrator of the United States Agency for International Development shall annually submit to Congress on a timely basis a report that addresses the United States Agency for International Development's compliance with the Microenterprise for Self-Reliance Act of 2000 by documenting—

(1) the percentage of its resources that were allocated to the very poor (as defined in paragraph (5) of section 131(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152a(f)(5))) based on the data collected from its partners using the certified methods; and

(2) the absolute number of the very poor reached.

Mr. DURBIN. Madam President, I ask unanimous consent that the committee substitute amendment be agreed to; the bill, as amended, be read the third time and passed and the motion to reconsider be laid upon the table, with no intervening action or debate; that any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (H.R. 4073), as amended, was read the third time and passed.

DOT KIDS IMPLEMENTATION AND EFFICIENCY ACT OF 2002

Mr. DURBIN. Madam President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 3833 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3833) to facilitate the creation of a new second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DORGAN. Madam President, I rise in support of H.R. 3833, the Dot Kids Implementation and Efficiency Act of 2002. Earlier this year Senator ENSIGN and I introduced the companion legislation, S. 2537, in the Senate and today I am pleased to offer an amendment in the nature of a substitute along with my colleagues Senators ENSIGN, HOLLINGS, and ALLEN.

As anyone who has surfed online knows, the development of the Internet has been a mixed blessing. On the one hand the Internet has brought enormous benefits to adults and children alike as it gives us new options for reading the news, researching school papers, shopping, conducting business, and communicating with each other. But, on the other hand, the Internet also poses great risks to our children because there is no perfect way to protect them from the mountains of material that is inappropriate for their eyes.

Just after we had introduced this bill in the Senate a seventh grade girl at Erik Ramstad Middle School in North Dakota reported she had been solicited for a sexual encounter online. In a school assembly the same day 30 other students revealed that they have been threatened online.

The National Center for Missing and Exploited Children has charted 5,700 reported cases of online enticement in the past four years, and those are only cases that were intercepted by parents. And while there is not yet any way to compile Federal, State, and local cases involving sex, children, and the Internet, experts estimate that there are 4,000–5,000 each year.

The most recent study available "Online Victimization: A Report on the Nation's Youth" found that "almost one out of five young people who use the Internet regularly were exposed to unwanted sexual solicitations or approaches" and "twenty-five percent had been exposed to unwanted online pornography" in the previous year.

This is a frightening situation. Computers have become an open door for predators into the homes of children. It is necessary to create a safe haven online for children to surf.

Today we have before us a bill called the Dot Kids Implementation and Efficiency Act that will help this situation by creating a safe haven on the Internet for kids.

Introduced in the Senate by myself and Senator ENSIGN, after it was successfully shepherded through the House by Representatives SHIMKUS, UPTON, and MARKEY, the idea behind the "dot kids" domain is very simple—to create a space on the web that can be a cyber-sanctuary for kids. A place where parents and kids can be confident that every site on the "dot-kids" domain contains materials that are suitable for children under the age of thirteen.

The bill calls for the creation of a sub-domain under our Nation's country code ".us" called ".kids.us" which will only host content that is age appropriate for children. A number of safeguards were also put in this bill. "Dot-kids-dot-us" will be monitored for content and safety; and should objectionable material appear, it will be taken down immediately.

One of those safeguards is a restriction on peer-to-peer communication unless the entity hosting the site certifies that it will be done safely. And further, hyperlinks, which would take children out of the safe "dot-kids" domain are expressly prohibited to help insure that parents can be confident that when their children visit sites in "dot-kids" they will stay within the dot-kids domain.

Last October the Department of Commerce awarded the contract to handle the management and commercialization of the "dot-us" domain. And while this bill is careful to not change the terms of the existing contract it would condition the next contract on the creation of the "dot-kids-dot-us" domain.

So, under this bill, participation in "dot-kids" would be completely voluntary. Not only will whomever accepts the next contract know what they will be getting into, parents will choose to use it, and website operators will choose to be located within it.

The only requirement will be that site operators on the "dot-kids" domain agree to keep their sites full of material that is suitable for minors. Personally, I think the idea of using our country's Top-Level-Domain to create a cyber-sanctuary for children makes a great deal of sense and I want to thank all of my colleagues and the many stakeholders who have been involved in this legislation for all their hard work and cooperation in making this bill a reality today.

I urge my colleagues to support the Dot Kids Implementation and Efficiency Act.

Mr. ENSIGN. Madam President, I am pleased to rise in support of H.R. 3833, the Dot Kids bill of 2002. Senator DORGAN and I introduced this bipartisan bill earlier this year to protect children on the Internet, and I am gratified that the Senate will act on it today.

It is estimated today that over 140 million Americans use the Internet, many of them children. Most schools are equipped with computers, where our children learn to navigate the Internet; in most cases children do so with better skill than parents. No longer do our children have to go to the library and sift through voluminous card catalogues for their research projects. No longer do our children need to be in school to communicate with their teachers and fellow classmates—they can do it from home by using e-mail and instant messaging. Families simply need a computer with an Internet connection to provide children with access to a greater breadth of information than the Library of Congress. The educational opportunities are limitless.

However, the Internet can also be used as a tool for evil. Many young children have tragically fallen victim to on-line predators. They have been stalked by pedophiles masquerading as other children. Many more young children on the Internet are routinely exposed to graphic violence, drugs and inappropriate sexual content despite parents' efforts at restricting such content.

Congress first acted to protect children on the Internet in 1996 with passage of the Communications Decency Act, CDA. This legislation criminalized engaging in indecent or patently offensive speech on computer networks if the speech could be viewed by anyone 18 years of age or younger, but it did not survive constitutional challenges. The U.S. Supreme Court held in Reno v. American Civil Liberties Union that the CDA violated First Amendment free-speech protections. Congress subsequently responded in 1998 with passage of the Children's Online Protection Act, COPA, legislation that prohibited communication of material that is harmful to minors on for-profit websites. The U.S. Supreme Court, however, in American Civil Liberties Union v. Reno, upheld an injunction by U.S. Court of Appeals for the Third Circuit on constitutional grounds and remanded the case for further review.

Another attempt was made to strike the careful balance between the first amendment and protecting children on the Internet with passage of the Children's Internet Protection Act of 2000, CIPA. This legislation required schools and libraries that receive Federal funding to install filtering software to block from minors Internet content that contains child pornography, or other obscene and indecent material that is harmful to minors. Moreover, this legislation required federally funded libraries to block adults from accessing websites containing obscene material or child pornography. However, the U.S. District Court for the Eastern District of Pennsylvania unanimously held in American Library Association v. United States that CIPA was unconstitutional.

The bill before us today represents the most recent effort by Congress to craft legislation that can both protect children on the Internet and withstand constitutional scrutiny.

The Dot Kids bill establishes a children's section of the Internet, much like a children's section of the library, where children will be safe from pedophiles, pornography, and violence. We worked to craft the Dot Kids bill to withstand first amendment challenges by not imposing a burden on free speech to adults; the use of the Dot Kids subdomain is completely voluntary. As such, it recognizes and protects the rights of those who wish to view content not suitable for minors outside of the Dot Kids subdomain. Content within the Dot Kids subdomain must be suitable for children under 13 years of age. Dot Kids also protects children from accessing websites outside the Dot Kids subdomain or engaging in uncertified interactive services. This is a major victory for children and families. Chat rooms and instant messaging is a key component in allowing pedophiles to stalk children over the Internet. Liability protection was also provided for the domain administrator by utilizing the "Good Samaritan" provision in the Communications Act of 1934. This provision will ensure that the Dot Kids administrator will not be held liable for actions voluntarily taken in good faith to restrict access to, or availability of, obscene, harassing, violent or other objectionable material.

I am pleased that the Family Research Council, the National Center for Missing and Exploited Children, the American Center for Law and Justice, a Safer America for Everyone, SAFE, and the National Law Center for Children and Families have joined our effort in supporting this proposal.

The U.S. House of Representatives previously passed this measure by an overwhelming majority vote with the hard work of many dedicated Members of Congress including Congressman SHIMKUS, Congressman TAUZIN, Congressman UPTON, Congressman MARKEY and Congressman DINGELL.

Mr. HOLLINGS. Madam President, I rise today in support of the substitute amendment to H.R. 3833, the Dot Kids Implementation and Efficiency Act of 2002. I am proud to co-sponsor this amendment with Senators DORGAN, ENSIGN, and ALLEN. This bipartisan legislation is a result of compromise and hard work by interested parties including Senators DORGAN, ENSIGN, ALLEN, and MCCAIN. I also want to thank Representatives SHIMKUS, MARKEY, and UPTON for their efforts in the House on the companion legislation. They have all demonstrated their commitment to making the Internet safe for children.

In short, H.R. 3833 will create a safe haven for children on the Internet. It creates a domain designated strictly for minors—".kids.us". This new domain will allow parents to be confident that their child can experience the Internet, at least in part, without being exposed to objectionable material. Only content producers who can meet the standard of providing material suitable for minors will be allowed to register a .kids domain.

Really, this bill is just a next step of sorts for me. After all, I have been a strong advocate for a safe harbor for television to ensure that children are protected from objectionable material. I am happy to see that we are now able to extend such protections online, ensuring that children can safely surf the Internet without being bombarded with images of sex, violence, and drugs or being lured by child predators.

I am pleased that we have been able to reach an agreeable compromise on this bill and look forward to working with the Department of Commerce and the administrator for the U.S country code domain to implement this legislation.

Mr. DURBIN. Senators DORGAN, ENSIGN, HOLLINGS, and ALLEN have a substitute amendment at the desk, and I ask unanimous consent that the amendment be considered and agreed to and the motion to reconsider be laid upon the table; that the bill, as amended, be read three times and passed and the motion to reconsider be laid upon the table; and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4903) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (H.R. 3833), as amended, was read the third time and passed.

PIPELINE INFRASTRUCTURE PROTECTION TO ENHANCE SECURITY AND SAFETY ACT

Mr. DURBIN. Madam President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 3609 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3609) to amend title 49, to enhance the security and safety of pipelines.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Madam President, Congressional action to send comprehensive pipeline safety legislation to the President is long overdue. The Senate has worked long and hard during both the 106th and the 107th Congresses on this important issue and we should not let any more time pass without taking needed action to improve pipeline safety. I am hopeful we will finally achieve final passage on this issue before adjournment.

The Office of Pipeline Safety, OPS, within the Department of Transportation's Research and Special Programs Administration, RSPA, oversees the transportation of about 65 percent of the petroleum and most of the natural gas transported in the United States. OPS regulates the day-to-day safety of 3,000 gas pipeline operators with more than 1.6 million miles of pipeline. It also regulates more than 200 hazardous liquid operators with 155,000 miles of pipelines. Given the immense array of pipelines that traverse our nation, reauthorization of our pipeline safety programs is critical to the safety and security of thousands of communities and millions of Americans nationwide.

As my colleagues know, the Senate has approved pipeline safety legislation three times in the last three years. Twice we passed stand alone bills, in 2000 and again in 2001. Beginning in the 106th Congress, we worked on a bipartisan basis to develop and approve legislation to promote both public and environmental safety by reauthorizing and strengthening our Federal pipeline safety programs which expired in September 2000. In particular, the efforts of Senators Slade Gorton and PATTY MURRAY were instrumental to the Senate's efforts to address this important safety issue.

In our protracted effort to enact pipeline safety legislation—the House had not approved its version of a related measure—we resorted to adding the pipeline safety bill to the Energy bill during its floor consideration last March. Subsequently, the House approved its pipeline safety legislation in July. While the House-passed energy bill did not include pipeline safety provisions, the House agreed to try to reach a consensus on the important issue in the context of the energy conference. As a result, the measure before us today is the sound, pro-safety agreement that was achieved during the energy conference deliberations.

The members of the energy conference are to be commended for their commitment to this important issue. They developed a consensus pipeline safety title that includes the best provisions from both the Senate- and House-passed bills. Although I did not serve as a formal member of that conference, we shared a goal of enacting comprehensive legislation to promote pipeline safety for the public, the environment, and the economy.

I want to commend Representatives BILLY TAUZIN, JOHN DINGELL, and DON YOUNG and Senators JEFF BINGAMAN and FRANK MURKOWSKI for their leadership and hard work on this issue and their courtesies to ensure the Senate authorizing committee was fully consulted during the process. Given that a consensus on a comprehensive energy package will not be achieved during this Congress, it is time to move forward and approve the agreement that was reached regarding pipeline safety.

In large part, the legislation before us is the result of several tragic pipeline accidents that have occurred in recent years. Since 1999, pipeline accidents have resulted in 78 fatalities. In June 1999, a fatal accident occurred in Bellingham, Washington, when gasoline leaked from an underground pipeline and was subsequently ignited. That accident resulted in three deaths, a number of injuries, and severe environmental damage to the area. On August 19, 2000, a natural gas transmission line ruptured in Carlsbad, New Mexico, killing 12 members of two families. These were two very serious accidents and they helped spur the Senate's action to address identified safety shortcomings.

As I mentioned, the Senate has worked at length to improve pipeline safety and reduce the risk of future accidents. During the last Congress, with the assistance of a bipartisan group of Senators, the Senate passed the Pipeline Safety Improvement Act of 2000. Since the House failed to approve pipeline safety legislation, we were never able to send a measure to the President.

When the 107th Congress convened, one of the first legislative actions taken by the Senate was to consider and pass S. 235, the Pipeline Safety Improvement Act of 2001, a measure nearly identical to what we passed in the prior Congress. Early attention by the Senate demonstrated our firm commitment to improving pipeline safety. Although it has taken far longer than I would have hoped, it is important that we are taking this action today as we work to finish our legislative activities for the year.

Despite the tragic accidents I highlighted earlier, the safety record of the pipeline industry has generally improved significantly and compares favorably to other forms of transportation. According to the Department of Transportation, pipeline related incidents dropped nearly 80 percent between 1975 and 1998, and the loss of product due to accidental ruptures has been cut in half. From 1989 through 2001, pipeline accidents resulted in about 24 fatalities per year, far fewer than the number of fatal accidents experienced among other modes of transportation. But this record must not be used as an excuse for inaction on legislation to strengthen pipeline safety.

The pipeline safety program expired more than two years ago. It is essential that the Congress take final action on this critical public and environmental safety issue. This legislation reauthorizes and strengthens Federal pipeline safety programs, providing additional funding for safety enforcement and research and development efforts. It also provides for increased State oversight authority and facilitates greater public education efforts at the local community level.

This pending pipeline safety legislation includes many important provisions. I urge my colleagues to support final passage of this critical safety improvement legislation.

Mr. BREAUX. Madam President, I rise in support of H.R. 3609, the Pipeline Safety Improvement Act of 2002, which will improve the safety and security of our Nation's pipeline systems through important reforms within our Federal safety regulatory program. This idea is not new. The Senate passed this legislation in the 106th Congress, and again in February 2001 as one of the first orders of business of the 107th Congress. The Senate also passed the same language as part of the Energy Policy Act of 2002. This bill is the product of good-faith compromise over three years of work, including compromise with the House of Representatives, and I ask my colleagues to join me in its support.

Both liquid and natural gas pipelines provide transportation of vital energy resources to many parts of our country. In my State, pipelines support what was recently determined to be a $92 billion oil and gas industry. Louisiana is the third leading producer of natural gas and fourth leading producer of crude oil in the country. These products must be transported to the rest of the country for consumption, and pipelines are a key part of this infrastructure. In Louisiana alone, there are over 40,000 miles of gas pipelines, some of which pass through towns, residential areas, schools, churches, and other high-consequence areas. Oil and other product pipelines also number in the thousands of miles in my State.

In recent years, we have experienced at least two major pipeline accidents: one in Bellingham, WA, and the other near Carlsbad, NM. I am deeply sympathetic to the families of the victims of these tragedies. Nothing can possibly replace their losses. What we have endeavored to do here is take steps to ensure that we as a government address the risks of such accidents in the best possible manner. I think that this legislation will increase the tools available to the Secretary of Transportation to ensure that our pipeline system is as safe as possible. I would ask that the Secretary use the tools that we provide to ensure the aggressive oversight of pipeline safety practices, and involve and protect the affected communities to the greatest possible extent.

Passage of this bill will help to ensure the safety and security of natural gas and hazardous liquid pipelines and will take strides to increase the safety of our network of oil and natural gas pipelines. I appreciate the considerable number of hours that went into creating this bill by all of the parties. I am also satisfied with the spirit of compromise that accompanied the parties' diligent efforts. As a result of their cooperative work we have a bill that reaffirms our efforts to regulate gas and hazardous liquid pipelines safely and effectively without interfering with the pipeline operators' and owners' ability to provide service to our Nation and without compromising national security.

While there were many who worked arduously to ensure passage of legislation in this area, Senator MURRAY, Senator BINGAMAN, and Senator MCCAIN should be recognized for their important contributions. Senator MURRAY vigorously pursued changes to increase the level of safety and public participation in pipeline safety, and she worked closely with other Commerce Committee members to ensure a reasonable and fair compromise. Senator BINGAMAN was instrumental in helping bolster the bill's provisions on research and development. We also added provisions he authored to focus our research on progressive areas that will help us develop better systems of early detection, and to ensure that we can avoid accidents such as those that occurred in Bellingham, WA, and near Carlsbad, NM. Senator MCCAIN is to be recognized for his continuing efforts to get this legislation passed. He first initiated this effort years ago as Chairman of the Committee. Last, I would like to thank the efforts of my dedicated staff and all those staff members who helped reach this agreement.

Clearly, this measure is a compromise, and as such, not every group got exactly what they wanted, but this measure will advance the programs and system regulating the safety of our pipeline system. It will require our regulators to finalize a number of overdue regulations. The bill also updates the penalties that would be levied for misconduct and provides whistle blower protection for employees who reveal misconduct. Further, the bill helps us focus on long-term research needs so as to make our future pipeline system even safer. Investment today in research will help us be more efficient and effective in providing a safer and more secure system. While I was for the most part pleased with the final product that we negotiated in this bill, I was concerned that we did not include provisions that would have outlined what sort of pipeline safety information should be made available to the public. Concerns were raised that public disclosure of certain pipeline safety information could jeopardize security. We need to take a look at how we get safety information to the people who need it, but protect that information from those who wish to do harm if it is security-sensitive.

Overall, this is good legislation. It will improve the safety of our pipelines and communities through which pipelines run, and I urge my colleagues to support it.

Mr. DURBIN. I understand Senators MCCAIN and HOLLINGS have a substitute amendment at the desk. I ask unanimous consent that the amendment be considered and agreed to; the motion to reconsider be laid upon the table; the bill, as amended, be read three times and passed and the motion to reconsider be laid upon the table; and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4904) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (H.R. 3609), as amended, was read the third time and passed.

GOVERNMENT INFORMATION SECURITY REFORM ACT

Mr. DURBIN. I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of S. 3067 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3067) to amend title 44, United States Code, to make Government information security reform permanent, and for other purposes.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

Mr. DURBIN. Madam President, I understand Senator THOMPSON has a substitute amendment at the desk, and I ask unanimous consent that it be considered and agreed to; that the title amendment be agreed to; that the bill, as amended, be read the third time and passed and the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4905) was agreed to, as follows:

(Purpose: To substitute a one-year extension of authority)

Strike all after the enacting clause and insert the following:

SECTION 1. ONE-YEAR EXTENSION OF GOVERNMENT INFORMATION SECURITY REFORM.

Section 3536 of title 44, United States Code, is amended by striking "after the date" and all that follows and inserting "after November 30, 2003.".

SEC. 2. DESIGNATION OF LAW AS GOVERNMENT INFORMATION SECURITY REFORM ACT.

Subtitle G of title X of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–266) is amended by inserting after the heading for the subtitle the following new section:

"SEC. 1060. SHORT TITLE.

"This subtitle may be cited as the 'Government Information Security Reform Act'.".

Amend the title so as to read: "A bill to amend title 44, United States Code, to extend certain Government information security reform for one year, and for other purposes.".

The bill (S. 3067), as amended, was read the third time and passed.

ORDERS FOR THURSDAY, NOVEMBER 14, 2002

Mr. DURBIN. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Thursday, November 14; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate proceed under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Madam President, the next rollcall vote will be on the adoption of the port security conference report at approximately 10:30 a.m. on Thursday.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DURBIN. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:39 p.m., adjourned until Thursday, November 14, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 12, 2002:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ARTHUR J. LICHTE, 5483

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. STANLEY R. SZEMBORSKI, 8912

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 271:

To be lieutenant commander

ANTHONY J. ALARID, 1412
MICHAEL S. ANTONELLIS, 5030
MICHAEL A. ARGUELLES, 4343
HECTOR A. AVELLA, 8261
PAUL E. BAKER, 7988
BARBARA J. BARATA, 8450
CHRISTOPHER M. BARROWS, 8561
EDWARD K. BEALE, 7399
SCOTT A. BEAUREGARD, 6053
WILLIAM D. BELLATTY, 1168
BRYAN R. BENDER, 4002
RALPH L. BENHART, 0506
BENJAMIN A. BENSON, 3424
DAVID F. BERLINER, 6106
PAUL R. BISSAILLON, 4694
RONALD E. BRAHM, 9793
JOHN A. BRENNER, 3111
DONALD L. BROWN, 7391
TIMOTHY J. BUCHANAN, 2428
RUSSELL S. BURNSIDE, 9517
WILLIAM CARTER, 5270
ANTHONY J. CERAOLO, 2139
PATRICK W. CLARK, 4993
LESLIE W. CLAYBORNE, 8504
ROCKY L. COLE, 3491
RICHARD W. CONDIT, 6705
VERNON E. CRAIG, 0980
MICHAEL W. CRIBBS, 3103
CHRISTOPHER CURATILO, 4587
GREGORY J. CZERWONKA, 4516
CHRISTEL A. DAHL, 5351
BRYAN E. DAILEY, 2760
JAMES W. DALITSCH, 0853
TIMOTHY E. DARLEY, 3406
JOSEPH E. DEER, 4579
ANN B. DEYOUNG, 0150
EDWIN DIAZROSARIO, 7357
TIMOTHY E. DICKERSON, 7061
DOUGLAS C. DIXON, 8495
JEAN T. DONALDSON, 8896
CHARLENE L. DOWNEY, 1428
PATRICK J. DUGAN, 5898
KATHRYN C. DUNBAR, 0745
JOHN C. DURBIN, 5587
BRYAN L. DURR, 0817
BRIAN E. EDMISTON, 0038
DAVID M. EHLERS, 8010
THOMAS M. EMERICK, 0148
DENNIS C. EVANS, 2583
RENDALL B. FARLEY, 5226
DALE C. FOLSOM, 4148
CHRISTOPHER W. FORANDO, 4062
GREGORY T. FULLER, 3143
ERIC J. GANDEE, 6250
GEORGE D. GANOUNG, 2083
CHRISTIAN J. GLANDER, 3589
MICHAEL W. GLANDER, 8276
GENE G. GONZALES, 1117
JEFFREY W. GOOD, 7748
MARK D. GORDON, 0616
SAMUEL J. GOSWELLEN, 6588
THOMAS A. GRIFFITTS, 2199
JASON R. HAMILTON, 9913
KEVIN J. HANSON, 3914
JAMES A. HEALY, 7844
JOSEPH J. HEALY, 3174
MICHAEL L. HERSHBERGER, 5328
JOSEPH P. HIGGINS, 4706
DANIEL J. HIGMAN, 6624
RUSSELL E. HOLMES, 0974
KATHERINE A. HOWARD, 5315
JERRY A. HUBBARD, 8249
DAVID A. HUSTED, 3248
JEFFREY A. JANSZEN, 4464
TERRENCE M. JOHNS, 9778
EUGENE E. JOHNSON, 2742
LAMAR V. JOHNSON, 7091
RICHARD L. JUNG, 5143
STEPHEN D. JUTRAS, 5925
ROBERT M. KEITH, 1055
QUENTIN C. KENT, 7468
IAN R. KIERNAN, 2030
SCOTT H. KIM, 9552
ERICH F. KLEIN, 4294
NICHOLAS R. KOESTER, 0771
JOSEPH E. KRAMEK, 8464
MIRIAM L. LAFFERTY, 4744
BURT A. LAHN, 9390
ROBERT J. LANDOLFI, 7916
STEVEN A. LANG, 7316
JAMES R. LANGEVIN, 7045
SCOTT E. LANGUM, 2954
KEITH H. LAPLANT, 5221
SCOTT X. LARSON, 4589
STEPHEN G. LEFAVE, 1917
MICHAEL R. LEONGUERRERO, 7974
MICHAEL C. LONG, 8213
JESS P. LOPEZ, 9464
JUAN LOPEZ, 7254
TUNG T. LY, 3465
LISA K. MACK, 9536
WILLIAM J. MAKELL, 6745
JOSEPH P. MALINAUSKAS, 1645
AUGUST T. MARTIN, 6627
CAROL L. MCCARTHER, 8206
THOMAS W. MCDEVITT, 4910
STEVEN P. MCGEE, 9864
PATRICK W. MCMAHON, 5758
JASON A. MERRIWEATHER, 1212
JAMES F. MILLER, 6437
JAMES W. MITCHELL, 1953
KEVIN G. MORGAN, 3889
PATRICK J. MURPHY, 4093
NICOLE S. NANCARROW, 2108
RANDALL J. NAVARRO, 3988
JACK C. NEVE, 2871
ANTHONY J. NYGRA, 9006
ROBERT R. OATMAN, 3261
STEPHEN H. OBER, 8546
STEVEN F. OSGOOD, 0310
KEITH A. OVERSTREET, 4897
GEOFFREY D. OWEN, 3140
KIM J. PACSAI, 2821
JOHN K. PARK, 9448
EDWIN W. PARKINSON, 7735
VINCENT E. PATTERSON, 8433
KEVIN Y. PEKAREK, 3307
DARYL R. PELOQUIN, 5796
MATTHEW F. PERCIAK, 6792
CORNELL I. PERRY, 7094
MARK G. PHIPPS, 8278
ZACHARY H. PICKETT, 2955
KENNETH A. PIERRO, 6696
MICHAEL E. PLATT, 3176
NATHAN A. PODOLL, 7508
GARY K. POLASKI, 2160
RONALD P. POOLE, 6332
KENNETH U. POTOLICCHIO, 7762
STEVEN J. PRUYN, 5380
LEE S. PUTNAM, 9334
GREGORY M. RAINEY, 6693
JEFFREY K. RANDALL, 7612
SEAN P. REGAN, 7012
FRANCISCO S. REGO, 9178
JAMES M. REILLY, 9209
JOSHUA D. REYNOLDS, 0674
RODD M. RICKLEFS, 6519
RONALD L. RIEDINGER, 6390
JAMES V. ROCCO, 2868
STANLEY T. ROMANOWICZ, 5552
SHANNAN D. ROONEY, 9051
CHARLES A. ROSKAM, 3977
KILEY R. ROSS, 0559
AARON E. ROTH, 9026
WARREN J. RUSSELL, 5602
MATTHEW A. RYMER, 9954
KRISTINA E. SALICETI, 6117
CHRISTOPHER S. SCHUBERT, 2470
JAMES W. SEEMAN, 7067
EDWARD B. SHEPPARD, 3579
JOHN P. SHERLOCK, 6743
ARTHUR R. SHUMAN, 0528
MICHAEL J. SIMBULAN, 6792
DARELL SINGLETERRY, 3552
JEROME F. SINNAEVE, 1503
CHARLES G. SMITH, 9733
MATTHEW J. SMITH, 9753
ROBERT L. SMITH, 9066
STUART M. SOCKMAN, 9003
GREGORY STANCLIK, 0645
BION B. STEWART, 4651
ANTHONY A. STOBBE, 0824
PAUL M. STOCKLIN, 4098
CARRIE M. STOFFEL, 8350
CHRISTOPHER A. STRONG, 2306
CHARLES W. TENNEY, 3941
LAURA J. THOMPSON, 1781
THERESA L. TIERNEY, 6714
SHAWN C. TRIPP, 4929
NANCY J. TRUAX, 5567
ADAM J. TYNDALE, 0852
DANIEL D. UNRUH, 0015
JOSEPH G. UZMANN, 3423
MATTHEW R. WALKER, 1683
DANIEL P. WALSH, 5596
THOMAS F. WALSH, 6807
MICHELLE R. WEBBER, 8933
MICHAEL C. WESSEL, 1833
RICHARD J. WESTER, 0160
SHERMAN P. WHITMORE, 2290
GARY S. WILLIAMS, 3943
DONALD L. WINFIELD, 1051
CHARLES T. WRIGHT, 2712
JEFFREY V. YAROSH, 7292
MICHAEL E. YENSZ, 1753
CHERIAN ZACHARIAH, 6501
MICHAEL B. ZAMPERINI, 8558

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

TOM R. MACKENZIE, 6051
TERRENCE D. WRIGHT, 6529

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

STEPHEN M. ACKMAN, 4515
CAROLINE F. ADAMS, 1763
DANIEL J. AHERN, 3076
CHARLES A. ALBRECHT, 5351
JOSEPH W. ALDRIDGE, 0046
BLAIR C. ALEXANDER, 4169
NESTOR A. ALIGA, 8876
DANIEL L. ALLEN, 7789
SHARON D. ALLEN, 6590
MICHELE H. ALTIERI, 3384
JACK M. ANDERSON, 0251
MARK E. ANDERSON, 1801
MYRON L. ANDERSON, 6238
JOHN K. ANDREW II, 6372
DOUGLAS P. ANSON, 7118
JOSEPH F. ARATA, 9930
BOBBY C. ARMSTRONG JR., 2621
MELAYNE E. ARNOLD, 6012
STUART D. ARTMAN, 9842
MICHAEL L. ASHLEY, 7790
WILLIAM A. AYERS JR., 9443
ARTHUR T. AYLWARD JR., 0130
WAYNE P. BAIR, 2416
JOSE A. BANCHS, 6000
CHARLES D. BANFI JR., 9025
JOEL W. BARBER, 3526
KENNETH P. BARDEN JR., 4915
CORINNE E. BARDGETT, 6961
CRAIG A. BARGFREDE, 6779
STEPHEN W. BARKSDALE, 9256
MICHAEL L. BARNES, 8057
GREGORY W. BATTS, 5277
TRAVIS G. BEESON, 3200
WILLIAM J. BEISWENGER JR., 3520
MICHAEL J. BENDICH, 2134
DAVID H. BENNETT, 4992
SUSAN G. BERG, 8182
THOMAS M. BERGER, 3038
MARK E. BERGMAN, 6911
HAROLD A. R. BERLOTH, 5000
ALTON G. BERRY, 6864
GREGORY L. BERRY, 5780
BRIAN K. BERSCH, 1123

JOEL E. BEST, 3594
EMILIO C. BIANCHI, 7005
CAROLE R. BISHOP, 9641
MICHAEL P. BISHOP, 9293
WILLIAM R. BISHOP, 2266
JOHN R. BIVENS, 9004
TADEUS A. BLACH, 3563
JACK M. BLACK, 4819
THOMAS R. BLACKERBY, 9863
IRVIN R. BLACKMON, 1709
GEORGE C. BLACKWELL JR., 4174
DELMER F. BLANKENHAGEN, 6171
DIANA L. BODNER, 7840
PAUL D. BOGGS, 2919
MARGARET W. BOOR, 5608
VERNON R. BORN, 8657
CHARLES A. BORSAVAGE, 8870
MICHAEL BOSMA, 7693
WILLIAM E. BRADLEY, 6842
DARREL R. BRANHAGEN, 5762
ROBERT L. BRAY, 5257
EDWARD S. BRENNAN, 9432
SIDNEY O. BREWER, 8536
DAVID L. BRIGHTMAN, 8496
GEORGE A. BRINEGAR, 1418
DANIEL B. BRITT, 1030
TIMOTHY B. BRITT, 3761
DAWN S. S. BROOKSGALLAHAN, 1996
DEAN W. BROWN, 5689
JAMES K. BROWN JR., 4981
WILLIAM J. BRUNKHORST, 8996
ALBERT BRUNSON, 1740
GLENN A. BRUNSON, 1855
THOMAS A. BRUSEGAARD, 2592
JOHN E. BRYAN, 9765
ROBERT D. BUNDRICK, 6853
PHILLIP R. BURGESS, 5581
JOHN A. BURKHART JR., 5203
CURTIS R. BURNS, 5560
MIKEL J. BURROUGHS, 2321
DALE A. BURTYK, 4498
BRIAN M. BUXTON, 0859
WILLIAM E. BYNUM III, 5733
ROBIN K. BYROM, 4473
MARK D. CALVO, 1098
DAVID B. CAMERON, 4734
GUY F. CAMPION, 0861
LAWRENCE A. CANNON, 0394
TIMOTHY S. CARLIN, 7023
MICHAEL L. CARMIN, 4323
LESLIE J. CARROLL, 6182
ROBERT W. CASE, 7569
MARY C. CASEY, 0591
EDWARD J. CASH, 0935
LARRY W. CHAMBERS, 5310
SCOTT E. CHAMBERS, 9415
CARL L. CHAPPELL JR., 2949
MICHAEL A. CHESNEY, 6896
JOE E. CHESNUT JR., 4931
ROBERT E. CHEVAS, 6342
DON A. CHIRI, 1630
FRANK A. CIPOLLA, 8710
TIMOTHY P. CLAPP, 6265
BLANE CLARK, 3177
JAMES K. CLAY, 3474
JAMES A. CLERIHEW, 3716
ROBERT P. CLINEBELL, 9841
STEPHEN M. CLOWSER, 6501
JANET L. COBB, 8029
ROBERT A. COBB, 6032
ROBERT C. COCHRAN, 5059
ANDREAS K. COFER, 1063
SAMUEL J. COLELLA, 5986
CURTIS C. COLLIER, 3782
KEVIN J. COLLINS, 8396
WILFREDO COLON, 2761
GARY G. CONLON, 8649
ADELE O. CONNELL, 0523
JACK R. COOK JR., 9281
PENELOPE L. COOK, 8714
JOSEPH E. COOLEY, 9264
NANCY L. COOPER, 2939
ROWLAND COOPER, 4062
LARRY D. COPELIN, 9103
DON S. CORNETT JR., 5558
VICTOR M. CORREA, 5596
GREGORY E. COUCH, 8914
ANDRE N. COULOMBE, 4079
GEORGE W. COVERT JR., 3229
JAMES M. COYNE, 7376
TEDDY C. CRANFORD, 7303
DON CROSBY, 2324
RICHARD C. CROTTY, 1445
CAROL R. CROUCH, 0569
RANDY B. CROWDER, 0224
NOEL D. CULBERT, 9316
GEORGE B. CULPEPPER, 9616
DONALD J. CURRIER, 7723
LARRY W. CURTIS, 9891
ROBERT J. CURTIS, 2696
MICHAEL A. DANGERFIELD, 0903
JOE C. DANIEL, 0715
ANTHONY J. DAQUILA, 0150
GEORGE H. DAVIS JR., 5795
GLORIA E. DAVIS, 1593
GORDON M. DAVIS, 2027
DAVID I. DAWLEY, 0695
KENNETH M. DAY, 0692
GENE M. DEAL, 7252
ANDRE J. DEBOSE, 8180
RAYMOND DENISEWICH, 3013
JAMES W. DETTMAN, 3831
PAUL DEVINCENZO, 0589
PAUL F. DICKER, 2596
GLEN R. DIEHL, 9774
CARL D. DIETZ, 4495
ERNEST M. DILWORTH, 6603
CARL J. DISALVATORE, 4930
LOUIS F. DISANTO, 0467
RODNEY P. DIXON, 4420
CHAUNCEY D. DOCKINS, 1406
DOUGLAS A. DODS, 3160
GUILLERMO V. DOMINGUEZ, 9136
TIMOTHY J. DORN, 1440
JEFFRY E. DORNEY, 9691
RONALD E. DORVILLE, 8896
JUDY D. DOUGHERTY, 1804
KEVIN A. DOXEY, 3175
PETER S. DUKLIS JR., 3582
FRANK W. DULFER, 6930
DAVID T. DUNN, 3756
FRANK W. DUNN SR., 9820
GRACUS K. DUNN, 9946
JOSEPH M. DUREN, 5630
KENT J. DURING, 2945
EDWARD R. DWAN, 3215
JAMES M. DYE JR., 0792
DOUGLAS B. EARHART, 0425
ROCKY G. EASTER, 4625
SHEILA M. EDWARDS, 5279
HAROLD R. ELLENS, 1015
CARL A. ELLSWORTH, 3608
WILLIAM L. ENYART JR., 0507
THOMAS L. ESKER, 8643
DAVID M. EVANS, 7704
THOMAS J. EVELYN, 1240
WILLIAM J. FALLON, 8433
PETER A. FAST, 7939
MICHAEL H. FEEHAN, 6467
STEVEN J. FELDMANN, 7713
JOHN J. FERENCE, 3199
REBECCA L. FERNANDEZ, 8364
THOMAS E. FERNANDEZ, 2229
JOSE A. FERNANDEZRUIZ, 5479
KEVIN J. FINNEGAN, 3034
RENEE T. FINNEGAN, 5504
NORA V. FISHER, 0620
PHILIP R. FISHER, 9702
DAVID W. FITZGERALD, 7270
WILLIAM F. FITZPATRICK, 5226
DARRELL N. FLANNERY, 6009
ROBERTA A. FLATH, 4433
ELIZABETH W. FLEMING, 1756
MYRON M. FONSECA, 1779
ROBERT S. FORBES, 8075
JOHN P. FOREMAN, 9691
JOHN H. FOSTER JR., 0770
VINCENT L. FOULK, 3658
WALTER E. FOUNTAIN, 8380
FREDERICK R. FOWLER, 8332
KARL F. FRANTZ, 9718
GEOFFREY A. FREEMAN, 6430
SAMUEL L. FRIAR, 1002
ARTHUR R. FRIEDMAN, 7218
RORY T. FROEHLICH, 9092
TED C. FULTZ, 3088
RAYMOND H. GAIER III, 7964
ROBERT GAY, 0597
RICHARD GEORGI, 9707
PAUL F. GERBERS, 3838
WILLIAM H. GERETY, 3610
CELESTE GERLACH, 1963
DAVID K. GILBERT, 5113
STEVEN J. GILLINGHAM, 1628
LAWRENCE F. GIUSTI, 3955
JOHN L. GLATZ, 1715
RAYMOND J. GODLESKI JR., 7139
DAVID C. GOETSCH, 6545
PETER S. GOLDBERG, 0803
PETER A. GOLDING, 1887
WANDA L. GOOD, 9777
BRIAN W. GOODWIN, 9628
THOMAS A. GOONAN, 9184
JOSE A. GOTAY, 4473
VINCENT R. GRACE, 1752
JAMES L. GREEN, 0738
PAUL T. GREEN, 9871
ROBERT B. GREEN, 7466
JOHN H. GREENWADE, 8463
DONALD H. GREENWOOD, 3468
BONNIE J. GRIFFIS, 1804
ANDREW C. GRIMES JR., 9908
LAWRENCE E. GRIMES, 3784
HERBERT S. GROGAN, 2218
MONA A. GRUPP, 7315
DAVID K. GUIER, 9045
TIMOTHY A. GUSS, 0048
MELANIE M. GUTJAHR, 5365
SIGFREDO. GUZMAN, 5781
ERIC G. HAERTEL, 0342
KENT A. HALBERSTADT, 3733
JIMMY C. HALFACRE, 7218
STEPHEN E. HAMBRECHT, 4338
AUDIE V. HAMRICK JR., 1592
JAMES F. HANKINS, 7502
JOHN C. HANLEY, 5258
STEPHANIE E. HAP, 6712
GARY A. HARBER, 2660
DAYRA E. HARBISON, 9205
ROBERT C. HARGREAVES, 5576
PATRICIA A. HARNEY, 1972
GARY P. HARPER, 0465
MARK D. HARRELL, 6308
JAMES M. HARRINGTON, 1531
KATHALEEN F. HARRIS, 7073
STEVEN L. HARTMAN, 4594
THOMAS D. HASBROOK, 3678
CHRISTOPHER J. HASER, 1030
CHARLES H. HASH, 2567
KENNETH E. HASSLER, 8864
JACK P. HAUSEN, 9498
PAUL A. HAVELES, 8048
CURTIS M. HELLENBRAND, 9780
FORREST B. HENDRICK, 0020
JOSEPH F. HENNEKEY, 0016
WALTER C. HERIN JR., 2041
PATRICIA A. HERITSCH, 0941
JOSEPH L. HERMON, 9246
JULIE A. HERNANDEZ, 3338
MARK R. HERTEL, 3478
JAMES M. HESSON JR., 1748
TODD R. HIGGINS, 0425
DANNY R. HILL, 4091
FRANK G. HILL, 0213
CLARENCE HILTON, 9026
JUDITH M. HOHMANN, 1653
DAVID R. HOLTGRIEVE, 2510
CHARLES E. HOLWERDA, 4081
THOMAS D. HOOK, 0349
JAY J. HOOPER, 8822
JAMES T. HORNSTEIN, 1288
RAYMOND T. HOROHO, 3949
VANCE B. HORTON JR., 4878
JONATHAN M. HOUSE, 0784
STEVEN P. HUBER, 6817
DENNIS C. HUEBSCHMAN, 3475
RONALD W. HUFF, 0594
GERALD S. HUGHES, 7173
PAUL F. HULSLANDER, 4233
PAUL D. HUMPHRIES, 7929
JAMES W. HUNT, 5826
BENJAMIN T. HUSSEY JR., 6654
CHARLES A. IADIMARCO, 5681
DONALD S. IANNAZZI, 6426
HENRY J. IARRUSSO, 1776
ETHEL M. IFFLANDER, 6832
HERBERT A. IRISH, 7437
DAVID F. IRWIN, 3872
MIGUEL A. ISAAC, 7866
JONATHAN G. IVES, 0180
BILLY I. JACKSON, 4154
HARRY T. JACKSON, 1322
JANNETT N. JACKSON, 9561
JEANINE E. JACKSON, 7232
PAMELA D. JACKSON, 6203
BRUCE A. JAHNKE, 9668
BRIAN N. JALBERT, 9555
CRAIG N. JENKINS, 4819
KAREN L. JENNINGS, 5203
CRAIG D. JOHNSON, 4878
GEORGE H. JOHNSON, 0687
GEORGE O. JOHNSON, 8231
CHARLES T. JONES, 3393
DARRELL W. JONES, 2555
KENNETH D. JONES, 0249
PHILIP D. JONES, 9316
ROBERT M. JONES, 4273
BRENT R. JORGENSON, 4690
MITCHELL W. JOSH, 1520
MELVIN N. KAKU, 7767
THOMAS G. KANE, 6929
WILLIAM A. KASTEN, 7350
KATHERINE P. KASUN, 4482
MARK J. KATKOW, 7600
LARRY D. KAY, 2871
PAUL R. KEMPAINEN, 5283
DONALD E. KENNEDY, 3357
KERRY M. KENNEDY, 6760
ROBERT W. KENYON, 3810
WILLIAM H. KERN, 6586
CAROL A. KERR, 4638
SCOTT W. KERR, 7586
ALLEN J. KESSEL, 5800
GOPAL S. KHALSA, 2591
ROBERT G. KILBER, 6047
KERRY L. KIMBLE, 1033
GREGORY L. KING, 4132
CARL F. KIST, 9473
KENNETH KITAHARA, 9188
STEPHEN R. KLASINSKI, 6574
RICHARD D. KNAPP, 3964
MICHAEL S. KNEELAND, 8883
KEVIN J. KNEY JR., 7032
BARBARA J. KOLL, 9344
ARTHUR D. KOPPERSMITH, 1321
ROBERT S. KORPANTY, 0200
ALEXANDER I. KOZLOV, 0109
KATHLEEN A. KRAMER, 1409
DONALD L. KREBS, 1296
ALAN W. KREZECZOWSKI, 8295
ELENA KUSKY, 9428
DAVID W. LACROIX, 4522
GERALD LAGO, 8860
CHRISTOPHER W. LAI, 8880
KIRK D. LAMB, 8894
WORNEST E. LAMBERT, 0002
RANDALL W. LAMBRECHT, 0129
THEODORE R. LAMMOT IV, 2571
DUNNICA O. LAMPTON, 2856
MARTIN J. LANGAN, 9296
DAVID N. LANGLEY, 0745
PEDRO J. LANZO, 4960
BRIAN J. LARSON, 2251
THOMAS G. LAWRACY, 0520
JAMES E. LAWRENCE, 3066
JAMES H. LAWSON, 9513

DAVID E. LECKRONE, 2761
ALAN J. LECLAIR, 1956
JON D. LEE, 4843
JUSTIN E. N. LEE, 4529
DONALD C. LEINS, 4652
JOHN A. LENDRUM, 7216
MICHAEL R. LIECHTY, 3498
JEFFREY J. LIETHEN, 9185
MARION W. LILES, 1018
LEONARD LIVOTE, 2071
MARK E. LOGAN, 4413
JON E. LOPEY, 2887
PHILIP R. LOSCHIAVO, 1188
JEFFREY A. LOUDERMILK, 3538
STEVEN B. LOVE, 4163
CARROLL LUCAS, 7707
GWEN B. LYLE, 8222
DONALD C. LYNDE, 5967
MICHAEL J. LYONS, 8164
GEORGE E. MACDONALD JR., 9450
GORDON J. MACKENZIE JR., 7566
TOM R. MACKENZIE, 6051
DANIEL E. MAGILL, 8666
GARY A. MAJOR, 8087
MATTHEW S. MANEY, 9034
WILLIAM M. MARCHAND, 6667
MARCO A. MARIN, 5218
ANTHONY S. MARRACCINO, 3842
ROBERT T. MARSH, 2154
CHARLES E. MARSHALL, 4303
CHARLES D. MARTIN, 0988
CLARENCE R. MARTIN JR., 5548
ROBERT K. MARTIN, 1182
WESLEY M. MARTIN II, 9756
JAMES D. MARZE, 9984
JACQUELINE MASON, 8808
TIMOTHY J. MASON, 5202
SERGIO M. MATURINO, 5195
ROGER S. MATZKIND, 8890
JOHN F. MAUL, 1176
GEORGE P. MAXEY, 9964
WILLIAM R. MAY, 4506
CHRISTOPHER T. MAYER, 6772
CHARLES E. MAYO, 8296
KEVIN J. MCALEESE, 4503
DAVID G. MCALPIN, 6494
TERENCE J. MCARDLE, 4369
KATHY L. MCCAIN, 7176
ROGER L. MCCLELLAN, 1876
DENNIS J. MCGLONE, 1264
MARK A. MCKEE, 1672
BOBBY L. MCKINNON JR., 9108
ALEXANDER G. MCLAREN, 0077
RONALD D. MCNEIL, 4158
MARTHA A. MCRAVINOLIVER, 0802
DANNY L. MEADOR, 4498
MICHAEL M. MEDENIS, 2339
ANASTACIO MEDINA JR., 3440
GARY A. MEDVIGY, 3114
WILLIAM C. MEILI, 5916
VIVIAN R. MENYHERT, 0527
MITFORD H. MERRITT JR., 2976
DAVID D. METCALF, 4849
GREGORY E. MEYER, 9001
MARK S. MILLARD, 6080
BRIAN R. E. MILLER, 4621
CHARLOTTE L. MILLER, 1150
JON J. MILLER, 6312
KENT L. MILLIKEN, 3544
HECTOR MIRABILE, 8102
GUILLERMO MIRANDA, 7212
ERIN M. MISNER, 7988
DAVID T. MITCHELL JR., 6476
WALTER R. MITCHELL, 2877
PAULETTE A. MITTELSTEDT, 4676
THOMAS P. MOLLOY, 5719
PAUL E. MONDA, 3689
RODNEY D. MONTANG, 5497
JEFFREY W. MONTGOMERY, 0794
DAVID R. MOONEY, 8999
JAMES C. MOORE, 1511
ROBERT W. MOOTY, 8111
BRYAN E. MORGAN, 4504
MARIE R. MORIN, 0137
ALBERT W. MORRIS, 1435
THOMAS C. MORTENSON, 6294
RICHARD A. MORTON, 9810
DOUGLAS F. MOW JR., 0196
JOHN C. MURPHY, 8158
MARGARET A. T. MURPHY, 8811
MANDI A. MURRAY, 7323
SYLVESTER C. MURRAY, 0870
THOMAS P. MURRAY, 2190
JOHN D. MUSE, 5665
ALPHONSE M. NACLERIO, 4979
MATTHEW N. NAGASAKO, 1557
REBECCA L. NEILSON, 2433
GILBERT A. NELSON, 0316
JEFFREY M. NELSON, 9798
ROBERT E. NELSON, 0436
MICHAEL R. NEVIN, 0524
ALPHONZO L. NEWBY, 0227
SAMUEL T. NICHOLS JR., 8581
JAMES M. NICKELL, 7286
WARD S. NIHISER, 3854
ROBERT J. J. NISBET, 0820
NORMA J. NIXON, 2290
DANNY G. NOBLES, 8306
CARL R. NOLTE, 1298
ROBERT W. NOONAN, 9422
MARY R. NORRIS, 2758
DONALD W. NORTH, 3017
ALICIA L. NYLAND, 6443
DAVID C. OCHS, 6650
LOREN S. OELKERS, 1096
MICHAEL E. OHARE, 1707
LANCE Y. OKIHARA, 6527
CURTIS J. OLACHEA, 9827
GERALD A. OLSON, 7160
JACK D. OLSON, 3649
SCOT T. OLSON, 3259
THERESA J. OLSON, 2156
JOSEPH M. OLSZOWY, 3541
MARTIN J. ONEILL, 8261
VINCENT P. OPPENHEIM, 7484
RICHARD E. ORR, 8105
BASTIAN W. OSKAM, 5340
MARK G. OSWALD, 3103
TIMON M. OUJIRI, 9280
JAMES OWENS, 5143
ROBIN K. OWENS, 8313
WILLIE R. PALMER, 5551
OCTAVIA L. PARKER, 8372
RICKY D. PARKER, 6715
BRADFORD J. PARSONS, 7681
ANTHONY PATERNOSTRO, 5064
MARITA M. PATTERSON, 9013
DWIGHT C. PATTON, 5750
MARY T. PEARL, 7291
GARY E. PELCAK, 0577
JOSEPH P. PEROVICH, 2955
BRIAN D. PERRY SR., 1363
KATHY J. N. PERRY, 3287
BERNADETTE E. PETERS, 2077
HARRY E. PETERS, 6905
RODNEY R. PETERSON, 0822
RONALD D. PETERSON, 4768
SUSAN C. PETTY, 8189
JERRY L. PHILLABAUM, 9877
CHARLES W. PHILLIPS, 1854
GREGORY PHILLIPS, 0488
JEFFREY E. PHILLIPS, 7408
JOSEPH J. PHILLIPS, 2274
TIMOTHY S. PHILLIPS, 8483
JOSEPH A. PIASTA II, 5974
ROBERT L. PITTS, 2480
LUCAS N. POLAKOWSKI, 2194
JERRY M. POWERS, 7752
DAVID M. PRATT, 5741
ROBERT J. PRATT, 5450
HELEN L. PREWITT, 6473
DAVID A. PRICE, 3220
JOSEPH A. PRICE, 1322
RAYMOND M. PRUETT, 8568
DANIEL G. PUHL, 1868
LESLIE A. PURSER, 4750
DAVID W. PUSTER, 7473
ROBERT T. RAFFEL, 0671
PAUL M. RAGARD, 7627
JESUS G. RAMIREZ JR., 5036
ANNE M. RAMOS, 9073
LAWRENCE L. RANDLE, 6787
JOHN W. RANDOLPH, 8249
BILLY M. REIMER, 7177
PATRICK J. REINERT, 9733
WESLEY K. REMER, 2372
BRUCE A. RESNAK, 0215
HEINRICH J. REYES, 1630
ORLANDO REYESRENTAS, 5395
KEITH W. RICHARD, 7834
JOHNNY L. RICHARDS, 3706
JOSEPH M. RICHIE, 7494
THEODORE P. RIGO, 2651
RONALD C. RILEY, 1688
RAYMOND E. RIPPEL, 1652
GREGORY A. RITCH, 8704
WILLIAM E. ROCHELLE, 4113
PITMAN C. ROCK JR., 9817
PAMELA J. RODRIGUEZ, 5596
ALAN D. ROGERS, 6906
CAROL J. ROGERS, 6263
LARRY D. ROGERS, 1519
LUIS R. ROLDAN, 6828
FRANKLIN D. ROOSE, 1587
PHILIP L. ROSER, 5374
DANNY R. ROSS, 8970
MARK H. ROUSSEAU, 3255
ALICIA C. RUCKER, 6925
GREGORY L. RUNYON, 6313
MILLARD C. RUSHING, 2821
PAUL S. RUSINKO, 5865
JEFFREY W. RUSSELL, 2931
JOHN T. RUSSELL, 8991
JOHN A. RUSSO, 4985
ENGLISH R. RYAN, 0273
JOHN F. SACKETT, 3191
BOBBY L. SAILORS, 4525
HUGO E. SALAZAR, 4820
DENNIS D. SALTZMAN, 6720
ANTHONY M. SANCHEZ, 7947
KENNETH A. SANCHEZ, 0962
GUY L. SANDSPINGOT, 0651
ANGEL SANTIAGOTORRES, 9875
LUIS G. SANTONI, 5236
THOMAS N. SCHELLINGERHOUT, 0353
RICHARD L. SCHOEFF, 8858
DANIEL I. SCHULTZ, 4371
DANELLE L. SCOTKA, 4570
JAMES C. SCOTT JR., 6708
RICHARD R. SCOTT, 3632
WILLIE D. SCOTT JR., 2131
MARK D. SCRABA, 1485
VICKI L. SCRUGGS, 4153
CHARLES E. SEASTRUNK III, 5858
BRIAN J. SELIGA, 9270
WILLIAM L. SELLS JR., 8243
STEPHEN E. SEWELL, 5030
CHARLES F. SHAVER, 8726
DAVID F. SHAW, 2763
ROBERT G. SHAW, 4418
DEBORAH A. SHEA, 2620
LINDA L. SHEFFIELD, 5271
THADIOUS S. SHELLY, 6617
WILLIAM J. SHELTON, 9111
JOANNE F. SHERIDAN, 6142
RICHARD D. SHIELDS JR., 7186
MICHAEL V. SHUTE, 4069
LAURA L. SIEVERT, 7360
MICHAEL A. SIGMUND, 2655
CLIFFORD M. SILSBY, 7716
MELVIN SILVA, 3655
THOMAS W. SIMPSON, 2004
GLENN P. SINCLAIR, 3233
JAMES T. SIPES, 7983
JEROME SIRMANS, 0075
JOHN C. SKELLY III, 3853
DANIEL F. SLOAN, 2181
CARLON L. SMITH, 2375
CAROL S. SMITH, 6061
GEORGE R. SMITH III, 7233
JACK G. SMITH JR., 3311
JOHN J. SMITH JR., 2583
MARK A. SMITH, 9937
STERILLA A. SMITH, 0369
WILLIAM A. SMITH, 1272
TERRY K. SNOW, 5946
THOMAS A. SOBECKI, 1162
DALE K. SODERSTROM, 9774
MICHAEL E. SOJA, 3954
JOHN B. SOLAN, 7436
JOHN W. SONE, 4657
JESUS SOTO JR., 1556
DALE A. SOWELL, 5520
CHAD E. SPARKS, 9542
JEROME V. SPEARS, 7892
JAMES E. SPIESS, 7083
ROBERT M. SPILLERS, 7278
JOHN R. SPOTTS, 0336
CLAIR SCOTT J. ST, 1878
ROBERT F. STAAKE, 1081
CHARLES G. STEINMETZ IV, 5134
XAVIER STEWART, 3278
LARRY J. STICE, 8150
GEORGE L. STIGLER, 5005
DON S. STINSON, 8789
WILLIAM S. STIREWALT JR., 0313
LEE L. STOCKDALE, 0166
KENNETH C. STONE JR., 2378
MICHAEL E. STOUT, 3730
ANDREW K. STRAW, 8458
STANLEY M. STRICKLEN, 0565
JOHN K. STRUDWICK, 2437
JEFFREY L. STUART, 2770
JERRY E. SULLIVAN, 5187
ROBERT M. SUNDBERG, 4797
THOMAS C. SUPLER, 2944
RUSSEL S. SWANGER JR., 7116
LARRY J. SWARTZ, 1564
EDWARD SWEENEY, 9347
DONNA D. SWIFT, 8910
ROBERT C. A. SWISHER, 8746
JEFFREY J. SWOKOWSKI, 2474
DANIEL L. TACK, 6515
KEN H. TAKAYAMA, 4353
DANNY D. TALLENT, 9136
LEROY F. TARIO, 0477
RICHARD H. TAYLOR, 0330
ARTHUR N. TEAMERSON III, 4584
DEBRA R. TEMPLETON, 1381
GEORGE W. THOMAS, 7509
GLENDORA G. THOMAS, 7788
ROBERT F. THOMAS, 8008
TERRY A. THOMAS, 2116
ROGER M. W. THOMPSON, 4439
BOBBY C. THORNTON, 0446
KEITH C. TIEDKE, 5686
JAMES R. TILLEY, 1819
MICHAEL G. TOBIN, 2053
BRIAN S. TOLLIE, 1436
CHARLES K. TORRENCE, 1092
MITCHELL E. TORYANSKI, 7995
JOHN C. TRAYLOR, 8930
PAUL E. TRESSA JR., 3749
TIMOTHY R. TRIBBLE, 3291
GARY M. TRIPP, 6225
MICHAEL J. TROMBETTA, 2104
DAVID J. TRZASKOS, 4903
ANDRE M. TYLER, 2309
JAMES D. TYRE, 5914
STEVEN VANDERHOOF, 6893
DANIEL VARGAS, 4348
GERMAN J. VELEZ, 3306
ERIC C. VERBER, 6063
NEIL A. VESTERMARK, 1447
MILTON N. VICKERS, 0473
LUIS R. VISOT, 5465
PAUL H. VIVIAN, 7275
HARDEN D. VOLLMER, 1079
FREDDIE R. WAGGONER, 6585
RICHARD D. WAKEFIELD, 6425
ROBERT J. WALCOTT JR., 3857
DERYL V. WALL, 6993
DOUGLAS W. WALLACE, 3712
MICHAEL F. WALLACE, 4756
JAMES T. WALTON, 6639
DOUGLAS C. WARD, 2845

DWIGHT A. WARREN. 6143
FELTON WATKINS III. 4299
KIMBERLY A. WEAVER. 0966
PHILIP S. WEAVER. 4269
KENNETH W. WEBB. 9702
JOHN L. WEED. 6442
JOHN E. WEISGERBER. 9191
JERROLD D. WEISSINGER. 6591
TIMOTHY J. WELCH. 4101
MARK J. WELKER. 3593
IRENE N. WHEELWRIGHT. 8610
LEWIS M. WHISONANT. 5844
DAVID S. WHITE. 8929
PATRICIA R. WHITTINGTON. 8729
ANDREW T. WIENER. 6807
WILLIAM F. WILBANKS. 5097
BARRY J. WILLIAMS. 8187
FRANK P. WILLINGHAM. 3490
IVA E. WILSONBURKE. 1454
HENRY W. WILSON. 6927
WILLIAM T. WILSON. 3466
KENNETH E. WINDHAM. 8014
WILLIAM R. WING. 6111
CEDRIC F. WINGATE. 1373
DUANE L. WITTENBURG. 4615
DONALD L. WODASH. 6296
DANIEL J. WOLFE. 0037
STEPHEN A. WOMACK. 5084
ERIC WONG. 5970
BRADLEY W. WOOD. 2038
DONNA S. A. WOODBY. 2424
RAY C. WOOLERY. 2130
DAVID G. WRENN. 3332
JAMES H. WRIGHT. 1208
KIM R. WRIGHT. 9500
CRAIG S. WROBLEWSKI. 8996
STEVEN E. WUJCIAK. 1611
GEORGE A. YANTHIS. 5026
KAREN L. YATTO. 9869
RUDY L. YORK. 4289
CLEMENT W. YOUNG. 1377
JAMES G. YOUNG JR.. 2949
PETER D. ZAMARCHI. 6195
JOSEPH M. ZIMA. 7385

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10. U.S.C.. SECTION 624:

To be commander

PHILLIP K. PALL. 0487

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10. U.S.C.. SECTION 624:

To be commander

STEPHANIE L. O'NEAL. 6577

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10. U.S.C.. SECTION 624:

To be commander

THOMAS P. ROSDAHL. 9487

DEPARTMENT OF THE TREASURY

RAYMOND T. WAGNER. JR.. OF MISSOURI. TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 14. 2004. VICE GEORGE L. FARR.

NATIONAL SCIENCE FOUNDATION

ELIZABETH HOFFMAN. OF COLORADO. TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD. NATIONAL SCIENCE FOUNDATION: FOR A TERM EXPIRING MAY 10. 2008. VICE STANLEY VINCENT JASKOLSKI. TERM EXPIRED.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate November 12, 2002:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ALBERTO FAUSTINO TREVINO. OF CALIFORNIA. TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

CAROLYN Y. PEOPLES. OF MARYLAND. TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

SECURITIES INVESTOR PROTECTION CORPORATION

ARMANDO J. BUCELO. JR.. OF FLORIDA. TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31. 2002.

ARMANDO J. BUCELO. JR.. OF FLORIDA. TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31. 2005.

DEBORAH DOYLE MCWHINNEY. OF CALIFORNIA. TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31. 2004.

NATIONAL CONSUMER COOPERATIVE BANK

RAFAEL CUELLAR. OF NEW JERSEY. TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMER COOPERATIVE BANK FOR A TERM OF THREE YEARS.

MICHAEL SCOTT. OF NORTH CAROLINA. TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMER COOPERATIVE BANK FOR A TERM OF THREE YEARS.

FEDERAL DEPOSIT INSURANCE CORPORATION

JOHN M. REICH. OF VIRGINIA. TO BE VICE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION.

DEPARTMENT OF STATE

JOHN R. DAWSON. OF THE DISTRICT OF COLUMBIA. A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE. CLASS OF MINISTER-COUNSELOR. TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PERU.

GENE B. CHRISTY. OF TEXAS. A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE. CLASS OF MINISTER-COUNSELOR. TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM.

CHARLES AARON RAY. OF TEXAS. A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE. CLASS OF COUNSELOR. TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF CAMBODIA.

DAVID L. LYON. OF CALIFORNIA. A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE. CLASS OF MINISTER-COUNSELOR. TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF FIJI. AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NAURU. AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF TONGA. AND AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO TUVALU.

LINDA ELLEN WATT. OF FLORIDA. A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE. CLASS OF MINISTER-COUNSELOR. TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PANAMA.

RICHARD ALLAN ROTH. OF MICHIGAN. A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE. CLASS OF MINISTER-COUNSELOR. TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SENEGAL. AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUINEA-BISSAU.

ANTONIO O. GARZA. JR.. OF TEXAS. TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MEXICO.

JOSEPH HUGGINS. OF THE DISTRICT OF COLUMBIA. A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE. CLASS OF COUNSELOR. TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BOTSWANA.

GROVER JOSEPH REES. OF LOUISIANA. TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF EAST TIMOR.

ROBIN RENEE SANDERS. OF NEW YORK. A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE. CLASS OF COUNSELOR. TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CONGO.

FRANCIS X. TAYLOR. OF MARYLAND. TO BE DIRECTOR OF THE OFFICE OF FOREIGN MISSIONS. AND TO HAVE THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE.

FRANCIS X. TAYLOR. OF MARYLAND. TO BE AN ASSISTANT SECRETARY OF STATE (DIPLOMATIC SECURITY).

INTERNATIONAL MONETARY FUND

NANCY P. JACKLIN. OF NEW YORK. TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF TWO YEARS.

BROADCASTING BOARD OF GOVERNORS

SETH CROPSEY. OF THE DISTRICT OF COLUMBIA. TO BE DIRECTOR OF THE INTERNATIONAL BROADCASTING BUREAU. BROADCASTING BOARD OF GOVERNORS.

STEVEN J. SIMMONS. OF CONNECTICUT. TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 13. 2003.

JOAQUIN F. BLAYA. OF FLORIDA. TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13. 2005.

D. JEFFREY HIRSCHBERG. OF WISCONSIN. TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13. 2004.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

WENDY JEAN CHAMBERLIN. OF VIRGINIA. TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

OVERSEAS PRIVATE INVESTMENT CORPORATION

DIANE M. RUEBLING. OF CALIFORNIA. TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17. 2002.

C. WILLIAM SWANK. OF OHIO. TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17. 2002.

SAMUEL E. EBBESEN. OF THE VIRGIN ISLANDS. TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17. 2003.

NED L. SIEGEL. OF FLORIDA. TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17. 2003.

POSTAL RATE COMMISSION

TONY HAMMOND. OF VIRGINIA. TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 14. 2004.

RUTH Y. GOLDWAY. OF CALIFORNIA. TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE TERM EXPIRING NOVEMBER 22. 2008.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF DEFENSE

CHARLES S. ABELL. OF VIRGINIA. TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS.

DEPARTMENT OF JUSTICE

CAROL CHIEN-HUA LAM. OF CALIFORNIA. TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS.

GLENN T. SUDDABY. OF NEW YORK. TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS.

JOHNNY MACK BROWN. OF SOUTH CAROLINA. TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF SOUTH CAROLINA FOR THE TERM OF FOUR YEARS.

JOHN FRANCIS CLARK. OF VIRGINIA. TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF VIRGINIA FOR THE TERM OF FOUR YEARS.

ROBERT MAYNARD GRUBBS. OF MICHIGAN. TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF MICHIGAN FOR THE TERM OF FOUR YEARS.

JOSEPH R. GUCCIONE. OF NEW YORK. TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS.

HOUSE OF REPRESENTATIVES—*Wednesday, November 13, 2002*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SIMPSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 13, 2002.

I hereby appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

Dr. Jay Dennis, Senior Pastor, First Baptist Church at the Mall, Lakeland, Florida, offered the following prayer:

Our Heavenly Father, with issues facing this body that are historically significant, we pause to acknowledge You and to thank You. Thank You that our communication with You is a lifeline of hope. I ask Your hedge of protection, Your divine wisdom, and Your daily guidance upon each of these honorable men and women of the U.S. House of Representatives along with their families.

For our great country, we ask that You would hear our prayer for peace, protection, power over the enemies of freedom, and provision for our every need.

May Your plan become our purpose, may Your book become our guide, and may Your presence be our ever-encouraging assurance.

May You bless these Members indeed. May You increase their influence and opportunities to change the world and make it better, and may You keep them and the United States in the hollow of Your hand.

In Jesus' name, Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New Jersey (Mr. PALLONE) come forward and lead the House in the Pledge of Allegiance.

Mr. PALLONE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING DR. JAY DENNIS, SENIOR PASTOR, FIRST BAPTIST CHURCH AT THE MALL, LAKELAND, FLORIDA

(Mr. PUTNAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PUTNAM. Mr. Speaker, today's Guest Chaplain, Dr. Jay Dennis, is a constituent of mine serving the First Baptist Church at the Mall in Lakeland, Florida. I would like to take a moment to speak of his ministry, not only in central Florida, but around this Nation as well.

Throughout his tenure as pastor, Dr. Dennis' congregation has experienced extraordinary spiritual and physical growth, and has been identified by the Southern Baptist Theological Seminary as being among the top 4 percent of growing churches in America today. He is a gifted lecturer and author and broadcasts a daily radio and a weekly television show. Dr. Dennis is immediate past President of the Florida Baptist Convention.

But Dr. Dennis is in Washington on another matter today. In furtherance of their mission and ministry, Dr. Dennis and members of his congregation will be distributing a leather-bound study Bible to every Member of Congress, the Supreme Court and the administration.

We often speak in this Chamber about the dedication of individuals to their community and to their country. Dr. Dennis is making a difference in the lives of the people of central Florida and in so doing serves as an example for all of us to follow. I would like to take this moment to commend and thank Dr. Dennis on behalf of Congress for his ministry and commitment to the United States of America.

May God continue to bless and guide these United States, Mr. Speaker.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will receive 10 one-minute speeches on each side.

CONGRESS SHOULD FINISH ITS WORK

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, the Republicans are about to take up a CR that keeps the government going until January 11. What they are not saying is that they are abdicating their responsibility to govern.

The Republican leadership in Congress has achieved one of the worst legislative breakdowns in the Nation's history. Of the 13 fiscal year 2003 appropriations bills, Congress will complete before the end of this session only Defense and Military Construction. Everything else is being carried over until the next year.

A review of the past half century of legislative calendars shows nothing close to such nonfeasance. Even in 2000 when Congress approved 21 continuing resolutions before completing its work December 15, the House at least had passed each of the 13 appropriations bills.

What is happening now is we are simply abdicating our responsibility. The Republicans do not want to do anything. They simply want to wait until the new session of Congress. But the fact of the matter is that we have a responsibility to pass the budget, to pass the appropriations bills, to deal with them now, and to work between now in November as well as in December, not simply wait until the next session of Congress to address all of these issues.

REMEMBER THE MISSING AND EXPLOITED CHILDREN

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, I rise today to welcome our colleagues back and to remind everyone that while the media fervor of missing children has died down it does not mean that the cases have gone away.

It is my hope that we will continue in this body to focus and work on the issue of missing and exploited children. There is much that is going to be done. It is going to be years before we will address all of the problems that face children, so it will not be accomplished during this session or even the next Congress as well.

I would like to invite the new freshmen Members joining us to join the

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Congressional Caucus on Missing and Exploited Children. Children from every walk of life and every circumstance imaginable, stranger abduction, parental abduction, international abduction, runaways, and children being exploited, all deserve the attention we can give them.

Today as many of us return from the campaign trail where we have talked about our future and our children, I challenge my colleagues in Congress to move toward more proactive and helpful positions on missing kids, all missing kids.

HONORING THE ANAHEIM ANGELS FOR THEIR VICTORY IN THE 2002 WORLD SERIES

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, I rise today to congratulate the Anaheim Angels for winning the 2002 Major League Baseball World Series. I, for one, have been waiting for them to win this since 1966, the day I attended the first game when we built the Anaheim Stadium.

Under American League Manager of the Year Mike Scioscia, the Angels won a franchise record 99 games during the regular season on their way to the world championship. The Angels demonstrated their courage in a "never say die" attitude during their championship run, which included an incredible game number six of the World Series where they came five runs from behind to win and be in that World Series for the seventh game.

Although there were many outstanding individual contributions, it was the team's collective efforts that made the difference in the post season.

And I would like to recognize in particular the Rally Monkey for keeping the crowds excited and helping the Angels to come back and win time after time in the season.

With most of the players from this year's team returning next year, I bet we will win again.

PROVIDING FOR CONSIDERATION OF H.J. RES. 124, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2003, AND FOR CONSIDERATION OF H.R. 5708, REDUCING PREEXISTING PAYGO BALANCES

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 602 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 602

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 124) making further continuing appropriations for the fiscal year 2003, and for other purposes. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate on the joint resolution equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit.

SEC. 2. Upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5708) to reduce preexisting PAYGO balances, and for other purposes. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget; and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. Mr. Speaker, during consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 602 is a closed rule making in order the consideration of two measures. The rule provides that H.J. Res. 124 shall be debatable for 1 hour in the House with the time equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

The rule waives all points of order against consideration of H.J. Res. 124 and provides for one motion to recommit.

The rule further provides that H.R. 5708 shall be debateable for 1 hour in the House with the time equally divided and controlled by the chairman and ranking member of the Committee on the Budget. The rule waives all points of order against consideration of H.R. 5708 and provides for one motion to recommit.

Mr. Speaker, H.J. Res. 124 is a resolution providing continuing appropriations to fund ongoing activities of the Federal Government through January 11, 2003. It does not allow initiation of new activities and, with certain exceptions, the resolution continues activities under applicable fiscal year 2002 terms and conditions.

The resolution limits obligations on programs with high initial sped out rates so that the funding levels included in final appropriation actions will not be jeopardized. It continues authorizations for otherwise expiring programs and funding anomalies included in previous continuing resolutions and extends funding for the Temporary Assistance for Needy Families, or TANF, and related welfare programs.

Finally, H.J. Res. 124 provides authority to transfer up to $500 million to establish the new Department of Homeland Security and for unforeseen homeland security requirements. Such authority would expire on September 30, 2004.

Mr. Speaker, section 2 of this rule provides for consideration of a bill that removes balances on the Pay-As-You-Go, or PAYGO, scorecard for the current fiscal year. This legislation is necessary in order to avoid automatic across the board cuts in a number of mandatory programs after Congress adjourns for this year.

In past years, Congress has routinely voted on a bipartisan basis to pass similar legislation, and this rule simply will permit that to occur again. Failing to enact H.R. 5798 would force reductions in a number of programs including Medicare, Veterans Administration medical care, Indian Health Services, Migrant Health Centers, Community Health Centers, State Children's Health Insurance, Child Tax Credits, and the Commodity Credit Corporation, among others.

Mr. Speaker, the measures made in order under these rules are necessary to permit the vital functions of the Federal Government to continue without interruption until a new Congress convenes again in January. Accordingly, I encourage all of my colleagues to support both the rule and the two underlying measures.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Washington (Mr. HASTINGS) for yielding me time.

Mr. Speaker, I rise today in opposition to this rule and the underlying resolution. Tax cuts to well-off people in our country, environmental rollbacks by the dozen, awarding corporate irresponsibility and neglecting the needs of America's senior citizens and veterans are only a few of the highlights that the 107th Congress has to speak of. As one colleague put it yesterday, "It's been an awfully long day to do nothing."

Mr. Speaker, simply put, America has needs and today's continuing resolution does not meet them. The spirit in which the resolution is coming to the floor and the message that it sends is cut and run politics of the highest kind. There is a reason that this is called a Lame Duck Congress, because legislation like this is just lame.

As my colleagues know, today's CR funds the Federal budget until January 11, or thereabouts, 2003, without increasing spending in areas that we know we need increases.

☐ 1015

With a possible war with Iraq on the horizon, should not this body, which is led by the President's party, spend time figuring out a way to pay for a war that the President has been asking for and that many Members voted for?

In a few hours, many expect that the House and Senate will each pass a bill establishing a new Department of Homeland Security. Listen up America, one caveat though: we are not going to fund the new Department until, according to the CR, January 11, 2003, at the earliest.

Additionally, the CR does nothing to protect the thousands of Member projects that cities and counties and constituents are depending on, including projects in the appropriations bills that Congress has already passed, the two of them.

Finally, the CR provides no PAYGO provisions, thus solidifying what the minority has been saying for more than 1 year: good bye, surplus; hello, deficit spending.

To date, Congress has neglected its constitutionally mandated responsibility of funding the Federal Government and has passed, as I earlier stated, a meager two of the 13 appropriation bills; and now we want to go home.

Mr. Speaker, what about homeland security and our national defense? What about prescription drugs? What about Social Security? What about extending unemployment benefits? What about an energy bill? What about the veterans measures that are not passed? How many of those measures have gone by the board? What other health considerations are we not considering?

Long-term unemployment is at an 8-year high in this Nation, and nearly 2 million Americans have lost their jobs. Consumer confidence is at its lowest levels since mid-2001, and prescription drug prices are still sky high. Mr. Speaker, I do not have to look around for anybody about that. I have been dealing with my mom's failing stages of her health; and on two different occasions since we were in recess, I paid $983 for prescriptions, and all she has is Social Security and Medicare.

So, firsthand, I think we should do for the American citizens what is needed in the area of prescription drug prices. We leave seniors unable to afford their vital prescription medicine.

Think about it, the House took most of January off this year, all of August, most of October; and now we are poised to give ourselves a month-and-a-half Christmas vacation. The American people are not paying us to work 2- or 3-day work weeks, and they are certainly not paying us to work 8 out of 12 months.

Could my colleagues imagine if we tried to run a business this way? No wonder the American people have such dismal opinions of the Federal Government. When the going gets tough, the tough get out of town.

Mr. Speaker, we were elected by the American people to Congress to do a job. Evidence today and every other CR that the House has been forced to pass in the last month are not the way that we should be going.

I am convinced that the Republican leadership is really in the final analysis not interested in doing the job having to do with the things I spoke of earlier, or at the least doing them right. The leadership of this body for the most part is not going to change very much in the 108th Congress. Republicans are still going to be in the majority, and I congratulate my friends in that regard. And Democrats are going to still be in the minority. With or without recriminations, those that were elected and reelected are to be congratulated as well.

So why is the majority trying to go home when the work of the 107th Congress is not done? Perhaps the American people need to be asking the same question. Now is not the time to go home and leave today's problems for tomorrow's Congress.

The American people cannot run a budget like this in their house, and we should not be trying to run one like it in America's House.

Mr. Speaker, I urge my colleagues to oppose this rule and to reject the underlying resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I continue to reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 6 minutes to the gentleman from Wisconsin (Mr. OBEY), the distinguished ranking member of the Committee on Appropriations and my good friend.

Mr. OBEY. Mr. Speaker, this is a pitiful exercise. Its arrogance is matched only by its futility and its hypocrisy. I think we ought to recount what is happening here and how we got here.

Early last year, the majority party, at the insistence of the Committee on the Budget and the House Republican leadership, passed a budget which even their own Republican leadership on the Committee on Appropriations indicated fell at least $10 billion short of the amount that we would need to meet our own obligations on the domestic front for education, for transportation, for veterans' health care, for National Institutes of Health, homeland security, and a number of other items.

The Committee on Appropriations, after that budget resolution was passed, tried to operate under it and tried to bring a number of appropriation bills to the floor. They produced the Department of Defense bill, the military construction bill; and the committee met its obligations in those two areas.

But then, Mr. Speaker, it was prevented from bringing any other appropriation bills to conclusion by an internal fight within the Republican Caucus in this House. What happened is that the hard-line conservatives in the Republican Caucus told their leadership they would not vote for any domestic appropriation bill until the education appropriation bill was passed at a freeze level recommended by the President, which would have brought to a halt the previous increases that we had in the area of education, the increases that we had over the last 5 years that averaged over 13 percent.

The House Republican leadership forbade the Committee on Appropriations to bring appropriation bills to the floor. And they said, "Oh, no, we will deal with them after the August recess."

Well, the August recess came and went. We came back on Labor Day and then we were told, "No, we cannot pass any appropriations bills during this period either. We are going to have to lay it over until a lame-duck session after the election."

Mr. Speaker, now we are here in a lame-duck session, and now we are being told by this resolution that we are going to kick this down the trail and we are not going to come back until next year, which means that every single appropriation bill is going to have to be introduced anew and have to start from scratch. All that work gets wiped out. Why? Because the majority party has not decided how they want to handle these issues and because they have a lot of Members who want to go on congressional trips.

So now we are being told to forget our duty. But then there is an added wrinkle that is being brought to the floor here today. The appropriations Republican leadership has been begging the House leadership since June to give the Committee on Appropriations at least $8 billion to $10 billion more so we could meet our transportation and our education and our homeland security obligations. They have been denied that. The House Budget Committee has been saying, "Oh, oh, oh, the Committee on Appropriations, they want to be big spenders. We cannot give them the $10 billion."

But now what is happening under this rule? We are being asked to wipe out the PAYGO realities. That is an "inside baseball" term, but what it means essentially is that this Congress is going to add $30 billion more to the deficit because of that useless farm bill that passed earlier in the year and because of the tax cuts. So the very same people on the Budget Committee who are attacking the gentleman from Florida (Mr. YOUNG) as a big spender because he wants $8 billion to $10 billion more to finish the appropriations bills, the very same people are saying, "Oh, by the way, we cannot have that money; but by the way, we are going to blow $30 billion, and then we are going to wipe out the scorekeeping and pretend it did not happen."

Mr. Speaker, that is what we are being asked to vote for on this rule today and on the two bills that will follow.

Mr. Speaker, this is a pitiful performance. What a laugh. What a pity. What a joke. What a poor performance.

Mr. Speaker, I am going to vote against this rule, and I am going to vote against the bills that follow because they epitomize the absolute uselessness and fecklessness of this entire congressional session. They demonstrate that the one thing this House has learned to do better than anything else is to duck its responsibilities, and that is a shame.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 3 minutes to the gentleman from New Jersey (Mr. PALLONE), my good friend.

Mr. PALLONE. Mr. Speaker, this is the ultimate Republican do-nothing Congress. I woke up this morning, and I called the cloakroom; and I could not believe that they are going to simply pass a CR to carry the government over until January with the new Congress and not address all the pressing problems that we need to look at here.

First of all, think about the fact that we have a budget crisis. We have a budget deficit now, it was announced a few weeks ago, of $150 billion. The effect on the economy, the downward trend on the economy that this will contribute to is unbelievable. Now, as the gentleman from Wisconsin (Mr. OBEY) says, we may be adding another $30 billion to that because of the fact that we are wiping out these PAYGO provisions. So more deficits. We are in an economic downturn.

Mr. Speaker, what is the Republican Party going to do here? What is the Republican leadership going to do about the economic slow down? Are they going to deal with the fact that we have a higher unemployment rate, that a lot of people's benefits for unemployment will end sometime in December? Are they going to address that? Are they going to address the fact that seniors are crying out for a prescription drug benefit?

I read in the paper the other day that the President said he wants to address the need for a prescription drug benefit. Then why are we going home? Why are we not dealing with it? Why are we not figuring out how to pay for it?

The energy crisis. We face a major energy crisis. I understand a conference report on the energy bill has been filed. Is it going to be taken up today or tomorrow before we leave town?

Mr. Speaker, so many of these issues are not being tended to. The Republicans have only passed two appropriations bills, the Defense and Military Construction; and I do not mean to suggest that they are not important. Of course, they are very important because the President is saying that we may have to go to war against Iraq. But what about the budget consequences of that? Where is the money going to come from? Why are we not dealing with the budget in general and having some kind of budget conference where we sit down on a bipartisan basis between now and the end of the year and figure out how to pay for defense? How we are going to pay for these other important domestic issues?

Now, the Republican Party does not want to address it. They say, oh, we won the election so we will just wait until January. We will have a majority in both Houses, we will have the Presidency, and we will deal with it then. Mr. Speaker, it is a complete abdication of their responsibility, and it is not what they said during the course of the election when they said they were going to address these things.

We have another 6 or 7 weeks here when we could address these problems, both domestic and international; and it is terribly irresponsible for the Republicans to say, no, we are not going to do that; we are simply going to go home.

No one should be confused about what is going on here today. They are simply passing a continuing resolution so the government does not shut down, and coming back in January with the new Congress. That is completely unacceptable and irresponsible. This Congress under the Republican leadership, this House, has the worst legislative record in the whole history of the United States Congress, and this act today of trying to pass this rule just confirms it.

☐ 1030

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are in this extraordinary circumstance for a variety of reasons that we have talked about on the floor many times when we were debating prior continuing resolutions. Part of it, without trying to point fingers because that does not do us any good when we are trying to seek resolutions to point fingers, but nevertheless the fact is the other body has not completed a lot of work that is the basis for us trying to complete our work.

It has been mentioned over and over, but I think it is worth mentioning one more time that the House by law, in fact both the House and the Senate by law, is required to pass a budget in the spring. The House did that and did pass their budget. The Senate did not pass their budget at that time and they have not yet. Maybe there has been talk going back and forth trying to settle on a figure, a spending figure; but the way that it has always been done in the past is that one body passes a budget, the other body passes a budget; and if there is a difference, you work out the differences. That is part of the give and take in the legislative process. That simply did not happen this year. As a result, the appropriation process that follows really did not have a blueprint. That caused us problems all the way throughout.

In addition to that, there are a number of other important pieces of legislation that passed this body that, for a variety of reasons, for whatever, is hung up in the other body as we speak right now. So as a result, we are in this situation of then passing this CR to get us into the first week of the next Congress. By that time, and in fact there are probably ongoing discussions right now with the new majority in the Senate and the majority here in the House to come up with probably an omnibus appropriation bill that will pass and we will have that behind us as we go into the 108th Congress.

I might make an observation, that what we are doing here is not unprecedented. It is not probably the ideal way things should be done; but in 1980 there was a CR that was passed over until the next Congress, so it has been done in the past. The reason why we are in that situation, as I mentioned, is simply that we are facing unprecedented inaction in the Congress in the other body. For that reason, we have to pass these CRs.

Let us get on with our work.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I am sorry, but earlier in my discussions I understated the amount by which the deficit will be expanded with the approval of the Congress with the subsequent motion that will follow from this rule. It is not just $30 billion. I am told it is over $60 billion that will be added to the deficit from the base on mandatories.

MOTION TO ADJOURN

Mr. OBEY. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion to adjourn offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 24, nays 338, not voting 69, as follows:

[Roll No. 471]

YEAS—24

Bentsen
Berry
Capuano
Conyers
Coyne
Delahunt
Filner
Frank
Frost
Hastings (FL)
Hilliard
Honda
Jefferson
Johnson, E. B.
Kennedy (RI)
McDermott
Obey
Olver
Pallone
Slaughter
Stark
Towns
Velázquez
Woolsey

NAYS—338

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barcia
Barrett
Bartlett
Barton
Bass
Becerra
Bereuter
Berkley
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clyburn
Coble
Collins
Combest
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Deal
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Dooley
Doolittle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goss
Graham
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hostettler
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (IL)
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (NY)
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Napolitano
Nethercutt
Ney
Norwood
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Pascrell
Pastor
Paul
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Putnam
Quinn
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sánchez
Sanders
Sandlin
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS).
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—69

Abercrombie
Baldacci
Barr
Berman
Blagojevich
Boehner
Bonior
Brown (OH)
Burr
Callahan
Clay
Clement
Condit
Cooksey
Cubin
Davis, Tom
Dingell
Doyle
Dunn
Engel
Fattah
Fossella
Gilchrest
Gordon
Granger
Grucci
Gutierrez
Hansen
Hill
Hilleary
Hinchey
Hooley
Horn
Houghton
Hulshof
Johnson, Sam
Kleczka
Lipinski
Lynch
Maloney (CT)
Manzullo
Markey
McGovern
McKinney
Meehan
Meek (FL)
Miller, George
Murtha
Nadler
Neal
Northup
Owens
Oxley
Payne
Pryce (OH)
Radanovich
Rangel
Roukema
Sawyer
Saxton
Schaffer
Stearns
Stump
Tancredo
Taylor (NC)
Waters
Watkins (OK)
Weiner
Wexler

☐ 1101

Messrs. COMBEST, KENNEDY of Minnesota, CANNON, THOMPSON of California, FLAKE, BRADY of Texas, OTTER, CROWLEY, and BISHOP changed their vote from "yea" to "nay."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. MANZULLO. Mr. Speaker, on rollcall No. 471 the bells in my office failed to work. Had I been present, I would have voted "nay."

PROVIDING FOR CONSIDERATION OF H.J. RES. 124, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2003, AND FOR CONSIDERATION OF H.R. 5708, REDUCING PREEXISTING PAYGO BALANCES

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Texas (Mr. ARMEY), the distinguished majority leader, for the purpose of making an announcement.

(Mr. ARMEY asked and was given permission to speak out of order.)

LEGISLATIVE PROGRAM

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, on the subject of today's schedule, we are about 30 minutes away from completing our consideration of the CR and PAYGO rule. We would obviously have a vote if it is requested. We would then try to move on to the CR and complete that work. From that it would be our desire to take up the Homeland Security rule and move on to the Homeland Security bill. We would then do the PAYGO bill later today or possibly tomorrow.

But, Mr. Speaker, this is the key point I would like to call Members' attention to: I would like to advise Members that the House will recess from approximately 2 o'clock to 6 o'clock for the Republican organizational conference. As a consequence of the need to do so, I should mention that if we are unable to complete the Homeland Security bill before 2 o'clock p.m., we would be asking Members to resume business tonight at the completion of the Republican conference at approximately 6 o'clock this evening.

It is obviously, I think, probably a desire for most of us if we can expedite completion of Homeland Security by 2. It is my duty to advise Members as early as possible to consider their plans for tonight with respect to the possibility that we may be reconvening for business for the completion of Homeland Security's consideration tonight beginning at 6 o'clock.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, I thank the distinguished majority leader for presenting the schedule for today.

Mr. Speaker, is it the gentleman's view that we will have the PAYGO vote today as well, or will that vote be rolled until tomorrow?

Mr. ARMEY. Mr. Speaker, I appreciate the gentlewoman's request. It is essentially a matter of priority. Our first priority, obviously, is to complete the continuing resolution. We would put Homeland Security as a priority ahead of PAYGO. If we did not get PAYGO done today, we would do it tomorrow.

Ms. PELOSI. Mr. Speaker, if the gentleman will continue to yield, if we debated it today, is there a possibility that we would vote on it tomorrow, or has that decision been made?

Mr. ARMEY. Reclaiming my time, no, we have not made that decision. Frankly, we understand that Members do have points they would like to make. We would like to make sure that debate time is available to everybody with respect to these issues. We will be working our way around these two very important organizational conferences. The gentlewoman understands the importance of them.

Ms. PELOSI. Mr. Speaker, if the gentleman will continue to yield, I would ask the gentleman, Mr. Leader, could you inform us of the schedule for tomorrow, and would that be the last day of the session?

Mr. ARMEY. Mr. Speaker, we would be addressing any available conference reports tomorrow. We would try to complete our work by tomorrow night sometime. We do have some very good legislative opportunities in the presence of some of those conference reports. But I believe we will be in recess, and no votes would be requested during the Democrat organizational conference.

Ms. PELOSI. I understand that about today. But does the gentleman anticipate that we will be working through the weekend, or will the schedule end tomorrow?

Mr. ARMEY. Mr. Speaker, again, let me thank the gentlewoman for her inquiry. It is my anticipation that we would complete our work sometime tomorrow afternoon or evening. I do not anticipate working on the floor on Friday or the weekend.

However, again, let me just say, if we are all mindful of our own best interests and those of our colleagues and we try to be cooperative and move things along, obviously it will go better. We have some opportunities that are very important for the American people in the person of these conference reports, and we would not want to leave any behind. But I do not see that it is necessary for us to expect to work beyond Thursday night.

Ms. PELOSI. Mr. Speaker, if the distinguished gentleman could continue to yield, I would just like to say, Mr. Leader, that I have expressed to you over and over again my dismay that we have only passed two appropriations bills and that we have a tremendous amount of unfinished business before the Congress.

However, I will use my remaining time to say that from what you have said, this may be your last or among your last colloquies on the floor of this House; and I would like, as the minority whip, to commend you for your service to the Congress, to wish you well in your future endeavors, and to thank you for your many courtesies.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, as the distinguished gentleman knows, I have made an art form of giving you grief on the schedule, so I am going to continue to do that. Is it the gentleman's intention that once we adjourn for this week or weekend, that we do not come back until the next Congress? Is that the intention of the leadership?

Mr. ARMEY. That is our expectation.

Mr. BARTON of Texas. Once we get our work done this week, we are home for the holidays?

Mr. ARMEY. It is our expectation that with the Homeland Security, the continuing resolution, the other conference reports that we can foresee, there would be nothing of such urgency before the Nation to require us to come back before January 7.

Mr. BARTON of Texas. Mr. Speaker, I want to thank the gentleman for his excellent leadership and friendship and join all the others in wishing him well in whatever his future endeavors are.

Mr. ARMEY. Mr. Speaker, I thank the gentleman.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 4 minutes to the distinguished gentleman from Alaska (Mr. YOUNG), the chairman of the Committee on Transportation and Infrastructure.

Mr. YOUNG of Alaska. Mr. Speaker, I do not do this lightly. In my period of time being in the majority, I have never rose opposing a rule, so this is a very serious moment for me. I want my side to understand why I am doing this and this side to understand also why I am doing it, and suggest a "no" vote on this rule.

House Joint Resolution 124 will continue to keep in place a spending limit of $27.7 billion on Federal aid to highway programs. Last month I agreed to this limitation; but I was clear that if the continuing resolution ran beyond December 31, I would move to strike the language.

This continuing resolution runs until January 11, 2003. That does not sound like a long time. However, we cannot be certain that the Congress will move quickly to enact appropriation bills in January.

Mr. OBERSTAR. Mr. Speaker, the House is not in order.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman is correct.

Mr. YOUNG of Alaska. I am watching that side, and whoever is talking, you can forget any highway funds.

The SPEAKER pro tempore. The gentleman will suspend.

Would the Members on the minority side in the rear of the Chamber please remove your conversations from the floor so the gentleman can be heard.

Mr. YOUNG of Alaska. However, we cannot be certain that Congress will move quickly to enact appropriation bills in January. In fact, with reorganization activities and a new majority in the Senate, there is a high level of uncertainty about timing for the entire appropriation process.

Because of this uncertainty, it is imperative we absolutely be clear that the highway program will continue at the full enacted funding level of $31.8 billion, as it is cleared today. That is the level we are spending monies today, not $27.7 billion.

It is important to note that except for the highway program, this program, the one that affects every one of your districts, that this continuing resolution continues all activities under the fiscal year of 2002 funding levels, all activities. But they picked out the highway program. It is unfair to cut the highway programs in your district.

Now, Members should keep that in mind very closely when they cast their vote. Every dollar of the $31.8 billion funding level we support comes from the highway trust fund. It does not come from the general budget. It does not come from the general fund. It is the trust fund. It is the money of the users of the highways. It is funded by fuel taxes, it is paid by the highway users; and those highway funds should be used to sustain jobs and reduce congestion and improve our economy.

Mr. Speaker, I cannot for the life of me, I have talked to my appropriations brother, I have talked to the Speaker, I have talked to the majority leader, I have talked to the minority leader. I do not know where this is coming from. If this is coming from the White House, shame on them.

This is not their money, it is our money; and to this have this one program singled out is inappropriate. I have talked to the Committee on Rules chairman, and I talked to the Speaker, and I have talked to the leadership of this House; and I said this is not fair, we ought not to do this. Leave it at $31 billion, as it should be, come back and do the job right and not continue to nip at us. This is the fourth time we have done this.

I want to know who is responsible. Can anybody give me an idea where this is coming from? They cannot do that. I as the chairman of the committee and all of my 75 Members better understand one thing. If we leave it at $27 billion, you can keep one thing in mind: this is an attempt by this administration to use this trust fund money to try to use it for other uses in the budget instead of as highway funds. So for the first time, I am going to ask my people to vote "no" on this rule.

Mr. Speaker, I am somewhat embarrassed, because last month the gentleman from Wisconsin (Mr. OBEY) and I had this discussion on the floor, and I had thought I had an agreement to protect this; and I said specifically then to accept the $27.1 billion, the level that was decided, but with the understanding that we would spend it at $31.8 billion if it did not go beyond the first of the year.

What has happened here, again, I have not had anybody tell me where this is coming from. It is not your money. It is not the White House's money. This belongs to the users of the highway. We can come back, pass another rule, and make sure that we do the job right. And, believe me, I will find out where this is coming from.

□ 1115

You are not going to take this money away from the users of the highway. They paid for it. They want the highways. They want the infrastructure. We talk about stimulating the economy. Forget all of these other programs they are talking about. Let us create jobs by building our bridges and our highways. Let us do it. If we want to stimulate something, let us stimulate it with real jobs and not make believe.

So I would just keep in mind, let us put this rule down and come back with the right rule.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time. I greatly appreciate the remarks delivered with sincerity and passion by the chairman of our committee, the gentleman from Alaska (Mr. YOUNG).

We did have this conversation just prior to the election. We did have a discussion of what would be the level of funding for the Federal Aid Highway Program in the continuing resolution. We were assured by the Committee on Appropriations leadership, by the leadership of the House, the gentleman from Alaska had specific assurances from the Office of Management and Budget that funding would be at the level of $31.8 billion through the beginning of the year and would continue at that level until probably August, if there were no further changes made in the appropriation bill, underlying appropriation bill itself, and at that point then the funding level would drop down to $27.1 billion. The resolution before us breaks all of those agreements, discards all of those understandings, throws it all aside.

The reality is today this is a raid on the Highway Trust Fund. We have a $15 billion surplus in the Highway Trust Fund today. That surplus was anticipated in 1998 when the Committee on Transportation and Infrastructure wrote what we know today as TEA–21, moved it through conference and back to the House, with a commitment of increased levels of funding. We knew the trust fund was going to grow because of increased revenues into the trust fund. We anticipated and we provided for in that authorization legislation a $15 billion surplus to be drawn down and invested in highways, not to offset a deficit, and that is what is happening here. Money is being held back.

In 1998, at the beginning of the year when we crafted TEA–21, there was a $29 billion surplus in the Highway Trust Fund, which our committee agreed to yield for debt reduction. And when the bill was signed into law, I am sure everybody felt a great lift off of their shoulders of that debt, because that $29 billion went to reduce public debt. But the commitment was that in exchange for giving up the surplus and giving up interest on revenues paid into the Highway Trust Fund year-to-year, that we would have a guaranteed account, a dedicated revenue stream with which to invest in highways and bridges and transit systems in America. And we did it, and it worked wonderfully for 5 years. In those 5 years we invested $120 billion of Federal funds in the Federal Aid Highway Program. By comparison, in the 42 years of the Interstate Highway Program, we invested $114 billion of Federal funds in the interstate system. It took 42 years because we had a dedicated account, a guaranteed revenue stream.

This breaks that commitment. This resolution draws it all down. We will lose millions, billions of dollars in investments and thousands and thousands of jobs. If you want to come to the desk, I have a list of what each State will lose if this resolution passes.

Mr. HASTINGS of Washington. Mr. Speaker, I would advise my friend I have no further speakers.

Mr. HASTINGS of Florida. Mr. Speaker, I have one final speaker, and I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I would simply point out to both of the gentlemen who have just spoken from the Committee on Transportation and Infrastructure that I warned the Committee on Transportation and Infrastructure before the election when we debated this that they were going to be shortsheeted on this continuing resolution, and that has now, unfortunately, come to pass. So I would say that I agree with the observations of the gentleman from Alaska (Mr. YOUNG), all but one of them.

I would also say that it is not true that only highways are being hurt by this continuing resolution. The National Institutes of Health will encounter a severe problem in issuing their grants for the year. Veterans will not be able to have the backlogs dealt with in terms of veterans health care. The Securities and Exchange Commission is not going to be funded at the level that was promised in the authorization bill before the election. We are not going to see the Medicare give-backs that our providers around the country were looking for. There are going to be all kinds of other problems as well as the highway problem. So I think there are a good many reasons, including the highway problem, to vote against this rule and against this resolution.

Mr. HASTINGS of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. HASTINGS of Washington. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 215, nays 189, not voting 27, as follows:

[Roll No. 472]

YEAS—215

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays

Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sununu
Sweeney

Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh

Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—189

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Green (TX)
Hall (TX)

Harman
Hastings (FL)
Hill
Hilliard
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Mollohan
Moore
Moran (VA)
Nadler

Napolitano
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Wexler
Woolsey
Wu
Wynn

NOT VOTING—27

Blagojevich
Clement
Condit
Cubin
Dingell
Doyle
Fattah
Gordon
Grucci

Gutierrez
Hinchey
Hooley
Houghton
Lipinski
Manzullo
McKinney
Miller, George
Murtha

Neal
Oxley
Payne
Rangel
Roukema
Sawyer
Strickland
Stump
Weiner

□ 1152

Mr. ABERCROMBIE changed his vote from "yea" to "nay."

Mrs. KELLY and Messrs. HEFLEY, REGULA, QUINN, DOOLITTLE, MICA, LoBIONDO, LATOURETTE, HERGER, YOUNG of Alaska, BAKER, BEREUTER, and PETRI changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. MANZULLO. Mr. Speaker, on rollcall No. 472 the bells in my office failed to work. Had I been present, I would have voted "yea."

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.J. Res. 124 and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Florida?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2003

Mr. YOUNG of Florida. Mr. Speaker, pursuant to the rule just adopted, I call up the joint resolution (H.J. Res. 124) making further continuing appropriations for the fiscal year 2003, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of H.J. Res. 124 is as follows:

H.J. RES. 124

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 107–229 is further amended by striking the date specified in section 107(c) and inserting in lieu thereof "January 11, 2003"

SEC. 2. Section 114 of Public Law 107–229 is amended—

(1) by striking "December 31, 2002" and inserting "the date specified in section 107(c) of this joint resolution"; and

(2) by striking the first proviso and inserting the following: ": *Provided,* That grants and payments may be made pursuant to this authority at the beginning of any included quarter or other period of fiscal year 2003, for such quarter or other period, at the level provided for such activities for the corresponding quarter or other period of fiscal year 2002".

SEC. 3. Upon determination by the Secretary of Homeland security that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $500,000,000 of funds made available to the Department of Homeland Security and be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided,* That such authority to transfer may not be used unless for higher priority items, based on unforeseen homeland security requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further,* That during fiscal year 2003, the Office of Management and Budget may transfer not to exceed $140,000,000 for unobligated balances of appropriations enacted prior to October 1, 2002 for organizations and entities that will be transferred to the new Department for the salaries and expenses associated with the initiation of the Department: *Provided further,* That of amounts authorized for transfer by this section, except as otherwise specifically authorized by law, not to exceed two percent of any appropriation available to the secretary may be transferred between such appropriations: *Provided further,* That not less than 15 days' notice shall be given to the Committee on Appropriations of the Senate and House of Representatives before any such transfer is made: *Provided further,* That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen homeland security requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by Congress: *Provided further,* That the authority provided in this section shall expire on September 30, 2004.

The SPEAKER pro tempore. Pursuant to House Resolution 602, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me welcome all the Members back from their election-day activities and suggest that we do have a lot of work to do, especially a lot of appropriations bills that need to be concluded.

Mr. Speaker, this is a continuing resolution to keep the government functioning until such time as all appropriations bills are concluded. It would extend the date of the initial continuing resolution until the 11th of January and includes one additional anomaly that would extend the authorization for the Temporary Assistance for Needy Families, the TANF program, through this same period.

Mr. Speaker, the other anomalies that we had included in the original CRs are all the same, no changes. This is a clean CR. I do not think that there is any real controversy over the content of the CR.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, I think Members will recall when we were sitting around here last February and March waiting for the President to send up the supplemental and talking about starting the appropriations bills after we got back from the spring recess. The dogwoods bloomed and the cherry trees bloomed and, finally, the azaleas; and yet we had no appropriations bills.

So then we had talked about how busy the summer was going to be after we had gotten back from the Memorial Day recess. We had droughts across most of the country. We had forest fires in the West. Tiger Woods won the U.S. Open, and the All Star Game ended in a tie, and nearly three-quarters of the appropriations bills during that time never even got to the House floor.

After all of that transpired, we left for the August recess talking about how impossible the fall would be. We were going to have long nights and late nights, and that was going to be the only way that the House could get its work done before the election. Well, we returned in September and we did not work those long weeks or those long nights. The Republican leadership of the House would not let the chairman of the committee take up the bills that the committee had reported.

And in September we had a continuing of the work style of the previous 3 or 4 months. We would have our first votes occurring on Tuesday evenings for the week, and we would have wheels up at National Airport going back to our districts by noon on Thursday or close to it. And so when we left in October, we had passed only two of 13 appropriations bills. We had funded only one of the 15 departments of the U.S. Government, and not a single domestic agency had a budget for the fiscal year that had already begun.

We left town then for the election, and we said that the lame duck session would be a tough one, that the work load would be enormous, that Congress would be forced to stay in session until Christmas Eve. But guess what? Wrong again. We simply are seeing the magic switch being used one more time. Put the government on automatic pilot and go home.

So what have we accomplished? Well, the Director of the Customs Service will no longer report to an Under Secretary in the Treasury Department. He will report to an Under Secretary in another building in a new bureaucracy. That is our achievement on the Homeland Security front.

I frankly do not think Osama bin Laden will care. He may even realize that all of the moving of desks and phones and computers over the next couple of years in the new Department of Homeland Security is likely to create gaps in our security and give him openings to do his dirty work.

But what will happen to the plan of the Director of the Customs Service to inspect the millions of 40-foot long steel containers that get shipped into the United States each year when they leave Europe or Asia or Latin America? I think Osama will be glad that the Congress did not find time to fund that initiative. What about the money that the FBI Director needs to upgrade his computers, to hire more analysts, to get translators to speak Arabic, Farsi or Pashto. I am sure that Osama will be glad that the Congress did not get around to fixing that problem either.

And how about the money we were supposed to give to local fire and police departments so they could have common communications systems so that the first responders would have protection in dealing with biological and chemical attacks? Well, I guess apparently the judgment of Congress is that that can wait. After all, who knows, maybe the next major attack in this country may not come until next summer or, if we are lucky, even later.

□ 1200

So again, Congress chooses to not deal with the problem.

What about the money for the Public Health Service to buy the anthrax vaccine for first responders and others that would have to cope with an attack? The same answer, no action.

But I guess we need another break. After all, we have had a tough election season. Apparently the Congress has to rest up from all of its recesses and those weeks we had to slave from Tuesday evening through Thursday noon before we went back to our districts. And certainly Congress needs to rest up from all of the promises that it has made during the election, promises about how much we care about the economy and people being squeezed by the economic downturn.

But apparently we are not going to stay here now to deal with the extension of unemployment benefits; we are not going to fix the problems at the National Institutes of Health; we are not going to fix the highway problems; we are not going to fix the problem of the underfunding of the Securities and Exchange Commission. But after all, apparently Members of the House are really worn out from all of the TV ads we all had to run telling our constituents how much we cared for the elderly and how hard we were going to work to ensure that they got the medical care and the prescription drugs that they needed.

If running those ads had been less arduous, maybe we could have persuaded the majority party to stay around for a few more days to do its work. I know that the chairman of the committee would like to do that, but apparently he has been overruled by his caucus or by his leadership or by the House and Senate leadership combined, if we can call that leadership by walking away from their responsibilities.

Mr. Speaker, I would simply say that this is a pitiful performance by a pitiful Congress walking away from its major responsibility. This Congress has not even found the will to pass the appropriation bills, which is the main job Congress has each year.

I do not know why Members run for reelection for another 2 years if they do not want to do the work that they were elected to do in the previous 2 years. I guess there are a lot of mysteries in this place I do not understand.

This resolution is going to pass. We will come in here on January 7, and we will kick the can down the road again. We will come in long enough to sign up for our new 2-year lease on our paychecks, and then Congress will apparently adjourn again without doing anything to deal with the major problems that Congress is facing on the appropriations side. I guess it is a harbinger of things to come, but it is a disgrace. I for one am not going to vote for this continuing resolution because what it really is is a spectacular abdication of responsibility, which is not worthy of this body.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I misspoke when I said there was only one anomaly or change in this CR because there is one other I should call to the attention of the House, and that has to do with the Department of Homeland Security. In the CR we included a provision which provides transfer authority for the establishment of the Department of Homeland Security and for unforeseen homeland security requirements.

This is basically language that we had agreed to when the Homeland Security bill passed the House earlier this year; because that conference report is expected to hit the floor today we included this appropriations provision in the CR. Here is what it does.

Under this provision, the Secretary of Homeland Security may transfer a total of $500 million in appropriations for unforeseen homeland security requirements.

In addition, unobligated balances of not more than $140 million from funds appropriated prior to October 1, 2002, may be transferred for the initiation of the new department.

Now such transfers, Mr. Speaker, may not exceed 2 percent of any appropriation between such appropriations. The provision requires that these transfers, and this is important, are subject to current reprogramming requirements. These transfer authorities would be provided until September 30, 2004.

Mr. Speaker, this language was necessary to provide the President of the United States with the ability to move quickly in dealing with homeland security issues. We had some debate on this during the consideration of the homeland security bill. This is an acceptable provision to the appropriators as we protect the responsibilities under the Constitution of the House and the Senate.

So this is not a controversial item in this continuing resolution, but I thought I had better call it to the attention of the membership.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 4 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me this time and for his hard work this year in trying to get these appropriations out.

Many of my colleagues have been local elected officials, and surely they recognize what fix they would be in if their city or county had to run on a day-to-day CR. We cannot pick up garbage on a day-to-day CR. The Federal Government might be able to run HHS or the Department of Labor that way, but I am talking about the Nation's capital, a living, breathing city of 600,000 people which also serves 200,000 Federal workers.

What we are doing with these interminable CRs that puts DC right in there, even though there is mostly local money here, what we are doing is crippling good management in the city, which is exactly what the Congress has admonished the District to try to improve.

Major Williams and our City Council deserve a lot better. They have done a spectacular job in renewing city operations. These folks had a balanced budget, and then they had to do a 10 percent cut of the budget raised by local taxes, and they did it in 10 days. Now they are told for an entire quarter they are going to have to live on last year's budget.

Let me give Members two reasons why that is difficult for a city. First, they cannot implement new programs which are necessary. Second, despite the cuts, the District of Columbia has increased its school budget, but since under the CR the city must run at last year's levels, it cannot increase its school budget, and yet that is the budget that Congress has been most concerned about.

Much of that local money would go to special education problems, which are particularly crippling us because we do not have any State to contribute to special education. Indeed, Congress is so concerned about special education that we got $14 million in extra Federal money for special education in this budget, but I am not even asking for that, I am just asking for D.C. to be able to spend her own money on her own special education children.

Yesterday I spoke with the President about it, the Mayor spoke with him about it, and subsequently I called his top staff at the White House. Guess what, neither the President nor his top staff seemed to have any objections. The top staff said they would put it before the OMB. The reason that I think the President and his staff did not have particular objection is that apparently what the President and those who are holding the appropriations want is no Federal spending above a certain level. Voila. The money I am talking about is all money raised in the District of Columbia, $3 billion of it. No Federal spending above a certain level, fits the rule, this money should not even be here in the first place.

If it is here, I would think that there would be some sensitivity to the fact that the city should not be treated as if it were the Department of Labor or some other agency. I had a one-sentence amendment that would have allowed D.C. to spend local taxpayer funds only, leaving all of the Federal money over here.

There are special circumstances in this CR. It is not a clean CR. There are TANF grants and payments, and I thank the leadership. There is an allowance for transfer of $500 million from other agencies to homeland security.

Mr. Speaker, surely keeping the Nation's capital afloat and well-run is just such a special circumstance. I ask that we take all the action we can after this CR expires to see that this never happens to the city again, and pray for the city during this period.

Mr. OBEY. Mr. Speaker, I yield 5 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I first encountered this thing we call a continuing resolution when I was a young officer in the Army working for the Assistant Secretary of Defense Comptroller. I remember how it was explained to me then by the DOD's General Counsel. He said, in effect, the Congress is saying to us we have not got our job done, we are a little embarrassed, so just keep spending money at the level it is being spent until we can catch up and get things done right.

This year, more than any year I have ever seen or known about, we are deficient in doing our job. Eleven out of 13 appropriation bills have not been passed. Let me just pick out four and point out to Members the consequences of having a continuing resolution in lieu of a properly worked appropriation bill.

Veterans medical care. If Members are not aware that veterans are calling their district offices and saying they cannot get an appointment at veterans hospitals in less than 6 months, Members have not been talking to their staff. The Veterans Administration is overstretched, overcommitted, and we are not in this resolution providing them a dime more than they got last year to deal with a problem that is getting worse all the time.

So Members are turning a deaf ear to the veterans who are calling and saying what good is health care when it needs to be delayed for 6 months. That is the situation that I am finding in my office, and I dare say it is true all across the country, and this resolution turns a deaf ear to the veterans of this country and their pleas for the health care promised them.

Education. Last year the President made a big deal, and rightly so, out of his signature education bill. Democrats in the House and Senate, the gentleman from California (Mr. GEORGE MILLER) and Senator KENNEDY, joined him in inaugurating the bill called Leave No Child Behind. It was a reauthorization of the Elementary and Secondary Education Act.

When we passed that authorization bill in the House, the price tag on it was $26.4 billion. We said that we recognize that school districts are going to have additional substantial obligations, and we wanted to send money with the mandates we were imposing upon them. We said we need to increase what we are spending on elementary and secondary education so that the school districts will be able to meet their obligations and will be funded at the Federal level for the obligations that the Federal Government is imposing upon them.

Mr. Speaker, 6 weeks later after the authorization had passed, the President sent his budget up and guess what, his budget funded the bill at $4 billion less, $19 million less than we were then spending for elementary and secondary education, and that is the way we will leave it if we pass the CR instead of going back to the Labor-Education appropriation bill and properly funding education as we should.

Education will be shorted. We will leave a lot of children behind. $4 billion would put a lot of our school districts that are already hurting because of statewide budget cuts in dire straits. It is true in my State; I dare say it is true in every State.

Highways. No Member should vote without looking at this list right here. I just looked at it to see what happens to the highway bill, what we will fund compared to what TEA–21 might have provided. South Carolina will get $49.162 million less than we would otherwise get if we did a proper appropriations bill.

□ 1215

We are a small State. If you are larger than South Carolina, and most of you are, you better check this list because you are going to be surprised at how much you will be shorted in highway funding if you vote for a CR over a proper transportation appropriation bill.

Finally, the SEC. The SEC, the Securities and Exchange Commission, makes money for the Federal Government. The SEC charges fees that amount to about $1.2 billion every year. It then spends about $450 million a year, and the $750 million difference goes into the Treasury. They make money for the Federal Government. If there is one agency of the Federal Government that is challenged right now, if there is one thing we need to do for this economy, to restore confidence in the stock markets and corporate accountability, the SEC has to be the watchdog. They have to do it. They need more money. The man who wrote the bill, Sarbanes-Oxley, said they need $776 million. You would still have a $500 million contribution out of their fees to make to the Federal Treasury. Pass this continuing resolution instead of a proper appropriation bill and the SEC will get $450 million, slightly less than that, in fact. It is not right.

I am ready to stay here and do it right. That is what I submit every Member should do. We can do it. We can do it between now and Thanksgiving. We can do it right. We can take care of highways, we can take care of veterans, we can take care of the SEC. We can do it right. We should do it right and not pass this CR.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, to both of the distinguished gentlemen, the chairman of the Committee on Appropriations and the ranking member, we stand today not wearing any partisan hat on a very crucial element of our responsibilities as the House of Representatives. I have always been taught constitutionally that we have the Committee on Ways and Means, which the Founding Fathers established as the ways and the means to fund our government; and we have the appropriators who are the distributors of important taxpayers' dollars to move the engine of America. And so I am particularly frustrated by what we are facing today.

I want to associate myself with the remarks of my colleague from the District of Columbia, particularly because I think we should look to the issue of national security. And certainly a city, having come from local government as a member of the Houston City Council, it is very difficult to run a government with the ups and downs of no one knows what may occur without having the kind of funding that the Congresswoman is asking for. This resolution does not answer that question.

Then as I have made known to my colleagues, there are some of us who have entities in our district that are literally closing their doors. They are doing good work. They are fiscally conservative and responsible, like the Martin Luther King Jr. Center in my community that houses homeless women and their children, those children, also separately housed, who come from HIV-infected parents, who have to have separate housing or have to be cared for. Those doors are about to close. Or the increasing rise in America of HIV infection. There are two entities in my congressional district, the Montrose Counseling Center and the Donald Watkins Center, that cater to the needs of individuals in the minority community who are HIV infected.

Then, of course, we with great pride in a bipartisan manner indicated our support for Leave No Child Behind. My school district, one of my school districts, the Houston Independent School District, has been labeled as an exemplary school district; but at the same time there is increasing need for special needs children. Those funds that we so appropriately authorized in Leave No Child Behind are not being funded at the levels that it should. Institutions of higher learning, like Texas Southern University that is branching out to educate as a historically black college those individuals who would not have access to higher learning, are losing programs that are so vital to producing more experts in math and science and the sciences.

And so this CR does more than just respond to maybe someone's viewpoint that we are to harbor our tax dollars and put them off to the side; it hurts people. Particularly, it hurts our community hospitals. We must fund them now. I would only encourage my colleagues by way of thanking them, both the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY), to come together and see how we can resolve these matters; and if the leadership would simply listen to them, we could resolve these matters.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. I thank the gentleman for yielding me this time.

Mr. Speaker, I have a question regarding a visit I had just a few minutes ago from some physicians from the State of Texas asking me about the replacement of the Medicare funding into the CR. We know that on January 1, their Medicare payments, or payments to the doctors for treating Medicare payments, will go away. They will be notified at the beginning of December, we understand on December 1. What the doctors are saying is that they received information from us that we would as a Congress attempt to address this last year. We did not. That we would address it this year. We did not. They are afraid that when those letters in December go out asking those doctors to reup, to agree to continue to see Medicare patients, that the answer is going to be "no way."

We need to address this because it is going to affect an awful lot of people. Can the gentleman from Wisconsin tell me, or others, whether or not this language will indeed be put into this CR before we vote on it?

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. LAMPSON. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I thank the gentleman for raising the point. Unfortunately, that is one of the many items that will not be corrected when this CR passes. You will have those cutbacks go into effect in January. In addition, we lose other items which we cannot reach in our motion to recommit, such as the need to extend unemployment compensation. That is not going to be taken care of, either. This is just another example of the Congress walking away from its responsibilities.

Mr. LAMPSON. Reclaiming the few seconds that I can take on this, it is a travesty to our citizens of this country who are going to need and want treatment within our health care system. If they cannot get access to the care that they need, they will be spending a huge amount of money on themselves, which we will more than likely be picking up as a country later on. My brother is just one of many physicians who will fall into that category. I think that it is terrible that we are having to consider this right now, and I hope and pray that somehow it could be fixed.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would like to ask the distinguished gentleman from Florida a question. As he knows, this committee has been trying to convince the House leadership for months that with a few billion of additional allocation, we could produce appropriation bills that would produce very large bipartisan majority support in both Houses. As he knows, we have been asking for roughly around $10 billion. I know the gentleman has. We have been told, "Oh, you cannot do that because the Committee on Appropriations is a big spender." But as I understand the rule that just passed, the bill that will follow ours that was approved by the rule will in fact wipe out the requirement to sequester because on the entitlement side of the budget, we see an explosion on the deficit of well over $100 billion; and when you take into account all of the exemptions that you have from this sequestration requirement, the Congress is in essence saying, "Well, do not worry, it is on the mandatory side. So we will let that $30 billion expansion of the deficit that would be avoided by sequestration, we will let that go ahead."

These same folks who are attacking this committee for being big spenders are in fact wiping out a requirement to compensate for spending that is more than three times as large as the amount that this committee is asking for to fix the appropriations bills.

Is that not roughly the situation?

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

That is roughly the situation. The gentleman has described a situation that was beyond our control, unfortunately. The budget that was deemed by the House of Representatives included a top-line number that was different from the number used by the Committee on Appropriations in the Senate. And so we did have a difference of numbers. The problem has been all along that we have not had the same numbers as the other body.

But to get to the gentleman's specific point, the PAYGO issue. By the way, the PAYGO is not in this CR. There was an attempt to include it in the CR, but the committee objected to that, because PAYGO deals with mandatory spending. It relates to mandatory spending, of which we have no jurisdiction and no control. But as I have said on this floor many times and as my colleague from Wisconsin has said many times, a dollar is a dollar, it is all the same color whether it is in a mandatory account or whether it is in a discretionary account. The truth of the matter is that our mandatory spending has far exceeded what the Balanced Budget Act would allow for. And the PAYGO scorecard needs to be cleared so that the government does not become in violation of the Balanced Budget Act. Our committee does not deal with mandatory spending, so I did not think we had any obligation or responsibility or jurisdiction to deal with it in this CR.

But again, and the gentleman makes a very good point, spending is spending. And while appropriators are often referred to as the big spenders, we stay within our allocation, the budget numbers. The mandatory spending accounts are the ones that get really out of balance. That is exactly what has happened here. That is why this PAYGO issue will be before the House later today. It is interesting to note that some of those who are most adamant on keeping down discretionary spending, regardless of what it might be for, seem to have no objection to mandatory spending despite the fact that it goes far above the budget, much more so than the appropriations bills. Our committee has been very careful to keep our spending bills within the budget numbers that were set. The same cannot be said for mandatory programs.

So I appreciate the gentleman raising that issue. It is not something that is political. It is not partisan. It is not one party versus the other. It is just a matter of fact. Mandatory spending is spending exactly the same as discretionary spending. The problem is a lot of people do not understand that and they really need to, because mandatory spending is what is causing the biggest part of our budget problems today. That is why we are going to have to deal with a PAYGO bill later on today or tomorrow. I thank the gentleman for raising the issue.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, what the gentleman's comments come down to is that the same House leadership that has told the Committee on Appropriations that we cannot make these bills healthy enough to pass by adding roughly $10 billion to them for appropriation bills, the same leadership is asking us to allow the Congress to get out of town with a license to provide spending for more than $30 billion on the entitlement side. I think that exposes the double standard to which we have been subjected for this entire year.

That is why in my motion to recommit I will have a motion that does the following: it will add $2.4 billion to veterans medical care to help reduce the backlog that veterans face now when they go into a VA hospital and want to see a specialist. It will add $2.8 billion to the funding level for the National Institutes of Health so that NIH will be able to proceed to provide its new grants and contracts. Otherwise, they will be in trouble come January. It will provide $2.6 billion in additional funding to FEMA for State and local first responders grants to help police and firemen get up to speed in dealing with our antiterrorism efforts. And it will add $300 million to the Securities and Exchange Commission to bring that funding level up to $776 million, which is the amount that the Congress promised in the authorization that it would provide back when the heat was on when the public was upset about fraud that was going on in many American corporations.

□ 1230

Unfortunately, now this CR will not meet that commitment either. So when the time comes, I will offer that recommit motion and I wanted to, in the interest of saving some time, notify the House of that right now.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself the balance of my time.

Just a brief closing statement to say, Mr. Speaker, that a continuing resolution is not the best way to fund the government. There is no question about that, and I think most of our colleagues would agree with that. But circumstances today require us to deal with this continuing resolution.

And just a couple of comments on the motion to recommit. These types of decisions should be made in the Committee and on the floor of the House once the Committee has reported the bill. And as the ranking member knows, the Committee on Appropriations in the House has marked up all of its bills but one. So these decisions really have been made in the committee, and once we move the bills many of the concerns that the gentleman from Wisconsin (Mr. OBEY) is concerned about will be taken care of because they are legitimate needs of the government. We do not want to recommit this bill today. We want to pass this bill, get this business behind us, and get on to the balance of our responsibilities for today and tomorrow, and then we will begin to prepare for the beginning of the next session, and hopefully we will have the appropriations bills for 2003 ready to be completed when the House reconvenes.

So, again, a continuing resolution is not the best way to deal with appropriations issues, but because of today's circumstances this is what is available to us, and, Mr. Speaker, I hope that we would reject the motion to recommit and that we would pass this CR and get on with the rest of our business.

Mr. UDALL of Colorado. Mr. Speaker, passage of this resolution is understandable, but unfortunate. And, louder than any words, it demonstrates the cynicism of the Republican leadership here in the House.

For months, the leadership has refused to allow the House to meet its basic responsibility of considering bills to fund any part of the government besides the Department of Defense. And by passing this continuing resolution, that pattern of dereliction will be continued through the rest of this year.

I do not think this is how we should do our business. I agree with the Rocky Mountain News that we should instead make completion of the appropriations process our top priority.

For the information of our colleagues, I am attaching the News's editorial on this subject.

[From the Rocky Mountain News, Nov. 13, 2002]

BUDGET THE TOP PRIORITY FOR CONGRESS

President Bush says the "single most important item" facing the lame-duck Congress is creation of his Department of Homeland Security.

Actually, it's not.

The most important duty of the lame-duck Congress is to pass the Federal budget for fiscal year 2003, which began Oct. 1. Embarrassingly, one two of the 13 money bills needed to complete that budget have been passed. And that alone is why the outgoing Congress had to return to the capital, not homeland security or terrorism insurance or the energy bill.

And the returning lawmakers should pass those bills cleanly and not resort to the desperate solution of other lame-duck Congresses—stuffing all the unfinished budget business into the messy monster called an omnibus reconciliation bill.

Lame-duck Congresses are not the best possible legislative forum. They operate in a tight time frame, knowing they'll be out of business at the end of December. And they include in their ranks retiring and defeated lawmakers who no longer answer to anyone. And this lame-duck session has a novel problem. The Democrats now control the Senate, but only by one vote and only until a new Republican senator arrives in a week or so.

The lame-duck Congress' most important item of business is to pass the budget.

The second most important priority is: Go home.

Mrs. TAUSCHER. Mr. Speaker, I rise in opposition to this Continuing Resolution.

People at home send us to Washington to do a job and make tough decisions—not simply kick the can down the street when it's convenient for us to do so.

It is irresponsible to run our government like this—without a budget or any sense of what we can afford to spend money on—especially during times of war.

We have real demands on our shrinking federal budget, and we have tough choice to make.

By passing this Continuing Resolution, we are not only avoiding making those decisions, we are putting our country in jeopardy.

This is the fifth Continuing Resolution we've passed this year that funds all aspects of the federal government at fiscal year 2002 levels, except highway construction—which it cuts by almost $4 billion. By setting spending at $27.7 billion instead of the current year level of $31.8 billion, California will lose over $261 million, which translates into about 12,400 good paying jobs that will be lost as a result.

This is wrong for California's economy and it's wrong for the highway users who have paid taxes into the highway trust fund.

Investments in highway infrastructure are not only an immediate stimulus to California's economy, but they will help alleviate congestion and reduce air pollution.

Operating under a Continuing Resolution also has a damaging impact on ongoing construction projects at the national laboratories in my district. Without an annual budget, the labs are unable to consent to the large contracts. Contracts like these at Lawrence Livermore National Laboratory are vital to ongoing construction work on the National Ignition Facility and the Terrascale Simulation Facility, both critical elements of the Stockpile Stewardship Program This not only undermines this important national security program, it also hurts workers because contractors are let go when the labs are no longer able to guarantee payment.

National security work this critical cannot simply be continued piecemeal, and I am concerned that the Continuing Resolution, by driving the costs of construction up, will make it harder to fund these programs that ensure that we have a credible and reliable nuclear deterrent to protect the American people.

And, this Continuing Resolution hurts health care.

Medicare's foundation is crumbling. Medicare payments to physicians and other health professionals will be cut by 12 percent over the next three years, beginning with a 4.4 percent cut on January 1, 2003. More than $11 billion nationwide is at stake, with each state losing millions in federal health care funds. All of this is in addition to the 5.4 percent cut that was implemented on January 1 of this year.

For Medicare seniors, I strongly urge my colleagues to immediately fix the Medicare physician payment update problem.

Physicians and other health professionals are the very foundation of the medical care system. Without them, patients will not be able to get hospital, nursing home and home health care services, or prescription drugs. It is critical that both the House and Senate stay in session to fix this mistake and avert the impending cuts before patient access is further jeopardized.

In addition to failing our nation's seniors, we are also failing America's children.

The Impact Aid program, which compensates local school districts that enroll "federally connected" children, is also hurt if Congress passes a Continuing Resolution. Most of these children are the sons and daughters of parents who are in the military or live on military bases.

Since Congress has failed to act appropriately, I urge the Office of Management and Budget (OMB) to approve a reasonable apportionment of Impact Aid funds for fiscal year 2003 based on historical obligations. This action by OMB will ensure that our schools can continue to meet the needs of our children.

And these problems are just the tip of the iceberg. By keeping funding at 2002 levels, Congress is not providing any money for the Securities and Exchange Commission to beef up its enforcement of corporate crime, and the National Institutes of Health has to cut back on important work.

Congress should not leave town until all the appropriations bills are completed. It is our responsibility to make decisions on how to fund the activities in the federal budget, with a new urgent priority of fighting terrorism abroad and protecting our homeland.

American taxpayers are the victim of Congress' inability to get its work done.

I urge my colleagues to vote against this Continuing Resolution and get back to doing the work we were sent to Washington to do.

Mr. YOUNG of Florida. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LATOURETTE). All time for debate has expired.

The joint resolution is considered read for amendment, and pursuant to House Resolution 602, the previous question is ordered.

The question is on engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the resolution?

Mr. OBEY. I certainly am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the bill, House Joint Resolution 124, to the Committee on Appropriations with instructions to report the bill back to the House forthwith with the following amendments:

Page 1, line 5, after "2003", insert the following:

"*Provided*, That in addition to the amounts made available by section 101, $2,416,000,000 is available for the Department of Veterans Affairs, Veterans Health Administration, Medical Care, for health care for enrolled veterans: *Provided further*, That in addition to the amounts made available by section 101, $2,800,000,000 is available for the Department of Health and Human Services, National Institutes of Health: *Provided further*, That in addition to the amounts made available by section 101, $2,600,000,000 is available for the Federal Emergency Management Agency, Emergency Management and Planning Assistance, for State and local first responders: *Provided further*, That notwithstanding any other provision of this joint resolution, $776,000,000 is available for the Securities and Exchange Commission, Salaries and expenses, and amounts otherwise made available by this resolution for salaries and expenses activities at the Department of Commerce shall be reduced by $100,000,000 and amounts otherwise made available by this resolution for salaries and expenses activities at the Department of Justice (excluding the Federal Bureau of Investigation and the Immigration and Naturalization Service) shall be reduced by $200,000,000: *Provided further*, Notwithstanding any other provision of this joint resolution, in addition to amounts made available in section 101, and subject to sections 107(c) and 108, such funds shall be available to the Securities and Exchange Commission to advance to the Public Company Accounting Oversight Board for necessary start-up costs of the Board: *Provided further*, That upon the collection of fees authorized in section 109(d) of Public Law 107–204, the Securities and exchange Commission shall be reimbursed for any Securities and Exchange Commission shall be reimbursed for any Securities and exchange Commission appropriations advanced to the Public Company Accounting Oversight Board for start-up expenses, as authorized by section 109(j) of Public Law 107–204, resulting in no net impact on appropriations available to the Securities and Exchange Commission in fiscal year 2003."

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. OBEY) is recognized for 5 minutes in support of his motion.

Mr. OBEY. Mr. Speaker, this motion will, as I said, provide increases to the following accounts: For veterans medical care it will provide a $2.4 billion increase; for the National Institutes of Health for bioterrorism and general research it will increase funding by $2.8 billion; for FEMA for State and local first responders it will increase funding by $2.6 billion; for the Securities and Exchange Commission for corporate oversight it will increase funding by $300 million to finally put some teeth back in that agency; and it ensures that the Public Company Accounting Oversight Board has sufficient funding to provide effective oversight of the SEC and corporate accounting standards.

There are other items that I would like to have in the recommit motion, Mr. Speaker, but because of the parliamentary situation, for instance, we are precluded from including items that would include an extension of the unemployment compensation program to long-term unemployed workers. We are precluded from adding funding that was just raised by the gentleman from Texas (Mr. LAMPSON) on the Medicare givebacks for providers, and we have not been able to include funding at this point for additional support for education. That does not mean those items should not also be addressed. They should. But right now we have just been told that the bill that will come up later today will in fact give Congressional blessing to the idea that the deficit will be increased by at least $30 billion on the mandatory side and yet somehow we are committing a mortal sin if we try to provide more funding for veterans medical care, for medical research, to our local police and firemen to strengthen our response against terrorism, and to the SEC in order to ensure that corporate balance sheets are actually on the square and legitimate.

I find that kind of logic quaint. I think that each of these items is perfectly defensible. And with that, Mr. Speaker, I would urge a yes vote on the motion to recommit.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida is recognized for 5 minutes.

Mr. YOUNG of Florida. Mr. Speaker, I would simply say that the gentleman's motion to recommit addresses a number of important issues, but they are important to the point that they should not be discussed or determined with a 5-minute debate on one side and a 5-minute debate on the other side. These issues are so important they should have considerable debate, and consideration by the committee, and consideration by the House, and because of that, Mr. Speaker, I object to the motion to recommit and ask the Members to oppose it and then vote for the continuing resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 196, nays 216, not voting 19, as follows:

[Roll No. 473]

YEAS—196

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (TX)
Harman
Hastings (FL)
Hilliard
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—216

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
Delahunt
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—19

Blagojevich
Condit
Cubin
Ehrlich
Fattah
Grucci
Hill
Hinchey
Hooley
Houghton
McKinney
Miller, George
Neal
Oxley
Payne
Rangel
Roukema
Stump
Visclosky

☐ 1304

Mrs. CAPITO, and Messrs. TOM DAVIS of Virginia, KENNEDY of Minnesota, and MORAN of Kansas changed their vote from "yea" to "nay."

Ms. DEGETTE, and Messrs. PHELPS, COSTELLO, and MEEHAN changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. DELAHUNT. Mr. Speaker, on rollcall No. 473, the motion to recommit for the bill H.J. Res. 124, my vote was inadvertantly recorded as a "no." I had intented to support the Obey motion to recommit and vote "yes."

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 270, noes 143, not voting 18, as follows:

[Roll No. 474]

AYES—270

Abercrombie
Aderholt
Akin
Andrews
Armey
Baca
Bachus
Baker
Ballenger

Barcia
Bartlett
Barton
Bass
Bereuter
Berkley
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boucher
Brady (PA)
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Culberson
Cummings
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hilleary
Hilliard
Hobson
Hoeffel
Hoekstra
Holden
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
Matheson
Matsui
McCarthy (NY)
McCrery
McHugh
McInnis
McKeon
McKinney
McNulty
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moore
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Pastor
Pence
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rush
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Strickland
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Watkins (OK)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOES—143

Ackerman
Allen
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berman
Berry
Bishop
Blumenauer
Bonior
Borski
Boswell
Boyd
Brown (OH)
Capps
Capuano
Carson (IN)
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Crowley
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank
Gutierrez
Hall (TX)
Hastings (FL)
Hill
Hinojosa
Holt
Honda
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kolbe
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Luther
Lynch
Maloney (NY)
Markey
Mascara
McCollum
McDermott
McGovern
McIntyre
Meehan
Meek (FL)
Meeks (NY)
Menendez
Moran (KS)
Moran (VA)
Nadler
Napolitano
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Paul
Payne
Pelosi
Peterson (MN)
Phelps
Platts
Price (NC)
Rahall
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Wamp
Waters
Watson (CA)
Watt (NC)
Waxman
Woolsey
Wu

NOT VOTING—18

Barr
Blagojevich
Condit
Cubin
Fattah
Herger
Hinchey
Hooley
Houghton
Jones (OH)
McCarthy (MO)
Miller, George
Neal
Oxley
Rangel
Roukema
Royce
Stump

□ 1319

Mr. ROTHMAN, Ms. KILPATRICK, Mrs. THURMAN, and Mrs. CLAYTON changed their vote from "aye" to "no."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1214, MARITIME TRANSPORTATION SECURITY ACT OF 2002

Mr. YOUNG of Alaska submitted the following conference report and statement on the Senate bill (S. 1214) to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes:

CONFERENCE REPORT (H. REPT. 107–777)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1214), to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Maritime Transportation Security Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MARITIME TRANSPORTATION SECURITY

Sec. 101. Findings.
Sec. 102. Port security.
Sec. 103. International seafarer identification.
Sec. 104. Extension of seaward jurisdiction.
Sec. 105. Suspension of limitation on strength of Coast Guard.
Sec. 106. Extension of Deepwater Port Act to natural gas.
Sec. 107. Assignment of Coast Guard personnel as sea marshals and enhanced use of other security personnel.
Sec. 108. Technical amendments concerning the transmittal of certain information to the customs service.
Sec. 109. Maritime security professional training.
Sec. 110. Additional reports.
Sec. 111. Performance standards.
Sec. 112. Report on foreign-flag vessels.
Sec. 113. Revision of Port Security Planning Guide.

TITLE II—MARITIME POLICY IMPROVEMENT

Sec. 201. Short title.
Sec. 202. Vessel COASTAL VENTURE.
Sec. 203. Expansion of American Merchant Marine Memorial Wall of Honor.
Sec. 204. Discharge of agricultural cargo residue.
Sec. 205. Recording and discharging notices of claim of maritime lien.
Sec. 206. Tonnage of R/V DAVIDSON.
Sec. 207. Miscellaneous certificates of documentation.
Sec. 208. Exemption for Victory Ships.
Sec. 209. Certificate of documentation for 3 barges.
Sec. 210. Certificate of documentation for the EAGLE.
Sec. 211. Waiver for vessels in New World Challenge Race.
Sec. 212. Vessel ASPHALT COMMANDER.
Sec. 213. Coastwise trade authorization.
Sec. 214. Jones Act waiver for delayed vessel delivery.
Sec. 215. Realignment of policy responsibility in the Department of Transportation.

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Sec. 418. Maritime Drug Law Enforcement Act amendments.
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Sec. 433. Extension of time for recreational vessel and associated equipment recalls.
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Sec. 443. Safety and security of ports and waterways.
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Sec. 445. Prohibition on navigation fees.

TITLE V—AUTHORIZATION OF APPROPRIATIONS FOR THE COAST GUARD

Sec. 501. Short title.
Sec. 502. Authorization of appropriations.
Sec. 503. Authorized levels of military strength and training.

TITLE I—MARITIME TRANSPORTATION SECURITY

SEC. 101. FINDINGS.

The Congress makes the following findings:

(1) There are 361 public ports in the United States that are an integral part of our Nation's commerce.

(2) United States ports handle over 95 percent of United States overseas trade. The total volume of goods imported and exported through ports is expected to more than double over the next 20 years.

(3) The variety of trade and commerce carried out at ports includes bulk cargo, containerized cargo, passenger transport and tourism, and intermodal transportation systems that are complex to secure.

(4) The United States is increasingly dependent on imported energy for a substantial share of its energy supply, and a disruption of that share of supply would seriously harm consumers and our economy.

(5) The top 50 ports in the United States account for about 90 percent of all the cargo tonnage. Twenty-five United States ports account for 98 percent of all container shipments. Cruise ships visiting foreign destinations embark from at least 16 ports. Ferries in the United States transport 113,000,000 passengers and 32,000,000 vehicles per year.

(6) Ports often are a major locus of Federal crime, including drug trafficking, cargo theft, and smuggling of contraband and aliens.

(7) Ports are often very open and exposed and are susceptible to large scale acts of terrorism that could cause a large loss of life or economic disruption.

(8) Current inspection levels of containerized cargo are insufficient to counter potential security risks. Technology is currently not adequately deployed to allow for the nonintrusive inspection of containerized cargo.

(9) The cruise ship industry poses a special risk from a security perspective.

(10) Securing entry points and other areas of port facilities and examining or inspecting containers would increase security at United States ports.

(11) Biometric identification procedures for individuals having access to secure areas in port facilities are important tools to deter and prevent port cargo crimes, smuggling, and terrorist actions.

(12) United States ports are international boundaries that—

(A) are particularly vulnerable to breaches in security;

(B) may present weaknesses in the ability of the United States to realize its national security objectives; and

(C) may serve as a vector or target for terrorist attacks aimed at the United States.

(13) It is in the best interests of the United States—

(A) to have a free flow of interstate and foreign commerce and to ensure the efficient movement of cargo;

(B) to increase United States port security by establishing improving communication among law enforcement officials responsible for port security;

(C) to formulate requirements for physical port security, recognizing the different character and nature of United States port facilities, and to require the establishment of security programs at port facilities;

(D) to provide financial assistance to help the States and the private sector to increase physical security of United States ports;

(E) to invest in long-term technology to facilitate the private sector development of technology that will assist in the nonintrusive timely detection of crime or potential crime at United States ports;

(F) to increase intelligence collection on cargo and intermodal movements to address areas of potential threat to safety and security; and

(G) to promote private sector procedures that provide for in-transit visibility and support law enforcement efforts directed at managing the security risks of cargo shipments.

(14) On April 27, 1999, the President established the Interagency Commission on Crime and Security in United States Ports to undertake a comprehensive study of the nature and extent of the problem of crime in our ports, as well as the ways in which governments at all levels are responding. The Commission concluded that frequent crimes in ports include drug smuggling, illegal car exports, fraud, and cargo theft. Internal conspiracies are an issue at many ports and contribute to Federal crime. Criminal organizations are exploiting weak security at ports to commit a wide range of cargo crimes. Intelligence and information sharing among law enforcement agencies needs to be improved and coordinated at many ports. A lack of minimum physical and personnel security standards at ports and related facilities leaves many ports and port users very vulnerable. Access to ports and operations within ports is often uncontrolled. Security-related and detection-related equipment, such as small boats, cameras, large-scale x-ray machines, and vessel tracking devices, are lacking at many ports.

(15) The International Maritime Organization and other similar international organizations are currently developing a new maritime security system that contains the essential elements for enhancing global maritime security. Therefore, it is in the best interests of the United States to implement new international instruments that establish such a system.

SEC. 102. PORT SECURITY.

(a) IN GENERAL.—Title 46, United States Code, is amended by adding at the end the following new subtitle:

"Subtitle VI—Miscellaneous

"Chap. Sec.
"701. Port Security 70101

"CHAPTER 701—PORT SECURITY

"Sec.
"70101. Definitions.

"70102. United States facility and vessel vulnerability assessments.
"70103. Maritime transportation security plans.
"70104. Transportation security incident response.
"70105. Transportation security cards.
"70106. Maritime safety and security teams.
"70107. Grants.
"70108. Foreign port assessment.
"70109. Notifying foreign authorities.
"70110. Actions when foreign ports not maintaining effective antiterrorism measures.
"70111. Enhanced crewmember identification.
"70112. Maritime security advisory committees.
"70113. Maritime intelligence.
"70114. Automatic identification systems.
"70115. Long-range vessel tracking system.
"70116. Secure systems of transportation.
"70117. Civil penalty.

"§ 70101. Definitions

"For the purpose of this chapter:

"(1) The term 'Area Maritime Transportation Security Plan' means an Area Maritime Transportation Security Plan prepared under section 70103(b).

"(2) The term 'facility' means any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the United States.

"(3) The term 'National Maritime Transportation Security Plan' means the National Maritime Transportation Security Plan prepared and published under section 70103(a).

"(4) The term 'owner or operator' means—

"(A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel; and

"(B) in the case of a facility, any person owning, leasing, or operating such facility.

"(5) The term 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

"(6) The term 'transportation security incident' means a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area.

"§ 70102. United States facility and vessel vulnerability assessments

"(a) INITIAL ASSESSMENTS.—The Secretary shall conduct an assessment of vessel types and United States facilities on or adjacent to the waters subject to the jurisdiction of the United States to identify those vessel types and United States facilities that pose a high risk of being involved in a transportation security incident.

"(b) FACILITY AND VESSEL ASSESSMENTS.—(1) Based on the information gathered under subsection (a) of this section, the Secretary shall conduct a detailed vulnerability assessment of the facilities and vessels that may be involved in a transportation security incident. The vulnerability assessment shall include the following:

"(A) Identification and evaluation of critical assets and infrastructures.

"(B) Identification of the threats to those assets and infrastructures.

"(C) Identification of weaknesses in physical security, passenger and cargo security, structural integrity, protection systems, procedural policies, communications systems, transportation infrastructure, utilities, contingency response, and other areas as determined by the Secretary.

"(2) Upon completion of an assessment under this subsection for a facility or vessel, the Secretary shall provide the owner or operator with a copy of the vulnerability assessment for that facility or vessel.

"(3) The Secretary shall update each vulnerability assessment conducted under this section at least every 5 years.

"(4) In lieu of conducting a facility or vessel vulnerability assessment under paragraph (1), the Secretary may accept an alternative assessment conducted by or on behalf of the owner or operator of the facility or vessel if the Secretary determines that the alternative assessment includes the matters required under paragraph (1).

"§ 70103. Maritime transportation security plans

"(a) NATIONAL MARITIME TRANSPORTATION SECURITY PLAN.—(1) The Secretary shall prepare a National Maritime Transportation Security Plan for deterring and responding to a transportation security incident.

"(2) The National Maritime Transportation Security Plan shall provide for efficient, coordinated, and effective action to deter and minimize damage from a transportation security incident, and shall include the following:

"(A) Assignment of duties and responsibilities among Federal departments and agencies and coordination with State and local governmental agencies.

"(B) Identification of security resources.

"(C) Procedures and techniques to be employed in deterring a national transportation security incident.

"(D) Establishment of procedures for the coordination of activities of—

"(i) Coast Guard maritime security teams established under this chapter; and

"(ii) Federal Maritime Security Coordinators required under this chapter.

"(E) A system of surveillance and notice designed to safeguard against as well as ensure earliest possible notice of a transportation security incident and imminent threats of such a security incident to the appropriate State and Federal agencies.

"(F) Establishment of criteria and procedures to ensure immediate and effective Federal identification of a transportation security incident, or the substantial threat of such a security incident.

"(G) Designation of—

"(i) areas for which Area Maritime Transportation Security Plans are required to be prepared under subsection (b); and

"(ii) a Coast Guard official who shall be the Federal Maritime Security Coordinator for each such area.

"(H) A risk-based system for evaluating the potential for violations of security zones designated by the Secretary on the waters subject to the jurisdiction of the United States.

"(I) A recognition of certified systems of intermodal transportation.

"(J) A plan for ensuring that the flow of cargo through United States ports is reestablished as efficiently and quickly as possible after a transportation security incident.

"(3) The Secretary shall, as the Secretary considers advisable, revise or otherwise amend the National Maritime Transportation Security Plan.

"(4) Actions by Federal agencies to deter and minimize damage from a transportation security incident shall, to the greatest extent possible, be in accordance with the National Maritime Transportation Security Plan.

"(5) The Secretary shall inform vessel and facility owners or operators of the provisions in the National Transportation Security Plan that the Secretary considers necessary for security purposes.

"(b) AREA MARITIME TRANSPORTATION SECURITY PLANS.—(1) The Federal Maritime Security Coordinator designated under subsection (a)(2)(G) for an area shall—

"(A) submit to the Secretary an Area Maritime Transportation Security Plan for the area; and

"(B) solicit advice from the Area Security Advisory Committee required under this chapter, for the area to assure preplanning of joint deterrence efforts, including appropriate procedures for deterrence of a transportation security incident.

"(2) The Area Maritime Transportation Security Plan for an area shall—

"(A) when implemented in conjunction with the National Maritime Transportation Security Plan, be adequate to deter a transportation security incident in or near the area to the maximum extent practicable;

"(B) describe the area and infrastructure covered by the plan, including the areas of population or special economic, environmental, or national security importance that might be damaged by a transportation security incident;

"(C) describe in detail how the plan is integrated with other Area Maritime Transportation Security Plans, and with facility security plans and vessel security plans under this section;

"(D) include consultation and coordination with the Department of Defense on matters relating to Department of Defense facilities and vessels;

"(E) include any other information the Secretary requires; and

"(F) be updated at least every 5 years by the Federal Maritime Security Coordinator.

"(3) The Secretary shall—

"(A) review and approve Area Maritime Transportation Security Plans under this subsection; and

"(B) periodically review previously approved Area Maritime Transportation Security Plans.

"(4) In security zones designated by the Secretary in each Area Maritime Transportation Security Plan, the Secretary shall consider—

"(A) the use of public/private partnerships to enforce security within the security zones, shoreside protection alternatives, and the environmental, public safety, and relative effectiveness of such alternatives; and

"(B) technological means of enhancing the security zones of port, territorial waters, and waterways of the United States.

"(c) VESSEL AND FACILITY SECURITY PLANS.—(1) Within 6 months after the prescription of interim final regulations on vessel and facility security plans, an owner or operator of a vessel or facility described in paragraph (2) shall prepare and submit to the Secretary a security plan for the vessel or facility, for deterring a transportation security incident to the maximum extent practicable.

"(2) The vessels and facilities referred to in paragraph (1)—

"(A) except as provided in subparagraph (B), are vessels and facilities that the Secretary believes may be involved in a transportation security incident; and

"(B) do not include any vessel or facility owned or operated by the Department of Defense.

"(3) A security plan required under this subsection shall—

"(A) be consistent with the requirements of the National Maritime Transportation Security Plan and Area Maritime Transportation Security Plans;

"(B) identify the qualified individual having full authority to implement security actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to subparagraph (C);

"(C) include provisions for—

"(i) establishing and maintaining physical security, passenger and cargo security, and personnel security;

"(ii) establishing and controlling access to secure areas of the vessel or facility;

"(iii) procedural security policies;

"(iv) communications systems; and

"(v) other security systems;

"(D) identify, and ensure by contract or other means approved by the Secretary, the availability of security measures necessary to deter to the maximum extent practicable a transportation security incident or a substantial threat of such a security incident;

"(E) describe the training, periodic unannounced drills, and security actions of persons on the vessel or at the facility, to be carried out under the plan to deter to the maximum extent practicable a transportation security incident, or a substantial threat of such a security incident;

"(F) be updated at least every five years; and

"(G) be resubmitted for approval of each change to the vessel or facility that may substantially affect the security of the vessel or facility.

"(4) The Secretary shall—

"(A) promptly review each such plan;

"(B) require amendments to any plan that does not meet the requirements of this subsection;

"(C) approve any plan that meets the requirements of this subsection; and

"(D) review each plan periodically thereafter.

"(5) A vessel or facility for which a plan is required to be submitted under this subsection may not operate after the end of the 12-month period beginning on the date of the prescription of interim final regulations on vessel and facility security plans, unless—

"(A) the plan has been approved by the Secretary; and

"(B) the vessel or facility is operating in compliance with the plan.

"(6) Notwithstanding paragraph (5), the Secretary may authorize a vessel or facility to operate without a security plan approved under this subsection, until not later than 1 year after the date of the submission to the Secretary of a plan for the vessel or facility, if the owner or operator of the vessel or facility certifies that the owner or operator has ensured by contract or other means approved by the Secretary to deter to the maximum extent practicable a transportation security incident or a substantial threat of such a security incident.

"(7) The Secretary shall require each owner or operator of a vessel or facility located within or adjacent to waters subject to the jurisdiction of the United States to implement any necessary interim security measures, including cargo security programs, to deter to the maximum extent practicable a transportation security incident until the security plan for that vessel or facility operator is approved.

"(d) NONDISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, information developed under this chapter is not required to be disclosed to the public, including—

"(1) facility security plans, vessel security plans, and port vulnerability assessments; and

"(2) other information related to security plans, procedures, or programs for vessels or facilities authorized under this chapter.

"§ 70104. Transportation security incident response

"(a) FACILITY AND VESSEL RESPONSE PLANS.—The Secretary shall—

"(1) establish security incident response plans for vessels and facilities that may be involved in a transportation security incident; and

"(2) make those plans available to the Director of the Federal Emergency Management Agency for inclusion in the Director's response plan for United States ports and waterways.

"(b) CONTENTS.—Response plans developed under subsection (a) shall provide a comprehensive response to an emergency, including notifying and coordinating with local, State, and Federal authorities, including the Director of the Federal Emergency Management Agency, securing the facility or vessel, and evacuating facility and vessel personnel.

"(c) INCLUSION IN SECURITY PLAN.—A response plan required under this subsection for a vessel or facility may be included in the security plan prepared under section 70103(c).

"§ 70105. Transportation security cards

"(a) PROHIBITION.—(1) The Secretary shall prescribe regulations to prevent an individual from entering an area of a vessel or facility that is designated as a secure area by the Secretary for purposes of a security plan for the vessel or facility that is approved by the Secretary under section 70103 of this title unless the individual—

"(A) holds a transportation security card issued under this section and is authorized to be in the area in accordance with the plan; or

"(B) is accompanied by another individual who holds a transportation security card issued under this section and is authorized to be in the area in accordance with the plan.

"(2) A person shall not admit an individual into such a secure area unless the entry of the individual into the area is in compliance with paragraph (1).

"(b) ISSUANCE OF CARDS.—(1) The Secretary shall issue a biometric transportation security card to an individual specified in paragraph (2), unless the Secretary decides that the individual poses a security risk under subsection (c) warranting denial of the card.

"(2) This subsection applies to—

"(A) an individual allowed unescorted access to a secure area designated in a vessel or facility security plan approved under section 70103 of this title;

"(B) an individual issued a license, certificate of registry, or merchant mariners document under part E of subtitle II of this title;

"(C) a vessel pilot;

"(D) an individual engaged on a towing vessel that pushes, pulls, or hauls alongside a tank vessel;

"(E) an individual with access to security sensitive information as determined by the Secretary; and

"(F) other individuals engaged in port security activities as determined by the Secretary.

"(c) DETERMINATION OF TERRORISM SECURITY RISK.—(1) An individual may not be denied a transportation security card under subsection (b) unless the Secretary determines that individual—

"(A) has been convicted within the preceding 7-year period of a felony or found not guilty by reason of insanity of a felony—

"(i) that the Secretary believes could cause the individual to be a terrorism security risk to the United States; or

"(ii) for causing a severe transportation security incident;

"(B) has been released from incarceration within the preceding 5-year period for committing a felony described in subparagraph (A);

"(C) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

"(D) otherwise poses a terrorism security risk to the United States.

"(2) The Secretary shall prescribe regulations that establish a waiver process for issuing a transportation security card to an individual found to be otherwise ineligible for such a card under paragraph (1). In deciding to issue a card to such an individual, the Secretary shall—

"(A) give consideration to the circumstances of any disqualifying act or offense, restitution made by the individual, Federal and State mitigation remedies, and other factors from which it may be concluded that the individual does not pose a terrorism risk warranting denial of the card; and

"(B) issue a waiver to an individual without regard to whether that individual would otherwise be disqualified if the individual's employer establishes alternate security arrangements acceptable to the Secretary.

"(3) The Secretary shall establish an appeals process under this section for individuals found to be ineligible for a transportation security card that includes notice and an opportunity for a hearing.

"(4) Upon application, the Secretary may issue a transportation security card to an individual if the Secretary has previously determined, under section 5103a of title 49, that the individual does not pose a security risk.

"(d) BACKGROUND RECORDS CHECK.—(1) On request of the Secretary, the Attorney General shall—

"(A) conduct a background records check regarding the individual; and

"(B) upon completing the background records check, notify the Secretary of the completion and results of the background records check.

"(2) A background records check regarding an individual under this subsection shall consist of the following:

"(A) A check of the relevant criminal history databases.

"(B) In the case of an alien, a check of the relevant databases to determine the status of the alien under the immigration laws of the United States.

"(C) As appropriate, a check of the relevant international databases or other appropriate means.

"(D) Review of any other national security-related information or database identified by the Attorney General for purposes of such a background records check.

"(e) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—(1) Information obtained by the Attorney General or the Secretary under this section may not be made available to the public, including the individual's employer.

"(2) Any information constituting grounds for denial of a transportation security card under this section shall be maintained confidentially by the Secretary and may be used only for making determinations under this section. The Secretary may share any such information with other Federal law enforcement agencies. An individual's employer may only be informed of whether or not the individual has been issued the card under this section.

"(f) DEFINITION.—In this section, the term 'alien' has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).".

"§ 70106. Maritime safety and security teams

"(a) IN GENERAL.—To enhance the domestic maritime security capability of the United States, the Secretary shall establish such maritime safety and security teams as are needed to safeguard the public and protect vessels, harbors, ports, facilities, and cargo in waters subject to the jurisdiction of the United States from destruction, loss or injury from crime, or sabotage due to terrorist activity, and to respond to such activity in accordance with the transportation security plans developed under section 70103.

"(b) MISSION.—Each maritime safety and security team shall be trained, equipped, and capable of being employed to—

"(1) deter, protect against, and rapidly respond to threats of maritime terrorism;

"(2) enforce moving or fixed safety or security zones established pursuant to law;

"(3) conduct high speed intercepts;

"(4) board, search, and seize any article or thing on or at, respectively, a vessel or facility found to present a risk to the vessel or facility, or to a port;

"(5) rapidly deploy to supplement United States armed forces domestically or overseas;

"(6) respond to criminal or terrorist acts within a port so as to minimize, insofar as possible, the disruption caused by such acts;

"(7) assist with facility vulnerability assessments required under this chapter; and

"(8) carry out other security missions as are assigned to it by the Secretary.

"(c) COORDINATION WITH OTHER AGENCIES.—To the maximum extent feasible, each maritime safety and security team shall coordinate its activities with other Federal, State, and local law enforcement and emergency response agencies.

"§ 70107. Grants

"(a) IN GENERAL.—The Secretary of Transportation, acting through the Maritime Administrator, shall establish a grant program for making a fair and equitable allocation among port authorities, facility operators, and State and local agencies required to provide security services of funds to implement Area Maritime Transportation Security Plans and facility security plans. The program shall take into account national economic and strategic defense considerations.

"(b) ELIGIBLE COSTS.—The following costs of funding the correction of Coast Guard identified vulnerabilities in port security and ensuring compliance with Area Maritime Transportation Security Plans and facility security plans are eligible to be funded:

"(1) Salary, benefits, overtime compensation, retirement contributions, and other costs of additional Coast Guard mandated security personnel.

"(2) The cost of acquisition, operation, and maintenance of security equipment or facilities to be used for security monitoring and recording, security gates and fencing, marine barriers for designated security zones, security-related lighting systems, remote surveillance, concealed video systems, security vessels, and other security-related infrastructure or equipment that contributes to the overall security of passengers, cargo, or crewmembers.

"(3) The cost of screening equipment, including equipment that detects weapons of mass destruction and conventional explosives, and of testing and evaluating such equipment, to certify secure systems of transportation.

"(4) The cost of conducting vulnerability assessments to evaluate and make recommendations with respect to security.

"(c) MATCHING REQUIREMENTS.—

"(1) 75-PERCENT FEDERAL FUNDING.—Except as provided in paragraph (2), Federal funds for any eligible project under this section shall not exceed 75 percent of the total cost of such project.

"(2) EXCEPTIONS.—

"(A) SMALL PROJECTS.—There are no matching requirements for grants under subsection (a) for projects costing not more than $25,000.

"(B) HIGHER LEVEL OF SUPPORT REQUIRED.—If the Secretary of Transportation determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, then the Secretary may approve grants under this section with a matching requirement other than that specified in paragraph (1).

"(d) COORDINATION AND COOPERATION AGREEMENTS.—The Secretary of Transportation shall ensure that projects paid for, or the costs of which are reimbursed, under this section within any area or port are coordinated with other projects, and may require cooperative agreements among users of the port and port facilities with respect to projects funded under this section.

"(e) ADMINISTRATION.—

"(1) IN GENERAL.—The program shall require eligible port authorities, facility operators, and State and local agencies required to provide security services, to submit an application, at such time, in such form, and containing such information and assurances as the Secretary of Transportation may require, and shall include appropriate application, review, and delivery mechanisms.

"(2) MINIMUM STANDARDS FOR PAYMENT OR REIMBURSEMENT.—Each application for payment or reimbursement of eligible costs shall include, at a minimum, the following:

"(A) A copy of the applicable Area Maritime Transportation Security Plan or facility security plan.

"(B) A comprehensive description of the need for the project, and a statement of the project's relationship to the applicable Area Maritime Transportation Security Plan or facility security plan.

"(C) A determination by the Captain of the Port that the security project addresses or corrects Coast Guard identified vulnerabilities in security and ensures compliance with Area Maritime Transportation Security Plans and facility security plans.

"(3) PROCEDURAL SAFEGUARDS.—The Secretary of Transportation shall by regulation establish appropriate accounting, reporting, and review procedures to ensure that amounts paid or reimbursed under this section are used for the purposes for which they were made available, all expenditures are properly accounted for, and amounts not used for such purposes and amounts not obligated or expended are recovered.

"(4) PROJECT APPROVAL REQUIRED.—The Secretary of Transportation may approve an application for the payment or reimbursement of costs under this section only if the Secretary of Transportation is satisfied that—

"(A) the project is consistent with Coast Guard vulnerability assessments and ensures compliance with Area Maritime Transportation Security Plans and facility security plans;

"(B) enough money is available to pay the project costs that will not be reimbursed by the United States Government under this section;

"(C) the project will be completed without unreasonable delay; and

"(D) the recipient has authority to carry out the project as proposed.

"(f) AUDITS AND EXAMINATIONS.—A recipient of amounts made available under this section shall keep such records as the Secretary of Transportation may require, and make them available for review and audit by the Secretary of Transportation, the Comptroller General of the United States, or the Inspector General of the Department of Transportation.

"(g) REPORTS ON SECURITY FUNDING AND COMPLIANCE.—

"(1) INITIAL REPORT.—Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit an unclassified report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, that—

"(A) includes a funding proposal and rationale to fund the correction of Coast Guard identified vulnerabilities in port security and to help ensure compliance with Area Maritime Transportation Security Plans and facility security plans for fiscal years 2003 through 2008; and

"(B) includes projected funding proposals for fiscal years 2003 through 2008 for the following security programs:

"(i) The Sea Marshall program.

"(ii) The Automated Identification System and a system of polling vessels on entry into United States waters.

"(iii) The maritime intelligence requirements in this Act.

"(iv) The issuance of transportation security cards required by section 70105.

"(vii) The program of certifying secure systems of transportation.

"(2) OTHER EXPENDITURES.—The Secretary of Transportation shall, as part of the report required by paragraph (1) report, in coordination with the Commissioner of Customs, on projected expenditures of screening and detection equipment and on cargo security programs over fiscal years 2003 through 2008.

"(3) ANNUAL REPORTS.—Annually, beginning 1 year after transmittal of the report required by paragraph (1) until October 1, 2009, the Secretary of Transportation shall transmit an unclassified annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, on progress in achieving compliance with the correction of Coast Guard identified vulnerabilities in port security and compliance with Area Maritime Transportation Security Plans and facility security plans that—

"(A) identifies any modifications necessary in funding to ensure the correction of Coast Guard identified vulnerabilities and ensure compliance with Area Maritime Transportation Security Plans and facility security plans;

"(B) includes an assessment of progress in implementing the grant program established by subsection (a);

"(C) includes any recommendations the Secretary may make to improve these programs; and

"(D) with respect to a port selected by the Secretary of Transportation, describes progress and enhancements of applicable Area Maritime Transportation Security Plans and facility security plans and how the Maritime Transportation Security Act of 2002 has improved security at that port.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for each of fiscal years 2003 through 2008 such sums as are necessary to carry out subsections (a) through (g).

"(i) RESEARCH AND DEVELOPMENT GRANTS FOR PORT SECURITY.—

"(1) AUTHORITY.—The Secretary of Transportation is authorized to establish and administer a grant program for the support of research and development of technologies that can be used to secure the ports of the United States. The Secretary may award grants under the program to national laboratories, private nonprofit organizations, institutions of higher education, and other entities. The Secretary shall establish competitive procedures for awarding grants under the program and criteria for grant applications and eligibility.

"(2) USE OF FUNDS.—Grants awarded pursuant to paragraph (1) shall be used to develop—

"(A) methods to increase the ability of the Customs Service to inspect, or target for inspection, merchandise carried on any vessel that will arrive or has arrived at any port or place in the United States;

"(B) equipment to accurately detect explosives, or chemical and biological agents, that could be used to commit terrorist acts against the United States;

"(C) equipment to accurately detect nuclear materials, including scintillation-based detection equipment capable of attachment to spreaders to signal the presence of nuclear materials during the unloading of containers;

"(D) improved tags and seals designed for use on shipping containers to track the transportation of the merchandise in such containers, including 'smart sensors' that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit such information to the appropriate authorities at a remote location;

"(E) tools to mitigate the consequences of a terrorist act at a port of the United States, including a network of sensors to predict the dispersion of radiological, chemical, or biological agents that might be intentionally or accidentally released; or

"(F) applications to apply existing technologies from other industries to increase overall port security.

"(3) ADMINISTRATIVE PROVISIONS.—

"(A) NO DUPLICATION OF EFFORT.—Before making any grant, the Secretary of Transportation shall coordinate with other Federal agencies to ensure the grant will not be used for research and development that is already being conducted with Federal funding.

"(B) ACCOUNTING.—The Secretary of Transportation shall by regulation establish accounting, reporting, and review procedures to ensure that funds made available under paragraph (1) are used for the purpose for which they were made available, that all expenditures are properly accounted for, and that amounts not used for such purposes and amounts not expended are recovered.

"(C) RECORDKEEPING.—Recipients of grants shall keep all records related to expenditures and obligations of funds provided under paragraph (1) and make them available upon request to the Inspector General of the Department of Transportation and the Secretary of Transportation for audit and examination.

"(D) ANNUAL REVIEW AND REPORT.—The Inspector General of the Department of Transportation shall annually review the program established under paragraph (1) to ensure that the expenditures and obligations of funds are consistent with the purposes for which they are provided and report the findings to Congress.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for each of the fiscal years 2003 through 2008 to carry out the provisions of this subsection.

"§ 70108. Foreign port assessment

"(a) IN GENERAL.—The Secretary shall assess the effectiveness of the antiterrorism measures maintained at—

"(1) a foreign port—

"(A) served by vessels documented under chapter 121 of this title; or

"(B) from which foreign vessels depart on a voyage to the United States; and

"(2) any other foreign port the Secretary believes poses a security risk to international maritime commerce.

"(b) PROCEDURES.—In conducting an assessment under subsection (a), the Secretary shall assess the effectiveness of—

"(1) screening of containerized and other cargo and baggage;

"(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

"(3) additional security on board vessels;

"(4) licensing or certification of compliance with appropriate security standards;

"(5) the security management program of the foreign port; and

"(6) other appropriate measures to deter terrorism against the United States.

"(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with—

"(1) the Secretary of Defense and the Secretary of State—

"(A) on the terrorist threat that exists in each country involved; and

"(B) to identify foreign ports that pose a high risk of introducing terrorism to international maritime commerce;

"(2) the Secretary of the Treasury;

"(3) appropriate authorities of foreign governments; and

"(4) operators of vessels.

"§ 70109. Notifying foreign authorities

"(a) IN GENERAL.—If the Secretary, after conducting an assessment under section 70108, finds that a port in a foreign country does not maintain effective antiterrorism measures, the Secretary shall notify the appropriate authorities of the government of the foreign country of the finding and recommend the steps necessary to improve the antiterrorism measures in use at the port.

"(b) TRAINING PROGRAM.—The Secretary, in cooperation with the Secretary of State, shall operate a port security training program for ports in foreign countries that are found under section 70108 to lack effective antiterrorism measures.

"§ 70110. Actions when foreign ports not maintaining effective antiterrorism measures

"(a) IN GENERAL.—If the Secretary finds that a foreign port does not maintain effective antiterrorism measures, the Secretary—

"(1) may prescribe conditions of entry into the United States for any vessel arriving from that port, or any vessel carrying cargo or passengers originating from or transshipped through that port;

"(2) may deny entry into the United States to any vessel that does not meet such conditions; and

"(3) shall provide public notice for passengers of the ineffective antiterrorism measures.

"(b) EFFECTIVE DATE FOR SANCTIONS.—Any action taken by the Secretary under subsection (a) for a particular port shall take effect—

"(1) 90 days after the government of the foreign country with jurisdiction over or control of that port is notified under section 70109 unless the Secretary finds that the government has brought the antiterrorism measures at the port up to the security level the Secretary used in making an assessment under section 70108 before the end of that 90-day period; or

"(2) immediately upon the finding of the Secretary under subsection (a) if the Secretary finds, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, vessels, or crew traveling to or from the port.

"(c) STATE DEPARTMENT TO BE NOTIFIED.—The Secretary immediately shall notify the Secretary of State of a finding that a port does not maintain effective antiterrorism measures.

"(d) ACTION CANCELED.—An action required under this section is no longer required if the Secretary decides that effective antiterrorism measures are maintained at the port.

"§ 70111. Enhanced crewmember identification

"(a) REQUIREMENT.—The Secretary, in consultation with the Attorney General and the Secretary of State, shall require crewmembers on vessels calling at United States ports to carry and present on demand any identification that the Secretary decides is necessary.

"(b) FORMS AND PROCESS.—The Secretary, in consultation with the Attorney General and the Secretary of State, shall establish the proper forms and process that shall be used for identification and verification of crewmembers.

"§ 70112. Maritime Security Advisory Committees

"(a) ESTABLISHMENT OF COMMITTEES.—(1) The Secretary shall establish a National Maritime Security Advisory Committee. The Committee—

"(A) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to national maritime security matters;

"(B) may make available to the Congress recommendations that the Committee makes to the Secretary; and

"(C) shall meet at the call of—

"(i) the Secretary, who shall call such a meeting at least once during each calendar year; or

"(ii) a majority of the Committee.

"(2)(A) The Secretary may—

"(i) establish an Area Maritime Security Advisory Committee for any port area of the United States; and

"(ii) request such a committee to review the proposed Area Maritime Transportation Security Plan developed under section 70103(b) and make recommendations to the Secretary that the Committee considers appropriate.

"(B) A committee established under this paragraph for an area—

"(i) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to maritime security in that area;

"(ii) may make available to the Congress recommendations that the committee makes to the Secretary; and

"(iii) shall meet at the call of—

"(I) the Secretary, who shall call such a meeting at least once during each calendar year; or

"(II) a majority of the committee.

"(b) MEMBERSHIP.—(1) Each of the committees established under subsection (a) shall consist of not less than 7 members appointed by the Secretary, each of whom has at least 5 years practical experience in maritime security operations.

"(2) The term of each member shall be for a period of not more than 5 years, specified by the Secretary.

"(3) Before appointing an individual to a position on such a committee, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the committee.

"(4) The Secretary may require an individual to have passed an appropriate security background examination before appointment to the Committee.

"(c) CHAIRPERSON AND VICE CHAIRPERSON.—(1) Each committee established under subsection (a) shall elect 1 of its members as the Chairman and 1 of its members at the Vice Chairperson.

"(2) The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman.

"(d) OBSERVERS.—(1) The Secretary shall, and the head of any other interested Federal agency may, designate a representative to participate as an observer with the Committee.

"(2) The Secretary's designated representative shall act as the executive secretary of the Committee and shall perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App.).

"(e) CONSIDERATION OF VIEWS.—The Secretary shall consider the information, advice, and recommendations of the Committee in formulating policy regarding matters affecting maritime security.

"(f) COMPENSATION AND EXPENSES.—(1) A member of a committee established under this section, when attending meetings of the committee or when otherwise engaged in the business of the committee, is entitled to receive—

"(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-15 of the General Schedule under section 5332 of title 5 including travel time; and

"(B) travel or transportation expenses under section 5703 of title 5.

"(2) A member of such a committee shall not be considered to be an officer or employee of the United States for any purpose based on their receipt of any payment under this subsection.

"(g) FACA; TERMINATION.—(1) The Federal Advisory Committee Act (5 U.S.C. App.)—

"(A) applies to the National Maritime Security Advisory Committee established under this section, except that such committee terminates on September 30, 2008; and

"(B) does not apply to Area Maritime Security Advisory Committees established under this section.

"(2) Not later than September 30, 2006, each committee established under this section shall submit to the Congress its recommendation regarding whether the committee should be renewed and continued beyond the termination date.

"§ 70113. Maritime intelligence

"(a) IN GENERAL.—The Secretary shall implement a system to collect, integrate, and analyze information concerning vessels operating on or bound for waters subject to the jurisdiction of the United States, including information related to crew, passengers, cargo, and intermodal shipments.

"(b) CONSULTATION.—In developing the information system under subsection (a), the Secretary shall consult with the Transportation Security Oversight Board and other departments and agencies, as appropriate.

"(c) INFORMATION INTEGRATION.—To deter a transportation security incident, the Secretary may collect information from public and private entities to the extent that the information is not provided by other Federal departments and agencies.

"§ 70114. Automatic identification systems

"(a) SYSTEM REQUIREMENTS.—(1) Subject to paragraph (2), the following vessels, while operating on the navigable waters of the United States, shall be equipped with and operate an automatic identification system under regulations prescribed by the Secretary:

"(A) A self-propelled commercial vessel of at least 65 feet overall in length.

"(B) A vessel carrying more than a number of passengers for hire determined by the Secretary.

"(C) A towing vessel of more than 26 feet overall in length and 600 horsepower.

"(D) Any other vessel for which the Secretary decides that an automatic identification system is necessary for the safe navigation of the vessel.

"(2) The Secretary may—

"(A) exempt a vessel from paragraph (1) if the Secretary finds that an automatic identification system is not necessary for the safe navigation of the vessel on the waters on which the vessel operates; and

"(B) waive the application of paragraph (1) with respect to operation of vessels on navigable waters of the United States specified by the Secretary if the Secretary finds that automatic identification systems are not needed for safe navigation on those waters.

"(b) REGULATIONS.—The Secretary shall prescribe regulations implementing subsection (a), including requirements for the operation and maintenance of the automatic identification systems required under subsection (a).

"§ 70115. Long-range vessel tracking system

"The Secretary may develop and implement a long-range automated vessel tracking system for all vessels in United States waters that are equipped with the Global Maritime Distress and Safety System or equivalent satellite technology. The system shall be designed to provide the Secretary the capability of receiving information on vessel positions at interval positions appropriate to deter transportation security incidents. The Secretary may use existing maritime organizations to collect and monitor tracking information under the system.

"§ 70116. Secure systems of transportation

"(a) IN GENERAL.—The Secretary, in consultation with the Transportation Security Oversight Board, shall establish a program to evaluate and certify secure systems of international intermodal transportation.

"(b) ELEMENTS OF PROGRAM.—The program shall include—

"(1) establishing standards and procedures for screening and evaluating cargo prior to loading in a foreign port for shipment to the United States either directly or via a foreign port;

"(2) establishing standards and procedures for securing cargo and monitoring that security while in transit;

"(3) developing performance standards to enhance the physical security of shipping containers, including standards for seals and locks;

"(4) establishing stanaards and procedures for allowing the United States Government to ensure and validate compliance with this program; and

"(5) any other measures the Secretary considers necessary to ensure the security and integrity of international intermodal transport movements.

"§ 70117. Civil penalty

"Any person that violates this chapter or any regulation under this chapter shall be liable to the United States for a civil penalty of not more than $25,000 for each violation.".

(b) CONFORMING AMENDMENT.—The table of subtitles at the beginning of title 46, United States Code, is amended by adding at the end the following:

"VI. MISCELLANEOUS .... 70101".

(c) DEADLINE.—The Secretary shall establish the plans required under section 70104(a)(1) of title 46, United States Code, as enacted by this Act, before April 1, 2003.

(d) RULEMAKING REQUIREMENTS.—

(1) INTERIM FINAL RULE AUTHORITY.—The Secretary shall issue an interim final rule as a temporary regulation implementing this section (including the amendments made by this section) as soon as practicable after the date of enactment of this section, without regard to the provisions of chapter 5 of title 5, United States Code. All regulations prescribed under the authority of this subsection that are not earlier superseded by final regulations shall expire not later than 1 year after the date of enactment of this Act.

(2) INITIATION OF RULEMAKING.—The Secretary may initiate a rulemaking to implement this section (including the amendments made by this section) as soon as practicable after the date of enactment of this section. The final rule issued pursuant to that rulemaking may supersede the interim final rule promulgated under this subsection.

(e) PHASE-IN OF AUTOMATIC IDENTIFICATION SYSTEM.—

(1) SCHEDULE.—Section 70114 of title 46, United States Code, as enacted by this Act, shall apply as follows:

(A) On and after January 1, 2003, to any vessel built after that date.

(B) On and after July 1, 2003, to any vessel built before the date referred to in subparagraph (A) that is—

(i) a passenger vessel required to carry a certificate under the International Convention for the Safety of Life at Sea, 1974 (SOLAS);

(ii) a tanker; or

(iii) a towing vessel engaged in moving a tank vessel.

(C) On and after December 31, 2004, to all other vessels built before the date referred to in subparagraph (A).

(2) DEFINITION.—The terms in this subsection have the same meaning as those terms have under section 2101 of title 46, United States Code.

SEC. 103. INTERNATIONAL SEAFARER IDENTIFICATION.

(a) TREATY INITIATIVE.—The Secretary of the department in which the Coast Guard is operating is encouraged to negotiate an international agreement, or an amendment to an international agreement, that provides for a uniform, comprehensive, international system of identification for seafarers that will enable the United States and another country to establish authoritatively the identity of any seafarer aboard a vessel within the jurisdiction, including the territorial waters, of the United States or such other country.

(b) LEGISLATIVE ALTERNATIVE.—If the Secretary fails to complete a negotiation process undertaken under subsection (a) within 24 months after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a draft of legislation that, if enacted, would establish a uniform, comprehensive system of identification for seafarers.

SEC. 104. EXTENSION OF SEAWARD JURISDICTION.

(a) DEFINITION OF TERRITORIAL WATERS.—Section 1 of title XIII of the Act of June 15, 1917 (50 U.S.C. 195; 40 Stat. 231) is amended—

(1) by striking "The term 'United States' as used in this Act includes" and inserting the following:

"In this Act:

"(1) UNITED STATES.—The term 'United States' includes"; and

(2) by adding at the end the following:

"(2) TERRITORIAL WATERS.—The term 'territorial waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.".

(b) CIVIL PENALTY FOR VIOLATION OF ACT OF JUNE 15, 1917.—Section 2 of title II of the Act of June 15, 1917 (50 U.S.C. 192), is amended—

(1) by inserting "(a) IN GENERAL.—" before "If" in the first undesignated paragraph;

(2) by striking "(a) If any other" and inserting "(b) APPLICATION TO OTHERS.—If any other"; and

(3) by adding at the end the following:

"(c) CIVIL PENALTY.—A person violating this Act, or a regulation prescribed under this Act, shall be liable to the United States Government for a civil penalty of not more than $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation.".

SEC. 105. SUSPENSION OF LIMITATION ON STRENGTH OF COAST GUARD.

(a) PERSONNEL END STRENGTHS.—Section 661(a) of title 14, United States Code, is amended by adding at the end the following: "If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard, for a period not to exceed 6 months after the end of the war or termination of the national emergency.".

(b) OFFICERS IN COAST GUARD RESERVE.—Section 724 of title 14, United States Code, is amended by adding at the end thereof the following:

"(c) DEFERRAL OF LIMITATION.—If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard Reserve, for a period not to exceed 6 months after the end of the war or termination of the national emergency.".

SEC. 106. EXTENSION OF DEEPWATER PORT ACT TO NATURAL GAS.

(a) IN GENERAL.—The following provisions of the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) are each amended by inserting "or natural gas" after "oil" each place it appears:

(1) Section 2(a) (33 U.S.C. 1501(a)).

(2) Section 4(a) (33 U.S.C. 1503(a)).

(3) Section 21(a) (33 U.S.C. 1520(a)).

(b) DEFINITIONS.—Section 3 of the Deepwater Port Act of 1974 (33 U.S.C. 1502) is amended—

(1) by redesignating paragraphs (13) through (18) as paragraphs (14) through (19), respectively;

(2) by amending paragraph (9) to read as follows:

"(9) 'deepwater port'—

"(A) means any fixed or floating manmade structure other than a vessel, or any group of such structures, that are located beyond State seaward boundaries and that are used or intended for use as a port or terminal for the transportation, storage, or further handling of oil or natural gas for transportation to any State, except as otherwise provided in section 23, and for other uses not inconsistent with the purposes of this Act, including transportation of oil or natural gas from the United States outer continental shelf;

"(B) includes all components and equipment, including pipelines, pumping stations, service platforms, buoys, mooring lines, and similar facilities to the extent they are located seaward of the high water mark;

"(C) in the case of a structure used or intended for such use with respect to natural gas, includes all components and equipment, including pipelines, pumping or compressor stations, service platforms, buoys, mooring lines, and similar facilities that are proposed or approved for construction and operation as part of a deepwater port, to the extent that they are located seaward of the high water mark and do not include interconnecting facilities; and

"(D) shall be considered a 'new source' for purposes of the Clean Air Act (42 U.S.C. 7401 et seq.), and the Federal Water Pollution Control Act, (33 U.S.C. 1251 et seq.);"; and

(3) by inserting after paragraph (12) the following:

"(13) 'natural gas' means either natural gas unmixed, or any mixture of natural or artificial gas, including compressed or liquefied natural gas;".

(c) FACILITY APPROVAL.—

(1) Section 5(d) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(d)) is amended by adding at the end the following:

"(4) This subsection shall not apply to deepwater ports for natural gas.".

(2) Section 5(i) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(i)) is amended by adding at the end the following:

"(4) The Secretary shall approve or deny any application for a deepwater port for natural gas submitted pursuant to this Act not later than 90 days after the last public hearing on a proposed license. Paragraphs (1), (2), and (3) of this subsection shall not apply to an application for a deepwater port for natural gas.".

(d) FACILITY DEVELOPMENT.—Section 8 of the Deepwater Port Act of 1974 (33 U.S.C. 1507) is amended by adding at the end the following:

"(d) MANAGED ACCESS.—Subsections (a) and (b) shall not apply to deepwater ports for natural gas. A licensee of a deepwater port for natural gas, or an affiliate thereof, may exclusively utilize the entire capacity of the deepwater port and storage facilities for the acceptance, transport, storage, regasification, or conveyance of natural gas produced, processed, marketed, or otherwise obtained by agreement by such licensee or its affiliates. The licensee may make unused capacity of the deepwater port and storage facilities available to other persons, pursuant to reasonable terms and conditions imposed by the licensee, if such use does not otherwise interfere in any way with the acceptance, transport, storage, regasification, or conveyance of natural gas produced, processed, marketed, or otherwise obtained by agreement by such licensee or its affiliates.

"(e) JURISDICTION.—Notwithstanding any provision of the Natural Gas Act (15 U.S.C. 717 et seq.), any regulation or rule issued thereunder, or section 19 as it pertains to such Act, this Act shall apply with respect to the licensing, siting, construction, or operation of a deepwater natural gas port or the acceptance, transport, storage, regassification, or conveyance of natural gas at or through a deepwater port, to the exclusion of the Natural Gas Act or any regulation or rule issued thereunder.".

(e) REGULATIONS.—

(1) AGENCY AND DEPARTMENT EXPERTISE AND RESPONSIBILITIES.—Not later than 30 days after the date of the enactment of this Act, the heads of Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of deepwater ports for natural gas shall transmit to the Secretary of Transportation written comments as to such expertise or statutory responsibilities pursuant to the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) or any other Federal law.

(2) INTERIM FINAL RULE.—The Secretary may issue an interim final rule as a temporary regulation implementing this section (including the amendments made by this section) as soon as practicable after the date of enactment of this section, without regard to the provisions of chapter 5 of title 5, United States Code.

(3) FINAL RULES.—As soon as practicable after the date of the enactment of this Act, the Secretary of Transportation shall issue additional final rules that, in the discretion of the Secretary, are determined to be necessary under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) for the application and issuance of licenses for a deepwater port for natural gas.

(f) ENVIRONMENTAL ANALYSIS.—Section 5 of the Deepwater Port Act of 1974 (33 U.S.C. 1504) is amended by striking subsection (f) and inserting the following:

"(f) NEPA COMPLIANCE.—For all applications, the Secretary, in cooperation with other involved Federal agencies and departments, shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4332). Such compliance shall fulfill the requirement of all Federal agencies in carrying out their responsibilities under the National Environmental Policy Act of 1969 pursuant to this Act.".

(g) STATE FEES.—Section 5(h)(2) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(h)(2)) is amended by inserting "and unless prohibited by law," after "Notwithstanding any other provision of this Act,".

SEC. 107. ASSIGNMENT OF COAST GUARD PERSONNEL AS SEA MARSHALS AND ENHANCED USE OF OTHER SECURITY PERSONNEL.

(a) IN GENERAL.—Section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)) is amended—

(1) by striking "and" after the semicolon in paragraph (1);

(2) by striking "terrorism." in paragraph (2) and inserting "terrorism; and"; and

(3) by adding at the end the following:

"(3) dispatch properly trained and qualified armed Coast Guard personnel on vessels and public or commercial structures on or adjacent to waters subject to United States jurisdiction to deter or respond to acts of terrorism or transportation security incidents, as defined in section 70101 of title 46, United States Code.".

(b) REPORT ON USE OF NON-COAST GUARD PERSONNEL.—The Secretary of the department in which the Coast Guard is operating shall evaluate and report to the Congress on—

(1) the potential use of Federal, State, or local government personnel, and documented United States Merchant Marine personnel, to supplement Coast Guard personnel under section 7(b)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)(3));

(2) the possibility of using personnel other than Coast Guard personnel to carry out Coast Guard personnel functions under that section and whether additional legal authority would be necessary to use such personnel for such functions; and

(3) the possibility of utilizing the United States Merchant Marine Academy, State maritime academies, or Coast Guard approved maritime industry schools in the United States, to provide training under that section.

SEC. 108. TECHNICAL AMENDMENTS CONCERNING THE TRANSMITTAL OF CERTAIN INFORMATION TO THE CUSTOMS SERVICE.

(a) TARIFF ACT OF 1930.—Section 431A(d) of the Tariff Act of 1930, as added by section 343(b) of the Trade Act of 2002 (Public Law 107–210), is amended to read as follows:

"(d) REPORTING OF UNDOCUMENTED CARGO.—

"(1) IN GENERAL.—A vessel carrier shall notify the Customs Service of any cargo tendered to such carrier that is not properly documented pursuant to this section and that has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal, and the location of the cargo in the marine terminal.

"(2) SHARING ARRANGEMENTS.—For vessel carriers that are members of vessel sharing agreements (or any other arrangement whereby a carrier moves cargo on another carrier's vessel), the vessel carrier accepting the booking shall be responsible for reporting undocumented cargo, without regard to whether it operates the vessel on which the transportation is to be made.

"(3) REASSIGNMENT TO ANOTHER VESSEL.—For purposes of this subsection and subsection (f), if merchandise has been tendered to a marine terminal operator and subsequently reassigned for carriage on another vessel, the merchandise shall be considered properly documented if the information provided reflects carriage on the previously assigned vessel and otherwise meets the requirements of subsection (b). Notwithstanding the preceding sentence, it shall be the responsibility of the vessel carrier to notify the Customs Service promptly of any reassignment of merchandise for carriage on a vessel other than the vessel on which the merchandise was originally assigned.

"(4) MULTIPLE CONTAINERS.—If a single shipment is comprised of multiple containers, the 48-hour period described in paragraph (1) shall begin to run from the time the last container of the shipment is delivered to the marine terminal operator. It shall be the responsibility of the person tendering the cargo to inform the carrier that the shipment consists of multiple containers that will be delivered to the marine terminal operator at different times as part of a single shipment.".

(b) MANDATORY ADVANCED ELECTRONIC INFORMATION.—Section 343(a) of the Trade Act of 2002 (Public Law 107–210) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—

"(A) Subject to paragraphs (2) and (3), the Secretary is authorized to promulgate regulations providing for the transmission to the Customs Service, through an electronic data interchange system, of information pertaining to cargo to be brought into the United States or to be sent from the United States, prior to the arrival or departure of the cargo.

"(B) The Secretary shall endeavor to promulgate an initial set of regulations under subparagraph (A) not later than October 1, 2003.".

(2) by striking paragraph (2) and inserting the following:

"(2) INFORMATION REQUIRED.—The cargo information required by the regulations promulgated pursuant to paragraph (1) under the parameters set forth in paragraph (3) shall be such information on cargo as the Secretary determines to be reasonably necessary to ensure cargo safety and security pursuant to those laws enforced and administered by the Customs Service. The Secretary shall provide to appropriate Federal departments and agencies cargo information obtained pursuant to paragraph (1)."; and

(3) in paragraph (3)—

(A) by striking "aviation, maritime, and surface transportation safety and security" in subparagraphs (F), (H), and (L)(ii) and inserting "cargo safety and security";

(B) in subparagraph (F)—

(i) by inserting "merchandise" after "determining";

(ii) by inserting "and preventing smuggling" after "security"; and

(iii) by adding at the end the following: "Notwithstanding the preceding sentence, nothing in this section shall be treated as amending, repealing, or otherwise modifying title IV of the Tariff Act of 1930 or regulations promulgated thereunder.";

(C) in subparagraph (G)—

(i) in the first sentence—

(I) by inserting "cargo" after "confidential"; and

(II) by inserting after "Customs Service" the following: "pursuant to such regulations, except for the manifest information collected pursuant to section 431 of the Tariff Act of 1930 and required to be available for public disclosure pursuant to section 431(c) of such Act."; and

(ii) by striking the second sentence; and

(D) in subparagraph (L)—

(i) in the matter preceding clause (i)—

(I) by striking "60" and inserting "15"; and

(II) by striking "promulgation of regulations" and inserting "publication of a final rule pursuant to this section";

(ii) by striking "and" at the end of clause (iii);

(iii) by striking the period and inserting "; and" at the end of clause (iv); and

(iv) by inserting at the end the following:

"(v) if the Secretary determines to amend the proposed regulations after they have been transmitted to the Committees pursuant to this subparagraph, the Secretary shall transmit the amended regulations to such Committees no later than 5 days prior to the publication of the final rule.".

(c) Repeal.—Section 343A of the Trade Act of 2002 (116 Stat. 985) is repealed.

SEC. 109. MARITIME SECURITY PROFESSIONAL TRAINING.

(a) In General.—

(1) Development of standards.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall develop standards and curriculum to allow for the training and certification of maritime security professionals. In developing these standards and curriculum, the Secretary shall consult with the National Maritime Security Advisory Committee established under section 70112 of title 46, United States Code, as amended by this Act.

(2) Secretary to consult on standards.—In developing standards under this section, the Secretary may, without regard to the Federal Advisory Committee Act (5 U.S.C. App.), consult with the Federal Law Enforcement Training Center, the United States Merchant Marine Academy's Global Maritime and Transportation School, the Maritime Security Council, the International Association of Airport and Port Police, the National Cargo Security Council, and any other Federal, State, or local government or law enforcement agency or private organization or individual determined by the Secretary to have pertinent expertise.

(b) Minimum Standards.—The standards established by the Secretary under subsection (a) shall include the following elements:

(1) The training and certification of maritime security professionals in accordance with accepted law enforcement and security guidelines, policies, and procedures, including, as appropriate, recommendations for incorporating a background check process for personnel trained and certified in foreign ports.

(2) The training of students and instructors in all aspects of prevention, detection, investigation, and reporting of criminal activities in the international maritime environment.

(3) The provision of off-site training and certification courses and certified personnel at United States and foreign ports used by United States-flagged vessels, or by foreign-flagged vessels with United States citizens as passengers or crewmembers, to develop and enhance security awareness and practices.

(c) Training Provided to Law Enforcement and Security Personnel.—

(1) In general.—The Secretary is authorized to make the training opportunities provided under this section available to any Federal, State, local, and private law enforcement or maritime security personnel in the United States or to personnel employed in foreign ports used by vessels with United States citizens as passengers or crewmembers.

(2) Academies and schools.—The Secretary may provide training under this section at—

(A) each of the 6 State maritime academies;

(B) the United States Merchant Marine Academy;

(C) the Appalachian Transportation Institute; and

(D) other security training schools in the United States.

(d) Use of Contract Resources.—The Secretary may employ Federal and contract resources to train and certify maritime security professionals in accordance with the standards and curriculum developed under this Act.

(e) Annual Report.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the expenditure of appropriated funds and the training under this section.

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary to carry out this section $5,500,000 for each of fiscal years 2003 through 2008.

SEC. 110. ADDITIONAL REPORTS.

(a) Annual Report on Maritime Security and Terrorism.—Section 905 of the International Maritime and Port Security Act (46 U.S.C. App. 1802) is amended by adding at the end thereof the following: "Beginning with the first report submitted under this section after the date of enactment of the Maritime Transportation Security Act of 2002, the Secretary shall include a description of activities undertaken under title I of that Act and an analysis of the effect of those activities on port security against acts of terrorism.".

(b) Report on Training Center.—The Commandant of the United States Coast Guard, in conjunction with the Secretary of the Navy, shall submit to Congress a report, at the time they submit their fiscal year 2005 budget, on the life cycle costs and benefits of creating a Center for Coastal and Maritime Security. The purpose of the Center would be to provide an integrated training complex to prevent and mitigate terrorist threats against coastal and maritime assets of the United States, including ports, harbors, ships, dams, reservoirs, and transport nodes.

(c) Report on Secure System of Transportation Program.—Within one year after the secure system of transportation program is implemented under section 70116 of title 46, United States Code, as amended by this Act, the Secretary of the department in which the Coast Guard is operating shall transmit a report to the Senate Committees on Commerce, Science, and Transportation and Finance and the House of Representatives Committees on Transportation and Infrastructure and Ways and Means that—

(1) evaluates the secure system of transportation program and its components;

(2) states the Secretary's view as to whether any procedure, system, or technology evaluated as part of the program offers a higher level of security than requiring imported goods to clear customs under existing procedures and for the requirements of the National Maritime Security Plan for reopening of United States ports to commerce;

(3) states the Secretary's view as to the integrity of the procedures, technology, or systems evaluated as part of the program;

(4) makes a recommendation with respect to whether the program, or any procedure, system, or technology should be incorporated in a nationwide system for preclearance of imports of waterborne goods and for the requirements of the National Maritime Security Plan for the reopening of United States ports to Commerce;

(5) describes the impact of the program on staffing levels at the department in which the Coast Guard is operating, and the Customs Service; and

(6) states the Secretary's views as to whether there is a method by which the United States could validate foreign ports so that cargo from those ports is preapproved for entry into the United States and for the purpose of the requirements of the National Maritime Security Plan for the reopening of United States ports to commerce.

SEC. 111. PERFORMANCE STANDARDS.

Not later than January 1, 2004, the Secretary of the department in which the Coast Guard is operating, in consultation with the Transportation Security Oversight Board, shall—

(1) develop and maintain an antiterrorism cargo identification, tracking, and screening system for containerized cargo shipped to and from the United States either directly or via a foreign port; and

(2) develop performance standards to enhance the physical security of shipping containers, including standards for seals and locks.

SEC. 112. REPORT ON FOREIGN-FLAG VESSELS.

Within 6 months after the date of enactment of this Act and every year thereafter, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of State, shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives that lists the following information:

(1) A list of all nations whose flag vessels have entered United States ports in the previous year.

(2) Of the nations on that list, a separate list of those nations—

(A) whose registered flag vessels appear as Priority III or higher on the Boarding Priority Matrix maintained by the Coast Guard;

(B) that have presented, or whose flag vessels have presented, false, intentionally incomplete, or fraudulent information to the United States concerning passenger or cargo manifests, crew identity or qualifications, or registration or classification of their flag vessels;

(C) whose vessel registration or classification procedures have been found by the Secretary to be noncompliant with international classifications or do not exercise adequate control over safety and security concerns; or

(D) whose laws or regulations are not sufficient to allow tracking of ownership and registration histories of registered flag vessels.

(3) Actions taken by the United States, whether through domestic action or international negotiation, including agreements at the International Maritime Organization under section 902 of the International Maritime and Port Security Act (46 U.S.C. App. 1801), to improve transparency and security of vessel registration procedures in nations on the list under paragraph (2).

(4) Recommendations for legislative or other actions needed to improve security of United States ports against potential threats posed by flag vessels of nations named in paragraph (2).

SEC. 113. REVISION OF PORT SECURITY PLANNING GUIDE.

The Secretary of Transportation, acting through the Maritime Administration and after consultation with the National Maritime Security Advisory Committee and the Coast Guard, shall publish a revised version of the document entitled "Port Security: A National Planning Guide", incorporating the requirements prescribed under chapter 701 of title 46, United States Code, as amended by this Act, within 3 years after the date of enactment of this Act, and make that revised document available on the Internet.

TITLE II—MARITIME POLICY IMPROVEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "Maritime Policy Improvement Act of 2002".

SEC. 202. VESSEL COASTAL VENTURE.

Section 1120(g) of the Coast Guard Authorization Act of 1996 (Public Law 104–324; 110 Stat. 3978) is amended by inserting "COASTAL VENTURE (United States official number 971086)," after "vessels".

SEC. 203. EXPANSION OF AMERICAN MERCHANT MARINE MEMORIAL WALL OF HONOR.

(a) FINDINGS.—The Congress finds that—

(1) the United States Merchant Marine has served the people of the United States in all wars since 1775;

(2) the United States Merchant Marine served as the Nation's first navy and defeated the British Navy to help gain the Nation's independence;

(3) the United States Merchant Marine kept the lifeline of freedom open to the allies of the United States during the Second World War, making one of the most significant contributions made by any nation to the victory of the allies in that war;

(4) President Franklin D. Roosevelt and many military leaders praised the role of the United States Merchant Marine as the "Fourth Arm of Defense" during the Second World War;

(5) more than 250,000 men and women served in the United States Merchant Marine during the Second World War;

(6) during the Second World War, members of the United States Merchant Marine faced dangers from the elements and from submarines, mines, armed raiders, destroyers, aircraft, and "kamikaze" pilots;

(7) during the Second World War, at least 6,830 members of the United States Merchant Marine were killed at sea;

(8) during the Second World War, 11,000 members of the United States Merchant Marine were wounded, at least 1,100 of whom later died from their wounds;

(9) during the Second World War, 604 members of the United States Merchant Marine were taken prisoner;

(10) 1 in 32 members of the United States Merchant Marine serving in the Second World War died in the line of duty, suffering a higher percentage of war-related deaths than any of the other armed services of the United States; and

(11) the United States Merchant Marine continues to serve the United States, promoting freedom and meeting the high ideals of its former members.

(b) GRANTS TO CONSTRUCT ADDITION TO AMERICAN MERCHANT MARINE MEMORIAL WALL OF HONOR.—

(1) IN GENERAL.—The Secretary of Transportation may make grants to the American Merchant Marine Veterans Memorial Committee, Inc., to construct an addition to the American Merchant Marine Memorial Wall of Honor located at the Los Angeles Maritime Museum in San Pedro, California.

(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out with a grant made under this section shall be 50 percent.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000 for fiscal year 2003.

SEC. 204. DISCHARGE OF AGRICULTURAL CARGO RESIDUE.

Notwithstanding any other provision of law, the discharge from a vessel of any agricultural cargo residue material in the form of hold washings shall be governed exclusively by the provisions of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) that implement Annex V to the International Convention for the Prevention of Pollution from Ships.

SEC. 205. RECORDING AND DISCHARGING NOTICES OF CLAIM OF MARITIME LIEN.

(a) LIENS ON ANY DOCUMENTED VESSEL.—

(1) IN GENERAL.—Section 31343 of title 46, United States Code, is amended as follows:

(A) By amending the section heading to read as follows:

"§31343. Recording and discharging notices of claim of maritime lien".

(B) In subsection (a) by striking "covered by a preferred mortgage filed or recorded under this chapter" and inserting "documented, or for which an application for documentation has been filed, under chapter 121".

(C) By amending subsection (b) to read as follows:

"(b)(1) The Secretary shall record a notice complying with subsection (a) of this section if, when the notice is presented to the Secretary for recording, the person having the claim files with the notice a declaration stating the following:

"(A) The information in the notice is true and correct to the best of the knowledge, information, and belief of the individual who signed it.

"(B) A copy of the notice, as presented for recordation, has been sent to each of the following:

"(i) The owner of the vessel.

"(ii) Each person that recorded under subsection (a) of this section an unexpired notice of a claim of an undischarged lien on the vessel.

"(iii) The mortgagee of each mortgage filed or recorded under section 31321 of this title that is an undischarged mortgage on the vessel.

"(2) A declaration under this subsection filed by a person that is not an individual must be signed by the president, member, partner, trustee, or other individual authorized to execute the declaration on behalf of the person.".

(D) By amending subsection (c) to read as follows:

"(c)(1) On full and final discharge of the indebtedness that is the basis for a notice of claim of lien recorded under subsection (b) of this section, the person having the claim shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness. The Secretary shall record the certificate.

"(2) The district courts of the United States shall have jurisdiction over a civil action in Admiralty to declare that a vessel is not subject to a lien claimed under subsection (b) of this section, or that the vessel is not subject to the notice of claim of lien, or both, regardless of the amount in controversy or the citizenship of the parties. Venue in such an action shall be in the district where the vessel is found or where the claimant resides or where the notice of claim of lien is recorded. The court may award costs and attorneys fees to the prevailing party, unless the court finds that the position of the other party was substantially justified or other circumstances make an award of costs and attorneys fees unjust. The Secretary shall record any such declaratory order.".

(E) By adding at the end the following:

"(e) A notice of claim of lien recorded under subsection (b) of this section shall expire 3 years after the date the lien was established, as such date is stated in the notice under subsection (a) of this section.

"(f) This section does not alter in any respect the law pertaining to the establishment of a maritime lien, the remedy provided by such a lien, or the defenses thereto, including any defense under the doctrine of laches.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 313 of title 46, United States Code, is amended by striking the item relating to section 31343 and inserting the following:

"31343. Recording and discharging notices of claim of maritime lien.".

(b) NOTICE REQUIREMENTS.—Section 31325 of title 46, United States Code, is amended as follows:

(1) In subsection (d)(1)(B) by striking "a notice of a claim" and inserting "an unexpired notice of a claim".

(2) In subsection (f)(1) by striking "a notice of a claim" and inserting "an unexpired notice of a claim".

(c) APPROVAL OF SURRENDER OF DOCUMENTATION.—Section 12111 of title 46, United States Code, is amended by adding at the end the following:

"(d)(1) The Secretary shall not refuse to approve the surrender of the certificate of documentation for a vessel solely on the basis that a notice of a claim of a lien on the vessel has been recorded under section 31343(a) of this title.

"(2) The Secretary may condition approval of the surrender of the certificate of documentation for a vessel over 1,000 gross tons.".

(d) TECHNICAL CORRECTION.—Section 9(c) of the Shipping Act, 1916 (46 App. U.S.C. 808(c)) is amended in the matter preceding paragraph (1) by striking "Except" and all that follows through "12106(e) of title 46," and inserting "Except as provided in section 611 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1181) and in section 12106(e) of title 46,".

(e) EFFECTIVE DATE.—This section shall take effect January 1, 2003.

SEC. 206. TONNAGE OF R/V DAVIDSON.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall prescribe a tonnage measurement as a small passenger vessel as defined in section 2101 of title 46, United States Code, for the vessel R/V DAVIDSON (United States official number D1066485) for purposes of applying the optional regulatory measurement under section 14305 of that title.

(b) APPLICATION.—Subsection (a) shall apply only when the vessel is operating in compliance with the requirements of section 3301(8) of title 46, United States Code.

SEC. 207. MISCELLANEOUS CERTIFICATES OF DOCUMENTATION.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:

(1) LOOKING GLASS (United States official number 925735).

(2) YANKEE (United States official number 1076210).

(3) LUCKY DOG of St. Petersburg, Florida (State of Florida registration number FLZP7569E373).

(4) ENTERPRIZE (United States official number 1077571).

(5) M/V SANDPIPER (United States official number 1079439).

(6) FRITHA (United States official number 1085943).

(7) FUFFIN (United States official number 697029).

(8) VICTORY OF BURNHAM (United States official number 663780).

(9) R'ADVENTURE II (United States official number 905373).

(10) ANTJA (State of Florida registration number FL3475MA).

(11) SKIMMER, manufactured by Contour Yachts, Inc. (hull identification number QHG34031D001).

(12) TOKEENA (State of South Carolina registration number SC 1602 BJ).

(13) DOUBLE EAGLE 2 (United States official number 1042549).

(14) ENCOUNTER (United States official number 998174).

(15) AJ (United States official number 599164).

(16) BARGE 10 (United States official number 1101368).

(17) NOT A SHOT (United States official number 911064).

(18) PRIDE OF MANY (Canadian official number 811529).

(19) AMAZING GRACE (United States official number 92769).

(20) SHEWHO (United States official number 1104094).

(21) SOVEREIGN (United States official number 1028144).

(22) CALEDONIA (United States official number 679530).

(23) ISLANDER (State of South Carolina identification number SC 9279 BJ).

(24) F/V ANITA J (United States official number 560532).

(25) F/V HALF MOON BAY (United States official number 615796).

(26) F/V SUNSET BAY (United States official number 598484).

(27) BILLIE-B (United States official number 958427).

(b) ELIGIBILITY FOR ADMINISTRATIVE WAIVERS.—The following vessels are deemed to be eligible vessels within the meaning of section 504(2) of the Coast Guard Authorization Act of 1998 (46 U.S.C. 12106 note):

(1) EXCELLENCE III (hull identification number HQZ00255K101).

(2) ADIOS (hull identification number FAL75003A101).

(3) LAUDERDALE LADY (United States official number 1103520).

(4) UNIT ONE (United States official number 1128562).

(c) REPEAL OF JONES ACT WAIVER ADMINISTRATIVE PROCESS SUNSET; ANTI-FRAUD REVOCATION AUTHORITY.—

(1) REPEAL OF SUNSET.—Section 505 of the Coast Guard Authorization Act of 1998 (46 U.S.C. 12106 note) is repealed. The repeal of section 505 shall have no effect on the validity of any certificate or endorsement issued under section 502 of that Act.

(2) REVOCATION FOR FRAUD.—Section 503 of the Coast Guard Authorization Act of 1998 (46 U.S.C. 12106 note) is amended to read as follows:

"SEC. 503. REVOCATION.

"(a) REVOCATION FOR FRAUD.—The Secretary shall revoke a certificate or an endorsement issued under section 502, after notice and an opportunity for a hearing, if the Secretary determines that the certificate or endorsement was obtained by fraud.

"(b) APPLICATION WITH CRIMINAL PENALTIES.—Nothing in this section affects—

"(1) the criminal prohibition on fraud and false statements provided by section 1001 of title 18, United States Code; or

"(2) any other authority of the Secretary to revoke a certificate or endorsement issued under section 502 of this Act.".

(d) TECHNOLOGY DEMONSTRATION WAIVER.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for the sole purpose of technology demonstrations (including transporting guests for such demonstration who have not contributed consideration for their passage) for the vessel FOILCAT (United States official number 1063892).

SEC. 208. EXEMPTION FOR VICTORY SHIPS.

Section 3302(l)(1) of title 46, United States Code, is amended by adding at the end the following:

"(D) The SS Red Oak Victory (United States official number 249410), owned by the Richmond Museum Association, located in Richmond, California.

"(E) The SS American Victory (United States official number 248005), owned by Victory Ship, Inc., of Tampa, Florida.

"(F) The LST–325, owned by USS LST Ship Memorial, Incorporated, located in Mobile, Alabama.".

SEC. 209. CERTIFICATE OF DOCUMENTATION FOR 3 BARGES.

(a) DOCUMENTATION CERTIFICATE.—Notwithstanding section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), and subject to subsection (c) of this section, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with an appropriate endorsement for employment in the coastwise trade for each of the vessels listed in subsection (b).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) The former Navy deck barge JIM, having a length of 110 feet and a width of 34 feet.

(2) The former railroad car barge HUGH, having a length of 185 feet and a width of 34 feet.

(3) The former railroad car barge TOMMY, having a length of 185 feet and a width of 34 feet.

(c) LIMITATION ON OPERATION.—A vessel issued a certificate of documentation under this section may be used only as a floating platform for launching fireworks, including transportation of materials associated with that use.

SEC. 210. CERTIFICATE OF DOCUMENTATION FOR THE EAGLE.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), chapter 121 of title 46, United States Code, and section 1 of the Act of May 28, 1906 (46 App. U.S.C. 292), the Secretary of the department in which the Coast Guard is operating shall issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel EAGLE (hull number BK–1754, United States official number 1091389) if the vessel is—

(1) owned by a State, a political subdivision of a State, or a public authority chartered by a State;

(2) if chartered, chartered to a State, a political subdivision of a State, or a public authority chartered by a State;

(3) operated only in conjunction with—

(A) scour jet operations; or

(B) dredging services adjacent to facilities owned by the State, political subdivision, or public authority; and

(4) externally identified clearly as a vessel of that State, subdivision, or authority.

SEC. 211. WAIVER FOR VESSELS IN NEW WORLD CHALLENGE RACE.

Notwithstanding section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), beginning on April 1, 2002, the 10 sailboats participating in the New World Challenge Race may transport guests, who have not contributed consideration for their passage, from and around the ports of San Francisco and San Diego, California, before and during stops of that race. This section shall have no force or effect beginning on the earlier of—

(1) 60 days after the last competing sailboat reaches the end of that race in San Francisco, California; or

(2) December 31, 2003.

SEC. 212. VESSEL ASPHALT COMMANDER.

Notwithstanding any other law or agreement with the United States Government, the vessel ASPHALT COMMANDER (United States official number 663105) may be transferred to or placed under a foreign registry or sold to a person that is not a citizen of the United States and transferred to or placed under a foreign registry.

SEC. 213. COASTWISE TRADE AUTHORIZATION.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), or any other provision of law restricting the operation of a foreign-built vessel in the coastwise trade of the United States, the following vessels may, subject to subsection (b), engage in the coastwise trade of the United States to transport platform jackets from ports in the Gulf of Mexico to sites on the Outer Continental Shelf for completion of certain offshore projects as follows:

(1) The H–114, H–627, I–650, and H–851 for the projects known as Atlantis, Thunderhorse, Holstein, and Mad Dog.

(2) The I–600 for the projects known as Murphy Medusa, Dominion Devil's Tower, and Murphy Front Runner.

(b) PRIORITY FOR U.S.-BUILT VESSELS.—Subsection (a) shall not apply in instances where a United States-built, United States-documented vessel with the capacity to transport and launch the platform jacket involved or its components is available to transport that jacket or its components. In this section, the term "platform jacket" has the meaning given that term under the thirteenth proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as amended by subsection (c) of this section.

(c) DEFINITION.—The thirteenth proviso (pertaining to transportation by launch barge) of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), is amended by striking the period at the end and inserting the following: "; and for the purposes of this proviso, the term 'platform jacket' includes any type of offshore drilling or production structure or components, including platform jackets, tension leg or SPAR platform superstructures (including the deck, drilling rig and support utilities, and supporting structure) hull (including vertical legs and connecting pontoons or vertical cylinder), tower and base sections of a platform jacket, jacket structures, and deck modules (known as 'topsides') of a hydrocarbon development and production platform.".

SEC. 214. JONES ACT WAIVER FOR DELAYED VESSEL DELIVERY.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for a self-propelled tank vessel not built in the United States as provided in this section.

(b) WAIVER REQUIREMENTS.—The Secretary may not grant a waiver under subsection (a) unless—

(1) the person requesting the waiver is a party to a binding legal contract, executed within 24 months after the date of enactment of this Act, with a United States shipyard for the construction in the United States of a self-propelled tank vessel;

(2) the Secretary determines, on the basis of the terms of the contract, the parties to the contract, the actions of those parties in connection

with the contract, and the circumstances under which the contract was executed, that the parties are making a bona fide effort to construct in the United States and deliver a self-propelled tank vessel in a timely manner;

(3) the vessel for which the waiver is granted will meet otherwise applicable requirements of law regarding ownership and operation for vessels employed in the coastwise trade;

(4) the shipyard owns a facility with sufficient infrastructure to construct the self-propelled tank vessel;

(5) the self-propelled tank vessel that is the subject of that contract will not be available for use on the contracted delivery date because of a delay in the construction or delivery of the vessel due to unusual circumstances; and

(6) the Secretary determines that no other suitable tank vessel or vessels, or tank vessel capacity, that would not require such a waiver are reasonably available to the person requesting the waiver.

Prior to making the determination under paragraph (6), the Secretary shall provide public notice of a waiver request and shall provide persons who may have such suitable tank vessels an opportunity to indicate to the requester and the Secretary the particulars of available tank vessels or tank vessel capacity not requiring a waiver under this section.

(c) LIMITATIONS.—

(1) CAPACITY OF TANK VESSEL.—The Secretary may not grant a waiver under subsection (a) for a self-propelled tank vessel that has substantially greater capacity than the vessel described in subsection (b)(1).

(2) MAXIMUM DURATION OF WAIVER.—The Secretary may not grant a waiver under subsection (a) for a period prior to, or extending more than 48 months after, the original contract delivery date of the vessel described in subsection (b)(1).

(3) MAXIMUM NUMBER OF WAIVERS.—The Secretary may grant waivers under subsection (a) for not more than 3 self-propelled tank vessels.

(d) DETERMINATION OF WAIVER.—

(1) IN GENERAL.—A waiver grant under subsection (a) shall terminate on the earlier of—

(A) the date established by the Secretary as its expiration date under subsection (c)(2); or

(B) the date that is 60 days after the day on which the vessel described in subsection (b)(1) is delivered.

(2) TERMINATION FOR INTENTIONAL DELAY.—The Secretary may terminate a waiver granted under subsection (a) at any time if the Secretary determines that the delay in the construction or delivery of the vessel described in the subsection (b)(1) is no longer due to unusual circumstances.

(e) SUSPENSION OF WAIVER.—The Secretary may suspend a waiver granted under subsection (a) for any period of time if the Secretary determines that a suitable tank vessel, or suitable tank vessel capacity, that would not require such a waiver is reasonably available to the person requesting the waiver.

(f) CONTRACTED-FOR VESSEL DELIVERY.—If the Secretary grants a waiver under subsection (a), the shipyard constructing the vessel described in subsection (b)(1) shall deliver the vessel, constructed in accordance with the terms of the contract, as soon as practicable after the delivery date established by the contract.

(g) UNUSUAL CIRCUMSTANCES DEFINED.—In this section, the term "unusual circumstances" means bankruptcy of the shipyard or Acts of God (other than ordinary storms or inclement weather conditions), labor strikes, acts of sabotage, explosions, fires, or vandalism, and similar circumstances beyond the control of the parties to the contract which prevent commencement of construction, or timely delivery or completion, of a vessel.

SEC. 215. REALIGNMENT OF POLICY RESPONSIBILITY IN THE DEPARTMENT OF TRANSPORTATION.

(a) IN GENERAL.—Section 102 of title 49, United States Code, is amended by—

(1) redesignating subsection (d) as subsection (g), and moving such subsection to appear after subsection (f);

(2) inserting after subsection (c) the following:

"(d) The Department has an Under Secretary of Transportation for Policy appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall provide leadership in the development of policy for the Department, supervise the policy activities of Assistant Secretaries with primary responsibility for aviation, international, and other transportation policy development and carry out other powers and duties prescribed by the Secretary. The Under Secretary acts for the Secretary when the Secretary and the Deputy Secretary are absent or unable to serve, or when the offices of Secretary and Deputy Secretary are vacant."; and

(3) by striking "Secretary and the Deputy Secretary" each place it appears in the last sentence of subsection (f), as redesignated, and inserting "Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy".

(b) POSITION IN EXECUTIVE SERVICE.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary of Transportation for Policy.".

(c) CONFORMING AMENDMENT.—Section 102 of title 49, United States Code, is further amended by striking subsection (g), as redesignated by subsection (a)(1), on the date that an individual is appointed to the position of Under Secretary of Transportation for Policy under subsection (d) of such section, as added by subsection (a)(2) of this section.

TITLE III—COAST GUARD PERSONNEL AND MARITIME SAFETY

SEC. 301. SHORT TITLE.

This title may be cited as the "Coast Guard Personnel and Maritime Safety Act of 2002".

Subtitle A—Personnel Management

SEC. 311. COAST GUARD BAND DIRECTOR RANK.

Section 336(d) of title 14, United States Code, is amended by striking "commander" and inserting "captain".

SEC. 312. COMPENSATORY ABSENCE FOR ISOLATED DUTY.

(a) IN GENERAL.—Section 511 of title 14, United States Code, is amended to read as follows:

"§511. Compensatory absence from duty for military personnel at isolated duty stations

"The Secretary may grant compensatory absence from duty to military personnel of the Coast Guard serving at isolated duty stations of the Coast Guard when conditions of duty result in confinement because of isolation or in long periods of continuous duty.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 13 of title 14, United States Code, is amended by striking the item relating to section 511 and inserting the following:

"511. Compensatory absence from duty for military personnel at isolated duty stations.".

SEC. 313. ACCELERATED PROMOTION OF CERTAIN COAST GUARD OFFICERS.

Title 14, United States Code, is amended—

(1) in section 259, by adding at the end the following:

"(c)(1) After selecting the officers to be recommended for promotion, a selection board may recommend officers of particular merit, from among those officers chosen for promotion, to be placed at the top of the list of selectees promulgated by the Secretary under section 271(a) of this title. The number of officers that a board may recommend to be placed at the top of the list of selectees may not exceed the percentages set forth in subsection (b) unless such a percentage is a number less than one, in which case the board may recommend one officer for such placement. No officer may be recommended to be placed at the top of the list of selectees unless he or she receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

"(2) The Secretary shall conduct a survey of the Coast Guard officer corps to determine if implementation of this subsection will improve Coast Guard officer retention. A selection board may not make any recommendation under this subsection before the date on which the Secretary publishes a finding, based upon the results of the survey, that implementation of this subsection will improve Coast Guard officer retention.

"(3) The Secretary shall submit any finding made by the Secretary pursuant to paragraph (2) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.";

(2) in section 260(a), by inserting "and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title" after "promotion"; and

(3) in section 271(a), by inserting at the end the following: "The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.".

Subtitle B—Marine Safety

SEC. 321. EXTENSION OF TERRITORIAL SEA FOR VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT.

Section 4(b) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(b)), is amended by striking "United States inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended." and inserting "United States, which includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.".

SEC. 322. MODIFICATION OF VARIOUS REPORTING REQUIREMENTS.

(a) TERMINATION OF OIL SPILL LIABILITY TRUST FUND ANNUAL REPORT.—The report regarding the Oil Spill Liability Trust Fund required by the Conference Report (House Report 101–892) accompanying the Department of Transportation and Related Agencies Appropriations Act, 1991, as that requirement was amended by section 1122 of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66), shall no longer be submitted to the Congress.

(b) PRESERVATION OF CERTAIN REPORTING REQUIREMENTS.—Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

(1) COAST GUARD OPERATIONS AND EXPENDITURES.—Section 651 of title 14, United States Code.

(2) SUMMARY OF MARINE CASUALTIES REPORTED DURING PRIOR FISCAL YEAR.—Section 6307(c) of title 46, United States Code.

(3) USER FEE ACTIVITIES AND AMOUNTS.—Section 664 of title 46, United States Code.

(4) CONDITIONS OF PUBLIC PORTS OF THE UNITED STATES.—Section 308(c) of title 49, United States Code.

(5) ACTIVITIES OF FEDERAL MARITIME COMMISSION.—Section 208 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1118).

(6) ACTIVITIES OF INTERAGENCY COORDINATING COMMITTEE ON OIL POLLUTION RESEARCH.—Section 7001(e) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(e)).

SEC. 323. OIL SPILL LIABILITY TRUST FUND; EMERGENCY FUND ADVANCEMENT AUTHORITY.

Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended by inserting after the first sentence the following: "To the extent that such amount is not adequate, the Coast Guard may obtain an advance from the Fund of such sums as may be necessary, up to a maximum of $100,000,000, and within 30 days shall notify Congress of the amount advanced and the facts and circumstances necessitating the advance. Amounts advanced shall be repaid to the Fund when, and to the extent that, removal costs are recovered by the Coast Guard from responsible parties for the discharge or substantial threat of discharge.".

SEC. 324. MERCHANT MARINER DOCUMENTATION REQUIREMENTS.

(a) INTERIM MERCHANT MARINERS' DOCUMENTS.—Section 7302 of title 46, United States Code, is amended—

(1) by striking "A" in subsection (f) and inserting "Except as provided in subsection (g), a"; and

(2) by adding at the end the following:

"(g)(1) The Secretary may, pending receipt and review of information required under subsections (c) and (d), immediately issue an interim merchant mariner's document valid for a period not to exceed 120 days, to—

"(A) an individual to be employed as gaming personnel, entertainment personnel, wait staff, or other service personnel on board a passenger vessel not engaged in foreign service, with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo or passengers; or

"(B) an individual seeking renewal of, or qualifying for a supplemental endorsement to, a valid merchant mariner's document issued under this section.

"(2) No more than one interim document may be issued to an individual under paragraph (1)(A) of this subsection.".

(b) EXCEPTION.—Section 8701(a) of title 46, United States Code, is amended—

(1) by striking "and" after the semicolon in paragraph (8);

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by inserting after paragraph (8) the following:

"(9) a passenger vessel not engaged in a foreign voyage with respect to individuals on board employed for a period of not more than 30 service days within a 12 month period as entertainment personnel, with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo or passengers; and".

SEC. 325. PENALTIES FOR NEGLIGENT OPERATIONS AND INTERFERING WITH SAFE OPERATION.

Section 2302(a) of title 46, United States Code, is amended by striking "$1,000." and inserting "$5,000 in the case of a recreational vessel, or $25,000 in the case of any other vessel.".

Subtitle C—Renewal of Advisory Groups

SEC. 331. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

(a) COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.—Section 4508 of title 46, United States Code, is amended—

*(1) by inserting "**Safety**" in the section heading after "**Vessel**";*

(2) by inserting "Safety" in subsection (a) after "Vessel";

(3) by striking "(5 App. U.S.C. 1 et seq.)" in subsection (e)(1) and inserting "(5 App. U.S.C.)"; and

(4) by striking "on September 30, 2000" in subsection (e)(1) and inserting "on September 30, 2005".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 46, United States Code, is amended by striking the item relating to section 4508 and inserting the following:

"4508. Commercial Fishing Industry Vessel Safety Advisory Committee.".

SEC. 332. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.

Section 18(h) of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by striking "September 30, 2000." and inserting "September 30, 2005.".

SEC. 333. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

Section 19(g) of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by striking "September 30, 2000" and inserting "September 30, 2005".

SEC. 334. NAVIGATION SAFETY ADVISORY COUNCIL.

Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking "September 30, 2000" and inserting "September 30, 2005".

SEC. 335. NATIONAL BOATING SAFETY ADVISORY COUNCIL.

Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 2000" and inserting "September 30, 2005".

SEC. 336. TOWING SAFETY ADVISORY COMMITTEE.

The Act entitled "An Act to establish a Towing Safety Advisory Committee in the Department of Transportation" approved October 6, 1980 (33 U.S.C. 1231a), is amended by striking "September 30, 2000." in subsection (e) and inserting "September 30, 2005.".

Subtitle D—Miscellaneous

SEC. 341. PATROL CRAFT.

Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating may accept, by direct transfer without cost, for use by the Coast Guard primarily for expanded drug interdiction activities required to meet national supply reduction performance goals, up to 7 PC–170 patrol craft from the Department of Defense if it offers to transfer such craft.

SEC. 342. BOATING SAFETY.

(a) GENERAL STATE REVENUE DEFINITION.—For fiscal year 2003, the term "general State revenue" in section 13102(a)(3) of title 46, United States Code, includes any amounts expended for the State's recreational boating safety program by a State agency, a public corporation established under State law, or any other State instrumentality, as determined by the Secretary of the department in which the Coast Guard is operating.

(b) FUNDING.—For fiscal year 2003, the amount available for recreational boating safety under section 4(b)(3) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(3)), is $83,000,000.

SEC. 343. CARIBBEAN SUPPORT TENDER.

(a) IN GENERAL.—The Coast Guard is authorized to operate and maintain a Caribbean Support Tender (or similar type vessel) to provide technical assistance, including law enforcement training, for foreign coast guards, navies, and other maritime services.

(b) MEDICAL AND DENTAL CARE.—

(1) The Commandant may provide medical and dental care to foreign military Caribbean Support Tender personnel and their dependents accompanying them in the United States—

(A) on an outpatient basis without cost; and

(B) on an inpatient basis if the United States is reimbursed for the costs of providing such care. Payments received as reimbursement for the provision of such care shall be credited to the appropriations against which the charges were made for the provision of such care.

(2) Notwithstanding paragraph (1)(B), the Commandant may provide inpatient medical and dental care in the United States without cost to foreign military Caribbean Support Tender personnel and their dependents accompanying them in the United States if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 344. PROHIBITION OF NEW MARITIME USER FEES.

Section 2110(k) of title 46, United States Code, is amended by striking "2001" and inserting "2006".

SEC. 345. GREAT LAKES LIGHTHOUSES.

(a) FINDINGS.—The Congress finds the following:

(1) The Great Lakes are home to more than 400 lighthouses. 120 of these maritime landmarks are in the State of Michigan.

(2) Lighthouses are an important part of Great Lakes culture and stand as a testament to the importance of shipping in the region's political, economic, and social history.

(3) Advances in navigation technology have made many Great Lakes lighthouses obsolete. In Michigan alone, approximately 70 lighthouses will be designated as excess property of the Federal Government and will be transferred to the General Services Administration for disposal.

(4) Unfortunately, the Federal property disposal process is confusing, complicated, and not well-suited to disposal of historic lighthouses or to facilitate transfers to nonprofit organizations. This is especially troubling because, in many cases, local nonprofit historical organizations have dedicated tremendous resources to preserving and maintaining Great Lakes lighthouses.

(5) If Great Lakes lighthouses disappear, the public will be unaware of an important chapter in Great Lakes history.

(6) The National Trust for Historic Preservation has placed Michigan lighthouses on their list of Most Endangered Historic Places.

(b) ASSISTANCE FOR GREAT LAKES LIGHTHOUSE PRESERVATION EFFORTS.—The Secretary of the department in which the Coast Guard is operating, may—

(1) continue to offer advice and technical assistance to organizations in the Great Lakes region that are dedicated to lighthouse stewardship; and

(2) promptly release information regarding the timing of designations of Coast Guard lighthouses on the Great Lakes as excess to the needs of the Coast Guard, to enable those organizations to mobilize and be prepared to take appropriate action with respect to the disposal of those properties.

SEC. 346. MODERNIZATION OF NATIONAL DISTRESS AND RESPONSE SYSTEM.

(a) REPORT.—The Secretary of the department in which the Coast Guard is operating shall prepare a status report on the modernization of the National Distress and Response System and transmit the report, not later than 60 days after the date of enactment of this Act and annually thereafter until completion of the project, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) CONTENTS.—The report required by subsection (a) shall—

(1) set forth the scope of the modernization, the schedule for completion of the System, and information on progress in meeting the schedule and on any anticipated delays;

(2) specify the funding expended to-date on the System, the funding required to complete the

System, and the purposes for which the funds were or will be expended;

(3) describe and map the existing public and private communications coverage throughout the waters of the coastal and internal regions of the continental United States, Alaska, Hawaii, Guam, and the Caribbean, and identify locations that possess direction-finding, asset-tracking communications, and digital selective calling service;

(4) identify areas of high risk to boaters and Coast Guard personnel due to communications gaps;

(5) specify steps taken by the Secretary to fill existing gaps in coverage, including obtaining direction-finding equipment, digital recording systems, asset-tracking communications, use of commercial VHF services, and digital selective calling services that meet or exceed Global Maritime Distress and Safety System requirements adopted under the International Convention for the Safety of Life at Sea;

(6) identify the number of VHF–FM radios equipped with digital selective calling sold to United States boaters;

(7) list all reported marine accidents, casualties, and fatalities occurring in areas with existing communications gaps or failures, including incidents associated with gaps in VHF–FM coverage or digital selected calling capabilities and failures associated with inadequate communications equipment aboard the involved vessels during calendar years 1997 and thereafter;

(8) identify existing systems available to close all identified marine safety gaps before January 1, 2003, including expeditious receipt and response by appropriate Coast Guard operations centers to VHF–FM digital selective calling distress signal; and

(9) identify actions taken to-date to implement the recommendations of the National Transportation Safety Board in its Report No. MAR–99–01.

SEC. 347. CONVEYANCE OF COAST GUARD PROPERTY IN PORTLAND, MAINE.

(a) Authority To Convey.—

(1) In general.—The Secretary of the department in which the Coast Guard is operating, or a designee of the Secretary, may convey to the Gulf of Maine Aquarium Development Corporation, its successors and assigns, without payment for consideration, all right, title, and interest of the United States in and to approximately 4.13 acres of land, including a pier and bulkhead, known as the Naval Reserve Pier property, together with any improvements thereon in their then current condition, located in Portland, Maine. All conditions placed with the deed of title shall be construed as covenants running with the land.

(2) Identification of property.—The Secretary, in consultation with the Commandant of the Coast Guard, may identify, describe, and determine the property to be conveyed under this section. The floating docks associated with or attached to the Naval Reserve Pier property shall remain the personal property of the United States.

(b) Lease to the United States.—

(1) Condition of conveyance.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into a lease agreement with the United States, the terms of which qre mutually satisfactory to the Commandant and the Corporation, in which the Corporation shall lease a portion of the Naval Reserve Pier property to the United States for a term of 30 years without payment of consideration. The lease agreement shall be executed within 12 months after the date of enactment of this Act.

(2) Identification of leased premises.—The Secretary, in consultation with the Commandant, may identify and describe the leased premises and rights of access, including the following, in order to allow the Coast Guard to operate and perform missions from and upon the leased premises:

(A) The right of ingress and egress over the Naval Reserve Pier property, including the pier and bulkhead, at any time, without notice, for purposes of access to Coast Guard vessels and performance of Coast Guard missions and other mission-related activities.

(B) The right to berth Coast Guard cutters or other vessels as required in the moorings along the east side of the Naval Reserve Pier property and the right to attach floating docks which shall be owned and maintained at the United States' sole cost and expense.

(C) The right to operate, maintain, remove, relocate, or replace an aid to navigation located upon, or to install any aid to navigation upon, the Naval Reserve Pier property as the Coast Guard, in its sole discretion, may determine is needed for navigational purposes.

(D) The right to occupy up to 3,000 contiguous gross square feet at the Naval Reserve Pier property for storage and office space, which will be provided and constructed by the Corporation, at the Corporation's sole cost and expense, and which will be maintained, and utilities and other operating expenses paid for, by the United States at its sole cost and expense.

(E) The right to occupy up to 1,200 contiguous gross square feet of offsite storage in a location other than the Naval Reserve Pier property, which will be provided by the Corporation at the Corporation's sole cost and expense, and which will be maintained, and utilities and other operating expenses paid for, by the United States at its sole cost and expense.

(F) The right for Coast Guard personnel to park up to 60 vehicles, at no expense to the Government, in the Corporation's parking spaces on the Naval Reserve Pier property or in parking spaces that the Corporation may secure within 1,000 feet of the Naval Reserve Pier property or within 1,000 feet of the Coast Guard Marine Safety Office Portland. Spaces for no less than 30 vehicles shall be located on the Naval Reserve Pier property.

(3) Renewal.—The lease described in paragraph (1) may be renewed, at the sole option of the United States, for additional lease terms.

(4) Limitation on subleases.—The United States may not sublease the leased premises to a third party or use the leased premises for purposes other than fulfilling the missions of the Coast Guard and for other mission related activities.

(5) Termination.—In the event that the Coast Guard ceases to use the leased premises, the Secretary, in consultation with the Commandant, may terminate the lease with the Corporation.

(c) Improvement of Leased Premises.—

(1) In general.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States, subject to the Commandant's design specifications, project's schedule, and final project approval, to replace the bulkhead and pier which connects to, and provides access from, the bulkhead to the floating docks, at the Corporation's sole cost and expense, on the east side of the Naval Reserve Pier property within 30 months from the date of conveyance. The agreement to improve the leased premises shall be executed within 12 months after the date of enactment of this Act.

(2) Further improvements.—In addition to the improvements described in paragraph (1), the Commandant may further improve the leased premises during the lease term, at the United States sole cost and expense.

(d) Utility Installation and Maintenance Obligations.—

(1) Utilities.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States to allow the United States to operate and maintain existing utility lines and related equipment, at the United States sole cost and expense. At such time as the Corporation constructs its proposed public aquarium, the Corporation shall replace existing utility lines and related equipment and provide additional utility lines and equipment capable of supporting a third 110-foot Coast Guard cutter, with comparable, new, code compliant utility lines and equipment at the Corporation's sole cost and expense, maintain such utility lines and related equipment from an agreed upon demarcation point, and make such utility lines and equipment available for use by the United States, if the United States pays for its use of utilities at its sole cost and expense. The agreement concerning the operation and maintenance of utility lines and equipment shall be executed within 12 months after the date of enactment of this Act.

(2) Maintenance.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States to maintain, at the Corporation's sole cost and expense, the replacement bulkhead and pier on the east side of the Naval Reserve Pier property. The agreement concerning the maintenance of the bulkhead and pier shall be executed within 12 months after the date of enactment of this Act.

(3) Aids to navigation.—The United States shall be required to maintain, at its sole cost and expense, any Coast Guard active aid to navigation located upon the Naval Reserve Pier property.

(e) Additional Rights.—The conveyance of the Naval Reserve Pier property shall be made subject to conditions the Secretary considers necessary to ensure that—

(1) the Corporation shall not interfere or allow interference, in any manner, with use of the leased premises by the United States; and

(2) the Corporation shall not interfere or allow interference, in any manner, with any aid to navigation nor hinder activities required for the operation and maintenance of any aid to navigation, without the express written permission of the head of the agency responsible for operating and maintaining the aid to navigation.

(f) Remedies and Reversionary Interest.—The Naval Reserve Pier property, at the option of the Secretary, shall revert to the United States and be placed under the administrative control of the Secretary, if, and only if, the Corporation fails to abide by any of the terms of this section or any agreement entered into under subsection (b), (c), or (d) of this section.

(g) Liability of the Parties.—The liability of the United States and the Corporation for any injury, death, or damage to or loss of property occurring on the leased property shall be determined with reference to existing State or Federal law, as appropriate, and any such liability may not be modified or enlarged by this title or any agreement of the parties.

(h) Expiration of Authority To Convey.—The authority to convey the Naval Reserve property under this section shall expire 3 years after the date of enactment of this Act.

(i) Definitions.—In this section, the following definitions apply:

(1) Aid to navigation.—The term "aid to navigation" means equipment used for navigational purposes, including a light, antenna, sound signal, electronic navigation equipment, cameras, sensors power source, or other related equipment which are operated or maintained by the United States.

(2) Corporation.—The term "Corporation" means the Gulf of Maine Aquarium Development Corporation, its successors and assigns.

SEC. 348. ADDITIONAL COAST GUARD FUNDING NEEDS AFTER SEPTEMBER 11, 2001.

(a) In General.—No later than 90 days after the date of enactment of this Act, the Secretary

of the department in which the Coast Guard is operating shall submit a report to the Congress that—

(1) compares Coast Guard expenditures by mission area on an annualized basis before and after the terrorist attacks of September 11, 2001;

(2) estimates—

(A) annual funding amounts and personnel levels that would restore all Coast Guard mission areas to the readiness levels that existed before September 11, 2001;

(B) annual funding amounts and personnel levels required to fulfill the Coast Guard's additional responsibilities for port security after September 11, 2001; and

(C) annual funding amounts and personnel levels required to increase law enforcement needs in mission areas other than port security after September 11, 2001;

(3) generally describes the services provided by the Coast Guard to the Department of Defense after September 11, 2001, and states the cost of such services; and

(4) identifies the Federal agency providing funds for those services.

(b) Report Required.—Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate identifying mission targets for each Coast Guard mission for fiscal years 2003, 2004, and 2005 and the specific steps necessary to achieve those targets. The Inspector General of the department in which the Coast Guard is operating shall review the final strategic plan and provide an independent report with its views to the Committees within 90 days after the plan has been submitted by the Secretary.

SEC. 349. MISCELLANEOUS CONVEYANCES.

(a) Authority To Convey.—

(1) In general.—The Secretary of the department in which the Coast Guard is operating may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to each of the following properties:

(A) Coast Guard Slip Point Light Station, located in Clallam County, Washington, to Clallam County, Washington.

(B) The parcel of land on which is situated the Point Piños Light, located in Monterey County, California, to the city of Pacific Grove, California.

(2) Identification of property.—The Secretary may identify, describe, and determine the property to be conveyed under this subsection.

(3) Limitation.—The Secretary may not under this section convey—

(A) any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance; or

(B) any interest in submerged land.

(b) General Terms and Conditions.—

(1) In general.—Each conveyance of property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions required by this section and other terms and conditions the Secretary may consider appropriate, including the reservation of easements and other rights on behalf of the United States.

(2) Reversionary interest.—In addition to any term or condition established under this section, each conveyance of property under this section shall be subject to the condition that all right, title, and interest in the property shall immediately revert to the United States if—

(A) the property, or any part of the property—

(i) ceases to be available and accessible to the public, on a reasonable basis, for educational, park, recreational, cultural, historic preservation, or other similar purposes specified for the property in the terms of conveyance;

(ii) ceases to be maintained in a manner that is consistent with its present or future use as a site for Coast Guard aids to navigation or compliance with this section; or

(iii) ceases to be maintained in a manner consistent with the conditions in paragraph (4) established by the Secretary pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.); or

(B) at least 30 days before that reversion, the Secretary provides written notice to the owner that the property is needed for national security purposes.

(3) Maintenance of navigation functions.—Each conveyance of property under this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed that are active aids to navigation shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Commandant of the Coast Guard;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating, maintaining, and inspecting aids to navigation and for the purpose of enforcing compliance with this subsection; and

(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

(4) Maintenance of property.—(A) Subject to subparagraph (B), the owner of a property conveyed under this section shall maintain the property in a proper, substantial, and workmanlike manner, and in accordance with any conditions established by the conveying authority pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(B) The owner of a property conveyed under this section is not required to maintain any active aid to navigation equipment on the property, except private aids to navigation permitted under section 83 of title 14, United States Code.

(c) Special Terms and Conditions.—The Secretary may retain all right, title, and interest of the United States in and to any portion of any parcel referred to in subsection (a)(1)(B) that the Secretary considers appropriate.

(d) Definitions.—In this section, the following definitions apply:

(1) Aids to navigation.—The term "aids to navigation" means equipment used for navigation purposes, including a light, antenna, radio, sound signal, electronic navigation equipment, or other associated equipment which are operated or maintained by the United States.

(2) Owner.—The term "owner" means, for a property conveyed under this section, the person identified in subsection (a)(1) of the property and includes any successor or assign of that person.

TITLE IV—OMNIBUS MARITIME IMPROVEMENTS

SEC. 401. SHORT TITLE.

This title may be cited as the "Omnibus Maritime and Coast Guard Improvements Act of 2002".

SEC. 402. EXTENSION OF COAST GUARD HOUSING AUTHORITIES.

(a) Housing Contractors.—Section 681(a) of title 14, United States Code, is amended by inserting ", including a small business concern qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a))," after "private persons".

(b) Budget Authority Limitation.—Section 687(f) of title 14, United States Code, is amended by striking "$20,000,000" and inserting "$40,000,000".

(c) Demonstration Project.—Section 687 of title 14, United States Code, is amended by adding at the end the following:

"(g) Demonstration Project Authorized.—To promote efficiencies through the use of alternative procedures for expediting new housing projects, the Secretary—

"(1) may develop and implement a demonstration project for acquisition or construction of military family housing and military unaccompanied housing on or near the Coast Guard installation at Kodiak, Alaska;

"(2) in implementing the demonstration project, shall utilize, to the maximum extent possible, the contracting authority of the Small Business Administration's section 8(a) program;

"(3) shall, to the maximum extent possible, acquire or construct such housing through contracts with small business concerns qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) that have their principal place of business in the State of Alaska; and

"(4) shall report to Congress by September 1 of each year on the progress of activities under the demonstration project.".

(d) Extension.—Section 689 of title 14, United States Code, is amended by striking "2001" and inserting "2007".

SEC. 403. INVENTORY OF VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR.

(a) Inventory.—The Secretary of Transportation shall develop, maintain, and periodically update an inventory of vessels that are documented under chapter 121 of title 46, United States Code, are 200 feet or more in length, and have the capability to lay, maintain, or repair a submarine cable, without regard to whether a particular vessel is classified as a cable ship or cable vessel.

(b) Vessel information.—For each vessel listed in the inventory, the Secretary shall include in the inventory—

(1) the name, length, beam, depth, and other distinguishing characteristics of the vessel;

(2) the abilities and limitations of the vessel with respect to the laying, maintaining, and repairing of a submarine cable; and

(3) the name and address of the person to whom inquiries regarding the vessel may be made.

(c) Publication.—The Secretary shall—

(1) not later than 60 days after the date of enactment of this Act, publish in the Federal Register a current inventory developed under subsection (a); and

(2) every six months thereafter, publish in the Federal Register an updated inventory.

SEC. 404. VESSEL ESCORT OPERATIONS AND TOWING ASSISTANCE.

(a) In General.—Except in the case of a vessel in distress, only a vessel of the United States (as that term is defined in section 2101 of title 46, United States Code) may perform the following escort vessel operations within the navigable waters of the United States:

(1) Operations that commence or terminate at a port or place in the United States.

(2) Operations required by United States law or regulation.

(3) Operations provided in whole or in part within or through navigation facilities owned,

maintained, or operated by the United States Government or the approaches to those facilities, other than facilities operated by the St. Lawrence Seaway Development Corporation on the St. Lawrence River portion of the Seaway.

(b) Addition to Towing Vessel.—In the case of a vessel being towed under section 4370 of the Revised Statutes of the United States (46 App. U.S.C. 316(a)), an escort vessel is any vessel assigned and dedicated to the vessel being towed in addition to any towing vessel required under that section.

(c) Relationship to Other Law.—Nothing in this section shall affect or be construed or interpreted to affect or modify section 4370 of the Revised Statutes of the United States (46 U.S.C. 316(a)).

(d) Definition.—In this section, the term "escort vessel" means any vessel that is assigned and dedicated to assist another vessel, whether or not tethered to that vessel, solely as a safety precaution to assist in controlling the speed or course of the assisted vessel in the event of a steering or propulsion equipment failure, or any other similar emergency circumstance, or in restricted waters where additional assistance in maneuvering the vessel is required to ensure its safe operation.

(e) Penalty.—A person violating this section is liable to the United States Government for a civil penalty of not more than $10,000 for each day during which the violations occurs.

SEC. 405. SEARCH AND RESCUE CENTER STANDARDS.

(a) In General.—Title 14, United States Code, is amended—

(1) by redesignating the second section 673 and section 674 in order as sections 674 and 675; and

(2) by adding at the end of chapter 17 the following:

"§676. Search and rescue center standards

"(a) The Secretary shall establish, implement, and maintain the minimum standards necessary for the safe operation of all Coast Guard search and rescue center facilities, including with respect to the following:

"(1) The lighting, acoustics, and temperature in the facilities.

"(2) The number of individuals on a shift in the facility assigned search and rescue responsibilities (including communications), which may be adjusted based on seasonal workload.

"(3) The length of time an individual may serve on watch to minimize fatigue, based on the best scientific information available.

"(4) The scheduling of individuals having search and rescue responsibilities to minimize fatigue of the individual when on duty in the facility.

"(5) The workload of each individual engaged in search and rescue responsibilities in the facility.

"(6) Stress management for the individuals assigned search and rescue responsibilities in the facilities.

"(7) The design of equipment and facilities to minimize fatigue and enhance search and rescue operations.

"(8) The acquisition and maintenance of interim search and rescue command center communications equipment.

"(9) Any other requirements that the Secretary believes will increase the safe operation of the search and rescue centers.

"(b) Sense of Congress.—It is the sense of the Congress that the Secretary should establish, implement, and maintain minimum standards necessary to ensure that an individual on duty or watch in a Coast Guard search and rescue command center facility does not work more than 12 hours in a 24-hour period, except in an emergency or unforeseen circumstances.

"(c) Definition.—For the purposes of this section, the term 'search and rescue center facility' means a Coast Guard shore facility that maintains a search and rescue mission coordination and communications watch.

"(d) Report to Congress.—The Secretary shall provide a quarterly written report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, describing the status of implementation of the standards described in subsection (b), including a list of the facilities at which such standards have or have not been implemented.".

(b) Prescription of Standards.—The Secretary shall prescribe the standards required under section 675(a) of title 14, United States Code, as enacted by subsection (a) of this section, before January 1, 2003.

(c) Clerical Amendment.—The table of sections for chapter 17 of title 14, United States Code, is amended by striking the second item relating to a section 673 and the item relating to a section 674 and inserting the following:

"674. Small boat station capability.
"675. Small boat station closures.
"676. Search and rescue center standards.".

SEC. 406. VHF COMMUNICATIONS SERVICES.

(a) The Secretary of the department in which the Coast Guard is operating may authorize a person providing commercial VHF communications services to place commercial VHF communications equipment on real property under the administrative control of the Coast Guard (including towers) subject to any terms agreed to by the parties. The Secretary and that commercial VHF communications service provider also may enter into an agreement providing for VHF communications services to the Coast Guard (including digital selective calling and radio direction finding services) at a discounted rate or price based on providing such access to real property under the administrative control of the Coast Guard.

(b) Commercial VHF communication equipment placed on real property under the administrative control of the Coast Guard under this section shall not interfere in any manner with any current or future Coast Guard communication equipment.

(c) Nothing in the section shall affect the rights or obligations of the United States under section 704(c) of the Telecommunications Act of 1996 (47 U.S.C. 332 note) with respect to the availability of property or under section 359(d) of the Communications Act of 1934 (47 U.S.C. 357(d)) with respect to charges for transmission of distress messages.

SEC. 407. LOWER COLUMBIA RIVER MARITIME FIRE AND SAFETY ACTIVITIES.

There is authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating $987,400 for fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by nonprofit organizations that act in cooperation with the Coast Guard, to remain available until expended. Organizations receiving appropriated funds must have a multiyear record of spill and marine fire response in Federal navigable waterways. Federal funds shall not exceed 25 percent of such an organization's total budget.

SEC. 408. CONFORMING REFERENCES TO THE FORMER MERCHANT MARINE AND FISHERIES COMMITTEE.

(a) Laws Codified in Title 14, United States Code.—(1) Sections 194(b)(2) and 194(b)(5) of title 14, United States Code, are amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(2) Section 663 of title 14, United States Code, is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(3) Section 664(c) of title 14, United States Code, is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(b) Laws Codified in Title 33, United States Code.—(1) Section 3(d)(3) of the International Navigational Rules Act of 1977 (33 U.S.C. 1602(d)(3)) is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(2) Section 5004(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2734(2)) is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(c) Laws Codified in Title 46, United States Code.—(1) Section 6307(a) of title 46, United States Code, is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(2) Section 901g(b)(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241k(b)(3)) is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

(3) Section 913(b) of the International Maritime and Port Security Act (46 App. U.S.C. 1809(b)) is amended by striking "Merchant Marine and Fisheries" and inserting "Transportation and Infrastructure".

SEC. 409. RESTRICTION ON VESSEL DOCUMENTATION.

Section 12108(a) of title 46, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) was built in the United States;";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following:

"(4) was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and".

SEC. 410. HYPOTHERMIA PROTECTIVE CLOTHING REQUIREMENT.

The Commandant of the Coast Guard shall ensure that all Coast Guard personnel are equipped with adequate safety equipment, including hypothermia protective clothing where appropriate, while performing search and rescue missions.

SEC. 411. RESERVE OFFICER PROMOTIONS.

(a) Section 729(i) of title 14, United States Code, is amended by inserting "on the date a vacancy occurs, or as soon thereafter as practicable in the grade to which the officer was selected for promotion or, if promotion was determined in accordance with a running mate system," after "grade".

(b) Section 731(b) of title 14, United States Coast Code, is amended by striking the period at the end and inserting ", or in the event that promotion is not determined in accordance with a running mate system, then a Reserve officer becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he or she completes the following amount of service computed from the date of rank in the grade in which he or she is serving:

"(1) two years in the grade of lieutenant (junior grade);

"(2) three years in the grade of lieutenant;

"(3) four years in the grade of lieutenant commander;

"(4) four years in the grade of commander; and

"(5) three years in the grade of captain.".

(c) Section 736(a) of title 14, United States Code, is amended by inserting "the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event" after "subchapter,".

SEC. 412. REGULAR LIEUTENANT COMMANDERS AND COMMANDERS; CONTINUATION UPON FAILURE OF SELECTION FOR PROMOTION.

Section 285 of title 14, United States Code, is amended—

(1) by striking "Each officer" and inserting "(a) Each officer"; and

(2) by adding at the end the following:

"(b) A lieutenant commander or commander of the Regular Coast Guard subject to discharge or retirement under subsection (a) may be continued on active duty when the Secretary directs a selection board convened under section 251 of this title to continue up to a specified number of lieutenant commanders or commanders on active duty. When so directed, the selection board shall recommend those officers who in the opinion of the board are best qualified to advance the needs and efficiency of the Coast Guard. When the recommendations of the board are approved by the Secretary, the officers recommended for continuation shall be notified that they have been recommended for continuation and offered an additional term of service that fulfills the needs of the Coast Guard.

"(c)(1) An officer who holds the grade of lieutenant commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 24 years of active commissioned service unless promoted to the grade of commander of the Regular Coast Guard. An officer who holds the grade of commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 26 years of active commissioned service unless promoted to the grade of captain of the Regular Coast Guard.

"(2) Unless retired or discharged under another provision of law, each officer who is continued on active duty under subsection (b) but is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher grade, shall, if eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which the period of continued service is completed.".

SEC. 413. RESERVE STUDENT PRE-COMMISSIONING ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter 21 of title 14, United States Code, is amended by inserting after section 709 the following new section:

"§709a. Reserve student pre-commissioning assistance program

"(a) The Secretary may provide financial assistance to an eligible enlisted member of the Coast Guard Reserve, not on active duty, for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—

"(1) a baccalaureate degree in not more than 5 academic years; or

"(2) a post-baccalaureate degree.

"(b)(1) To be eligible for financial assistance under this section, an enlisted member of the Coast Guard Reserve shall—

"(A) be enrolled on a full-time basis in a program of education referred to in subsection (a) at any institution of higher education; and

"(B) enter into a written agreement with the Coast Guard described in paragraph (2).

"(2) A written agreement referred to in paragraph (1)(B) is an agreement between the member and the Secretary in which the member agrees—

"(A) to accept an appointment as a commissioned officer in the Coast Guard Reserve, if tendered;

"(B) to serve on active duty for up to five years; and

"(C) under such terms and conditions as shall be prescribed by the Secretary, to serve in the Coast Guard Reserve until the eighth anniversary of the date of the appointment.

"(c) Expenses for which financial assistance may be provided under this section are the following:

"(1) Tuition and fees charged by the institution of higher education involved.

"(2) The cost of books.

"(3) In the case of a program of education leading to a baccalaureate degree, laboratory expenses.

"(4) Such other expenses as are deemed appropriate by the Secretary.

"(d) The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed $25,000 for any academic year.

"(e) Financial assistance may be provided to a member under this section for up to 5 consecutive academic years.

"(f) A member who receives financial assistance under this section may be ordered to active duty in the Coast Guard Reserve by the Secretary to serve in a designated enlisted grade for such period as the Secretary prescribes, but not more than 4 years, if the member—

"(1) completes the academic requirements of the program and refuses to accept an appointment as a commissioned officer in the Coast Guard Reserve when offered;

"(2) fails to complete the academic requirements of the institution of higher education involved; or

"(3) fails to maintain eligibility for an original appointment as a commissioned officer.

"(g)(1) If a member requests to be released from the program and the request is accepted by the Secretary, or if the member fails because of misconduct to complete the period of active duty specified, or if the member fails to fulfill any term or condition of the written agreement required to be eligible for financial assistance under this section, the financial assistance shall be terminated. The Secretary may request the member to reimburse the United States in an amount that bears the same ratio to the total costs of the education provided to that member as the unserved portion of active duty bears to the total period of active duty the member agreed to serve. The Secretary shall have the option to order such reimbursement without first ordering the member to active duty. An obligation to reimburse the United States imposed under this paragraph is a debt owed to the United States.

"(2) The Secretary may waive the service obligated under subsection (f) of a member who becomes unqualified to serve on active duty due to a circumstance not within the control of that member or who is not physically qualified for appointment and who is determined to be unqualified for service as an enlisted member of the Coast Guard Reserve due to a physical or medical condition that was not the result of the member's own misconduct or grossly negligent conduct.

"(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of a written agreement entered into under subsection (b) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

"(h) As used in this section, the term 'institution of higher education' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 21 of title 14, United States Code, is amended by adding the following new item after the item relating to section 709:

"709a. Reserve student pre-commissioning assistance program.".

SEC. 414. CONTINUATION ON ACTIVE DUTY BEYOND THIRTY YEARS.

Section 289 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(h) Notwithstanding subsection (g) and section 288 of this title, the Commandant may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (g) or section 288 of this title. An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain the officer under this subsection.".

SEC. 415. PAYMENT OF DEATH GRATUITIES ON BEHALF OF COAST GUARD AUXILIARISTS.

Section 823a(b) of title 14, United States Code, is amended by inserting after paragraph (8) the following:

"(9) On or after January 1, 2001, section 651 of Public Law 104–208.".

SEC. 416. ALIGN COAST GUARD SEVERANCE PAY AND REVOCATION OF COMMISSION AUTHORITY WITH DEPARTMENT OF DEFENSE AUTHORITY.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended—

(1) in section 281—

*(A) by striking "**three**" in the section heading and inserting "**five**"; and*

(B) by striking "three" in the text and inserting "five";

(2) in section 283(b)(2)(A), by striking "severance" and inserting "separation";

(3) in section 286—

*(A) by striking "**severance**" in the section heading and inserting "**separation**"; and*

(B) by striking subsection (b) and inserting the following:

"(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

"(c) An officer of the Regular Coast Guard who is discharged under section 327 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10 as determined under regulations promulgated by the Secretary.

"(d) Notwithstanding subsections (a) and (b), an officer discharged under chapter 11 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer requested in writing or otherwise sought not to be selected for promotion, or requested removal from the list of selectees.";

(4) in section 286a—

*(A) by striking "**severance**" in the section heading and inserting "**separation**" in its place; and*

(B) by striking subsections (a), (b), and (c) and inserting the following:

"(a) A regular warrant officer of the Coast Guard who is discharged under section 580 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

"(b) A regular warrant officer of the Coast Guard who is discharged under section 1165 or 1166 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary.

"(c) In determining a member's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded."; and

(5) in section 327—

*(A) by striking "**severance**" in the section heading and inserting "**separation**";*

(B) by striking subsection (a)(2) and inserting the following:

"(2) for discharge with separation benefits under section 286(c) of this title.";

(C) by striking subsection (a)(3);

(D) by striking subsection (b)(2) and inserting the following:

"(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 286(c) of this title, unless under regulations promulgated by the Secretary the condition under which the officer is discharged does not warrant an honorable discharge."; and

(E) by striking subsection (b)(3).

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 14, United States Code, is amended—

(1) in the item relating to section 281, by striking "three" and inserting "five";

(2) in the item relating to section 286, by striking "severance" and inserting "separation";

(3) in the item relating to section 286a, by striking "severance" and inserting "separation"; and

(4) in the item relating to section 327, by striking "severance" and inserting "separation" in its place.

(c) EFFECTIVE DATE.—The amendments made by paragraphs (2), (3), (4), and (5) of subsection (a) shall take effect four years after the date of enactment of this Act, except that subsection (d) of section 286 of title 14, United States Code, as amended by paragraph (3) of subsection (a) of this section, shall take effect on the date of enactment of this Act and shall apply with respect to conduct on or after that date. The amendments made to the table of sections of chapter 11 of title 14, United States Code, by paragraphs (2), (3), and (4) of subsection (b) of this section shall take effect four years after the date of enactment of this Act.

SEC. 417. LONG-TERM LEASE AUTHORITY FOR LIGHTHOUSE PROPERTY.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by inserting after section 672 the following:

"§672a. Long-term lease authority for lighthouse property

"(a) The Commandant of the Coast Guard may lease to non-Federal entities, including private individuals, lighthouse property under the administrative control of the Coast Guard for terms not to exceed 30 years. Consideration for the use and occupancy of lighthouse property leased under this section, and for the value of any utilities and services furnished to a lessee of such property by the Commandant, may consist, in whole or in part, of non-pecuniary remuneration including the improvement, alteration, restoration, rehabilitation, repair, and maintenance of the leased premises by the lessee. Section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b) shall not apply to leases issued by the Commandant under this section.

"(b) Amounts received from leases made under this section, less expenses incurred, shall be deposited in the Treasury.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 672 the following:

"672a. Long-term lease authority for lighthouse property.".

SEC. 418. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS.

(a) IN GENERAL.—Section 3 of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903) is amended—

(1) in subsection (c)(1)(D), by striking "and";

(2) in subsection (c)(1)(E), by striking "United States." and inserting "United States; and"; and

(3) by inserting after subsection (c)(1)(E) the following:

"(F) a vessel located in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999, and (i) is entering the United States, (ii) has departed the United States, or (iii) is a hovering vessel as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).".

(b) MARITIME DRUG LAW ENFORCEMENT AMENDMENT.—Section 4 of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1904) is amended—

(1) by inserting "(a)" before "Any property"; and

(2) by adding at the end the following:

"(b) Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under this Act, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of an offense under this Act:

"(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

"(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

"(B) the presence of any compartment or equipment which is built or fitted out for smuggling, not including items such as a safe or lockbox reasonably used for the storage of personal valuables;

"(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capability;

"(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

"(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

"(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

"(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

"(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

"(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

"(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

"(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

"(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

"(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on a person aboard the vessel, of a quantity or other nature which reasonably indicates manufacturing or distribution activity.

"(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

"(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.".

SEC. 419. WING-IN-GROUND CRAFT.

(a) SMALL PASSENGER VESSEL.—Section 2101(35) of title 46, United States Code, is amended by inserting "a wing-in-ground craft, regardless of tonnage, carrying at least one passenger for hire, and" after "'small passenger vessel' means".

(b) WING-IN-GROUND CRAFT.—Section 2101 of title 46, United States Code, is amended by adding at the end the following:

"(48) 'wing-in-ground craft' means a vessel that is capable of operating completely above the surface of the water on a dynamic air cushion created by aerodynamic lift due to the ground effect between the vessel and the water's surface.".

SEC. 420. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS FOR VESSELS.

Section 31321(a)(4) of title 46, United States Code, is amended—

(1) by striking "(A)"; and

(2) by striking subparagraph (B).

SEC. 421. DELETION OF THUMBPRINT REQUIREMENT FOR MERCHANT MARINERS' DOCUMENTS.

Section 7303 of title 46, United States Code, is amended by striking "the thumbprint,".

SEC. 422. TEMPORARY CERTIFICATES OF DOCUMENTATION FOR RECREATIONAL VESSELS.

(a) Section 12103(a) of title 46, United States Code, is amended by inserting ", or a temporary certificate of documentation," after "certificate of documentation".

(b)(1) Chapter 121 of title 46, United States Code, is amended by adding after section 12103 the following:

"§12103a. Issuance of temporary certificate of documentation by third parties

"(a) The Secretary of the department in which the Coast Guard is operating may delegate, subject to the supervision and control of the Secretary and under terms set out by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel if the applicant for the certificate of documentation meets the requirements set out in sections 12102 and 12103 of this chapter.

"(b) A temporary certificate of documentation issued under section 12103(a) and subsection (a) of this section is valid for up to 30 days from issuance.".

(2) The table of sections for chapter 121 of title 46, United States Code, is amended by inserting after the item relating to section 12103 the following:

"12103a. Issuance of temporary certificate of documentation by third parties.".

SEC. 423. MARINE CASUALTY INVESTIGATIONS INVOLVING FOREIGN VESSELS.

Section 6101 of title 46, United States Code, is amended—

(1) by redesignating the second subsection (e) as subsection (f); and

(2) by adding at the end the following:

"(g) To the extent consistent with generally recognized practices and procedures of international law, this part applies to a foreign vessel involved in a marine casualty or incident, as defined in the International Maritime Organization Code for the Investigation of Marine Casualties and Incidents, where the United States is a Substantially Interested State and is, or has the consent of, the Lead Investigating State under the Code.".

SEC. 424. CONVEYANCE OF COAST GUARD PROPERTY IN HAMPTON TOWNSHIP, MICHIGAN.

(a) Requirement To Convey.—

(1) In general.—Notwithstanding any other law, the Secretary of the department in which the Coast Guard is operating may convey to BaySail, Inc. (a nonprofit corporation established under the laws of the State of Michigan; in this section referred to as "BaySail"), without monetary consideration, all right, title, and interest of the United States in and to property adjacent to Coast Guard Station Saginaw River, located in Hampton Township, Michigan, as identified under paragraph (2). No submerged lands may be conveyed under this section.

(2) Identification of property.—The Secretary, in consultation with the Commandant of the Coast Guard, shall identify, describe, and determine the property to be conveyed under this section.

(3) Survey.—The exact acreage and legal description of the property conveyed under paragraph (1), as identified under paragraph (2), and any easements or rights-of-way reserved by the United States under subsection (b), shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by BaySail.

(b) Terms and Conditions of Conveyance.—The conveyance of property under this section shall be made subject to any terms and conditions the Secretary considers necessary, including the reservation of easements and other rights on behalf of the United States.

(c) Reversionary Interest.—

(1) In general.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized by subsection (a), the real property conveyed pursuant to this section, at the option of the Secretary, shall revert to the United States and be placed under the administrative control of the Secretary if—

(A) BaySail sells, conveys, assigns, exchanges, or encumbers the property conveyed or any part thereof;

(B) BaySail fails to maintain the property conveyed in a manner consistent with the terms and conditions under subsection (b);

(C) BaySail conducts any commercial activity at the property conveyed, or any part thereof, without approval of the Secretary; or

(D) at least 30 days before the reversion, the Secretary provides written notice to the owner that the property or any part thereof is needed for national security purposes.

(2) Additional period.—The Secretary may, before the last day of the 5-year period described in paragraph (1), authorize an additional 5-year period during which paragraph (1) shall apply.

SEC. 425. CONVEYANCE OF PROPERTY IN TRAVERSE CITY, MICHIGAN.

Section 1005(c) of the Coast Guard Authorization Act of 1996 (110 Stat. 3957) is amended by striking "the Traverse City Area Public School District" and inserting "a public or private nonprofit entity for an educational or recreational purpose".

SEC. 426. ANNUAL REPORT ON COAST GUARD CAPABILITIES AND READINESS TO FULFILL NATIONAL DEFENSE RESPONSIBILITIES.

Not later than February 15 each year, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, prepared in conjunction with the Commandant of the Coast Guard, setting forth the capabilities and readiness of the Coast Guard to fulfill its national defense responsibilities.

SEC. 427. EXTENSION OF AUTHORIZATION FOR OIL SPILL RECOVERY INSTITUTE.

Section 5001(i) of the Oil Pollution Act of 1990 (33 U.S.C. 2731(i)) is amended by striking "10 years" and all that follows through the period at the end and inserting "September 30, 2012.".

SEC. 428. PROTECTION AGAINST DISCRIMINATION.

(a) In General.—Section 2114(a) of title 46, United States Code, is amended to read as follows:

"(a)(1) A person may not discharge or in any manner discriminate against a seaman because—

"(A) the seaman in good faith has reported or is about to report to the Coast Guard or other appropriate Federal agency or department that the seaman believes that a violation of a maritime safety law or regulation prescribed under that law or regulation has occurred; or

"(B) the seaman has refused to perform duties ordered by the seaman's employer because the seaman has a reasonable apprehension or expectation that performing such duties would result in serious injury to the seaman, other seamen, or the public.

"(2) The circumstances causing a seaman's apprehension of serious injury under paragraph (1)(B) must be of such a nature that a reasonable person, under similar circumstances, would conclude that there is a real danger of an injury or serious impairment of health resulting from the performance of duties as ordered by the seaman's employer.

"(3) To qualify for protection against the seaman's employer under paragraph (1)(B), the employee must have sought from the employer, and been unable to obtain, correction of the unsafe condition.".

(b) Appropriate Relief.—Section 2114(b) of such title is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(3) an award of costs and reasonable attorney's fees to a prevailing plaintiff not exceeding $1,000; and

"(4) an award of costs and reasonable attorney's fees to a prevailing employer not exceeding $1,000 if the court finds that a complaint filed under this section is frivolous or has been brought in bad faith.".

SEC. 429. ICEBREAKING SERVICES.

The Commandant of the Coast Guard shall not plan, implement, or finalize any regulation or take any other action which would result in the decommissioning of any WYTL-class harbor tugs unless and until the Commandant certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that sufficient replacement capability has been procured by the Coast Guard to remediate any degradation in current icebreaking services that would be caused by such decommissioning.

SEC. 430. FISHING VESSEL SAFETY TRAINING.

(a) In General.—The Commandant of the Coast Guard may provide support, with or without reimbursement, to an entity engaged in fishing vessel safety training, including—

(1) assistance in developing training curricula;

(2) use of Coast Guard personnel, including active duty members, members of the Coast Guard Reserve, and members of the Coast Guard Auxiliary, as temporary or adjunct instructors;

(3) sharing of appropriate Coast Guard informational and safety publications; and

(4) participation on applicable fishing vessel safety training advisory panels.

(b) No Interference With Other Functions.—In providing support under subsection (a), the Commandant shall ensure that the support does not interfere with any Coast Guard function or operation.

SEC. 431. LIMITATION ON LIABILITY OF PILOTS AT COAST GUARD VESSEL TRAFFIC SERVICES.

(a) In General.—Chapter 23 of title 46, United States Code, is amended by adding at the end the following:

"§2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots

"Any pilot, acting in the course and scope of his or her duties while at a United States Coast Guard Vessel Traffic Service, who provides information, advice, or communication assistance while under the supervision of a Coast Guard officer, member, or employee shall not be liable for damages caused by or related to such assistance unless the acts or omissions of such pilot constitute gross negligence or willful misconduct.".

(b) Clerical Amendment.—The table of sections for chapter 23 of title 46, United States Code, is amended by adding at the end the following:

"2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots.".

SEC. 432. ASSISTANCE FOR MARINE SAFETY STATION ON CHICAGO LAKEFRONT.

(a) Assistance Authorized.—The Coast Guard may transfer funds, appropriated by Public Law 107–87 for the construction of a Coast Guard Marine Safety and Rescue Station in Chicago, Illinois, to the City of Chicago to pay the Federal share of the cost of a project to demolish the Old Coast Guard Station, located at the north end of the inner Chicago Harbor breakwater at the foot of Randolph Street, and to plan, engineer, design, and construct a new facility at that site for use as a marine safety station on the Chicago lakefront.

(b) Cost Sharing.—

(1) Federal share.—The Federal share of the cost of a project carried out with assistance under this section may not exceed one-third of the total cost of the project or $2,000,000, whichever is less.

(2) Non-federal share.—There shall not be applied to the non-Federal share of a project carried out with assistance under this section—

(A) the value of land and existing facilities used for the project; and

(B) any costs incurred for site work performed before the date of the enactment of this Act, including costs for reconstruction of the east breakwater wall and associated utilities.

SEC. 433. EXTENSION OF TIME FOR RECREATIONAL VESSEL AND ASSOCIATED EQUIPMENT RECALLS.

Section 4310(c) of title 46, United States Code, is amended—

(1) in each of paragraphs (2)(A) and (2)(B) by striking "5" and inserting "10"; and

(2) in each of paragraphs (1)(A), (1)(B), and (1)(C) by inserting "by first class mail or" before "by certified mail".

SEC. 434. REPAIR OF MUNICIPAL DOCK, ESCANABA, MICHIGAN.

The Secretary of Transportation may transfer to the City of Escanaba, Michigan, up to $300,000 of funds appropriated for Coast Guard acquisition, construction, and improvements by Public Law 107–87, for the repair of the North *wall of the municipal dock, Escanaba, Michigan.*

SEC. 435. VESSEL GLOBAL EXPLORER.

The Secretary of Transportation shall amend the certificate of documentation of the vessel GLOBAL EXPLORER (United States official number 556069) to state that the vessel was built in the year 2002 in Gulfport, Mississippi.

SEC. 436. ALEUTIAN TRADE.

(a) Loadlines.—Section 5102(b)(5)(B)(ii) of title 46, United States Code, is amended by inserting "is not" after "(ii)".

(b) Implementation.—Except as provided in subsection (c), a fish tender vessel that before January 1, 2003, transported cargo (not including fishery related products) in the Aleutian trade is subject to chapter 51 of title 46, United States Code (as amended by subsection (a) of this section).

(c) Exception.—

(1) In general.—Before December 31, 2006, the BOWFIN (United States official number 604231) is exempt from chapter 51 of title 46, United States Code (as amended by subsection (a) of this section) when engaged in the Aleutian trade, if the vessel does not undergo a major conversion.

(2) Ensuring safety.—Before the date referred to in paragraph (1), a Coast Guard official who has reason to believe that the vessel referred to in paragraph (1) operating under this subsection is in a condition or is operated in a manner that creates an immediate threat to life or the environment or is operated in a manner that is inconsistent with section 3302 of title 46, United States Code, may direct the master or individual in charge to take immediate and reasonable steps to safeguard life and the environment, including directing the vessel to a port or other refuge.

SEC. 437. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY REVISION.

(a) Transfer.—As soon as practicable after the date of enactment of this Act, the Administrator of General Services may transfer to the Secretary, without consideration, administrative jurisdiction over, and management of, the public land.

(b) Boundary Revision.—The boundary of the Lakeshore is revised to include the public land transferred under subsection (a).

(c) Availability of Map.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) Administration.—The Secretary may administer the public land transferred under section (a)—

(1) as part of the Lakeshore; and

(2) in accordance with applicable laws (including regulations).

(e) Access to Aids to Navigation.—The Secretary of Transportation, in consultation with the Secretary, may access the front and rear range lights on the public land for the purposes of servicing, operating, maintaining, and repairing those lights.

(f) Definitions.—In this section:

(1) Lakeshore.—The term "Lakeshore" means the Pictured Rocks National Lakeshore in the State of Michigan.

(2) Map.—The term "map" means the map entitled "Proposed Addition to Pictured Rocks National Lakeshore", numbered 625/80048, and dated April 2002.

(3) Public land.—The term "public land" means the approximately .32 acres of United States Coast Guard land and improvements to the land, including the United States Coast Guard Auxiliary Operations Station and the front and rear range lights, as depicted on the map.

(4) Secretary.—The term "Secretary" means the Secretary of the Interior.

(g) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary $225,000 to restore, preserve, and maintain the public land transferred under subsection (a).

SEC. 438. LORAN-C.

There are authorized to be appropriated to the Department of Transportation, in addition to funds authorized for the Coast Guard for operation of the LORAN-C system, for capital expenses related to LORAN-C navigation infrastructure, $25,000,000 for fiscal year 2003. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the Department funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

SEC. 439. AUTHORIZATION OF PAYMENT.

(a) In General.—The Secretary of the Treasury shall pay the sum of $71,000, out of funds in the Treasury not otherwise appropriated, to the State of Hawaii, such sum being the damages arising out of the June 19, 1997, allision by the United States Coast Guard Cutter RUSH with the ferry pier at Barber's Point Harbor, Hawaii.

(b) Full Settlement.—The payment made under subsection (a) is in full settlement of all claims by the State of Hawaii against the United States arising from the June 19, 1997, allision.

SEC. 440. REPORT ON OIL SPILL RESPONDER IMMUNITY.

(a) Report to Congress.—Not later than January 1, 2004, the Secretary of the department in which the Coast Guard is operating, jointly with the Secretary of Commerce and the Secretary of the Interior, and after consultation with the Administrator of the Environmental Protection Agency and the Attorney General, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the immunity from criminal and civil penalties provided under existing law of a private responder (other than a responsible party) in the case of the incidental take of federally listed fish or wildlife that results from, but is not the purpose of, carrying out an otherwise lawful activity conducted by that responder during an oil spill removal activity where the responder was acting in a manner consistent with the National Contingency Plan or as otherwise directed by the Federal On-Scene Coordinator for the spill, and on the circumstances under which such penalties have been or could be imposed on a private responder. The report shall take into consideration the procedures under the Inter-Agency Memorandum for addressing incidental takes.

(b) Definitions.—In this section—

(1) the term "Federal On-Scene Coordinator" has the meaning given that term in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321);

(2) the term "incidental take" has the meaning given that term in the Inter-Agency Memorandum;

(3) the term "Inter-Agency Memorandum" means the Inter-Agency Memorandum of Agreement Regarding Oil Spill Planning and Response Activities under the Federal Water Pollution Control Act's National Oil and Hazardous Substances Pollution Contingency Plan and the Endangered Species Act, effective on July 22, 2001;

(4) the terms "National Contingency Plan", "removal", and "responsible party" have the meanings given those terms under section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701); and

(5) the term "private responder" means a nongovernmental entity or individual that is carrying out an oil spill removal activity at the direction of a Federal agency or a responsible party.

SEC. 441. FISHING AGREEMENTS.

(a) In General.—Section 10601(a) of title 46, United States Code, is amended—

(1) by inserting after "on a voyage, the" the following: "owner, charterer, or managing operator, or a representative thereof, including the"; and

(2) by inserting a comma after "individual in charge".

(b) Clerical and Conforming Amendments.—Section 10601 of title 46, United States Code, is amended—

(1) in subsection (a) by striking "enployed" and inserting "employed";

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

(c) Application.—An agreement that complies with the requirements of section 10601(a) of title 46, United States Code, as herein amended, and that is not the subject of an action prior to June 20, 2002, alleging a breach of subsections (a) or (b) of section 10601 as in effect on such date, is hereby deemed to have been in compliance with such subsections.

SEC. 442. ELECTRONIC PUBLISHING OF MARINE CASUALTY REPORTS.

(a) In General.—Section 6101 of title 46, United States Code, is amended by adding at the end the following:

"(g)(1) The Secretary shall publish all major marine casualty reports prepared in accordance with this section in an electronic form, and shall provide information electronically regarding how other marine casualty reports can be obtained.

"(2) For purposes of this paragraph, the term 'major marine casualty' means a casualty involving a vessel, other than a public vessel, that results in—

"(A) the loss of 6 or more lives;

"(B) the loss of a mechanically propelled vessel of 100 or more gross tons;

"(C) property damage initially estimated at $500,000 or more; or

"(D) serious threat, as determined by the Commandant of the Coast Guard with concurrence by the Chairman of the National Transportation Safety Board, to life, property, or the environment by hazardous materials.

"(h) The Secretary shall, as soon as possible, and no later than January 1, 2005, publish all marine casualty reports prepared in accordance with this section in an electronic form.".

(b) Application.—The amendment made by subsection (a) applies to all marine casualty reports completed after the date of enactment of this Act.

SEC. 443. SAFETY AND SECURITY OF PORTS AND WATERWAYS.

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended—

(1) by striking "safety and protection of the marine environment" in section 2(a) (33 U.S.C. 1221(a)) and inserting "safety, protection of the marine environment, and safety and security of United States ports and waterways"; and

(2) by striking "safety and protection of the marine environment," in section 5(a) (33 U.S.C. 1224(a)) and inserting "safety, protection of the marine environment, and the safety and security of United States ports and waterways,".

SEC. 444. SUSPENSION OF PAYMENT.

(a) In General.—Title 14, United States Code, is amended by inserting after section 424 the following:

"§424a. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution

"Under procedures prescribed by the Secretary, the Secretary may suspend the payment of the retired pay of a member or former member during periods in which the member willfully remains outside the United States to avoid criminal prosecution or civil liability. The procedures

shall address the types of criminal offenses and civil proceedings for which the procedures may be used, including the offenses specified in section 8312 of title 5, and the manner by which a member, upon the return of the member to the United States, may obtain retired pay withheld during the member's absence.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended by inserting after the item relating to section 424 the following:

"424a. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution.".

SEC. 445. PROHIBITION ON NAVIGATION FEES.

Section 4 of the Rivers and Harbors Appropriation Act of 1884 (33 U.S.C. 5) is amended as follows:

(1) The existing text is designated as subsection (a).

(2) The following is added at the end:

"(b) No taxes, tolls, operating charges, fees, or any other impositions whatever shall be levied upon or collected from any vessel or other water craft, or from its passengers or crew, by any non-Federal interest, if the vessel or water craft is operating on any navigable waters subject to the authority of the United States, or under the right to freedom of navigation on those waters, except for—

"(1) fees charged under section 208 of the Water Resources Development Act of 1986 (33 U.S.C. 2236); or

"(2) reasonable fees charged on a fair and equitable basis that—

"(A) are used solely to pay the cost of a service to the vessel or water craft;

"(B) enhance the safety and efficiency of interstate and foreign commerce; and

"(C) do not impose more than a small burden on interstate or foreign commerce.".

TITLE V—AUTHORIZATION OF APPROPRIATIONS FOR THE COAST GUARD

SEC. 501. SHORT TITLE.

This title may be cited as the "Coast Guard Authorization Act for Fiscal Year 2003".

SEC. 502. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal year 2003 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, $4,327,456,000, of which $25,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $725,000,000, of which $20,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $22,000,000, to remain available until expended, of which $3,500,000 is authorized to be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $889,000,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $18,000,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $17,000,000, to remain available until expended.

SEC. 503. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 45,500 as of September 30, 2003.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training for fiscal year 2003, 2,250 student years.

(2) For flight training for fiscal year 2003, 125 student years.

(3) For professional training in military and civilian institutions for fiscal year 2003, 300 student years.

(4) For officer acquisition for fiscal year 2003, 1,150 student years.

And the House agree to the same.

From the Committee on Transportation and Infrastructure, for consideration of the Senate bill and the House amendment, and modifications committed to conference:

DON YOUNG,
HOWARD COBLE,
FRANK A. LOBIONDO,
JIM OBERSTAR,
CORRINE BROWN,

From the Committee on Ways and Means, for consideration of secs. 112 and 115 of the Senate bill, and sec. 108 of the House amendment, and modifications committed to conference:

WILLIAM THOMAS,
PHIL CRANE,
CHARLES B. RANGEL,
Managers on the Part of the House.

ERNEST F. HOLLINGS,
DANIEL INOUYE,
JOHN F. KERRY,
JOHN BREAUX,
RON WYDEN,
MAX CLELAND,
BARBARA BOXER,
JOHN MCCAIN,
TED STEVENS,
TRENT LOTT,
KAY BAILEY HUTCHISON,
OLYMPIA SNOWE,
GORDON SMITH,
BOB GRAHAM,
CHUCK GRASSLEY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the Senate and the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1214) to ensure the security of maritime transportation in the United States against acts of terrorism, and for other purposes, submit the following joint statement to the Senate and the House in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical correction, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

Section 1 of the Senate bill states that the Act may be cited as the "Port and Maritime Security Act of 2001."

Section 1 of the House amendment states that the Act may be cited as the "Maritime Transportation Antiterrorism Act of 2002."

The Conference substitute states that the Act may be cited as the "Maritime Transportation Security Act of 2002."

TITLE I—MARITIME TRANSPORTATION SECURITY

SECTION 101. FINDINGS

Section 101 of the Senate bill states a number of Congressional findings in regard to the Port and Maritime Security Act of 2001.

The House bill does not contain a comparable provision.

The Conference substitute adopts the Senate provision with an amendment.

SECTION 102. PORT SECURITY

Senate bill

Definitions

Section 123 of the Senate bill contains various definitions of terms in S. 1214.

Initial security evaluations and port vulnerability assessments

Section 103 of the Senate bill requires the Secretary of Transportation, after consultation with appropriate public and private sector officials and organizations, to develop standards and procedures for conducting initial security evaluations and port vulnerability assessments.

National maritime transportation security plan

Section 203 of the Senate bill requires the Secretary of Transportation to prepare and publish a National Maritime Transportation Security Plan for prevention and response to maritime crime and terrorism.

Area maritime security committees and area maritime security plans

Section 204 of the Senate bill establishes Area Maritime Security Plans.

Maritime facility security plans

Section 105 of the Senate bill requires the Secretary of Transportation, after consultation with the Secretary of the Treasury and the Attorney General, to issue regulations establishing requirements for the submission of a Maritime Facility Security Plan by each port authority, waterfront facility operator, or operator of a public or commercial structure located within a marine environment.

Vessel security plans

Section 205 of the Senate bill authorizes the Secretary of Transportation to issue regulations establishing requirements for vessel security plan and programs for vessels calling on United States ports.

Protection of security-related information

Section 206 of the Senate bill prohibits the security. plan information developed under this Act from disclosure.

Employment investigations and restrictions for security-sensitive positions

Section 106 of the Senate bill requires the Secretary of Transportation to control access to areas in the Maritime Facility Security Plan for each waterfront facility and to limit access to security-sensitive information. The regulations may also require employment history and criminal background checks for individuals with unrestricted access to controlled areas or sensitive information.

Maritime safety and security teams

Section 117 of the Senate bill requires the Secretary of Transportation to establish Maritime Safety and Security Teams to safeguard the public and protect vessels, harbors, ports, and other waterfront facilities.

Port security infrastructure improvement

Section 111 of the Senate bill amends the Merchant Marine Act of 1936 to provide loan guarantees and grants for port security infrastructure improvements.

Research and development for crime and terrorism prevention and detection technology

Section 118 of the Senate bill requires the Secretary of Transportation to establish a grant program to fund eligible projects for the development, testing, and transfer of technology to enhance security at United States ports.

International port security

Section 108 of the Senate bill gives the Secretary of Transportation additional authority to address security risks arising from foreign ports, such as enhanced enforcement against vessels arriving from these ports, travel advisories for passengers, suspension of the right of a United States vessel to enter these ports, and authority to assist foreign port authorities to maintain an appropriate level of security.

Enhanced crewmember identification

Section 208 of the Senate bill authorizes the Secretary of Transportation, in consultation with the Attorney General, to require crewmembers aboard vessels calling on the United States ports to carry and present upon demand such identification as the Secretary determines.

National maritime security advisory committee

Section 102 of the Senate bill amends the Ports and Waterways Safety Act to require the Secretary of Transportation to establish a National Maritime Advisory Committee.

Area maritime security committees and area maritime security plans

Section 204 of the Senate bill requires the Secretary of Transportation to establish Area Maritime Security Committees comprised of members appointed by the Secretary.

Establishment of local port security committees

Section 104 of the Senate bill requires the Secretary of Transportation to establish local port security committees at each U.S. seaport.

Maritime domain awareness

Section 107 of the Senate bill directs the Secretary of Transportation to conduct a study on ways to enhance Maritime Domain Awareness through improved collection and coordination of maritime intelligence.

House amendment

Section 101 of the House amendment creates a new subtitle VI of title 46, United States Code, to establish a comprehensive national system of antiterrorism security enhancements. Chapter 701 of this subtitle contains provisions related to port security.

Definitions

New Section 70101 of chapter 701 provides the definition of seven terms used throughout the new chapter.

United States facility vulnerability assessments

Section 70102 requires the Secretary of Transportation to conduct port vulnerability assessments for U.S. ports, including an assessment of the vulnerability of each facility in a port, at which there is a risk of a catastrophic emergency.

Catastrophic emergency planning

Section 70103 establishes the national maritime transportation antiterrorism planning system. The Secretary is required to prepare a National Maritime Transportation Antiterrorism Plan to assign the duties and responsibilities of the various Federal, state, and local governmental agencies. Area Maritime Transportation Antiterrorism Plans are developed by Federal maritime antiterrorism coordinators, who are Coast Guard officials designated in the National Plan, in consultation with local harbor safety advisory committees. Vessel and facility antiterrorism plans must be developed by owners and operators of vessels and facilities that the Secretary believes may be involved in a catastrophic emergency.

Antiterrorism response

Section 70104 of chapter 701 requires the Secretary of Transportation to cooperate with the Director of Federal Emergency Management Agency (FEMA) to coordinate maritime terrorism response actions.

Transportation security cards

Section 70105 establishes a national standard for issuance of biometric transportation security cards whose purpose is to control access to secure terminal areas to only authorized personnel. The Secretary is required to issue an individual a transportation security card unless the Secretary decides that the individual poses a terrorism security risk to the United States warranting denial of the card.

Maritime antiterrorism teams

Section 70106 establishes Coast Guard maritime antiterrorism teams to protect vessels, ports, facilities, and cargo on United States' waters.

Grants

Section 70107 allows the Under Secretary of Transportation for Security to provide financial assistance for enhanced facility security to implement a maritime antiterrorism plan approved by the Coast Guard or an interim measure required by the Coast Guard.

Foreign port assessment

Section 70108 requires the Secretary to assess the effectiveness of the antiterrorism measures maintained at all foreign ports from which vessels depart on a voyage to the United States or which pose a high risk of terrorism to the United States.

Notifying foreign authorities

Section 70109 of chapter 701 requires the Secretary, after conducting a foreign port assessment, to contact the foreign government if he finds that a port in that foreign country does not maintain effective antiterrorism measures.

Actions when foreign ports not maintaining effective antiterrorism measures

If the Secretary finds that a foreign port does not maintain effective antiterrorism measures, section 70110 allows him to prescribe conditions of entry into the United States for any vessel arriving from that port. The Secretary may also deny entry into the United States to any vessel that does not meet these conditions.

Crew and passenger manifests

Section 70111 requires that the operators of commercial vessels arriving in the United States from a foreign port provide the Under Secretary of Transportation for Security with a passenger and crew manifest.

Automatic identification system

Section 107 of the House amendment establishes a phase in schedule for most commercial vessels to be equipped with a position-indicating transponder and an appropriate situation display for accessing the information made available by the transponder system.

Civil penalty

Section 70112 establishes a civil penalty of not more than $25,000 for each violation of this new chapter.

Conference substitute

Section 102 of the Conference substitute creates a new subtitle VI of title 46, United States Code, to establish a comprehensive national system of transportation security enhancements. Chapter 701 of this subtitle contains provisions related to port security.

Definitions

New section 70101 provides definitions for six terms to be used in new chapter 701. The term "Secretary" is defined as the Secretary of the department of which the Coast Guard is operating. The term "transportation security incident" is defined as a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption.

United States facility and vessel vulnerability assessments

Section 70102 requires the Secretary to conduct initial assessments of vessel types and facilities, located on or adjacent to the waters subject to the jurisdiction of the U.S., and to identify which of these vessels or facilities pose a high risk of being involved in a transportation security incident. Based on the information gathered in the initial assessments, the Secretary is required to conduct a detailed vulnerability assessment for facilities and vessels that may be involved in a transportation security incident. The Secretary may also accept an alternative assessment prepared by or on behalf of a vessel or facility owner or operator if that assessment satisfies certain criteria.

Maritime transportation security plans

Section 70103 of new chapter 701 requires the Secretary to establish the National Maritime Transportation Security Plan for deterring and responding to a transportation security incident. The National Maritime Transportation Security Plan must include a risked-based system for evaluating the potential threat to security zones designated by the Secretary on the waters subject to the jurisdiction of the U.S. Each Federal Maritime Security Coordinator, after soliciting advice from the Area Security Advisory Committee, is required to submit to the Secretary an Area Maritime Transportation Security Plan for each individual area established under the National Maritime Transportation Security Plan. Finally, section 70103 requires owners and operators of vessels and facilities, which the Secretary believes may be involved in a transportation security incident, to develop vessel and facility security plans. Section 70103(c)(3)(D) regarding antiterrorism measures is not intended to require vessel operators to contract in advance or otherwise arrange for antiterrorism response resources. The Conferees consider antiterrorism response the responsibility of local, state and Federal law enforcement agencies.

The Conferees urge the Secretary to review and approve the vessel and facility security plans in a timely manner. Vessel and facility owners should not be required to cease their operations due to the failure of the Secretary to approve their vessel or facility transportation security plans in a reasonable time period.

Nothing in new section 70103(d) should prevent the Secretary from making the facility security plans, vessels security plans, and port vulnerability assessments available to the owners or operators of the vessel or facilities that are the subject of the plans or assessments.

Transportation security incident response

Section 70104 requires the Secretary to establish a system of security incident response plans developed for vessels and facilities that may be involved in a transportation security incident. Tank vessels are currently required under the Oil Pollution Act of 1990 to have oil spills response plans. The Secretary may allow these plans to be used to address oil spilled from vessels involved in a transportation security incident. Similarly, some states, such as Alaska, Washington, Oregon, and California, require non-tank vessels to have oil spill response plans. The Secretary may also allow these state approved plans to be used to address oil spilled from these non-tank vessels involved in a transportation security incident.

Transportation security cards

Section 70105 establishes a national standard for issuance of transportation security cards whose purpose is to control access to ensure terminal areas to only authorized personnel.

The Conferees expect the Secretary to take appropriate action to ensure that transportation security cards are processed in an expeditious manner in order to prevent undue disruptions at our nation's ports. In particular, the Conferees are aware of the concerns raised by the operators of towing vessels, particularly those operating on the inland waterways of the United States, about the potential for delay in the issuance of transportation security cards. Any undue delay by the Secretary in processing applications and issuing the required cards upon approval could severely impact the ability of vessel owners to crew vessels and could severely disrupt operating schedules.

In an effort to prevent disruptions to port and maritime operations, the Conference agreement includes statutory language to provide flexibility to the Secretary in administering the transportation security card program to take into account the unique circumstances and risks presented by particular segments of the transportation industry. The Conferees encourage the Secretary to work with all affected parties, including the inland and coastal tug, towboat, and barge industry, to ensure timely processing of applications and to address those cases where the Secretary is unable to issue a transportation security card within seventy-two hours of receipt of the application.

Maritime safety and security teams

Section 70106 establishes Coast Guard maritime safety and security teams to protect vessels, ports, facilities, and cargo on United States' waters. The Conferees believe that Coast Guard vessels used by the maritime safety and security teams should be sized and comprised of hull materials tailored to enhance the performance for the varying roles of maritime security. The hull material and shape should fit the specific mission requirements. No hull composition should be excluded without an independent analysis. Maritime safety and security team vessels must be able to intercept suspect boats before they threaten America's ports and waterways.

Grants

Section 70107 provides financial assistance for enhanced security to implement facility or area maritime security plans approved by the Coast Guard or an interim security measure required by the Coast Guard.

The Conferees believe that water-based security barriers or caissons should be eligible for Federal financial assistance for vessel and facility security upgrades authorized under section 70107.

This section authorizes matching grants for various types of security upgrades at U.S. ports and U.S. maritime areas including reimbursements for security enhancements that have corrected security vulnerabilities since September 11, 2001, that are consistent with their Area Maritime Transportation Security Plans and facility security plans.

The economies and quality of life in Alaska and Hawaii are directly related to the functionality and operability of their ports. These states are reliant on maritime transportation and are lacking readily available or economically comparable alternative modes for transporting general commodities. The Conferees encourage the Secretary to give consideration to these features.

This section also provides $15 million for each of fiscal years 2003 through 2008 for research and development grants for port security.

The Center for Commercial Deployment of Transportation Technologies program is sponsored by the U.S. Maritime Administration and the U.S. Department of Defense under a cooperative agreement with the California State University Long Beach. The program involves the development of dual use transportation and transformational technologies and can help secure the international intermodal transportation system. The Conferees encourage the Secretary of Transportation and the Secretary of Defense to obligate any current and prior year appropriations under the continuing cooperative agreement with minimal administrative surcharge.

This section also provides reporting requirements that would mandate proposed levels of funding to ensure compliance with security plans. The reports would be required annually to assess overall levels of security.

Foreign port assessment

New section 70108 of title 46 requires the Secretary to assess the effectiveness of the antiterrorism measures maintained at a foreign port from which vessels depart on a voyage to the United States or which poses a high risk of introducing terrorism to international maritime commerce.

Notifying foreign authorities

Section 70109 requires the Secretary, after conducting a foreign port assessment, to contact the foreign government if he finds that a port in that foreign country does not maintain effective antiterrorism measures. Section 70109(b) requires the Secretary to make available a port security training program for ports in foreign counties that are found under section 70108 to lack adequate security measures. Inter-American Port Security Training Program (IAPSTP) is administered by the U.S. Maritime Administration under the authority of the U.S. Department of State. Currently, the program works with the Organization of American States to transfer technical information and security expertise related to port security and to develop cooperative regional efforts among the public and private sector that protect the flow of international maritime trade. The program also works with member nations to develop recommendations pertaining to strategic regional approaches to seaport crime, international port and cargo security standards, and other multilateral cooperative endeavors. The Conferees believe that expanding IAPSTP to include nations that lack adequate port security measures will help increase worldwide understanding of maritime and port security. Expansion of the program to other nations can lead to increased multilateral approaches to improving port and cargo security.

Actions when foreign ports not maintaining effective antiterrorism measures

If the Secretary finds that a foreign port does not maintain effective antiterrorism measures, section 70110 allows him to prescribe conditions of entry into the United States for any vessel arriving from that port. The Secretary may also deny entry into the United States to any vessel that does not meet these conditions.

Enhanced crew member identification

Section 70111 requires crew members on vessels calling at U.S. ports to carry and present on demand any identification that the Secretary decides is necessary.

Maritime security advisory committees

Section 70112 requires the Secretary to establish a National Maritime Security Advisory Committee and Area Maritime Security Advisory Committees for any port area of the United States. The Committees may advise, consult, and make recommendations to the Secretary on ways to enhance security and safety at U.S. seaports.

Maritime intelligence

Section 70113 requires the Secretary to implement a system to collect, integrate, and analyze information concerning vessels operating in waters subject to the jurisdiction of the U.S. The Secretary may collect information from public and private entities to the extent that the information is not provided by other Federal departments and agencies.

The Conferees want to emphasize the importance of establishing a risk-based system for evaluating the potential threat of vessels entering the U.S. A majority of the domestic and international vessels entering U.S. ports are not subject to any screening procedures. This lack of physical screening increases the risk of terrorist activities in U.S. ports and the need to develop a system which can identify and assess the vessels that pose the greatest threat to U.S. national security. The Conferees are aware that a terrorism risk profiling system has been developed that assigns incoming vessels a risk rating. This rating is based on an integrated data analysis that links vessel characteristics and ownership details to political and strategic information related to international terrorism. A vessel screening system which provides shipping intelligence and analysis can be utilized to identify those vessels requiring close inspection by the Coast Guard and other agencies. We urge the Coast Guard and port authorities to include vessel risk profiling in their enhanced security procedures.

The Conferees are concerned about the lack of coordination between Federal agencies that collect and analyze intelligence data and urge the various Federal agencies involved in port security to work together to assure that American ports are protected from a terrorist threat.

The Conferees also note that section 108 of this Act requires the sharing of cargo information and urge that cargo information be integrated into any screening system implemented.

Automatic identification systems

Section 70114 requires that certain vessels be equipped with and operate an automatic identification system (AIS) under regulations prescribed by the Secretary. The AIS includes a position indicating transponder and an electronic charting or situation display for accessing the information made available by the transponder system. This will allow a vessel operator to more easily identify the position and hearing of their vessel and other vessels navigating in the area. It will also allow shore-based Coast Guard facilities to more easily monitor the location and heading of vessels in their area.

Long-range vessel tracking system

Section 70115 authorizes the Secretary to develop and implement a long-range automated secure vessel tracking system for all vessels on voyages in U.S. waters that are equipped with the Global Maritime Distress and Safety System or equivalent satellite technology. The Secretary may use existing maritime organizations to collect and monitor tracking information under the system.

Secure systems of transportation

Section 70116 requires the Secretary, in consultation with the Transportation Security Oversight Board, to establish a program to evaluate and certify secure systems of international intermodal transportation.

In establishing secure systems of transportation standards, the Conferees encourage the Secretary to consider the possible role of third party experts who meet regulatory requirements to be established by the Secretary of Transportation to perform preloading security audits at the load site of the exporter.

Civil penalty

Section 70117 establishes a civil penalty of not more than $25,000 for each violation of this new chapter.

SECTION 103. INTERNATIONAL SEAFARER IDENTIFICATION

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

Section 103 of the Conference substitute encourages the Secretary of the Department in which the Coast Guard is operating to undertake negotiations on an international agreement that provides for an international system for identifying seafarers. If the Secretary is unable to negotiate this agreement within 24 months, he is required to submit to Congress a draft of legislation which would establish a system for identifying seafarers.

SECTION 104. EXTENSION OF SEAWARD JURISDICTION

Section 119 of the Senate bill extends the territorial jurisdiction of the United States from 3 miles off the shore, to 12 miles. This extension of jurisdiction is consistent with Presidential Proclamation 5928 of December 27, 1988, and is also consistent with the Law of the Sea. The section also creates civil penalties for violating this Act not to exceed $25,000 for each violation.

Section 103 of the House amendment is very similar to the Senate provision.

The Conference substitute adopts the House amendment.

To better protect our ports and waterways and effectively counter the threat posed by maritime terrorism, the United States must be able to exercise broad powers in the maritime environment. International law, both conventional and customary, provides coastal States with broad security powers in the maritime environment. Both the Convention on the Territorial Sea and Contiguous Zone, 1958 (TSC), to which the United States is a party, and the 1982 United Nations Convention on the Law of the Sea (LOS), clearly recognize coastal States' sovereignty in their territorial sea. Article 14(4) of the TSC states that innocent passage "shall take place in conformity with these articles and with other rules of international law." The "other rules of international law" include customary international law. The United States, although not a party to the 1982 United Nations Convention on the Law of the Sea (LOS), has consistently maintained that specific provisions, including Article 21, represent customary international law. Therefore, the Conferees note that Section 33 USC 1223(d) of the Ports and Waterways Safety Act (33 U.S.C. 1221, et seq.) (PWSA), which limits application of the PWSA with respect to foreign vessels in innocent passage to actions authorized by "international treaty, convention or agreement, to which the United States is a party", also allows for such actions to be taken under PWSA which are consistent with customary international law.

SECTION 105. SUSPENSION OF LIMITATION ON STRENGTH OF COAST GUARD

Section 120 of the Senate bill suspends the effectiveness of any end-strength and grade distribution for the Coast Guard for any fiscal year that there is in effect a declaration of war or national emergency, for a period not to exceed six months after the end of the war or national emergency.

Section 104 of the House amendment is identical to the Senate bill.

The Conference substitute adopts the Senate provision.

SECTION 106. EXTENSION OF THE DEEPWATER PORT ACT TO NATURAL GAS

Section 201 of the Senate bill allows natural gas to be included in the Deepwater Port Act which establishes a system for permitting and licensing deepwater terminals. Currently, only oil facilities are included in this Federal law.

Section 105 of the House amendment includes the identical provision of the Senate bill with several additional subsections. These technical provisions ensure the proper application and administration of the Deepwater Port Act to offshore natural gas facilities and enable the timely development of offshore natural gas facilities.

The Conference substitute adopts the House provisions along with an amendment which includes an expanded definition of a deepwater port for natural gas and clarifies the scope of application of the Deepwater Port Act.

The Deepwater Port Act, as enacted in 1974, established a system for permitting and licensing deepwater terminals for the handling and transfer of oil in water beyond the territorial limits of the U.S. The Deepwater Port Modernization Act, enacted in 1996, streamlined the regulation of these facilities, repealed the previous limitation on uses of a deepwater port, and authorized uses not inconsistent with the purposes of the Act. Under the current law and applicable regulations, an existing deepwater port may be authorized to transport commodities other than oil, including natural gas, upon the approval of any necessary amendments to its operations manual. Section 106 of the Conference substitute allows a deepwater port to be licensed for purposes of natural gas importation, storage and handling, regardless of whether the port is also used for the transportation of crude oil.

The Conferees do not intend these amendments to the Deepwater Port Act of 1974 to apply to the production or gathering of oil or natural gas from the Continental Shelf or facilities used exclusively in the production or gathering of oil or natural gas from the Continental Shelf.

SECTION 107. ASSIGNMENT OF COAST GUARD PERSONNEL AS SEA MARSHALS AND ENHANCED USE OF OTHER SECURITY PERSONNEL

Section 202 of the Senate bill amends the Ports and Waterways Safety Act to allow the dispatch of properly trained and qualified armed Coast Guard personnel on facilities and vessels to deter or respond to acts of terrorism. This provision also requires the owner and operator of a commercial structure or a vessel to provide the appropriate level of security, as necessary, including armed security. The bill further requires that the Secretary of Transportation issue a report on the use of non-Coast Guard personnel as sea marshals.

Section 106 of the House amendment is similar to the Senate provision except that the House provision does not include the requirement for private facility and vessel security.

The Conference substitute amends the Ports and Waterways Safety Act to allow for the dispatch of properly trained and qualified armed Coast Guard personnel on facilities and vessels to deter or respond to acts of terrorism or transportation security incidents. The substitute also requires that the Secretary of the department in which the Coast Guard is operating to report to Congress on the use of non-Coast Guard personnel as sea marshals.

SECTION 108. TECHNICAL AMENDMENTS CONCERNING THE TRANSMITTAL OF CERTAIN INFORMATION TO THE CUSTOMS SERVICE

Section 115 of the Senate bill amends the Tariff Act of 1930 to require a carrier, including a non-vessel owning common carrier, to provide by electronic transmission cargo manifest information in advance of port entry or clearance. The section outlines the cargo and route information that must be transmitted. The section also prohibits the export of cargo unless properly documented and prevents a marine terminal operator from loading any cargo that is not documented.

Section 108 of the House amendment amends the Tariff Act of 1930 to require that each land, air, or vessel carrier, which enters the U.S., provide by electronic transmission cargo information in advance of entry in such manner, time, and form as prescribed under regulations by the Secretary of the Treasury. The Secretary of the Treasury is also required to provide this advance cargo information to any appropriate Federal agency.

The Conference substitute contains amendments to section 431A of the Tariff Act of

1930, as added by section 343(b) of the Trade Act of 2002, Public Law 107-210, including a requirement that the Secretary of the Treasury provide the appropriate Federal departments and agencies with cargo information obtained pursuant to this section. The Conference substitute also amends section 343(a) of Public Law 107-210.

SECTION 109. MARITIME SECURITY PROFESSIONAL TRAINING

Section 110 of the Senate bill requires the Secretary of Transportation to develop standards and a curriculum to allow for the training and certification of maritime security professionals. The section further authorizes the Secretary to make training opportunities available to any law enforcement or maritime security personnel in the United States.

Section 101 of the House bill authorizes $4 million for each of fiscal years 2003, 2004, and 2005 to be used for maritime security training grants. These grants must be used by these educational institutions for the development and implementation of a comprehensive port and maritime security education program.

The Conference substitute adopts the Senate provision with an amendment to authorize $5.5 million for each of fiscal years 2003 through 2008 for maritime training.

The Conferees believe that proper training is an essential element of any effective strategy to combat terrorism and enhance the security of our Nation's ports and waterways. Effective training requires both undergraduate and professional level training curriculums. An essential element of undergraduate studies is to ensure that licensed maritime professionals have a full understanding of security procedures, principles, and methods along with a thorough grasp of intermodal transportation and logistics requirements. These trained individuals will be the first line of defense against a waterborne security threat. This training should also produce maritime professionals who will be able to implement methods of tracking an identification of containerized cargo that could potentially threaten the security of our country.

Effective professional level training curriculum involves two elements. The first is advanced and refresher training of licensed maritime and other transportation professionals in port and transportation security. The second element is to provide security and law enforcement professionals, charged with port security responsibilities, with the necessary background in methods and operation of a safe and efficient intermodal transportation system.

SECTION 110. ADDITIONAL REPORTS

Section 121 of the Senate bill requires the Secretary of Transportation to report to Congress on the need for additional security measures to protect the flow of commerce, on the status of port security, and on the steps taken to improve port security. This section would also require the Secretary of Transportation to report on the development of maritime security training programs established under the Senate passed bill. Finally, the section would require the Commissioner of the U.S. Customs Service to report to Congress on the expenditure of funds to improve cargo screening.

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment.

SECTION 111. PERFORMANCE STANDARDS

Section 207 of Senate bill requires the Secretary of Transportation and the Secretary of the Treasury to establish a joint task force to work with ocean shippers in the development of a system to track data for shipments, containers, and contents.

By not later that June 30, 2003, section 101 of the House amendment requires the Under Secretary of Transportation for Security, in consultation with the Transportation Security Oversight Board, to develop and maintain an antiterrorism cargo identification, tracking, and screening system for containerized cargo shipped to and from the United States. This section also requires the Under Secretary to develop performance standards to enhance the physical security of shipping containers, including standards for seals and locks as well as systems to detect any tampering or breaking of the seal or container integrity.

The Conference substitute adopts the House provision with an amendment which substitutes the Under Secretary of Transportation with the Secretary of the Department in which the U.S. Coast Guard is operating and extends the compliance date to January 1, 2004.

In seeking to provide the greatest protection for ports and the communities that surround them against terrorist attacks, the Conferees believe it is essential that the Federal government and local port authorities be encouraged to use state of the art technology as part of a comprehensive approach to security. The Conferees also want to encourage the private sector to continually advance state of the art technology as a means of enhancing detection capabilities and thus enhancing detection capabilities and thus enhancing deterrence over time.

The Conferees are interested in those projects that incorporate technologies capable of automatically detecting weapons of mass destruction, shielded nuclear material, explosives, and chemical weapons in fully loaded cargo containers without the need for humans to open and manually inspect the containers. The Conferees understand that pulsed fast neutron technology is capable of meeting this threshold. The Conferees also hope that other technologies will be identified and developed as part of the ongoing process of advancing technology and ultimately enhancing port security.

The Conferees also want to emphasize the importance of using readily available and less costly off the shelf technologies to protect transportation systems. These previously developed and thoroughly tested technologies often prove to be just as effective as unproven and expensive new technologies without the years of waiting. Private companies already provide the various levels of government with automatic vehicle identification sensors, electronic seal sensors, a chain of custody tracking system, entrance and exit security control systems, and trusted traveler identification and screening.

In order to better respond to the security threat posed by the high volume of international shipping containers entering the U.S., the Conferees believe that the Secretary must, at a minimum, obtain certain types of information on all cargos and containers entering the country. While securing information about the nature and ownership of the specific cargo is vital, the Secretary is encouraged to collect specific information on the individual containers aboard the vessel. This information should include the owner and any lease, lien, or security interest holder of the container whenever this information is sufficient to affect the control of the container.

SECTION 112. REPORT ON FOREIGN-FLAG VESSELS

Section 108(d) of the Senate bill requires the Secretary of Transportation to report to Congress a list of all nations whose flag vessels have entered the United States ports in the previous year. The report must also contain a breakdown of countries whose vessel registration or classification procedures have been found by the Secretary to be noncompliant with international classifications and whose laws or regulations are not sufficient to allow tracking of ownership registration histories of registered flag vessels.

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment replacing the "Secretary of Transportation" with the Secretary of the department in which the Coast Guard is operating.

SECTION 113. REVISION OF PORT SECURITY PLANNING GUIDE

Section 113 of the Senate bill directs the Secretary of Transportation to publish a revised version of the document "Port Security: A National Planning Guide," within three years after the enactment of the Senate passed bill and to make the document available on the Internet.

The House amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

TITLE II—MARITIME POLICY IMPROVEMENT

SECTION 201. SHORT TITLE

The Senate bill contains no comparable provision.

Section 201 of the House amendment states that this title may be cited as the "Maritime Policy Improvement Act of 2002."

The Conference substitute adopts the House provision.

SECTION 202. VESSEL COASTAL VENTURE

The Senate bill contains no comparable provision.

Section 202 of the House amendment amends section 1120(g) of the Coast Guard Authorization Act of 1996 (Public Law 104-324) to deem the vessel COASTAL VENTURE to have been constructed in the United States.

The Conference substitute adopts the House provision.

SECTION 203. EXPANSION OF AMERICAN MERCHANT MARINE MEMORIAL WALL OF HONOR

The Senate bill contains no comparable provision.

Section 203 of the House amendment authorizes the Secretary of Transportation to make a grant to the American Merchant Marine Veterans Memorial Committee to construct an addition to the American Merchant Marine Memorial Wall of Honor in San Pedro, California.

The Conference substitute adopts the House provision.

SECTION 204. DISCHARGE OF AGRICULTURAL CARGO RESIDUE

The Senate bill contains no comparable provision.

Section 204 of the House amendment requires the discharge from a vessel of any agricultural cargo residue material in the form of hold washings to be governed exclusively under the provisions of MARPOL Annex V (MARPOL V).

The Conference substitute adopts the House provision.

The substitute requires the discharge from a vessel of any agricultural cargo residue material in the form of hold washings to be governed exclusively under the provisions of MARPOL Annex V (MARPOL V) as implemented by the Act to Prevent Pollution from Ships (APPS) (section 1901 et seq., title 33, United States Code). Agricultural cargo residue material refers to residue from agricultural cargo carried in bulk, such as corn, wheat, rice, soybeans, and grains, routinely carried on ships.

In 2000, the Coast Guard announced a plan to change its enforcement policy to apply other laws to U.S. flag vessels to regulate the discharge of agricultural cargo residue material that has traditionally been governed by MARPOL V. This proposed change would place an unwarranted burden on U.S. flag bulk grain vessels which are required by agriculture inspection rules to wash their cargo holds. This is routinely done on the high seas, and based on industry practices, it is not anticipated that the discharge of agricultural cargo residue material will take place in marine sanctuaries designated by the Secretary of Commerce pursuant to section 1431 et seq., title 16, United States Code. The discharge of agricultural cargo residue is consistent with MARPOL V, and is not expected to have an adverse impact on the marine environment. Section 204 is not intended in any way to undermine other provisions of MARPOL V, as implemented by APPS, which provides that when agricultural cargo residue is mixed with other MARPOL regulated discharges having other requirements, then the more stringent discharge requirements apply.

SECTION 205. RECORDING AND DISCHARGING MARITIME LIENS

The Senate bill contains no comparable provision.

Section 205 of the House amendment would extend the provisions of current law for preferred mortgages to a valid lien against a vessel not covered by a preferred mortgage.

The Conference substitute adopts the House provision with an amendment.

SECTION 206. TONNAGE OF R/V DAVIDSON

The Senate bill contains no comparable provision.

Section 206 of the House amendment deems the research vessel DAVIDSON to be less than 100 gross tons, for purposes of applying the optional regulatory measurement under section 14305 of title 46, United States Code.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 207. MISCELLANEOUS CERTIFICATES OF DOCUMENTATION

The Senate bill contains no comparable provision.

Section 207 of the house amendment waives certain coastwise trade laws for individually listed vessels.

The Conference substitute adopts the House provision with an amendment.

SECTION 208. EXEMPTION FOR VICTORY SHIPS

The Senate bill contains no comparable provision.

Section 208 of the House amendment adds the vessels SS *RED OAK VICTORY* and SS *AMERICAN VICTORY* to a list of three vessels subject to section 3302(l) of title 46, United States Code.

The Conference substitute adopts the House provision with an amendment. The amendment adds the vessel LST–325 to this list of vessels.

SECTION 209. CERTIFICATES OF DOCUMENTATION FOR 3 BARGES

The Senate bill contains no comparable provision.

Section 209 of the House amendment waives the coastwise trade laws of the United States for three barges as long as these barges are only used in firework displays.

The Conference substitute adopts the House provision with a technical amendment

SECTION 210. CERTIFICATE OF DOCUMENTATION FOR THE EAGLE

The Senate bill contains no comparable provision.

Section 210 of the House amendment waives certain U.S. coastwise trade laws for the vessel EAGLE under certain specific circumstances.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 211. WAIVER FOR VESSELS IN NEW WORLD CHALLENGE RACE

The Senate bill contains no comparable provision.

Section 211 of the House amendment allows ten sailboats participating in the New World Challenge Race to transport non-paying guests, before and during stops of that race.

The Conference substitute adopts the House provision.

SECTION 212. VESSEL ASPHALT COMMANDER

The Senate bill contains no comparable provision.

Section 212 of the House amendment allows the owner of the ASPHALT COMMANDER to place this U.S.-flag vessel under a foreign registry.

The Conference substitute adopts the House provision.

SECTION 213. COASTWISE TRADE AUTHORIZATION

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute allows certain foreign-built launch barges to transport topside modules in the coastwise trade of the United States.

Under the current launch barge exemption provision in the thirteenth proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), certain large capacity foreign-built launch barges documented under U.S. law and built as of June 7, 1988, may be used to transport platform jackets between coastwise points in the United States if there are no U.S.-built launch barges with adequate capacity available for use in domestic trade. The Conference substitute (1) grants a limited one-time waiver of the requirements of this launch barge exemption provision, (2) clarifies that U.S.-built, U.S. documented, U.S. citizen-owned vessels have priority over foreign-built vessels to provide these services, and (3) expands the term "platform jacket" to include certain drilling rig components that, considered separately and not as part of a bundle of two or more such components, also require (subject to the priority for U.S.-qualified vessels) large capacity launch barges for coastwise transportation. In conjunction with the Conference substitute, the Maritime Administration is encouraged to take appropriate measures to assure that the requirements for coastwise transportation of platform jackets and components are ascertained and made known to qualified U.S. flag operators sufficiently in advance to establish building programs and otherwise determine the availability of qualified U.S. flag vessels.

This is similar to a provision enacted in Section 601(b) of the Coast Guard Authorization Act of 1993 (P.L. 103–206), to permit the use of designated foreign-built, non-self-propelled, unmanned launch barges to transport platform jackets from the Gulf Coast of the United States to complete projects at specified hydrocarbon sites on the U.S. outer continental shelf. All of the launch barges designated under the Conference substitute were built as of June 7, 1988, as required under current law by the launch barge exemption provision, and there are currently no coastwise-qualified vessels with adequate capacity to conduct the specified operations. In the event that one or more launch barges built in the United States are available to provide the service in accordance with accepted engineer and reasonable scheduling requirements, the Conference substitute makes clear that a U.S.-built, coastwise-qualified launch barge must be used if it has the capacity to transport and launch a particular platform jacket involved in that project.

SECTION 214. JONES ACT WAIVER FOR DELAYED VESSEL DELIVERY

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute temporarily authorizes the Secretary to waive the coastwise laws of the United States for not more than three foreign built self-propelled tank vessels under certain circumstances related to the late delivery from a United States shipyard of a coastwise eligible self-propelled tank vessel. The Secretary must determine that the parties to the contract are making a bona fide effort to construct a self-propelled tank vessel in a timely manner, the contract must be executed within 24 months of the date of enactment of the Maritime Transportation Security Act of 2002, the vessel for which the waiver is granted must meet otherwise applicable requirements of law regarding ownership and operation of vessels in the coastwise trade, the shipyard must own a facility capable of constructing the self-propelled tank vessel, the delay in construction of delivery of the self-propelled tank vessel from the shipyard must be due to unusual circumstances, and the Secretary must determine that no other suitable coastwise trade qualified tank vessels (including tank barges) are reasonably available.

In making the determination with respect to reasonable availability, the Secretary shall include as such suitable tank vessels, tank vessels available on a time charter or voyage charter basis and tank vessels available on a less than full capacity basis pursuant to a contract of affreightment. The purpose of subsection (b)(6) is to ensure that the Secretary canvasses the market for available vessels not requiring a waiver prior to granting a waiver under this section. This paragraph is also intended to ensure that the Secretary shall include in reasonably available suitable tank vessel capacity, vessels which may only be available in part or which may not be available for sale or on a bareboat charter basis. The Conferees do not intend the Secretary to grant a waiver pursuant to this section to any person seeking to circumvent the U.S.-build requirement or to avoid contracting for available suitable tank vessel capacity merely because, among other reasons, it will not be under the requester's control or may be only available to such requester at a higher rate than a reflagged vessel.

A waiver may not be granted to a self-propelled tank vessel with substantially greater capacity than the vessel being constructed. The waiver shall terminate on the earlier of:

(1) 48 months after the contract delivery date; (2) 60 days after delivery of the vessel being constructed in the United States shipyard; or (3) the date which the Secretary determines that the delay in construction or delivery of the vessel being constructed is no longer due to unusual circumstances. Additionally, the Secretary may suspend the waiver for any period during which a suitable coastwise trade qualified tank vessels (including tank barges) becomes reasonably available. The provision defines unusual circumstances.

SECTION 215. REALIGNMENT OF POLICY RESPONSIBILITY IN THE DEPARTMENT OF TRANSPORTATION

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute eliminates the position of Associate Deputy Secretary, Department of Transportation, and creates the position of Under Secretary of Transportation for Policy.

TITLE III—COAST GUARD PERSONNEL AND MARINE SAFETY

SECTION 301. SHORT TITLE

The Senate bill does not contain a comparable provision.

Section 301 of the House amendment states that this title may be cited as the "Coast Guard Personnel and Maritime Safety Act of 2002."

The Conference substitute adopts the House provision.

Subtitle A—Personnel Management

SECTION 311. COAST GUARD BAND DIRECTOR RANK

The Senate bill contain no comparable provision.

Section 311 of the House amendment amends section 336(d) of title 14, United States Code, to authorize the Coast Guard to promote the Coast Guard Band Director from the rank of Commander to the rank of Captain.

The Conference substitute adopts the House provision.

SECTION 312. COMPENSATORY ABSENCE FOR ISOLATED DUTY

The Senate bill contains no comparable provision.

Section 312 of the House amendment amends section 511 of title 14, United States Code, to allow the Secretary of Transportation to grant compensatory absence from duty for Coast Guard military personnel serving at isolated duty stations of the Coast Guard.

The Conference substitute adopts the House provision.

SECTION 313. ACCELERATED PROMOTION OF CERTAIN COAST GUARD OFFICERS

The Senate bill contains no comparable provision.

Section 313 of the House amendment amends section 259, 260(a), and 271(a) of title 14, United States Code, to authorize the Coast Guard to advance officers ahead of their peers within a given promotion zone, without disadvantaging other high performing officers.

The Conference substitute adopts the House provision.

Subtitle B—Marine Safety

SECTION 321. EXTENSION OF TERRITORIAL SEA FOR VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT

The Senate bill contains no comparable provision.

Section 201 of the bill amends section 1203(b) of title 33, United States Code, to require foreign-flag vessels to monitor intership radiotelephone frequencies when operating within the U.S. territorial sea between three and twelve miles offshore.

The Conference substitute adopts the House provision.

SECTION 322. MODIFICATION OF CERTAIN REPORTING REQUIREMENTS

The Senate bill contain no comparable provision.

Section 322 of the House amendment maintains six reports which were eliminated after the enactment of the Federal Reports Elimination and Sunset Act of 1995.

The Conference substitute adopts the House provision with an amendment to terminate an annual report to Congress regarding the Oil Spill Liability Trust Fund.

SECTION 323. OIL SPILL LIABILITY TRUST FUND; EMERGENCY FUND ADVANCEMENT AUTHORITY

The Senate bill contains no comparable provision.

Section 323 of the House amendment amends the Oil Pollution Act of 1990 to authorize the Coast Guard to borrow up to $100 million for additional emergency oil spill cleanup removal from the Oil Spill Liability Trust Fund.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 324. MERCHANT MARINER DOCUMENTATION REQUIREMENTS

The Senate bill contains no comparable provision.

Section 324 of the House amendment amends section 7302 of title 46, United States Code, to authorize the Secretary of Transportation to issue an interim merchant mariner's document valid for a period not to exceed 120 days.

The Conference substitute adopts the House provision.

SECTION 325. PENALTIES FOR NEGLIGENT OPERATIONS AND INTERFERING WITH SAFE OPERATION

The Senate bill contains no comparable provision.

Section 325 of the House amendment raises the maximum civil penalty to $5,000 for the negligent operation of a recreational vessel, or for interfering with the safe operation of a recreational vessel. The penalty for the negligent operation of any other vessel, or for interfering with the safe operation of a commercial vessel, under this amendment will be $25,000.

The Conference substitute adopts the House provision.

Subtitle C—Renewal of Advisory Groups

SECTION 331. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE

The Senate bill does not contain a comparable provision.

Section 331 of the House amendment amends section 4508 of title 46, U.S. Code, to authorize the Coast Guard to extend the Commercial Fishing Industry Vessel Advisory Committee from 2000 to 2005 and make technical changes.

The Conference substitute adopts the House provision.

SECTION 332. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE

The Senate bill does not contain a comparable provision.

Section 332 of the House amendment amends section 18 of the Coast Guard Authorization Act of 1991 (Public Law 102-241), to authorize the Coast Guard to extend the Houston-Galveston Navigation Safety Advisory Committee from 2000 to 2005 and make technical changes.

The Conference substitute adopts the House provision.

SECTION 333. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE

The Senate bill does not contain a comparable provision.

Section 333 of the House amendment amends section 19 of the Coast Guard Authorization Act of 1991 (Public Law 102-241), to authorize the Coast Guard to extend the Lower Mississippi River Waterway Advisory Committee from 2000 to 2005 and make technical changes.

The Conference substitute adopts the House provision.

SECTION 334. NAVIGATION SAFETY ADVISORY COUNCIL

The Senate bill does not contain a comparable provision.

Section 334 of the House amendment amends section 2073 of title 33, U.S. Code, to authorize the Coast Guard to extend the Navigation Safety Advisory Council from 2000 to 2005 and make technical changes.

The Conference substitute adopts the House provision.

SECTION 335. NATIONAL BOATING SAFETY ADVISORY COUNCIL

The Senate bill does not contain a comparable provision.

Section 335 of the House amendment amends section 13110 of title 46, U.S. Code, to authorize the Coast Guard to extend the National Boating Safety Advisory Council from 2000 to 2005 and make technical changes.

The Conference substitute adopts the House provision.

SECTION 336. TOWING SAFETY ADVISORY COMMITTEE

The Senate bill does not contain a comparable provision.

Section 336 of the House amendment amends section 1231(a) of title 33, U.S. Code, to authorize the Coast Guard to extend the Towing Safety Advisory Committee from 2000 to 2005 and make technical changes.

The Conference substitute adopts the House provision.

Subtitle D—Miscellaneous

SECTION 341. PATROL CRAFT

The Senate bill does not contain a comparable provision.

Section 341 of the House amendment authorizes the Coast Guard to accept up to seven excess PC-170 patrol ships from the U.S. Navy.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 342. BOATING SAFETY

The Senate bill does not contain a comparable provision.

Section 342 of the House amendment amends the Sportfishing and Boating Safety Act of 1998 to increase the State Recreational Boating Safety Grant Program by one million dollars and to change the definition of state matching amounts for purposes of the State Boating Safety Grant Program.

The Conference substitute adopts the House provision with an amendment limiting the changes to one year.

SECTION 343. CARIBBEAN SUPPORT TENDER

The Senate bill does not contain a comparable provision.

Section 343 of the House amendment authorizes the Coast Guard to operate and maintain a Caribbean Support Tender to provide technical assistance and law enforcement training for foreign coast guards, navies, and other maritime services.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 344. PROHIBITION OF NEW MARITIME USER FEES

The Senate bill does not contain a comparable provision.

Section 344 of the House amendment extends the expiration date for the prohibition of any new maritime user fees from September 30, 2001, to September 30, 2006.

The Conference substitute adopts the House provision.

SECTION 345. GREAT LAKES LIGHTHOUSES

The Senate bill does not contain a comparable provision.

Section 345 of the House amendment requires the Coast Guard to continue to offer advice and technical assistance to organizations in the Great Lakes region that are dedicated to lighthouse stewardship.

The Conference substitute adopts the House provision with an amendment that makes the assistance for Great Lakes lighthouse preservation efforts be subject to the discretion of the Secretary of the department in which the Coast Guard is operating.

SECTION 346. MODERNIZATION OF NATIONAL DISTRESS AND RESPONSE SYSTEM

The Senate bill does not contain a comparable provision.

Section 346 of the House amendment requires the Coast Guard to report to Congress within 60 days after enactment the agency's implementation of National Transportation Safety Board recommendations following the MORNING DEW accident.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 347. CONVEYANCE OF COAST GUARD PROPERTY IN PORTLAND, MAINE

The Senate bill does not contain a comparable provision.

Section 347 of the House amendment authorizes the transfer of 4.13 acres of land, known as the Naval Reserve Pier property, located in Portland, Maine, to the Gulf of Maine Aquarium Development Corporation.

The Conference substitute adopts the House Provision with a technical amendment.

SECTION 348. ADDITIONAL COAST GUARD FUNDING NEEDS AFTER SEPTEMBER 11, 2001

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute requires the Secretary in the department in which the Coast Guard is operating to submit a report to Congress that compares Coast Guard expenditures by mission area on an annualized basis before and after the terrorist attacks of September 11, 2001. The report must also estimate the annual funding amounts and personnel levels that would restore all Coast Guard mission areas to the readiness levels that existed before September 11, 2001. The substitute also requires a report identifying mission targets for fiscal years 2003, 2004, and 2005, and the specific steps necessary to achieve those targets.

SECTION 349. MISCELLANEOUS CONVEYANCES

The Senate bill does not contain a comparable provision.

Section 349 of the House amendment transfers the Coast Guard Slip Point Light Station in Clallam County, Washington, to Clallam County and the Point Pinos Light, located in Monterey County, California, to the City of Pacific Grove, California.

The Conference substitute adopts the House provision with a technical amendment.

TITLE IV—OMNIBUS MARITIME IMPROVEMENTS

SECTION 401. SHORT TITLE

The Senate bill does not contain a comparable provision.

Section 401 of the House amendment states that this title may be cited as the Omnibus Maritime Improvements Act of 2001.

The Conference substitute adopts the House provision.

SECTION 402. EXTENSION OF COAST GUARD HOUSING AUTHORITIES

The Senate bill does not contain a comparable provision.

Section 402 of the House amendment would extend the present Coast Guard housing authorities from October 1, 2001, to October 1, 2006. The Coast Guard Authorization Act of 1996 provides the Coast Guard with the legal authorities to encourage private sector participation in the acquisition or construction of Coast Guard housing on or near Coast Guard installations. The Coast Guard is currently in the process of developing proposals for several potential housing projects using these new authorities.

This section further authorizes the Coast Guard to implement a demonstration project for the acquisition or construction of military family housing and military unaccompanies housing at the Coast Guard installation in Kodiak, Alaska.

The Conference substitute adopts the House provision with an amendment which extends the Coast Guard's housing authorities to October 1, 2007.

SECTION 403. INVENTORY OF VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR

The Senate bill does not contain a comparable provision.

Section 403 of the House amendment requires the Secretary of Transportation to maintain and publish an inventory of U.S.-flag vessels capable of laying, maintaining, or repairing a submarine cable.

The Conference substitute adopts the House provision.

SECTION 404. VESSEL ESCORT OPERATIONS AND TOWING ASSISTANCE

The Senate bill does not contain a comparable provision.

Section 404 of the House amendment requires that a vessel engaged in towing assistance of towing escort be a vessel of the United States, and establishes a civil penalty for a person who violates this section.

The Conference substitute adopts the House provisions with a technical amendment. The U.S. Navy has expressed concern that this section could hamper the ability of the Navy to render timely towing and salvage assistance to naval vessels on a worldwide basis. The Conferees want to clarify that the restrictions in section 404 do not apply to U.S. Naval operations.

SECTION 405. SEARCH AND RESCUE CENTER STANDARDS

The Senate bill does not contain a comparable provision.

Section 405 of the House amendment requires the Secretary to establish standards for the safe operation of Coast Guard search and rescue stations, and prohibits an individual on duty in a search and rescue facility from working more than 12 hours in a 24 hour period, except in an emergency.

The Conference substitute adopts the House provision with an amendment which expresses a sense of Congress that the Secretary should establish, implement and maintain minimum standards necessary to ensure that an individual on duty or watch in a Coast Guard search and rescue command center facility not work more than 12 hours in a 24-hour period. The section also includes a reporting requirement.

SECTION 406. VHF COMMUNICATIONS SERVICES

The Senate bill does not contain a comparable provision.

Section 406 of the House amendment authorizes the Coast Guard to allow private VHF Communications companies to place equipment and VHF towers on Coast Guard property. In exchange, the Coast Guard may receive discounted VHF communications services.

The Conference substitute adopts the House provision with a technical amendment and an additional amendment which states that commercial VHF communication equipment placed on real property under the administrative control of the Coast Guard shall not interfere in any manner with any current or future Coast Guard communication equipment.

SECTION 407. LOWER COLUMBIA RIVER MARITIME FIRE AND SAFETY ACTIVITIES

The Senate bill does not contain a comparable provision.

Section 407 of the House amendment authorizes $987,400 for the activities of the Lower Columbia River Maritime Fire and Safety Association.

The Conference substitute authorizes $987,400 for the fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by nonprofit or organizations in cooperation with the Coast Guard.

SECTION 408. CONFORMING REFERENCES TO THE FORMER MERCHANT MARINE AND FISHERIES COMMITTEE

The Senate bill does not contain a comparable provision.

Section 408 of the House amendment conforms certain permanent laws of the United States relating to the Coast Guard and maritime transportation by correcting references to the former Merchant Marine and Fisheries Committee of the House of Representatives.

The Conference substitute adopts the House provision.

SECTION 409. RESTRICTION ON VESSEL DOCUMENTATION

The Senate bill does not contain a comparable provision.

Section 409 of the House amendment prohibits a vessel, which has been forfeited to the United States government for a breach of the laws of the United States, from obtaining a certificate of documentation with a fisheries endorsement. This section does not grant the Coast Guard new authority to seize or forfeit vessels.

The Conference substitute adopts the House provision.

SECTION 410. HYPOTHERMIA PROTECTIVE CLOTHING REQUIREMENT

The Senate bill does not contain a comparable provision.

Section 410 of the House amendment requires the Commandant of the Coast Guard to ensure that all Coast Guard personnel are equipped with adequate safety equipment, including hypothermia protective clothing where appropriate, while performing search and rescue missions.

The Conference substitute adopts the House provision.

SECTION 411. RESERVE OFFICER PROMOTIONS

The Senate bill does not contain a comparable provision.

Section 411 of the House amendment makes technical amendments regarding the promotion of Coast Guard Reserve Officers to implement the changes to the Reserve promotion system included in the FY 2001 Department of Defense Authorization Act.

The Conference substitute adopts the House provision.

SECTION 412. REGULAR LIEUTENANT COMMANDERS AND COMMANDERS; CONTINUATION UPON FAILURE OF SELECTION FOR PROMOTION

The Senate bill does not contain a comparable provision.

Section 412 of the House amendment authorizes the Coast Guard to continue commanders and lieutenant commanders scheduled to retire due to failure of selection for promotion.

The Conference substitute adopts the House provision.

SECTION 413. RESERVE STUDENT PRE-COMMISSIONING ASSISTANCE PROGRAM

The Senate bill does not contain a comparable provision.

Section 413 of the House amendment authorizes the Coast Guard to pay an individual's undergraduate or graduate educational tuition when that individual enlists in the Coast Guard Reserve and promises to accept a commission in the Coast Guard Reserve upon completion of the degree.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 414. CONTINUATION ON ACTIVE DUTY BEYOND THIRTY YEARS

The Senate bill does not contain a comparable provision.

Section 414 of the House amendment permits the Coast Guard to offer to captains, who would otherwise be forced to retire after thirty years of duty, the opportunity to continue on active duty. This proposal would allow the Coast Guard to retain these highly experienced individuals at very little additional cost.

The Conference substitute adopts the House provision.

SECTION 415. PAYMENT OF DEATH GRATUITIES ON BEHALF OF COAST GUARD AUXILIARISTS

The Senate bill does not contain a comparable provision.

Section 415 of the House amendment allows the Coast Guard to pay death gratuities to personal representatives of Coast Guard Auxiliarists who die in the line of duty, to the same extent that death gratuities are paid on behalf of Federal employees.

The Conference substitute adopts the House provision.

SECTION 416. ALIGN COAST GUARD SEVERANCE PAY AND REVOCATION OF COMMISSION AUTHORITY WITH DEPARTMENT OF DEFENSE AUTHORITY

The Senate bill does not contain a comparable provision.

Section 416 of the House amendment revises the Coast Guard's severance pay provisions to incorporate the Department of Defense separation pay computations.

The Conference substitute adopts the House provision.

SECITON 417. LONG-TERM LEASE AUTHORITY FOR LIGHTHOUSE PROPERTY

The Senate bill does not contain a comparable provision.

Section 417 of the House amendment authorizes the Coast Guard to lease lighthouse properties for terms not to exceed thirty years.

The Conference substitute adopts the House provision.

SECTION 418. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS

The Senate bill does not contain a comparable provision.

Section 418 of the House amendment amends the Maritime Drug Law Enforcement Act to increase the Coast Guard's drug interdiction jurisdiction from 12 to 24 miles from U.S. shores.

The Conference substitute adopts the House provision.

SECITON 419. WING-IN-GROUND CRAFT

The Senate bill does not contain a comparable provision.

Section 419 of the House amendment grants the Coast Guard statutory authority to regulate wing-in-ground craft and makes them subject to inspection as small passenger vessels.

The Conference substitute adopts the House provision.

SECITON 420. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS FOR VESSELS

The Senate bill does not contain a comparable provision.

Section 420 of the House amendment removes the requirement for filing an original commercial instrument (for example, a ship mortgage) within ten days of the electronic filing of the instrument.

The Conference substitute adopts the House provision.

SECTION 421. DELETION OF THUMBPRINT REQUIREMENT FOR MERCHANT MARINERS' DOCUMENTS

The Senate bill does not contain a comparable provision.

Section 421 of the House amendment eliminates the requirement for a thumbprint to be placed on a merchant mariners' document (MMD). The thumbprint is no longer needed on the document since it now includes a photograph and must be issued every five years. The result of this change would be to provide the Coast Guard with needed additional space on the MMD to describe mariner qualifications.

The Conference substitute adopts the House provision.

SECTION 422. TEMPORARY CERTIFICATES OF DOCUMENTATION FOR RECREATIONAL VESSELS

The Senate bill does not contain a comparable provisions.

Section 422 of the House amendment authorizes the Secretary of Transportation to issue temporary certificates of documentation, and to delegate to private third parties the authority to issue the certificates for recreational vessels.

The Conference substitute adopts the House provision.

SECTION 423. MARINE CASUALTY INVESTIGATIONS INVOLVING FOREIGN VESSELS

The Senate bill does not contain a comparable provision.

Section 423 of the House amendment authorizes the Coast Guard to conduct marine casualty investigations involving foreign vessels in areas outside U.S. territorial waters consistent with the practices and procedures of international law.

The Conference substitute adopts the House provision.

SECTION 424. CONVEYANCE OF COAST GUARD PROPERTY IN HAMPTON TOWNSHIP, MICHIGAN

The Senate bill does not contain a comparable provision.

Section 424 of the House amendment requires that the Secretary of Transportation convey the property adjacent to Coast Guard Station Saginaw River, located in Hampton Township, Michigan, to BaySail, Inc., a nonprofit corporation. During the five-year period after the Secretary conveys the property, the property shall revert to the United States if BaySail sells, conveys, assigns, exchanges, or encumbers the property. BaySail also must maintain the property and is not allowed to conduct any commercial activity on the property without the approval of the Secretary.

The Conference substitute adopts the House provision with an amendment which makes the transfer of the property subject to the discretion of the Secretary of the department in which the Coast Guard is operating.

SECTION 425. CONVEYANCE OF PROPERTY IN TRAVERSE CITY, MICHIGAN

The Senate bill does not contain a comparable provision.

Section 425 of the House amendment changes the recipient's name of a previous Coast Guard property transfer in Traverse City, Michigan.

The Conference substitute adopts the House provision.

SECTION 426. ANNUAL REPORT ON COAST GUARD CAPABILITIES AND READINESS TO FULFILL NATIONAL DEFENSE RESPONSIBILITIES

The Senate bill does not contain a comparable provision.

Section 426 of the House amendment requires the Secretary of Transportation to submit an annual report to Congress setting forth the capabilities and readiness of the Coast Guard to fulfill its national defense responsibilities.

The Conference substitute adopts the House provision with a technical amendment.

SECTION 427. EXTENSION OF AUTHORIZATION FOR OIL SPILL RECOVERY INSTITUTE

The Senate bill does not contain a comparable provision.

Section 427 of the House amendment extends the Oil Spill Recovery Institute until September 30, 2012.

The Conference substitute adopts the House provision.

SECTION 428. PROTECTION AGAINST DISCRIMINATION

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute amends section 2114 of title 46, United States Code, to expand the protection of seamen against discrimination. This section does not allow for anyone to discharge or discriminate against any seaman who reports a violation of a maritime law to the Coast Guard or refuses to perform duties which he believes would result in his or another individual's injury.

SECTION 429. ICEBREAKING SERVICES

The Senate bill does not contain a comparable provision.

Section 429 of the House amendment does not allow the Commandant of the Coast Guard to decommission any WYTL-class harbor tugs unless he certifies that sufficient replacement capability has been procured by the Coast Guard to remediate any degradation in current icebreaking services.

The Conference substitute adopts the House provision.

SECTION 430. FISHING VESSEL SAFETY TRAINING

The Senate bill does not contain a comparable provision.

Section 430 of the House amendment allows the Commandant of the Coast Guard to provide support to an entity which engages in fishing vessel safety training.

The Conference substitute adopts the House provision.

SECTION 431. LIMITATION ON LIABILITY OF PILOTS AT COAST GUARD VESSEL TRAFFIC SERVICES

The Senate bill does not contain a comparable provision.

Section 431 of the House amendment limits the liability of pilots working in a Coast Guard Vessel Traffic Service while acting within the scope of their duties and under the supervision of a Coast Guard officer.

The Conference substitute adopts the House provision.

SECTION 432. ASSISTANCE FOR MARINE SAFETY STATION ON CHICAGO LAKEFRONT

The Senate bill does not contain a comparable provisions.

Section 432 of the House amendment authorizes the Secretary of Transportation to provide up to $2 million to the City of Chicago, Illinois, to plan and construct a new marine safety station on the Chicago lakefront.

The Conference substitute allows the Coast Guard to transfer funds to the City of Chicago to pay the Federal share to demolish the old Coast Guard station on Chicago Harbor and construct anew facility at this site for use as a marine safety station. The Federal share of this project may not exceed on third of the total cost of the project or two million dollars, whichever is less.

SECTION 433. EXTENSION OF TIME FOR RECREATIONAL VESSEL AND ASSOCIATED EQUIPMENT RECALLS

The Senate bill does not contain a comparable provision.

Section 434 of the House amendment extends the time for a recreational vessel and associated equipment recall from five to ten years.

The Conference substitute adopts the House provision.

SECTION 434. REPAIR OF MUNICIPAL DOCK, ESCANABA, MICHIGAN

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute allows the Secretary of Transportation to transfer up to $300,000 to the City of Escanaba, Michigan, for the repair of the north wall of the municipal dock in Escanaba.

SECTION 435. VESSEL GLOBAL EXPLORER

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute directs the secretary of the Department in which the Coast Guard is operating to amend the vessel GLOBAL EXPLORER's certificate of documentation to show the vessel's year of construction as 2002.

SECTION 436. ALEUTIAN TRADE

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute amends chapter 51 of title 46, United States Code, regarding vessel load lines. The Aleutian Trade Act of 1990 (Public Law 101–595) provides for continued cargo service to remote communities in Alaska by uninspected fish tender vessels operating in the Aleutian trade while requiring such vessels to meet enhanced safety and manning requirements over a specified period of time. The Act defines Aleutian trade to mean the transportation of all manner of cargo, including fishery related products, for hire on board fish tender vessels to western Aleutian communities receiving weekly common carrier service. The Act extended certain loadline exemptions to those fish tender vessels operating in the Aleutian trade until January 1, 2003. An ambiguity in the statute could be read to continue that exemption beyond this compliance date. Subsection (a) corrects the ambiguity. Subsection (b) clarifies the original intent that after 2003 the loading exemption is only available for fish tender vessels that are not engaged in that transportation of general cargoes in the Aleutian trade. Thus, after 2003, all uninspected fish tender vessels that had previously engaged in the for hire carriage of general cargoes to places receiving weekly common carrier service in the western Aleutian chain will be required to have loadlines. To accommodate the transition, subsection (c) provides additional time for one fish tender vessel operating in the Aleutian trade to be brought into compliance.

SECTION 437. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY REVISION

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute allows the Administrator of the General Services Administration to transfer to the Secretary of the Interior administrative jurisdiction over certain public lands in the State of Michigan.

SECTION 438. LORAN–C

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute authorizes funding for LORAN–C navigation infrastructure.

The LORAN–C system remains the primary navigation tool for many vessels and general aviation aircraft and serves as a ground-based navigation system to backup and complement existing satellite navigation capabilities. In recent years, the Coast Guard has spent substantial resources to modernize the LORAN–C system allowing it to operate beyond its scheduled life span. The Conferees expect the Coast Guard, in cooperation with the Federal Aviation Administration, to continue this modernization to ensure this critical navigation system is available for forseeable future.

SECTION 439. AUTHORIZATION OF PAYMENT

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute reimburses the State of Hawaii for damages caused by the Coast Guard to the ferry pier at Barber's Point Harbor, Hawaii.

SECTION 440. REPORT ON OIL SPILL RESPONDER IMMUNITY

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute requires the Secretary of the Department in which the Coast Guard is operating, jointly with the Secretaries of Commerce and Interior, to report to Congress on the immunity of a private responder (other than a person responsible for the vessel or facility from which oil is discharged) from liability for criminal and civil penalties for the incidental take of a protected species while carrying out oil spill response actions.

SECTION 441. FISHING AGREEMENTS

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute amends section 10601(a) of title 46, United States Code, by requiring that the owner, charterer, managing operator or a representative thereof, including, but not limited to, the master or individual in charge of a fishing industry vessel, shall make a fishing agreement in writing with each seaman employed on board the vessel.

SECTION 442. ELECTRONIC PUBLISHING OF CASUALTY REPORTS

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute requires the Coast Guard to begin publishing all major marine casualty reports upon enactment of this Act. Additionally, the Conferees direct the Coast Guard to begin electronically publishing the remaining marine casualty reports by the end of the fiscal year 2005.

The Conferees are concerned that marine casualty reports are currently not available in an electronic format that allows the general public easy access to information in the reports that could lead to improved boating safety. The Conferees acknowledge that one of the purposes of marine casualty reports was for enforcement and that the reports often contain personal information which cannot be released to the general public. The Conferees also understand the Coast Guard's concerns that electronically publishing these reports will strain current resources and require changes to technical procedures and additional human review to ensure that no personal information is inadvertently released. This phase-in period for all marine casualty reports is provided to allow the Coast Guard time to implement the technical and policy procedures needed to electronically publish these reports without inadvertently releasing important personal information.

SECTION 443. SAFETY AND SECURITY OF PORTS AND WATERWAYS

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute amends the Ports and Waterways Safety Act to add the safety and security of United States ports and waterways to this law's traditional focus on marine safety and environment protection.

SECTION 444. SUSPENSION OF PAYMENT

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute allows the Coast Guard to suspend the payment of the retired pay of a member or former member during periods in which the member willfully remains outside the United States to avoid criminal prosecution or civil liability.

SECTION 445. PROHIBITION OF NAVIGATION FEES

The Senate bill does not contain a comparable provision.

The House amendment does not contain a comparable provision.

The Conference substitute prohibits any non-Federal interest from assessing or collecting any fee on vessels or water craft operating on navigable waters subject to the authority of the United States, or under the freedom of navigation on those waters. This section does not prohibit those instances in which Federal law has permitted the imposition of fees and recognizes those circumstances under which non-Federal interests may charge reasonable port and harbor fees for services rendered.

TITLE V—AUTHORIZATION OF APPROPRIATIONS FOR THE COAST GUARD

SECTION 501. SHORT TITLE

The Senate bill does not contain a comparable provision.

Section 501 of the House amendment states that this title may be cited as the "Coast Guard Authorization Act for Fiscal Year 2002."

The Conference substitute states that this title may be cited as the "Coast Guard Authorization for Fiscal Year 2003."

SECTION 502. AUTHORIZING OF APPROPRIATIONS

The Senate bill does not contain a comparable provision.

Section 502 of the House amendment authorizes $5.9 billion for Coast Guard programs and operations during fiscal year 2002. Section 502(1) of the amendment authorizes approximately $4.2 billion for Coast Guard operating expenses for fiscal year 2002, including $623 million for domestic maritime homeland security requirements.

Section 502(2) of this amendment authorizes $717.8 million in fiscal year 2002 for the Coast Guard's acquisition, construction, and improvement (AC&I) account. including $58.5 million for homeland security.

The Conference substitute authorizes approximately $6 billion for Coast Guard programs and operations during fiscal year 2003. Section 502(1) authorizes approximately $4.3 billion for Coast Guard operating expenses for fiscal year 2003.

Section 102(2) authorizes $725 million in fiscal year 2003 for the Coast Guard's acquisition, construction, and improvement (AC&I) account.

Within the AC&I account, the Conferees strongly support the Coast Guard's integrated approach to the Deepwater Modernization Project and believe this effort to recapitalize the service's offshore surface fleet, aviation assets, and command and control system is essential to prepare the Coast Guard to meet future challenges. With an aging fleet of cutters and aircraft, maintenance and personnel costs will rise dramatically unless the fleets are replaced. Further, the multi-mission nature of the Coast Guard requires a modern and flexible fleet that will continue serving national security and other core missions. The Integrated Deepwater System request for proposal and the recently awarded contract with the systems integrator were predicated on a consistent funding level of $500 million per year in 1998 dollars over the 20-year implementation timeline. The Conferees are concerned that this program already appears likely to be underfunded in its first year creating delays and pushing back the implementation schedule just as the program is beginning.

The Conferees also strongly support the need to modernize the National Distress & Response System. This system is crucial for the Coast Guard to improve its capabilities to respond to and aid mariners in distress. The Conferees strongly support the Coast Guard receiving $90 million in fiscal year 2003· to begin this procurement which is scheduled to be completed by the end of the fiscal year 2006.

Another necessary area of funding is for the Coast Guard's share of the cost of altering or removing bridges that cause hazards to navigation, pursuant to the Truman-Hobbs Act of June 21, 1940, as amended (33 U.S.C. 511 et seq.). The Conferees expect that $2,000,000 of the funding provided will be utilized for the construction of a new Chelesa Street Bridge over the Chelsea River in Boston, Massachusetts.

SECTION 503. AUTHORIZED LEVELS OF MILITARY STRENGTH

The Senate bill does not contain a comparable provision.

Section 503 of the House amendment authorizes 44,000 Coast Guard active duty military personnel as of September 30, 2002.

The Conference substitute authorizes 45,500 Cost Guard active duty military personnel as of September 30, 2003.

The Conference substitute authorizes 45,500 Coast Guard active duty military personnel as of September 30, 2003, which is larger than the Administration's request. The Conferees note that even before September 11, 2001, Coast Guard missions and demands were expanding and taxing the service's personnel whose current strength is comparable to the Coast Guard of 1966. As the Coast Guard assumes its expanding homeland security role while at the same time continues to carry out its traditional missions, it will require additional personnel.. Therefore, the Conference substitute increases the end-of-year strength numbers beyond those recommended by the Administration to ensure the Coast Guard has the flexibility to increase its personnel levels to meet these new challenges and demands.

From the Committee on Transportation and Infrastructure, for consideration of the Senate bill and the House amendment, and modifications committed to conference:

Don Young,
Howard Coble,
Frank A. LoBiondo,
Jim Oberstar,
Corrine Brown.

From the Committee on Ways and Means, for consideration of secs. 112 and 115 of the Senate bill, and sec. 108 of the House amendment, and modifications committed to conference:

William Thomas,
Phil Crane,
Charles B. Rangel,
Managers on the Part of the House.

Ernest F. Hollings,
Daniel Inouye,
John F. Kerry,
John Breaux,
Ron Wyden,
Max Cleland,
Barbara Boxer,
John McCain,
Ted Stevens,
Trent Lott,
Kay Bailey Hutchison,
Olympia Snowe,
Gordon Smith,
Bob Graham,
Chuck Grassley,
Managers on the Part of the Senate.

PROVIDING FOR CONSIDERATION OF H.R. 5710, HOMELAND SECURITY ACT OF 2002

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 600 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 600

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5710) to establish the Department of Homeland Security, and for other purposes. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Select Committee on Homeland Security; and (2) one motion to recommit.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaHood). The Chair must remind Members not to display communicative badges while under recognition for debate.

The gentleman from Florida (Mr. Diaz-Balart) is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. Slaughter), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 600 is a closed rule allowing for the immediate consideration of the Homeland Security Act of 2002. The rule provides for 1 hour of debate, equally divided and controlled by the chairman and ranking minority member of the Select Committee on Homeland Security. The rule further provides the minority the opportunity to offer a motion to recommit.

Mr. Speaker, this Chamber first acted in July to make the President's goal of a Department of Homeland Security a reality. However, we were not able to send a bill to the President's desk because the other body failed to act.

After months of inaction and gridlock, President Bush has been instrumental in forging a compromise between Democrats and Republicans in order to pass legislation for the creation of the Department of Homeland Security as soon as possible.

I am pleased and honored by the opportunity to take to the House floor today this historic legislation to create the Department of Homeland Security. The security of the American people is the primary function of the Government of the United States. The creation of this new Department to coordinate all security activities on behalf of the American people is of the utmost importance. It has been a high priority for President Bush, and I am pleased to bring it to the floor of the House of Representatives.

Since September 11, 2001, we have been working to rebuild our Nation, not only our bridges and our buildings, rather, but our sense of security. The American people have waited too long for this critical piece of legislation, legislation that is designed to protect all Americans.

This rule provides a second opportunity for consideration of this important measure. The underlying legislation will create a new Federal Department, bringing together for the first time entities that were designed to protect the homeland of the United States. This new Department will ensure coordination among all of the agencies under its charge, as well as any Department that retains functions that could affect the homeland security.

The legislation will help to protect our borders by moving the Coast Guard, Customs Service, and Immigration and Naturalization Service into the Department of Homeland Security. While the Department of State will retain responsibility for issuing visas, the legislation tasks the Department of Homeland Security to develop rules for entry into the United States in order to ensure the best security practices possible.

This historic legislation intensifies our effort to ensure that our Nation's first responders have the resources that they need to address all threats. This includes coordination with the Federal Emergency Management Agency, the Secret Service, and many other agencies, as well as the private sector. Additionally, this legislation promotes and expands upon our efforts in research, development, and technology in homeland security.

I think, Mr. Speaker, it is also important to let the American people know that while we are working to protect our homeland, we are also working to protect the freedom that every American enjoys. Specific legal protections in this legislation are meant to ensure that our freedom is not undermined. It includes the creation of a privacy officer and a civil rights and civil liberties officer. These very important officials will work as close advisers to the Secretary to ensure that our privacy, civil rights, and liberties are protected.

As a strong advocate of workers' rights, I am very pleased to see that a compromise has been reached on collective bargaining issues. The language creates a process by which employees and employees union representatives will consult with the Department in creating the new personnel system. The bill maintains essential employee protections while providing the President the flexibility he needs to ensure the safety of the American people.

I think, Mr. Speaker, that it is an unfortunate reality that we may very well face future attacks within our borders or abroad; but with the creation of this new Department, the American people can rest assured that the Federal Government is doing everything possible to thwart future terrorist attacks.

I would like to thank the Select Committee on Homeland Security for their commitment and their dedication, as well as all the chairmen of the committees of jurisdiction for coming together to craft this vital legislation.

This is a fair rule that will allow consideration of critical legislation, legislation that is long overdue. I ask my colleagues to support both the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I oppose this rule. The measure appeared at 7 a.m. this morning at the Committee on Rules with no opportunity for Members to review it beforehand, and no amendments are allowed. For those two reasons I will oppose this rule.

I would note that creating a Department of Homeland Security was the Democrat Party's idea and has been a Democratic priority since September 11 made clear America's terrifying vulnerabilities to terrorism. For 8 long months after the terrorist attacks this last year, Democrats were almost alone in insisting that the government be reorganized to make homeland security a cabinet-level priority. Sure, we had the support of a few brave Republicans, but the leadership of the Republican Party strongly opposed the idea. House Republican leaders blocked the Department of Homeland Security, and the White House argued strenuously that America did not need it.

Then, Mr. Speaker, something happened to change Republican minds in Washington. Simply put, the public learned the full magnitude of the FBI's incompetence before September 11. As the entire Nation watched, FBI whistleblower Colleen Rowley explained how the FBI leadership had hindered our investigation of Zacarias Moussaoui; and the White House realized it had a major political problem, so they flip-flopped to save their political skin.

However, unfortunately, they did not stop using homeland security as a political prop since then. In the House, they refused bipartisanship on all substantive matters, and stuffed their own partisan pet projects into the bill. In the other body, the Republicans used procedural tactics to repeatedly block homeland security until after the election so they would have a partisan club to use against Democrats like MAX CLELAND, a decorated war hero.

Make no mistake, Americans do not have the Department of Homeland Security today because Republicans obstructed and politicized it for so long. But nevertheless, Mr. Speaker, the Democrats remain committed to increasing the safety of the American people.

Unfortunately, the so-called compromise on personnel issues does more for the ideology than for the workers we are about to entrust with our homeland security. It sets up a notification and mediation process; but at the end of the day, the administration can still ignore civil service protections if it wants. Mr. Speaker, I believe that this is a mistake that could harm the effectiveness of the new Department.

I am also concerned with what will happen with freedom of information, whether the answer can just be given: "You may not have that information because it is hidden away in the Department of Homeland Security."

But it is the civil service system that protects Americans against the spoils system that allows politicians to award their friends and supporters with important government jobs. We should not be stepping away from that. It is crucial that the Department of Homeland Security be staffed by professionals, not the political cronies of whichever party happens to hold the White House.

Because of the procedural way in which this is being brought to the floor, I urge a "no" vote on this rule.

Mr. Speaker, I reserve the balance of my time.

□ 1330

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. GOSS), the distinguished chairman of the Permanent Select Committee on Intelligence, an extraordinary Member, and an expert in the field of national security.

Mr. GOSS. Mr. Speaker, I thank my colleague and friend on the Committee on Rules, the gentleman from Florida (Mr. DIAZ-BALART) who I enjoy working with very much, particularly on this very critical piece of legislation, and I congratulate him for his floor management.

This is obviously a rule that we should all be able to support. It is an appropriate rule and this institution has been through this subject recently rather completely, and it seems to me that we should be able to deal with this apace.

This is the historic homeland security legislation that we have been waiting for and the American people have been asking for. Certainly in the wake of the tragic events of September 11, 2001, our great Nation has showed its very steadfast resolve to confront and defeat terror. Every day we pick up the papers and we see examples of Americans dealing with these problems on a global basis. We have an awful lot of men and women out there in uniform and in other agencies doing the hard work of winning the war on terrorism. The creation of the Department of Homeland Security will further bolster this effort. Coordination, cooperation, communication will be improved and, as we have discovered, are areas where we need improvement. Daily operations will grow stronger. Alertness will be better. The agents responsible for the security of our citizens will be more effective. All of these things will directly flow from this legislation and more.

The Department of Homeland Security will finally allow us to direct some long overdue attention to the problems faced by our immigration system. We live in a hospitable, open and democratic society and we are all extraordinarily proud of it and defend it. It is our liberty. We welcome the orderly flow of immigration and we always have. But regrettably, there are many who take advantage of our generosity by engaging in illegal immigration. Our borders must be protected. Our citizens have asked us to do that, and I believe that this Homeland Security Department will be organized in a way that will help us better deal with the immigration subject in a way that meets the requirements of all Americans and protects our borders from mischief makers.

While this legislation makes great strides towards organizing the protection of our homeland, I believe a considerable amount of work is still going to remain, primarily in the intelligence area. Specifically, I believe there is insufficient provision in this legislation as we have set it up for intelligence consolidation, fusion and analysis. I believe an intelligence analysis center would facilitate the interface of intelligence between agencies that are not very good at it now, thereby increasing reaction speed in a way that could prove critical, and we saw what critical means on September 11, 2001.

Obviously, let me be clear, I very much support the legislation. It is long overdue. It will vastly improve our Nation's defenses, and it obviously is a critically important component of the war on terror, particularly for our homeland where we live. I am pleased to see that the necessary and overdue legislation is about to become a reality. If for no other reason for a lame duck session, I think we have found something that the American people are going to cheer about.

I thank the distinguished gentleman from Florida (Mr. DIAZ-BALART) for yielding me time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I rise today in opposition to the rule.

I have to say the idea of having a new Department of Homeland Security is a good one, but it should not be at the detriment or to the detriment of hardworking government employees.

Mr. Speaker, this so-called compromise, and I do not think it is a compromise at all, it does not go far enough to ensure the rights of workers in this new department to collectively bargain. Once again, this is just another attempt by the Republican Party to use back channels to destroy the American workers' right to organize.

The bill adopts the President's proposals to waive all of the provisions of the civil service laws for employees of the new department, and it would permit the President to strip employees of their union representation for any national security reasons. Basically, it is eliminating effectively the right to collectively bargain.

Why is this necessary? Why in the minds of the administration is this necessary? Historically, civil service has been a way of preventing abuse on the part of the President and the executive branch, and I do not see any relationship between national security and the war against terrorism and workers' rights. There is absolutely no reason to suggest that for national security reasons or because of the war against terrorism that we have to eliminate or cut back on workers' rights. I think what is really happening here is there is an ideological opposition on the part of the President and the Republican Party to collective bargaining, to union representation, to civil service.

It is very troublesome to think that is the case and that somehow national security or the war against terrorism is being used by this administration, the Republican leadership, as an excuse to work their idealogical will against government employees. They should not do that. They should not use this, so to speak, as the excuse to basically cut back or eliminate workers' rights.

I know that there is a rush to pass this. Everyone says we have to have this new department. It is certainly true that we do. But I do not think that those of us who care about workers' rights, who care about collective bargaining should simply say that is okay, that in the name and in the rush to create this new department that somehow we should eliminate workers' rights.

Mr. Speaker, I urge opposition to the rule and opposition to the underlying bill.

Mr. DIAZ-BALART. Mr. Speaker, this underlying legislation does not cut back on workers' rights.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. PORTMAN), a distinguished Member of this House who has been a pillar in the construction of this historic legislation.

Mr. PORTMAN. Mr. Speaker, I thank my colleague from Florida (Mr. DIAZ-BALART) for yielding me time, and I appreciate the input he has had in this legislation. I know he feels deeply about the need to protect our homeland and our families. I appreciate his willingness to take the management responsibility today on the floor.

Mr. Speaker, I would just say that we have before us a true consensus bill. It is one that has been worked out by the Senate, worked out with various interested parties. This bill passed the House of Representatives, as my colleagues will recall, with more than a two to one margin. I hope we would get additional support today so it will be a strong bipartisan show of support for, indeed, moving forward with the necessary new Department of Homeland Security to better protect us.

I do think it is necessary to respond briefly to the comments of my colleague from New Jersey (Mr. PALLONE). I was listening and he said it destroys the rights to collectively bargain. That is not in here. That may be another piece of legislation or maybe one that someone else has told him about. I would urge him to read this legislation. In fact, it guarantees the right to collectively bargain.

Under existing law, existing authority, the President of the United States has the ability under his national security role to be able to pull from individual collective bargaining, individual collective bargaining units or agencies on the basis of national security. This is something that President Kennedy put into effect through executive order. President Carter signed a law to that effect. It has been in the law ever since. Every President since Jimmy Carter has used it and used it judiciously.

All that we do in this legislation is actually narrow that right. We say under the Homeland Security Department the President cannot merely find a national security interest is at stake. It has to be a significant and adverse impact on homeland security. And we further say the President has to notify this Congress 10 days prior to using any such authority.

So I do not know where the gentleman gets this that we are taking current law and making it in any sense worse for civil service or for public employees. In fact, with regard to the President's national security waiver, which is what I assume he is referring to, we narrow it. The right to collectively bargain is explicitly listed in the legislation before us as a guarantee under this department. In fact, the union representation, which will be roughly one out of every three employees or one out of every four employees in this new department would be represented by a union, those union representatives will have a seat at the table.

Although representing just one in four of these employees in this new department, they are guaranteed to have a negotiating role, and this is one of the changes we have made in the legislation over the last few days, is that in fact if there are any disagreements with regard to the necessary new personnel flexibilities that in fact it goes to the Federal Mediation and Conciliation Service for negotiation. If at the end of that process they cannot agree, then, yes, the new personnel practices will be put into place. But in the meantime Congress is notified and you go through this process of negotiation.

I would just underline again that this was something that was carefully thought out over time. The House passed it three and a half months ago. It was bipartisan from the start. The gentlewoman from New York (Ms. SLAUGHTER) has talked about it being a Democrat idea. It has also been a Republican idea. It has been a bipartisan idea. And I would applaud Senator LIEBERMAN and others who pushed it so hard after the tragedy of 9/11.

I would say the creation of this Department of Homeland Security may be the most important thing we do in this Congress. Even though it looks like it will finally happen in terms of enacting it during a lame duck session, nothing is more important to us than protecting the homeland.

I would strongly urge my colleagues on both sides of the aisle to support the good bill before us.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Speaker, I thank the gentlewoman from New York (Ms. SLAUGHTER) very much for yielding me time.

I think it goes without saying that we all want a homeland security bill. We want a good bill. Now, the bill before us today has been characterized as a fair compromise. That is unfortunately not true. It is a very flawed bill.

This bill allows the Department of Homeland Security to eliminate collective bargaining rights for the agency's workforce and allows managers a virtual carte blanche in rewriting civil service rules.

Why are collective bargaining rights important? Collective bargaining is the negotiation between the employer and the labor union on wages, hours, and working conditions. If employees do not feel secure that they receive fair consideration for their employment concerns, one cannot expect to produce a work environment that produces a feeling of personal security for those employees. Let me state, without that feeling of personal security we will have a loss of morale. We will not get an excellent homeland security product from a workforce that does not have a feeling of employment security.

How can granting employees the right to seek redress for resolving labor disputes be interpreted as a threat to national security? The bill allows significant discretionary tampering with respect to four key areas of the civil service process: Pay, job classification, adverse actions and performance appraisals, as well as collective bargaining and employee appeals.

This discretionary tampering is left unchecked because it does not allow unions to collectively bargain through binding negotiations over any of the changes and agreements in these vital areas.

I have read this bill. This bill provides that the Federal Mediation and Conciliation Service could attempt to mediate impasses. That may sound good until you realize that this Mediation and Conciliation Service has no binding authority. So basically they kind of give you a pass-through but the Homeland Security Department retains the authority to alter civil service rules unchecked after a 30-day waiting period. In other words, this bill gives the Department of Homeland Security managers unilateral authority to write their own rules on such important civil service matters as pay, job classifications, firing, and demotions without any involvement for oversight at all from Congress for 5 years.

What is the harm? This allows an immense bureaucratic fiefdom to be created in which managers can bestow favor on their cronies, punish whistleblowers, remember the FBI agent who tried to warn us about September 11, punish people who refuse to tow the political lines without any check on this type of abuse. This bill would allow Department of Homeland Security managers to eliminate collective bargaining rights whenever employees are involved in national security work. This is clearly too broad. Given the name of the new department, Department of Homeland Security, such authority could easily be applied to exempt more than 170,000 employees from belonging to unions.

Let me state, tens of thousands of employees can be transferred from the Border Patrol, from the Customs Service, from the Federal Emergency Management Agency and from many other agencies that have chosen to belong to Federal employee unions for decades, but they will be performing the same work in the new agency that they performed in their old agency. The only difference is the name of their agency.

Why then do these people suddenly become security risks because they want to keep their civil service protections? Why would we remove the collective bargaining rights from these people? This is supposed to be a bill about fighting terrorism. Unfortunately, this bill puts the administration at war with Federal employees, and that is not right. I urge rejection of the underlying bill.

□ 1345

Mr. DIAZ-BALART. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Mr. Speaker, this legislation means more than moving boxes on an organization chart. For the first time, it provides real authority to those we count on to protect our country and our constituents. The Department of Homeland Security, with the Homeland Security Council in the White House, will create and implement a comprehensive homeland security strategy, a unified approach will replace the ad hoc efforts now going on across agency and State lines.

The Nation and this Congress are strong in their support for a Department of Homeland Security and a coordinated strategy, and I only regret that this legislation was not completed months ago.

The legislation is not perfect, as we have heard, but neither was the National Security Act, which created the Department of Defense in 1947. Our national security organization has evolved and improved over time, and so will our homeland security organization. The compromises in this bill are not perfect either, as we have heard, but they are reasonable, and they do make tremendous strides in protecting the security of every neighborhood in America.

The legislation does more than reorganize. It includes the information-sharing procedures I cosponsored with the gentleman from Georgia (Mr. CHAMBLISS), which passed this House as H.R. 4598 by a vote of 422–2.

It also recognizes that the cutting edge of security technologies resides in the private sector, and includes a point of entry for companies to interact with the Federal Government for procurement.

The legislation does not include an independent commission to investigate 9/11, but I hope this Congress will soon pass the intelligence authorization conference report for fiscal year 2003, which includes such a commission.

I urge Members to support this homeland security legislation. Members may disagree with certain provisions or with the process which has brought it to the floor. But this bill, in the net, is the right thing for the American people and can prove to be this Congress' lasting legacy.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to conclude before offering an amendment to the resolution, I would simply state that this is a fair rule, as I stated before, and it is a very important bill. The underlying legislation is critically important.

I beg to disagree with the gentleman from Maryland who I believe did not state the facts correctly with regard to the legislation before us. The President currently has waiverability that he is getting in this legislation for this very important new department in other departments, and that power has been used very judiciously and wisely in the past and has not been abused. I think that it is fair that the President in something as important as the security of the homeland and this new department have the power he has already with regard to other departments, and that is what we are giving the President in this legislation. I would simply urge my colleagues to support the legislation.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DIAZ-BALART

Mr. Speaker, I offer an amendment to the resolution.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the amendment.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DIAZ-BALART:

Strike all after the resolved clause and insert:

That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5710) to establish the Department of Homeland Security, and for other purposes. The bill shall be considered as read for amendment. The amendment specified in section 2 of this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Select Committee on Homeland Security; and (2) one motion to recommit with or without instructions.

Sec. 2. The amendment referred to in the first section of this resolution is as follows:

Amend section 2(10)(B) so as to read:

"(B) an Indian Tribe or authorized tribal organization, or in Alaska a Native Village or Alaska Regional Native Corporation; and"

Mr. DIAZ-BALART. Mr. Speaker, the amendment corrects language currently in the bill which is inconsistent with the 1971 Alaska Native Claims Settlement Act. The amendment maintains the status quo and ensures the future recognition of current Indian Tribes, tribal organizations, Alaskan Native Villages and Alaska Native Regional Corporations. Mr. Speaker, we are very cognizant of the historic nature of the legislation before us today.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the amendment and on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. DIAZ-BALART).

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 237, nays 177, not voting 17, as follows:

[Roll No. 475]

YEAS—237

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—177

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Blumenauer
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Engel
Etheridge
Evans
Fattah
Filner
Ford
Frank
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Luther
Lynch
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCollum
McGovern
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Phelps
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Snyder
Solis
Spratt
Strickland
Tanner
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—17

Blagojevich
Condit
Farr
Hinchey
Hooley
Houghton
Hulshof
McCarthy (NY)
McDermott
McKinney
Meek (FL)
Miller, George
Rangel
Roukema
Simmons
Stark
Stump

☐ 1415

Messrs. ROTHMAN, BERRY, ABERCROMBIE, CUMMINGS and TOWNS changed their vote from "yea" to "nay."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated Against:

Mr. FARR of California. Mr. Speaker, I was unavoidably detained in my congressional office and missed rollcall vote No. 475. Had I been present, I would have voted "nay."

RECESS

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 15 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1833

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHOOD) at 6 o'clock and 33 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4546) "An Act to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes."

The message also announced that pursuant to the provisions of Public Law 93-642, the Chair, on behalf of the Vice President, announces the appointment of the Senator from Missouri (Mrs. CARNAHAN) to the Board of Trustees of the Harry S Truman Scholarship Foundation, vice the Senator from Montana (Mr. BAUCUS), made on October 22, 2002, during the adjournment.

The message also announced that pursuant to the provisions of Public Law 99-498, the Chair, on behalf of the President pro tempore, and upon the recommendation of the Majority Leader, announces the appointment of Clare Cotton of Massachusetts to the Advisory Committee on Student Financial Assistance, vice Donald R. Vickers of Vermont, made on October 22, 2002, during the adjournment.

HOMELAND SECURITY ACT OF 2002

Mr. ARMEY. Mr. Speaker, pursuant to House Resolution 600, I call up the bill (H.R. 5710) to establish the Department of Homeland Security, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 5710 is as follows:

H.R. 5710

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Homeland Security Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Construction; severability.
Sec. 4. Effective date.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Sec. 101. Executive department; mission.
Sec. 102. Secretary; functions.
Sec. 103. Other officers.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Directorate for Information Analysis and Infrastructure Protection; Access to Information

Sec. 201. Directorate for Information Analysis and Infrastructure Protection.
Sec. 202. Access to information.

Subtitle B—Critical Infrastructure Information

Sec. 211. Short title.
Sec. 212. Definitions.
Sec. 213. Designation of critical infrastructure protection program.
Sec. 214. Protection of voluntarily shared critical infrastructure information.
Sec. 215. No private right of action.

Subtitle C—Information Security

Sec. 221. Procedures for sharing information.
Sec. 222. Privacy Officer.
Sec. 223. Enhancement of non-Federal cybersecurity.
Sec. 224. Net guard.
Sec. 225. Cyber Security Enhancement Act of 2002.

Subtitle D—Office of Science and Technology

Sec. 231. Establishment of office; Director.
Sec. 232. Mission of office; duties.
Sec. 233. Definition of law enforcement technology.
Sec. 234. Abolishment of Office of Science and Technology of National Institute of Justice; transfer of functions.
Sec. 235. National Law Enforcement and Corrections Technology Centers.
Sec. 236. Coordination with other entities within Department of Justice.
Sec. 237. Amendments relating to National Institute of Justice.

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

Sec. 301. Under Secretary for Science and Technology.
Sec. 302. Responsibilities and authorities of the Under Secretary for Science and Technology.
Sec. 303. Functions transferred.
Sec. 304. Conduct of certain public health-related activities.
Sec. 305. Federally funded research and development centers.
Sec. 306. Miscellaneous provisions.
Sec. 307. Homeland Security Advanced Research Projects Agency.
Sec. 308. Conduct of research, development, demonstration, testing and evaluation.
Sec. 309. Utilization of Department of Energy national laboratories and sites in support of homeland security activities.
Sec. 310. Transfer of Plum Island Animal Disease Center, Department of Agriculture.
Sec. 311. Homeland Security Science and Technology Advisory Committee.
Sec. 312. Homeland Security Institute.
Sec. 313. Technology clearinghouse to encourage and support innovative solutions to enhance homeland security.

TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

Subtitle A—Under Secretary for Border and Transportation Security

Sec. 401. Under Secretary for Border and Transportation Security.
Sec. 402. Responsibilities.
Sec. 403. Functions transferred.

Subtitle B—United States Customs Service

Sec. 411. Establishment; Commissioner of Customs.
Sec. 412. Retention of customs revenue functions by Secretary of the Treasury.
Sec. 413. Preservation of customs funds.
Sec. 414. Separate budget request for customs.
Sec. 415. Definition.
Sec. 416. GAO report to Congress.
Sec. 417. Allocation of resources by the Secretary.
Sec. 418. Reports to Congress.
Sec. 419. Customs user fees.

Subtitle C—Miscellaneous Provisions

Sec. 421. Transfer of certain agricultural inspection functions of the Department of Agriculture.
Sec. 422. Functions of Administrator of General Services.
Sec. 423. Functions of Transportation Security Administration.
Sec. 424. Preservation of Transportation Security Administration as a distinct entity.
Sec. 425. Explosive detection systems.
Sec. 426. Transportation security.
Sec. 427. Coordination of information and information technology.
Sec. 428. Visa issuance.
Sec. 429. Information on visa denials required to be entered into electronic data system.
Sec. 430. Office for Domestic Preparedness.

Subtitle D—Immigration Enforcement Functions

Sec. 441. Transfer of functions to Under Secretary for Border and Transportation Security.
Sec. 442. Establishment of Bureau of Border Security.
Sec. 443. Professional responsibility and quality review.
Sec. 444. Employee discipline.
Sec. 445. Report on improving enforcement functions.
Sec. 446. Sense of Congress regarding construction of fencing near San Diego, California.

Subtitle E—Citizenship and Immigration Services

Sec. 451. Establishment of Bureau of Citizenship and Immigration Services.
Sec. 452. Citizenship and Immigration Services Ombudsman.
Sec. 453. Professional responsibility and quality review.
Sec. 454. Employee discipline.
Sec. 455. Effective date.
Sec. 456. Transition.
Sec. 457. Funding for citizenship and immigration services.
Sec. 458. Backlog elimination.
Sec. 459. Report on improving immigration services.

Sec. 460. Report on responding to fluctuating needs.
Sec. 461. Application of Internet-based technologies.
Sec. 462. Children's affairs.

Subtitle F—General Immigration Provisions

Sec. 471. Abolishment of INS.
Sec. 472. Voluntary separation incentive payments.
Sec. 473. Authority to conduct a demonstration project relating to disciplinary action.
Sec. 474. Sense of Congress.
Sec. 475. Director of Shared Services.
Sec. 476. Separation of funding.
Sec. 477. Reports and implementation plans.
Sec. 478. Immigration functions.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

Sec. 501. Under Secretary for Emergency Preparedness and Response.
Sec. 502. Responsibilities.
Sec. 503. Functions transferred.
Sec. 504. Nuclear incident response.
Sec. 505. Conduct of certain public health-related activities.
Sec. 506. Definition.
Sec. 507. Role of Federal Emergency Management Agency.
Sec. 508. Use of national private sector networks in emergency response.
Sec. 509. Use of commercially available technology, goods, and services.

TITLE VI—TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS

Sec. 601. Treatment of charitable trusts for members of the Armed Forces of the United States and other governmental organizations.

TITLE VII—MANAGEMENT

Sec. 701. Under Secretary for Management.
Sec. 702. Chief Financial Officer.
Sec. 703. Chief Information Officer.
Sec. 704. Chief Human Capital Officer.
Sec. 705. Establishment of Officer for Civil Rights and Civil Liberties.
Sec. 706. Consolidation and co-location of offices.

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

Sec. 801. Office for State and Local Government Coordination.

Subtitle B—Inspector General

Sec. 811. Authority of the Secretary.
Sec. 812. Law enforcement powers of Inspector General agents.

Subtitle C—United States Secret Service

Sec. 821. Functions transferred.

Subtitle D—Acquisitions

Sec. 831. Research and development projects.
Sec. 832. Personal services.
Sec. 833. Special streamlined acquisition authority.
Sec. 834. Unsolicited proposals.
Sec. 835. Prohibition on contracts with corporate expatriates.

Subtitle E—Human Resources Management

Sec. 841. Establishment of Human Resources Management System.
Sec. 842. Labor-management relations.

Subtitle F—Federal Emergency Procurement Flexibility

Sec. 851. Definition.
Sec. 852. Procurements for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.
Sec. 853. Increased simplified acquisition threshold for procurements in support of humanitarian or peacekeeping operations or contingency operations.
Sec. 854. Increased micro-purchase threshold for certain procurements.
Sec. 855. Application of certain commercial items authorities to certain procurements.
Sec. 856. Use of streamlined procedures.
Sec. 857. Review and report by Comptroller General.
Sec. 858. Identification of new entrants into the Federal marketplace.

Subtitle G—Support Anti-terrorism by Fostering Effective Technologies Act of 2002

Sec. 861. Short title.
Sec. 862. Administration.
Sec. 863. Litigation management.
Sec. 864. Risk management.
Sec. 865. Definitions.

Subtitle H—Miscellaneous Provisions

Sec. 871. Advisory committees.
Sec. 872. Reorganization.
Sec. 873. Use of appropriated funds.
Sec. 874. Future Year Homeland Security Program.
Sec. 875. Miscellaneous authorities.
Sec. 876. Military activities.
Sec. 877. Regulatory authority and preemption.
Sec. 878. Counternarcotics officer.
Sec. 879. Office of International Affairs.
Sec. 880. Prohibition of the Terrorism Information and Prevention System.
Sec. 881. Review of pay and benefit plans.
Sec. 882. Office for National Capital Region Coordination.
Sec. 883. Requirement to comply with laws protecting equal employment opportunity and providing whistleblower protections.
Sec. 884. Federal Law Enforcement Training Center.
Sec. 885. Joint Interagency Task Force.
Sec. 886. Sense of Congress reaffirming the continued importance and applicability of the Posse Comitatus Act.
Sec. 887. Coordination with the Department of Health and Human Services under the Public Health Service Act.
Sec. 888. Preserving Coast Guard mission performance.
Sec. 889. Homeland security funding analysis in President's budget.
Sec. 890. Air Transportation Safety and System Stabilization Act.

Subtitle I—Information Sharing

Sec. 891. Short title; findings; and sense of Congress.
Sec. 892. Facilitating homeland security information sharing procedures.
Sec. 893. Report.
Sec. 894. Authorization of appropriations.
Sec. 895. Authority to share grand jury information.
Sec. 896. Authority to share electronic, wire, and oral interception information.
Sec. 897. Foreign intelligence information.
Sec. 898. Information acquired from an electronic surveillance.
Sec. 899. Information acquired from a physical search.

TITLE IX—NATIONAL HOMELAND SECURITY COUNCIL

Sec. 901. National Homeland Security Council.
Sec. 902. Function.
Sec. 903. Membership.
Sec. 904. Other functions and activities.
Sec. 905. Staff composition.
Sec. 906. Relation to the National Security Council.

TITLE X—INFORMATION SECURITY

Sec. 1001. Information security.
Sec. 1002. Management of information technology.
Sec. 1003. National Institute of Standards and Technology.
Sec. 1004. Information Security and Privacy Advisory Board.
Sec. 1005. Technical and conforming amendments.
Sec. 1006. Construction.

TITLE XI—DEPARTMENT OF JUSTICE DIVISIONS

Subtitle A—Executive Office for Immigration Review

Sec. 1101. Legal status of EOIR.
Sec. 1102. Authorities of the Attorney General.
Sec. 1103. Statutory construction.

Subtitle B—Transfer of the Bureau of Alcohol, Tobacco and Firearms to the Department of Justice

Sec. 1111. Bureau of Alcohol, Tobacco, Firearms, and Explosives.
Sec. 1112. Technical and conforming amendments.
Sec. 1113. Powers of agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives.
Sec. 1114. Explosives training and research facility.
Sec. 1115. Personnel management demonstration project.

Subtitle C—Explosives

Sec. 1121. Short title.
Sec. 1122. Permits for purchasers of explosives.
Sec. 1123. Persons prohibited from receiving or possessing explosive materials.
Sec. 1124. Requirement to provide samples of explosive materials and ammonium nitrate.
Sec. 1125. Destruction of property of institutions receiving Federal financial assistance.
Sec. 1126. Relief from disabilities.
Sec. 1127. Theft reporting requirement.
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TITLE XII—AIRLINE WAR RISK INSURANCE LEGISLATION

Sec. 1201. Air carrier liability for third party claims arising out of acts of terrorism.
Sec. 1202. Extension of insurance policies.
Sec. 1203. Correction of reference.
Sec. 1204. Report.

TITLE XIII—FEDERAL WORKFORCE IMPROVEMENT

Subtitle A—Chief Human Capital Officers

Sec. 1301. Short title.
Sec. 1302. Agency Chief Human Capital Officers.
Sec. 1303. Chief Human Capital Officers Council.
Sec. 1304. Strategic human capital management.
Sec. 1305. Effective date.

Subtitle B—Reforms Relating to Federal Human Capital Management

Sec. 1311. Inclusion of agency human capital strategic planning in performance plans and programs performance reports.

Sec. 1312. Reform of the competitive service hiring process.
Sec. 1313. Permanent extension, revision, and expansion of authorities for use of voluntary separation incentive pay and voluntary early retirement.
Sec. 1314. Student volunteer transit subsidy.

Subtitle C—Reforms Relating to the Senior Executive Service

Sec. 1321. Repeal of recertification requirements of senior executives.
Sec. 1322. Adjustment of limitation on total annual compensation.

Subtitle D—Academic Training

Sec. 1331. Academic training.
Sec. 1332. Modifications to National Security Education Program.

TITLE XIV—ARMING PILOTS AGAINST TERRORISM

Sec. 1401. Short title.
Sec. 1402. Federal Flight Deck Officer Program.
Sec. 1403. Crew training.
Sec. 1404. Commercial airline security study.
Sec. 1405. Authority to arm flight deck crew with less-than-lethal weapons.
Sec. 1406. Technical amendments.

TITLE XV—TRANSITION

Subtitle A—Reorganization Plan

Sec. 1501. Definitions.
Sec. 1502. Reorganization plan.
Sec. 1503. Review of congressional committee structures.

Subtitle B—Transitional Provisions

Sec. 1511. Transitional authorities.
Sec. 1512. Savings provisions.
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Sec. 1515. Continuity of Inspector General oversight.
Sec. 1516. Incidental transfers.
Sec. 1517. Reference.

TITLE XVI—CORRECTIONS TO EXISTING LAW RELATING TO AIRLINE TRANSPORTATION SECURITY

Sec. 1601. Retention of security sensitive information authority at Department of Transportation.
Sec. 1602. Increase in civil penalties.
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TITLE XVII—CONFORMING AND TECHNICAL AMENDMENTS

Sec. 1701. Inspector General Act of 1978.
Sec. 1702. Executive Schedule.
Sec. 1703. United States Secret Service.
Sec. 1704. Coast Guard.
Sec. 1705. Strategic national stockpile and smallpox vaccine development.
Sec. 1706. Transfer of certain security and law enforcement functions and authorities.
Sec. 1707. Transportation security regulations.
Sec. 1708. National Bio-Weapons Defense Analysis Center.
Sec. 1709. Collaboration with the Secretary of Homeland Security.
Sec. 1710. Railroad safety to include railroad security.
Sec. 1711. Hazmat safety to include hazmat security.
Sec. 1712. Office of Science and Technology Policy.
Sec. 1713. National Oceanographic Partnership Program.
Sec. 1714. Clarification of definition of manufacturer.
Sec. 1715. Clarification of definition of vaccine-related injury or death.
Sec. 1716. Clarification of definition of vaccine.
Sec. 1717. Effective date.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) Each of the terms "American homeland" and "homeland" means the United States.

(2) The term "appropriate congressional committee" means any committee of the House of Representatives or the Senate having legislative or oversight jurisdiction under the Rules of the House of Representatives or the Senate, respectively, over the matter concerned.

(3) The term "assets" includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(4) The term "critical infrastructure" has the meaning given that term in section 1016(e) of Public Law 107-56 (42 U.S.C. 5195c(e)).

(5) The term "Department" means the Department of Homeland Security.

(6) The term "emergency response providers" includes Federal, State, and local emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities.

(7) The term "executive agency" means an executive agency and a military department, as defined, respectively, in sections 105 and 102 of title 5, United States Code.

(8) The term "functions" includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, and responsibilities.

(9) The term "key resources" means publicly or privately controlled resources essential to the minimal operations of the economy and government.

(10) The term "local government" means—

(A) a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government;

(B) an Indian tribe or authorized tribal organization, or Alaska Native village or organization; and

(C) a rural community, unincorporated town or village, or other public entity.

(11) The term "major disaster" has the meaning given in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(12) The term "personnel" means officers and employees.

(13) The term "Secretary" means the Secretary of Homeland Security.

(14) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any possession of the United States.

(15) The term "terrorism" means any activity that—

(A) involves an act that—

(i) is dangerous to human life or potentially destructive of critical infrastructure or key resources; and

(ii) is a violation of the criminal laws of the United States or of any State or other subdivision of the United States; and

(B) appears to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping.

(16)(A) The term "United States", when used in a geographic sense, means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any possession of the United States, and any waters within the jurisdiction of the United States.

(B) Nothing in this paragraph or any other provision of this Act shall be construed to modify the definition of "United States" for the purposes of the Immigration and Nationality Act or any other immigration or nationality law.

SEC. 3. CONSTRUCTION; SEVERABILITY.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of enactment.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

SEC. 101. EXECUTIVE DEPARTMENT; MISSION.

(a) ESTABLISHMENT.—There is established a Department of Homeland Security, as an executive department of the United States within the meaning of title 5, United States Code.

(b) MISSION.—

(1) IN GENERAL.—The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States;

(B) reduce the vulnerability of the United States to terrorism;

(C) minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States;

(D) carry out all functions of entities transferred to the Department, including by acting as a focal point regarding natural and manmade crises and emergency planning;

(E) ensure that the functions of the agencies and subdivisions within the Department that are not related directly to securing the homeland are not diminished or neglected except by a specific explicit Act of Congress;

(F) ensure that the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland; and

(G) monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking.

(2) RESPONSIBILITY FOR INVESTIGATING AND PROSECUTING TERRORISM.—Except as specifically provided by law with respect to entities transferred to the Department under this Act, primary responsibility for investigating and prosecuting acts of terrorism shall be vested not in the Department, but rather in Federal, State, and local law enforcement

agencies with jurisdiction over the acts in question.

SEC. 102. SECRETARY; FUNCTIONS.

(a) Secretary.—

(1) In general.—There is a Secretary of Homeland Security, appointed by the President, by and with the advice and consent of the Senate.

(2) Head of department.—The Secretary is the head of the Department and shall have direction, authority, and control over it.

(3) Functions vested in secretary.—All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.

(b) Functions.—The Secretary—

(1) except as otherwise provided by this Act, may delegate any of the Secretary's functions to any officer, employee, or organizational unit of the Department;

(2) shall have the authority to make contracts, grants, and cooperative agreements, and to enter into agreements with other executive agencies, as may be necessary and proper to carry out the Secretary's responsibilities under this Act or otherwise provided by law; and

(3) shall take reasonable steps to ensure that information systems and databases of the Department are compatible with each other and with appropriate databases of other Departments.

(c) Coordination With Non-Federal Entities.—With respect to homeland security, the Secretary shall coordinate through the Office of State and Local Coordination (established under section 801) (including the provision of training and equipment) with State and local government personnel, agencies, and authorities, with the private sector, and with other entities, including by—

(1) coordinating with State and local government personnel, agencies, and authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities;

(2) coordinating and, as appropriate, consolidating, the Federal Government's communications and systems of communications relating to homeland security with State and local government personnel, agencies, and authorities, the private sector, other entities, and the public; and

(3) distributing or, as appropriate, coordinating the distribution of, warnings and information to State and local government personnel, agencies, and authorities and to the public.

(d) Meetings of National Security Council.—The Secretary may, subject to the direction of the President, attend and participate in meetings of the National Security Council.

(e) Issuance of Regulations.—The issuance of regulations by the Secretary shall be governed by the provisions of chapter 5 of title 5, United States Code, except as specifically provided in this Act, in laws granting regulatory authorities that are transferred by this Act, and in laws enacted after the date of enactment of this Act.

(f) Special Assistant to the Secretary.—The Secretary shall appoint a Special Assistant to the Secretary who shall be responsible for—

(1) creating and fostering strategic communications with the private sector to enhance the primary mission of the Department to protect the American homeland;

(2) advising the Secretary on the impact of the Department's policies, regulations, processes, and actions on the private sector;

(3) interfacing with other relevant Federal agencies with homeland security missions to assess the impact of these agencies' actions on the private sector;

(4) creating and managing private sector advisory councils composed of representatives of industries and associations designated by the Secretary to—

(A) advise the Secretary on private sector products, applications, and solutions as they relate to homeland security challenges; and

(B) advise the Secretary on homeland security policies, regulations, processes, and actions that affect the participating industries and associations;

(5) working with Federal laboratories, Federally funded research and development centers, other Federally funded organizations, academia, and the private sector to develop innovative approaches to address homeland security challenges to produce and deploy the best available technologies for homeland security missions;

(6) promoting existing public-private partnerships and developing new public-private partnerships to provide for collaboration and mutual support to address homeland security challenges; and

(7) assisting in the development and promotion of private sector best practices to secure critical infrastructure.

(g) Standards Policy.—All standards activities of the Department shall be conducted in accordance with section 12(d) of the National Technology Transfer Advancement Act of 1995 (15 U.S.C. 272 note) and Office of Management and Budget Circular A-119.

SEC. 103. OTHER OFFICERS.

(a) Deputy Secretary; Under Secretaries.—There are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(1) A Deputy Secretary of Homeland Security, who shall be the Secretary's first assistant for purposes of subchapter III of chapter 33 of title 5, United States Code.

(2) An Under Secretary for Information Analysis and Infrastructure Protection.

(3) An Under Secretary for Science and Technology.

(4) An Under Secretary for Border and Transportation Security.

(5) An Under Secretary for Emergency Preparedness and Response.

(6) A Director of the Bureau of Citizenship and Immigration Services.

(7) An Under Secretary for Management.

(8) Not more than 12 Assistant Secretaries.

(9) A General Counsel, who shall be the chief legal officer of the department.

(b) Inspector General.—There is an Inspector General, who shall be appointed as provided in section 3(a) of the Inspector General Act of 1978.

(c) Commandant of the Coast Guard.—To assist the Secretary in the performance of the Secretary's functions, there is a Commandant of the Coast Guard, who shall be appointed as provided in section 44 of title 14, United States Code, and who shall report directly to the Secretary. In addition to such duties as may be provided in this Act and as assigned to the Commandant by the Secretary, the duties of the Commandant shall include those required by section 2 of title 14, United States Code.

(d) Other Officers.—To assist the Secretary in the performance of the Secretary's functions, there are the following officers, appointed by the President:

(1) A Director of the Secret Service.

(2) A Chief Information Officer.

(3) A Chief Human Capital Officer.

(4) A Chief Financial Officer.

(5) An Officer for Civil Rights and Civil Liberties.

(e) Performance of Specific Functions.—Subject to the provisions of this Act, every officer of the Department shall perform the functions specified by law for the official's office or prescribed by the Secretary.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Directorate for Information Analysis and Infrastructure Protection; Access to Information

SEC. 201. DIRECTORATE FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.

(a) Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection.—

(1) In general.—There shall be in the Department a Directorate for Information Analysis and Infrastructure Protection headed by an Under Secretary for Information Analysis and Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Responsibilities.—The Under Secretary shall assist the Secretary in discharging the responsibilities assigned by the Secretary.

(b) Assistant Secretary for Information Analysis; Assistant Secretary for Infrastructure Protection.—

(1) Assistant secretary for information analysis.—There shall be in the Department an Assistant Secretary for Information Analysis, who shall be appointed by the President.

(2) Assistant secretary for infrastructure protection.—There shall be in the Department an Assistant Secretary for Infrastructure Protection, who shall be appointed by the President.

(3) Responsibilities.—The Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection shall assist the Under Secretary for Information Analysis and Infrastructure Protection in discharging the responsibilities of the Under Secretary under this section.

(c) Discharge of Information Analysis and Infrastructure Protection.—The Secretary shall ensure that the responsibilities of the Department regarding information analysis and infrastructure protection are carried out through the Under Secretary for Information Analysis and Infrastructure Protection.

(d) Responsibilities of Under Secretary.—Subject to the direction and control of the Secretary, the responsibilities of the Under Secretary for Information Analysis and Infrastructure Protection shall be as follows:

(1) To access, receive, and analyze law enforcement information, intelligence information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities, and to integrate such information in order to—

(A) identify and assess the nature and scope of terrorist threats to the homeland;

(B) detect and identify threats of terrorism against the United States; and

(C) understand such threats in light of actual and potential vulnerabilities of the homeland.

(2) To carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States (including an assessment of the probability of success of

such attacks and the feasibility and potential efficacy of various countermeasures to such attacks).

(3) To integrate relevant information, analyses, and vulnerability assessments (whether such information, analyses, or assessments are provided or produced by the Department or others) in order to identify priorities for protective and support measures by the Department, other agencies of the Federal Government, State and local government agencies and authorities, the private sector, and other entities.

(4) To ensure, pursuant to section 202, the timely and efficient access by the Department to all information necessary to discharge the responsibilities under this section, including obtaining such information from other agencies of the Federal Government.

(5) To develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States, including power production, generation, and distribution systems, information technology and telecommunications systems (including satellites), electronic financial and property record storage and transmission systems, emergency preparedness communications systems, and the physical and technological assets that support such systems.

(6) To recommend measures necessary to protect the key resources and critical infrastructure of the United States in coordination with other agencies of the Federal Government and in cooperation with State and local government agencies and authorities, the private sector, and other entities.

(7) To administer the Homeland Security Advisory System, including—

(A) exercising primary responsibility for public advisories related to threats to homeland security; and

(B) in coordination with other agencies of the Federal Government, providing specific warning information, and advice about appropriate protective measures and countermeasures, to State and local government agencies and authorities, the private sector, other entities, and the public.

(8) To review, analyze, and make recommendations for improvements in the policies and procedures governing the sharing of law enforcement information, intelligence information, intelligence-related information, and other information relating to homeland security within the Federal Government and between the Federal Government and State and local government agencies and authorities.

(9) To disseminate, as appropriate, information analyzed by the Department within the Department, to other agencies of the Federal Government with responsibilities relating to homeland security, and to agencies of State and local governments and private sector entities with such responsibilities in order to assist in the deterrence, prevention, preemption of, or response to, terrorist attacks against the United States.

(10) To consult with the Director of Central Intelligence and other appropriate intelligence, law enforcement, or other elements of the Federal Government to establish collection priorities and strategies for information, including law enforcement-related information, relating to threats of terrorism against the United States through such means as the representation of the Department in discussions regarding requirements and priorities in the collection of such information.

(11) To consult with State and local governments and private sector entities to ensure appropriate exchanges of information, including law enforcement-related information, relating to threats of terrorism against the United States.

(12) To ensure that—

(A) any material received pursuant to this Act is protected from unauthorized disclosure and handled and used only for the performance of official duties; and

(B) any intelligence information under this Act is shared, retained, and disseminated consistent with the authority of the Director of Central Intelligence to protect intelligence sources and methods under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures and, as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information.

(13) To request additional information from other agencies of the Federal Government, State and local government agencies, and the private sector relating to threats of terrorism in the United States, or relating to other areas of responsibility assigned by the Secretary, including the entry into cooperative agreements through the Secretary to obtain such information.

(14) To establish and utilize, in conjunction with the chief information officer of the Department, a secure communications and information technology infrastructure, including data-mining and other advanced analytical tools, in order to access, receive, and analyze data and information in furtherance of the responsibilities under this section, and to disseminate information acquired and analyzed by the Department, as appropriate.

(15) To ensure, in conjunction with the chief information officer of the Department, that any information databases and analytical tools developed or utilized by the Department—

(A) are compatible with one another and with relevant information databases of other agencies of the Federal Government; and

(B) treat information in such databases in a manner that complies with applicable Federal law on privacy.

(16) To coordinate training and other support to the elements and personnel of the Department, other agencies of the Federal Government, and State and local governments that provide information to the Department, or are consumers of information provided by the Department, in order to facilitate the identification and sharing of information revealed in their ordinary duties and the optimal utilization of information received from the Department.

(17) To coordinate with elements of the intelligence community and with Federal, State, and local law enforcement agencies, and the private sector, as appropriate.

(18) To provide intelligence and information analysis and support to other elements of the Department.

(19) To perform such other duties relating to such responsibilities as the Secretary may provide.

(e) Staff.—

(1) In general.—The Secretary shall provide the Directorate with a staff of analysts having appropriate expertise and experience to assist the Directorate in discharging responsibilities under this section.

(2) Private sector analysts.—Analysts under this subsection may include analysts from the private sector.

(3) Security clearances.—Analysts under this subsection shall possess security clearances appropriate for their work under this section.

(f) Detail of Personnel.—

(1) In general.—In order to assist the Directorate in discharging responsibilities under this section, personnel of the agencies referred to in paragraph (2) may be detailed to the Department for the performance of analytic functions and related duties.

(2) Covered agencies.—The agencies referred to in this paragraph are as follows:

(A) The Department of State.

(B) The Central Intelligence Agency.

(C) The Federal Bureau of Investigation.

(D) The National Security Agency.

(E) The National Imagery and Mapping Agency.

(F) The Defense Intelligence Agency.

(G) Any other agency of the Federal Government that the President considers appropriate.

(3) Cooperative agreements.—The Secretary and the head of the agency concerned may enter into cooperative agreements for the purpose of detailing personnel under this subsection.

(4) Basis.—The detail of personnel under this subsection may be on a reimbursable or non-reimbursable basis.

(g) Functions Transferred.—In accordance with title XV, there shall be transferred to the Secretary, for assignment to the Under Secretary for Information Analysis and Infrastructure Protection under this section, the functions, personnel, assets, and liabilities of the following:

(1) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section), including the functions of the Attorney General relating thereto.

(2) The National Communications System of the Department of Defense, including the functions of the Secretary of Defense relating thereto.

(3) The Critical Infrastructure Assurance Office of the Department of Commerce, including the functions of the Secretary of Commerce relating thereto.

(4) The National Infrastructure Simulation and Analysis Center of the Department of Energy and the energy security and assurance program and activities of the Department, including the functions of the Secretary of Energy relating thereto.

(5) The Federal Computer Incident Response Center of the General Services Administration, including the functions of the Administrator of General Services relating thereto.

(h) Inclusion of Certain Elements of the Department as Elements of the Intelligence Community.—Section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(a)) is amended—

(1) by striking "and" at the end of subparagraph (I);

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following new subparagraph:

"(J) the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information; and".

SEC. 202. ACCESS TO INFORMATION.

(a) In General.—

(1) Threat and vulnerability information.—Except as otherwise directed by the President, the Secretary shall have such access as the Secretary considers necessary to all information, including reports, assessments, analyses, and unevaluated intelligence relating to threats of terrorism against the United States and to other areas of responsibility assigned by the Secretary,

and to all information concerning infrastructure or other vulnerabilities of the United States to terrorism, whether or not such information has been analyzed, that may be collected, possessed, or prepared by any agency of the Federal Government.

(2) OTHER INFORMATION.—The Secretary shall also have access to other information relating to matters under the responsibility of the Secretary that may be collected, possessed, or prepared by an agency of the Federal Government as the President may further provide.

(b) MANNER OF ACCESS.—Except as otherwise directed by the President, with respect to information to which the Secretary has access pursuant to this section—

(1) the Secretary may obtain such material upon request, and may enter into cooperative arrangements with other executive agencies to provide such material or provide Department officials with access to it on a regular or routine basis, including requests or arrangements involving broad categories of material, access to electronic databases, or both; and

(2) regardless of whether the Secretary has made any request or entered into any cooperative arrangement pursuant to paragraph (1), all agencies of the Federal Government shall promptly provide to the Secretary—

(A) all reports (including information reports containing intelligence which has not been fully evaluated), assessments, and analytical information relating to threats of terrorism against the United States and to other areas of responsibility assigned by the Secretary;

(B) all information concerning the vulnerability of the infrastructure of the United States, or other vulnerabilities of the United States, to terrorism, whether or not such information has been analyzed;

(C) all other information relating to significant and credible threats of terrorism against the United States, whether or not such information has been analyzed; and

(D) such other information or material as the President may direct.

(c) TREATMENT UNDER CERTAIN LAWS.—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, immigration, or national security official, and shall be provided with all information from law enforcement agencies that is required to be given to the Director of Central Intelligence, under any provision of the following:

(1) The USA PATRIOT Act of 2001 (Public Law 107-56).

(2) Section 2517(6) of title 18, United States Code.

(3) Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.

(d) ACCESS TO INTELLIGENCE AND OTHER INFORMATION.—

(1) ACCESS BY ELEMENTS OF FEDERAL GOVERNMENT.—Nothing in this title shall preclude any element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)), or other any element of the Federal Government with responsibility for analyzing terrorist threat information, from receiving any intelligence or other information relating to terrorism.

(2) SHARING OF INFORMATION.—The Secretary, in consultation with the Director of Central Intelligence, shall work to ensure that intelligence or other information relating to terrorism to which the Department has access is appropriately shared with the elements of the Federal Government referred to in paragraph (1), as well as with State and local governments, as appropriate.

Subtitle B—Critical Infrastructure Information

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "Critical Infrastructure Information Act of 2002".

SEC. 212. DEFINITIONS.

In this subtitle:

(1) AGENCY.—The term "agency" has the meaning given it in section 551 of title 5, United States Code.

(2) COVERED FEDERAL AGENCY.—The term "covered Federal agency" means the Department of Homeland Security.

(3) CRITICAL INFRASTRUCTURE INFORMATION.—The term "critical infrastructure information" means information not customarily in the public domain and related to the security of critical infrastructure or protected systems—

(A) actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates Federal, State, or local law, harms interstate commerce of the United States, or threatens public health or safety;

(B) the ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk management planning, or risk audit; or

(C) any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, reconstruction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.

(4) CRITICAL INFRASTRUCTURE PROTECTION PROGRAM.—The term "critical infrastructure protection program" means any component or bureau of a covered Federal agency that has been designated by the President or any agency head to receive critical infrastructure information.

(5) INFORMATION SHARING AND ANALYSIS ORGANIZATION.—The term "Information Sharing and Analysis Organization" means any formal or informal entity or collaboration created or employed by public or private sector organizations, for purposes of—

(A) gathering and analyzing critical infrastructure information in order to better understand security problems and interdependencies related to critical infrastructure and protected systems, so as to ensure the availability, integrity, and reliability thereof;

(B) communicating or disclosing critical infrastructure information to help prevent, detect, mitigate, or recover from the effects of a interference, compromise, or a incapacitation problem related to critical infrastructure or protected systems; and

(C) voluntarily disseminating critical infrastructure information to its members, State, local, and Federal Governments, or any other entities that may be of assistance in carrying out the purposes specified in subparagraphs (A) and (B).

(6) PROTECTED SYSTEM.—The term "protected system"—

(A) means any service, physical or computer-based system, process, or procedure that directly or indirectly affects the viability of a facility of critical infrastructure; and

(B) includes any physical or computer-based system, including a computer, computer system, computer or communications network, or any component hardware or element thereof, software program, processing instructions, or information or data in transmission or storage therein, irrespective of the medium of transmission or storage.

(7) VOLUNTARY.—

(A) IN GENERAL.—The term "voluntary", in the case of any submittal of critical infrastructure information to a covered Federal agency, means the submittal thereof in the absence of such agency's exercise of legal authority to compel access to or submission of such information and may be accomplished by a single entity or an Information Sharing and Analysis Organization on behalf of itself or its members.

(B) EXCLUSIONS.—The term "voluntary"—

(i) in the case of any action brought under the securities laws as is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))—

(I) does not include information or statements contained in any documents or materials filed with the Securities and Exchange Commission, or with Federal banking regulators, pursuant to section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 781(I)); and

(II) with respect to the'submittal of critical infrastructure information, does not include any disclosure or writing that when made accompanied the solicitation of an offer or a sale of securities; and

(ii) does not include information or statements submitted or relied upon as a basis for making licensing or permitting determinations, or during regulatory proceedings.

SEC. 213. DESIGNATION OF CRITICAL INFRASTRUCTURE PROTECTION PROGRAM.

A critical infrastructure protection program may be designated as such by one of the following:

(1) The President.

(2) The Secretary of Homeland Security.

SEC. 214. PROTECTION OF VOLUNTARILY SHARED CRITICAL INFRASTRUCTURE INFORMATION.

(a) PROTECTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, critical infrastructure information (including the identity of the submitting person or entity) that is voluntarily submitted to a covered Federal agency for use by that agency regarding the security of critical infrastructure and protected systems, analysis, warning, interdependency study, recovery, reconstitution, or other informational purpose, when accompanied by an express statement specified in paragraph (2)—

(A) shall be exempt from disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(B) shall not be subject to any agency rules or judicial doctrine regarding ex parte communications with a decision making official;

(C) shall not, without the written consent of the person or entity submitting such information, be used directly by such agency, any other Federal, State, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith;

(D) shall not, without the written consent of the person or entity submitting such information, be used or disclosed by any officer or employee of the United States for purposes other than the purposes of this subtitle, except—

(i) in furtherance of an investigation or the prosecution of a criminal act; or

(ii) when disclosure of the information would be—

(I) to either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee thereof or subcommittee of any such joint committee; or

(II) to the Comptroller General, or any authorized representative of the Comptroller General, in the course of the performance of the duties of the General Accounting Office.

(E) shall not, if provided to a State or local government or government agency—

(i) be made available pursuant to any State or local law requiring disclosure of information or records;

(ii) otherwise be disclosed or distributed to any party by said State or local government or government agency without the written consent of the person or entity submitting such information; or

(iii) be used other than for the purpose of protecting critical infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act; and

(F) does not constitute a waiver of any applicable privilege or protection provided under law, such as trade secret protection.

(2) EXPRESS STATEMENT.—For purposes of paragraph (1), the term "express statement", with respect to information or records, means—

(A) in the case of written information or records, a written marking on the information or records substantially similar to the following: "This information is voluntarily submitted to the Federal Government in expectation of protection from disclosure as provided by the provisions of the Critical Infrastructure Information Act of 2002."; or

(B) in the case of oral information, a similar written statement submitted within a reasonable period following the oral communication.

(b) LIMITATION.—No communication of critical infrastructure information to a covered Federal agency made pursuant to this subtitle shall be considered to be an action subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(c) INDEPENDENTLY OBTAINED INFORMATION.—Nothing in this section shall be construed to limit or otherwise affect the ability of a State, local, or Federal Government entity, agency, or authority, or any third party, under applicable law, to obtain critical infrastructure information in a manner not covered by subsection (a), including any information lawfully and properly disclosed generally or broadly to the public and to use such information in any manner permitted by law.

(d) TREATMENT OF VOLUNTARY SUBMITTAL OF INFORMATION.—The voluntary submittal to the Government of information or records that are protected from disclosure by this subtitle shall not be construed to constitute compliance with any requirement to submit such information to a Federal agency under any other provision of law.

(e) PROCEDURES.—

(1) IN GENERAL.—The Secretary of the Department of Homeland Security shall, in consultation with appropriate representatives of the National Security Council and the Office of Science and Technology Policy, establish uniform procedures for the receipt, care, and storage by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government. The procedures shall be established not later than 90 days after the date of the enactment of this subtitle.

(2) ELEMENTS.—The procedures established under paragraph (1) shall include mechanisms regarding—

(A) the acknowledgement of receipt by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government;

(B) the maintenance of the identification of such information as voluntarily submitted to the Government for purposes of and subject to the provisions of this subtitle;

(C) the care and storage of such information; and

(D) the protection and maintenance of the confidentiality of such information so as to permit the sharing of such information within the Federal Government and with State and local governments, and the issuance of notices and warnings related to the protection of critical infrastructure and protected systems, in such manner as to protect from public disclosure the identity of the submitting person or entity, or information that is proprietary, business sensitive, relates specifically to the submitting person or entity, and is otherwise not appropriately in the public domain.

(f) PENALTIES.—Whoever, being an officer or employee of the United States or of any department or agency thereof, knowingly publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law, any critical infrastructure information protected from disclosure by this subtitle coming to him in the course of this employment or official duties or by reason of any examination or investigation made by, or return, report, or record made to or filed with, such department or agency or officer or employee thereof, shall be fined under title 18 of the United States Code, imprisoned not more than 1 year, or both, and shall be removed from office or employment.

(g) AUTHORITY TO ISSUE WARNINGS.—The Federal Government may provide advisories, alerts, and warnings to relevant companies, targeted sectors, other governmental entities, or the general public regarding potential threats to critical infrastructure as appropriate. In issuing a warning, the Federal Government shall take appropriate actions to protect from disclosure—

(1) the source of any voluntarily submitted critical infrastructure information that forms the basis for the warning; or

(2) information that is proprietary, business sensitive, relates specifically to the submitting person or entity, or is otherwise not appropriately in the public domain.

(h) AUTHORITY TO DELEGATE.—The President may delegate authority to a critical infrastructure protection program, designated under subsection (e), to enter into a voluntary agreement to promote critical infrastructure security, including with any Information Sharing and Analysis Organization, or a plan of action as otherwise defined in section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158).

SEC. 215. NO PRIVATE RIGHT OF ACTION.

Nothing in this subtitle may be construed to create a private right of action for enforcement of any provision of this Act.

Subtitle C—Information Security

SEC. 221. PROCEDURES FOR SHARING INFORMATION.

The Secretary shall establish procedures on the use of information shared under this title that—

(1) limit the redissemination of such information to ensure that it is not used for an unauthorized purpose;

(2) ensure the security and confidentiality of such information;

(3) protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(4) provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

SEC. 222. PRIVACY OFFICER.

The Secretary shall appoint a senior official in the Department to assume primary responsibility for privacy policy, including—

(1) assuring that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;

(2) assuring that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices as set out in the Privacy Act of 1974;

(3) evaluating legislative and regulatory proposals involving collection, use, and disclosure of personal information by the Federal Government;

(4) conducting a privacy impact assessment of proposed rules of the Department or that of the Department on the privacy of personal information, including the type of personal information collected and the number of people affected; and

(5) preparing a report to Congress on an annual basis on activities of the Department that affect privacy, including complaints of privacy violations, implementation of the Privacy Act of 1974, internal controls, and other matters.

SEC. 223. ENHANCEMENT OF NON-FEDERAL CYBERSECURITY.

In carrying out the responsibilities under section 201, the Under Secretary for Information Analysis and Infrastructure Protection shall—

(1) as appropriate, provide to State and local government entities, and upon request to private entities that own or operate critical information systems—

(A) analysis and warnings related to threats to, and vulnerabilities of, critical information systems; and

(B) in coordination with the Under Secretary for Emergency Preparedness and Response, crisis management support in response to threats to, or attacks on, critical information systems; and

(2) as appropriate, provide technical assistance, upon request, to the private sector and other government entities, in coordination with the Under Secretary for Emergency Preparedness and Response, with respect to emergency recovery plans to respond to major failures of critical information systems.

SEC. 224. NET GUARD.

The Under Secretary for Information Analysis and Infrastructure Protection may establish a national technology guard, to be known as "NET Guard", comprised of local teams of volunteers with expertise in relevant areas of science and technology, to assist local communities to respond and recover from attacks on information systems and communications networks.

SEC. 225. CYBER SECURITY ENHANCEMENT ACT OF 2002.

(a) SHORT TITLE.—This section may be cited as the "Cyber Security Enhancement Act of 2002".

(b) AMENDMENT OF SENTENCING GUIDELINES RELATING TO CERTAIN COMPUTER CRIMES.—

(1) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with

this subsection, the United States Sentencing Commission shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 1030 of title 18, United States Code.

(2) REQUIREMENTS.—In carrying out this subsection, the Sentencing Commission shall—

(A) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in paragraph (1), the growing incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(B) consider the following factors and the extent to which the guidelines may or may not account for them—

(i) the potential and actual loss resulting from the offense;

(ii) the level of sophistication and planning involved in the offense;

(iii) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(iv) whether the defendant acted with malicious intent to cause harm in committing the offense;

(v) the extent to which the offense violated the privacy rights of individuals harmed;

(vi) whether the offense involved a computer used by the government in furtherance of national defense, national security, or the administration of justice;

(vii) whether the violation was intended to or had the effect of significantly interfering with or disrupting a critical infrastructure; and

(viii) whether the violation was intended to or had the effect of creating a threat to public health or safety, or injury to any person;

(C) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(D) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(E) make any necessary conforming changes to the sentencing guidelines; and

(F) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) STUDY AND REPORT ON COMPUTER CRIMES.—Not later than May 1, 2003, the United States Sentencing Commission shall submit a brief report to Congress that explains any actions taken by the Sentencing Commission in response to this section and includes any recommendations the Commission may have regarding statutory penalties for offenses under section 1030 of title 18, United States Code.

(d) EMERGENCY DISCLOSURE EXCEPTION.—

(1) IN GENERAL.—Section 2702(b) of title 18, United States Code, is amended—

(A) in paragraph (5), by striking "or" at the end;

(B) in paragraph (6)(A), by inserting "or" at the end;

(C) by striking paragraph (6)(C); and

(D) by adding at the end the following:

"(7) to a Federal, State, or local governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency.".

(2) REPORTING OF DISCLOSURES.—A government entity that receives a disclosure under section 2702(b) of title 18, United States Code, shall file, not later than 90 days after such disclosure, a report to the Attorney General stating the paragraph of that section under which the disclosure was made, the date of the disclosure, the entity to which the disclosure was made, the number of customers or subscribers to whom the information disclosed pertained, and the number of communications, if any, that were disclosed. The Attorney General shall publish all such reports into a single report to be submitted to Congress 1 year after the date of enactment of this Act.

(e) GOOD FAITH EXCEPTION.—Section 2520(d)(3) of title 18, United States Code, is amended by inserting "or 2511(2)(i)" after "2511(3)".

(f) INTERNET ADVERTISING OF ILLEGAL DEVICES.—Section 2512(1)(c) of title 18, United States Code, is amended—

(1) by inserting "or disseminates by electronic means" after "or other publication"; and

(2) by inserting "knowing the content of the advertisement and" before "knowing or having reason to know".

(g) STRENGTHENING PENALTIES.—Section 1030(c) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) in each of subparagraphs (A) and (C) of paragraph (4), by inserting "except as provided in paragraph (5)," before "a fine under this title";

(3) in paragraph (4)(C), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(5)(A) if the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for not more than 20 years, or both; and

"(B) if the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for any term of years or for life, or both.".

(h) PROVIDER ASSISTANCE.—

(1) SECTION 2703.—Section 2703(e) of title 18, United States Code, is amended by inserting ", statutory authorization" after "subpoena".

(2) SECTION 2511.—Section 2511(2)(a)(ii) of title 18, United States Code, is amended by inserting ", statutory authorization," after "court order" the last place it appears.

(i) EMERGENCIES.—Section 3125(a)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the comma at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(C) an immediate threat to a national security interest; or

"(D) an ongoing attack on a protected computer (as defined in section 1030) that constitutes a crime punishable by a term of imprisonment greater than one year;".

(j) PROTECTING PRIVACY.—

(1) SECTION 2511.—Section 2511(4) of title 18, United States Code, is amended—

(A) by striking paragraph (b); and

(B) by redesignating paragraph (c) as paragraph (b).

(2) SECTION 2701.—Section 2701(b) of title 18, United States Code, is amended—

(A) in paragraph (1), by inserting ", or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State" after "commercial gain";

(B) in paragraph (1)(A), by striking "one year" and inserting "5 years";

(C) in paragraph (1)(B), by striking "two years" and inserting "10 years"; and

(D) by striking paragraph (2) and inserting the following:

"(2) in any other case—

"(A) a fine under this title or imprisonment for not more than 1 year or both, in the case of a first offense under this paragraph; and

"(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under this subparagraph that occurs after a conviction of another offense under this section.".

Subtitle D—Office of Science and Technology

SEC. 231. ESTABLISHMENT OF OFFICE; DIRECTOR.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established within the Department of Justice an Office of Science and Technology (hereinafter in this title referred to as the "Office").

(2) AUTHORITY.—The Office shall be under the general authority of the Assistant Attorney General, Office of Justice Programs, and shall be established within the National Institute of Justice.

(b) DIRECTOR.—The Office shall be headed by a Director, who shall be an individual appointed based on approval by the Office of Personnel Management of the executive qualifications of the individual.

SEC. 232. MISSION OF OFFICE; DUTIES.

(a) MISSION.—The mission of the Office shall be—

(1) to serve as the national focal point for work on law enforcement technology; and

(2) to carry out programs that, through the provision of equipment, training, and technical assistance, improve the safety and effectiveness of law enforcement technology and improve access to such technology by Federal, State, and local law enforcement agencies.

(b) DUTIES.—In carrying out its mission, the Office shall have the following duties:

(1) To provide recommendations and advice to the Attorney General.

(2) To establish and maintain advisory groups (which shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.)) to assess the law enforcement technology needs of Federal, State, and local law enforcement agencies.

(3) To establish and maintain performance standards in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) for, and test and evaluate law enforcement technologies that may be used by, Federal, State, and local law enforcement agencies.

(4) To establish and maintain a program to certify, validate, and mark or otherwise recognize law enforcement technology products that conform to standards established and maintained by the Office in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113). The program may, at the discretion of the Office, allow for supplier's declaration of conformity with such standards.

(5) To work with other entities within the Department of Justice, other Federal agencies, and the executive office of the President to establish a coordinated Federal approach on issues related to law enforcement technology.

(6) To carry out research, development, testing, evaluation, and cost-benefit analyses in fields that would improve the safety, effectiveness, and efficiency of law enforcement technologies used by Federal, State, and local law enforcement agencies, including, but not limited to—

(A) weapons capable of preventing use by unauthorized persons, including personalized guns;

(B) protective apparel;

(C) bullet-resistant and explosion-resistant glass;

(D) monitoring systems and alarm systems capable of providing precise location information;

(E) wire and wireless interoperable communication technologies;

(F) tools and techniques that facilitate investigative and forensic work, including computer forensics;

(G) equipment for particular use in counterterrorism, including devices and technologies to disable terrorist devices;

(H) guides to assist State and local law enforcement agencies;

(I) DNA identification technologies; and

(J) tools and techniques that facilitate investigations of computer crime.

(7) To administer a program of research, development, testing, and demonstration to improve the interoperability of voice and data public safety communications.

(8) To serve on the Technical Support Working Group of the Department of Defense, and on other relevant interagency panels, as requested.

(9) To develop, and disseminate to State and local law enforcement agencies, technical assistance and training materials for law enforcement personnel, including prosecutors.

(10) To operate the regional National Law Enforcement and Corrections Technology Centers and, to the extent necessary, establish additional centers through a competitive process.

(11) To administer a program of acquisition, research, development, and dissemination of advanced investigative analysis and forensic tools to assist State and local law enforcement agencies in combating cybercrime.

(12) To support research fellowships in support of its mission.

(13) To serve as a clearinghouse for information on law enforcement technologies.

(14) To represent the United States and State and local law enforcement agencies, as requested, in international activities concerning law enforcement technology.

(15) To enter into contracts and cooperative agreements and provide grants, which may require in-kind or cash matches from the recipient, as necessary to carry out its mission.

(16) To carry out other duties assigned by the Attorney General to accomplish the mission of the Office.

(c) COMPETITION REQUIRED.—Except as otherwise expressly provided by law, all research and development carried out by or through the Office shall be carried out on a competitive basis.

(d) INFORMATION FROM FEDERAL AGENCIES.—Federal agencies shall, upon request from the Office and in accordance with Federal law, provide the Office with any data, reports, or other information requested, unless compliance with such request is otherwise prohibited by law.

(e) PUBLICATIONS.—Decisions concerning publications issued by the Office shall rest solely with the Director of the Office.

(f) TRANSFER OF FUNDS.—The Office may transfer funds to other Federal agencies or provide funding to non-Federal entities through grants, cooperative agreements, or contracts to carry out its duties under this section.

(g) ANNUAL REPORT.—The Director of the Office shall include with the budget justification materials submitted to Congress in support of the Department of Justice budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report on the activities of the Office. Each such report shall include the following:

(1) For the period of 5 fiscal years beginning with the fiscal year for which the budget is submitted—

(A) the Director's assessment of the needs of Federal, State, and local law enforcement agencies for assistance with respect to law enforcement technology and other matters consistent with the mission of the Office; and

(B) a strategic plan for meeting such needs of such law enforcement agencies.

(2) For the fiscal year preceding the fiscal year for which such budget is submitted, a description of the activities carried out by the Office and an evaluation of the extent to which those activities successfully meet the needs assessed under paragraph (1)(A) in previous reports.

SEC. 233. DEFINITION OF LAW ENFORCEMENT TECHNOLOGY.

For the purposes of this title, the term "law enforcement technology" includes investigative and forensic technologies, corrections technologies, and technologies that support the judicial process.

SEC. 234. ABOLISHMENT OF OFFICE OF SCIENCE AND TECHNOLOGY OF NATIONAL INSTITUTE OF JUSTICE; TRANSFER OF FUNCTIONS.

(a) AUTHORITY TO TRANSFER FUNCTIONS.—The Attorney General may transfer to the Office any other program or activity of the Department of Justice that the Attorney General, in consultation with the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, determines to be consistent with the mission of the Office.

(b) TRANSFER OF PERSONNEL AND ASSETS.—With respect to any function, power, or duty, or any program or activity, that is established in the Office, those employees and assets of the element of the Department of Justice from which the transfer is made that the Attorney General determines are needed to perform that function, power, or duty, or for that program or activity, as the case may be, shall be transferred to the Office.

(c) REPORT ON IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the implementation of this title. The report shall—

(1) provide an accounting of the amounts and sources of funding available to the Office to carry out its mission under existing authorizations and appropriations, and set forth the future funding needs of the Office; and

(2) include such other information and recommendations as the Attorney General considers appropriate.

SEC. 235. NATIONAL LAW ENFORCEMENT AND CORRECTIONS TECHNOLOGY CENTERS.

(a) IN GENERAL.—The Director of the Office shall operate and support National Law Enforcement and Corrections Technology Centers (hereinafter in this section referred to as "Centers") and, to the extent necessary, establish new centers through a merit-based, competitive process.

(b) PURPOSE OF CENTERS.—The purpose of the Centers shall be to—

(1) support research and development of law enforcement technology;

(2) support the transfer and implementation of technology;

(3) assist in the development and dissemination of guidelines and technological standards; and

(4) provide technology assistance, information, and support for law enforcement, corrections, and criminal justice purposes.

(c) ANNUAL MEETING.—Each year, the Director shall convene a meeting of the Centers in order to foster collaboration and communication between Center participants.

(d) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Director shall transmit to the Congress a report assessing the effectiveness of the existing system of Centers and identify the number of Centers necessary to meet the technology needs of Federal, State, and local law enforcement in the United States.

SEC. 236. COORDINATION WITH OTHER ENTITIES WITHIN DEPARTMENT OF JUSTICE.

Section 102 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended in subsection (a)(5) by inserting "coordinate and" before "provide".

SEC. 237. AMENDMENTS RELATING TO NATIONAL INSTITUTE OF JUSTICE.

Section 202(c) of the Omnibus Crime Control and Safety Streets Act of 1968 (42 U.S.C. 3722(c)) is amended—

(1) in paragraph (3) by inserting ", including cost effectiveness where practical," before "of projects"; and

(2) by striking "and" after the semicolon at the end of paragraph (8), striking the period at the end of paragraph (9) and inserting "; and", and by adding at the end the following:

"(10) research and development of tools and technologies relating to prevention, detection, investigation, and prosecution of crime; and

"(11) support research, development, testing, training, and evaluation of tools and technology for Federal, State, and local law enforcement agencies.".

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

SEC. 301. UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

There shall be in the Department a Directorate of Science and Technology headed by an Under Secretary for Science and Technology.

SEC. 302. RESPONSIBILITIES AND AUTHORITIES OF THE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

The Secretary, acting through the Under Secretary for Science and Technology, shall have the responsibility for—

(1) advising the Secretary regarding research and development efforts and priorities in support of the Department's missions;

(2) developing, in consultation with other appropriate executive agencies, a national policy and strategic plan for, identifying priorities, goals, objectives and policies for, and coordinating the Federal Government's civilian efforts to identify and develop countermeasures to chemical, biological, radiological, nuclear, and other emerging terrorist threats, including the development of comprehensive, research-based definable

goals for such efforts and development of annual measurable objectives and specific targets to accomplish and evaluate the goals for such efforts;

(3) supporting the Under Secretary for Information Analysis and Infrastructure Protection, by assessing and testing homeland security vulnerabilities and possible threats;

(4) conducting basic and applied research, development, demonstration, testing, and evaluation activities that are relevant to any or all elements of the Department, through both intramural and extramural programs, except that such responsibility does not extend to human health-related research and development activities;

(5) establishing priorities for, directing, funding, and conducting national research, development, test and evaluation, and procurement of technology and systems for—

(A) preventing the importation of chemical, biological, radiological, nuclear, and related weapons and material; and

(B) detecting, preventing, protecting against, and responding to terrorist attacks;

(6) establishing a system for transferring homeland security developments or technologies to federal, state, local government, and private sector entities;

(7) entering into work agreements, joint sponsorships, contracts, or any other agreements with the Department of Energy regarding the use of the national laboratories or sites and support of the science and technology base at those facilities;

(8) collaborating with the Secretary of Agriculture and the Attorney General as provided in section 212 of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401), as amended by section 1709(b);

(9) collaborating with the Secretary of Health and Human Services and the Attorney General in determining any new biological agents and toxins that shall be listed as "select agents" in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a);

(10) supporting United States leadership in science and technology;

(11) establishing and administering the primary research and development activities of the Department, including the long-term research and development needs and capabilities for all elements of the Department;

(12) coordinating and integrating all research, development, demonstration, testing, and evaluation activities of the Department;

(13) coordinating with other appropriate executive agencies in developing and carrying out the science and technology agenda of the Department to reduce duplication and identify unmet needs; and

(14) developing and overseeing the administration of guidelines for merit review of research and development projects throughout the Department, and for the dissemination of research conducted or sponsored by the Department.

SEC. 303. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The following programs and activities of the Department of Energy, including the functions of the Secretary of Energy relating thereto (but not including programs and activities relating to the strategic nuclear defense posture of the United States):

(A) The chemical and biological national security and supporting programs and activities of the nonproliferation and verification research and development program.

(B) The nuclear smuggling programs and activities within the proliferation detection program of the nonproliferation and verification research and development program. The programs and activities described in this subparagraph may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy.

(C) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(D) Such life sciences activities of the biological and environmental research program related to microbial pathogens as may be designated by the President for transfer to the Department.

(E) The Environmental Measurements Laboratory.

(F) The advanced scientific computing research program and activities at Lawrence Livermore National Laboratory.

(2) The National Bio-Weapons Defense Analysis Center of the Department of Defense, including the functions of the Secretary of Defense related thereto.

(3) The Plum Island Animal Disease Center of the Department of Agriculture, as provided in section 310.

SEC. 304. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) IN GENERAL.—With respect to civilian human health-related research and development activities relating to countermeasures for chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities, goals, objectives, and policies and develop a coordinated strategy for such activities in collaboration with the Secretary of Homeland Security to ensure consistency with the national policy and strategic plan developed pursuant to section 302(2).

(b) EVALUATION OF PROGRESS.—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

(c) ADMINISTRATION OF COUNTERMEASURES AGAINST SMALLPOX.—Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended by adding the following:

"(p) ADMINISTRATION OF SMALLPOX COUNTERMEASURES BY HEALTH PROFESSIONALS.—

"(1) IN GENERAL.—For purposes of this section, and subject to other provisions of this subsection, a covered person shall be deemed to be an employee of the Public Health Service with respect to liability arising out of administration of a covered countermeasure against smallpox to an individual during the effective period of a declaration by the Secretary under paragraph (2)(A).

"(2) DECLARATION BY SECRETARY CONCERNING COUNTERMEASURE AGAINST SMALLPOX.—

"(A) AUTHORITY TO ISSUE DECLARATION.—

"(i) IN GENERAL.—The Secretary may issue a declaration, pursuant to this paragraph, concluding that an actual or potential bioterrorist incident or other actual or potential public health emergency makes advisable the administration of a covered countermeasure to a category or categories of individuals.

"(ii) COVERED COUNTERMEASURE.—The Secretary shall specify in such declaration the substance or substances that shall be considered covered countermeasures (as defined in paragraph (8)(A)) for purposes of administration to individuals during the effective period of the declaration.

"(iii) EFFECTIVE PERIOD.—The Secretary shall specify in such declaration the beginning and ending dates of the effective period of the declaration, and may subsequently amend such declaration to shorten or extend such effective period, provided that the new closing date is after the date when the declaration is amended.

"(iv) PUBLICATION.—The Secretary shall promptly publish each such declaration and amendment in the Federal Register.

"(B) LIABILITY OF UNITED STATES ONLY FOR ADMINISTRATIONS WITHIN SCOPE OF DECLARATION.—Except as provided in paragraph (5)(B)(ii), the United States shall be liable under this subsection with respect to a claim arising out of the administration of a covered countermeasure to an individual only if—

"(i) the countermeasure was administered by a qualified person, for a purpose stated in paragraph (7)(A)(i), and during the effective period of a declaration by the Secretary under subparagraph (A) with respect to such countermeasure; and

"(ii)(I) the individual was within a category of individuals covered by the declaration; or

"(II) the qualified person administering the countermeasure had reasonable grounds to believe that such individual was within such category.

"(C) PRESUMPTION OF ADMINISTRATION WITHIN SCOPE OF DECLARATION IN CASE OF ACCIDENTAL VACCINIA INOCULATION.—

"(i) IN GENERAL.—If vaccinia vaccine is a covered countermeasure specified in a declaration under subparagraph (A), and an individual to whom the vaccinia vaccine is not administered contracts vaccinia, then, under the circumstances specified in clause (ii), the individual—

"(I) shall be rebuttably presumed to have contracted vaccinia from an individual to whom such vaccine was administered as provided by clauses (i) and (ii) of subparagraph (B); and

"(II) shall (unless such presumption is rebutted) be deemed for purposes of this subsection to be an individual to whom a covered countermeasure was administered by a qualified person in accordance with the terms of such declaration and as described by subparagraph (B).

"(ii) CIRCUMSTANCES IN WHICH PRESUMPTION APPLIES.—The presumption and deeming stated in clause (i) shall apply if—

"(I) the individual contracts vaccinia during the effective period of a declaration under subparagraph (A) or by the date 30 days after the close of such period; or

"(II) the individual resides or has resided with an individual to whom such vaccine was administered as provided by clauses (i) and (ii) of subparagraph (B) and contracts vaccinia after such date.

"(3) EXCLUSIVITY OF REMEDY.—The remedy provided by subsection (a) shall be exclusive of any other civil action or proceeding for any claim or suit this subsection encompasses.

"(4) CERTIFICATION OF ACTION BY ATTORNEY GENERAL.—Subsection (c) applies to actions under this subsection, subject to the following provisions:

"(A) NATURE OF CERTIFICATION.—The certification by the Attorney General that is the basis for deeming an action or proceeding to be against the United States, and for removing an action or proceeding from a State court, is a certification that the action or proceeding is against a covered person and is based upon a claim alleging personal injury or death arising out of the administration of a covered countermeasure.

"(B) CERTIFICATION OF ATTORNEY GENERAL CONCLUSIVE.—The certification of the Attorney General of the facts specified in subparagraph (A) shall conclusively establish such facts for purposes of jurisdiction pursuant to this subsection.

"(5) DEFENDANT TO COOPERATE WITH UNITED STATES.—

"(A) IN GENERAL.—A covered person shall cooperate with the United States in the processing and defense of a claim or action under this subsection based upon alleged acts or omissions of such person.

"(B) CONSEQUENCES OF FAILURE TO COOPERATE.—Upon the motion of the United States or any other party and upon finding that such person has failed to so cooperate—

"(i) the court shall substitute such person as the party defendant in place of the United States and, upon motion, shall remand any such suit to the court in which it was instituted if it appears that the court lacks subject matter jurisdiction;

"(ii) the United States shall not be liable based on the acts or omissions of such person; and

"(iii) the Attorney General shall not be obligated to defend such action.

"(6) RECOURSE AGAINST COVERED PERSON IN CASE OF GROSS MISCONDUCT OR CONTRACT VIOLATION.—

"(A) IN GENERAL.—Should payment be made by the United States to any claimant bringing a claim under this subsection, either by way of administrative determination, settlement, or court judgment, the United States shall have, notwithstanding any provision of State law, the right to recover for that portion of the damages so awarded or paid, as well as interest and any costs of litigation, resulting from the failure of any covered person to carry out any obligation or responsibility assumed by such person under a contract with the United States or from any grossly negligent, reckless, or illegal conduct or willful misconduct on the part of such person.

"(B) VENUE.—The United States may maintain an action under this paragraph against such person in the district court of the United States in which such person resides or has its principal place of business.

"(7) DEFINITIONS.—As used in this subsection, terms have the following meanings:

"(A) COVERED COUNTERMEASURE.—The term 'covered countermeasure', or 'covered countermeasure against smallpox', means a substance that is—

"(i)(I) used to prevent or treat smallpox (including the vaccinia or another vaccine); or

"(II) vaccinia immune globulin used to control or treat the adverse effects of vaccinia inoculation; and

"(ii) specified in a declaration under paragraph (2).

"(B) COVERED PERSON.—The term 'covered person', when used with respect to the administration of a covered countermeasure, includes any person who is—

"(i) a manufacturer or distributor of such countermeasure;

"(ii) a health care entity under whose auspices such countermeasure was administered;

"(iii) a qualified person who administered such countermeasure; or

"(iv) an official, agent, or employee of a person described in clause (i), (ii), or (iii).

"(C) QUALIFIED PERSON.—The term 'qualified person', when used with respect to the administration of a covered countermeasure, means a licensed health professional or other individual who is authorized to administer such countermeasure under the law of the State in which the countermeasure was administered.".

SEC. 305. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

The Secretary, acting through the Under Secretary for Science and Technology, shall have the authority to establish or contract with 1 or more federally funded research and development centers to provide independent analysis of homeland security issues, or to carry out other responsibilities under this Act, including coordinating and integrating both the extramural and intramural programs described in section 308.

SEC. 306. MISCELLANEOUS PROVISIONS.

(a) CLASSIFICATION.—To the greatest extent practicable, research conducted or supported by the Department shall be unclassified.

(b) CONSTRUCTION.—Nothing in this title shall be construed to preclude any Under Secretary of the Department from carrying out research, development, demonstration, or deployment activities, as long as such activities are coordinated through the Under Secretary for Science and Technology.

(c) REGULATIONS.—The Secretary, acting through the Under Secretary for Science and Technology, may issue necessary regulations with respect to research, development, demonstration, testing, and evaluation activities of the Department, including the conducting, funding, and reviewing of such activities.

(d) NOTIFICATION OF PRESIDENTIAL LIFE SCIENCES DESIGNATIONS.—Not later than 60 days before effecting any transfer of Department of Energy life sciences activities pursuant to section 303(1)(D) of this Act, the President shall notify the appropriate congressional committees of the proposed transfer and shall include the reasons for the transfer and a description of the effect of the transfer on the activities of the Department of Energy.

SEC. 307. HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY.

(a) DEFINITIONS.—In this section:

(1) FUND.—The term "Fund" means the Acceleration Fund for Research and Development of Homeland Security Technologies established in subsection (c).

(2) HOMELAND SECURITY RESEARCH.—The term "homeland security research" means research relevant to the detection of, prevention of, protection against, response to, attribution of, and recovery from homeland security threats, particularly acts of terrorism.

(3) HSARPA.—The term "HSARPA" means the Homeland Security Advanced Research Projects Agency established in subsection (b).

(4) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary for Science and Technology.

(b) HSARPA.—

(1) ESTABLISHMENT.—There is established the Homeland Security Advanced Research Projects Agency.

(2) DIRECTOR.—HSARPA shall be headed by a Director, who shall be appointed by the Secretary. The Director shall report to the Under Secretary.

(3) RESPONSIBILITIES.—The Director shall administer the Fund to award competitive, merit-reviewed grants, cooperative agreements or contracts to public or private entities, including businesses, federally funded research and development centers, and universities. The Director shall administer the Fund to—

(A) support basic and applied homeland security research to promote revolutionary changes in technologies that would promote homeland security;

(B) advance the development, testing and evaluation, and deployment of critical homeland security technologies; and

(C) accelerate the prototyping and deployment of technologies that would address homeland security vulnerabilities.

(4) TARGETED COMPETITIONS.—The Director may solicit proposals to address specific vulnerabilities identified by the Director.

(5) COORDINATION.—The Director shall ensure that the activities of HSARPA are coordinated with those of other relevant research agencies, and may run projects jointly with other agencies.

(6) PERSONNEL.—In hiring personnel for HSARPA, the Secretary shall have the hiring and management authorities described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261). The term of appointments for employees under subsection (c)(1) of that section may not exceed 5 years before the granting of any extension under subsection (c)(2) of that section.

(7) DEMONSTRATIONS.—The Director, periodically, shall hold homeland security technology demonstrations to improve contact among technology developers, vendors and acquisition personnel.

(c) FUND.—

(1) ESTABLISHMENT.—There is established the Acceleration Fund for Research and Development of Homeland Security Technologies, which shall be administered by the Director of HSARPA.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000,000 to the Fund for fiscal year 2003 and such sums as may be necessary thereafter.

(3) COAST GUARD.—Of the funds authorized to be appropriated under paragraph (2), not less than 10 percent of such funds for each fiscal year through fiscal year 2005 shall be authorized only for the Under Secretary, through joint agreement with the Commandant of the Coast Guard, to carry out research and development of improved ports, waterways and coastal security surveillance and perimeter protection capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from non-homeland security missions to the ports, waterways and coastal security mission.

SEC. 308. CONDUCT OF RESEARCH, DEVELOPMENT, DEMONSTRATION, TESTING AND EVALUATION.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall carry out the responsibilities under section 302(4) through both extramural and intramural programs.

(b) EXTRAMURAL PROGRAMS.—

(1) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall operate extramural research, development, demonstration, testing, and evaluation programs so as to—

(A) ensure that colleges, universities, private research institutes, and companies (and consortia thereof) from as many areas of the United States as practicable participate;

(B) ensure that the research funded is of high quality, as determined through merit review processes developed under section 302(14); and

(C) distribute funds through grants, cooperative agreements, and contracts.

(2) University-Based Centers for Homeland Security.—

(A) Establishment.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish within 1 year of the date of enactment of this Act a university-based center or centers for homeland security. The purpose of this center or centers shall be to establish a coordinated, university-based system to enhance the Nation's homeland security.

(B) Criteria for Selection.—In selecting colleges or universities as centers for homeland security, the Secretary shall consider the following criteria:

(i) Demonstrated expertise in the training of first responders.

(ii) Demonstrated expertise in responding to incidents involving weapons of mass destruction and biological warfare.

(iii) Demonstrated expertise in emergency medical services.

(iv) Demonstrated expertise in chemical, biological, radiological, and nuclear countermeasures.

(v) Strong affiliations with animal and plant diagnostic laboratories.

(vi) Demonstrated expertise in food safety.

(vii) Affiliation with Department of Agriculture laboratories or training centers.

(viii) Demonstrated expertise in water and wastewater operations.

(ix) Demonstrated expertise in port and waterway security.

(x) Demonstrated expertise in multi-modal transportation.

(xi) Nationally recognized programs in information security.

(xii) Nationally recognized programs in engineering.

(xiii) Demonstrated expertise in educational outreach and technical assistance.

(xiv) Demonstrated expertise in border transportation and security.

(xv) Demonstrated expertise in interdisciplinary public policy research and communication outreach regarding science, technology, and public policy.

(C) Discretion of Secretary.—The Secretary shall have the discretion to establish such centers and to consider additional criteria as necessary to meet the evolving needs of homeland security and shall report to Congress concerning the implementation of this paragraph as necessary.

(D) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

(c) Intramural Programs.—

(1) Consultation.—In carrying out the duties under section 302, the Secretary, acting through the Under Secretary for Science and Technology, may draw upon the expertise of any laboratory of the Federal Government, whether operated by a contractor or the Government.

(2) Laboratories.—The Secretary, acting through the Under Secretary for Science and Technology, may establish a headquarters laboratory for the Department at any laboratory or site and may establish additional laboratory units at other laboratories or sites.

(3) Criteria for Headquarters Laboratory.—If the Secretary chooses to establish a headquarters laboratory pursuant to paragraph (2), then the Secretary shall do the following:

(A) Establish criteria for the selection of the headquarters laboratory in consultation with the National Academy of Sciences, appropriate Federal agencies, and other experts.

(B) Publish the criteria in the Federal Register.

(C) Evaluate all appropriate laboratories or sites against the criteria.

(D) Select a laboratory or site on the basis of the criteria.

(E) Report to the appropriate congressional committees on which laboratory was selected, how the selected laboratory meets the published criteria, and what duties the headquarters laboratory shall perform.

(4) Limitation on Operation of Laboratories.—No laboratory shall begin operating as the headquarters laboratory of the Department until at least 30 days after the transmittal of the report required by paragraph (3)(E).

SEC. 309. UTILIZATION OF DEPARTMENT OF ENERGY NATIONAL LABORATORIES AND SITES IN SUPPORT OF HOMELAND SECURITY ACTIVITIES.

(a) Authority To Utilize National Laboratories and Sites.—

(1) In General.—In carrying out the missions of the Department, the Secretary may utilize the Department of Energy national laboratories and sites through any 1 or more of the following methods, as the Secretary considers appropriate:

(A) A joint sponsorship arrangement referred to in subsection (b).

(B) A direct contract between the Department and the applicable Department of Energy laboratory or site, subject to subsection (c).

(C) Any "work for others" basis made available by that laboratory or site.

(D) Any other method provided by law.

(2) Acceptance and Performance by Labs and Sites.—Notwithstanding any other law governing the administration, mission, use, or operations of any of the Department of Energy national laboratories and sites, such laboratories and sites are authorized to accept and perform work for the Secretary, consistent with resources provided, and perform such work on an equal basis to other missions at the laboratory and not on a noninterference basis with other missions of such laboratory or site.

(b) Joint Sponsorship Arrangements.—

(1) Laboratories.—The Department may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work.

(2) Sites.—The Department may be a joint sponsor of a Department of Energy site in the performance of work as if such site were a federally funded research and development center and the work were performed under a multiple agency sponsorship arrangement with the Department.

(3) Primary Sponsor.—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement referred to in paragraph (1) or (2).

(4) Lead Agent.—The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship arrangement under this subsection between the Department and a Department of Energy national laboratory or site.

(5) Federal Acquisition Regulation.—Any work performed by a Department of Energy national laboratory or site under a joint sponsorship arrangement under this subsection shall comply with the policy on the use of federally funded research and development centers under the Federal Acquisition Regulations.

(6) Funding.—The Department shall provide funds for work at the Department of Energy national laboratories or sites, as the case may be, under a joint sponsorship arrangement under this subsection under the same terms and conditions as apply to the primary sponsor of such national laboratory under section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253 (b)(1)(C)) or of such site to the extent such section applies to such site as a federally funded research and development center by reason of this subsection.

(c) Separate Contracting.—To the extent that programs or activities transferred by this Act from the Department of Energy to the Department of Homeland Security are being carried out through direct contracts with the operator of a national laboratory or site of the Department of Energy, the Secretary of Homeland Security and the Secretary of Energy shall ensure that direct contracts for such programs and activities between the Department of Homeland Security and such operator are separate from the direct contracts of the Department of Energy with such operator.

(d) Authority With Respect to Cooperative Research and Development Agreements and Licensing Agreements.—In connection with any utilization of the Department of Energy national laboratories and sites under this section, the Secretary may permit the director of any such national laboratory or site to enter into cooperative research and development agreements or to negotiate licensing agreements with any person, any agency or instrumentality, of the United States, any unit of State or local government, and any other entity under the authority granted by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a). Technology may be transferred to a non-Federal party to such an agreement consistent with the provisions of sections 11 and 12 of that Act (15 U.S.C. 3710, 3710a).

(e) Reimbursement of Costs.—In the case of an activity carried out by the operator of a Department of Energy national laboratory or site in connection with any utilization of such laboratory or site under this section, the Department of Homeland Security shall reimburse the Department of Energy for costs of such activity through a method under which the Secretary of Energy waives any requirement for the Department of Homeland Security to pay administrative charges or personnel costs of the Department of Energy or its contractors in excess of the amount that the Secretary of Energy pays for an activity carried out by such contractor and paid for by the Department of Energy.

(f) Laboratory Directed Research and Development by the Department of Energy.—No funds authorized to be appropriated or otherwise made available to the Department in any fiscal year may be obligated or expended for laboratory directed research and development activities carried out by the Department of Energy unless such activities support the missions of the Department of Homeland Security.

(g) Office for National Laboratories.—There is established within the Directorate of Science and Technology an Office for National Laboratories, which shall be responsible for the coordination and utilization of the Department of Energy national laboratories and sites under this section in a manner to create a networked laboratory system for the purpose of supporting the missions of the Department.

(h) DEPARTMENT OF ENERGY COORDINATION ON HOMELAND SECURITY RELATED RESEARCH.—The Secretary of Energy shall ensure that any research, development, test, and evaluation activities conducted within the Department of Energy that are directly or indirectly related to homeland security are fully coordinated with the Secretary to minimize duplication of effort and maximize the effective application of Federal budget resources.

SEC. 310. TRANSFER OF PLUM ISLAND ANIMAL DISEASE CENTER, DEPARTMENT OF AGRICULTURE.

(a) IN GENERAL.—In accordance with title XV, the Secretary of Agriculture shall transfer to the Secretary of Homeland Security the Plum Island Animal Disease Center of the Department of Agriculture, including the assets and liabilities of the Center.

(b) CONTINUED DEPARTMENT OF AGRICULTURE ACCESS.—On completion of the transfer of the Plum Island Animal Disease Center under subsection (a), the Secretary of Homeland Security and the Secretary of Agriculture shall enter into an agreement to ensure that the Department of Agriculture is able to carry out research, diagnostic, and other activities of the Department of Agriculture at the Center.

(c) DIRECTION OF ACTIVITIES.—The Secretary of Agriculture shall continue to direct the research, diagnostic, and other activities of the Department of Agriculture at the Center described in subsection (b).

(d) NOTIFICATION.—

(1) IN GENERAL.—At least 180 days before any change in the biosafety level at the Plum Island Animal Disease Center, the President shall notify Congress of the change and describe the reasons for the change.

(2) LIMITATION.—No change described in paragraph (1) may be made earlier than 180 days after the completion of the transition period (as defined in section 1501.

SEC. 311. HOMELAND SECURITY SCIENCE AND TECHNOLOGY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established within the Department a Homeland Security Science and Technology Advisory Committee (in this section referred to as the "Advisory Committee"). The Advisory Committee shall make recommendations with respect to the activities of the Under Secretary for Science and Technology, including identifying research areas of potential importance to the security of the Nation.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Advisory Committee shall consist of 20 members appointed by the Under Secretary for Science and Technology, which shall include emergency first-responders or representatives of organizations or associations of emergency first-responders. The Advisory Committee shall also include representatives of citizen groups, including economically disadvantaged communities. The individuals appointed as members of the Advisory Committee—

(A) shall be eminent in fields such as emergency response, research, engineering, new product development, business, and management consulting;

(B) shall be selected solely on the basis of established records of distinguished service;

(C) shall not be employees of the Federal Government; and

(D) shall be so selected as to provide representation of a cross-section of the research, development, demonstration, and deployment activities supported by the Under Secretary for Science and Technology.

(2) NATIONAL RESEARCH COUNCIL.—The Under Secretary for Science and Technology may enter into an arrangement for the National Research Council to select members of the Advisory Committee, but only if the panel used by the National Research Council reflects the representation described in paragraph (1).

(c) TERMS OF OFFICE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the term of office of each member of the Advisory Committee shall be 3 years.

(2) ORIGINAL APPOINTMENTS.—The original members of the Advisory Committee shall be appointed to three classes of three members each. One class shall have a term of 1 year, 1 a term of 2 years, and the other a term of 3 years.

(3) VACANCIES.—A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

(d) ELIGIBILITY.—A person who has completed two consecutive full terms of service on the Advisory Committee shall thereafter be ineligible for appointment during the 1-year period following the expiration of the second such term.

(e) MEETINGS.—The Advisory Committee shall meet at least quarterly at the call of the Chair or whenever one-third of the members so request in writing. Each member shall be given appropriate notice of the call of each meeting, whenever possible not less than 15 days before the meeting.

(f) QUORUM.—A majority of the members of the Advisory Committee not having a conflict of interest in the matter being considered by the Advisory Committee shall constitute a quorum.

(g) CONFLICT OF INTEREST RULES.—The Advisory Committee shall establish rules for determining when 1 of its members has a conflict of interest in a matter being considered by the Advisory Committee.

(h) REPORTS.—

(1) ANNUAL REPORT.—The Advisory Committee shall render an annual report to the Under Secretary for Science and Technology for transmittal to Congress on or before January 31 of each year. Such report shall describe the activities and recommendations of the Advisory Committee during the previous year.

(2) ADDITIONAL REPORTS.—The Advisory Committee may render to the Under Secretary for transmittal to Congress such additional reports on specific policy matters as it considers appropriate.

(i) FACA EXEMPTION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee.

(j) TERMINATION.—The Department of Homeland Security Science and Technology Advisory Committee shall terminate 3 years after the effective date of this Act.

SEC. 312. HOMELAND SECURITY INSTITUTE.

(a) ESTABLISHMENT.—The Secretary shall establish a federally funded research and development center to be known as the "Homeland Security Institute" (in this section referred to as the "Institute").

(b) ADMINISTRATION.—The Institute shall be administered as a separate entity by the Secretary.

(c) DUTIES.—The duties of the Institute shall be determined by the Secretary, and may include the following:

(1) Systems analysis, risk analysis, and simulation and modeling to determine the vulnerabilities of the Nation's critical infrastructures and the effectiveness of the systems deployed to reduce those vulnerabilities.

(2) Economic and policy analysis to assess the distributed costs and benefits of alternative approaches to enhancing security.

(3) Evaluation of the effectiveness of measures deployed to enhance the security of institutions, facilities, and infrastructure that may be terrorist targets.

(4) Identification of instances when common standards and protocols could improve the interoperability and effective utilization of tools developed for field operators and first responders.

(5) Assistance for Federal agencies and departments in establishing testbeds to evaluate the effectiveness of technologies under development and to assess the appropriateness of such technologies for deployment.

(6) Design of metrics and use of those metrics to evaluate the effectiveness of homeland security programs throughout the Federal Government, including all national laboratories.

(7) Design of and support for the conduct of homeland security-related exercises and simulations.

(8) Creation of strategic technology development plans to reduce vulnerabilities in the Nation's critical infrastructure and key resources.

(d) CONSULTATION ON INSTITUTE ACTIVITIES.—In carrying out the duties described in subsection (c), the Institute shall consult widely with representatives from private industry, institutions of higher education, nonprofit institutions, other Government agencies, and federally funded reseach and development centers.

(e) USE OF CENTERS.—The Institute shall utilize the capabilities of the National Infrastructure Simulation and Analysis Center.

(f) ANNUAL REPORTS.—The Institute shall transmit to the Secretary and Congress an annual report on the activities of the Institute under this section.

(g) TERMINATION.—The Homeland Security Institute shall terminate 3 years after the effective date of this Act.

SEC. 313. TECHNOLOGY CLEARINGHOUSE TO ENCOURAGE AND SUPPORT INNOVATIVE SOLUTIONS TO ENHANCE HOMELAND SECURITY.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish and promote a program to encourage technological innovation in facilitating the mission of the Department (as described in section 101).

(b) ELEMENTS OF PROGRAM.—The program described in subsection (a) shall include the following components:

(1) The establishment of a centralized Federal clearinghouse for information relating to technologies that would further the mission of the Department for dissemination, as appropriate, to Federal, State, and local government and private sector entities for additional review, purchase, or use.

(2) The issuance of announcements seeking unique and innovative technologies to advance the mission of the Department.

(3) The establishment of a technical assistance team to assist in screening, as appropriate, proposals submitted to the Secretary (except as provided in subsection (c)(2)) to assess the feasibility, scientific and technical merits, and estimated cost of such proposals, as appropriate.

(4) The provision of guidance, recommendations, and technical assistance, as appropriate, to assist Federal, State, and local government and private sector efforts to evaluate and implement the use of technologies described in paragraph (1) or (2).

(5) The provision of information for persons seeking guidance on how to pursue proposals to develop or deploy technologies that would enhance homeland security, including information relating to Federal funding, regulation, or acquisition.

(c) Miscellaneous Provisions.—

(1) In general.—Nothing in this section shall be construed as authorizing the Secretary or the technical assistance team established under subsection (b)(3) to set standards for technology to be used by the Department, any other executive agency, any State or local government entity, or any private sector entity.

(2) Certain proposals.—The technical assistance team established under subsection (b)(3) shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.

(3) Coordination.—In carrying out this section, the Secretary shall coordinate with the Technical Support Working Group (organized under the April 1982 National Security Decision Directive Numbered 30).

TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

Subtitle A—Under Secretary for Border and Transportation Security

SEC. 401. UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

There shall be in the Department a Directorate of Border and Transportation Security headed by an Under Secretary for Border and Transportation Security.

SEC. 402. RESPONSIBILITIES.

The Secretary, acting through the Under Secretary for Border and Transportation Security, shall be responsible for the following:

(1) Preventing the entry of terrorists and the instruments of terrorism into the United States.

(2) Securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating those functions transferred to the Department at ports of entry.

(3) Carrying out the immigration enforcement functions vested by statute in, or performed by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the date on which the transfer of functions specified under section 441 takes effect.

(4) Establishing and administering rules, in accordance with section 428, governing the granting of visas or other forms of permission, including parole, to enter the United States to individuals who are not a citizen or an alien lawfully admitted for permanent residence in the United States.

(5) Establishing national immigration enforcement policies and priorities.

(6) Except as provided in subtitle C, administering the customs laws of the United States.

(7) Conducting the inspection and related administrative functions of the Department of Agriculture transferred to the Secretary of Homeland Security under section 421.

(8) In carrying out the foregoing responsibilities, ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce.

SEC. 403. FUNCTIONS TRANSFERRED.

In accordance with title XV (relating to transition provisions), there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of—

(1) the United States Customs Service of the Department of the Treasury, including the functions of the Secretary of the Treasury relating thereto;

(2) the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto;

(3) the Federal Protective Service of the General Services Administration, including the functions of the Administrator of General Services relating thereto;

(4) the Federal Law Enforcement Training Center of the Department of the Treasury; and

(5) the Office for Domestic Preparedness of the Office of Justice Programs, including the functions of the Attorney General relating thereto.

Subtitle B—United States Customs Service

SEC. 411. ESTABLISHMENT; COMMISSIONER OF CUSTOMS.

(a) Establishment.—There is established in the Department the United States Customs Service, under the authority of the Under Secretary for Border and Transportation Security, which shall be vested with those functions including, but not limited to those set forth in section 415(7), and the personnel, assets, and liabilities attributable to those functions.

(b) Commissioner of Customs.—

(1) In General.—There shall be at the head of the Customs Service a Commissioner of Customs, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Compensation.—Section 5314 of title 5, United States Code, is amended by striking

"Commissioner of Customs, Department of the Treasury"

and inserting

"Commissioner of Customs, Department of Homeland Security.".

(3) Continuation in office.—The individual serving as the Commissioner of Customs on the day before the effective date of this Act may serve as the Commissioner of Customs on and after such effective date until a Commissioner of Customs is appointed under paragraph (1).

SEC. 412. RETENTION OF CUSTOMS REVENUE FUNCTIONS BY SECRETARY OF THE TREASURY.

(a) Retention of Customs Revenue Functions by Secretary of the Treasury.—

(1) Retention of authority.—Notwithstanding section 403(a)(1), authority related to Customs revenue functions that was vested in the Secretary of the Treasury by law before the effective date of this Act under those provisions of law set forth in paragraph (2) shall not be transferred to the Secretary by reason of this Act, and on and after the effective date of this Act, the Secretary of the Treasury may delegate any such authority to the Secretary at the discretion of the Secretary of the Treasury. The Secretary of the Treasury shall consult with the Secretary regarding the exercise of any such authority not delegated to the Secretary.

(2) Statutes.—The provisions of law referred to in paragraph (1) are the following: the Tariff Act of 1930; section 249 of the Revised Statutes of the United States (19 U.S.C. 3); section 2 of the Act of March 4, 1923 (19 U.S.C. 6); section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c); section 251 of the Revised Statutes of the United States (19 U.S.C. 66); section 1 of the Act of June 26, 1930 (19 U.S.C. 68); the Foreign Trade Zones Act (19 U.S.C. 81a et seq.); section 1 of the Act of March 2, 1911 (19 U.S.C. 198); the Trade Act of 1974; the Trade Agreements Act of 1979; the North American Free Trade Area Implementation Act; the Uruguay Round Agreements Act; the Caribbean Basin Economic Recovery Act; the Andean Trade Preference Act; the African Growth and Opportunity Act; and any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(b) Maintenance of Customs Revenue Functions.—

(1) Maintenance of functions.—Notwithstanding any other provision of this Act, the Secretary may not consolidate, discontinue, or diminish those functions described in paragraph (2) performed by the United States Customs Service (as established under section 411) on or after the effective date of this Act, reduce the staffing level, or reduce the resources attributable to such functions, and the Secretary shall ensure that an appropriate management structure is implemented to carry out such functions.

(2) Functions.—The functions referred to in paragraph (1) are those functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(c) New Personnel.—The Secretary of the Treasury is authorized to appoint up to 20 new personnel to work with personnel of the Department in performing customs revenue functions.

SEC. 413. PRESERVATION OF CUSTOMS FUNDS.

Notwithstanding any other provision of this Act, no funds available to the United States Customs Service or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 may be transferred for use by any other agency or office in the Department.

SEC. 414. SEPARATE BUDGET REQUEST FOR CUSTOMS.

The President shall include in each budget transmitted to Congress under section 1105 of title 31, United States Code, a separate budget request for the United States Customs Service.

SEC. 415. DEFINITION.

In this subtitle, the term "customs revenue function" means the following:

(1) Assessing and collecting customs duties (including antidumping and countervailing duties and duties imposed under safeguard provisions), excise taxes, fees, and penalties due on imported merchandise, including classifying and valuing merchandise for purposes of such assessment.

(2) Processing and denial of entry of persons, baggage, cargo, and mail, with respect to the assessment and collection of import duties.

(3) Detecting and apprehending persons engaged in fraudulent practices designed to circumvent the customs laws of the United States.

(4) Enforcing section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks.

(5) Collecting accurate import data for compilation of international trade statistics.

(6) Enforcing reciprocal trade agreements.

(7) Functions performed by the following personnel, and associated support staff, of

the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(8) Functions performed by the following offices, with respect to any function described in any of paragraphs (1) through (7), and associated support staff, of the United States Customs Service on the day before the effective date of this Act: the Office of Information and Technology, the Office of Laboratory Services, the Office of the Chief Counsel, the Office of Congressional Affairs, the Office of International Affairs, and the Office of Training and Development.

SEC. 416. GAO REPORT TO CONGRESS.

Not later than 3 months after the effective date of this Act, the Comptroller General of the United States shall submit to Congress a report that sets forth all trade functions performed by the executive branch, specifying each agency that performs each such function.

SEC. 417. ALLOCATION OF RESOURCES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary shall ensure that adequate staffing is provided to assure that levels of customs revenue services provided on the day before the effective date of this Act shall continue to be provided.

(b) NOTIFICATION OF CONGRESS.—The Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate at least 90 days prior to taking any action which would—

(1) result in any significant reduction in customs revenue services, including hours of operation, provided at any office within the Department or any port of entry;

(2) eliminate or relocate any office of the Department which provides customs revenue services; or

(3) eliminate any port of entry.

(c) DEFINITION.—In this section, the term "customs revenue services" means those customs revenue functions described in paragraphs (1) through (6) and paragraph (8) of section 415.

SEC. 418. REPORTS TO CONGRESS.

(a) CONTINUING REPORTS.—The United States Customs Service shall, on and after the effective date of this Act, continue to submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate any report required, on the day before such the effective date of this Act, to be so submitted under any provision of law.

(b) REPORT ON CONFORMING AMENDMENTS.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under section 412(a)(2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this section.

SEC. 419. CUSTOMS USER FEES.

(a) IN GENERAL.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(1) in paragraph (1), by striking subparagraph (B) and inserting the following:

"(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).";

(2) in paragraph (4), by striking "(other than the excess fees determined by the Secretary under paragraph (5))"; and

(3) by striking paragraph (5) and inserting the following:

"(5)(A) There is created within the general fund of the Treasury a separate account that shall be known as the 'Customs Commercial and Homeland Security Automation Account'. In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A), $350,000,000.

"(B) There is authorized to be appropriated from the Account in fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

"(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.".

(b) CONFORMING AMENDMENT.—Section 311(b) of the Customs Border Security Act of 2002 (Public Law 107-210) is amended by striking paragraph (2).

Subtitle C—Miscellaneous Provisions

SEC. 421. TRANSFER OF CERTAIN AGRICULTURAL INSPECTION FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE.

(a) TRANSFER OF AGRICULTURAL IMPORT AND ENTRY INSPECTION FUNCTIONS.—There shall be transferred to the Secretary the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under the laws specified in subsection (b).

(b) COVERED ANIMAL AND PLANT PROTECTION LAWS.—The laws referred to in subsection (a) are the following:

(1) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading "Bureau of Animal Industry" in the Act of March 4, 1913; 21 U.S.C. 151 et seq.).

(2) Section 1 of the Act of August 31, 1922 (commonly known as the Honeybee Act; 7 U.S.C. 281).

(3) Title III of the Federal Seed Act (7 U.S.C. 1581 et seq.).

(4) The Plant Protection Act (7 U.S.C. 7701 et seq.).

(5) The Animal Health Protection Act (subtitle E of title X of Public Law 107-171; 7 U.S.C. 8301 et seq.).

(6) The Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

(7) Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540).

(c) EXCLUSION OF QUARANTINE ACTIVITIES.—For purposes of this section, the term "functions" does not include any quarantine activities carried out under the laws specified in subsection (b).

(d) EFFECT OF TRANSFER.—

(1) COMPLIANCE WITH DEPARTMENT OF AGRICULTURE REGULATIONS.—The authority transferred pursuant to subsection (a) shall be exercised by the Secretary in accordance with the regulations, policies, and procedures issued by the Secretary of Agriculture regarding the administration of the laws specified in subsection (b).

(2) RULEMAKING COORDINATION.—The Secretary of Agriculture shall coordinate with the Secretary whenever the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the functions transferred under subsection (a) under a law specified in subsection (b).

(3) EFFECTIVE ADMINISTRATION.—The Secretary, in consultation with the Secretary of Agriculture, may issue such directives and guidelines as are necessary to ensure the effective use of personnel of the Department of Homeland Security to carry out the functions transferred pursuant to subsection (a).

(e) TRANSFER AGREEMENT.—

(1) AGREEMENT REQUIRED; REVISION.—Before the end of the transition period, as defined in section 1501, the Secretary of Agriculture and the Secretary shall enter into an agreement to effectuate the transfer of functions required by subsection (a). The Secretary of Agriculture and the Secretary may jointly revise the agreement as necessary thereafter.

(2) REQUIRED TERMS.—The agreement required by this subsection shall specifically address the following:

(A) The supervision by the Secretary of Agriculture of the training of employees of the Secretary to carry out the functions transferred pursuant to subsection (a).

(B) The transfer of funds to the Secretary under subsection (f).

(3) COOPERATION AND RECIPROCITY.—The Secretary of Agriculture and the Secretary may include as part of the agreement the following:

(A) Authority for the Secretary to perform functions delegated to the Animal and Plant Health Inspection Service of the Department of Agriculture regarding the protection of domestic livestock and plants, but not transferred to the Secretary pursuant to subsection (a).

(B) Authority for the Secretary of Agriculture to use employees of the Department of Homeland Security to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(f) PERIODIC TRANSFER OF FUNDS TO DEPARTMENT OF HOMELAND SECURITY.—

(1) TRANSFER OF FUNDS.—Out of funds collected by fees authorized under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a), the Secretary of Agriculture shall transfer, from time to time in accordance with the agreement under subsection (e), to the Secretary funds for activities carried out by the Secretary for which such fees were collected.

(2) LIMITATION.—The proportion of fees collected pursuant to such sections that are transferred to the Secretary under this subsection may not exceed the proportion of the costs incurred by the Secretary to all costs incurred to carry out activities funded by such fees.

(g) TRANSFER OF DEPARTMENT OF AGRICULTURE EMPLOYEES.—Not later than the completion of the transition period defined under section 1501, the Secretary of Agriculture shall transfer to the Secretary not more than 3,200 full-time equivalent positions of the Department of Agriculture.

(h) PROTECTION OF INSPECTION ANIMALS.—Title V of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 2279e, 2279f) is amended—

(1) in section 501(a)—

(A) by inserting "or the Department of Homeland Security" after "Department of Agriculture"; and

(B) by inserting "or the Secretary of Homeland Security" after "Secretary of Agriculture";

(2) by striking "Secretary" each place it appears (other than in sections 501(a) and 501(e)) and inserting "Secretary concerned"; and

(3) by adding at the end of section 501 the following new subsection:

"(e) SECRETARY CONCERNED DEFINED.—In this title, the term 'Secretary concerned' means—

"(1) the Secretary of Agriculture, with respect to an animal used for purposes of official inspections by the Department of Agriculture; and

"(2) the Secretary of Homeland Security, with respect to an animal used for purposes of official inspections by the Department of Homeland Security.".

SEC. 422. FUNCTIONS OF ADMINISTRATOR OF GENERAL SERVICES.

(a) OPERATION, MAINTENANCE, AND PROTECTION OF FEDERAL BUILDINGS AND GROUNDS.—Nothing in this Act may be construed to affect the functions or authorities of the Administrator of General Services with respect to the operation, maintenance, and protection of buildings and grounds owned or occupied by the Federal Government and under the jurisdiction, custody, or control of the Administrator. Except for the law enforcement and related security functions transferred under section 403(3), the Administrator shall retain all powers, functions, and authorities vested in the Administrator under chapter 10 of title 40, United States Code, and other provisions of law that are necessary for the operation, maintenance, and protection of such buildings and grounds.

(b) COLLECTION OF RENTS AND FEES; FEDERAL BUILDINGS FUND.—

(1) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed—

(A) to direct the transfer of, or affect, the authority of the Administrator of General Services to collect rents and fees, including fees collected for protective services; or

(B) to authorize the Secretary or any other official in the Department to obligate amounts in the Federal Buildings Fund established by section 490(f) of title 40, United States Code.

(2) USE OF TRANSFERRED AMOUNTS.—Any amounts transferred by the Administrator of General Services to the Secretary out of rents and fees collected by the Administrator shall be used by the Secretary solely for the protection of buildings or grounds owned or occupied by the Federal Government.

SEC. 423. FUNCTIONS OF TRANSPORTATION SECURITY ADMINISTRATION.

(a) CONSULTATION WITH FEDERAL AVIATION ADMINISTRATION.—The Secretary and other officials in the Department shall consult with the Administrator of the Federal Aviation Administration before taking any action that might affect aviation safety, air carrier operations, aircraft airworthiness, or the use of airspace. The Secretary shall establish a liaison office within the Department for the purpose of consulting with the Administrator of the Federal Aviation Administration.

(b) REPORT TO CONGRESS.—Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report containing a plan for complying with the requirements of section 44901(d) of title 49, United States Code, as amended by section 426 of this Act.

(c) LIMITATIONS ON STATUTORY CONSTRUCTION.—

(1) GRANT OF AUTHORITY.—Nothing in this Act may be construed to vest in the Secretary or any other official in the Department any authority over transportation security that is not vested in the Under Secretary of Transportation for Security, or in the Secretary of Transportation under chapter 449 of title 49, United States Code, on the day before the date of enactment of this Act.

(2) OBLIGATION OF AIP FUNDS.—Nothing in this Act may be construed to authorize the Secretary or any other official in the Department to obligate amounts made available under section 48103 of title 49, United States Code.

SEC. 424. PRESERVATION OF TRANSPORTATION SECURITY ADMINISTRATION AS A DISTINCT ENTITY.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, and subject to subsection (b), the Transportation Security Administration shall be maintained as a distinct entity within the Department under the Under Secretary for Border Transportation and Security.

(b) SUNSET.—Subsection (a) shall cease to apply 2 years after the date of enactment of this Act.

SEC. 425. EXPLOSIVE DETECTION SYSTEMS.

Section 44901(d) of title 49, United States Code, is amended by adding at the end the following:

"(2) DEADLINE.—

"(A) IN GENERAL.—If, in his discretion or at the request of an airport, the Under Secretary of Transportation for Security determines that the Transportation Security Administration is not able to deploy explosive detection systems required to be deployed under paragraph (1) at all airports where explosive detection systems are required by December 31, 2002, then with respect to each airport for which the Under Secretary makes that determination—

"(i) the Under Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a detailed plan (which may be submitted in classified form) for the deployment of the number of explosive detection systems at that airport necessary to meet the requirements of paragraph (1) as soon as practicable at that airport but in no event later than December 31, 2003; and

"(ii) the Under Secretary shall take all necessary action to ensure that alternative means of screening all checked baggage is implemented until the requirements of paragraph (1) have been met.

"(B) CRITERIA FOR DETERMINATION.—In making a determination under subparagraph (A), the Under Secretary shall take into account—

"(i) the nature and extent of the required modifications to the airport's terminal buildings, and the technical, engineering, design and construction issues;

"(ii) the need to ensure that such installations and modifications are effective; and

"(iii) the feasibility and cost-effectiveness of deploying explosive detection systems in the baggage sorting area or other non-public area rather than the lobby of an airport terminal building.

"(C) RESPONSE.—The Under Secretary shall respond to the request of an airport under subparagraph (A) within 14 days of receiving the request. A denial of request shall create no right of appeal or judicial review.

"(D) AIRPORT EFFORT REQUIRED.—Each airport with respect to which the Under Secretary makes a determination under subparagraph (A) shall—

"(i) cooperate fully with the Transportation Security Administration with respect to screening checked baggage and changes to accommodate explosive detection systems; and

"(ii) make security projects a priority for the obligation or expenditure of funds made available under chapter 417 or 471 until explosive detection systems required to be deployed under paragraph (1) have been deployed at that airport.

"(3) REPORTS.—Until the Transportation Security Administration has met the requirements of paragraph (1), the Under Secretary shall submit a classified report every 30 days after the date of enactment of the Aviation Security Improvement Act to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure describing the progress made toward meeting such requirements at each airport.".

SEC. 426. TRANSPORTATION SECURITY.

(a) TRANSPORTATION SECURITY OVERSIGHT BOARD.—

(1) ESTABLISHMENT.—Section 115(a) of title 49, United States Code, is amended by striking "Department of Transportation" and inserting "Department of Homeland Security".

(2) MEMBERSHIP.—Section 115(b)(1) of title 49, United States Code, is amended—

(A) by striking subparagraph (G);

(B) by redesignating subparagraphs (A) through (F) as subparagraphs (B) through (G), respectively; and

(C) by inserting before subparagraph (B) (as so redesignated) the following:

"(A) The Secretary of Homeland Security, or the Secretary's designee.".

(3) CHAIRPERSON.—Section 115(b)(2) of title 49, United States Code, is amended by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security".

(b) APPROVAL OF AIP GRANT APPLICATIONS FOR SECURITY ACTIVITIES.—Section 47106 of title 49, United States Code, is amended by adding at the end the following:

"(g) CONSULTATION WITH SECRETARY OF HOMELAND SECURITY.—The Secretary shall consult with the Secretary of Homeland Security before approving an application under this subchapter for an airport development project grant for activities described in section 47102(3)(B)(ii) only as they relate to security equipment or section 47102(3)(B)(x) only as they relate to installation of bulk explosive detection system.".

SEC. 427. COORDINATION OF INFORMATION AND INFORMATION TECHNOLOGY.

(a) DEFINITION OF AFFECTED AGENCY.—In this section, the term "affected agency" means—

(1) the Department;

(2) the Department of Agriculture;

(3) the Department of Health and Human Services; and

(4) any other department or agency determined to be appropriate by the Secretary.

(b) COORDINATION.—The Secretary, in coordination with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall ensure that appropriate information (as determined by the Secretary) concerning inspections of articles that are imported or entered into the United States, and are inspected or regulated by 1 or more affected agencies, is timely and efficiently exchanged between the affected agencies.

(c) REPORT AND PLAN.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall submit to Congress—

(1) a report on the progress made in implementing this section; and

(2) a plan to complete implementation of this section.

SEC. 428. VISA ISSUANCE.

(a) DEFINITION.—In this subsection, the term "consular office" has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(b) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided in subsection (c) of this section, the Secretary—

(1) shall be vested exclusively with all authorities to issue regulations with respect to, administer, and enforce the provisions of such Act, and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas, and shall have the authority to refuse visas in accordance with law and to develop programs of homeland security training for consular officers (in addition to consular training provided by the Secretary of State), which authorities shall be exercised through the Secretary of State, except that the Secretary shall not have authority to alter or reverse the decision of a consular officer to refuse a visa to an alien; and

(2) shall have authority to confer or impose upon any officer or employee of the United States, with the consent of the head of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in paragraph (1).

(c) AUTHORITY OF THE SECRETARY OF STATE.—

(1) IN GENERAL.—Notwithstanding subsection (b), the Secretary of State may direct a consular officer to refuse a visa to an alien if the Secretary of State deems such refusal necessary or advisable in the foreign policy or security interests of the United States.

(2) CONSTRUCTION REGARDING AUTHORITY.—Nothing in this section, consistent with the Secretary of Homeland Security's authority to refuse visas in accordance with law, shall be construed as affecting the authorities of the Secretary of State under the following provisions of law:

(A) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)).

(B) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1154) (as it will take effect upon the entry into force of the Convention on Protection of Children and Cooperation in Respect to Inter-Country adoption).

(C) Section 212(a)(3)(B)(i)(IV)(bb) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IV)(bb)).

(D) Section 212(a)(3)(B)(i)(VI) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(VI)).

(E) Section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)(II)).

(F) Section 212(a)(3(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(G) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(H) Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(I) Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(J) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).

(K) Section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6034; Public Law 104–114).

(L) Section 613 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of Public Law 105–277) (Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999); 112 Stat. 2681; H.R. 4328 (originally H.R. 4276) as amended by section 617 of Public Law 106–553.

(M) Section 103(f) of the Chemical Weapon Convention Implementation Act of 1998 (112 Stat. 2681–865).

(N) Section 801 of H.R. 3427, the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, as enacted by reference in Public Law 106–113.

(O) Section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115).

(P) Section 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723).

(d) CONSULAR OFFICERS AND CHIEFS OF MISSIONS.—

(1) IN GENERAL.—Nothing in this subsection may be construed to alter or affect—

(A) the employment status of consular officers as employees of the Department of State; or

(B) the authority of a chief of mission under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(2) CONSTRUCTION REGARDING DELEGATION OF AUTHORITY.—Nothing in this section shall be construed to affect any delegation of authority to the Secretary of State by the President pursuant to any proclamation issued under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)), consistent with the Secretary of Homeland Security's authority to refuse visas in accordance with law.

(e) ASSIGNMENT OF HOMELAND SECURITY EMPLOYEES TO DIPLOMATIC AND CONSULAR POSTS.—

(1) IN GENERAL.—The Secretary is authorized to assign employees of the Department to each diplomatic and consular post at which visas are issued, unless the Secretary determines that such an assignment at a particular post would not promote homeland security.

(2) FUNCTIONS.—Employees assigned under paragraph (1) shall perform the following functions:

(A) Provide expert advice and training to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(B) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(C) Conduct investigations with respect to consular matters under the jurisdiction of the Secretary.

(3) EVALUATION OF CONSULAR OFFICERS.—The Secretary of State shall evaluate, in consultation with the Secretary, as deemed appropriate by the Secretary, the performance of consular officers with respect to the processing and adjudication of applications for visas in accordance with performance standards developed by the Secretary for these procedures.

(4) REPORT.—The Secretary shall, on an annual basis, submit a report to Congress that describes the basis for each determination under paragraph (1) that the assignment of an employee of the Department at a particular diplomatic post would not promote homeland security.

(5) PERMANENT ASSIGNMENT; PARTICIPATION IN TERRORIST LOOKOUT COMMITTEE.—When appropriate, employees of the Department assigned to perform functions described in paragraph (2) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional responsibility. If the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee established under section 304 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(6) TRAINING AND HIRING.—

(A) IN GENERAL.—The Secretary shall ensure, to the extent possible, that any employees of the Department assigned to perform functions under paragraph (2) and, as appropriate, consular officers, shall be provided the necessary training to enable them to carry out such functions, including training in foreign languages, interview techniques, and fraud detection techniques, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.

(B) USE OF CENTER.—The Secretary is authorized to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training described in subparagraph (A).

(7) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of State shall submit to Congress—

(A) a report on the implementation of this subsection; and

(B) any legislative proposals necessary to further the objectives of this subsection.

(8) EFFECTIVE DATE.—This subsection shall take effect on the earlier of—

(A) the date on which the President publishes notice in the Federal Register that the President has submitted a report to Congress setting forth a memorandum of understanding between the Secretary and the Secretary of State governing the implementation of this section; or

(B) the date occurring 1 year after the date of enactment of this Act.

(f) NO CREATION OF PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to create or authorize a private right of action to challenge a decision of a consular officer or other United States official or employee to grant or deny a visa.

(g) STUDY REGARDING USE OF FOREIGN NATIONALS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall conduct a study of the role of foreign nationals in the granting or refusal of visas and other documents authorizing entry of aliens into the United States. The study shall address the following:

(A) The proper role, if any, of foreign nationals in the process of rendering decisions on such grants and refusals.

(B) Any security concerns involving the employment of foreign nationals.

(C) Whether there are cost-effective alternatives to the use of foreign nationals.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the

Secretary shall submit a report containing the findings of the study conducted under paragraph (1) to the Committee on the Judiciary, the Committee on International Relations, and the Committee on Government Reform of the House of Representatives, and the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Government Affairs of the Senate.

(h) Report.—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report on how the provisions of this section will affect procedures for the issuance of student visas.

(i) Visa Issuance Program for Saudi Arabia.—Notwithstanding any other provision of law, after the date of the enactment of this Act all third party screening programs in Saudi Arabia shall be terminated. On-site personnel of the Department of Homeland Security shall review all visa applications prior to adjudication.

SEC. 429. INFORMATION ON VISA DENIALS REQUIRED TO BE ENTERED INTO ELECTRONIC DATA SYSTEM.

(a) In General.—Whenever a consular officer of the United States denies a visa to an applicant, the consular officer shall enter the fact and the basis of the denial and the name of the applicant into the interoperable electronic data system implemented under section 202(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1722(a)).

(b) Prohibition.—In the case of any alien with respect to whom a visa has been denied under subsection (a)—

(1) no subsequent visa may be issued to the alien unless the consular officer considering the alien's visa application has reviewed the information concerning the alien placed in the interoperable electronic data system, has indicated on the alien's application that the information has been reviewed, and has stated for the record why the visa is being issued or a waiver of visa ineligibility recommended in spite of that information; and

(2) the alien may not be admitted to the United States without a visa issued in accordance with the procedures described in paragraph (1).

SEC. 430. OFFICE FOR DOMESTIC PREPAREDNESS.

(a) In General.—The Office for Domestic Preparedness shall be within the Directorate of Border and Transportation Security.

(b) Director.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Border and Transportation Security.

(c) Responsibilities.—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(1) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(2) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(3) directing and supervising terrorism preparedness grant programs of the Federal Government (other than those programs administered by the Department of Health and Human Services) for all emergency response providers;

(4) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(5) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(6) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States;

(7) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities of State, local, and tribal governments consistent with the mission and functions of the Directorate; and

(8) those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(d) Fiscal Years 2003 and 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

Subtitle D—Immigration Enforcement Functions

SEC. 441. TRANSFER OF FUNCTIONS TO UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

In accordance with title XV (relating to transition provisions), there shall be transferred from the Commissioner of Immigration and Naturalization to the Under Secretary for Border and Transportation Security all functions performed under the following programs, and all personnel, assets, and liabilities pertaining to such programs, immediately before such transfer occurs:

(1) The Border Patrol program.

(2) The detention and removal program.

(3) The intelligence program.

(4) The investigations program.

(5) The inspections program.

SEC. 442. ESTABLISHMENT OF BUREAU OF BORDER SECURITY.

(a) Establishment of Bureau.—

(1) In general.—There shall be in the Department of Homeland Security a bureau to be known as the "Bureau of Border Security".

(2) Assistant secretary.—The head of the Bureau of Border Security shall be the Assistant Secretary of the Bureau of Border Security, who—

(A) shall report directly to the Under Secretary for Border and Transportation Security; and

(B) shall have a minimum of 5 years professional experience in law enforcement, and a minimum of 5 years of management experience.

(3) Functions.—The Assistant Secretary of the Bureau of Border Security—

(A) shall establish the policies for performing such functions as are—

(i) transferred to the Under Secretary for Border and Transportation Security by section 441 and delegated to the Assistant Secretary by the Under Secretary for Border and Transportation Security; or

(ii) otherwise vested in the Assistant Secretary by law;

(B) shall oversee the administration of such policies; and

(C) shall advise the Under Secretary for Border and Transportation Security with respect to any policy or operation of the Bureau of Border Security that may affect the Bureau of Citizenship and Immigration Services established under subtitle E, including potentially conflicting policies or operations.

(4) Program to collect information relating to foreign students.—The Assistant Secretary of the Bureau of Border Security shall be responsible for administering the program to collect information relating to nonimmigrant foreign students and other exchange program participants described in section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), including the Student and Exchange Visitor Information System established under that section, and shall use such information to carry out the enforcement functions of the Bureau.

(5) Managerial rotation program.—

(A) In general.—Not later than 1 year after the date on which the transfer of functions specified under section 441 takes effect, the Assistant Secretary of the Bureau of Border Security shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS–14 or above, shall—

(i) gain some experience in all the major functions performed by such bureau; and

(ii) work in at least one local office of such bureau.

(B) Report.—Not later than 2 years after the date on which the transfer of functions specified under section 441 takes effect, the Secretary shall submit a report to the Congress on the implementation of such program.

(b) Chief of Policy and Strategy.—

(1) In general.—There shall be a position of Chief of Policy and Strategy for the Bureau of Border Security.

(2) Functions.—In consultation with Bureau of Border Security personnel in local offices, the Chief of Policy and Strategy shall be responsible for—

(A) making policy recommendations and performing policy research and analysis on immigration enforcement issues; and

(B) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services (established under subtitle E), as appropriate.

(c) Legal Advisor.—There shall be a principal legal advisor to the Assistant Secretary of the Bureau of Border Security. The legal advisor shall provide specialized legal advice to the Assistant Secretary of the Bureau of Border Security and shall represent the bureau in all exclusion, deportation, and removal proceedings before the Executive Office for Immigration Review.

SEC. 443. PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.

The Under Secretary for Border and Transportation Security shall be responsible for—

(1) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of the Bureau of Border Security that are not subject to investigation by the Inspector General for the Department;

(2) inspecting the operations of the Bureau of Border Security and providing assessments of the quality of the operations of such bureau as a whole and each of its components; and

(3) providing an analysis of the management of the Bureau of Border Security.

SEC. 444. EMPLOYEE DISCIPLINE.

The Under Secretary for Border and Transportation Security may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Border Security who willfully deceives the Congress or agency leadership on any matter.

SEC. 445. REPORT ON IMPROVING ENFORCEMENT FUNCTIONS.

(a) IN GENERAL.—The Secretary, not later than 1 year after being sworn into office, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Border Security, after the transfer of functions specified under section 441 takes effect, will enforce comprehensively, effectively, and fairly all the enforcement provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) relating to such functions.

(b) CONSULTATION.—In carrying out subsection (a), the Secretary of Homeland Security shall consult with the Attorney General, the Secretary of State, the Director of the Federal Bureau of Investigation, the Secretary of the Treasury, the Secretary of Labor, the Commissioner of Social Security, the Director of the Executive Office for Immigration Review, and the heads of State and local law enforcement agencies to determine how to most effectively conduct enforcement operations.

SEC. 446. SENSE OF CONGRESS REGARDING CONSTRUCTION OF FENCING NEAR SAN DIEGO, CALIFORNIA.

It is the sense of the Congress that completing the 14-mile border fence project required to be carried out under section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) should be a priority for the Secretary.

Subtitle E—Citizenship and Immigration Services

SEC. 451. ESTABLISHMENT OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.

(a) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There shall be in the Department a bureau to be known as the "Bureau of Citizenship and Immigration Services".

(2) DIRECTOR.—The head of the Bureau of Citizenship and Immigration Services shall be the Director of the Bureau of Citizenship and Immigration Services, who—

(A) shall report directly to the Deputy Secretary;

(B) shall have a minimum of 5 years of management experience; and

(C) shall be paid at the same level as the Assistant Secretary of the Bureau of Border Security.

(3) FUNCTIONS.—The Director of the Bureau of Citizenship and Immigration Services—

(A) shall establish the policies for performing such functions as are transferred to the Director by this section or this Act or otherwise vested in the Director by law;

(B) shall oversee the administration of such policies;

(C) shall advise the Deputy Secretary with respect to any policy or operation of the Bureau of Citizenship and Immigration Services that may affect the Bureau of Border Security of the Department, including potentially conflicting policies or operations;

(D) shall establish national immigration services policies and priorities;

(E) shall meet regularly with the Ombudsman described in section 452 to correct serious service problems identified by the Ombudsman; and

(F) shall establish procedures requiring a formal response to any recommendations submitted in the Ombudsman's annual report to Congress within 3 months after its submission to Congress.

(4) MANAGERIAL ROTATION PROGRAM.—

(A) IN GENERAL.—Not later than 1 year after the effective date specified in section 455, the Director of the Bureau of Citizenship and Immigration Services shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS–14 or above, shall—

(i) gain some experience in all the major functions performed by such bureau; and

(ii) work in at least one field office and one service center of such bureau.

(B) REPORT.—Not later than 2 years after the effective date specified in section 455, the Secretary shall submit a report to Congress on the implementation of such program.

(5) PILOT INITIATIVES FOR BACKLOG ELIMINATION.—The Director of the Bureau of Citizenship and Immigration Services is authorized to implement innovative pilot initiatives to eliminate any remaining backlog in the processing of immigration benefit applications, and to prevent any backlog in the processing of such applications from recurring, in accordance with section 204(a) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)). Such initiatives may include measures such as increasing personnel, transferring personnel to focus on areas with the largest potential for backlog, and streamlining paperwork.

(b) TRANSFER OF FUNCTIONS FROM COMMISSIONER.—There are transferred from the Commissioner of Immigration and Naturalization to the Director of the Bureau of Citizenship and Immigration Services the following functions, and all personnel, infrastructure, and funding provided to the Commissioner in support of such functions immediately before the effective date specified in section 455:

(1) Adjudications of immigrant visa petitions.

(2) Adjudications of naturalization petitions.

(3) Adjudications of asylum and refugee applications.

(4) Adjudications performed at service centers.

(5) All other adjudications performed by the Immigration and Naturalization Service immediately before the effective date specified in section 455.

(c) CHIEF OF POLICY AND STRATEGY.—

(1) IN GENERAL.—There shall be a position of Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—In consultation with Bureau of Citizenship and Immigration Services personnel in field offices, the Chief of Policy and Strategy shall be responsible for—

(A) making policy recommendations and performing policy research and analysis on immigration services issues; and

(B) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Border Security of the Department.

(d) LEGAL ADVISOR.—

(1) IN GENERAL.—There shall be a principal legal advisor to the Director of the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The legal advisor shall be responsible for—

(A) providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Director of the Bureau of Citizenship and Immigration Services with respect to legal matters affecting the Bureau of Citizenship and Immigration Services; and

(B) representing the Bureau of Citizenship and Immigration Services in visa petition appeal proceedings before the Executive Office for Immigration Review.

(e) BUDGET OFFICER.—

(1) IN GENERAL.—There shall be a Budget Officer for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—

(A) IN GENERAL.—The Budget Officer shall be responsible for—

(i) formulating and executing the budget of the Bureau of Citizenship and Immigration Services;

(ii) financial management of the Bureau of Citizenship and Immigration Services; and

(iii) collecting all payments, fines, and other debts for the Bureau of Citizenship and Immigration Services.

(f) CHIEF OF OFFICE OF CITIZENSHIP.—

(1) IN GENERAL.—There shall be a position of Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services shall be responsible for promoting instruction and training on citizenship responsibilities for aliens interested in becoming naturalized citizens of the United States, including the development of educational materials.

SEC. 452. CITIZENSHIP AND IMMIGRATION SERVICES OMBUDSMAN.

(a) IN GENERAL.—Within the Department, there shall be a position of Citizenship and Immigration Services Ombudsman (in this section referred to as the "Ombudsman"). The Ombudsman shall report directly to the Deputy Secretary. The Ombudsman shall have a background in customer service as well as immigration law.

(b) FUNCTIONS.—It shall be the function of the Ombudsman—

(1) to assist individuals and employers in resolving problems with the Bureau of Citizenship and Immigration Services;

(2) to identify areas in which individuals and employers have problems in dealing with the Bureau of Citizenship and Immigration Services; and

(3) to the extent possible, to propose changes in the administrative practices of the Bureau of Citizenship and Immigration Services to mitigate problems identified under paragraph (2).

(c) ANNUAL REPORTS.—

(1) OBJECTIVES.—Not later than June 30 of each calendar year, the Ombudsman shall report to the Committee on the Judiciary of the House of Representatives and the Senate

on the objectives of the Office of the Ombudsman for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and—

(A) shall identify the recommendations the Office of the Ombudsman has made on improving services and responsiveness of the Bureau of Citizenship and Immigration Services;

(B) shall contain a summary of the most pervasive and serious problems encountered by individuals and employers, including a description of the nature of such problems;

(C) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action has been taken and the result of such action;

(D) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action remains to be completed and the period during which each item has remained on such inventory;

(E) shall contain an inventory of the items described in subparagraphs (A) and (B) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and shall identify any official of the Bureau of Citizenship and Immigration Services who is responsible for such inaction;

(F) shall contain recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers, including problems created by excessive backlogs in the adjudication and processing of immigration benefit petitions and applications; and

(G) shall include such other information as the Ombudsman may deem advisable.

(2) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subsection shall be provided directly to the committees described in paragraph (1) without any prior comment or amendment from the Secretary, Deputy Secretary, Director of the Bureau of Citizenship and Immigration Services, or any other officer or employee of the Department or the Office of Management and Budget.

(d) OTHER RESPONSIBILITIES.—The Ombudsman—

(1) shall monitor the coverage and geographic allocation of local offices of the Ombudsman;

(2) shall develop guidance to be distributed to all officers and employees of the Bureau of Citizenship and Immigration Services outlining the criteria for referral of inquiries to local offices of the Ombudsman;

(3) shall ensure that the local telephone number for each local office of the Ombudsman is published and available to individuals and employers served by the office; and

(4) shall meet regularly with the Director of the Bureau of Citizenship and Immigration Services to identify serious service problems and to present recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers.

(e) PERSONNEL ACTIONS.—

(1) IN GENERAL.—The Ombudsman shall have the responsibility and authority—

(A) to appoint local ombudsmen and make available at least 1 such ombudsman for each State; and

(B) to evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of the Ombudsman.

(2) CONSULTATION.—The Ombudsman may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services in carrying out the Ombudsman's responsibilities under this subsection.

(f) RESPONSIBILITIES OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.—The Director of the Bureau of Citizenship and Immigration Services shall establish procedures requiring a formal response to all recommendations submitted to such director by the Ombudsman within 3 months after submission to such director.

(g) OPERATION OF LOCAL OFFICES.—

(1) IN GENERAL.—Each local ombudsman—

(A) shall report to the Ombudsman or the delegate thereof;

(B) may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services regarding the daily operation of the local office of such ombudsman;

(C) shall, at the initial meeting with any individual or employer seeking the assistance of such local office, notify such individual or employer that the local offices of the Ombudsman operate independently of any other component of the Department and report directly to Congress through the Ombudsman; and

(D) at the local ombudsman's discretion, may determine not to disclose to the Bureau of Citizenship and Immigration Services contact with, or information provided by, such individual or employer.

(2) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the Ombudsman shall maintain a phone, facsimile, and other means of electronic communication access, and a post office address, that is separate from those maintained by the Bureau of Citizenship and Immigration Services, or any component of the Bureau of Citizenship and Immigration Services.

SEC. 453. PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.

(a) IN GENERAL.—The Director of the Bureau of Citizenship and Immigration Services shall be responsible for—

(1) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of the Bureau of Citizenship and Immigration Services that are not subject to investigation by the Inspector General for the Department;

(2) inspecting the operations of the Bureau of Citizenship and Immigration Services and providing assessments of the quality of the operations of such bureau as a whole and each of its components; and

(3) providing an analysis of the management of the Bureau of Citizenship and Immigration Services.

(b) SPECIAL CONSIDERATIONS.—In providing assessments in accordance with subsection (a)(2) with respect to a decision of the Bureau of Citizenship and Immigration Services, or any of its components, consideration shall be given to—

(1) the accuracy of the findings of fact and conclusions of law used in rendering the decision;

(2) any fraud or misrepresentation associated with the decision; and

(3) the efficiency with which the decision was rendered.

SEC. 454. EMPLOYEE DISCIPLINE.

The Director of the Bureau of Citizenship and Immigration Services may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Citizenship and Immigration Services who willfully deceives Congress or agency leadership on any matter.

SEC. 455. EFFECTIVE DATE.

Notwithstanding section 4, sections 451 through 456, and the amendments made by such sections, shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

SEC. 456. TRANSITION.

(a) REFERENCES.—With respect to any function transferred by this subtitle to, and exercised on or after the effective date specified in section 455 by, the Director of the Bureau of Citizenship and Immigration Services, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Bureau of Citizenship and Immigration Services; or

(2) to such component is deemed to refer to the Bureau of Citizenship and Immigration Services.

(b) OTHER TRANSITION ISSUES.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this subtitle may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in section 455.

(2) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel of the Department of Justice employed in connection with the functions transferred by this subtitle (and functions that the Secretary determines are properly related to the functions of the Bureau of Citizenship and Immigration Services), and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this subtitle, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Bureau of Citizenship and Immigration Services for allocation to the appropriate component of the Department. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated. The Secretary shall have the right to adjust or realign transfers of funds and personnel effected pursuant to this subtitle for a period of 2 years after the effective date specified in section 455.

SEC. 457. FUNDING FOR CITIZENSHIP AND IMMIGRATION SERVICES.

Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking "services, including the costs of similar services provided without charge to asylum applicants or other immigrants." and inserting "services.".

SEC. 458. BACKLOG ELIMINATION.

Section 204(a)(1) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)(1)) is amended by striking "not later than one year after the date of enactment of this Act;" and inserting "1 year after the date of the enactment of the Homeland Security Act of 2002;".

SEC. 459. REPORT ON IMPROVING IMMIGRATION SERVICES.

(a) IN GENERAL.—The Secretary, not later than 1 year after the effective date of this

Act, shall submit to the Committees on the Judiciary and Appropriations of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Citizenship and Immigration Services, after the transfer of functions specified in this subtitle takes effect, will complete efficiently, fairly, and within a reasonable time, the adjudications described in paragraphs (1) through (5) of section 451(b).

(b) CONTENTS.—For each type of adjudication to be undertaken by the Director of the Bureau of Citizenship and Immigration Services, the report shall include the following:

(1) Any potential savings of resources that may be implemented without affecting the quality of the adjudication.

(2) The goal for processing time with respect to the application.

(3) Any statutory modifications with respect to the adjudication that the Secretary considers advisable.

(c) CONSULTATION.—In carrying out subsection (a), the Secretary shall consult with the Secretary of State, the Secretary of Labor, the Assistant Secretary of the Bureau of Border Security of the Department, and the Director of the Executive Office for Immigration Review to determine how to streamline and improve the process for applying for and making adjudications described in section 451(b) and related processes.

SEC. 460. REPORT ON RESPONDING TO FLUCTUATING NEEDS.

Not later than 30 days after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on changes in law, including changes in authorizations of appropriations and in appropriations, that are needed to permit the Immigration and Naturalization Service, and, after the transfer of functions specified in this subtitle takes effect, the Bureau of Citizenship and Immigration Services of the Department, to ensure a prompt and timely response to emergent, unforeseen, or impending changes in the number of applications for immigration benefits, and otherwise to ensure the accommodation of changing immigration service needs.

SEC. 461. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) ESTABLISHMENT OF TRACKING SYSTEM.—The Secretary, not later than 1 year after the effective date of this Act, in consultation with the Technology Advisory Committee established under subsection (c), shall establish an Internet-based system, that will permit a person, employer, immigrant, or nonimmigrant who has filings with the Secretary for any benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), access to online information about the processing status of the filing involved.

(b) FEASIBILITY STUDY FOR ONLINE FILING AND IMPROVED PROCESSING.—

(1) ONLINE FILING.—The Secretary, in consultation with the Technology Advisory Committee established under subsection (c), shall conduct a feasibility study on the online filing of the filings described in subsection (a). The study shall include a review of computerization and technology of the Immigration and Naturalization Service relating to the immigration services and processing of filings related to immigrant services. The study shall also include an estimate of the timeframe and cost and shall consider other factors in implementing such a filing system, including the feasibility of fee payment online.

(2) REPORT.—A report on the study under this subsection shall be submitted to the Committees on the Judiciary of the House of Representatives and the Senate not later than 1 year after the effective date of this Act.

(c) TECHNOLOGY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary shall establish, not later than 60 days after the effective date of this Act, an advisory committee (in this section referred to as the "Technology Advisory Committee") to assist the Secretary in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

The Technology Advisory Committee shall be established after consultation with the Committees on the Judiciary of the House of Representatives and the Senate.

(2) COMPOSITION.—The Technology Advisory Committee shall be composed of representatives from high technology companies capable of establishing and implementing the system in an expeditious manner, and representatives of persons who may use the tracking system described in subsection (a) and the online filing system described in subsection (b)(1).

SEC. 462. CHILDREN'S AFFAIRS.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Director of the Office of Refugee Resettlement of the Department of Health and Human Services functions under the immigration laws of the United States with respect to the care of unaccompanied alien children that were vested by statute in, or performed by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the effective date specified in subsection (d).

(b) FUNCTIONS.—

(1) IN GENERAL.—Pursuant to the transfer made by subsection (a), the Director of the Office of Refugee Resettlement shall be responsible for—

(A) coordinating and implementing the care and placement of unaccompanied alien children who are in Federal custody by reason of their immigration status, including developing a plan to be submitted to Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each such child, consistent with the law regarding appointment of counsel that is in effect on the date of the enactment of this Act;

(B) ensuring that the interests of the child are considered in decisions and actions relating to the care and custody of an unaccompanied alien child;

(C) making placement determinations for all unaccompanied alien children who are in Federal custody by reason of their immigration status;

(D) implementing the placement determinations;

(E) implementing policies with respect to the care and placement of unaccompanied alien children;

(F) identifying a sufficient number of qualified individuals, entities, and facilities to house unaccompanied alien children;

(G) overseeing the infrastructure and personnel of facilities in which unaccompanied alien children reside;

(H) reuniting unaccompanied alien children with a parent abroad in appropriate cases;

(I) compiling, updating, and publishing at least annually a state-by-state list of professionals or other entities qualified to provide guardian and attorney representation services for unaccompanied alien children;

(J) maintaining statistical information and other data on unaccompanied alien children for whose care and placement the Director is responsible, which shall include—

(i) biographical information, such as a child's name, gender, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the child came into Federal custody by reason of his or her immigration status;

(iii) information relating to the child's placement, removal, or release from each facility in which the child has resided;

(iv) in any case in which the child is placed in detention or released, an explanation relating to the detention or release; and

(v) the disposition of any actions in which the child is the subject;

(K) collecting and compiling statistical information from the Department of Justice, the Department of Homeland Security, and the Department of State on each department's actions relating to unaccompanied alien children; and

(L) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(2) COORDINATION WITH OTHER ENTITIES; NO RELEASE ON OWN RECOGNIZANCE.—In making determinations described in paragraph (1)(C), the Director of the Office of Refugee Resettlement—

(A) shall consult with appropriate juvenile justice professionals, the Director of the Bureau of Citizenship and Immigration Services, and the Assistant Secretary of the Bureau of Border Security to ensure that such determinations ensure that unaccompanied alien children described in such subparagraph—

(i) are likely to appear for all hearings or proceedings in which they are involved;

(ii) are protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitive activity; and

(iii) are placed in a setting in which they not likely to pose a danger to themselves or others; and

(B) shall not release such children upon their own recognizance.

(3) DUTIES WITH RESPECT TO FOSTER CARE.—In carrying out the duties described in paragraph (1)(G), the Director of the Office of Refugee Resettlement is encouraged to use the refugee children foster care system established pursuant to section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)) for the placement of unaccompanied alien children.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) from the authority of any official of the Department of Justice, the Department of Homeland Security, or the Department of State.

(d) EFFECTIVE DATE.—Notwithstanding section 4, this section shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

(e) REFERENCES.—With respect to any function transferred by this section, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Office of Refugee Resettlement; or

(2) to such component is deemed to refer to the Office of Refugee Resettlement of the Department of Health and Human Services.

(f) OTHER TRANSITION ISSUES.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this section may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in subsection (d).

(2) SAVINGS PROVISIONS.—Subsections (a), (b), and (c) of section 1512 shall apply to a transfer of functions under this section in the same manner as such provisions apply to a transfer of functions under this Act to the Department of Homeland Security.

(3) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel of the Department of Justice employed in connection with the functions transferred by this section, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this section, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Office of Refugee Resettlement for allocation to the appropriate component of the Department of Health and Human Services. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(g) DEFINITIONS.—As used in this section—

(1) the term "placement" means the placement of an unaccompanied alien child in either a detention facility or an alternative to such a facility; and

(2) the term "unaccompanied alien child" means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained 18 years of age; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

Subtitle F—General Immigration Provisions

SEC. 471. ABOLISHMENT OF INS.

(a) IN GENERAL.—The Immigration and Naturalization Service of the Department of Justice is abolished.

(b) PROHIBITION.—The authority provided by section 1502 may be used to reorganize functions or organizational units within the Bureau of Border Security or the Bureau of Citizenship and Immigration Services, but may not be used to recombine the two bureaus into a single agency or otherwise to combine, join, or consolidate functions or organizational units of the two bureaus with each other.

SEC. 472. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who—

(A) has completed at least 3 years of current continuous service with 1 or more covered entities; and

(B) is serving under an appointment without time limitation;

but does not include any person under subparagraphs (A)–(G) of section 663(a)(2) of Public Law 104–208 (5 U.S.C. 5597 note);

(2) the term "covered entity" means—

(A) the Immigration and Naturalization Service;

(B) the Bureau of Border Security of the Department of Homeland Security; and

(C) the Bureau of Citizenship and Immigration Services of the Department of Homeland Security; and

(3) the term "transfer date" means the date on which the transfer of functions specified under section 441 takes effect.

(b) STRATEGIC RESTRUCTURING PLAN.—Before the Attorney General or the Secretary obligates any resources for voluntary separation incentive payments under this section, such official shall submit to the appropriate committees of Congress a strategic restructuring plan, which shall include—

(1) an organizational chart depicting the covered entities after their restructuring pursuant to this Act;

(2) a summary description of how the authority under this section will be used to help carry out that restructuring; and

(3) the information specified in section 663(b)(2) of Public Law 104–208 (5 U.S.C. 5597 note).

As used in the preceding sentence, the "appropriate committees of Congress" are the Committees on Appropriations, Government Reform, and the Judiciary of the House of Representatives, and the Committees on Appropriations, Governmental Affairs, and the Judiciary of the Senate.

(c) AUTHORITY.—The Attorney General and the Secretary may, to the extent necessary to help carry out their respective strategic restructuring plan described in subsection (b), make voluntary separation incentive payments to employees. Any such payment—

(1) shall be paid to the employee, in a lump sum, after the employee has separated from service;

(2) shall be paid from appropriations or funds available for the payment of basic pay of the employee;

(3) shall be equal to the lesser of—

(A) the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(B) an amount not to exceed $25,000, as determined by the Attorney General or the Secretary;

(4) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before the end of—

(A) the 3-month period beginning on the date on which such payment is offered or made available to such employee; or

(B) the 3-year period beginning on the date of the enactment of this Act,

whichever occurs first;

(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any payments which it is otherwise required to make, the Department of Justice and the Department of Homeland Security shall, for each fiscal year with respect to which it makes any voluntary separation incentive payments under this section, remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund the amount required under paragraph (2).

(2) AMOUNT REQUIRED.—The amount required under this paragraph shall, for any fiscal year, be the amount under subparagraph (A) or (B), whichever is greater.

(A) FIRST METHOD.—The amount under this subparagraph shall, for any fiscal year, be equal to the minimum amount necessary to offset the additional costs to the retirement systems under title 5, United States Code (payable out of the Civil Service Retirement and Disability Fund) resulting from the voluntary separation of the employees described in paragraph (3), as determined under regulations of the Office of Personnel Management.

(B) SECOND METHOD.—The amount under this subparagraph shall, for any fiscal year, be equal to 45 percent of the sum total of the final basic pay of the employees described in paragraph (3).

(3) COMPUTATIONS TO BE BASED ON SEPARATIONS OCCURRING IN THE FISCAL YEAR INVOLVED.—The employees described in this paragraph are those employees who receive a voluntary separation incentive payment under this section based on their separating from service during the fiscal year with respect to which the payment under this subsection relates.

(4) FINAL BASIC PAY DEFINED.—In this subsection, the term "final basic pay" means, with respect to an employee, the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who receives a voluntary separation incentive payment under this section and who, within 5 years after the date of the separation on which the payment is based, accepts any compensated employment with the Government or works for any agency of the Government through a personal services contract, shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment. Such payment shall be made to the covered entity from which the individual separated or, if made on or after the transfer date, to the Deputy Secretary or the Under Secretary for Border and Transportation Security (for transfer to the appropriate component of the Department of Homeland Security, if necessary).

(f) EFFECT ON EMPLOYMENT LEVELS.—

(1) INTENDED EFFECT.—Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in any covered entity.

(2) USE OF VOLUNTARY SEPARATIONS.—A covered entity may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

SEC. 473. AUTHORITY TO CONDUCT A DEMONSTRATION PROJECT RELATING TO DISCIPLINARY ACTION.

(a) IN GENERAL.—The Attorney General and the Secretary may each, during a period ending not later than 5 years after the date of the enactment of this Act, conduct a demonstration project for the purpose of determining whether one or more changes in the policies or procedures relating to methods for disciplining employees would result in improved personnel management.

(b) SCOPE.—A demonstration project under this section—

(1) may not cover any employees apart from those employed in or under a covered entity; and

(2) shall not be limited by any provision of chapter 43, 75, or 77 of title 5, United States Code.

(c) PROCEDURES.—Under the demonstration project—

(1) the use of alternative means of dispute resolution (as defined in section 571 of title 5, United States Code) shall be encouraged, whenever appropriate; and

(2) each covered entity under the jurisdiction of the official conducting the project shall be required to provide for the expeditious, fair, and independent review of any action to which section 4303 or subchapter II of chapter 75 of such title 5 would otherwise apply (except an action described in section 7512(5) of such title 5).

(d) ACTIONS INVOLVING DISCRIMINATION.—Notwithstanding any other provision of this section, if, in the case of any matter described in section 7702(a)(1)(B) of title 5, United States Code, there is no judicially reviewable action under the demonstration project within 120 days after the filing of an appeal or other formal request for review (referred to in subsection (c)(2)), an employee shall be entitled to file a civil action to the same extent and in the same manner as provided in section 7702(e)(1) of such title 5 (in the matter following subparagraph (C) thereof).

(e) CERTAIN EMPLOYEES.—Employees shall not be included within any project under this section if such employees are—

(1) neither managers nor supervisors; and

(2) within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code.

Notwithstanding the preceding sentence, an aggrieved employee within a unit (referred to in paragraph (2)) may elect to participate in a complaint procedure developed under the demonstration project in lieu of any negotiated grievance procedure and any statutory procedure (as such term is used in section 7121 of such title 5).

(f) REPORTS.—The General Accounting Office shall prepare and submit to the Committees on Government Reform and the Judiciary of the House of Representatives and the Committees on Governmental Affairs and the Judiciary of the Senate periodic reports on any demonstration project conducted under this section, such reports to be submitted after the second and fourth years of its operation. Upon request, the Attorney General or the Secretary shall furnish such information as the General Accounting Office may require to carry out this subsection.

(g) DEFINITION.—In this section, the term "covered entity" has the meaning given such term in section 472(a)(2).

SEC. 474. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the missions of the Bureau of Border Security and the Bureau of Citizenship and Immigration Services are equally important and, accordingly, they each should be adequately funded; and

(2) the functions transferred under this subtitle should not, after such transfers take effect, operate at levels below those in effect prior to the enactment of this Act.

SEC. 475. DIRECTOR OF SHARED SERVICES.

(a) IN GENERAL.—Within the Office of Deputy Secretary, there shall be a Director of Shared Services.

(b) FUNCTIONS.—The Director of Shared Services shall be responsible for the coordination of resources for the Bureau of Border Security and the Bureau of Citizenship and Immigration Services, including—

(1) information resources management, including computer databases and information technology;

(2) records and file management; and

(3) forms management.

SEC. 476. SEPARATION OF FUNDING.

(a) IN GENERAL.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other deposits available for the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(b) SEPARATE BUDGETS.—To ensure that the Bureau of Citizenship and Immigration Services and the Bureau of Border Security are funded to the extent necessary to fully carry out their respective functions, the Director of the Office of Management and Budget shall separate the budget requests for each such entity.

(c) FEES.—Fees imposed for a particular service, application, or benefit shall be deposited into the account established under subsection (a) that is for the bureau with jurisdiction over the function to which the fee relates.

(d) FEES NOT TRANSFERABLE.—No fee may be transferred between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security for purposes not authorized by section 286 of the Immigration and Nationality Act (8 U.S.C. 1356).

SEC. 477. REPORTS AND IMPLEMENTATION PLANS.

(a) DIVISION OF FUNDS.—The Secretary, not later than 120 days after the effective date of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report on the proposed division and transfer of funds, including unexpended funds, appropriations, and fees, between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(b) DIVISION OF PERSONNEL.—The Secretary, not later than 120 days after the effective date of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report on the proposed division of personnel between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(c) IMPLEMENTATION PLAN.—

(1) IN GENERAL.—The Secretary, not later than 120 days after the effective date of this Act, and every 6 months thereafter until the termination of fiscal year 2005, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate an implementation plan to carry out this Act.

(2) CONTENTS.—The implementation plan should include details concerning the separation of the Bureau of Citizenship and Immigration Services and the Bureau of Border Security, including the following:

(A) Organizational structure, including the field structure.

(B) Chain of command.

(C) Procedures for interaction among such bureaus.

(D) Fraud detection and investigation.

(E) The processing and handling of removal proceedings, including expedited removal and applications for relief from removal.

(F) Recommendations for conforming amendments to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(G) Establishment of a transition team.

(H) Methods to phase in the costs of separating the administrative support systems of the Immigration and Naturalization Service in order to provide for separate administrative support systems for the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(d) COMPTROLLER GENERAL STUDIES AND REPORTS.—

(1) STATUS REPORTS ON TRANSITION.—Not later than 18 months after the date on which the transfer of functions specified under section 441 takes effect, and every 6 months thereafter, until full implementation of this subtitle has been completed, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the House of Representatives and the Senate a report containing the following:

(A) A determination of whether the transfers of functions made by subtitles D and E have been completed, and if a transfer of functions has not taken place, identifying the reasons why the transfer has not taken place.

(B) If the transfers of functions made by subtitles D and E have been completed, an identification of any issues that have arisen due to the completed transfers.

(C) An identification of any issues that may arise due to any future transfer of functions.

(2) REPORT ON MANAGEMENT.—Not later than 4 years after the date on which the transfer of functions specified under section 441 takes effect, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the House of Representatives and the Senate a report, following a study, containing the following:

(A) Determinations of whether the transfer of functions from the Immigration and Naturalization Service to the Bureau of Citizenship and Immigration Services and the Bureau of Border Security have improved, with respect to each function transferred, the following:

(i) Operations.

(ii) Management, including accountability and communication.

(iii) Financial administration.

(iv) Recordkeeping, including information management and technology.

(B) A statement of the reasons for the determinations under subparagraph (A).

(C) Any recommendations for further improvements to the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(3) REPORT ON FEES.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report examining whether the Bureau of Citizenship and Immigration Services is likely to derive sufficient funds from fees to carry out its functions in the absence of appropriated funds.

SEC. 478. IMMIGRATION FUNCTIONS.

(a) ANNUAL REPORT.—

(1) IN GENERAL.—One year after the date of the enactment of this Act, and each year thereafter, the Secretary shall submit a report to the President, to the Committees on the Judiciary and Government Reform of the House of Representatives, and to the Committees on the Judiciary and Government Affairs of the Senate, on the impact the transfers made by this subtitle has had on immigration functions.

(2) MATTER INCLUDED.—The report shall address the following with respect to the period covered by the report:

(A) The aggregate number of all immigration applications and petitions received, and processed, by the Department;

(B) Region-by-region statistics on the aggregate number of immigration applications and petitions filed by an alien (or filed on behalf of an alien) and denied, disaggregated by category of denial and application or petition type.

(C) The quantity of backlogged immigration applications and petitions that have been processed, the aggregate number awaiting processing, and a detailed plan for eliminating the backlog.

(D) The average processing period for immigration applications and petitions, disaggregated by application or petition type.

(E) The number and types of immigration-related grievances filed with any official of the Department of Justice, and if those grievances were resolved.

(F) Plans to address grievances and improve immigration services.

(G) Whether immigration-related fees were used consistent with legal requirements regarding such use.

(H) Whether immigration-related questions conveyed by customers to the Department (whether conveyed in person, by telephone, or by means of the Internet) were answered effectively and efficiently.

(b) SENSE OF CONGRESS REGARDING IMMIGRATION SERVICES.—It is the sense of Congress that—

(1) the quality and efficiency of immigration services rendered by the Federal Government should be improved after the transfers made by this subtitle take effect; and

(2) the Secretary should undertake efforts to guarantee that concerns regarding the quality and efficiency of immigration services are addressed after such effective date.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.

There shall be in the Department a Directorate of Emergency Preparedness and Response headed by an Under Secretary for Emergency Preparedness and Response.

SEC. 502. RESPONSIBILITIES.

The Secretary, acting through the Under Secretary for Emergency Preparedness and Response, shall include—

(1) helping to ensure the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this title)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

(3) providing the Federal Government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the Strategic National Stockpile, the National Disaster Medical System, and (when operating as an organizational unit of the Department pursuant to this title) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources in the event of a terrorist attack or major disaster;

(4) aiding the recovery from terrorist attacks and major disasters;

(5) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;

(6) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan; and

(7) developing comprehensive programs for developing interoperative communications technology, and helping to ensure that emergency response providers acquire such technology.

SEC. 503. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto.

(2) The Integrated Hazard Information System of the National Oceanic and Atmospheric Administration, which shall be renamed "FIRESAT".

(3) The National Domestic Preparedness Office of the Federal Bureau of Investigation, including the functions of the Attorney General relating thereto.

(4) The Domestic Emergency Support Teams of the Department of Justice, including the functions of the Attorney General relating thereto.

(5) The Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness relating thereto.

(6) The Strategic National Stockpile of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.

SEC. 504. NUCLEAR INCIDENT RESPONSE.

(a) IN GENERAL.—At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency in the United States), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this title) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

SEC. 505. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) IN GENERAL.—With respect to all public health-related activities to improve State, local, and hospital preparedness and response to chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities and preparedness goals and further develop a coordinated strategy for such activities in collaboration with the Secretary.

(b) EVALUATION OF PROGRESS.—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

SEC. 506. DEFINITION.

In this title, the term "Nuclear Incident Response Team" means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and

(2) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions.

SEC. 507. ROLE OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) IN GENERAL.—The functions of the Federal Emergency Management Agency include the following:

(1) All functions and authorities prescribed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Carrying out its mission to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a comprehensive, risk-based emergency management program—

(A) of mitigation, by taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects;

(B) of planning for building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) of response, by conducting emergency operations to save lives and property through positioning emergency equipment and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services;

(D) of recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards; and

(E) of increased efficiencies, by coordinating efforts relating to mitigation, planning, response, and recovery.

(b) FEDERAL RESPONSE PLAN.—

(1) ROLE OF FEMA.—Notwithstanding any other provision of this Act, the Federal Emergency Management Agency shall remain the lead agency for the Federal Response Plan established under Executive Order 12148 (44 Fed. Reg. 43239) and Executive Order 12656 (53 Fed. Reg. 47491).

(2) REVISION OF RESPONSE PLAN.—Not later than 60 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall revise the Federal Response Plan to reflect the establishment of and incorporate the Department.

SEC. 508. USE OF NATIONAL PRIVATE SECTOR NETWORKS IN EMERGENCY RESPONSE.

To the maximum extent practicable, the Secretary shall use national private sector networks and infrastructure for emergency response to chemical, biological, radiological, nuclear, or explosive disasters, and other major disasters.

SEC. 509. USE OF COMMERCIALLY AVAILABLE TECHNOLOGY, GOODS, AND SERVICES.

It is the sense of Congress that—

(1) the Secretary should, to the maximum extent possible, use off-the-shelf commercially developed technologies to ensure that the Department's information technology systems allow the Department to collect, manage, share, analyze, and disseminate information securely over multiple channels of communication; and

(2) in order to further the policy of the United States to avoid competing commercially with the private sector, the Secretary should rely on commercial sources to supply the goods and services needed by the Department.

TITLE VI—TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS

SEC. 601. TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS.

(a) FINDINGS.—Congress finds the following:

(1) Members of the Armed Forces of the United States defend the freedom and security of our Nation.

(2) Members of the Armed Forces of the United States have lost their lives while battling the evils of terrorism around the world.

(3) Personnel of the Central Intelligence Agency (CIA) charged with the responsibility of covert observation of terrorists around the world are often put in harm's way during their service to the United States.

(4) Personnel of the Central Intelligence Agency have also lost their lives while battling the evils of terrorism around the world.

(5) Employees of the Federal Bureau of Investigation (FBI) and other Federal agencies charged with domestic protection of the United States put their lives at risk on a daily basis for the freedom and security of our Nation.

(6) United States military personnel, CIA personnel, FBI personnel, and other Federal agents in the service of the United States are patriots of the highest order.

(7) CIA officer Johnny Micheal Spann became the first American to give his life for his country in the War on Terrorism declared by President George W. Bush following the terrorist attacks of September 11, 2001.

(8) Johnny Micheal Spann left behind a wife and children who are very proud of the heroic actions of their patriot father.

(9) Surviving dependents of members of the Armed Forces of the United States who lose their lives as a result of terrorist attacks or military operations abroad receive a **$6,000** death benefit, plus a small monthly benefit.

(10) The current system of compensating spouses and children of American patriots is inequitable and needs improvement.

(b) DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Any charitable corporation, fund, foundation, or trust (or separate fund or account thereof) which otherwise meets all applicable requirements under law with respect to charitable entities and meets the requirements described in subsection (c) shall be eligible to characterize itself as a "Johnny Micheal Spann Patriot Trust".

(c) REQUIREMENTS FOR THE DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—The requirements described in this subsection are as follows:

(1) Not taking into account funds or donations reasonably necessary to establish a trust, at least 85 percent of all funds or donations (including any earnings on the investment of such funds or donations) received or collected by any Johnny Micheal Spann Patriot Trust must be distributed to (or, if placed in a private foundation, held in trust for) surviving spouses, children, or dependent parents, grandparents, or siblings of 1 or more of the following:

(A) members of the Armed Forces of the United States;

(B) personnel, including contractors, of elements of the intelligence community, as defined in section 3(4) of the National Security Act of 1947;

(C) employees of the Federal Bureau of Investigation; and

(D) officers, employees, or contract employees of the United States Government,

whose deaths occur in the line of duty and arise out of terrorist attacks, military operations, intelligence operations, or law enforcement operations or accidents connected with activities occurring after September 11, 2001, and related to domestic or foreign efforts to curb international terrorism, including the Authorization for Use of Military Force (Public Law 107-40; 115 Stat. 224).

(2) Other than funds or donations reasonably necessary to establish a trust, not more than 15 percent of all funds or donations (or 15 percent of annual earnings on funds invested in a private foundation) may be used for administrative purposes.

(3) No part of the net earnings of any Johnny Micheal Spann Patriot Trust may inure to the benefit of any individual based solely on the position of such individual as a shareholder, an officer or employee of such Trust.

(4) None of the activities of any Johnny Micheal Spann Patriot Trust shall be conducted in a manner inconsistent with any law that prohibits attempting to influence legislation.

(5) No Johnny Micheal Spann Patriot Trust may participate in or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, including by publication or distribution of statements.

(6) Each Johnny Micheal Spann Patriot Trust shall comply with the instructions and directions of the Director of Central Intelligence, the Attorney General, or the Secretary of Defense relating to the protection of intelligence sources and methods, sensitive law enforcement information, or other sensitive national security information, including methods for confidentially disbursing funds.

(7) Each Johnny Micheal Spann Patriot Trust that receives annual contributions totaling more than **$1,000,000** must be audited annually by an independent certified public accounting firm. Such audits shall be filed with the Internal Revenue Service, and shall be open to public inspection, except that the conduct, filing, and availability of the audit shall be consistent with the protection of intelligence sources and methods, of sensitive law enforcement information, and of other sensitive national security information.

(8) Each Johnny Micheal Spann Patriot Trust shall make distributions to beneficiaries described in paragraph (1) at least once every calendar year, beginning not later than 12 months after the formation of such Trust, and all funds and donations received and earnings not placed in a private foundation dedicated to such beneficiaries must be distributed within 36 months after the end of the fiscal year in which such funds, donations, and earnings are received.

(9)(A) When determining the amount of a distribution to any beneficiary described in paragraph (1), a Johnny Micheal Spann Patriot Trust should take into account the amount of any collateral source compensation that the beneficiary has received or is entitled to receive as a result of the death of an individual described in paragraph (1).

(B) Collateral source compensation includes all compensation from collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the death of an individual described in paragraph (1).

(d) TREATMENT OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Each Johnny Micheal Spann Patriot Trust shall refrain from conducting the activities described in clauses (i) and (ii) of section 301(20)(A) of the Federal Election Campaign Act of 1971 so that a general solicitation of funds by an individual described in paragraph (1) of section 323(e) of such Act will be permissible if such solicitation meets the requirements of paragraph (4)(A) of such section.

(e) NOTIFICATION OF TRUST BENEFICIARIES.—Notwithstanding any other provision of law, and in a manner consistent with the protection of intelligence sources and methods and sensitive law enforcement information, and other sensitive national security information, the Secretary of Defense, the Director of the Federal Bureau of Investigation, or the Director of Central Intelligence, or their designees, as applicable, may forward information received from an executor, administrator, or other legal representative of the estate of a decedent described in subparagraph (A), (B), (C), or (D) of subsection (c)(1), to a Johnny Micheal Spann Patriot Trust on how to contact individuals eligible for a distribution under subsection (c)(1) for the purpose of providing assistance from such Trust; provided that, neither forwarding nor failing to forward any information under this subsection shall create any cause of action against any Federal department, agency, officer, agent, or employee.

(f) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense, in coordination with the Attorney General, the Director of the Federal Bureau of Investigation, and the Director of Central Intelligence, shall prescribe regulations to carry out this section.

TITLE VII—MANAGEMENT

SEC. 701. UNDER SECRETARY FOR MANAGEMENT.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Management, shall be responsible for the management and administration of the Department, including the following:

(1) The budget, appropriations, expenditures of funds, accounting, and finance.

(2) Procurement.

(3) Human resources and personnel.

(4) Information technology and communications systems.

(5) Facilities, property, equipment, and other material resources.

(6) Security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources.

(7) Identification and tracking of performance measures relating to the responsibilities of the Department.

(8) Grants and other assistance management programs.

(9) The transition and reorganization process, to ensure an efficient and orderly transfer of functions and personnel to the Department, including the development of a transition plan.

(10) The conduct of internal audits and management analyses of the programs and activities of the Department.

(11) Any other management duties that the Secretary may designate.

(b) IMMIGRATION.—

(1) IN GENERAL.—In addition to the responsibilities described in subsection (a), the Under Secretary for Management shall be responsible for the following:

(A) Maintenance of all immigration statistical information of the Bureau of Border Security and the Bureau of Citizenship and Immigration Services. Such statistical information shall include information and statistics of the type contained in the publication entitled "Statistical Yearbook of the Immigration and Naturalization Service" prepared by the Immigration and Naturalization Service (as in effect immediately before the date on which the transfer of functions specified under section 441 takes effect), including region-by-region statistics on the aggregate number of applications and petitions filed by an alien (or filed on behalf of an alien) and denied by such bureau, and the reasons for such denials, disaggregated by category of denial and application or petition type.

(B) Establishment of standards of reliability and validity for immigration statistics collected by such bureaus.

(2) TRANSFER OF FUNCTIONS.—In accordance with title XV, there shall be transferred to the Under Secretary for Management all functions performed immediately before such transfer occurs by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service with respect to the following programs:

(A) The Border Patrol program.

(B) The detention and removal program.

(C) The intelligence program.

(D) The investigations program.

(E) The inspections program.

(F) Adjudication of immigrant visa petitions.

(G) Adjudication of naturalization petitions.

(H) Adjudication of asylum and refugee applications.

(I) Adjudications performed at service centers.

(J) All other adjudications performed by the Immigration and Naturalization Service.

SEC. 702. CHIEF FINANCIAL OFFICER.

The Chief Financial Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 703. CHIEF INFORMATION OFFICER.

The Chief Information Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 704. CHIEF HUMAN CAPITAL OFFICER.

The Chief Human Capital Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct and shall ensure that all employees of the Department are informed of their rights and remedies under chapters 12 and 23 of title 5, United States Code, by—

(1) participating in the 2302(c) Certification Program of the Office of Special Counsel;

(2) achieving certification from the Office of Special Counsel of the Department's compliance with section 2302(c) of title 5, United States Code; and

(3) informing Congress of such certification not later than 24 months after the date of enactment of this Act.

SEC. 705. ESTABLISHMENT OF OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.

(a) IN GENERAL.—The Secretary shall appoint in the Department an Officer for Civil Rights and Civil Liberties, who shall—

(1) review and assess information alleging abuses of civil rights, civil liberties, and racial and ethnic profiling by employees and officials of the Department; and

(2) make public through the Internet, radio, television, or newspaper advertisements information on the responsibilities and functions of, and how to contact, the Officer.

(b) REPORT.—The Secretary shall submit to the President of the Senate, the Speaker of the House of Representatives, and the appropriate committees and subcommittees of Congress on an annual basis a report on the implementation of this section, including the use of funds appropriated to carry out this section, and detailing any allegations of abuses described under subsection (a)(1) and any actions taken by the Department in response to such allegations.

SEC. 706. CONSOLIDATION AND CO-LOCATION OF OFFICES.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop and submit to Congress a plan for consolidating and co-locating—

(1) any regional offices or field offices of agencies that are transferred to the Department under this Act, if such officers are located in the same municipality; and

(2) portions of regional and field offices of other Federal agencies, to the extent such offices perform functions that are transferred to the Secretary under this Act.

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

SEC. 801. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to oversee and coordinate departmental programs for and relationships with State and local governments.

(b) RESPONSIBILITIES.—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland; and

(4) develop a process for receiving meaningful input from State and local government to assist the development of the national strategy for combating terrorism and other homeland security activities.

Subtitle B—Inspector General

SEC. 811. AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—Notwithstanding the last two sentences of section 3(a) of the Inspector General Act of 1978, the Inspector General shall be under the authority, direction, and control of the Secretary with respect to audits or investigations, or the issuance of subpoenas, that require access to sensitive information concerning—

(1) intelligence, counterintelligence, or counterterrorism matters;

(2) ongoing criminal investigations or proceedings;

(3) undercover operations;

(4) the identity of confidential sources, including protected witnesses;

(5) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3 of such Code, or any provision of the Presidential Protection Assistance Act of 1976; or

(6) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to national security.

(b) PROHIBITION OF CERTAIN INVESTIGATIONS.—With respect to the information described in subsection (a), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described in subsection (a), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

(c) NOTIFICATION REQUIRED.—If the Secretary exercises any power under subsection (a) or (b), the Secretary shall notify the Inspector General of the Department in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice and a written response thereto that includes—

(1) a statement as to whether the Inspector General agrees or disagrees with such exercise; and

(2) the reasons for any disagreement, to the President of the Senate and the Speaker of the House of Representatives and to appropriate committees and subcommittees of Congress.

(d) ACCESS TO INFORMATION BY CONGRESS.—The exercise of authority by the Secretary described in subsection (b) should not be construed as limiting the right of Congress or any committee of Congress to access any information it seeks.

(e) OVERSIGHT RESPONSIBILITY—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 8I the following:

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8J. Notwithstanding any other provision of law, in carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Homeland Security shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the United States Customs Service and the Office of Inspections of the United States Secret Service. The head of each such office shall promptly report to the Inspector General the significant activities being carried out by such office.".

SEC. 812. LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS.

(a) IN GENERAL.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(e)(1) In addition to the authority otherwise provided by this Act, each Inspector General appointed under section 3, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

"(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

"(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

"(C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

"(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

"(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

"(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

"(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

"(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

"(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

"(5)(A) Powers authorized for an Office of Inspector General under paragraph (1) may be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

"(B) Powers authorized to be exercised by any individual under paragraph (1) may be rescinded or suspended with respect to that individual upon a determination by the Attorney General that such individual has not complied with guidelines promulgated by the Attorney General under paragraph (4).

"(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

"(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

"(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.".

(b) PROMULGATION OF INITIAL GUIDELINES.—

(1) DEFINITION.—In this subsection, the term "memoranda of understanding" means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) that—

(A) are in effect on the date of enactment of this Act; and

(B) authorize such offices to exercise authority that is the same or similar to the authority under section 6(e)(1) of such Act.

(2) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(3) MINIMUM REQUIREMENTS.—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) NO LAPSE OF AUTHORITY.—The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

(2) INITIAL GUIDELINES.—Subsection (b) shall take effect on the date of enactment of this Act.

Subtitle C—United States Secret Service

SEC. 821. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and obligations of the United States Secret Service, which shall be maintained as a distinct entity within the Department, including the functions of the Secretary of the Treasury relating thereto.

Subtitle D—Acquisitions

SEC. 831. RESEARCH AND DEVELOPMENT PROJECTS.

(a) AUTHORITY.—During the 5-year period following the effective date of this Act, the Secretary may carry out a pilot program under which the Secretary may exercise the following authorities:

(1) IN GENERAL.—When the Secretary carries out basic, applied, and advanced research and development projects, including the expenditure of funds for such projects, the Secretary may exercise the same authority (subject to the same limitations and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f)), after making a determination that the use of a contract, grant, or cooperative agreement for such project is not feasible or appropriate. The annual report required under subsection (b) of this section, as applied to the Secretary by this paragraph, shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

(2) PROTOTYPE PROJECTS.—The Secretary may, under the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160). In applying the authorities of that section 845, subsection (c) of that section shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) thereof.

(b) REPORT.—Not later than 2 years after the effective date of this Act, and annually thereafter, the Comptroller General shall report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate on—

(1) whether use of the authorities described in subsection (a) attracts nontraditional Government contractors and results in the acquisition of needed technologies; and

(2) if such authorities were to be made permanent, whether additional safeguards are needed with respect to the use of such authorities.

(c) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Secretary may—

(1) procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5, United States Code; and

(2) whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

(d) DEFINITION OF NONTRADITIONAL GOVERNMENT CONTRACTOR.—In this section, the term "nontraditional Government contractor" has the same meaning as the term "nontraditional defense contractor" as defined in section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note).

SEC. 832. PERSONAL SERVICES.

The Secretary—

(1) may procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109 of title 5, United States Code; and

(2) may, whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 833. SPECIAL STREAMLINED ACQUISITION AUTHORITY.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may use the authorities set forth in this section with respect to any procurement made during the period beginning on the effective date of this Act and ending September 30, 2007, if the Secretary determines in writing that the mission of the Department (as described in section 101) would be seriously impaired without the use of such authorities.

(2) DELEGATION.—The authority to make the determination described in paragraph (1) may not be delegated by the Secretary to an officer of the Department who is not appointed by the President with the advice and consent of the Senate.

(3) NOTIFICATION.—Not later than the date that is 7 days after the date of any determination under paragraph (1), the Secretary shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate—

(A) notification of such determination; and

(B) the justification for such determination.

(b) INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.—

(1) IN GENERAL.—The Secretary may designate certain employees of the Department to make procurements described in subsection (a) for which in the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $7,500.

(2) NUMBER OF EMPLOYEES.—The number of employees designated under paragraph (1) shall be—

(A) fewer than the number of employees of the Department who are authorized to make purchases without obtaining competitive quotations, pursuant to section 32(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(c));

(B) sufficient to ensure the geographic dispersal of the availability of the use of the procurement authority under such paragraph at locations reasonably considered to be potential terrorist targets; and

(C) sufficiently limited to allow for the careful monitoring of employees designated under such paragraph.

(3) REVIEW.—Procurements made under the authority of this subsection shall be subject to review by a designated supervisor on not less than a monthly basis. The supervisor responsible for the review shall be responsible for no more than 7 employees making procurements under this subsection.

(c) SIMPLIFIED ACQUISITION PROCEDURES.—

(1) IN GENERAL.—With respect to a procurement described in subsection (a), the Secretary may deem the simplified acquisition threshold referred to in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) to be—

(A) in the case of a contract to be awarded and performed, or purchase to be made, within the United States, $200,000; and

(B) in the case of a contract to be awarded and performed, or purchase to be made, outside of the United States, $300,000.

(2) CONFORMING AMENDMENTS.—Section 18(c)(1) of the Office of Federal Procurement Policy Act is amended—

(A) by striking "or" at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting "; or"; and

(C) by adding at the end the following:

"(H) the procurement is by the Secretary of Homeland Security pursuant to the special procedures provided in section 833(c) of the Homeland Security Act of 2002.".

(d) APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES.—

(1) IN GENERAL.—With respect to a procurement described in subsection (a), the Secretary may deem any item or service to be a commercial item for the purpose of Federal procurement laws.

(2) LIMITATION.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)) and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall be deemed to be $7,500,000 for purposes of property or services under the authority of this subsection.

(3) CERTAIN AUTHORITY.—Authority under a provision of law referred to in paragraph (2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for a procurement described in subsection (a).

(e) REPORT.—Not later than 180 days after the end of fiscal year 2005, the Comptroller General shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on the use of the authorities provided in this section. The report shall contain the following:

(1) An assessment of the extent to which property and services acquired using authorities provided under this section contributed to the capacity of the Federal workforce to facilitate the mission of the Department as described in section 101.

(2) An assessment of the extent to which prices for property and services acquired using authorities provided under this section reflected the best value.

(3) The number of employees designated by each executive agency under subsection (b)(1).

(4) An assessment of the extent to which the Department has implemented subsections (b)(2) and (b)(3) to monitor the use of procurement authority by employees designated under subsection (b)(1).

(5) Any recommendations of the Comptroller General for improving the effectiveness of the implementation of the provisions of this section.

SEC. 834. UNSOLICITED PROPOSALS.

(a) REGULATIONS REQUIRED.—Within 1 year of the date of enactment of this Act, the Federal Acquisition Regulation shall be revised to include regulations with regard to unsolicited proposals.

(b) CONTENT OF REGULATIONS.—The regulations prescribed under subsection (a) shall require that before initiating a comprehensive evaluation, an agency contact point shall consider, among other factors, that the proposal—

(1) is not submitted in response to a previously published agency requirement; and

(2) contains technical and cost information for evaluation and overall scientific, technical or socioeconomic merit, or cost-related or price-related factors.

SEC. 835. PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b).

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity completes after the date of enactment of this Act, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) DEFINITIONS AND SPECIAL RULES.—

(1) RULES FOR APPLICATION OF SUBSECTION (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity; or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is after the date of enactment of this Act and which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all domestic partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as 1 partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary to—

(i) treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock; and

(ii) treat stock as not stock.

(2) EXPANDED AFFILIATED GROUP.—The term "expanded affiliated group" means an affiliated group as defined in section 1504(a) of the

Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504 of such Code shall be applied by substituting “more than 50 percent” for “at least 80 percent” each place it appears.

(3) FOREIGN INCORPORATED ENTITY.—The term “foreign incorporated entity” means any entity which is, or but for subsection (b) would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) OTHER DEFINITIONS.—The terms “person”, “domestic”, and “foreign” have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701 (a) of the Internal Revenue Code of 1986, respectively.

(d) WAIVERS.—The Secretary shall waive subsection (a) with respect to any specific contract if the Secretary determines that the waiver is required in the interest of homeland security, or to prevent the loss of any jobs in the United States or prevent the Government from incurring any additional costs that otherwise would not occur.

Subtitle E—Human Resources Management

SEC. 841. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) AUTHORITY.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

“CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

“Sec.

“9701. Establishment of human resources management system.

“§9701. Establishment of human resources management system

“(a) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security.

“(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

“(1) be flexible;

“(2) be contemporary;

“(3) not waive, modify, or otherwise affect—

“(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

“(B) any provision of section 2302, relating to prohibited personnel practices;

“(C)(i) any provision of law referred to in section 2302(b)(1), (8), and (9); or

“(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1), (8), and (9) by—

“(I) providing for equal employment opportunity through affirmative action; or

“(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

“(D) any other provision of this part (as described in subsection (c)); or

“(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

“(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

“(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

“(c) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

“(1) subparts A, B, E, G, and H of this part; and

“(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, and 79, and this chapter.

“(d) LIMITATIONS RELATING TO PAY.—Nothing in this section shall constitute authority—

“(1) to modify the pay of any employee who serves in—

“(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

“(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

“(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

“(3) to exempt any employee from the application of such section 5307.

“(e) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—

“(1) IN GENERAL.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the participation of employee representatives in the planning, development, and implementation of any human resources management system or adjustments to such system under this section, the Secretary of Homeland Security and the Director of the Office of Personnel Management shall provide for the following:

“(A) NOTICE OF PROPOSAL.—The Secretary and the Director shall, with respect to any proposed system or adjustment—

“(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

“(ii) give each representative 30 calendar days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

“(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

“(B) PRE-IMPLEMENTATION CONGRESSIONAL NOTIFICATION, CONSULTATION, AND MEDIATION.—Following receipt of recommendations, if any, from employee representatives with respect to a proposal described in subparagraph (A), the Secretary and the Director shall accept such modifications to the proposal in response to the recommendations as they determine advisable and shall, with respect to any parts of the proposal as to which they have not accepted the recommendations—

“(i) notify Congress of those parts of the proposal, together with the recommendations of employee representatives;

“(ii) meet and confer for not less than 30 calendar days with any representatives who have made recommendations, in order to attempt to reach agreement on whether or how to proceed with those parts of the proposal; and

“(iii) at the Secretary's option, or if requested by a majority of the employee representatives who have made recommendations, use the services of the Federal Mediation and Conciliation Service during such meet and confer period to facilitate the process of attempting to reach agreement.

“(C) IMPLEMENTATION.—

“(i) Any part of the proposal as to which the representatives do not make a recommendation, or as to which their recommendations are accepted by the Secretary and the Director, may be implemented immediately.

“(ii) With respect to any parts of the proposal as to which recommendations have been made but not accepted by the Secretary and the Director, at any time after 30 calendar days have elapsed since the initiation of the congressional notification, consultation, and mediation procedures set forth in subparagraph (B), if the Secretary determines, in the Secretary's sole and unreviewable discretion, that further consultation and mediation is unlikely to produce agreement, the Secretary may implement any or all of such parts, including any modifications made in response to the recommendations as the Secretary determines advisable.

“(iii) The Secretary shall promptly notify Congress of the implementation of any part of the proposal and shall furnish with such notice an explanation of the proposal, any changes made to the proposal as a result of recommendations from employee representatives, and of the reasons why implementation is appropriate under this subparagraph.

“(D) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

“(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

“(ii) give each employee representative adequate access to information to make that participation productive.

“(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly as internal rules of departmental procedure which shall not be subject to review. Such procedures shall include measures to ensure—

“(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

“(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection;

"(C) the fair and expeditious handling of the consultation and mediation process described in subparagraph (B) of paragraph (1), including procedures by which, if the number of employee representatives providing recommendations exceeds 5, such representatives select a committee or other unified representative with which the Secretary and Director may meet and confer; and

"(D) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

"(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

"(i) should ensure that employees of the Department are afforded the protections of due process; and

"(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

"(A) shall be issued only after consultation with the Merit Systems Protection Board;

"(B) shall ensure the availability of procedures which shall—

"(i) be consistent with requirements of due process; and

"(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) PROVISIONS RELATING TO LABOR-MANAGEMENT RELATIONS.—Nothing in this section shall be construed as conferring authority on the Secretary of Homeland Security to modify any of the provisions of section 842 of the Homeland Security Act of 2002.

"(h) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 1501 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.".

(3) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) EFFECT ON PERSONNEL.—

(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS.—Except as otherwise provided in this Act, the transfer under this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Department.

(2) POSITIONS COMPENSATED IN ACCORDANCE WITH EXECUTIVE SCHEDULE.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 842. LABOR-MANAGEMENT RELATIONS.

(a) LIMITATION ON EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of such title 5; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—

(1) LIMITATION RELATING TO APPROPRIATE UNITS.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) LIMITATION RELATING TO POSITIONS OR EMPLOYEES.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of such title 5, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employees first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) WAIVER.—If the President determines that the application of subsections (a), (b), and (d) would have a substantial adverse impact on the ability of the Department to protect homeland security, the President may waive the application of such subsections 10 days after the President has submitted to Congress a written explanation of the reasons for such determination.

(d) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

(e) RULE OF CONSTRUCTION.—Nothing in section 9701(e) of title 5, United States Code, shall be considered to apply with respect to any agency or subdivision of any agency, which is excluded from the coverage of chapter 71 of title 5, United States Code, by virtue of an order issued in accordance with section 7103(b) of such title and the preceding provisions of this section (as applicable), or to any employees of any such agency or subdivision or to any individual or entity representing any such employees or any representatives thereof.

Subtitle F—Federal Emergency Procurement Flexibility

SEC. 851. DEFINITION.

In this subtitle, the term "executive agency" has the meaning given that term under section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 852. PROCUREMENTS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

The authorities provided in this subtitle apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on the date of the enactment of this Act.

SEC. 853. INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR PROCUREMENTS IN SUPPORT OF HUMANITARIAN OR PEACEKEEPING OPERATIONS OR CONTINGENCY OPERATIONS.

(a) TEMPORARY THRESHOLD AMOUNTS.—For a procurement referred to in section 852 that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provided for such an operation in those definitions were—

(1) in the case of a contract to be awarded and performed, or purchase to be made, inside the United States, $200,000; or

(2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, $300,000.

(b) SIMPLIFIED ACQUISITION THRESHOLD DEFINITIONS.—In this section, the term "simplified acquisition threshold definitions" means the following:

(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)).

(3) Section 2302(7) of title 10, United States Code.

(c) Small Business Reserve.—For a procurement carried out pursuant to subsection (a), section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall be applied as if the maximum anticipated value identified therein is equal to the amounts referred to in subsection (a).

SEC. 854. INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.

In the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) with respect to a procurement referred to in section 852, the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $7,500.

SEC. 855. APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES TO CERTAIN PROCUREMENTS.

(a) Authority.—

(1) In general.—The head of an executive agency may apply the provisions of law listed in paragraph (2) to a procurement referred to in section 852 without regard to whether the property or services are commercial items.

(2) Commercial item laws.—The provisions of law referred to in paragraph (1) are as follows:

(A) Sections 31 and 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 427, 430).

(B) Section 2304(g) of title 10, United States Code.

(C) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)).

(b) Inapplicability of Limitation on Use of Simplified Acquisition Procedures.—

(1) In general.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)), section 2304(g)(1)(B) of title 10, United States Code, and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall not apply to purchases of property or services to which any of the provisions of law referred to in subsection (a) are applied under the authority of this section.

(2) OMB guidance.—The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of $5,000,000 under the authority of this section.

(c) Continuation of Authority for Simplified Purchase Procedures.—Authority under a provision of law referred to in subsection (a)(2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

SEC. 856. USE OF STREAMLINED PROCEDURES.

(a) Required Use.—The head of an executive agency shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement referred to in section 852, including authorities and procedures that are provided under the following provisions of law:

(1) Federal property and administrative services act of 1949.—In title III of the Federal Property and Administrative Services Act of 1949:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 303 (41 U.S.C. 253), relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 303J (41 U.S.C. 253j), relating to orders under task and delivery order contracts.

(2) Title 10, united states code.—In chapter 137 of title 10, United States Code:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 2304, relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 2304c, relating to orders under task and delivery order contracts.

(3) Office of federal procurement policy act.—Paragraphs (1)(B), (1)(D), and (2) of section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)), relating to inapplicability of a requirement for procurement notice.

(b) Waiver of Certain Small Business Threshold Requirements.—Subclause (II) of section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) and clause (ii) of section 31(b)(2)(A) of such Act (15 U.S.C. 657a(b)(2)(A)) shall not apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 852.

SEC. 857. REVIEW AND REPORT BY COMPTROLLER GENERAL.

(a) Requirements.—Not later than March 31, 2004, the Comptroller General shall—

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this subtitle; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) Content of Report.—The report under subsection (a)(2) shall include the following matters:

(1) Assessment.—The Comptroller General's assessment of—

(A) the extent to which property and services procured in accordance with this title have contributed to the capacity of the workforce of Federal Government employees within each executive agency to carry out the mission of the executive agency; and

(B) the extent to which Federal Government employees have been trained on the use of technology.

(2) Recommendations.—Any recommendations of the Comptroller General resulting from the assessment described in paragraph (1).

(c) Consultation.—In preparing for the review under subsection (a)(1), the Comptroller shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the specific issues and topics to be reviewed. The extent of coverage needed in areas such as technology integration, employee training, and human capital management, as well as the data requirements of the study, shall be included as part of the consultation.

SEC. 858. IDENTIFICATION OF NEW ENTRANTS INTO THE FEDERAL MARKETPLACE.

The head of each executive agency shall conduct market research on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of commercially available market research methods, including use of commercial databases, to carry out the research.

Subtitle G—Support Anti-terrorism by Fostering Effective Technologies Act of 2002

SEC. 861. SHORT TITLE.

This subtitle may be cited as the "Support Anti-terrorism by Fostering Effective Technologies Act of 2002" or the "SAFETY Act".

SEC. 862. ADMINISTRATION.

(a) In General.—The Secretary shall be responsible for the administration of this subtitle.

(b) Designation of Qualified Anti-Terrorism Technologies.—The Secretary may designate anti-terrorism technologies that qualify for protection under the system of risk management set forth in this subtitle in accordance with criteria that shall include, but not be limited to, the following:

(1) Prior United States government use or demonstrated substantial utility and effectiveness.

(2) Availability of the technology for immediate deployment in public and private settings.

(3) Existence of extraordinarily large or extraordinarily unquantifiable potential third party liability risk exposure to the Seller or other provider of such anti-terrorism technology.

(4) Substantial likelihood that such anti-terrorism technology will not be deployed unless protections under the system of risk management provided under this subtitle are extended.

(5) Magnitude of risk exposure to the public if such anti-terrorism technology is not deployed.

(6) Evaluation of all scientific studies that can be feasibly conducted in order to assess the capability of the technology to substantially reduce risks of harm.

(7) Anti-terrorism technology that would be effective in facilitating the defense against acts of terrorism, including technologies that prevent, defeat or respond to such acts.

(c) Regulations.—The Secretary may issue such regulations, after notice and comment in accordance with section 553 of title 5, United States, Code, as may be necessary to carry out this subtitle.

SEC. 863. LITIGATION MANAGEMENT.

(a) Federal Cause of Action.—

(1) In general.—There shall exist a Federal cause of action for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller. The substantive law for decision in any such action shall be derived from the law, including choice of law principles, of the State in which such acts of terrorism occurred, unless such law is inconsistent with or preempted by Federal law. Such Federal cause of action shall be brought only for claims for injuries that are proximately caused by sellers that provide qualified anti-terrorism technology to Federal and non-Federal government customers.

(2) Jurisdiction.—Such appropriate district court of the United States shall have original and exclusive jurisdiction over all actions for any claim for loss of property, personal injury, or death arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such

act and such claims result or may result in loss to the Seller.

(b) SPECIAL RULES.—In an action brought under this section for damages the following provisions apply:

(1) PUNITIVE DAMAGES.—No punitive damages intended to punish or deter, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment.

(2) NONECONOMIC DAMAGES.—

(A) IN GENERAL.—Noneconomic damages may be awarded against a defendant only in an amount directly proportional to the percentage of responsibility of such defendant for the harm to the plaintiff, and no plaintiff may recover noneconomic damages unless the plaintiff suffered physical harm.

(B) DEFINITION.—For purposes of subparagraph (A), the term "noneconomic damages" means damages for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and any other nonpecuniary losses.

(c) COLLATERAL SOURCES.—Any recovery by a plaintiff in an action under this section shall be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of such acts of terrorism that result or may result in loss to the Seller.

(d) GOVERNMENT CONTRACTOR DEFENSE.—

(1) IN GENERAL.—Should a product liability or other lawsuit be filed for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in paragraphs (2) and (3) of this subsection, have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller, there shall be a rebuttable presumption that the government contractor defense applies in such lawsuit. This presumption shall only be overcome by evidence showing that the Seller acted fraudulently or with willful misconduct in submitting information to the Secretary during the course of the Secretary's consideration of such technology under this subsection. This presumption of the government contractor defense shall apply regardless of whether the claim against the Seller arises from a sale of the product to Federal Government or non-Federal Government customers.

(2) EXCLUSIVE RESPONSIBILITY.—The Secretary will be exclusively responsible for the review and approval of anti-terrorism technology for purposes of establishing a government contractor defense in any product liability lawsuit for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in this paragraph and paragraph (3), have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller. Upon the Seller's submission to the Secretary for approval of anti-terrorism technology, the Secretary will conduct a comprehensive review of the design of such technology and determine whether it will perform as intended, conforms to the Seller's specifications, and is safe for use as intended. The Seller will conduct safety and hazard analyses on such technology and will supply the Secretary with all such information.

(3) CERTIFICATE.—For anti-terrorism technology reviewed and approved by the Secretary, the Secretary will issue a certificate of conformance to the Seller and place the anti-terrorism technology on an Approved Product List for Homeland Security.

(e) EXCLUSION.—Nothing in this section shall in any way limit the ability of any person to seek any form of recovery from any person, government, or other entity that—

(1) attempts to commit, knowingly participates in, aids and abets, or commits any act of terrorism, or any criminal act related to or resulting from such act of terrorism; or

(2) participates in a conspiracy to commit any such act of terrorism or any such criminal act.

SEC. 864. RISK MANAGEMENT.

(a) IN GENERAL.—

(1) LIABILITY INSURANCE REQUIRED.—Any person or entity that sells or otherwise provides a qualified anti-terrorism technology to Federal and non-Federal government customers ("Seller") shall obtain liability insurance of such types and in such amounts as shall be required in accordance with this section and certified by the Secretary to satisfy otherwise compensable third-party claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act.

(2) MAXIMUM AMOUNT.—For the total claims related to 1 such act of terrorism, the Seller is not required to obtain liability insurance of more than the maximum amount of liability insurance reasonably available from private sources on the world market at prices and terms that will not unreasonably distort the sales price of Seller's anti-terrorism technologies.

(3) SCOPE OF COVERAGE.—Liability insurance obtained pursuant to this subsection shall, in addition to the Seller, protect the following, to the extent of their potential liability for involvement in the manufacture, qualification, sale, use, or operation of qualified anti-terrorism technologies deployed in defense against or response or recovery from an act of terrorism:

(A) contractors, subcontractors, suppliers, vendors and customers of the Seller.

(B) contractors, subcontractors, suppliers, and vendors of the customer.

(4) THIRD PARTY CLAIMS.—Such liability insurance under this section shall provide coverage against third party claims arising out of, relating to, or resulting from the sale or use of anti-terrorism technologies.

(b) RECIPROCAL WAIVER OF CLAIMS.—The Seller shall enter into a reciprocal waiver of claims with its contractors, subcontractors, suppliers, vendors and customers, and contractors and subcontractors of the customers, involved in the manufacture, sale, use or operation of qualified anti-terrorism technologies, under which each party to the waiver agrees to be responsible for losses, including business interruption losses, that it sustains, or for losses sustained by its own employees resulting from an activity resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act.

(c) EXTENT OF LIABILITY.—Notwithstanding any other provision of law, liability for all claims against a Seller arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller, whether for compensatory or punitive damages or for contribution or indemnity, shall not be in an amount greater than the limits of liability insurance coverage required to be maintained by the Seller under this section.

SEC. 865. DEFINITIONS.

For purposes of this subtitle, the following definitions apply:

(1) QUALIFIED ANTI-TERRORISM TECHNOLOGY.—For purposes of this subtitle, the term "qualified anti-terrorism technology" means any product, equipment, service (including support services), device, or technology (including information technology) designed, developed, modified, or procured for the specific purpose of preventing, detecting, identifying, or deterring acts of terrorism or limiting the harm such acts might otherwise cause, that is designated as such by the Secretary.

(2) ACT OF TERRORISM.—(A) The term "act of terrorism" means any act that the Secretary determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the Secretary.

(B) REQUIREMENTS.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States-flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States; and

(iii) uses or attempts to use instrumentalities, weapons or other methods designed or intended to cause mass destruction, injury or other loss to citizens or institutions of the United States.

(3) INSURANCE CARRIER.—The term "insurance carrier" means any corporation, association, society, order, firm, company, mutual, partnership, individual aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurance carrier.

(4) LIABILITY INSURANCE.—

(A) IN GENERAL.—The term "liability insurance" means insurance for legal liabilities incurred by the insured resulting from—

(i) loss of or damage to property of others;

(ii) ensuing loss of income or extra expense incurred because of loss of or damage to property of others;

(iii) bodily injury (including) to persons other than the insured or its employees; or

(iv) loss resulting from debt or default of another.

(5) LOSS.—The term "loss" means death, bodily injury, or loss of or damage to property, including business interruption loss.

(6) NON-FEDERAL GOVERNMENT CUSTOMERS.—The term "non-Federal Government customers" means any customer of a Seller that is not an agency or instrumentality of the United States Government with authority under Public Law 85-804 to provide for indemnification under certain circumstances for third-party claims against its contractors, including but not limited to State and local authorities and commercial entities.

Subtitle H—Miscellaneous Provisions

SEC. 871. ADVISORY COMMITTEES.

(a) IN GENERAL.—The Secretary may establish, appoint members of, and use the services of, advisory committees, as the Secretary may deem necessary. An advisory committee established under this section may be exempted by the Secretary from Public Law 92–463, but the Secretary shall publish notice in the Federal Register announcing the establishment of such a committee and identifying its purpose and membership. Notwithstanding the preceding sentence, members of an advisory committee that is exempted by the Secretary under the preceding sentence who are special Government employees (as that term is defined in section 202 of title 18, United States Code) shall be eligible for certifications under subsection (b)(3) of section 208 of title 18, United States Code, for official actions taken as a member of such advisory committee.

(b) TERMINATION.—Any advisory committee established by the Secretary shall terminate 2 years after the date of its establishment, unless the Secretary makes a written determination to extend the advisory committee to a specified date, which shall not be more than 2 years after the date on which such determination is made. The Secretary may make any number of subsequent extensions consistent with this subsection.

SEC. 872. REORGANIZATION.

(a) REORGANIZATION.—The Secretary may allocate or reallocate functions among the officers of the Department, and may establish, consolidate, alter, or discontinue organizational units within the Department, but only—

(1) pursuant to section 1502(b); or

(2) after the expiration of 60 days after providing notice of such action to the appropriate congressional committees, which shall include an explanation of the rationale for the action.

(b) LIMITATIONS.—

(1) IN GENERAL.—Authority under subsection (a)(1) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by this Act.

(2) ABOLITIONS.—Authority under subsection (a)(2) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by statute.

SEC. 873. USE OF APPROPRIATED FUNDS.

(a) DISPOSAL OF PROPERTY.—

(1) STRICT COMPLIANCE.—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485).

(2) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(b) GIFTS.—Gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(c) BUDGET REQUEST.—Under section 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004, and for each subsequent fiscal year.

SEC. 874. FUTURE YEAR HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, shall, at or about the same time, be accompanied by a Future Years Homeland Security Program.

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and for any subsequent fiscal year, except that the first Future Years Homeland Security Program shall be submitted not later than 90 days after the Department's fiscal year 2005 budget request is submitted to Congress.

SEC. 875. MISCELLANEOUS AUTHORITIES.

(a) SEAL.—The Department shall have a seal, whose design is subject to the approval of the President.

(b) PARTICIPATION OF MEMBERS OF THE ARMED FORCES.—With respect to the Department, the Secretary shall have the same authorities that the Secretary of Transportation has with respect to the Department of Transportation under section 324 of title 49, United States Code.

(c) REDELEGATION OF FUNCTIONS.—Unless otherwise provided in the delegation or by law, any function delegated under this Act may be redelegated to any subordinate.

SEC. 876. MILITARY ACTIVITIES.

Nothing in this Act shall confer upon the Secretary any authority to engage in warfighting, the military defense of the United States, or other military activities, nor shall anything in this Act limit the existing authority of the Department of Defense or the Armed Forces to engage in warfighting, the military defense of the United States, or other military activities.

SEC. 877. REGULATORY AUTHORITY AND PREEMPTION.

(a) REGULATORY AUTHORITY.—Except as otherwise provided in sections 306(c), 862(c), and 1806(b), this Act vests no new regulatory authority in the Secretary or any other Federal official, and transfers to the Secretary or another Federal official only such regulatory authority as exists on the date of enactment of this Act within any agency, program, or function transferred to the Department pursuant to this Act, or that on such date of enactment is exercised by another official of the executive branch with respect to such agency, program, or function. Any such transferred authority may not be exercised by an official from whom it is transferred upon transfer of such agency, program, or function to the Secretary or another Federal official pursuant to this Act. This Act may not be construed as altering or diminishing the regulatory authority of any other executive agency, except to the extent that this Act transfers such authority from the agency.

(b) PREEMPTION OF STATE OR LOCAL LAW.—Except as otherwise provided in this Act, this Act preempts no State or local law, except that any authority to preempt State or local law vested in any Federal agency or official transferred to the Department pursuant to this Act shall be transferred to the Department effective on the date of the transfer to the Department of that Federal agency or official.

SEC. 878. COUNTERNARCOTICS OFFICER.

The Secretary shall appoint a senior official in the Department to assume primary responsibility for coordinating policy and operations within the Department and between the Department and other Federal departments and agencies with respect to interdicting the entry of illegal drugs into the United States, and tracking and severing connections between illegal drug trafficking and terrorism. Such official shall—

(1) ensure the adequacy of resources within the Department for illicit drug interdiction; and

(2) serve as the United States Interdiction Coordinator for the Director of National Drug Control Policy.

SEC. 879. OFFICE OF INTERNATIONAL AFFAIRS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary an Office of International Affairs. The Office shall be headed by a Director, who shall be a senior official appointed by the Secretary.

(b) DUTIES OF THE DIRECTOR.—The Director shall have the following duties:

(1) To promote information and education exchange with nations friendly to the United States in order to promote sharing of best practices and technologies relating to homeland security. Such exchange shall include the following:

(A) Exchange of information on research and development on homeland security technologies.

(B) Joint training exercises of first responders.

(C) Exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange where the United States has a demonstrated weakness and another friendly nation or nations have a demonstrated expertise.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage international activities within the Department in coordination with other Federal officials with responsibility for counter-terrorism matters.

SEC. 880. PROHIBITION OF THE TERRORISM INFORMATION AND PREVENTION SYSTEM.

Any and all activities of the Federal Government to implement the proposed component program of the Citizen Corps known as Operation TIPS (Terrorism Information and Prevention System) are hereby prohibited.

SEC. 881. REVIEW OF PAY AND BENEFIT PLANS.

Notwithstanding any other provision of this Act, the Secretary shall, in consultation with the Director of the Office of Personnel Management, review the pay and benefit plans of each agency whose functions are transferred under this Act to the Department and, within 90 days after the date of enactment, submit a plan to the President of the Senate and the Speaker of the House of Representatives and the appropriate committees and subcommittees of Congress, for ensuring, to the maximum extent practicable, the elimination of disparities in pay and benefits throughout the Department, especially among law enforcement personnel, that are inconsistent with merit system principles set forth in section 2301 of title 5, United States Code.

SEC. 882. OFFICE FOR NATIONAL CAPITAL REGION COORDINATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Office of the Secretary the Office of National Capital Region Coordination, to oversee and coordinate Federal programs for and relationships with State, local, and regional authorities in the National Capital Region, as defined under section 2674(f)(2) of title 10, United States Code.

(2) DIRECTOR.—The Office established under paragraph (1) shall be headed by a Director, who shall be appointed by the Secretary.

(3) COOPERATION.—The Secretary shall cooperate with the Mayor of the District of Columbia, the Governors of Maryland and Virginia, and other State, local, and regional officers in the National Capital Region to integrate the District of Columbia, Maryland, and Virginia into the planning, coordination, and execution of the activities of the Federal Government for the enhancement of domestic preparedness against the consequences of terrorist attacks.

(b) RESPONSIBILITIES.—The Office established under subsection (a)(1) shall—

(1) coordinate the activities of the Department relating to the National Capital Region, including cooperation with the Office for State and Local Government Coordination;

(2) assess, and advocate for, the resources needed by State, local, and regional authorities in the National Capital Region to implement efforts to secure the homeland;

(3) provide State, local, and regional authorities in the National Capital Region with regular information, research, and technical support to assist the efforts of State, local, and regional authorities in the National Capital Region in securing the homeland;

(4) develop a process for receiving meaningful input from State, local, and regional authorities and the private sector in the National Capital Region to assist in the development of the homeland security plans and activities of the Federal Government;

(5) coordinate with Federal agencies in the National Capital Region on terrorism preparedness, to ensure adequate planning, information sharing, training, and execution of the Federal role in domestic preparedness activities;

(6) coordinate with Federal, State, local, and regional agencies, and the private sector in the National Capital Region on terrorism preparedness to ensure adequate planning, information sharing, training, and execution of domestic preparedness activities among these agencies and entities; and

(7) serve as a liaison between the Federal Government and State, local, and regional authorities, and private sector entities in the National Capital Region to facilitate access to Federal grants and other programs.

(c) ANNUAL REPORT.—The Office established under subsection (a) shall submit an annual report to Congress that includes—

(1) the identification of the resources required to fully implement homeland security efforts in the National Capital Region;

(2) an assessment of the progress made by the National Capital Region in implementing homeland security efforts; and

(3) recommendations to Congress regarding the additional resources needed to fully implement homeland security efforts in the National Capital Region.

(d) LIMITATION.—Nothing contained in this section shall be construed as limiting the power of State and local governments.

SEC. 883. REQUIREMENT TO COMPLY WITH LAWS PROTECTING EQUAL EMPLOYMENT OPPORTUNITY AND PROVIDING WHISTLEBLOWER PROTECTIONS.

Nothing in this Act shall be construed as exempting the Department from requirements applicable with respect to executive agencies—

(1) to provide equal employment protection for employees of the Department (including pursuant to the provisions in section 2302(b)(1) of title 5, United States Code, and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (Pub. L. 107–174)); or

(2) to provide whistleblower protections for employees of the Department (including pursuant to the provisions in section 2302(b)(8) and (9) of such title and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002).

SEC. 884. FEDERAL LAW ENFORCEMENT TRAINING CENTER.

(a) IN GENERAL.—The transfer of an authority or an agency under this Act to the Department of Homeland Security does not affect training agreements already entered into with the Federal Law Enforcement Training Center with respect to the training of personnel to carry out that authority or the duties of that transferred agency.

(b) CONTINUITY OF OPERATIONS.—All activities of the Federal Law Enforcement Training Center transferred to the Department of Homeland Security under this Act shall continue to be carried out at the locations such activities were carried out before such transfer.

SEC. 885. JOINT INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—The Secretary may establish and operate a permanent Joint Interagency Homeland Security Task Force composed of representatives from military and civilian agencies of the United States Government for the purposes of anticipating terrorist threats against the United States and taking appropriate actions to prevent harm to the United States.

(b) STRUCTURE.—It is the sense of Congress that the Secretary should model the Joint Interagency Homeland Security Task Force on the approach taken by the Joint Interagency Task Forces for drug interdiction at Key West, Florida and Alameda, California, to the maximum extent feasible and appropriate.

SEC. 886. SENSE OF CONGRESS REAFFIRMING THE CONTINUED IMPORTANCE AND APPLICABILITY OF THE POSSE COMITATUS ACT.

(a) FINDINGS.—Congress finds the following:

(1) Section 1385 of title 18, United States Code (commonly known as the "Posse Comitatus Act"), prohibits the use of the Armed Forces as a posse comitatus to execute the laws except in cases and under circumstances expressly authorized by the Constitution or Act of Congress.

(2) Enacted in 1878, the Posse Comitatus Act was expressly intended to prevent United States Marshals, on their own initiative, from calling on the Army for assistance in enforcing Federal law.

(3) The Posse Comitatus Act has served the Nation well in limiting the use of the Armed Forces to enforce the law.

(4) Nevertheless, by its express terms, the Posse Comitatus Act is not a complete barrier to the use of the Armed Forces for a range of domestic purposes, including law enforcement functions, when the use of the Armed Forces is authorized by Act of Congress or the President determines that the use of the Armed Forces is required to fulfill the President's obligations under the Constitution to respond promptly in time of war, insurrection, or other serious emergency.

(5) Existing laws, including chapter 15 of title 10, United States Code (commonly known as the "Insurrection Act"), and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), grant the President broad powers that may be invoked in the event of domestic emergencies, including an attack against the Nation using weapons of mass destruction, and these laws specifically authorize the President to use the Armed Forces to help restore public order.

(b) SENSE OF CONGRESS.—Congress reaffirms the continued importance of section 1385 of title 18, United States Code, and it is the sense of Congress that nothing in this Act should be construed to alter the applicability of such section to any use of the Armed Forces as a posse comitatus to execute the laws.

SEC. 887. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—The annual Federal response plan developed by the Department shall be consistent with section 319 of the Public Health Service Act (42 U.S.C. 247d).

(b) DISCLOSURES AMONG RELEVANT AGENCIES.—

(1) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) PUBLIC HEALTH EMERGENCY.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), the Secretary of Health and Human Services shall keep relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, fully and currently informed.

(3) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), has been made, all relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

SEC. 888. PRESERVING COAST GUARD MISSION PERFORMANCE.

(a) DEFINITIONS.—In this section:

(1) NON-HOMELAND SECURITY MISSIONS.—The term "non-homeland security missions" means the following missions of the Coast Guard:

(A) Marine safety.

(B) Search and rescue.

(C) Aids to navigation.

(D) Living marine resources (fisheries law enforcement).

(E) Marine environmental protection.

(F) Ice operations.

(2) HOMELAND SECURITY MISSIONS.—The term "homeland security missions" means the following missions of the Coast Guard:

(A) Ports, waterways and coastal security.

(B) Drug interdiction.

(C) Migrant interdiction.

(D) Defense readiness.

(E) Other law enforcement.

(b) TRANSFER.—There are transferred to the Department the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.

(c) MAINTENANCE OF STATUS OF FUNCTIONS AND ASSETS.—Notwithstanding any other provision of this Act, the authorities, functions, and capabilities of the Coast Guard to perform its missions shall be maintained intact and without significant reduction after the transfer of the Coast Guard to the Department, except as specified in subsequent Acts.

(d) CERTAIN TRANSFERS PROHIBITED.—No mission, function, or asset (including for purposes of this subsection any ship, aircraft, or helicopter) of the Coast Guard may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, except for details or assignments that do not reduce the Coast Guard's capability to perform its missions.

(e) Changes to Missions.—

(1) Prohibition.—The Secretary may not substantially or significantly reduce the missions of the Coast Guard or the Coast Guard's capability to perform those missions, except as specified in subsequent Acts.

(2) Waiver.—The Secretary may waive the restrictions under paragraph (1) for a period of not to exceed 90 days upon a declaration and certification by the Secretary to Congress that a clear, compelling, and immediate need exists for such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot respond effectively if the restrictions under paragraph (1) are not waived.

(f) Annual Review.—

(1) In general.—The Inspector General of the Department shall conduct an annual review that shall assess thoroughly the performance by the Coast Guard of all missions of the Coast Guard (including non-homeland security missions and homeland security missions) with a particular emphasis on examining the non-homeland security missions.

(2) Report.—The report under this paragraph shall be submitted to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Government Reform of the House of Representatives;

(C) the Committees on Appropriations of the Senate and the House of Representatives;

(D) the Committee on Commerce, Science, and Transportation of the Senate; and

(E) the Committee on Transportation and Infrastructure of the House of Representatives.

(g) Direct Reporting to Secretary.—Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary without being required to report through any other official of the Department.

(h) Operation as a Service in the Navy.—None of the conditions and restrictions in this section shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

(i) Report on Accelerating the Integrated Deepwater System.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Commandant of the Coast Guard, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives that—

(1) analyzes the feasibility of accelerating the rate of procurement in the Coast Guard's Integrated Deepwater System from 20 years to 10 years;

(2) includes an estimate of additional resources required;

(3) describes the resulting increased capabilities;

(4) outlines any increases in the Coast Guard's homeland security readiness;

(5) describes any increases in operational efficiencies; and

(6) provides a revised asset phase-in time line.

SEC. 889. HOMELAND SECURITY FUNDING ANALYSIS IN PRESIDENT'S BUDGET.

(a) In General.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

"(33)(A)(i) a detailed, separate analysis, by budget function, by agency, and by initiative area (as determined by the administration) for the prior fiscal year, the current fiscal year, the fiscal years for which the budget is submitted, and the ensuing fiscal year identifying the amounts of gross and net appropriations or obligational authority and outlays that contribute to homeland security, with separate displays for mandatory and discretionary amounts, including—

"(I) summaries of the total amount of such appropriations or new obligational authority and outlays requested for homeland security;

"(II) an estimate of the current service levels of homeland security spending;

"(III) the most recent risk assessment and summary of homeland security needs in each initiative area (as determined by the administration); and

"(IV) an estimate of user fees collected by the Federal Government on behalf of homeland security activities;

"(ii) with respect to subclauses (I) through (IV) of clause (i), amounts shall be provided by account for each program, project and activity; and

"(iii) an estimate of expenditures for homeland security activities by State and local governments and the private sector for the prior fiscal year and the current fiscal year.

"(B) In this paragraph, consistent with the Office of Management and Budget's June 2002 'Annual Report to Congress on Combatting Terrorism', the term 'homeland security' refers to those activities that detect, deter, protect against, and respond to terrorist attacks occurring within the United States and its territories.

"(C) In implementing this paragraph, including determining what Federal activities or accounts constitute homeland security for purposes of budgetary classification, the Office of Management and Budget is directed to consult periodically, but at least annually, with the House and Senate Budget Committees, the House and Senate Appropriations Committees, and the Congressional Budget Office.".

(b) Repeal of Duplicative Reports.—The following sections are repealed:

(1) Section 1051 of Public Law 105–85.

(2) Section 1403 of Public Law 105–261.

(c) Effective Date.—This section and the amendment made by this section shall apply beginning with respect to the fiscal year 2005 budget submission.

SEC. 890. AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT.

The Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in section 408 by striking the last sentence of subsection (c); and

(2) in section 402 by striking paragraph (1) and inserting the following:

"(1) Air carrier.—The term 'air carrier' means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents (including persons engaged in the business of providing air transportation security and their affiliates) of such citizen. For purposes of the preceding sentence, the term 'agent', as applied to persons engaged in the business of providing air transportation security, shall only include persons that have contracted directly with the Federal Aviation Administration on or after and commenced services no later than February 17, 2002, to provide such security, and had not been or are not debarred for any period within 6 months from that date.".

Subtitle I—Information Sharing

SEC. 891. SHORT TITLE; FINDINGS; AND SENSE OF CONGRESS.

(a) Short Title.—This subtitle may be cited as the "Homeland Security Information Sharing Act".

(b) Findings.—Congress finds the following:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.

(2) The Federal Government relies on State and local personnel to protect against terrorist attack.

(3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland security.

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attack.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected status of such information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without the need for granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(c) Sense of Congress.—It is the sense of Congress that Federal, State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SEC. 892. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.

(a) Procedures for Determining Extent of Sharing of Homeland Security Information.—

(1) The President shall prescribe and implement procedures under which relevant Federal agencies—

(A) share relevant and appropriate homeland security information with other Federal agencies, including the Department, and appropriate State and local personnel;

(B) identify and safeguard homeland security information that is sensitive but unclassified; and

(C) to the extent such information is in classified form, determine whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(b) PROCEDURES FOR SHARING OF HOMELAND SECURITY INFORMATION.—

(1) Under procedures prescribed by the President, all appropriate agencies, including the intelligence community, shall, through information sharing systems, share homeland security information with Federal agencies and appropriate State and local personnel to the extent such information may be shared, as determined in accordance with subsection (a), together with assessments of the credibility of such information.

(2) Each information sharing system through which information is shared under paragraph (1) shall—

(A) have the capability to transmit unclassified or classified information, though the procedures and recipients for each capability may differ;

(B) have the capability to restrict delivery of information to specified subgroups by geographic location, type of organization, position of a recipient within an organization, or a recipient's need to know such information;

(C) be configured to allow the efficient and effective sharing of information; and

(D) be accessible to appropriate State and local personnel.

(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1)—

(A) to limit the redissemination of such information to ensure that such information is not used for an unauthorized purpose;

(B) to ensure the security and confidentiality of such information;

(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(D) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

(4) The procedures prescribed under paragraph (1) shall ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(5) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.

(6) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.

(c) SHARING OF CLASSIFIED INFORMATION AND SENSITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND LOCAL PERSONNEL.—

(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include 1 or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into nondisclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Terrorism Early Warning Groups.

(d) RESPONSIBLE OFFICIALS.—For each affected Federal agency, the head of such agency shall designate an official to administer this Act with respect to such agency.

(e) FEDERAL CONTROL OF INFORMATION.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.

(f) DEFINITIONS.—As used in this section:

(1) The term "homeland security information" means any information possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization; or

(D) would improve the response to a terrorist act.

(2) The term "intelligence community" has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term "State and local personnel" means any of the following persons involved in prevention, preparation, or response for terrorist attack:

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private-sector entities that affect critical infrastructure, cyber, economic, or public health security, as designated by the Federal government in procedures developed pursuant to this section.

(4) The term "State" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

(g) CONSTRUCTION.—Nothing in this Act shall be construed as authorizing any department, bureau, agency, officer, or employee of the Federal Government to request, receive, or transmit to any other Government entity or personnel, or transmit to any State or local entity or personnel otherwise authorized by this Act to receive homeland security information, any information collected by the Federal Government solely for statistical purposes in violation of any other provision of law relating to the confidentiality of such information.

SEC. 893. REPORT.

(a) REPORT REQUIRED.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to the congressional committees specified in subsection (b) a report on the implementation of section 892. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements of section 892, to increase the effectiveness of sharing of information between and among Federal, State, and local entities.

(b) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 894. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out section 892.

SEC. 895. AUTHORITY TO SHARE GRAND JURY INFORMATION.

Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (2), by inserting ", or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6," after "Rule 6"; and

(2) in paragraph (3)—

(A) in subparagraph (A)(ii), by inserting "or of a foreign government" after "(including personnel of a state or subdivision of a state";

(B) in subparagraph (C)(i)—

(i) in subclause (I), by inserting before the semicolon the following: "or, upon a request by an attorney for the government, when sought by a foreign court or prosecutor for use in an official criminal investigation";

(ii) in subclause (IV)—

(I) by inserting "or foreign" after "may disclose a violation of State";

(II) by inserting "or of a foreign government" after "to an appropriate official of a State or subdivision of a State"; and

(III) by striking "or" at the end;

(iii) by striking the period at the end of subclause (V) and inserting "; or"; and

(iv) by adding at the end the following:

"(VI) when matters involve a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate federal, state, local, or foreign government official for the purpose of preventing or responding to such a threat."; and

(C) in subparagraph (C)(iii)—

(i) by striking "Federal";

(ii) by inserting "or clause (i)(VI)" after "clause (i)(V)"; and

(iii) by adding at the end the following: "Any state, local, or foreign official who receives information pursuant to clause (i)(VI) shall use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

SEC. 896. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.

Section 2517 of title 18, United States Code, is amended by adding at the end the following:

"(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

"(8) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

SEC. 897. FOREIGN INTELLIGENCE INFORMATION.

(a) DISSEMINATION AUTHORIZED.—Section 203(d)(1) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56; 50 U.S.C. 403–5d) is amended by adding at the end the following: "Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, obtained as part of a criminal investigation to be disclosed to any appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

(b) CONFORMING AMENDMENTS.—Section 203(c) of that Act is amended—

(1) by striking "section 2517(6)" and inserting "paragraphs (6) and (8) of section 2517 of title 18, United States Code,"; and

(2) by inserting "and (VI)" after "Rule 6(e)(3)(C)(i)(V)".

SEC. 898. INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE.

Section 106(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806) is amended by inserting after "law enforcement officers" the following: "or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)".

SEC. 899. INFORMATION ACQUIRED FROM A PHYSICAL SEARCH.

Section 305(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by inserting after "law enforcement officers" the following: "or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)".

TITLE IX—NATIONAL HOMELAND SECURITY COUNCIL

SEC. 901. NATIONAL HOMELAND SECURITY COUNCIL.

There is established within the Executive Office of the President a council to be known as the "Homeland Security Council" (in this title referred to as the "Council").

SEC. 902. FUNCTION.

The function of the Council shall be to advise the President on homeland security matters.

SEC. 903. MEMBERSHIP.

The members of the Council shall be the following:

(1) The President.

(2) The Vice President.

(3) The Secretary of Homeland Security.

(4) The Attorney General.

(5) The Secretary of Defense.

(6) Such other individuals as may be designated by the President.

SEC. 904. OTHER FUNCTIONS AND ACTIVITIES.

For the purpose of more effectively coordinating the policies and functions of the United States Government relating to homeland security, the Council shall—

(1) assess the objectives, commitments, and risks of the United States in the interest of homeland security and to make resulting recommendations to the President;

(2) oversee and review homeland security policies of the Federal Government and to make resulting recommendations to the President; and

(3) perform such other functions as the President may direct.

SEC. 905. STAFF COMPOSITION.

The Council shall have a staff, the head of which shall be a civilian Executive Secretary, who shall be appointed by the President. The President is authorized to fix the pay of the Executive Secretary at a rate not to exceed the rate of pay payable to the Executive Secretary of the National Security Council.

SEC. 906. RELATION TO THE NATIONAL SECURITY COUNCIL.

The President may convene joint meetings of the Homeland Security Council and the National Security Council with participation by members of either Council or as the President may otherwise direct.

TITLE X—INFORMATION SECURITY

SEC. 1001. INFORMATION SECURITY.

(a) SHORT TITLE.—This title may be cited as the "Federal Information Security Management Act of 2002".

(b) INFORMATION SECURITY.—

(1) IN GENERAL.—Subchapter II of chapter 35 of title 44, United States Code, is amended to read as follows:

"SUBCHAPTER II—INFORMATION SECURITY

"§ 3531. Purposes

"The purposes of this subchapter are to—

"(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

"(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

"(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

"(4) provide a mechanism for improved oversight of Federal agency information security programs;

"(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and

"(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.".

“§ 3532. Definitions

“(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

“(b) ADDITIONAL DEFINITIONS.—As used in this subchapter—

“(1) the term ‘information security’ means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

“(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

“(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information;

“(C) availability, which means ensuring timely and reliable access to and use of information; and

“(D) authentication, which means utilizing digital credentials to assure the identity of users and validate their access;

“(2) the term ‘national security system’ means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency, the function, operation, or use of which—

“(A) involves intelligence activities;

“(B) involves cryptologic activities related to national security;

“(C) involves command and control of military forces;

“(D) involves equipment that is an integral part of a weapon or weapons system; or

“(E) is critical to the direct fulfillment of military or intelligence missions provided that this definition does not apply to a system that is used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications);

“(3) the term ‘information technology’ has the meaning given that term in section 11101 of title 40; and

“(4) the term ‘information system’ means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, and includes—

“(A) computers and computer networks;

“(B) ancillary equipment;

“(C) software, firmware, and related procedures;

“(D) services, including support services; and

“(E) related resources.”.

“§ 3533. Authority and functions of the Director

“(a) The Director shall oversee agency information security policies and practices, by—

“(1) promulgating information security standards under section 11331 of title 40;

“(2) overseeing the implementation of policies, principles, standards, and guidelines on information security;

“(3) requiring agencies, consistent with the standards promulgated under such section 11331 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

“(A) information collected or maintained by or on behalf of an agency; or

“(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

“(4) coordinating the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

“(5) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 11303(b)(5) of title 40, to enforce accountability for compliance with such requirements;

“(6) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3534(b);

“(7) coordinating information security policies and procedures with related information resources management policies and procedures; and

“(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

“(A) a summary of the findings of evaluations required by section 3535;

“(B) significant deficiencies in agency information security practices;

“(C) planned remedial action to address such deficiencies; and

“(D) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology under section 20(e)(7) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).”.

“(b) Except for the authorities described in paragraphs (4) and (7) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

“§ 3534. Federal agency responsibilities

“(a) The head of each agency shall—

“(1) be responsible for—

“(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

“(i) information collected or maintained by or on behalf of the agency; and

“(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

“(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

“(i) information security standards promulgated by the Director under section 11331 of title 40; and

“(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

“(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

“(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

“(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

“(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 11331 of title 40 for information security classifications and related requirements;

“(C) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

“(D) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

“(3) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the requirements imposed on the agency under this subchapter, including—

“(A) designating a senior agency information security officer who shall—

“(i) carry out the Chief Information Officer's responsibilities under this section;

“(ii) possess professional qualifications, including training and experience, required to administer the functions described under this section;

“(iii) have information security duties as that official's primary duty; and

“(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

“(B) developing and maintaining an agencywide information security program as required by subsection (b);

“(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3533 of this title, and section 11331 of title 40;

“(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

“(E) assisting senior agency officials concerning their responsibilities under paragraph (2);

“(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

“(5) ensure that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

“(b) Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3533(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

“(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;

“(2) policies and procedures that—

“(A) are based on the risk assessments required by paragraph (1);

“(B) cost-effectively reduce information security risks to an acceptable level;

“(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

“(D) ensure compliance with—

“(i) the requirements of this subchapter;

“(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 11331 of title 40;

“(iii) minimally acceptable system configuration requirements, as determined by the agency; and

“(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

“(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

“(4) security awareness training to inform personnel, including contractors and other users of information systems that support the operations and assets of the agency, of—

“(A) information security risks associated with their activities; and

“(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

“(5) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

“(A) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3505(c); and

“(B) may include testing relied on in a evaluation under section 3535;

“(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

“(7) procedures for detecting, reporting, and responding to security incidents, including—

“(A) mitigating risks associated with such incidents before substantial damage is done; and

“(B) notifying and consulting with, as appropriate—

“(i) law enforcement agencies and relevant Offices of Inspector General;

“(ii) an office designated by the President for any incident involving a national security system; and

“(iii) any other agency or office, in accordance with law or as directed by the President; and

“(8) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

“(c) Each agency shall—

“(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b);

“(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

“(A) annual agency budgets;

“(B) information resources management under subchapter 1 of this chapter;

“(C) information technology management under subtitle III of title 40;

“(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

“(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101–576) (and the amendments made by that Act);

“(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

“(G) internal accounting and administrative controls under section 3512 of title 31, United States Code, (known as the ‘Federal Managers Financial Integrity Act’); and

“(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

“(A) as a material weakness in reporting under section 3512 of title 31; and

“(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note).

“(d)(1) In addition to the requirements of subsection (c), each agency, in consultation with the Director, shall include as part of the performance plan required under section 1115 of title 31 a description of—

“(A) the time periods, and

“(B) the resources, including budget, staffing, and training,

that are necessary to implement the program required under subsection (b).

“(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1).

“(e) Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

“§ 3535. Annual independent evaluation

“(a)(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

“(2) Each evaluation by an agency under this section shall include—

“(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the agency’s information systems;

“(B) an assessment (made on the basis of the results of the testing) of compliance with—

“(i) the requirements of this subchapter; and

“(ii) related information security policies, procedures, standards, and guidelines; and

“(C) separate presentations, as appropriate, regarding information security relating to national security systems.

“(b) Subject to subsection (c)—

“(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

“(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

“(c) For each agency operating or exercising control of a national security system, that portion of the evaluation required by this section directly relating to a national security system shall be performed—

“(1) only by an entity designated by the agency head; and

“(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

“(d) The evaluation required by this section—

“(1) shall be performed in accordance with generally accepted government auditing standards; and

“(2) may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

“(e) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

“(f) Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

“(g)(1) The Director shall summarize the results of the evaluations conducted under this section in the report to Congress required under section 3533(a)(8).

“(2) The Director’s report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

“(3) Evaluations and any other descriptions of information systems under the authority and control of the Director of Central Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

“(h) The Comptroller General shall periodically evaluate and report to Congress on—

“(1) the adequacy and effectiveness of agency information security policies and practices; and

“(2) implementation of the requirements of this subchapter.

“§ 3536. National security systems

“The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

“(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

“(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

“(3) complies with the requirements of this subchapter.

“§ 3537. Authorization of appropriations

“There are authorized to be appropriated to carry out the provisions of this subchapter such sums as may be necessary for each of fiscal years 2003 through 2007.

"§ 3538. Effect on existing law

"Nothing in this subchapter, section 11331 of title 40, or section 20 of the National Standards and Technology Act (15 U.S.C. 278g–3) may be construed as affecting the authority of the President, the Office of Management and Budget or the Director thereof, the National Institute of Standards and Technology, or the head of any agency, with respect to the authorized use or disclosure of information, including with regard to the protection of personal privacy under section 552a of title 5, the disclosure of information under section 552 of title 5, the management and disposition of records under chapters 29, 31, or 33 of title 44, the management of information resources under subchapter I of chapter 35 of this title, or the disclosure of information to Congress or the Comptroller General of the United States.".

(2) CLERICAL AMENDMENT.—The items in the table of sections at the beginning of such chapter 35 under the heading "SUBCHAPTER II" are amended to read as follows:

"3531. Purposes.
"3532. Definitions.
"3533. Authority and functions of the Director.
"3534. Federal agency responsibilities.
"3535. Annual independent evaluation.
"3536. National security systems.
"3537. Authorization of appropriations.
"3538. Effect on existing law.".

(c) INFORMATION SECURITY RESPONSIBILITIES OF CERTAIN AGENCIES.—

(1) NATIONAL SECURITY RESPONSIBILITIES.—(A) Nothing in this Act (including any amendment made by this Act) shall supersede any authority of the Secretary of Defense, the Director of Central Intelligence, or other agency head, as authorized by law and as directed by the President, with regard to the operation, control, or management of national security systems, as defined by section 3532(3) of title 44, United States Code.

(B) Section 2224 of title 10, United States Code, is amended—

(i) in subsection 2224(b), by striking "(b) OBJECTIVES AND MINIMUM REQUIREMENTS.—(1)" and inserting "(b) OBJECTIVES OF THE PROGRAM.—";

(ii) in subsection 2224(b), by striking "(2) the program shall at a minimum meet the requirements of section 3534 and 3535 of title 44, United States Code."; and

(iii) in subsection 2224(c), by inserting ", including through compliance with subtitle II of chapter 35 of title 44" after "infrastructure".

(2) ATOMIC ENERGY ACT OF 1954.—Nothing in this Act shall supersede any requirement made by or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Restricted Data or Formerly Restricted Data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 1002. MANAGEMENT OF INFORMATION TECHNOLOGY.

(a) IN GENERAL.—Section 11331 of title 40, United States Code, is amended to read as follows:

"§ 11331. Responsibilities for Federal information systems standards

"(a) DEFINITION.—In this section, the term 'information security' has the meaning given that term in section 3532(b)(1) of title 44.

"(b) REQUIREMENT TO PRESCRIBE STANDARDS.—

"(1) IN GENERAL.—

"(A) REQUIREMENT.—Except as provided under paragraph (2), the Director of the Office of Management and Budget shall, on the basis of proposed standards developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)) and in consultation with the Secretary of Homeland Security, promulgate information security standards pertaining to Federal information systems.

"(B) REQUIRED STANDARDS.—Standards promulgated under subparagraph (A) shall include—

"(i) standards that provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(b)); and

"(ii) such standards that are otherwise necessary to improve the efficiency of operation or security of Federal information systems.

"(C) REQUIRED STANDARDS BINDING.—Information security standards described under subparagraph (B) shall be compulsory and binding.

"(2) STANDARDS AND GUIDELINES FOR NATIONAL SECURITY SYSTEMS.—Standards and guidelines for national security systems, as defined under section 3532(3) of title 44, shall be developed, promulgated, enforced, and overseen as otherwise authorized by law and as directed by the President.

"(c) APPLICATION OF MORE STRINGENT STANDARDS.—The head of an agency may employ standards for the cost-effective information security for all operations and assets within or under the supervision of that agency that are more stringent than the standards promulgated by the Director under this section, if such standards—

"(1) contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Director; and

"(2) are otherwise consistent with policies and guidelines issued under section 3533 of title 44.

"(d) REQUIREMENTS REGARDING DECISIONS BY DIRECTOR.—

"(1) DEADLINE.—The decision regarding the promulgation of any standard by the Director under subsection (b) shall occur not later than 6 months after the submission of the proposed standard to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

"(2) NOTICE AND COMMENT.—A decision by the Director to significantly modify, or not promulgate, a proposed standard submitted to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), shall be made after the public is given an opportunity to comment on the Director's proposed decision.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 40, United States Code, is amended by striking the item relating to section 11331 and inserting the following:

"11331. Responsibilities for Federal information systems standards.".

SEC. 1003. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), is amended by striking the text and inserting the following:

"(a) The Institute shall—

"(1) have the mission of developing standards, guidelines, and associated methods and techniques for information systems;

"(2) develop standards and guidelines, including minimum requirements, for information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency, other than national security systems (as defined in section 3532(b)(2) of title 44, United States Code);

"(3) develop standards and guidelines, including minimum requirements, for providing adequate information security for all agency operations and assets, but such standards and guidelines shall not apply to national security systems; and

"(4) carry out the responsibilities described in paragraph (3) through the Computer Security Division.

"(b) The standards and guidelines required by subsection (a) shall include, at a minimum—

"(1)(A) standards to be used by all agencies to categorize all information and information systems collected or maintained by or on behalf of each agency based on the objectives of providing appropriate levels of information security according to a range of risk levels;

"(B) guidelines recommending the types of information and information systems to be included in each such category; and

"(C) minimum information security requirements for information and information systems in each such category;

"(2) a definition of and guidelines concerning detection and handling of information security incidents; and

"(3) guidelines developed in coordination with the National Security Agency for identifying an information system as a national security system consistent with applicable requirements for national security systems, issued in accordance with law and as directed by the President.

"(c) In developing standards and guidelines required by subsections (a) and (b), the Institute shall—

"(1) consult with other agencies and offices (including, but not limited to, the Director of the Office of Management and Budget, the Departments of Defense and Energy, the National Security Agency, the General Accounting Office, and the Secretary of Homeland Security) to assure—

"(A) use of appropriate information security policies, procedures, and techniques, in order to improve information security and avoid unnecessary and costly duplication of effort; and

"(B) that such standards and guidelines are complementary with standards and guidelines employed for the protection of national security systems and information contained in such systems;

"(2) provide the public with an opportunity to comment on proposed standards and guidelines;

"(3) submit to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code—

"(A) standards, as required under subsection (b)(1)(A), no later than 12 months after the date of the enactment of this section; and

"(B) minimum information security requirements for each category, as required under subsection (b)(1)(C), no later than 36 months after the date of the enactment of this section;

"(4) issue guidelines as required under subsection (b)(1)(B), no later than 18 months after the date of the enactment of this Act;

"(5) ensure that such standards and guidelines do not require specific technological solutions or products, including any specific hardware or software security solutions;

"(6) ensure that such standards and guidelines provide for sufficient flexibility to permit alternative solutions to provide equivalent levels of protection for identified information security risks; and

"(7) use flexible, performance-based standards and guidelines that, to the greatest extent possible, permit the use of off-the-shelf commercially developed information security products.

"(d) The Institute shall—

"(1) submit standards developed pursuant to subsection (a), along with recommendations as to the extent to which these should be made compulsory and binding, to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code;

"(2) provide assistance to agencies regarding—

"(A) compliance with the standards and guidelines developed under subsection (a);

"(B) detecting and handling information security incidents; and

"(C) information security policies, procedures, and practices;

"(3) conduct research, as needed, to determine the nature and extent of information security vulnerabilities and techniques for providing cost-effective information security;

"(4) develop and periodically revise performance indicators and measures for agency information security policies and practices;

"(5) evaluate private sector information security policies and practices and commercially available information technologies to assess potential application by agencies to strengthen information security;

"(6) evaluate security policies and practices developed for national security systems to assess potential application by agencies to strengthen information security;

"(7) periodically assess the effectiveness of standards and guidelines developed under this section and undertake revisions as appropriate;

"(8) solicit and consider the recommendations of the Information Security and Privacy Advisory Board, established by section 21, regarding standards and guidelines developed under subsection (a) and submit such recommendations to the Director of the Office of Management and Budget with such standards submitted to the Director; and

"(9) prepare an annual public report on activities undertaken in the previous year, and planned for the coming year, to carry out responsibilities under this section.

"(e) As used in this section—

"(1) the term 'agency' has the same meaning as provided in section 3502(1) of title 44, United States Code;

"(2) the term 'information security' has the same meaning as provided in section 3532(1) of such title;

"(3) the term 'information system' has the same meaning as provided in section 3502(8) of such title;

"(4) the term 'information technology' has the same meaning as provided in section 11101 of title 40, United States Code; and

"(5) the term 'national security system' has the same meaning as provided in section 3532(b)(2) of such title.".

SEC. 1004. INFORMATION SECURITY AND PRIVACY ADVISORY BOARD.

Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-4), is amended—

(1) in subsection (a), by striking "Computer System Security and Privacy Advisory Board" and inserting "Information Security and Privacy Advisory Board";

(2) in subsection (a)(1), by striking "computer or telecommunications" and inserting "information technology";

(3) in subsection (a)(2)—

(A) by striking "computer or telecommunications technology" and inserting "information technology"; and

(B) by striking "computer or telecommunications equipment" and inserting "information technology";

(4) in subsection (a)(3)—

(A) by striking "computer systems" and inserting "information system"; and

(B) by striking "computer systems security" and inserting "information security";

(5) in subsection (b)(1) by striking "computer systems security" and inserting "information security";

(6) in subsection (b) by striking paragraph (2) and inserting the following:

"(2) to advise the Institute and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems, including through review of proposed standards and guidelines developed under section 20; and";

(7) in subsection (b)(3) by inserting "annually" after "report";

(8) by inserting after subsection (e) the following new subsection:

"(f) The Board shall hold meetings at such locations and at such time and place as determined by a majority of the Board.";

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(10) by striking subsection (h), as redesignated by paragraph (9), and inserting the following:

"(h) As used in this section, the terms "information system" and "information technology" have the meanings given in section 20.".

SEC. 1005. TECHNICAL AND CONFORMING AMENDMENTS.

(a) FEDERAL COMPUTER SYSTEM SECURITY TRAINING AND PLAN.—

(1) REPEAL.—Section 11332 of title 40, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 40, United States Code, as amended by striking the item relating to section 11332.

(b) FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) is amended by striking subtitle G of title X (44 U.S.C. 3531 note).

(c) PAPERWORK REDUCTION ACT.—(1) Section 3504(g) of title 44, United States Code, is amended—

(A) by adding "and" at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking "sections 11331 and 11332(b) and (c) of title 40" and inserting "section 11331 of title 40 and subchapter II of this title"; and

(ii) by striking the semicolon and inserting a period; and

(C) by striking paragraph (3).

(2) Section 3505 of such title is amended by adding at the end the following:

"(c) INVENTORY OF INFORMATION SYSTEMS.—(1) The head of each agency shall develop and maintain an inventory of the information systems (including national security systems) operated by or under the control of such agency;

"(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency;

"(3) Such inventory shall be—

"(A) updated at least annually;

"(B) made available to the Comptroller General; and

"(C) used to support information resources management, including—

"(i) preparation and maintenance of the inventory of information resources under section 3506(b)(4);

"(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), subtitle III of title 40, and related laws and guidance;

"(iii) monitoring, testing, and evaluation of information security controls under subchapter II;

"(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and

"(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33.

"(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.".

(3) Section 3506(g) of such title is amended—

(A) by adding "and" at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking "section 11332 of title 40" and inserting "subchapter II of this chapter"; and

(ii) by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

SEC. 1006. CONSTRUCTION.

Nothing in this Act, or the amendments made by this Act, affects the authority of the National Institute of Standards and Technology or the Department of Commerce relating to the development and promulgation of standards or guidelines under paragraphs (1) and (2) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(a)).

TITLE XI—DEPARTMENT OF JUSTICE DIVISIONS

Subtitle A—Executive Office for Immigration Review

SEC. 1101. LEGAL STATUS OF EOIR.

(a) EXISTENCE OF EOIR.—There is in the Department of Justice the Executive Office for Immigration Review, which shall be subject to the direction and regulation of the Attorney General under section 103(g) of the Immigration and Nationality Act, as added by section 1102.

SEC. 1102. AUTHORITIES OF THE ATTORNEY GENERAL.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) as amended by this Act, is further amended by—

(1) amending the heading to read as follows:

"POWERS AND DUTIES OF THE SECRETARY, THE UNDER SECRETARY, AND THE ATTORNEY GENERAL";

(2) in subsection (a)—

(A) by inserting "Attorney General," after "President,"; and

(B) by redesignating paragraphs (8), (9), (8) (as added by section 372 of Public Law 104–208), and (9) (as added by section 372 of Public Law 104–208) as paragraphs (8), (9), (10), and (11), respectively; and

(3) by adding at the end the following new subsection:

"(g) ATTORNEY GENERAL.—

"(1) IN GENERAL.—The Attorney General shall have such authorities and functions under this Act and all other laws relating to the immigration and naturalization of aliens as were exercised by the Executive Office for Immigration Review, or by the Attorney General with respect to the Executive Office for Immigration Review, on the day before the effective date of the Immigration Reform, Accountability and Security Enhancement Act of 2002.

"(2) POWERS.—The Attorney General shall establish such regulations, prescribe such forms of bond, reports, entries, and other papers, issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out this section.".

SEC. 1103. STATUTORY CONSTRUCTION.

Nothing in this Act, any amendment made by this Act, or in section 103 of the Immigration and Nationality Act, as amended by section 1102, shall be construed to limit judicial deference to regulations, adjudications, interpretations, orders, decisions, judgments, or any other actions of the Secretary of Homeland Security or the Attorney General.

Subtitle B—Transfer of the Bureau of Alcohol, Tobacco and Firearms to the Department of Justice

SEC. 1111. BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department of Justice under the general authority of the Attorney General the Bureau of Alcohol, Tobacco, Firearms, and Explosives (in this section referred to as the "Bureau").

(2) DIRECTOR.—There shall be at the head of the Bureau a Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives (in this subtitle referred to as the "Director"). The Director shall be appointed by the Attorney General and shall perform such functions as the Attorney General shall direct. The Director shall receive compensation at the rate prescribed by law under section 5314 of title V, United States Code, for positions at level III of the Executive Schedule.

(3) COORDINATION.—The Attorney General, acting through the Director and such other officials of the Department of Justice as the Attorney General may designate, shall provide for the coordination of all firearms, explosives, tobacco enforcement, and arson enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among any officer, employee, or agency of the Department of Justice involved in the performance of these and related functions.

(4) PERFORMANCE OF TRANSFERRED FUNCTIONS.—The Attorney General may make such provisions as the Attorney General determines appropriate to authorize the performance by any officer, employee, or agency of the Department of Justice of any function transferred to the Attorney General under this section.

(b) RESPONSIBILITIES.—Subject to the direction of the Attorney General, the Bureau shall be responsible for investigating—

(1) criminal and regulatory violations of the Federal firearms, explosives, arson, alcohol, and tobacco smuggling laws;

(2) the functions transferred by subsection (c); and

(3) any other function related to the investigation of violent crime or domestic terrorism that is delegated to the Bureau by the Attorney General.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—Subject to paragraph (2), but notwithstanding any other provision of law, there are transferred to the Department of Justice the authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms, which shall be maintained as a distinct entity within the Department of Justice, including the related functions of the Secretary of the Treasury.

(2) ADMINISTRATION AND REVENUE COLLECTION FUNCTIONS.—There shall be retained within the Department of the Treasury the authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms relating to the administration and enforcement of chapters 51 and 52 of the Internal Revenue Code of 1986, sections 4181 and 4182 of the Internal Revenue Code of 1986, and title 27, United States Code.

(3) BUILDING PROSPECTUS.—Prospectus PDC-98W10, giving the General Services Administration the authority for site acquisition, design, and construction of a new headquarters building for the Bureau of Alcohol, Tobacco and Firearms, is transferred, and deemed to apply, to the Bureau of Alcohol, Tobacco, Firearms, and Explosives established in the Department of Justice under subsection (a).

(d) TAX AND TRADE BUREAU.—

(1) ESTABLISHMENT.—There is established within the Department of the Treasury the Tax and Trade Bureau.

(2) ADMINISTRATOR.—The Tax and Trade Bureau shall be headed by an Administrator, who shall perform such duties as assigned by the Under Secretary for Enforcement of the Department of the Treasury. The Administrator shall occupy a career-reserved position within the Senior Executive Service.

(3) RESPONSIBILITIES.—The authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms that are not transferred to the Department of Justice under this section shall be retained and administered by the Tax and Trade Bureau.

SEC. 1112. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 8D(b)(1) by striking "Bureau of Alcohol, Tobacco and Firearms" and inserting "Tax and Trade Bureau"; and

(2) in section 9(a)(1)(L)(i), by striking "Bureau of Alcohol, Tobacco, and Firearms" and inserting "Tax and Trade Bureau".

(b) Section 1109(c)(2)(A)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (7 U.S.C. 1445-3(c)(2)(A)(i)) is amended by striking "(on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms" and inserting "by manufacturers of tobacco products to the Tax and Trade Bureau".

(c) Section 2(4)(J) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173; 8 U.S.C.A. 1701(4)(J)) is amended by striking "Bureau of Alcohol, Tobacco, and Firearms" and inserting "Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice".

(d) Section 3(1)(E) of the Firefighters' Safety Study Act (15 U.S.C. 2223b(1)(E)) is amended by striking "the Bureau of Alcohol, Tobacco, and Firearms," and inserting "the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice,".

(e) Chapter 40 of title 18, United States Code, is amended—

(1) by striking section 841(k) and inserting the following:

"(k) 'Attorney General' means the Attorney General of the United States.";

(2) in section 846(a), by striking "the Attorney General and the Federal Bureau of Investigation, together with the Secretary" and inserting "the Federal Bureau of Investigation, together with the Bureau of Alcohol, Tobacco, Firearms, and Explosives"; and

(3) by striking "Secretary" each place it appears and inserting "Attorney General".

(f) Chapter 44 of title 18, United States Code, is amended—

(1) in section 921(a)(4)(B), by striking "Secretary" and inserting "Attorney General";

(2) in section 921(a)(4), by striking "Secretary of the Treasury" and inserting "Attorney General";

(3) in section 921(a), by striking paragraph (18) and inserting the following:

"(18) The term 'Attorney General' means the Attorney General of the United States";

(4) in section 922(p)(5)(A), by striking "after consultation with the Secretary" and inserting "after consultation with the Attorney General";

(5) in section 923(*l*), by striking "Secretary of the Treasury" and inserting "Attorney General"; and

(6) by striking "Secretary" each place it appears, except before "of the Army" in section 921(a)(4) and before "of Defense" in section 922(p)(5)(A), and inserting the term "Attorney General".

(g) Section 1261(a) of title 18, United States Code, is amended to read as follows:

"(a) The Attorney General—

"(1) shall enforce the provisions of this chapter; and

"(2) has the authority to issue regulations to carry out the provisions of this chapter.".

(h) Section 1952(c) of title 18, United States Code, is amended by striking "Secretary of the Treasury" and inserting "Attorney General".

(i) Chapter 114 of title 18, United States Code, is amended—

(1) by striking section 2341(5), and inserting the following:

"(5) the term 'Attorney General' means the Attorney General of the United States"; and

(2) by striking "Secretary" each place it appears and inserting "Attorney General".

(j) Section 6103(i)(8)(A)(i) of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by striking "or the Bureau of Alcohol, Tobacco and Firearms" and inserting ", the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, or the Tax and Trade Bureau, Department of the Treasury,".

(k) Section 7801(a) of the Internal Revenue Code of 1986 (relating to the authority of the Department of the Treasury) is amended—

(1) by striking "SECRETARY.—Except" and inserting "SECRETARY.—

"(1) IN GENERAL.—Except"; and

(2) by adding at the end the following:

"(2) ADMINISTRATION AND ENFORCEMENT OF CERTAIN PROVISIONS BY ATTORNEY GENERAL.—

"(A) IN GENERAL.—The administration and enforcement of the following provisions of this title shall be performed by or under the supervision of the Attorney General; and the term 'Secretary' or 'Secretary of the Treasury' shall, when applied to those provisions, mean the Attorney General; and the term 'internal revenue officer' shall, when applied to those provisions, mean any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives so designated by the Attorney General:

“(i) Chapter 53.

“(ii) Chapters 61 through 80, to the extent such chapters relate to the enforcement and administration of the provisions referred to in clause (i).

“(B) USE OF EXISTING RULINGS AND INTERPRETATIONS.—Nothing in this Act alters or repeals the rulings and interpretations of the Bureau of Alcohol, Tobacco, and Firearms in effect on the effective date of the Homeland Security Act of 2002, which concern the provisions of this title referred to in subparagraph (A). The Attorney General shall consult with the Secretary to achieve uniformity and consistency in administering provisions under chapter 53 of title 26, United States Code.”.

(l) Section 2006(2) of title 28, United States Code, is amended by inserting “, the Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice,” after “the Secretary of the Treasury”.

(m) Section 713 of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§ 713. Audit of Internal Revenue Service, Tax and Trade Bureau, and Bureau of Alcohol, Tobacco, Firearms, and Explosives”;

(2) in subsection (a), by striking “Bureau of Alcohol, Tobacco, and Firearms,” and inserting “Tax and Trade Bureau, Department of the Treasury, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice”; and

(3) in subsection (b)

(A) in paragraph (1)(B), by striking “or the Bureau” and inserting “or either Bureau”;

(B) in paragraph (2)—

(i) by striking “or the Bureau” and inserting “or either Bureau”; and

(ii) by striking “and the Director of the Bureau” and inserting “the Tax and Trade Bureau, Department of the Treasury, and the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice”; and

(C) in paragraph (3), by striking “or the Bureau” and inserting “or either Bureau”.

(n) Section 9703 of title 31, United States Code, is amended—

(1) in subsection (a)(2)(B)—

(A) in clause (iii)(III), by inserting “and” after the semicolon;

(B) in clause (iv), by striking “; and” and inserting a period; and

(C) by striking clause (v);

(2) by striking subsection (o);

(3) by redesignating existing subsection (p) as subsection (o); and

(4) in subsection (o)(1), as redesignated by paragraph (3), by striking “Bureau of Alcohol, Tobacco and Firearms” and inserting “Tax and Trade Bureau”.

(o) Section 609N(2)(L) of the Justice Assistance Act of 1984 (42 U.S.C. 10502(2)(L)) is amended by striking “Bureau of Alcohol, Tobacco, and Firearms” and inserting “Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice”.

(p) Section 32401(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13921(a)) is amended—

(1) by striking “Secretary of the Treasury” each place it appears and inserting “Attorney General”; and

(2) in subparagraph (3)(B), by striking “Bureau of Alcohol, Tobacco and Firearms” and inserting “Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice”.

(q) Section 80303 of title 49, United States Code, is amended—

(1) by inserting “or, when the violation of this chapter involves contraband described in paragraph (2) or (5) of section 80302(a), the Attorney General” after “section 80304 of this title.”; and

(2) by inserting “, the Attorney General,” after “by the Secretary”.

(r) Section 80304 of title 49, United States Code, is amended—

(1) in subsection (a), by striking “(b) and (c)” and inserting “(b), (c), and (d)”;

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c), the following:

“(d) ATTORNEY GENERAL.—The Attorney General, or officers, employees, or agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice designated by the Attorney General, shall carry out the laws referred to in section 80306(b) of this title to the extent that the violation of this chapter involves contraband described in section 80302 (a)(2) or (a)(5).”.

(s) Section 103 of the Gun Control Act of 1968 (Public Law 90–618; 82 Stat. 1226) is amended by striking “Secretary of the Treasury” and inserting “Attorney General”.

SEC. 1113. POWERS OF AGENTS OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

Chapter 203 of title 18, United States Code, is amended by adding the following:

“§ 3051. Powers of Special Agents of Bureau of Alcohol, Tobacco, Firearms, and Explosives.

“(a) Special agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, as well as any other investigator or officer charged by the Attorney General with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of the laws of the United States, may carry firearms, serve warrants and subpoenas issued under the authority of the United States and make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

“(b) Any special agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives may, in respect to the performance of his or her duties, make seizures of property subject to forfeiture to the United States.

“(c)(1) Except as provided in paragraphs (2) and (3), and except to the extent that such provisions conflict with the provisions of section 983 of title 18, United States Code, insofar as section 983 applies, the provisions of the Customs laws relating to—

“(A) the seizure, summary and judicial forfeiture, and condemnation of property;

“(B) the disposition of such property;

“(C) the remission or mitigation of such forfeiture; and

“(D) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable provision of law enforced or administered by the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

“(2) For purposes of paragraph (1), duties that are imposed upon a customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws of the United States shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as may be authorized or designated for that purpose by the Attorney General.

“(3) Notwithstanding any other provision of law, the disposition of firearms forfeited by reason of a violation of any law of the United States shall be governed by the provisions of section 5872(b) of the Internal Revenue Code of 1986.”.

SEC. 1114. EXPLOSIVES TRAINING AND RESEARCH FACILITY.

(a) ESTABLISHMENT.—There is established within the Bureau an Explosives Training and Research Facility at Fort AP Hill, Fredericksburg, Virginia.

(b) PURPOSE.—The facility established under subsection (a) shall be utilized to train Federal, State, and local law enforcement officers to—

(1) investigate bombings and explosions;

(2) properly handle, utilize, and dispose of explosive materials and devices;

(3) train canines on explosive detection; and

(4) conduct research on explosives.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to establish and maintain the facility established under subsection (a).

(2) AVAILABILITY OF FUNDS.—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 1115. PERSONNEL MANAGEMENT DEMONSTRATION PROJECT.

Notwithstanding any other provision of law, the Personnel Management Demonstration Project established under section 102 of title I of Division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 (Pub. L. 105–277; 122 Stat. 2681–585) shall be transferred to the Attorney General of the United States for continued use by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, and the Secretary of the Treasury for continued use by the Tax and Trade Bureau.

Subtitle C—Explosives

SEC. 1121. SHORT TITLE.

This subtitle may be referred to as the “Safe Explosives Act”.

SEC. 1122. PERMITS FOR PURCHASERS OF EXPLOSIVES.

(a) DEFINITIONS.—Section 841 of title 18, United States Code, is amended—

(1) by striking subsection (j) and inserting the following:

“(j) ‘Permittee’ means any user of explosives for a lawful purpose, who has obtained either a user permit or a limited permit under the provisions of this chapter.”; and

(2) by adding at the end the following:

“(r) ‘Alien’ means any person who is not a citizen or national of the United States.

“(s) ‘Responsible person’ means an individual who has the power to direct the management and policies of the applicant pertaining to explosive materials.”.

(b) PERMITS FOR PURCHASE OF EXPLOSIVES.—Section 842 of title 18, United States Code, is amended—

(1) in subsection (a)(2), by striking “and” at the end;

(2) by striking subsection (a)(3) and inserting the following:

“(3) other than a licensee or permittee knowingly—

“(A) to transport, ship, cause to be transported, or receive any explosive materials; or

“(B) to distribute explosive materials to any person other than a licensee or permittee; or

“(4) who is a holder of a limited permit—

“(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials; or

“(B) to receive explosive materials from a licensee or permittee, whose premises are located outside the State of residence of the limited permit holder, or on more than 6 separate occasions, during the period of the permit, to receive explosive materials from 1 or more licensees or permittees whose premises are located within the State of residence of the limited permit holder."; and

(3) by striking subsection (b) and inserting the following:

"(b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—

"(1) a licensee;

"(2) a holder of a user permit; or

"(3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.".

(c) LICENSES AND USER PERMITS.—Section 843(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by inserting "or limited permit" after "user permit"; and

(B) by inserting before the period at the end the following: ", including the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials, as well as fingerprints and a photograph of each responsible person";

(2) in the second sentence, by striking "$200 for each" and inserting "$50 for a limited permit and $200 for any other"; and

(3) by striking the third sentence and inserting "Each license or user permit shall be valid for not longer than 3 years from the date of issuance and each limited permit shall be valid for not longer than 1 year from the date of issuance. Each license or permit shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit, and upon payment of a renewal fee not to exceed one-half of the original fee.".

(d) CRITERIA FOR APPROVING LICENSES AND PERMITS.—Section 843(b) of title 18, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) the applicant (or, if the applicant is a corporation, partnership, or association, each responsible person with respect to the applicant) is not a person described in section 842(i);";

(2) in paragraph (4)—

(A) by inserting "(A) the Secretary verifies by inspection or, if the application is for an original limited permit or the first or second renewal of such a permit, by such other means as the Secretary determines appropriate, that" before "the applicant"; and

(B) by adding at the end the following:

"(B) subparagraph (A) shall not apply to an applicant for the renewal of a limited permit if the Secretary has verified, by inspection within the preceding 3 years, the matters described in subparagraph (A) with respect to the applicant; and";

(3) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(6) none of the employees of the applicant who will be authorized by the applicant to possess explosive materials is any person described in section 842(i); and

"(7) in the case of a limited permit, the applicant has certified in writing that the applicant will not receive explosive materials on more than 6 separate occasions during the 12-month period for which the limited permit is valid.".

(e) APPLICATION APPROVAL.—Section 843(c) of title 18, United States Code, is amended by striking "forty-five days" and inserting "90 days for licenses and permits,".

(f) INSPECTION AUTHORITY.—Section 843(f) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "permittees" and inserting "holders of user permits"; and

(B) by inserting "licensees and permittees" before "shall submit";

(2) in the second sentence, by striking "permittee" the first time it appears and inserting "holder of a user permit"; and

(3) by adding at the end the following: "The Secretary may inspect the places of storage for explosive materials of an applicant for a limited permit or, at the time of renewal of such permit, a holder of a limited permit, only as provided in subsection (b)(4).

(g) POSTING OF PERMITS.—Section 843(g) of title 18, United States Code, is amended by inserting "user" before "permits".

(h) BACKGROUND CHECKS; CLEARANCES.—Section 843 of title 18, United States Code, is amended by adding at the end the following:

"(h)(1) If the Secretary receives, from an employer, the name and other identifying information of a responsible person or an employee who will be authorized by the employer to possess explosive materials in the course of employment with the employer, the Secretary shall determine whether the responsible person or employee is one of the persons described in any paragraph of section 842(i). In making the determination, the Secretary may take into account a letter or document issued under paragraph (2).

"(2)(A) If the Secretary determines that the responsible person or the employee is not one of the persons described in any paragraph of section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue, to the responsible person or employee, a letter of clearance, which confirms the determination.

"(B) If the Secretary determines that the responsible person or employee is one of the persons described in any paragraph of section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue to the responsible person or the employee, as the case may be, a document that—

"(i) confirms the determination;

"(ii) explains the grounds for the determination;

"(iii) provides information on how the disability may be relieved; and

"(iv) explains how the determination may be appealed.".

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

(2) EXCEPTION.—Notwithstanding any provision of this Act, a license or permit issued under section 843 of title 18, United States Code, before the date of enactment of this Act, shall remain valid until that license or permit is revoked under section 843(d) or expires, or until a timely application for renewal is acted upon.

SEC. 1123. PERSONS PROHIBITED FROM RECEIVING OR POSSESSING EXPLOSIVE MATERIALS.

(a) DISTRIBUTION OF EXPLOSIVES.—Section 842(d) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "or who has been committed to a mental institution;"; and

(3) by adding at the end the following:

"(7) is an alien, other than an alien who—

"(A) is lawfully admitted for permanent residence (as defined in section 101 (a)(20) of the Immigration and Nationality Act); or

"(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

"(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business;

"(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

"(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Secretary in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

"(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

"(8) has been discharged from the armed forces under dishonorable conditions;

"(9) having been a citizen of the United States, has renounced the citizenship of that person.".

(b) POSSESSION OF EXPLOSIVE MATERIALS.—Section 842(i) of title 18, United States Code, is amended—

(1) in paragraph (3), by striking "or" at the end; and

(2) by inserting after paragraph (4) the following:

"(5) who is an alien, other than an alien who—

"(A) is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act); or

"(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

"(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business;

"(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

"(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Secretary in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

"(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

"(6) who has been discharged from the armed forces under dishonorable conditions;

"(7) who, having been a citizen of the United States, has renounced the citizenship of that person"; and

(3) by inserting "or affecting" before "interstate" each place that term appears.

SEC. 1124. REQUIREMENT TO PROVIDE SAMPLES OF EXPLOSIVE MATERIALS AND AMMONIUM NITRATE.

Section 843 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

"(l) Furnishing of Samples.—

"(1) In general.—Licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate shall, when required by letter issued by the Secretary, furnish—

"(A) samples of such explosive materials or ammonium nitrate;

"(B) information on chemical composition of those products; and

"(C) any other information that the Secretary determines is relevant to the identification of the explosive materials or to identification of the ammonium nitrate.

"(2) Reimbursement.—The Secretary shall, by regulation, authorize reimbursement of the fair market value of samples furnished pursuant to this subsection, as well as the reasonable costs of shipment.".

SEC. 1125. DESTRUCTION OF PROPERTY OF INSTITUTIONS RECEIVING FEDERAL FINANCIAL ASSISTANCE.

Section 844(f)(1) of title 18, United States Code, is amended by inserting before the word "shall" the following: "or any institution or organization receiving Federal financial assistance,".

SEC. 1126. RELIEF FROM DISABILITIES.

Section 845(b) of title 18, United States Code, is amended to read as follows:

"(b)(1) A person who is prohibited from shipping, transporting, receiving, or possessing any explosive under section 842(i) may apply to the Secretary for relief from such prohibition.

"(2) The Secretary may grant the relief requested under paragraph (1) if the Secretary determines that the circumstances regarding the applicability of section 842(i), and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of such relief is not contrary to the public interest.

"(3) A licensee or permittee who applies for relief, under this subsection, from the disabilities incurred under this chapter as a result of an indictment for or conviction of a crime punishable by imprisonment for a term exceeding 1 year shall not be barred by such disability from further operations under the license or permit pending final action on an application for relief filed pursuant to this section.".

SEC. 1127. THEFT REPORTING REQUIREMENT.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(p) Theft Reporting Requirement.—

"(1) In general.—A holder of a license or permit who knows that explosive materials have been stolen from that licensee or permittee, shall report the theft to the Secretary not later than 24 hours after the discovery of the theft.

"(2) Penalty.—A holder of a license or permit who does not report a theft in accordance with paragraph (1), shall be fined not more than $10,000, imprisoned not more than 5 years, or both.".

SEC. 1128. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as necessary to carry out this subtitle and the amendments made by this subtitle.

TITLE XII—AIRLINE WAR RISK INSURANCE LEGISLATION

SEC. 1201. AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.

Section 44303 of title 49, United States Code, is amended—

(1) by inserting "(a) In general.—" before "The Secretary of Transportation";

(2) by moving the text of paragraph (2) of section 201(b) of the Air Transportation Safety and System Stabilization Act (115 Stat. 235) to the end and redesignating such paragraph as subsection (b);

(3) in subsection (b) (as so redesignated)—

(A) by striking the subsection heading and inserting "Air Carrier Liability for Third Party Claims Arising Out of Acts of Terrorism.—";

(B) in the first sentence by striking "the 180-day period following the date of enactment of this Act, the Secretary of Transportation" and inserting "the period beginning on September 22, 2001, and ending on December 31, 2003, the Secretary"; and

(C) in the last sentence by striking "this paragraph" and inserting "this subsection".

SEC. 1202. EXTENSION OF INSURANCE POLICIES.

Section 44302 of title 49, United States Code, is amended by adding at the end the following:

"(f) Extension of Policies.—

"(1) In general.—The Secretary shall extend through August 31, 2003, and may extend through December 31, 2003, the termination date of any insurance policy that the Department of Transportation issued to an air carrier under subsection (a) and that is in effect on the date of enactment of this subsection on no less favorable terms to the air carrier than existed on June 19, 2002; except that the Secretary shall amend the insurance policy, subject to such terms and conditions as the Secretary may prescribe, to add coverage for losses or injuries to aircraft hulls, passengers, and crew at the limits carried by air carriers for such losses and injuries as of such date of enactment and at an additional premium comparable to the premium charged for third-party casualty coverage under such policy.

"(2) Special rules.—Notwithstanding paragraph (1)—

"(A) in no event shall the total premium paid by the air carrier for the policy, as amended, be more than twice the premium that the air carrier was paying to the Department of Transportation for its third party policy as of June 19, 2002; and

"(B) the coverage in such policy shall begin with the first dollar of any covered loss that is incurred.".

SEC. 1203. CORRECTION OF REFERENCE.

Effective November 19, 2001, section 147 of the Aviation and Transportation Security Act (Public Law 107–71) is amended by striking "(b)" and inserting "(c)".

SEC. 1204. REPORT.

Not later than 90 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(A) evaluates the availability and cost of commercial war risk insurance for air carriers and other aviation entities for passengers and third parties;

(B) analyzes the economic effect upon air carriers and other aviation entities of available commercial war risk insurance; and

(C) describes the manner in which the Department could provide an alternative means of providing aviation war risk reinsurance covering passengers, crew, and third parties through use of a risk-retention group or by other means.

TITLE XIII—FEDERAL WORKFORCE IMPROVEMENT

Subtitle A—Chief Human Capital Officers

SEC. 1301. SHORT TITLE.

This title may be cited as the "Chief Human Capital Officers Act of 2002".

SEC. 1302. AGENCY CHIEF HUMAN CAPITAL OFFICERS.

(a) In General.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

"Sec.

"1401. Establishment of agency Chief Human Capital Officers.

"1402. Authority and functions of agency Chief Human Capital Officers.

"§ 1401. Establishment of agency Chief Human Capital Officers

"The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

"(1) advise and assist the head of the agency and other agency officials in carrying out the agency's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

"(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and

"(3) carry out such functions as the primary duty of the Chief Human Capital Officer.

"§ 1402. Authority and functions of agency Chief Human Capital Officers

"(a) The functions of each Chief Human Capital Officer shall include—

"(1) setting the workforce development strategy of the agency;

"(2) assessing workforce characteristics and future needs based on the agency's mission and strategic plan;

"(3) aligning the agency's human resources policies and programs with organization mission, strategic goals, and performance outcomes;

"(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

"(5) identifying best practices and benchmarking studies, and

"(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

"(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—

"(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

"(A) are the property of the agency or are available to the agency; and

"(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

"(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"14. Agency Chief Human Capital Officers .... 1401".

EC. 1303. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) ESTABLISHMENT.—There is established a Chief Human Capital Officers Council, consisting of—

(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) FUNCTIONS.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

(c) EMPLOYEE LABOR ORGANIZATIONS AT MEETINGS.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

(d) ANNUAL REPORT.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

SEC. 1304. STRATEGIC HUMAN CAPITAL MANAGEMENT.

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

"(c)(1) The Office of Personnel Management shall design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies.

"(2) The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for—

"(A)(i) aligning human capital strategies of agencies with the missions, goals, and organizational objectives of those agencies; and

"(ii) integrating those strategies into the budget and strategic plans of those agencies;

"(B) closing skill gaps in mission critical occupations;

"(C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;

"(D) sustaining a culture that cultivates and develops a high performing workforce;

"(E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and

"(F) holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.".

SEC. 1305. EFFECTIVE DATE.

This subtitle shall take effect 180 days after the date of enactment of this Act.

Subtitle B—Reforms Relating to Federal Human Capital Management

SEC. 1311. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAMS PERFORMANCE REPORTS.

(a) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

"(3) provide a description of how the performance goals and objectives are to be achieved, including the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

"(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).".

(b) PROGRAM PERFORMANCE REPORTS.—Section 1116(d) of title 31, United States Code, is amended—

(1) in paragraph (4), by striking "and" after the semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

"(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management; and".

SEC. 1312. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended—

(1) in section 3304(a)—

(A) in paragraph (1), by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period and inserting "; and"; and

(C) by adding at the end of the following:

"(3) authority for agencies to appoint, without regard to the provision of sections 3309 through 3318, candidates directly to positions for which—

"(A) public notice has been given; and

"(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria."; and

(2) by inserting after section 3318 the following:

"§ 3319. Alternative ranking and selection procedures

"(a) The Office, in exercising its authority under section 3304, or an agency to which the Office has delegated examining authority under section 1104(a)(2), may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

"(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS–9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

"(c)(1) An appointing official may select any applicant in the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

"(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

"(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on—

"(1) the number of employees hired under that system;

"(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islanders; and

"(3) the way in which managers were trained in the administration of that system.

"(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisions of this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3319 and inserting the following:

"3319. Alternative ranking and selection procedures.".

SEC. 1313. PERMANENT EXTENSION, REVISION, AND EXPANSION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—

(A) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Chapter 35 of title 5, United States Code, is amended by inserting after subchapter I the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"§ 3521. Definitions

"In this subchapter, the term—

"(1) 'agency' means an Executive agency as defined under section 105; and

"(2) 'employee'—

"(A) means an employee as defined under section 2105 employed by an agency and an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) who—

"(i) is serving under an appointment without time limitation; and

"(ii) has been currently employed for a continuous period of at least 3 years; and

"(B) shall not include—

"(i) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

"(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government.

"(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

"(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this subchapter or any other authority;

"(v) an employee covered by statutory reemployment rights who is on transfer employment with another organization; or

"(vi) any employee who—

"(I) during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379;

"(II) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or relocation bonus was or is to be paid under section 5753; or

"(III) during the 12-month period preceding the date of separation of that employee, performed service for which a retention bonus was or is to be paid under section 5754.

"§ 3522. Agency plans; approval

"(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

"(b) The plan of an agency under subsection (a) shall include—

"(1) the specific positions and functions to be reduced or eliminated;

"(2) a description of which categories of employees will be offered incentives;

"(3) the time period during which incentives may be paid;

"(4) the number and amounts of voluntary separation incentive payments to be offered; and

"(5) a description of how the agency will operate without the eliminated positions and functions.

"(c) The Director of the Office of Personnel Management shall review each agency's plan and may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Directive of the Office of Personnel Management.

"§ 3523. Authority to provide voluntary separation incentive payments

"(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

"(b) A voluntary incentive payment—

"(1) shall be offered to agency employees on the basis of—

"(A) 1 or more organizational units;

"(B) 1 or more occupational series or levels;

"(C) 1 or more geographical locations;

"(D) skills, knowledge, or other factors related to a position;

"(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

"(F) any appropriate combination of such factors;

"(2) shall be paid in a lump sum after the employee's separation;

"(3) shall be equal to the lesser of—

"(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

"(B) an amount determined by the agency head, not to exceed $25,000;

"(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

"(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

"(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on another other separation; and

"(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

"§ 3524. Effect of subsequent employment with the Government

"(a) The term 'employment'—

"(1) in subsection (b) includes employment under a personal services contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

"(2) in subsection (c) does not include employment under such a contract.

"(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States with 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

"(c)(1) If the employment under this section is with an agency, other than the General Accounting Office, the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management at the request of the head of the agency, may waive the repayment if—

"(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

"(B) in case of an emergency involving a direct threat to life or property, the individual—

"(i) has skills directly related to resolving the emergency; and

"(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

"(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"§ 3525. Regulations

"The Office of Personnel Management may prescribe regulations to carry out this subchapter.".

(B) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 35 of title 5, United States Code, is amended—

(i) by striking the chapter heading and inserting the following:

"CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT";

and

(ii) in the table of sections by inserting after the item relating to section 3504 the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"3521. Definitions.
"3522. Agency plans; approval.
"3523. Authority to provide voluntary separation incentive payments.
"3524. Effect of subsequent employment with the Government.
"3525. Regulations.".

(2) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

(3) CONTINUATION OF OTHER AUTHORITY.—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.

(4) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this Act.

(b) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

"(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

"(B) is serving under an appointment that is not time limited;

"(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(D) is separated from the service voluntarily during a period in which, as determined by the office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(ii) a significant percentage of employees servicing in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(iii) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(i) 1 or more organizational units;

"(ii) 1 or more occupational series or levels;

"(iii) 1 or more geographical locations;

"(iv) specific periods;

"(v) skills, knowledge, or other factors related to a position; or

"(vi) any appropriate combination of such factors;".

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8414(b)(1) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

"(ii) is serving under an appointment that is not time limited;

"(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(iv) is separate from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(II) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(III) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(I) 1 or more organizational units;

"(II) 1 or more occupational series or levels;

"(III) 1 or more geographical locations;

"(IV) specific periods;

"(V) skills, knowledge, or other factors related to a position; or

"(VI) any appropriate combination of such factors.".

(3) GENERAL ACCOUNTING OFFICE AUTHORITY.—The amendments made by this subsection shall not be construed to affect the authority under section 1 of Public Law 106-303 (5 U.S.C. 8336 note; 114 State. 1063).

(4) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7001 of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105-174; 112 Stat. 91) is repealed.

(5) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this subsection.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 1314. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL.—Section 7905(a)(1) of title 5, United States Code, is amended by striking "and a member of a uniformed service" and inserting ", a member of a uniformed service, and a student who provides voluntary services under section 3111".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3111(c)(1) of title 5, United States Code, is amended by striking "chapter 81 of this title" and inserting "section 7905 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81".

Subtitle C—Reforms Relating to the Senior Executive Service

SEC. 1321. REPEAL OF RECERTIFICATION REQUIREMENTS OF SENIOR EXECUTIVES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in chapter 33—

(A) in section 3393(g) by striking "3393a";

(B) by repealing section 3393a; and

(C) in the table of sections by striking the item relating to section 3393a;

(2) in chapter 35—

(A) in section 3592(a)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end;

(iii) by striking paragraph (3); and

(iv) by striking the last sentence;

(B) in section 3593(a), by striking paragraph (2) and inserting the following:

"(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43."; and

(C) in section 3594(b)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end; and

(iii) by striking paragraph (3);

(3) in section 7701(c)(1)(A), by striking "or removal from the Senior Executive Service for failure to be recertified under section 3393a";

(4) in chapter 83—

(A) in section 8336(h)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8339(h), in the first sentence, by striking ", except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive"; and

(5) in chapter 84—

(A) in section 8414(a)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8421(a)(2), by striking ", except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable retirement age".

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a)(2)(A), an appeal under the final sentence of section 3592(a) of title 5, United States Code, that is pending on the day before the effective date of this section—

(1) shall not abate by reason of the enactment of the amendments made by subsection (a)(2)(A); and

(2) shall continue as if such amendments had not been enacted.

(c) APPLICATION.—The amendment made by subsection (a)(2)(B) shall not apply with respect to an individual who, before the effective date of this section, leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.

SEC. 1322. ADJUSTMENT OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

(a) IN GENERAL.—Section 5307 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) Notwithstanding any other provision of this section, subsection (a)(1) shall be applied by substituting 'the total annual compensation payable to the Vice President under section 104 of title 3' for 'the annual rate of basic pay payable for level I of the Executive Schedule' in the case of any employee who—

"(A) is paid under section 5376 or 5383 of this title or section 332(f), 603, or 604 of title 28; and

"(B) holds a position in or under an agency which is described in paragraph (2).

"(2) An agency described in this paragraph is any agency which, for purposes of the calendar year involved, has been certified under this subsection as having a performance appraisal system which (as designed and applied) makes meaningful distinctions based on relative performance.

"(3)(A) The Office of Personnel Management and the Office of Management and Budget jointly shall promulgate such regulations as may be necessary to carry out this subsection, including the criteria and procedures in accordance with which any determinations under this subsection shall be made.

"(B) An agency's certification under this subsection shall be for a period of 2 calendar years, except that such certification may be terminated at any time, for purposes of either or both of those years, upon a finding that the actions of such agency have not remained in conformance with applicable requirements.

"(C) Any certification or decertification under this subsection shall be made by the Office of Personnel Management, with the concurrence of the Office of Management and Budget.

"(4) Notwithstanding any provision of paragraph (3), any regulations, certifications, or other measures necessary to carry out this subsection with respect to employees within the judicial branch shall be the responsibility of the Director of the Administrative Office of the United States Courts. However, the regulations under this paragraph shall be consistent with those promulgated under paragraph (3).".

(b) CONFORMING AMENDMENTS.—(1) Section 5307(a) of title 5, United States Code, is amended by inserting "or as otherwise provided under subsection (d)," after "under law,".

(2) Section 5307(c) of such title is amended by striking "this section," and inserting "this section (subject to subsection (d)),".

Subtitle D—Academic Training

SEC. 1331. ACADEMIC TRAINING.

(a) ACADEMIC DEGREE TRAINING.—Section 4107 of title 5, United States Code, is amended to read as follows:

"§ 4107. Academic degree training

"(a) Subject to subsection (b), an agency may select and assign an employee to academic degree training and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training—

"(1) contributes significantly to—

"(A) meeting an identified agency training need;

"(B) resolving an identified agency staffing problem; or

"(C) accomplishing goals in the strategic plan of the agency;

"(2) is part of a planned, systemic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

"(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

"(b) In exercising authority under subsection (a), an agency shall—

"(1) consistent with the merit system principles set forth in paragraphs (2) and (7) of section 2301(b), take into consideration the need to—

"(A) maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are appropriately represented in Government service; and

"(B) provide employees effective education and training to improve organizational and individual performance;

"(2) assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or qualify for appointment to a particular position for which the academic degree is a basic requirement;

"(3) assure that no authority under this subsection is exercised on behalf of any employee occupying or seeking to qualify for—

"(A) a noncareer appointment in the senior Executive Service; or

"(B) appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policy-making or policy-advocating character; and

"(4) to the greatest extent practicable, facilitate the use of online degree training.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by striking the item relating to section 4107 and inserting the following:

"4107. Academic degree training.".

SEC. 1332. MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) FINDINGS AND POLICIES.—

(1) FINDINGS.—Congress finds that—

(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

(2) POLICY.—It shall be the policy of the United States Government to—

(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving financial support for education and training from the United States Government.

(b) FULFILLMENT OF SERVICE REQUIREMENT IF NATIONAL SECURITY POSITIONS ARE UNAVAILABLE.—Section 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or"; and

(2) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); and".

TITLE XIV—ARMING PILOTS AGAINST TERRORISM

SEC. 1401. SHORT TITLE.

This title may be cited as the "Arming Pilots Against Terrorism Act".

SEC. 1402. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§ 44921. Federal flight deck officer program

"(a) ESTABLISHMENT.—The Under Secretary of Transportation for Security shall establish a program to deputize volunteer pilots of air carriers providing passenger air transportation or intrastate passenger air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy. Such officers shall be known as 'Federal flight deck officers'.

"(b) PROCEDURAL REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 3 months after the date of enactment of this section, the Under Secretary shall establish procedural requirements to carry out the program under this section.

"(2) COMMENCEMENT OF PROGRAM.—Beginning 3 months after the date of enactment of this section, the Under Secretary shall begin the process of training and deputizing pilots who are qualified to be Federal flight deck officers as Federal flight deck officers under the program.

"(3) ISSUES TO BE ADDRESSED.—The procedural requirements established under paragraph (1) shall address the following issues:

"(A) The type of firearm to be used by a Federal flight deck officer.

"(B) The type of ammunition to be used by a Federal flight deck officer.

"(C) The standards and training needed to qualify and requalify as a Federal flight deck officer.

"(D) The placement of the firearm of a Federal flight deck officer on board the aircraft to ensure both its security and its ease of retrieval in an emergency.

"(E) An analysis of the risk of catastrophic failure of an aircraft as a result of the discharge (including an accidental discharge) of a firearm to be used in the program into the avionics, electrical systems, or other sensitive areas of the aircraft.

"(F) The division of responsibility between pilots in the event of an act of criminal violence or air piracy if only 1 pilot is a Federal flight deck officer and if both pilots are Federal flight deck officers.

"(G) Procedures for ensuring that the firearm of a Federal flight deck officer does not leave the cockpit if there is a disturbance in the passenger cabin of the aircraft or if the pilot leaves the cockpit for personal reasons.

"(H) Interaction between a Federal flight deck officer and a Federal air marshal on board the aircraft.

"(I) The process for selection of pilots to participate in the program based on their fitness to participate in the program, including whether an additional background check should be required beyond that required by section 44936(a)(1).

"(J) Storage and transportation of firearms between flights, including international flights, to ensure the security of the firearms, focusing particularly on whether such security would be enhanced by requiring storage of the firearm at the airport when the pilot leaves the airport to remain overnight away from the pilot's base airport.

"(K) Methods for ensuring that security personnel will be able to identify whether a pilot is authorized to carry a firearm under the program.

"(L) Methods for ensuring that pilots (including Federal flight deck officers) will be able to identify whether a passenger is a law enforcement officer who is authorized to carry a firearm aboard the aircraft.

"(M) Any other issues that the Under Secretary considers necessary.

"(N) The Under Secretary's decisions regarding the methods for implementing each of the foregoing procedural requirements shall be subject to review only for abuse of discretion.

"(4) PREFERENCE.—In selecting pilots to participate in the program, the Under Secretary shall give preference to pilots who are former military or law enforcement personnel.

"(5) CLASSIFIED INFORMATION.—Notwithstanding section 552 of title 5 but subject to section 40119 of this title, information developed under paragraph (3)(E) shall not be disclosed.

"(6) NOTICE TO CONGRESS.—The Under Secretary shall provide notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate after completing the analysis required by paragraph (3)(E).

"(7) MINIMIZATION OF RISK.—If the Under Secretary determines as a result of the analysis under paragraph (3)(E) that there is a significant risk of the catastrophic failure of an aircraft as a result of the discharge of a firearm, the Under Secretary shall take such actions as may be necessary to minimize that risk.

"(c) TRAINING, SUPERVISION, AND EQUIPMENT.—

"(1) IN GENERAL.—The Under Secretary shall only be obligated to provide the training, supervision, and equipment necessary for a pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot.

"(2) TRAINING.—

"(A) IN GENERAL.—The Under Secretary shall base the requirements for the training of Federal flight deck officers under subsection (b) on the training standards applicable to Federal air marshals; except that the Under Secretary shall take into account the differing roles and responsibilities of Federal flight deck officers and Federal air marshals.

"(B) Elements.—The training of a Federal flight deck officer shall include, at a minimum, the following elements:

"(i) Training to ensure that the officer achieves the level of proficiency with a firearm required under subparagraph (C)(i).

"(ii) Training to ensure that the officer maintains exclusive control over the officer's firearm at all times, including training in defensive maneuvers.

"(iii) Training to assist the officer in determining when it is appropriate to use the officer's firearm and when it is appropriate to use less than lethal force.

"(C) Training in use of firearms.—

"(i) Standard.—In order to be deputized as a Federal flight deck officer, a pilot must achieve a level of proficiency with a firearm that is required by the Under Secretary. Such level shall be comparable to the level of proficiency required of Federal air marshals.

"(ii) Conduct of training.—The training of a Federal flight deck officer in the use of a firearm may be conducted by the Under Secretary or by a firearms training facility approved by the Under Secretary.

"(iii) Requalification.—The Under Secretary shall require a Federal flight deck officer to requalify to carry a firearm under the program. Such requalification shall occur at an interval required by the Under Secretary.

"(d) Deputization.—

"(1) In general.—The Under Secretary may deputize, as a Federal flight deck officer under this section, a pilot who submits to the Under Secretary a request to be such an officer and whom the Under Secretary determines is qualified to be such an officer.

"(2) Qualification.—A pilot is qualified to be a Federal flight deck officer under this section if—

"(A) the pilot is employed by an air carrier;

"(B) the Under Secretary determines (in the Under Secretary's discretion) that the pilot meets the standards established by the Under Secretary for being such an officer; and

"(C) the Under Secretary determines that the pilot has completed the training required by the Under Secretary.

"(3) Deputization by other Federal agencies.—The Under Secretary may request another Federal agency to deputize, as Federal flight deck officers under this section, those pilots that the Under Secretary determines are qualified to be such officers.

"(4) Revocation.—The Under Secretary may, (in the Under Secretary's discretion) revoke the deputization of a pilot as a Federal flight deck officer if the Under Secretary finds that the pilot is no longer qualified to be such an officer.

"(e) Compensation.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer. The Federal Government and air carriers shall not be obligated to compensate a pilot for participating in the program or for the pilot's training or qualification and requalification to carry firearms under the program.

"(f) Authority To Carry Firearms.—

"(1) In general.—The Under Secretary shall authorize a Federal flight deck officer to carry a firearm while engaged in providing air transportation or intrastate air transportation. Notwithstanding subsection (c)(1), the officer may purchase a firearm and carry that firearm aboard an aircraft of which the officer is the pilot in accordance with this section if the firearm is of a type that may be used under the program.

"(2) Preemption.—Notwithstanding any other provision of Federal or State law, a Federal flight deck officer, whenever necessary to participate in the program, may carry a firearm in any State and from 1 State to another State.

"(3) Carrying firearms outside United States.—In consultation with the Secretary of State, the Under Secretary may take such action as may be necessary to ensure that a Federal flight deck officer may carry a firearm in a foreign country whenever necessary to participate in the program.

"(g) Authority To Use Force.—Notwithstanding section 44903(d), the Under Secretary shall prescribe the standards and circumstances under which a Federal flight deck officer may use, while the program under this section is in effect, force (including lethal force) against an individual in the defense of the flight deck of an aircraft in air transportation or intrastate air transportation.

"(h) Limitation on Liability.—

"(1) Liability of air carriers.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of a Federal flight deck officer's use of or failure to use a firearm.

"(2) Liability of federal flight deck officers.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending the flight deck of an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

"(3) Liability of federal government.—For purposes of an action against the United States with respect to an act or omission of a Federal flight deck officer in defending the flight deck of an aircraft, the officer shall be treated as an employee of the Federal Government under chapter 171 of title 28, relating to tort claims procedure.

"(i) Procedures Following Accidental Discharges.—If an accidental discharge of a firearm under the pilot program results in the injury or death of a passenger or crew member on an aircraft, the Under Secretary—

"(1) shall revoke the deputization of the Federal flight deck officer responsible for that firearm if the Under Secretary determines that the discharge was attributable to the negligence of the officer; and

"(2) if the Under Secretary determines that a shortcoming in standards, training, or procedures was responsible for the accidental discharge, the Under Secretary may temporarily suspend the program until the shortcoming is corrected.

"(j) Limitation on Authority of Air Carriers.—No air carrier shall prohibit or threaten any retaliatory action against a pilot employed by the air carrier from becoming a Federal flight deck officer under this section. No air carrier shall—

"(1) prohibit a Federal flight deck officer from piloting an aircraft operated by the air carrier, or

"(2) terminate the employment of a Federal flight deck officer, solely on the basis of his or her volunteering for or participating in the program under this section.

"(k) Applicability.—

"(1) Exemption.—This section shall not apply to air carriers operating under part 135 of title 14, Code of Federal Regulations, and to pilots employed by such carriers to the extent that such carriers and pilots are covered by section 135.119 of such title or any successor to such section.

"(2) Pilot defined.—The term 'pilot' means an individual who has final authority and responsibility for the operation and safety of the flight or, if more than 1 pilot is required for the operation of the aircraft or by the regulations under which the flight is being conducted, the individual designated as second in command.".

(b) Conforming Amendments.—

(1) Chapter analysis.—The analysis for such chapter is amended by inserting after the item relating to section 44920 the following:

"44921. Federal flight deck officer program.".

(2) Flight deck security.—Section 128 of the Aviation and Transportation Security Act (Public Law 107–71) is repealed.

(c) Federal Air Marshal Program.—

(1) Sense of congress.—It is the sense of Congress that the Federal air marshal program is critical to aviation security.

(2) Limitation on statutory construction.—Nothing in this Act, including any amendment made by this Act, shall be construed as preventing the Under Secretary of Transportation for Security from implementing and training Federal air marshals.

SEC. 1403. CREW TRAINING.

(a) In General.—Section 44918(e) of title 49, United States Code, is amended—

(1) by striking "The Administrator" and inserting the following:

"(1) In general.—The Under Secretary";

(2) by adding at the end the following:

"(2) Additional requirements.—In updating the training guidance, the Under Secretary, in consultation with the Administrator, shall issue a rule to—

"(A) require both classroom and effective hands-on situational training in the following elements of self defense:

"(i) recognizing suspicious activities and determining the seriousness of an occurrence;

"(ii) deterring a passenger who might present a problem;

"(iii) crew communication and coordination;

"(iv) the proper commands to give to passengers and attackers;

"(v) methods to subdue and restrain an attacker;

"(vi) use of available items aboard the aircraft for self-defense;

"(vii) appropriate and effective responses to defend oneself, including the use of force against an attacker;

"(viii) use of protective devices assigned to crew members (to the extent such devices are approved by the Administrator or Under Secretary);

"(ix) the psychology of terrorists to cope with their behavior and passenger responses to that behavior;

"(x) how to respond to aircraft maneuvers that may be authorized to defend against an act of criminal violence or air piracy;

"(B) require training in the proper conduct of a cabin search, including the duty time required to conduct the search;

"(C) establish the required number of hours of training and the qualifications for the training instructors;

"(D) establish the intervals, number of hours, and elements of recurrent training;

"(E) ensure that air carriers provide the initial training required by this paragraph within 24 months of the date of enactment of this subparagraph; and

"(F) ensure that no person is required to participate in any hands-on training activity that that person believes will have an adverse impact on his or her health or safety.

"(3) RESPONSIBILITY OF UNDER SECRETARY.—

"(A) CONSULTATION.—In developing the rule under paragraph (2), the Under Secretary shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, and representatives of air carriers, the provider of self-defense training for Federal air marshals, flight attendants, labor organizations representing flight attendants, and educational institutions offering law enforcement training programs.

"(B) DESIGNATION OF OFFICIAL.—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for overseeing the implementation of the training program under this subsection.

"(C) NECESSARY RESOURCES AND KNOWLEDGE.—The Under Secretary shall ensure that employees of the Administration responsible for monitoring the training program have the necessary resources and knowledge."; and

(3) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this section) with paragraphs (2) and (3) (as added by paragraph (2) of this section).

(b) ENHANCE SECURITY MEASURES.—Section 109(a) of the Aviation and Transportation Security Act (49 U.S.C. 114 note; 115 Stat. 613–614) is amended by adding at the end the following:

"(9) Require that air carriers provide flight attendants with a discreet, hands-free, wireless method of communicating with the pilots.".

(c) BENEFITS AND RISKS OF PROVIDING FLIGHT ATTENDANTS WITH NONLETHAL WEAPONS.—

(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to evaluate the benefits and risks of providing flight attendants with nonlethal weapons to aide in combating air piracy and criminal violence on commercial airlines.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary shall transmit to Congress a report on the results of the study.

SEC. 1404. COMMERCIAL AIRLINE SECURITY STUDY.

(a) STUDY.—The Secretary of Transportation shall conduct a study of the following:

(1) The number of armed Federal law enforcement officers (other than Federal air marshals), who travel on commercial airliners annually and the frequency of their travel.

(2) The cost and resources necessary to provide such officers with supplemental training in aircraft anti-terrorism training that is comparable to the training that Federal air marshals are provided.

(3) The cost of establishing a program at a Federal law enforcement training center for the purpose of providing new Federal law enforcement recruits with standardized training comparable to the training that Federal air marshals are provided.

(4) The feasibility of implementing a certification program designed for the purpose of ensuring Federal law enforcement officers have completed the training described in paragraph (2) and track their travel over a 6-month period.

(5) The feasibility of staggering the flights of such officers to ensure the maximum amount of flights have a certified trained Federal officer on board.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study. The report may be submitted in classified and redacted form.

SEC. 1405. AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.

(a) IN GENERAL.—Section 44903(i) of title 49, United States Code (as redesignated by section 6 of this Act) is amended by adding at the end the following:

"(3) REQUEST OF AIR CARRIERS TO USE LESS-THAN-LETHAL WEAPONS.—If, after the date of enactment of this paragraph, the Under Secretary receives a request from an air carrier for authorization to allow pilots of the air carrier to carry less-than-lethal weapons, the Under Secretary shall respond to that request within 90 days.".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in paragraph (1) by striking "Secretary" the first and third places it appears and inserting "Under Secretary"; and

(2) in paragraph (2) by striking "Secretary" each place it appears and inserting "Under Secretary".

SEC. 1406. TECHNICAL AMENDMENTS.

Section 44903 of title 49, United States Code, is amended—

(1) by redesignating subsection (i) (relating to short-term assessment and deployment of emerging security technologies and procedures) as subsection (j);

(2) by redesignating the second subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons) as subsection (i); and

(3) by redesignating the third subsection (h) (relating to limitation on liability for acts to thwart criminal violence for aircraft piracy) as subsection (k).

TITLE XV—TRANSITION

Subtitle A—Reorganization Plan

SEC. 1501. DEFINITIONS.

For purposes of this title:

(1) The term "agency" includes any entity, organizational unit, program, or function.

(2) The term "transition period" means the 12-month period beginning on the effective date of this Act.

SEC. 1502. REORGANIZATION PLAN.

(a) SUBMISSION OF PLAN.—Not later than 60 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a reorganization plan regarding the following:

(1) The transfer of agencies, personnel, assets, and obligations to the Department pursuant to this Act.

(2) Any consolidation, reorganization, or streamlining of agencies transferred to the Department pursuant to this Act.

(b) PLAN ELEMENTS.—The plan transmitted under subsection (a) shall contain, consistent with this Act, such elements as the President deems appropriate, including the following:

(1) Identification of any functions of agencies transferred to the Department pursuant to this Act that will not be transferred to the Department under the plan.

(2) Specification of the steps to be taken by the Secretary to organize the Department, including the delegation or assignment of functions transferred to the Department among officers of the Department in order to permit the Department to carry out the functions transferred under the plan.

(3) Specification of the funds available to each agency that will be transferred to the Department as a result of transfers under the plan.

(4) Specification of the proposed allocations within the Department of unexpended funds transferred in connection with transfers under the plan.

(5) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of agencies transferred under the plan.

(6) Specification of the proposed allocations within the Department of the functions of the agencies and subdivisions that are not related directly to securing the homeland.

(c) MODIFICATION OF PLAN.—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan until that part of the plan becomes effective in accordance with subsection (d).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (d), shall become effective for an agency on the earlier of—

(A) the date specified in the plan (or the plan as modified pursuant to subsection (d)), except that such date may not be earlier than 90 days after the date the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a); or

(B) the end of the transition period.

(2) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balances of appropriations, or other assets of an agency on a single date.

(3) SUPERSEDES EXISTING LAW.—Paragraph (1) shall apply notwithstanding section 905(b) of title 5, United States Code.

SEC. 1503. REVIEW OF CONGRESSIONAL COMMITTEE STRUCTURES.

It is the sense of Congress that each House of Congress should review its committee structure in light of the reorganization of responsibilities within the executive branch by the establishment of the Department.

Subtitle B—Transitional Provisions

SEC. 1511. TRANSITIONAL AUTHORITIES.

(a) PROVISION OF ASSISTANCE BY OFFICIALS.—Until the transfer of an agency to the Department, any official having authority over or functions relating to the agency immediately before the effective date of this Act shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may request in preparing for the transfer and integration of the agency into the Department.

(b) SERVICES AND PERSONNEL.—During the transition period, upon the request of the Secretary, the head of any executive agency may, on a reimbursable basis, provide services or detail personnel to assist with the transition.

(c) ACTING OFFICIALS.—(1) During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this Act to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent and who was such an officer immediately before the effective date of this Act (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act. While so acting, such officers shall receive compensation at the higher of—

(A) the rates provided by this Act for the respective offices in which they act; or

(B) the rates provided for the offices held at the time of designation.

(2) Nothing in this Act shall be understood to require the advice and consent of the Senate to the appointment by the President to a

position in the Department of any officer whose agency is transferred to the Department pursuant to this Act and whose duties following such transfer are germane to those performed before such transfer.

(d) TRANSFER OF PERSONNEL, ASSETS, OBLIGATIONS, AND FUNCTIONS.—Upon the transfer of an agency to the Department—

(1) the personnel, assets, and obligations held by or available in connection with the agency shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget and in accordance with the provisions of section 1531(a)(2) of title 31, United States Code; and

(2) the Secretary shall have all functions relating to the agency that any other official could by law exercise in relation to the agency immediately before such transfer, and shall have in addition all functions vested in the Secretary by this Act or other law.

(e) PROHIBITION ON USE OF TRANSPORTATION TRUST FUNDS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, no funds derived from the Highway Trust Fund, Airport and Airway Trust Fund, Inland Waterway Trust Fund, or Harbor Maintenance Trust Fund, may be transferred to, made available to, or obligated by the Secretary or any other official in the Department.

(2) LIMITATION.—This subsection shall not apply to security-related funds provided to the Federal Aviation Administration for fiscal years preceding fiscal year 2003 for (A) operations, (B) facilities and equipment, or (C) research, engineering, and development.

SEC. 1512. SAVINGS PROVISIONS.

(a) COMPLETED ADMINISTRATIVE ACTIONS.—(1) Completed administrative actions of an agency shall not be affected by the enactment of this Act or the transfer of such agency to the Department, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) For purposes of paragraph (1), the term "completed administrative action" includes orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(b) PENDING PROCEEDINGS.—Subject to the authority of the Secretary under this Act—

(1) pending proceedings in an agency, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this Act or the transfer of the agency to the Department, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted or the agency had not been transferred, and any such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(c) PENDING CIVIL ACTIONS.—Subject to the authority of the Secretary under this Act, pending civil actions shall continue notwithstanding the enactment of this Act or the transfer of an agency to the Department, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment or transfer had not occurred.

(d) REFERENCES.—References relating to an agency that is transferred to the Department in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede such transfer or the effective date of this Act shall be deemed to refer, as appropriate, to the Department, to its officers, employees, or agents, or to its corresponding organizational units or functions. Statutory reporting requirements that applied in relation to such an agency immediately before the effective date of this Act shall continue to apply following such transfer if they refer to the agency by name.

(e) EMPLOYMENT PROVISIONS.—(1) Notwithstanding the generality of the foregoing (including subsections (a) and (d)), in and for the Department the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, adopt the rules, procedures, terms, and conditions, established by statute, rule, or regulation before the effective date of this Act, relating to employment in any agency transferred to the Department pursuant to this Act; and

(2) except as otherwise provided in this Act, or under authority granted by this Act, the transfer pursuant to this Act of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

(f) STATUTORY REPORTING REQUIREMENTS.—Any statutory reporting requirement that applied to an agency, transferred to the Department under this Act, immediately before the effective date of this Act shall continue to apply following that transfer if the statutory requirement refers to the agency by name.

SEC. 1513. TERMINATIONS.

Except as otherwise provided in this Act, whenever all the functions vested by law in any agency have been transferred pursuant to this Act, each position and office the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V, of the Executive Schedule, shall terminate.

SEC. 1514. NATIONAL IDENTIFICATION SYSTEM NOT AUTHORIZED.

Nothing in this Act shall be construed to authorize the development of a national identification system or card.

SEC. 1515. CONTINUITY OF INSPECTOR GENERAL OVERSIGHT.

Notwithstanding the transfer of an agency to the Department pursuant to this Act, the Inspector General that exercised oversight of such agency prior to such transfer shall continue to exercise oversight of such agency during the period of time, if any, between the transfer of such agency to the Department pursuant to this Act and the appointment of the Inspector General of the Department of Homeland Security in accordance with section 103(b).

SEC. 1516. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, in consultation with the Secretary, is authorized and directed to make such additional incidental dispositions of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this Act, as the Director may determine necessary to accomplish the purposes of this Act.

SEC. 1517. REFERENCE.

With respect to any function transferred by or under this Act (including under a reorganization plan that becomes effective under section 1502) and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which such function is so transferred.

TITLE XVI—CORRECTIONS TO EXISTING LAW RELATING TO AIRLINE TRANSPORTATION SECURITY

SEC. 1601. RETENTION OF SECURITY SENSITIVE INFORMATION AUTHORITY AT DEPARTMENT OF TRANSPORTATION.

(a) Section 40119 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "and the Administrator of the Federal Aviation Administration each" after "for Security"; and

(B) by striking "criminal violence and aircraft piracy" and inserting "criminal violence, aircraft piracy, and terrorism and to ensure security"; and

(2) in subsection (b)(1)—

(A) by striking ", the Under Secretary" and inserting "and the establishment of a Department of Homeland Security, the Secretary of Transportation";

(B) by striking "carrying out" and all that follows through "if the Under Secretary" and inserting "ensuring security under this title if the Secretary of Transportation"; and

(C) in subparagraph (C) by striking "the safety of passengers in transportation" and inserting "transportation safety".

(b) Section 114 of title 49, United States Code, is amended by adding at the end the following:

"(s) NONDISCLOSURE OF SECURITY ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding section 552 of title 5, the Under Secretary shall prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out security under authority of the Aviation and Transportation Security Act (Public Law 107-71) or under chapter 449 of this title if the Under Secretary decides that disclosing the information would—

"(A) be an unwarranted invasion of personal privacy;

"(B) reveal a trade secret or privileged or confidential commercial or financial information; or

"(C) be detrimental to the security of transportation.

"(2) AVAILABILITY OF INFORMATION TO CONGRESS.—Paragraph (1) does not authorize information to be withheld from a committee of Congress authorized to have the information.

"(3) LIMITATION ON TRANSFERABILITY OF DUTIES.—Except as otherwise provided by law, the Under Secretary may not transfer a duty or power under this subsection to another department, agency, or instrumentality of the United States.".

SEC. 1602. INCREASE IN CIVIL PENALTIES.

Section 46301(a) of title 49, United States Code, is amended by adding at the end the following:

"(8) AVIATION SECURITY VIOLATIONS.—Notwithstanding paragraphs (1) and (2) of this subsection, the maximum civil penalty for violating chapter 449 or another requirement under this title administered by the Under Secretary of Transportation for Security shall be $10,000; except that the maximum civil penalty shall be $25,000 in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman).".

SEC. 1603. ALLOWING UNITED STATES CITIZENS AND UNITED STATES NATIONALS AS SCREENERS.

Section 44935(e)(2)(A)(ii) of title 49, United States Code, is amended by striking "citizen of the United States" and inserting "citizen of the United States or a national of the United States, as defined in section 1101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))".

TITLE XVII—CONFORMING AND TECHNICAL AMENDMENTS

SEC. 1701. INSPECTOR GENERAL ACT OF 1978.

Section 11 of the Inspector General Act of 1978 (Public Law 95–452) is amended—

(1) by inserting "Homeland Security," after "Transportation," each place it appears; and

(2) by striking "; and" each place it appears in paragraph (1) and inserting ";";

SEC. 1702. EXECUTIVE SCHEDULE.

(a) In General.—Title 5, United States Code, is amended—

(1) in section 5312, by inserting "Secretary of Homeland Security." as a new item after "Affairs.";

(2) in section 5313, by inserting "Deputy Secretary of Homeland Security." as a new item after "Affairs.";

(3) in section 5314, by inserting "Under Secretaries, Department of Homeland Security.", "Director of the Bureau of Citizenship and Immigration Services." as new items after "Affairs." the third place it appears;

(4) in section 5315, by inserting "Assistant Secretaries, Department of Homeland Security.", "General Counsel, Department of Homeland Security.", "Officer for Civil Rights and Civil Liberties, Department of Homeland Security.", "Chief Financial Officer, Department of Homeland Security.", "Chief Information Officer, Department of Homeland Security.", and "Inspector General, Department of Homeland Security." as new items after "Affairs." the first place it appears; and

(5) in section 5315, by striking "Commissioner of Immigration and Naturalization, Department of Justice.".

(b) Special Effective Date.—Notwithstanding section 4, the amendment made by subsection (a)(5) shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

SEC. 1703. UNITED STATES SECRET SERVICE.

(a) In General.—(1) The United States Code is amended in section 202 of title 3, and in section 3056 of title 18, by striking "of the Treasury", each place it appears and inserting "of Homeland Security".

(2) Section 208 of title 3, United States Code, is amended by striking "of Treasury" each place it appears and inserting "of Homeland Security".

(b) Effective Date.—The amendments made by this section shall take effect on the date of transfer of the United States Secret Service to the Department.

SEC. 1704. COAST GUARD.

(a) Title 14, U.S.C.—Title 14, United States Code, is amended in sections 1, 3, 53, 95, 145, 516, 666, 669, 673, 673a (as redesignated by subsection (e)(1)), 674, 687, and 688 by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(b) Title 10, U.S.C.—(1) Title 10, United States Code, is amended in sections 101(9), 130b(a), 130b(c)(4), 130c(h)(1), 379, 513(d), 575(b)(2), 580(e)(6), 580a(e), 651(a), 671(c)(2), 708(a), 716(a), 717, 806(d)(2), 815(e), 888, 946(c)(1), 973(d), 978(d), 983(b)(1), 985(a), 1033(b)(1), 1033(d), 1034, 1037(c), 1044d(f), 1058(c), 1059(a), 1059(k)(1), 1073(a), 1074(c)(1), 1089(g)(2), 1090, 1091(a), 1124, 1143, 1143a(h), 1144, 1145(e), 1148, 1149, 1150(c), 1152(a), 1152(d)(1), 1153, 1175, 1212(a), 1408(h)(2), 1408(h)(8), 1463(a)(2), 1482a(b), 1510, 1552(a)(1), 1565(f), 1588(f)(4), 1589, 2002(a), 2302(1), 2306b(b), 2323(j)(2), 2376(2), 2396(b)(1), 2410a(a), 2572(a), 2575(a), 2578, 2601(b)(4), 2634(e), 2635(a), 2734(g), 2734a, 2775, 2830(b)(2), 2835, 2836, 4745(a), 5013a(a), 7361(b), 10143(b)(2), 10146(a), 10147(a), 10149(b), 10150, 10202(b), 10203(d), 10205(b), 10301(b), 12103(b), 12103(d), 12304, 12311(c), 12522(c), 12527(a)(2), 12731(b), 12731a(e), 16131(a), 16136(a), 16301(g), and 18501 by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(2) Section 801(1) of such title is amended by striking "the General Counsel of the Department of Transportation" and inserting "an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security".

(3) Section 983(d)(2)(B) of such title is amended by striking "Department of Transportation" and inserting "Department of Homeland Security".

(4) Section 2665(b) of such title is amended by striking "Department of Transportation" and inserting "Department in which the Coast Guard is operating".

(5) Section 7045 of such title is amended—

(A) in subsections (a)(1) and (b), by striking "Secretaries of the Army, Air Force, and Transportation" both places it appears and inserting "Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security"; and

(B) in subsection (b), by striking "Department of Transportation" and inserting "Department of Homeland Security".

(6) Section 7361(b) of such title is amended in the subsection heading by striking "Transportation" and inserting "Homeland Security".

(7) Section 12522(c) of such title is amended in the subsection heading by striking "Transportation" and inserting "Homeland Security".

(c) Title 37, U.S.C.—Title 37, United States Code, is amended in sections 101(5), 204(i)(4), 301a(a)(3), 306(d), 307(c), 308(a)(1), 308(d)(2), 308(f), 308b(e), 308c(c), 308d(a), 308e(f), 308g(g), 308h(f), 308i(e), 309(d), 316(d), 323(b), 323(g)(1), 325(i), 402(d), 402a(g)(1), 403(f)(3), 403(l)(1), 403b(i)(5), 406(b)(1), 417(a), 417(b), 418(a), 703, 1001(c), 1006(f), 1007(a), and 1011(d) by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(d) Title 38, U.S.C.—Title 38, United States Code, is amended in sections 101(25)(d), 1560(a), 3002(5), 3011(a)(1)(A)(ii)(I), 3011(a)(1)(A)(ii)(II), 3011(a)(1)(B)(ii)(III), 3011(a)(1)(C)(iii)(II)(cc), 3012(b)(1)(A)(v), 3012(b)(1)(B)(ii)(V), 3018(b)(3)(B)(iv), 3018A(a)(3), 3018B(a)(1)(C), 3018B(a)(2)(C), 3018C(a)(5), 3020(m), 3035(b)(2), 3035(c), 3035(d), 3035(e), 3680A(g), and 6105(c) by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(e) Other Defense-Related Laws.—(1) Section 363 of Public Law 104–193 (110 Stat. 2247) is amended—

(A) in subsection (a)(1) (10 U.S.C. 113 note), by striking "of Transportation" and inserting "of Homeland Security"; and

(B) in subsection (b)(1) (10 U.S.C. 704 note), by striking "of Transportation" and inserting "of Homeland Security".

(2) Section 721(1) of Public Law 104–201 (10 U.S.C. 1073 note) is amended by striking "of Transportation" and inserting "of Homeland Security".

(3) Section 4463(a) of Public Law 102–484 (10 U.S.C. 1143a note) is amended by striking "after consultation with the Secretary of Transportation".

(4) Section 4466(h) of Public Law 102–484 (10 U.S.C. 1143 note) is amended by striking "of Transportation" and inserting "of Homeland Security".

(5) Section 542(d) of Public Law 103–337 (10 U.S.C. 1293 note) is amended by striking "of Transportation" and inserting "of Homeland Security".

(6) Section 740 of Public Law 106–181 (10 U.S.C. 2576 note) is amended in subsections (b)(2), (c), and (d)(1) by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(7) Section 1407(b)(2) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(b)) is amended by striking "of Transportation" both places it appears and inserting "of Homeland Security".

(8) Section 2301(5)(D) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671(5)(D)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(9) Section 2307(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6677(a)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(10) Section 1034(a) of Public Law 105–85 (21 U.S.C. 1505a(a)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(11) The Military Selective Service Act is amended—

(A) in section 4(a) (50 U.S.C. App. 454(a)), by striking "of Transportation" in the fourth paragraph and inserting "of Homeland Security";

(B) in section 4(b) (50 U.S.C. App. 454(b)), by striking "of Transportation" both places it appears and inserting "of Homeland Security";

(C) in section 6(d)(1) (50 U.S.C. App. 456(d)(1)), by striking "of Transportation" both places it appears and inserting "of Homeland Security";

(D) in section 9(c) (50 U.S.C. App. 459(c)), by striking "Secretaries of Army, Navy, Air Force, or Transportation" and inserting "Secretary of a military department, and the Secretary of Homeland Security with respect to the Coast Guard,"; and

(E) in section 15(e) (50 U.S.C. App. 465(e)), by striking "of Transportation" both places it appears and inserting "of Homeland Security".

(f) Technical Correction.—(1) Title 14, United States Code, is amended by redesignating section 673 (as added by section 309 of Public Law 104–324) as section 673a.

(2) The table of sections at the beginning of chapter 17 of such title is amended by redesignating the item relating to such section as section 673a.

(g) Effective Date.—The amendments made by this section (other than subsection (f)) shall take effect on the date of transfer of the Coast Guard to the Department.

SEC. 1705. STRATEGIC NATIONAL STOCKPILE AND SMALLPOX VACCINE DEVELOPMENT.

(a) In General.—Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188; 42 U.S.C. 300hh–12) is amended—

(1) in subsection (a)(1)—

(A) by striking “Secretary of Health and Human Services” and inserting “Secretary of Homeland Security”;

(B) by inserting “the Secretary of Health and Human Services and” between “in coordination with” and “the Secretary of Veterans Affairs”; and

(C) by inserting “of Health and Human Services” after “as are determined by the Secretary”; and

(2) in subsections (a)(2) and (b), by inserting “of Health and Human Services” after “Secretary” each place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SEC. 1706. TRANSFER OF CERTAIN SECURITY AND LAW ENFORCEMENT FUNCTIONS AND AUTHORITIES.

(a) AMENDMENT TO TITLE 40.—Section 581 of title 40, United States Code, is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by inserting “and” after the semicolon at the end of paragraph (1);

(B) by striking “; and” at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3).

(b) LAW ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—Section 1315 of title 40, United States Code, is amended to read as follows:

“§ 1315. Law enforcement authority of Secretary of Homeland Security for protection of public property

“(a) IN GENERAL.—To the extent provided for by transfers made pursuant to the Homeland Security Act of 2002, the Secretary of Homeland Security (in this section referred to as the ‘Secretary’) shall protect the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government (including any agency, instrumentality, or wholly owned or mixed-ownership corporation thereof) and the persons on the property.

“(b) OFFICERS AND AGENTS.—

“(1) DESIGNATION.—The Secretary may designate employees of the Department of Homeland Security, including employees transferred to the Department from the Office of the Federal Protective Service of the General Services Administration pursuant to the Homeland Security Act of 2002, as officers and agents for duty in connection with the protection of property owned or occupied by the Federal Government and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

“(2) POWERS.—While engaged in the performance of official duties, an officer or agent designated under this subsection may—

“(A) enforce Federal laws and regulations for the protection of persons and property;

“(B) carry firearms;

“(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or agent or for any felony cognizable under the laws of the United States if the officer or agent has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

“(D) serve warrants and subpoenas issued under the authority of the United States; and

“(E) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Federal Government or persons on the property.

“(F) carry out such other activities for the promotion of homeland security as the Secretary may prescribe.

“(c) REGULATIONS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Administrator of General Services, may prescribe regulations necessary for the protection and administration of property owned or occupied by the Federal Government and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in paragraph (2), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

“(2) PENALTIES.—A person violating a regulation prescribed under this subsection shall be fined under title 18, United States Code, imprisoned for not more than 30 days, or both.

“(d) DETAILS.—

“(1) REQUESTS OF AGENCIES.—On the request of the head of a Federal agency having charge or control of property owned or occupied by the Federal Government, the Secretary may detail officers and agents designated under this section for the protection of the property and persons on the property.

“(2) APPLICABILITY OF REGULATIONS.—The Secretary may—

“(A) extend to property referred to in paragraph (1) the applicability of regulations prescribed under this section and enforce the regulations as provided in this section; or

“(B) utilize the authority and regulations of the requesting agency if agreed to in writing by the agencies.

“(3) FACILITIES AND SERVICES OF OTHER AGENCIES.—When the Secretary determines it to be economical and in the public interest, the Secretary may utilize the facilities and services of Federal, State, and local law enforcement agencies, with the consent of the agencies.

“(e) AUTHORITY OUTSIDE FEDERAL PROPERTY.—For the protection of property owned or occupied by the Federal Government and persons on the property, the Secretary may enter into agreements with Federal agencies and with State and local governments to obtain authority for officers and agents designated under this section to enforce Federal laws and State and local laws concurrently with other Federal law enforcement officers and with State and local law enforcement officers.

“(f) SECRETARY AND ATTORNEY GENERAL APPROVAL.—The powers granted to officers and agents designated under this section shall be exercised in accordance with guidelines approved by the Secretary and the Attorney General.

“(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to—

“(1) preclude or limit the authority of any Federal law enforcement agency; or

“(2) restrict the authority of the Administrator of General Services to promulgate regulations affecting property under the Administrator's custody and control.”.

(2) DELEGATION OF AUTHORITY.—The Secretary may delegate authority for the protection of specific buildings to another Federal agency where, in the Secretary's discretion, the Secretary determines it necessary for the protection of that building.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 40, United States Code, is amended by striking the item relating to section 1315 and inserting the following:

“1315. Law enforcement authority of Secretary of Homeland Security for protection of public property.”.

SEC. 1707. TRANSPORTATION SECURITY REGULATIONS.

Title 49, United States Code, is amended—

(1) in section 114(l)(2)(B), by inserting “for a period not to exceed 90 days” after “effective”; and

(2) in section 114(l)(2)(B), by inserting “ratified or” after “unless”.

SEC. 1708. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

There is established in the Department of Defense a National Bio-Weapons Defense Analysis Center, whose mission is to develop countermeasures to potential attacks by terrorists using weapons of mass destruction.

SEC. 1709. COLLABORATION WITH THE SECRETARY OF HOMELAND SECURITY.

(a) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The second sentence of section 351A(e)(1) of the Public Health Service Act (42 U.S.C. 262A(e)(1)) is amended by striking “consultation with” and inserting “collaboration with the Secretary of Homeland Security and”.

(b) DEPARTMENT OF AGRICULTURE.—The second sentence of section 212(e)(1) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401) is amended by striking “consultation with” and inserting “collaboration with the Secretary of Homeland Security and”.

SEC. 1710. RAILROAD SAFETY TO INCLUDE RAILROAD SECURITY.

(a) INVESTIGATION AND SURVEILLANCE ACTIVITIES.—Section 20105 of title 49, United States Code, is amended—

(1) by striking “Secretary of Transportation” in the first sentence of subsection (a) and inserting “Secretary concerned”;

(2) by striking “Secretary” each place it appears (except the first sentence of subsection (a)) and inserting “Secretary concerned”;

(3) by striking “Secretary's duties under chapters 203–213 of this title” in subsection (d) and inserting “duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)”;

(4) by striking “chapter.” in subsection (f) and inserting “chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security).”; and

(5) by adding at the end the following new subsection:

“(g) DEFINITIONS.—In this section—

“(1) the term ‘safety’ includes security; and

“(2) the term ‘Secretary concerned’ means—

“(A) the Secretary of Transportation, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary; and

“(B) the Secretary of Homeland Security, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary.”.

(b) REGULATIONS AND ORDERS.—Section 20103(a) of such title is amended by inserting after “1970.” the following: “When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.”.

(c) NATIONAL UNIFORMITY OF REGULATION.—Section 20106 of such title is amended—

(1) by inserting “and laws, regulations, and orders related to railroad security” after “safety” in the first sentence;

(2) by inserting “or security” after “safety” each place it appears after the first sentence; and

(3) by striking “Transportation” in the second sentence and inserting “Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters),”.

SEC. 1711. HAZMAT SAFETY TO INCLUDE HAZMAT SECURITY.

(a) GENERAL REGULATORY AUTHORITY.—Section 5103 of title 49, United States Code, is amended—

(1) by striking “transportation” the first place it appears in subsection (b)(1) and inserting “transportation, including security,”;

(2) by striking “aspects” in subsection (b)(1)(B) and inserting “aspects, including security,”; and

(3) by adding at the end the following:

“(C) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.”.

(b) PREEMPTION.—Section 5125 of that title is amended—

(1) by striking “chapter or a regulation prescribed under this chapter” in subsection (a)(1) and inserting “chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security”;

(2) by striking “chapter or a regulation prescribed under this chapter.” in subsection (a)(2) and inserting “chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security.”; and

(3) by striking “chapter or a regulation prescribed under this chapter,” in subsection (b)(1) and inserting “chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security,”.

SEC. 1712. OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended—

(1) in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting “homeland security,” after “national security,”; and

(2) in section 208(a)(1) (42 U.S.C. 6617(a)(1)), by inserting “the Office of Homeland Security,” after “National Security Council,”.

SEC. 1713. NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM.

Section 7902(b) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

“(13) The Under Secretary for Science and Technology of the Department of Homeland Security.

“(14) Other Federal officials the Council considers appropriate.”.

SEC. 1714. CLARIFICATION OF DEFINITION OF MANUFACTURER.

Section 2133(3) of the Public Health Service Act (42 U.S.C. 300aa–33(3)) is amended—

(1) in the first sentence, by striking “under its label any vaccine set forth in the Vaccine Injury Table” and inserting “any vaccine set forth in the Vaccine Injury table, including any component or ingredient of any such vaccine”; and

(2) in the second sentence, by inserting “including any component or ingredient of any such vaccine” before the period.

SEC. 1715. CLARIFICATION OF DEFINITION OF VACCINE-RELATED INJURY OR DEATH.

Section 2133(5) of the Public Health Service Act (42 U.S.C. 300aa–33(5)) is amended by adding at the end the following: “For purposes of the preceding sentence, an adulterant or contaminant shall not include any component or ingredient listed in a vaccine’s product license application or product label.”.

SEC. 1716. CLARIFICATION OF DEFINITION OF VACCINE.

Section 2133 of the Public Health Service Act (42 U.S.C. 300aa–33) is amended by adding at the end the following:

“(7) The term ‘vaccine’ means any preparation or suspension, including but not limited to a preparation or suspension containing an attenuated or inactive microorganism or subunit thereof or toxin, developed or administered to produce or enhance the body’s immune response to a disease or diseases and includes all components and ingredients listed in the vaccines’s product license application and product label.”.

SEC. 1717. EFFECTIVE DATE.

The amendments made by sections 1714, 1715, and 1716 shall apply to all actions or proceedings pending on or after the date of enactment of this Act, unless a court of competent jurisdiction has entered judgment (regardless of whether the time for appeal has expired) in such action or proceeding disposing of the entire action or proceeding.

The SPEAKER pro tempore. The amendment contained in section 2 of H. Res. 600 is considered as adopted.

The text of H.R. 5710, as amended, pursuant to section 2 of H. Res. 600 is as follows:

H.R. 5710

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Homeland Security Act of 2002”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Construction; severability.
Sec. 4. Effective date.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

Sec. 101. Executive department; mission.
Sec. 102. Secretary; functions.
Sec. 103. Other officers.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Directorate for Information Analysis and Infrastructure Protection; Access to Information

Sec. 201. Directorate for Information Analysis and Infrastructure Protection.
Sec. 202. Access to information.

Subtitle B—Critical Infrastructure Information

Sec. 211. Short title.
Sec. 212. Definitions.
Sec. 213. Designation of critical infrastructure protection program.
Sec. 214. Protection of voluntarily shared critical infrastructure information.
Sec. 215. No private right of action.

Subtitle C—Information Security

Sec. 221. Procedures for sharing information.
Sec. 222. Privacy Officer.
Sec. 223. Enhancement of non-Federal cybersecurity.
Sec. 224. Net guard.
Sec. 225. Cyber Security Enhancement Act of 2002.

Subtitle D—Office of Science and Technology

Sec. 231. Establishment of office; Director.
Sec. 232. Mission of office; duties.
Sec. 233. Definition of law enforcement technology.
Sec. 234. Abolishment of Office of Science and Technology of National Institute of Justice; transfer of functions.
Sec. 235. National Law Enforcement and Corrections Technology Centers.
Sec. 236. Coordination with other entities within Department of Justice.
Sec. 237. Amendments relating to National Institute of Justice.

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

Sec. 301. Under Secretary for Science and Technology.
Sec. 302. Responsibilities and authorities of the Under Secretary for Science and Technology.
Sec. 303. Functions transferred.
Sec. 304. Conduct of certain public health-related activities.
Sec. 305. Federally funded research and development centers.
Sec. 306. Miscellaneous provisions.
Sec. 307. Homeland Security Advanced Research Projects Agency.
Sec. 308. Conduct of research, development, demonstration, testing and evaluation.
Sec. 309. Utilization of Department of Energy national laboratories and sites in support of homeland security activities.
Sec. 310. Transfer of Plum Island Animal Disease Center, Department of Agriculture.
Sec. 311. Homeland Security Science and Technology Advisory Committee.
Sec. 312. Homeland Security Institute.
Sec. 313. Technology clearinghouse to encourage and support innovative solutions to enhance homeland security.

TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

Subtitle A—Under Secretary for Border and Transportation Security

Sec. 401. Under Secretary for Border and Transportation Security.
Sec. 402. Responsibilities.
Sec. 403. Functions transferred.

Subtitle B—United States Customs Service

Sec. 411. Establishment; Commissioner of Customs.
Sec. 412. Retention of customs revenue functions by Secretary of the Treasury.
Sec. 413. Preservation of customs funds.
Sec. 414. Separate budget request for customs.
Sec. 415. Definition.
Sec. 416. GAO report to Congress.
Sec. 417. Allocation of resources by the Secretary.
Sec. 418. Reports to Congress.
Sec. 419. Customs user fees.

Subtitle C—Miscellaneous Provisions

Sec. 421. Transfer of certain agricultural inspection functions of the Department of Agriculture.
Sec. 422. Functions of Administrator of General Services.
Sec. 423. Functions of Transportation Security Administration.
Sec. 424. Preservation of Transportation Security Administration as a distinct entity.
Sec. 425. Explosive detection systems.
Sec. 426. Transportation security.
Sec. 427. Coordination of information and information technology.
Sec. 428. Visa issuance.
Sec. 429. Information on visa denials required to be entered into electronic data system.
Sec. 430. Office for Domestic Preparedness.

Subtitle D—Immigration Enforcement Functions

Sec. 441. Transfer of functions to Under Secretary for Border and Transportation Security.
Sec. 442. Establishment of Bureau of Border Security.
Sec. 443. Professional responsibility and quality review.
Sec. 444. Employee discipline.
Sec. 445. Report on improving enforcement functions.
Sec. 446. Sense of Congress regarding construction of fencing near San Diego, California.

Subtitle E—Citizenship and Immigration Services

Sec. 451. Establishment of Bureau of Citizenship and Immigration Services.
Sec. 452. Citizenship and Immigration Services Ombudsman.
Sec. 453. Professional responsibility and quality review.
Sec. 454. Employee discipline.
Sec. 455. Effective date.
Sec. 456. Transition.
Sec. 457. Funding for citizenship and immigration services.
Sec. 458. Backlog elimination.
Sec. 459. Report on improving immigration services.
Sec. 460. Report on responding to fluctuating needs.
Sec. 461. Application of Internet-based technologies.
Sec. 462. Children's affairs.

Subtitle F—General Immigration Provisions

Sec. 471. Abolishment of INS.
Sec. 472. Voluntary separation incentive payments.
Sec. 473. Authority to conduct a demonstration project relating to disciplinary action.
Sec. 474. Sense of Congress.
Sec. 475. Director of Shared Services.
Sec. 476. Separation of funding.
Sec. 477. Reports and implementation plans.
Sec. 478. Immigration functions.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

Sec. 501. Under Secretary for Emergency Preparedness and Response.
Sec. 502. Responsibilities.
Sec. 503. Functions transferred.
Sec. 504. Nuclear incident response.
Sec. 505. Conduct of certain public health-related activities.
Sec. 506. Definition.
Sec. 507. Role of Federal Emergency Management Agency.
Sec. 508. Use of national private sector networks in emergency response.
Sec. 509. Use of commercially available technology, goods, and services.

TITLE VI—TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS

Sec. 601. Treatment of charitable trusts for members of the Armed Forces of the United States and other governmental organizations.

TITLE VII—MANAGEMENT

Sec. 701. Under Secretary for Management.
Sec. 702. Chief Financial Officer.
Sec. 703. Chief Information Officer.
Sec. 704. Chief Human Capital Officer.
Sec. 705. Establishment of Officer for Civil Rights and Civil Liberties.
Sec. 706. Consolidation and co-location of offices.

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

Sec. 801. Office for State and Local Government Coordination.

Subtitle B—Inspector General

Sec. 811. Authority of the Secretary.
Sec. 812. Law enforcement powers of Inspector General agents.

Subtitle C—United States Secret Service

Sec. 821. Functions transferred.

Subtitle D—Acquisitions

Sec. 831. Research and development projects.
Sec. 832. Personal services.
Sec. 833. Special streamlined acquisition authority.
Sec. 834. Unsolicited proposals.
Sec. 835. Prohibition on contracts with corporate expatriates.

Subtitle E—Human Resources Management

Sec. 841. Establishment of Human Resources Management System.
Sec. 842. Labor-management relations.

Subtitle F—Federal Emergency Procurement Flexibility

Sec. 851. Definition.
Sec. 852. Procurements for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.
Sec. 853. Increased simplified acquisition threshold for procurements in support of humanitarian or peacekeeping operations or contingency operations.
Sec. 854. Increased micro-purchase threshold for certain procurements.
Sec. 855. Application of certain commercial items authorities to certain procurements.
Sec. 856. Use of streamlined procedures.
Sec. 857. Review and report by Comptroller General.
Sec. 858. Identification of new entrants into the Federal marketplace.

Subtitle G—Support Anti-terrorism by Fostering Effective Technologies Act of 2002

Sec. 861. Short title.
Sec. 862. Administration.
Sec. 863. Litigation management.
Sec. 864. Risk management.
Sec. 865. Definitions.

Subtitle H—Miscellaneous Provisions

Sec. 871. Advisory committees.
Sec. 872. Reorganization.
Sec. 873. Use of appropriated funds.
Sec. 874. Future Year Homeland Security Program.
Sec. 875. Miscellaneous authorities.
Sec. 876. Military activities.
Sec. 877. Regulatory authority and preemption.
Sec. 878. Counternarcotics officer.
Sec. 879. Office of International Affairs.
Sec. 880. Prohibition of the Terrorism Information and Prevention System.
Sec. 881. Review of pay and benefit plans.
Sec. 882. Office for National Capital Region Coordination.
Sec. 883. Requirement to comply with laws protecting equal employment opportunity and providing whistleblower protections.
Sec. 884. Federal Law Enforcement Training Center.
Sec. 885. Joint Interagency Task Force.
Sec. 886. Sense of Congress reaffirming the continued importance and applicability of the Posse Comitatus Act.
Sec. 887. Coordination with the Department of Health and Human Services under the Public Health Service Act.
Sec. 888. Preserving Coast Guard mission performance.
Sec. 889. Homeland security funding analysis in President's budget.
Sec. 890. Air Transportation Safety and System Stabilization Act.

Subtitle I—Information Sharing

Sec. 891. Short title; findings; and sense of Congress.
Sec. 892. Facilitating homeland security information sharing procedures.
Sec. 893. Report.
Sec. 894. Authorization of appropriations.
Sec. 895. Authority to share grand jury information.
Sec. 896. Authority to share electronic, wire, and oral interception information.
Sec. 897. Foreign intelligence information.
Sec. 898. Information acquired from an electronic surveillance.
Sec. 899. Information acquired from a physical search.

TITLE IX—NATIONAL HOMELAND SECURITY COUNCIL

Sec. 901. National Homeland Security Council.
Sec. 902. Function.
Sec. 903. Membership.
Sec. 904. Other functions and activities.
Sec. 905. Staff composition.
Sec. 906. Relation to the National Security Council.

TITLE X—INFORMATION SECURITY

Sec. 1001. Information security.
Sec. 1002. Management of information technology.
Sec. 1003. National Institute of Standards and Technology.
Sec. 1004. Information Security and Privacy Advisory Board.
Sec. 1005. Technical and conforming amendments.
Sec. 1006. Construction.

TITLE XI—DEPARTMENT OF JUSTICE DIVISIONS

Subtitle A—Executive Office for Immigration Review

Sec. 1101. Legal status of EOIR.
Sec. 1102. Authorities of the Attorney General.
Sec. 1103. Statutory construction.

Subtitle B—Transfer of the Bureau of Alcohol, Tobacco and Firearms to the Department of Justice

Sec. 1111. Bureau of Alcohol, Tobacco, Firearms, and Explosives.
Sec. 1112. Technical and conforming amendments.
Sec. 1113. Powers of agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives.
Sec. 1114. Explosives training and research facility.
Sec. 1115. Personnel management demonstration project.

Subtitle C—Explosives

Sec. 1121. Short title.
Sec. 1122. Permits for purchasers of explosives.
Sec. 1123. Persons prohibited from receiving or possessing explosive materials.
Sec. 1124. Requirement to provide samples of explosive materials and ammonium nitrate.
Sec. 1125. Destruction of property of institutions receiving Federal financial assistance.
Sec. 1126. Relief from disabilities.
Sec. 1127. Theft reporting requirement.
Sec. 1128. Authorization of appropriations.

TITLE XII—AIRLINE WAR RISK INSURANCE LEGISLATION

Sec. 1201. Air carrier liability for third party claims arising out of acts of terrorism.
Sec. 1202. Extension of insurance policies.
Sec. 1203. Correction of reference.
Sec. 1204. Report.

TITLE XIII—FEDERAL WORKFORCE IMPROVEMENT

Subtitle A—Chief Human Capital Officers

Sec. 1301. Short title.
Sec. 1302. Agency Chief Human Capital Officers.
Sec. 1303. Chief Human Capital Officers Council.
Sec. 1304. Strategic human capital management.
Sec. 1305. Effective date.

Subtitle B—Reforms Relating to Federal Human Capital Management

Sec. 1311. Inclusion of agency human capital strategic planning in performance plans and programs performance reports.
Sec. 1312. Reform of the competitive service hiring process.
Sec. 1313. Permanent extension, revision, and expansion of authorities for use of voluntary separation incentive pay and voluntary early retirement.
Sec. 1314. Student volunteer transit subsidy.

Subtitle C—Reforms Relating to the Senior Executive Service

Sec. 1321. Repeal of recertification requirements of senior executives.
Sec. 1322. Adjustment of limitation on total annual compensation.

Subtitle D—Academic Training

Sec. 1331. Academic training.
Sec. 1332. Modifications to National Security Education Program.

TITLE XIV—ARMING PILOTS AGAINST TERRORISM

Sec. 1401. Short title.
Sec. 1402. Federal Flight Deck Officer Program.
Sec. 1403. Crew training.
Sec. 1404. Commercial airline security study.
Sec. 1405. Authority to arm flight deck crew with less-than-lethal weapons.
Sec. 1406. Technical amendments.

TITLE XV—TRANSITION

Subtitle A—Reorganization Plan

Sec. 1501. Definitions.
Sec. 1502. Reorganization plan.
Sec. 1503. Review of congressional committee structures.

Subtitle B—Transitional Provisions

Sec. 1511. Transitional authorities.
Sec. 1512. Savings provisions.
Sec. 1513. Terminations.
Sec. 1514. National identification system not authorized.
Sec. 1515. Continuity of Inspector General oversight.
Sec. 1516. Incidental transfers.
Sec. 1517. Reference.

TITLE XVI—CORRECTIONS TO EXISTING LAW RELATING TO AIRLINE TRANSPORTATION SECURITY

Sec. 1601. Retention of security sensitive information authority at Department of Transportation.
Sec. 1602. Increase in civil penalties.
Sec. 1603. Allowing United States citizens and United States nationals as screeners.

TITLE XVII—CONFORMING AND TECHNICAL AMENDMENTS

Sec. 1701. Inspector General Act of 1978.
Sec. 1702. Executive Schedule.
Sec. 1703. United States Secret Service.
Sec. 1704. Coast Guard.
Sec. 1705. Strategic national stockpile and smallpox vaccine development.
Sec. 1706. Transfer of certain security and law enforcement functions and authorities.
Sec. 1707. Transportation security regulations.
Sec. 1708. National Bio-Weapons Defense Analysis Center.
Sec. 1709. Collaboration with the Secretary of Homeland Security.
Sec. 1710. Railroad safety to include railroad security.
Sec. 1711. Hazmat safety to include hazmat security.
Sec. 1712. Office of Science and Technology Policy.
Sec. 1713. National Oceanographic Partnership Program.
Sec. 1714. Clarification of definition of manufacturer.
Sec. 1715. Clarification of definition of vaccine-related injury or death.
Sec. 1716. Clarification of definition of vaccine.
Sec. 1717. Effective date.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) Each of the terms "American homeland" and "homeland" means the United States.

(2) The term "appropriate congressional committee" means any committee of the House of Representatives or the Senate having legislative or oversight jurisdiction under the Rules of the House of Representatives or the Senate, respectively, over the matter concerned.

(3) The term "assets" includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(4) The term "critical infrastructure" has the meaning given that term in section 1016(e) of Public Law 107-56 (42 U.S.C. 5195c(e)).

(5) The term "Department" means the Department of Homeland Security.

(6) The term "emergency response providers" includes Federal, State, and local emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities.

(7) The term "executive agency" means an executive agency and a military department, as defined, respectively, in sections 105 and 102 of title 5, United States Code.

(8) The term "functions" includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, and responsibilities.

(9) The term "key resources" means publicly or privately controlled resources essential to the minimal operations of the economy and government.

(10) The term "local government" means—

(A) a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government;

(B) an Indian tribe or authorized tribal organization, or in Alaska a Native village or Alaska Regional Native Corporation; and

(C) a rural community, unincorporated town or village, or other public entity.

(11) The term "major disaster" has the meaning given in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(12) The term "personnel" means officers and employees.

(13) The term "Secretary" means the Secretary of Homeland Security.

(14) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any possession of the United States.

(15) The term "terrorism" means any activity that—

(A) involves an act that—

(i) is dangerous to human life or potentially destructive of critical infrastructure or key resources; and

(ii) is a violation of the criminal laws of the United States or of any State or other subdivision of the United States; and

(B) appears to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping.

(16)(A) The term "United States", when used in a geographic sense, means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any possession of the United States, and any waters within the jurisdiction of the United States.

(B) Nothing in this paragraph or any other provision of this Act shall be construed to modify the definition of "United States" for the purposes of the Immigration and Nationality Act or any other immigration or nationality law.

SEC. 3. CONSTRUCTION; SEVERABILITY.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of enactment.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

SEC. 101. EXECUTIVE DEPARTMENT; MISSION.

(a) ESTABLISHMENT.—There is established a Department of Homeland Security, as an executive department of the United States within the meaning of title 5, United States Code.

(b) MISSION.—

(1) IN GENERAL.—The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States;

(B) reduce the vulnerability of the United States to terrorism;

(C) minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States;

(D) carry out all functions of entities transferred to the Department, including by acting as a focal point regarding natural and manmade crises and emergency planning;

(E) ensure that the functions of the agencies and subdivisions within the Department that are not related directly to securing the homeland are not diminished or neglected except by a specific explicit Act of Congress;

(F) ensure that the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland; and

(G) monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking.

(2) RESPONSIBILITY FOR INVESTIGATING AND PROSECUTING TERRORISM.—Except as specifically provided by law with respect to entities transferred to the Department under this Act, primary responsibility for investigating and prosecuting acts of terrorism shall be vested not in the Department, but rather in Federal, State, and local law enforcement agencies with jurisdiction over the acts in question.

SEC. 102. SECRETARY; FUNCTIONS.

(a) SECRETARY.—

(1) IN GENERAL.—There is a Secretary of Homeland Security, appointed by the President, by and with the advice and consent of the Senate.

(2) HEAD OF DEPARTMENT.—The Secretary is the head of the Department and shall have direction, authority, and control over it.

(3) FUNCTIONS VESTED IN SECRETARY.—All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.

(b) FUNCTIONS.—The Secretary—

(1) except as otherwise provided by this Act, may delegate any of the Secretary's functions to any officer, employee, or organizational unit of the Department;

(2) shall have the authority to make contracts, grants, and cooperative agreements, and to enter into agreements with other executive agencies, as may be necessary and proper to carry out the Secretary's responsibilities under this Act or otherwise provided by law; and

(3) shall take reasonable steps to ensure that information systems and databases of the Department are compatible with each other and with appropriate databases of other Departments.

(c) COORDINATION WITH NON-FEDERAL ENTITIES.—With respect to homeland security, the Secretary shall coordinate through the Office of State and Local Coordination (established under section 801) (including the provision of training and equipment) with State and local government personnel, agencies, and authorities, with the private sector, and with other entities, including by—

(1) coordinating with State and local government personnel, agencies, and authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities;

(2) coordinating and, as appropriate, consolidating, the Federal Government's communications and systems of communications relating to homeland security with State and local government personnel, agencies, and authorities, the private sector, other entities, and the public; and

(3) distributing or, as appropriate, coordinating the distribution of, warnings and information to State and local government personnel, agencies, and authorities and to the public.

(d) MEETINGS OF NATIONAL SECURITY COUNCIL.—The Secretary may, subject to the direction of the President, attend and participate in meetings of the National Security Council.

(e) ISSUANCE OF REGULATIONS.—The issuance of regulations by the Secretary shall be governed by the provisions of chapter 5 of title 5, United States Code, except as specifically provided in this Act, in laws granting regulatory authorities that are transferred by this Act, and in laws enacted after the date of enactment of this Act.

(f) SPECIAL ASSISTANT TO THE SECRETARY.—The Secretary shall appoint a Special Assistant to the Secretary who shall be responsible for—

(1) creating and fostering strategic communications with the private sector to enhance the primary mission of the Department to protect the American homeland;

(2) advising the Secretary on the impact of the Department's policies, regulations, processes, and actions on the private sector;

(3) interfacing with other relevant Federal agencies with homeland security missions to assess the impact of these agencies' actions on the private sector;

(4) creating and managing private sector advisory councils composed of representatives of industries and associations designated by the Secretary to—

(A) advise the Secretary on private sector products, applications, and solutions as they relate to homeland security challenges; and

(B) advise the Secretary on homeland security policies, regulations, processes, and actions that affect the participating industries and associations;

(5) working with Federal laboratories, Federally funded research and development centers, other Federally funded organizations, academia, and the private sector to develop innovative approaches to address homeland security challenges to produce and deploy the best available technologies for homeland security missions;

(6) promoting existing public-private partnerships and developing new public-private partnerships to provide for collaboration and mutual support to address homeland security challenges; and

(7) assisting in the development and promotion of private sector best practices to secure critical infrastructure.

(g) STANDARDS POLICY.—All standards activities of the Department shall be conducted in accordance with section 12(d) of the National Technology Transfer Advancement Act of 1995 (15 U.S.C. 272 note) and Office of Management and Budget Circular A-119.

SEC. 103. OTHER OFFICERS.

(a) DEPUTY SECRETARY; UNDER SECRETARIES.—There are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(1) A Deputy Secretary of Homeland Security, who shall be the Secretary's first assistant for purposes of subchapter III of chapter 33 of title 5, United States Code.

(2) An Under Secretary for Information Analysis and Infrastructure Protection.

(3) An Under Secretary for Science and Technology.

(4) An Under Secretary for Border and Transportation Security.

(5) An Under Secretary for Emergency Preparedness and Response.

(6) A Director of the Bureau of Citizenship and Immigration Services.

(7) An Under Secretary for Management.

(8) Not more than 12 Assistant Secretaries.

(9) A General Counsel, who shall be the chief legal officer of the department.

(b) INSPECTOR GENERAL.—There is an Inspector General, who shall be appointed as provided in section 3(a) of the Inspector General Act of 1978.

(c) COMMANDANT OF THE COAST GUARD.—To assist the Secretary in the performance of the Secretary's functions, there is a Commandant of the Coast Guard, who shall be appointed as provided in section 44 of title 14, United States Code, and who shall report directly to the Secretary. In addition to such duties as may be provided in this Act and as assigned to the Commandant by the Secretary, the duties of the Commandant shall include those required by section 2 of title 14, United States Code.

(d) OTHER OFFICERS.—To assist the Secretary in the performance of the Secretary's functions, there are the following officers, appointed by the President:

(1) A Director of the Secret Service.

(2) A Chief Information Officer.

(3) A Chief Human Capital Officer.

(4) A Chief Financial Officer.

(5) An Officer for Civil Rights and Civil Liberties.

(e) PERFORMANCE OF SPECIFIC FUNCTIONS.—Subject to the provisions of this Act, every officer of the Department shall perform the functions specified by law for the official's office or prescribed by the Secretary.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Directorate for Information Analysis and Infrastructure Protection; Access to Information

SEC. 201. DIRECTORATE FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.

(a) UNDER SECRETARY OF HOMELAND SECURITY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.—

(1) IN GENERAL.—There shall be in the Department a Directorate for Information Analysis and Infrastructure Protection headed by an Under Secretary for Information Analysis and Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Responsibilities.—The Under Secretary shall assist the Secretary in discharging the responsibilities assigned by the Secretary.

(b) Assistant Secretary for Information Analysis; Assistant Secretary for Infrastructure Protection.—

(1) Assistant secretary for information analysis.—There shall be in the Department an Assistant Secretary for Information Analysis, who shall be appointed by the President.

(2) Assistant secretary for infrastructure protection.—There shall be in the Department an Assistant Secretary for Infrastructure Protection, who shall be appointed by the President.

(3) Responsibilities.—The Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection shall assist the Under Secretary for Information Analysis and Infrastructure Protection in discharging the responsibilities of the Under Secretary under this section.

(c) Discharge of Information Analysis and Infrastructure Protection.—The Secretary shall ensure that the responsibilities of the Department regarding information analysis and infrastructure protection are carried out through the Under Secretary for Information Analysis and Infrastructure Protection.

(d) Responsibilities of Under Secretary.—Subject to the direction and control of the Secretary, the responsibilities of the Under Secretary for Information Analysis and Infrastructure Protection shall be as follows:

(1) To access, receive, and analyze law enforcement information, intelligence information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities, and to integrate such information in order to—

(A) identify and assess the nature and scope of terrorist threats to the homeland;

(B) detect and identify threats of terrorism against the United States; and

(C) understand such threats in light of actual and potential vulnerabilities of the homeland.

(2) To carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States (including an assessment of the probability of success of such attacks and the feasibility and potential efficacy of various countermeasures to such attacks).

(3) To integrate relevant information, analyses, and vulnerability assessments (whether such information, analyses, or assessments are provided or produced by the Department or others) in order to identify priorities for protective and support measures by the Department, other agencies of the Federal Government, State and local government agencies and authorities, the private sector, and other entities.

(4) To ensure, pursuant to section 202, the timely and efficient access by the Department to all information necessary to discharge the responsibilities under this section, including obtaining such information from other agencies of the Federal Government.

(5) To develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States, including power production, generation, and distribution systems, information technology and telecommunications systems (including satellites), electronic financial and property record storage and transmission systems, emergency preparedness communications systems, and the physical and technological assets that support such systems.

(6) To recommend measures necessary to protect the key resources and critical infrastructure of the United States in coordination with other agencies of the Federal Government and in cooperation with State and local government agencies and authorities, the private sector, and other entities.

(7) To administer the Homeland Security Advisory System, including—

(A) exercising primary responsibility for public advisories related to threats to homeland security; and

(B) in coordination with other agencies of the Federal Government, providing specific warning information, and advice about appropriate protective measures and countermeasures, to State and local government agencies and authorities, the private sector, other entities, and the public.

(8) To review, analyze, and make recommendations for improvements in the policies and procedures governing the sharing of law enforcement information, intelligence information, intelligence-related information, and other information relating to homeland security within the Federal Government and between the Federal Government and State and local government agencies and authorities.

(9) To disseminate, as appropriate, information analyzed by the Department within the Department, to other agencies of the Federal Government with responsibilities relating to homeland security, and to agencies of State and local governments and private sector entities with such responsibilities in order to assist in the deterrence, prevention, preemption of, or response to, terrorist attacks against the United States.

(10) To consult with the Director of Central Intelligence and other appropriate intelligence, law enforcement, or other elements of the Federal Government to establish collection priorities and strategies for information, including law enforcement-related information, relating to threats of terrorism against the United States through such means as the representation of the Department in discussions regarding requirements and priorities in the collection of such information.

(11) To consult with State and local governments and private sector entities to ensure appropriate exchanges of information, including law enforcement-related information, relating to threats of terrorism against the United States.

(12) To ensure that—

(A) any material received pursuant to this Act is protected from unauthorized disclosure and handled and used only for the performance of official duties; and

(B) any intelligence information under this Act is shared, retained, and disseminated consistent with the authority of the Director of Central Intelligence to protect intelligence sources and methods under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures and, as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information.

(13) To request additional information from other agencies of the Federal Government, State and local government agencies, and the private sector relating to threats of terrorism in the United States, or relating to other areas of responsibility assigned by the Secretary, including the entry into cooperative agreements through the Secretary to obtain such information.

(14) To establish and utilize, in conjunction with the chief information officer of the Department, a secure communications and information technology infrastructure, including data-mining and other advanced analytical tools, in order to access, receive, and analyze data and information in furtherance of the responsibilities under this section, and to disseminate information acquired and analyzed by the Department, as appropriate.

(15) To ensure, in conjunction with the chief information officer of the Department, that any information databases and analytical tools developed or utilized by the Department—

(A) are compatible with one another and with relevant information databases of other agencies of the Federal Government; and

(B) treat information in such databases in a manner that complies with applicable Federal law on privacy.

(16) To coordinate training and other support to the elements and personnel of the Department, other agencies of the Federal Government, and State and local governments that provide information to the Department, or are consumers of information provided by the Department, in order to facilitate the identification and sharing of information revealed in their ordinary duties and the optimal utilization of information received from the Department.

(17) To coordinate with elements of the intelligence community and with Federal, State, and local law enforcement agencies, and the private sector, as appropriate.

(18) To provide intelligence and information analysis and support to other elements of the Department.

(19) To perform such other duties relating to such responsibilities as the Secretary may provide.

(e) Staff.—

(1) In general.—The Secretary shall provide the Directorate with a staff of analysts having appropriate expertise and experience to assist the Directorate in discharging responsibilities under this section.

(2) Private sector analysts.—Analysts under this subsection may include analysts from the private sector.

(3) Security clearances.—Analysts under this subsection shall possess security clearances appropriate for their work under this section.

(f) Detail of Personnel.—

(1) In general.—In order to assist the Directorate in discharging responsibilities under this section, personnel of the agencies referred to in paragraph (2) may be detailed to the Department for the performance of analytic functions and related duties.

(2) Covered agencies.—The agencies referred to in this paragraph are as follows:

(A) The Department of State.

(B) The Central Intelligence Agency.

(C) The Federal Bureau of Investigation.

(D) The National Security Agency.

(E) The National Imagery and Mapping Agency.

(F) The Defense Intelligence Agency.

(G) Any other agency of the Federal Government that the President considers appropriate.

(3) Cooperative agreements.—The Secretary and the head of the agency concerned may enter into cooperative agreements for the purpose of detailing personnel under this subsection.

(4) BASIS.—The detail of personnel under this subsection may be on a reimbursable or non-reimbursable basis.

(g) FUNCTIONS TRANSFERRED.—In accordance with title XV, there shall be transferred to the Secretary, for assignment to the Under Secretary for Information Analysis and Infrastructure Protection under this section, the functions, personnel, assets, and liabilities of the following:

(1) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section), including the functions of the Attorney General relating thereto.

(2) The National Communications System of the Department of Defense, including the functions of the Secretary of Defense relating thereto.

(3) The Critical Infrastructure Assurance Office of the Department of Commerce, including the functions of the Secretary of Commerce relating thereto.

(4) The National Infrastructure Simulation and Analysis Center of the Department of Energy and the energy security and assurance program and activities of the Department, including the functions of the Secretary of Energy relating thereto.

(5) The Federal Computer Incident Response Center of the General Services Administration, including the functions of the Administrator of General Services relating thereto.

(h) INCLUSION OF CERTAIN ELEMENTS OF THE DEPARTMENT AS ELEMENTS OF THE INTELLIGENCE COMMUNITY.—Section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(a)) is amended—

(1) by striking "and" at the end of subparagraph (I);

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following new subparagraph:

"(J) the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information; and".

SEC. 202. ACCESS TO INFORMATION.

(a) IN GENERAL.—

(1) THREAT AND VULNERABILITY INFORMATION.—Except as otherwise directed by the President, the Secretary shall have such access as the Secretary considers necessary to all information, including reports, assessments, analyses, and unevaluated intelligence relating to threats of terrorism against the United States and to other areas of responsibility assigned by the Secretary, and to all information concerning infrastructure or other vulnerabilities of the United States to terrorism, whether or not such information has been analyzed, that may be collected, possessed, or prepared by any agency of the Federal Government.

(2) OTHER INFORMATION.—The Secretary shall also have access to other information relating to matters under the responsibility of the Secretary that may be collected, possessed, or prepared by an agency of the Federal Government as the President may further provide.

(b) MANNER OF ACCESS.—Except as otherwise directed by the President, with respect to information to which the Secretary has access pursuant to this section—

(1) the Secretary may obtain such material upon request, and may enter into cooperative arrangements with other executive agencies to provide such material or provide Department officials with access to it on a regular or routine basis, including requests or arrangements involving broad categories of material, access to electronic databases, or both; and

(2) regardless of whether the Secretary has made any request or entered into any cooperative arrangement pursuant to paragraph (1), all agencies of the Federal Government shall promptly provide to the Secretary—

(A) all reports (including information reports containing intelligence which has not been fully evaluated), assessments, and analytical information relating to threats of terrorism against the United States and to other areas of responsibility assigned by the Secretary;

(B) all information concerning the vulnerability of the infrastructure of the United States, or other vulnerabilities of the United States, to terrorism, whether or not such information has been analyzed;

(C) all other information relating to significant and credible threats of terrorism against the United States, whether or not such information has been analyzed; and

(D) such other information or material as the President may direct.

(c) TREATMENT UNDER CERTAIN LAWS.—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, immigration, or national security official, and shall be provided with all information from law enforcement agencies that is required to be given to the Director of Central Intelligence, under any provision of the following:

(1) The USA PATRIOT Act of 2001 (Public Law 107–56).

(2) Section 2517(6) of title 18, United States Code.

(3) Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.

(d) ACCESS TO INTELLIGENCE AND OTHER INFORMATION.—

(1) ACCESS BY ELEMENTS OF FEDERAL GOVERNMENT.—Nothing in this title shall preclude any element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)), or other any element of the Federal Government with responsibility for analyzing terrorist threat information, from receiving any intelligence or other information relating to terrorism.

(2) SHARING OF INFORMATION.—The Secretary, in consultation with the Director of Central Intelligence, shall work to ensure that intelligence or other information relating to terrorism to which the Department has access is appropriately shared with the elements of the Federal Government referred to in paragraph (1), as well as with State and local governments, as appropriate.

Subtitle B—Critical Infrastructure Information

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "Critical Infrastructure Information Act of 2002".

SEC. 212. DEFINITIONS.

In this subtitle:

(1) AGENCY.—The term "agency" has the meaning given it in section 551 of title 5, United States Code.

(2) COVERED FEDERAL AGENCY.—The term "covered Federal agency" means the Department of Homeland Security.

(3) CRITICAL INFRASTRUCTURE INFORMATION.—The term "critical infrastructure information" means information not customarily in the public domain and related to the security of critical infrastructure or protected systems—

(A) actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates Federal, State, or local law, harms interstate commerce of the United States, or threatens public health or safety;

(B) the ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk management planning, or risk audit; or

(C) any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, reconstruction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.

(4) CRITICAL INFRASTRUCTURE PROTECTION PROGRAM.—The term "critical infrastructure protection program" means any component or bureau of a covered Federal agency that has been designated by the President or any agency head to receive critical infrastructure information.

(5) INFORMATION SHARING AND ANALYSIS ORGANIZATION.—The term "Information Sharing and Analysis Organization" means any formal or informal entity or collaboration created or employed by public or private sector organizations, for purposes of—

(A) gathering and analyzing critical infrastructure information in order to better understand security problems and interdependencies related to critical infrastructure and protected systems, so as to ensure the availability, integrity, and reliability thereof;

(B) communicating or disclosing critical infrastructure information to help prevent, detect, mitigate, or recover from the effects of a interference, compromise, or a incapacitation problem related to critical infrastructure or protected systems; and

(C) voluntarily disseminating critical infrastructure information to its members, State, local, and Federal Governments, or any other entities that may be of assistance in carrying out the purposes specified in subparagraphs (A) and (B).

(6) PROTECTED SYSTEM.—The term "protected system"—

(A) means any service, physical or computer-based system, process, or procedure that directly or indirectly affects the viability of a facility of critical infrastructure; and

(B) includes any physical or computer-based system, including a computer, computer system, computer or communications network, or any component hardware or element thereof, software program, processing instructions, or information or data in transmission or storage therein, irrespective of the medium of transmission or storage.

(7) VOLUNTARY.—

(A) IN GENERAL.—The term "voluntary", in the case of any submittal of critical infrastructure information to a covered Federal agency, means the submittal thereof in the absence of such agency's exercise of legal authority to compel access to or submission of such information and may be accomplished by a single entity or an Information Sharing and Analysis Organization on behalf of itself or its members.

(B) EXCLUSIONS.—The term "voluntary"—

(i) in the case of any action brought under the securities laws as is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))—

(I) does not include information or statements contained in any documents or materials filed with the Securities and Exchange Commission, or with Federal banking regulators, pursuant to section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 781(i)); and

(II) with respect to the submittal of critical infrastructure information, does not include any disclosure or writing that when made accompanied the solicitation of an offer or a sale of securities; and

(ii) does not include information or statements submitted or relied upon as a basis for making licensing or permitting determinations, or during regulatory proceedings.

SEC. 213. DESIGNATION OF CRITICAL INFRASTRUCTURE PROTECTION PROGRAM.

A critical infrastructure protection program may be designated as such by one of the following:

(1) The President.

(2) The Secretary of Homeland Security.

SEC. 214. PROTECTION OF VOLUNTARILY SHARED CRITICAL INFRASTRUCTURE INFORMATION.

(a) Protection.—

(1) In general.—Notwithstanding any other provision of law, critical infrastructure information (including the identity of the submitting person or entity) that is voluntarily submitted to a covered Federal agency for use by that agency regarding the security of critical infrastructure and protected systems, analysis, warning, interdependency study, recovery, reconstitution, or other informational purpose, when accompanied by an express statement specified in paragraph (2)—

(A) shall be exempt from disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(B) shall not be subject to any agency rules or judicial doctrine regarding ex parte communications with a decision making official;

(C) shall not, without the written consent of the person or entity submitting such information, be used directly by such agency, any other Federal, State, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith;

(D) shall not, without the written consent of the person or entity submitting such information, be used or disclosed by any officer or employee of the United States for purposes other than the purposes of this subtitle, except—

(i) in furtherance of an investigation or the prosecution of a criminal act; or

(ii) when disclosure of the information would be—

(I) to either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee thereof or subcommittee of any such joint committee; or

(II) to the Comptroller General, or any authorized representative of the Comptroller General, in the course of the performance of the duties of the General Accounting Office.

(E) shall not, if provided to a State or local government or government agency—

(i) be made available pursuant to any State or local law requiring disclosure of information or records;

(ii) otherwise be disclosed or distributed to any party by said State or local government or government agency without the written consent of the person or entity submitting such information; or

(iii) be used other than for the purpose of protecting critical infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act; and

(F) does not constitute a waiver of any applicable privilege or protection provided under law, such as trade secret protection.

(2) Express statement.—For purposes of paragraph (1), the term "express statement", with respect to information or records, means—

(A) in the case of written information or records, a written marking on the information or records substantially similar to the following: "This information is voluntarily submitted to the Federal Government in expectation of protection from disclosure as provided by the provisions of the Critical Infrastructure Information Act of 2002."; or

(B) in the case of oral information, a similar written statement submitted within a reasonable period following the oral communication.

(b) Limitation.—No communication of critical infrastructure information to a covered Federal agency made pursuant to this subtitle shall be considered to be an action subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(c) Independently Obtained Information.—Nothing in this section shall be construed to limit or otherwise affect the ability of a State, local, or Federal Government entity, agency, or authority, or any third party, under applicable law, to obtain critical infrastructure information in a manner not covered by subsection (a), including any information lawfully and properly disclosed generally or broadly to the public and to use such information in any manner permitted by law.

(d) Treatment of Voluntary Submittal of Information.—The voluntary submittal to the Government of information or records that are protected from disclosure by this subtitle shall not be construed to constitute compliance with any requirement to submit such information to a Federal agency under any other provision of law.

(e) Procedures.—

(1) In general.—The Secretary of the Department of Homeland Security shall, in consultation with appropriate representatives of the National Security Council and the Office of Science and Technology Policy, establish uniform procedures for the receipt, care, and storage by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government. The procedures shall be established not later than 90 days after the date of the enactment of this subtitle.

(2) Elements.—The procedures established under paragraph (1) shall include mechanisms regarding—

(A) the acknowledgement of receipt by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government;

(B) the maintenance of the identification of such information as voluntarily submitted to the Government for purposes of and subject to the provisions of this subtitle;

(C) the care and storage of such information; and

(D) the protection and maintenance of the confidentiality of such information so as to permit the sharing of such information within the Federal Government and with State and local governments, and the issuance of notices and warnings related to the protection of critical infrastructure and protected systems, in such manner as to protect from public disclosure the identity of the submitting person or entity, or information that is proprietary, business sensitive, relates specifically to the submitting person or entity, and is otherwise not appropriately in the public domain.

(f) Penalties.—Whoever, being an officer or employee of the United States or of any department or agency thereof, knowingly publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law, any critical infrastructure information protected from disclosure by this subtitle coming to him in the course of this employment or official duties or by reason of any examination or investigation made by, or return, report, or record made to or filed with, such department or agency or officer or employee thereof, shall be fined under title 18 of the United States Code, imprisoned not more than 1 year, or both, and shall be removed from office or employment.

(g) Authority To Issue Warnings.—The Federal Government may provide advisories, alerts, and warnings to relevant companies, targeted sectors, other governmental entities, or the general public regarding potential threats to critical infrastructure as appropriate. In issuing a warning, the Federal Government shall take appropriate actions to protect from disclosure—

(1) the source of any voluntarily submitted critical infrastructure information that forms the basis for the warning; or

(2) information that is proprietary, business sensitive, relates specifically to the submitting person or entity, or is otherwise not appropriately in the public domain.

(h) Authority To Delegate.—The President may delegate authority to a critical infrastructure protection program, designated under subsection (e), to enter into a voluntary agreement to promote critical infrastructure security, including with any Information Sharing and Analysis Organization, or a plan of action as otherwise defined in section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158).

SEC. 215. NO PRIVATE RIGHT OF ACTION.

Nothing in this subtitle may be construed to create a private right of action for enforcement of any provision of this Act.

Subtitle C—Information Security

SEC. 221. PROCEDURES FOR SHARING INFORMATION.

The Secretary shall establish procedures on the use of information shared under this title that—

(1) limit the redissemination of such information to ensure that it is not used for an unauthorized purpose;

(2) ensure the security and confidentiality of such information;

(3) protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(4) provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

SEC. 222. PRIVACY OFFICER.

The Secretary shall appoint a senior official in the Department to assume primary responsibility for privacy policy, including—

(1) assuring that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;

(2) assuring that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices as set out in the Privacy Act of 1974;

(3) evaluating legislative and regulatory proposals involving collection, use, and disclosure of personal information by the Federal Government;

(4) conducting a privacy impact assessment of proposed rules of the Department or that of the Department on the privacy of personal information, including the type of personal information collected and the number of people affected; and

(5) preparing a report to Congress on an annual basis on activities of the Department that affect privacy, including complaints of privacy violations, implementation of the Privacy Act of 1974, internal controls, and other matters.

SEC. 223. ENHANCEMENT OF NON-FEDERAL CYBERSECURITY.

In carrying out the responsibilities under section 201, the Under Secretary for Information Analysis and Infrastructure Protection shall—

(1) as appropriate, provide to State and local government entities, and upon request to private entities that own or operate critical information systems—

(A) analysis and warnings related to threats to, and vulnerabilities of, critical information systems; and

(B) in coordination with the Under Secretary for Emergency Preparedness and Response, crisis management support in response to threats to, or attacks on, critical information systems; and

(2) as appropriate, provide technical assistance, upon request, to the private sector and other government entities, in coordination with the Under Secretary for Emergency Preparedness and Response, with respect to emergency recovery plans to respond to major failures of critical information systems.

SEC. 224. NET GUARD.

The Under Secretary for Information Analysis and Infrastructure Protection may establish a national technology guard, to be known as "NET Guard", comprised of local teams of volunteers with expertise in relevant areas of science and technology, to assist local communities to respond and recover from attacks on information systems and communications networks.

SEC. 225. CYBER SECURITY ENHANCEMENT ACT OF 2002.

(a) Short Title.—This section may be cited as the "Cyber Security Enhancement Act of 2002".

(b) Amendment of Sentencing Guidelines Relating to Certain Computer Crimes.—

(1) Directive to the united states sentencing commission.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 1030 of title 18, United States Code.

(2) Requirements.—In carrying out this subsection, the Sentencing Commission shall—

(A) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in paragraph (1), the growing incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(B) consider the following factors and the extent to which the guidelines may or may not account for them—

(i) the potential and actual loss resulting from the offense;

(ii) the level of sophistication and planning involved in the offense;

(iii) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(iv) whether the defendant acted with malicious intent to cause harm in committing the offense;

(v) the extent to which the offense violated the privacy rights of individuals harmed;

(vi) whether the offense involved a computer used by the government in furtherance of national defense, national security, or the administration of justice;

(vii) whether the violation was intended to or had the effect of significantly interfering with or disrupting a critical infrastructure; and

(viii) whether the violation was intended to or had the effect of creating a threat to public health or safety, or injury to any person;

(C) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(D) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(E) make any necessary conforming changes to the sentencing guidelines; and

(F) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) Study and Report on Computer Crimes.—Not later than May 1, 2003, the United States Sentencing Commission shall submit a brief report to Congress that explains any actions taken by the Sentencing Commission in response to this section and includes any recommendations the Commission may have regarding statutory penalties for offenses under section 1030 of title 18, United States Code.

(d) Emergency Disclosure Exception.—

(1) In general.—Section 2702(b) of title 18, United States Code, is amended—

(A) in paragraph (5), by striking "or" at the end;

(B) in paragraph (6)(A), by inserting "or" at the end;

(C) by striking paragraph (6)(C); and

(D) by adding at the end the following:

"(7) to a Federal, State, or local governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency.".

(2) Reporting of disclosures.—A government entity that receives a disclosure under section 2702(b) of title 18, United States Code, shall file, not later than 90 days after such disclosure, a report to the Attorney General stating the paragraph of that section under which the disclosure was made, the date of the disclosure, the entity to which the disclosure was made, the number of customers or subscribers to whom the information disclosed pertained, and the number of communications, if any, that were disclosed. The Attorney General shall publish all such reports into a single report to be submitted to Congress 1 year after the date of enactment of this Act.

(e) Good Faith Exception.—Section 2520(d)(3) of title 18, United States Code, is amended by inserting "or 2511(2)(i)" after "2511(3)".

(f) Internet Advertising of Illegal Devices.—Section 2512(1)(c) of title 18, United States Code, is amended—

(1) by inserting "or disseminates by electronic means" after "or other publication"; and

(2) by inserting "knowing the content of the advertisement and" before "knowing or having reason to know".

(g) Strengthening Penalties.—Section 1030(c) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) in each of subparagraphs (A) and (C) of paragraph (4), by inserting "except as provided in paragraph (5)," before "a fine under this title";

(3) in paragraph (4)(C), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(5)(A) if the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for not more than 20 years, or both; and

"(B) if the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for any term of years or for life, or both.".

(h) Provider Assistance.—

(1) Section 2703.—Section 2703(e) of title 18, United States Code, is amended by inserting ", statutory authorization" after "subpoena".

(2) Section 2511.—Section 2511(2)(a)(ii) of title 18, United States Code, is amended by inserting ", statutory authorization," after "court order" the last place it appears.

(i) Emergencies.—Section 3125(a)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the comma at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(C) an immediate threat to a national security interest; or

"(D) an ongoing attack on a protected computer (as defined in section 1030) that constitutes a crime punishable by a term of imprisonment greater than one year;".

(j) Protecting Privacy.—

(1) Section 2511.—Section 2511(4) of title 18, United States Code, is amended—

(A) by striking paragraph (b); and

(B) by redesignating paragraph (c) as paragraph (b).

(2) Section 2701.—Section 2701(b) of title 18, United States Code, is amended—

(A) in paragraph (1), by inserting ", or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State" after "commercial gain";

(B) in paragraph (1)(A), by striking "one year" and inserting "5 years";

(C) in paragraph (1)(B), by striking "two years" and inserting "10 years"; and

(D) by striking paragraph (2) and inserting the following:

"(2) in any other case—

"(A) a fine under this title or imprisonment for not more than 1 year or both, in the case of a first offense under this paragraph; and

"(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under this subparagraph that occurs after a conviction of another offense under this section.".

Subtitle D—Office of Science and Technology

SEC. 231. ESTABLISHMENT OF OFFICE; DIRECTOR.

(a) Establishment.—

(1) In general.—There is hereby established within the Department of Justice an Office of Science and Technology (hereinafter in this title referred to as the "Office").

(2) AUTHORITY.—The Office shall be under the general authority of the Assistant Attorney General, Office of Justice Programs, and shall be established within the National Institute of Justice.

(b) DIRECTOR.—The Office shall be headed by a Director, who shall be an individual appointed based on approval by the Office of Personnel Management of the executive qualifications of the individual.

SEC. 232. MISSION OF OFFICE; DUTIES.

(a) MISSION.—The mission of the Office shall be—

(1) to serve as the national focal point for work on law enforcement technology; and

(2) to carry out programs that, through the provision of equipment, training, and technical assistance, improve the safety and effectiveness of law enforcement technology and improve access to such technology by Federal, State, and local law enforcement agencies.

(b) DUTIES.—In carrying out its mission, the Office shall have the following duties:

(1) To provide recommendations and advice to the Attorney General.

(2) To establish and maintain advisory groups (which shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.)) to assess the law enforcement technology needs of Federal, State, and local law enforcement agencies.

(3) To establish and maintain performance standards in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) for, and test and evaluate law enforcement technologies that may be used by, Federal, State, and local law enforcement agencies.

(4) To establish and maintain a program to certify, validate, and mark or otherwise recognize law enforcement technology products that conform to standards established and maintained by the Office in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113). The program may, at the discretion of the Office, allow for supplier's declaration of conformity with such standards.

(5) To work with other entities within the Department of Justice, other Federal agencies, and the executive office of the President to establish a coordinated Federal approach on issues related to law enforcement technology.

(6) To carry out research, development, testing, evaluation, and cost-benefit analyses in fields that would improve the safety, effectiveness, and efficiency of law enforcement technologies used by Federal, State, and local law enforcement agencies, including, but not limited to—

(A) weapons capable of preventing use by unauthorized persons, including personalized guns;

(B) protective apparel;

(C) bullet-resistant and explosion-resistant glass;

(D) monitoring systems and alarm systems capable of providing precise location information;

(E) wire and wireless interoperable communication technologies;

(F) tools and techniques that facilitate investigative and forensic work, including computer forensics;

(G) equipment for particular use in counterterrorism, including devices and technologies to disable terrorist devices;

(H) guides to assist State and local law enforcement agencies;

(I) DNA identification technologies; and

(J) tools and techniques that facilitate investigations of computer crime.

(7) To administer a program of research, development, testing, and demonstration to improve the interoperability of voice and data public safety communications.

(8) To serve on the Technical Support Working Group of the Department of Defense, and on other relevant interagency panels, as requested.

(9) To develop, and disseminate to State and local law enforcement agencies, technical assistance and training materials for law enforcement personnel, including prosecutors.

(10) To operate the regional National Law Enforcement and Corrections Technology Centers and, to the extent necessary, establish additional centers through a competitive process.

(11) To administer a program of acquisition, research, development, and dissemination of advanced investigative analysis and forensic tools to assist State and local law enforcement agencies in combating cybercrime.

(12) To support research fellowships in support of its mission.

(13) To serve as a clearinghouse for information on law enforcement technologies.

(14) To represent the United States and State and local law enforcement agencies, as requested, in international activities concerning law enforcement technology.

(15) To enter into contracts and cooperative agreements and provide grants, which may require in-kind or cash matches from the recipient, as necessary to carry out its mission.

(16) To carry out other duties assigned by the Attorney General to accomplish the mission of the Office.

(c) COMPETITION REQUIRED.—Except as otherwise expressly provided by law, all research and development carried out by or through the Office shall be carried out on a competitive basis.

(d) INFORMATION FROM FEDERAL AGENCIES.—Federal agencies shall, upon request from the Office and in accordance with Federal law, provide the Office with any data, reports, or other information requested, unless compliance with such request is otherwise prohibited by law.

(e) PUBLICATIONS.—Decisions concerning publications issued by the Office shall rest solely with the Director of the Office.

(f) TRANSFER OF FUNDS.—The Office may transfer funds to other Federal agencies or provide funding to non-Federal entities through grants, cooperative agreements, or contracts to carry out its duties under this section.

(g) ANNUAL REPORT.—The Director of the Office shall include with the budget justification materials submitted to Congress in support of the Department of Justice budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report on the activities of the Office. Each such report shall include the following:

(1) For the period of 5 fiscal years beginning with the fiscal year for which the budget is submitted—

(A) the Director's assessment of the needs of Federal, State, and local law enforcement agencies for assistance with respect to law enforcement technology and other matters consistent with the mission of the Office; and

(B) a strategic plan for meeting such needs of such law enforcement agencies.

(2) For the fiscal year preceding the fiscal year for which such budget is submitted, a description of the activities carried out by the Office and an evaluation of the extent to which those activities successfully meet the needs assessed under paragraph (1)(A) in previous reports.

SEC. 233. DEFINITION OF LAW ENFORCEMENT TECHNOLOGY.

For the purposes of this title, the term "law enforcement technology" includes investigative and forensic technologies, corrections technologies, and technologies that support the judicial process.

SEC. 234. ABOLISHMENT OF OFFICE OF SCIENCE AND TECHNOLOGY OF NATIONAL INSTITUTE OF JUSTICE; TRANSFER OF FUNCTIONS.

(a) AUTHORITY TO TRANSFER FUNCTIONS.—The Attorney General may transfer to the Office any other program or activity of the Department of Justice that the Attorney General, in consultation with the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, determines to be consistent with the mission of the Office.

(b) TRANSFER OF PERSONNEL AND ASSETS.—With respect to any function, power, or duty, or any program or activity, that is established in the Office, those employees and assets of the element of the Department of Justice from which the transfer is made that the Attorney General determines are needed to perform that function, power, or duty, or for that program or activity, as the case may be, shall be transferred to the Office.

(c) REPORT ON IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the implementation of this title. The report shall—

(1) provide an accounting of the amounts and sources of funding available to the Office to carry out its mission under existing authorizations and appropriations, and set forth the future funding needs of the Office; and

(2) include such other information and recommendations as the Attorney General considers appropriate.

SEC. 235. NATIONAL LAW ENFORCEMENT AND CORRECTIONS TECHNOLOGY CENTERS.

(a) IN GENERAL.—The Director of the Office shall operate and support National Law Enforcement and Corrections Technology Centers (hereinafter in this section referred to as "Centers") and, to the extent necessary, establish new centers through a merit-based, competitive process.

(b) PURPOSE OF CENTERS.—The purpose of the Centers shall be to—

(1) support research and development of law enforcement technology;

(2) support the transfer and implementation of technology;

(3) assist in the development and dissemination of guidelines and technological standards; and

(4) provide technology assistance, information, and support for law enforcement, corrections, and criminal justice purposes.

(c) ANNUAL MEETING.—Each year, the Director shall convene a meeting of the Centers in order to foster collaboration and communication between Center participants.

(d) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Director shall transmit to the Congress a report assessing the effectiveness of the existing system of Centers and identify the number of Centers necessary to meet the technology needs of Federal, State, and local law enforcement in the United States.

SEC. 236. COORDINATION WITH OTHER ENTITIES WITHIN DEPARTMENT OF JUSTICE.

Section 102 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended in subsection (a)(5) by inserting "coordinate and" before "provide".

SEC. 237. AMENDMENTS RELATING TO NATIONAL INSTITUTE OF JUSTICE.

Section 202(c) of the Omnibus Crime Control and Safety Streets Act of 1968 (42 U.S.C. 3722(c)) is amended—

(1) in paragraph (3) by inserting ", including cost effectiveness where practical," before "of projects"; and

(2) by striking "and" after the semicolon at the end of paragraph (8), striking the period at the end of paragraph (9) and inserting "; and", and by adding at the end the following:

"(10) research and development of tools and technologies relating to prevention, detection, investigation, and prosecution of crime; and

"(11) support research, development, testing, training, and evaluation of tools and technology for Federal, State, and local law enforcement agencies.".

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

SEC. 301. UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

There shall be in the Department a Directorate of Science and Technology headed by an Under Secretary for Science and Technology.

SEC. 302. RESPONSIBILITIES AND AUTHORITIES OF THE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

The Secretary, acting through the Under Secretary for Science and Technology, shall have the responsibility for—

(1) advising the Secretary regarding research and development efforts and priorities in support of the Department's missions;

(2) developing, in consultation with other appropriate executive agencies, a national policy and strategic plan for, identifying priorities, goals, objectives and policies for, and coordinating the Federal Government's civilian efforts to identify and develop countermeasures to chemical, biological, radiological, nuclear, and other emerging terrorist threats, including the development of comprehensive, research-based definable goals for such efforts and development of annual measurable objectives and specific targets to accomplish and evaluate the goals for such efforts;

(3) supporting the Under Secretary for Information Analysis and Infrastructure Protection, by assessing and testing homeland security vulnerabilities and possible threats;

(4) conducting basic and applied research, development, demonstration, testing, and evaluation activities that are relevant to any or all elements of the Department, through both intramural and extramural programs, except that such responsibility does not extend to human health-related research and development activities;

(5) establishing priorities for, directing, funding, and conducting national research, development, test and evaluation, and procurement of technology and systems for—

(A) preventing the importation of chemical, biological, radiological, nuclear, and related weapons and material; and

(B) detecting, preventing, protecting against, and responding to terrorist attacks;

(6) establishing a system for transferring homeland security developments or technologies to federal, state, local government, and private sector entities;

(7) entering into work agreements, joint sponsorships, contracts, or any other agreements with the Department of Energy regarding the use of the national laboratories or sites and support of the science and technology base at those facilities;

(8) collaborating with the Secretary of Agriculture and the Attorney General as provided in section 212 of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401), as amended by section 1709(b);

(9) collaborating with the Secretary of Health and Human Services and the Attorney General in determining any new biological agents and toxins that shall be listed as "select agents" in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a);

(10) supporting United States leadership in science and technology;

(11) establishing and administering the primary research and development activities of the Department, including the long-term research and development needs and capabilities for all elements of the Department;

(12) coordinating and integrating all research, development, demonstration, testing, and evaluation activities of the Department;

(13) coordinating with other appropriate executive agencies in developing and carrying out the science and technology agenda of the Department to reduce duplication and identify unmet needs; and

(14) developing and overseeing the administration of guidelines for merit review of research and development projects throughout the Department, and for the dissemination of research conducted or sponsored by the Department.

SEC. 303. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The following programs and activities of the Department of Energy, including the functions of the Secretary of Energy relating thereto (but not including programs and activities relating to the strategic nuclear defense posture of the United States):

(A) The chemical and biological national security and supporting programs and activities of the nonproliferation and verification research and development program.

(B) The nuclear smuggling programs and activities within the proliferation detection program of the nonproliferation and verification research and development program. The programs and activities described in this subparagraph may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy.

(C) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(D) Such life sciences activities of the biological and environmental research program related to microbial pathogens as may be designated by the President for transfer to the Department.

(E) The Environmental Measurements Laboratory.

(F) The advanced scientific computing research program and activities at Lawrence Livermore National Laboratory.

(2) The National Bio-Weapons Defense Analysis Center of the Department of Defense, including the functions of the Secretary of Defense related thereto.

(3) The Plum Island Animal Disease Center of the Department of Agriculture, as provided in section 310.

SEC. 304. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) In General.—With respect to civilian human health-related research and development activities relating to countermeasures for chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities, goals, objectives, and policies and develop a coordinated strategy for such activities in collaboration with the Secretary of Homeland Security to ensure consistency with the national policy and strategic plan developed pursuant to section 302(2).

(b) Evaluation of Progress.—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

(c) Administration of Countermeasures Against Smallpox.—Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended by adding the following:

"(p) Administration of Smallpox Countermeasures by Health Professionals.—

"(1) In general.—For purposes of this section, and subject to other provisions of this subsection, a covered person shall be deemed to be an employee of the Public Health Service with respect to liability arising out of administration of a covered countermeasure against smallpox to an individual during the effective period of a declaration by the Secretary under paragraph (2)(A).

"(2) Declaration by Secretary concerning countermeasure against smallpox.—

"(A) Authority to issue declaration.—

"(i) In general.—The Secretary may issue a declaration, pursuant to this paragraph, concluding that an actual or potential bioterrorist incident or other actual or potential public health emergency makes advisable the administration of a covered countermeasure to a category or categories of individuals.

"(ii) Covered countermeasure.—The Secretary shall specify in such declaration the substance or substances that shall be considered covered countermeasures (as defined in paragraph (8)(A)) for purposes of administration to individuals during the effective period of the declaration.

"(iii) Effective period.—The Secretary shall specify in such declaration the beginning and ending dates of the effective period of the declaration, and may subsequently amend such declaration to shorten or extend such effective period, provided that the new closing date is after the date when the declaration is amended.

"(iv) Publication.—The Secretary shall promptly publish each such declaration and amendment in the Federal Register.

"(B) Liability of United States only for administrations within scope of declaration.—Except as provided in paragraph (5)(B)(ii), the United States shall be liable under this subsection with respect to a claim arising out of the administration of a covered countermeasure to an individual only if—

"(i) the countermeasure was administered by a qualified person, for a purpose stated in paragraph (7)(A)(i), and during the effective period of a declaration by the Secretary under subparagraph (A) with respect to such countermeasure; and

"(ii)(I) the individual was within a category of individuals covered by the declaration; or

"(II) the qualified person administering the countermeasure had reasonable grounds to believe that such individual was within such category.

"(C) PRESUMPTION OF ADMINISTRATION WITHIN SCOPE OF DECLARATION IN CASE OF ACCIDENTAL VACCINIA INOCULATION.—

"(i) IN GENERAL.—If vaccinia vaccine is a covered countermeasure specified in a declaration under subparagraph (A), and an individual to whom the vaccinia vaccine is not administered contracts vaccinia, then, under the circumstances specified in clause (ii), the individual—

"(I) shall be rebuttably presumed to have contracted vaccinia from an individual to whom such vaccine was administered as provided by clauses (i) and (ii) of subparagraph (B); and

"(II) shall (unless such presumption is rebutted) be deemed for purposes of this subsection to be an individual to whom a covered countermeasure was administered by a qualified person in accordance with the terms of such declaration and as described by subparagraph (B).

"(ii) CIRCUMSTANCES IN WHICH PRESUMPTION APPLIES.—The presumption and deeming stated in clause (i) shall apply if—

"(I) the individual contracts vaccinia during the effective period of a declaration under subparagraph (A) or by the date 30 days after the close of such period; or

"(II) the individual resides or has resided with an individual to whom such vaccine was administered as provided by clauses (i) and (ii) of subparagraph (B) and contracts vaccinia after such date.

"(3) EXCLUSIVITY OF REMEDY.—The remedy provided by subsection (a) shall be exclusive of any other civil action or proceeding for any claim or suit this subsection encompasses.

"(4) CERTIFICATION OF ACTION BY ATTORNEY GENERAL.—Subsection (c) applies to actions under this subsection, subject to the following provisions:

"(A) NATURE OF CERTIFICATION.—The certification by the Attorney General that is the basis for deeming an action or proceeding to be against the United States, and for removing an action or proceeding from a State court, is a certification that the action or proceeding is against a covered person and is based upon a claim alleging personal injury or death arising out of the administration of a covered countermeasure.

"(B) CERTIFICATION OF ATTORNEY GENERAL CONCLUSIVE.—The certification of the Attorney General of the facts specified in subparagraph (A) shall conclusively establish such facts for purposes of jurisdiction pursuant to this subsection.

"(5) DEFENDANT TO COOPERATE WITH UNITED STATES.—

"(A) IN GENERAL.—A covered person shall cooperate with the United States in the processing and defense of a claim or action under this subsection based upon alleged acts or omissions of such person.

"(B) CONSEQUENCES OF FAILURE TO COOPERATE.—Upon the motion of the United States or any other party and upon finding that such person has failed to so cooperate—

"(i) the court shall substitute such person as the party defendant in place of the United States and, upon motion, shall remand any such suit to the court in which it was instituted if it appears that the court lacks subject matter jurisdiction;

"(ii) the United States shall not be liable based on the acts or omissions of such person; and

"(iii) the Attorney General shall not be obligated to defend such action.

"(6) RECOURSE AGAINST COVERED PERSON IN CASE OF GROSS MISCONDUCT OR CONTRACT VIOLATION.—

"(A) IN GENERAL.—Should payment be made by the United States to any claimant bringing a claim under this subsection, either by way of administrative determination, settlement, or court judgment, the United States shall have, notwithstanding any provision of State law, the right to recover for that portion of the damages so awarded or paid, as well as interest and any costs of litigation, resulting from the failure of any covered person to carry out any obligation or responsibility assumed by such person under a contract with the United States or from any grossly negligent, reckless, or illegal conduct or willful misconduct on the part of such person.

"(B) VENUE.—The United States may maintain an action under this paragraph against such person in the district court of the United States in which such person resides or has its principal place of business.

"(7) DEFINITIONS.—As used in this subsection, terms have the following meanings:

"(A) COVERED COUNTERMEASURE.—The term 'covered countermeasure', or 'covered countermeasure against smallpox', means a substance that is—

"(i)(I) used to prevent or treat smallpox (including the vaccinia or another vaccine); or

"(II) vaccinia immune globulin used to control or treat the adverse effects of vaccinia inoculation; and

"(ii) specified in a declaration under paragraph (2).

"(B) COVERED PERSON.—The term 'covered person', when used with respect to the administration of a covered countermeasure, includes any person who is—

"(i) a manufacturer or distributor of such countermeasure;

"(ii) a health care entity under whose auspices such countermeasure was administered;

"(iii) a qualified person who administered such countermeasure; or

"(iv) an official, agent, or employee of a person described in clause (i), (ii), or (iii).

"(C) QUALIFIED PERSON.—The term 'qualified person', when used with respect to the administration of a covered countermeasure, means a licensed health professional or other individual who is authorized to administer such countermeasure under the law of the State in which the countermeasure was administered.".

SEC. 305. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

The Secretary, acting through the Under Secretary for Science and Technology, shall have the authority to establish or contract with 1 or more federally funded research and development centers to provide independent analysis of homeland security issues, or to carry out other responsibilities under this Act, including coordinating and integrating both the extramural and intramural programs described in section 308.

SEC. 306. MISCELLANEOUS PROVISIONS.

(a) CLASSIFICATION.—To the greatest extent practicable, research conducted or supported by the Department shall be unclassified.

(b) CONSTRUCTION.—Nothing in this title shall be construed to preclude any Under Secretary of the Department from carrying out research, development, demonstration, or deployment activities, as long as such activities are coordinated through the Under Secretary for Science and Technology.

(c) REGULATIONS.—The Secretary, acting through the Under Secretary for Science and Technology, may issue necessary regulations with respect to research, development, demonstration, testing, and evaluation activities of the Department, including the conducting, funding, and reviewing of such activities.

(d) NOTIFICATION OF PRESIDENTIAL LIFE SCIENCES DESIGNATIONS.—Not later than 60 days before effecting any transfer of Department of Energy life sciences activities pursuant to section 303(1)(D) of this Act, the President shall notify the appropriate congressional committees of the proposed transfer and shall include the reasons for the transfer and a description of the effect of the transfer on the activities of the Department of Energy.

SEC. 307. HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY.

(a) DEFINITIONS.—In this section:

(1) FUND.—The term "Fund" means the Acceleration Fund for Research and Development of Homeland Security Technologies established in subsection (c).

(2) HOMELAND SECURITY RESEARCH.—The term "homeland security research" means research relevant to the detection of, prevention of, protection against, response to, attribution of, and recovery from homeland security threats, particularly acts of terrorism.

(3) HSARPA.—The term "HSARPA" means the Homeland Security Advanced Research Projects Agency established in subsection (b).

(4) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary for Science and Technology.

(b) HSARPA.—

(1) ESTABLISHMENT.—There is established the Homeland Security Advanced Research Projects Agency.

(2) DIRECTOR.—HSARPA shall be headed by a Director, who shall be appointed by the Secretary. The Director shall report to the Under Secretary.

(3) RESPONSIBILITIES.—The Director shall administer the Fund to award competitive, merit-reviewed grants, cooperative agreements or contracts to public or private entities, including businesses, federally funded research and development centers, and universities. The Director shall administer the Fund to—

(A) support basic and applied homeland security research to promote revolutionary changes in technologies that would promote homeland security;

(B) advance the development, testing and evaluation, and deployment of critical homeland security technologies; and

(C) accelerate the prototyping and deployment of technologies that would address homeland security vulnerabilities.

(4) TARGETED COMPETITIONS.—The Director may solicit proposals to address specific vulnerabilities identified by the Director.

(5) COORDINATION.—The Director shall ensure that the activities of HSARPA are coordinated with those of other relevant research agencies, and may run projects jointly with other agencies.

(6) PERSONNEL.—In hiring personnel for HSARPA, the Secretary shall have the hiring and management authorities described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261). The term of appointments for employees under subsection (c)(1) of that section

may not exceed 5 years before the granting of any extension under subsection (c)(2) of that section.

(7) Demonstrations.—The Director, periodically, shall hold homeland security technology demonstrations to improve contact among technology developers, vendors and acquisition personnel.

(c) Fund.—

(1) Establishment.—There is established the Acceleration Fund for Research and Development of Homeland Security Technologies, which shall be administered by the Director of HSARPA.

(2) Authorization of appropriations.—There are authorized to be appropriated $500,000,000 to the Fund for fiscal year 2003 and such sums as may be necessary thereafter.

(3) Coast guard.—Of the funds authorized to be appropriated under paragraph (2), not less than 10 percent of such funds for each fiscal year through fiscal year 2005 shall be authorized only for the Under Secretary, through joint agreement with the Commandant of the Coast Guard, to carry out research and development of improved ports, waterways and coastal security surveillance and perimeter protection capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from non-homeland security missions to the ports, waterways and coastal security mission.

SEC. 308. CONDUCT OF RESEARCH, DEVELOPMENT, DEMONSTRATION, TESTING AND EVALUATION.

(a) In General.—The Secretary, acting through the Under Secretary for Science and Technology, shall carry out the responsibilities under section 302(4) through both extramural and intramural programs.

(b) Extramural Programs.—

(1) In general.—The Secretary, acting through the Under Secretary for Science and Technology, shall operate extramural research, development, demonstration, testing, and evaluation programs so as to—

(A) ensure that colleges, universities, private research institutes, and companies (and consortia thereof) from as many areas of the United States as practicable participate;

(B) ensure that the research funded is of high quality, as determined through merit review processes developed under section 302(14); and

(C) distribute funds through grants, cooperative agreements, and contracts.

(2) University-based centers for homeland security.—

(A) Establishment.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish within 1 year of the date of enactment of this Act a university-based center or centers for homeland security. The purpose of this center or centers shall be to establish a coordinated, university-based system to enhance the Nation's homeland security.

(B) Criteria for selection.—In selecting colleges or universities as centers for homeland security, the Secretary shall consider the following criteria:

(i) Demonstrated expertise in the training of first responders.

(ii) Demonstrated expertise in responding to incidents involving weapons of mass destruction and biological warfare.

(iii) Demonstrated expertise in emergency medical services.

(iv) Demonstrated expertise in chemical, biological, radiological, and nuclear countermeasures.

(v) Strong affiliations with animal and plant diagnostic laboratories.

(vi) Demonstrated expertise in food safety.

(vii) Affiliation with Department of Agriculture laboratories or training centers.

(viii) Demonstrated expertise in water and wastewater operations.

(ix) Demonstrated expertise in port and waterway security.

(x) Demonstrated expertise in multi-modal transportation.

(xi) Nationally recognized programs in information security.

(xii) Nationally recognized programs in engineering.

(xiii) Demonstrated expertise in educational outreach and technical assistance.

(xiv) Demonstrated expertise in border transportation and security.

(xv) Demonstrated expertise in interdisciplinary public policy research and communication outreach regarding science, technology, and public policy.

(C) Discretion of secretary.—The Secretary shall have the discretion to establish such centers and to consider additional criteria as necessary to meet the evolving needs of homeland security and shall report to Congress concerning the implementation of this paragraph as necessary.

(D) Authorization of appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

(c) Intramural Programs.—

(1) Consultation.—In carrying out the duties under section 302, the Secretary, acting through the Under Secretary for Science and Technology, may draw upon the expertise of any laboratory of the Federal Government, whether operated by a contractor or the Government.

(2) Laboratories.—The Secretary, acting through the Under Secretary for Science and Technology, may establish a headquarters laboratory for the Department at any laboratory or site and may establish additional laboratory units at other laboratories or sites.

(3) Criteria for headquarters laboratory.—If the Secretary chooses to establish a headquarters laboratory pursuant to paragraph (2), then the Secretary shall do the following:

(A) Establish criteria for the selection of the headquarters laboratory in consultation with the National Academy of Sciences, appropriate Federal agencies, and other experts.

(B) Publish the criteria in the Federal Register.

(C) Evaluate all appropriate laboratories or sites against the criteria.

(D) Select a laboratory or site on the basis of the criteria.

(E) Report to the appropriate congressional committees on which laboratory was selected, how the selected laboratory meets the published criteria, and what duties the headquarters laboratory shall perform.

(4) Limitation on operation of laboratories.—No laboratory shall begin operating as the headquarters laboratory of the Department until at least 30 days after the transmittal of the report required by paragraph (3)(E).

SEC. 309. UTILIZATION OF DEPARTMENT OF ENERGY NATIONAL LABORATORIES AND SITES IN SUPPORT OF HOMELAND SECURITY ACTIVITIES.

(a) Authority To Utilize National Laboratories and Sites.—

(1) In general.—In carrying out the missions of the Department, the Secretary may utilize the Department of Energy national laboratories and sites through any 1 or more of the following methods, as the Secretary considers appropriate:

(A) A joint sponsorship arrangement referred to in subsection (b).

(B) A direct contract between the Department and the applicable Department of Energy laboratory or site, subject to subsection (c).

(C) Any "work for others" basis made available by that laboratory or site.

(D) Any other method provided by law.

(2) Acceptance and Performance by Labs and Sites.—Notwithstanding any other law governing the administration, mission, use, or operations of any of the Department of Energy national laboratories and sites, such laboratories and sites are authorized to accept and perform work for the Secretary, consistent with resources provided, and perform such work on an equal basis to other missions at the laboratory and not on a noninterference basis with other missions of such laboratory or site.

(b) Joint Sponsorship Arrangements.—

(1) Laboratories.—The Department may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work.

(2) Sites.—The Department may be a joint sponsor of a Department of Energy site in the performance of work as if such site were a federally funded research and development center and the work were performed under a multiple agency sponsorship arrangement with the Department.

(3) Primary sponsor.—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement referred to in paragraph (1) or (2).

(4) Lead agent.—The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship arrangement under this subsection between the Department and a Department of Energy national laboratory or site.

(5) Federal acquisition regulation.—Any work performed by a Department of Energy national laboratory or site under a joint sponsorship arrangement under this subsection shall comply with the policy on the use of federally funded research and development centers under the Federal Acquisition Regulations.

(6) Funding.—The Department shall provide funds for work at the Department of Energy national laboratories or sites, as the case may be, under a joint sponsorship arrangement under this subsection under the same terms and conditions as apply to the primary sponsor of such national laboratory under section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253 (b)(1)(C)) or of such site to the extent such section applies to such site as a federally funded research and development center by reason of this subsection.

(c) Separate Contracting.—To the extent that programs or activities transferred by this Act from the Department of Energy to the Department of Homeland Security are being carried out through direct contracts with the operator of a national laboratory or site of the Department of Energy, the Secretary of Homeland Security and the Secretary of Energy shall ensure that direct contracts for such programs and activities between the Department of Homeland Security and such operator are separate from the direct contracts of the Department of Energy with such operator.

(d) AUTHORITY WITH RESPECT TO COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS AND LICENSING AGREEMENTS.—In connection with any utilization of the Department of Energy national laboratories and sites under this section, the Secretary may permit the director of any such national laboratory or site to enter into cooperative research and development agreements or to negotiate licensing agreements with any person, any agency or instrumentality, of the United States, any unit of State or local government, and any other entity under the authority granted by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a). Technology may be transferred to a non-Federal party to such an agreement consistent with the provisions of sections 11 and 12 of that Act (15 U.S.C. 3710, 3710a).

(e) REIMBURSEMENT OF COSTS.—In the case of an activity carried out by the operator of a Department of Energy national laboratory or site in connection with any utilization of such laboratory or site under this section, the Department of Homeland Security shall reimburse the Department of Energy for costs of such activity through a method under which the Secretary of Energy waives any requirement for the Department of Homeland Security to pay administrative charges or personnel costs of the Department of Energy or its contractors in excess of the amount that the Secretary of Energy pays for an activity carried out by such contractor and paid for by the Department of Energy.

(f) LABORATORY DIRECTED RESEARCH AND DEVELOPMENT BY THE DEPARTMENT OF ENERGY.—No funds authorized to be appropriated or otherwise made available to the Department in any fiscal year may be obligated or expended for laboratory directed research and development activities carried out by the Department of Energy unless such activities support the missions of the Department of Homeland Security.

(g) OFFICE FOR NATIONAL LABORATORIES.—There is established within the Directorate of Science and Technology an Office for National Laboratories, which shall be responsible for the coordination and utilization of the Department of Energy national laboratories and sites under this section in a manner to create a networked laboratory system for the purpose of supporting the missions of the Department.

(h) DEPARTMENT OF ENERGY COORDINATION ON HOMELAND SECURITY RELATED RESEARCH.—The Secretary of Energy shall ensure that any research, development, test, and evaluation activities conducted within the Department of Energy that are directly or indirectly related to homeland security are fully coordinated with the Secretary to minimize duplication of effort and maximize the effective application of Federal budget resources.

SEC. 310. TRANSFER OF PLUM ISLAND ANIMAL DISEASE CENTER, DEPARTMENT OF AGRICULTURE.

(a) IN GENERAL.—In accordance with title XV, the Secretary of Agriculture shall transfer to the Secretary of Homeland Security the Plum Island Animal Disease Center of the Department of Agriculture, including the assets and liabilities of the Center.

(b) CONTINUED DEPARTMENT OF AGRICULTURE ACCESS.—On completion of the transfer of the Plum Island Animal Disease Center under subsection (a), the Secretary of Homeland Security and the Secretary of Agriculture shall enter into an agreement to ensure that the Department of Agriculture is able to carry out research, diagnostic, and other activities of the Department of Agriculture at the Center.

(c) DIRECTION OF ACTIVITIES.—The Secretary of Agriculture shall continue to direct the research, diagnostic, and other activities of the Department of Agriculture at the Center described in subsection (b).

(d) NOTIFICATION.—

(1) IN GENERAL.—At least 180 days before any change in the biosafety level at the Plum Island Animal Disease Center, the President shall notify Congress of the change and describe the reasons for the change.

(2) LIMITATION.—No change described in paragraph (1) may be made earlier than 180 days after the completion of the transition period (as defined in section 1501).

SEC. 311. HOMELAND SECURITY SCIENCE AND TECHNOLOGY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established within the Department a Homeland Security Science and Technology Advisory Committee (in this section referred to as the "Advisory Committee"). The Advisory Committee shall make recommendations with respect to the activities of the Under Secretary for Science and Technology, including identifying research areas of potential importance to the security of the Nation.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Advisory Committee shall consist of 20 members appointed by the Under Secretary for Science and Technology, which shall include emergency first-responders or representatives of organizations or associations of emergency first-responders. The Advisory Committee shall also include representatives of citizen groups, including economically disadvantaged communities. The individuals appointed as members of the Advisory Committee—

(A) shall be eminent in fields such as emergency response, research, engineering, new product development, business, and management consulting;

(B) shall be selected solely on the basis of established records of distinguished service;

(C) shall not be employees of the Federal Government; and

(D) shall be so selected as to provide representation of a cross-section of the research, development, demonstration, and deployment activities supported by the Under Secretary for Science and Technology.

(2) NATIONAL RESEARCH COUNCIL.—The Under Secretary for Science and Technology may enter into an arrangement for the National Research Council to select members of the Advisory Committee, but only if the panel used by the National Research Council reflects the representation described in paragraph (1).

(c) TERMS OF OFFICE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the term of office of each member of the Advisory Committee shall be 3 years.

(2) ORIGINAL APPOINTMENTS.—The original members of the Advisory Committee shall be appointed to three classes of three members each. One class shall have a term of 1 year, 1 a term of 2 years, and the other a term of 3 years.

(3) VACANCIES.—A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

(d) ELIGIBILITY.—A person who has completed two consecutive full terms of service on the Advisory Committee shall thereafter be ineligible for appointment during the 1-year period following the expiration of the second such term.

(e) MEETINGS.—The Advisory Committee shall meet at least quarterly at the call of the Chair or whenever one-third of the members so request in writing. Each member shall be given appropriate notice of the call of each meeting, whenever possible not less than 15 days before the meeting.

(f) QUORUM.—A majority of the members of the Advisory Committee not having a conflict of interest in the matter being considered by the Advisory Committee shall constitute a quorum.

(g) CONFLICT OF INTEREST RULES.—The Advisory Committee shall establish rules for determining when 1 of its members has a conflict of interest in a matter being considered by the Advisory Committee.

(h) REPORTS.—

(1) ANNUAL REPORT.—The Advisory Committee shall render an annual report to the Under Secretary for Science and Technology for transmittal to Congress on or before January 31 of each year. Such report shall describe the activities and recommendations of the Advisory Committee during the previous year.

(2) ADDITIONAL REPORTS.—The Advisory Committee may render to the Under Secretary for transmittal to Congress such additional reports on specific policy matters as it considers appropriate.

(i) FACA EXEMPTION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee.

(j) TERMINATION.—The Department of Homeland Security Science and Technology Advisory Committee shall terminate 3 years after the effective date of this Act.

SEC. 312. HOMELAND SECURITY INSTITUTE.

(a) ESTABLISHMENT.—The Secretary shall establish a federally funded research and development center to be known as the "Homeland Security Institute" (in this section referred to as the "Institute").

(b) ADMINISTRATION.—The Institute shall be administered as a separate entity by the Secretary.

(c) DUTIES.—The duties of the Institute shall be determined by the Secretary, and may include the following:

(1) Systems analysis, risk analysis, and simulation and modeling to determine the vulnerabilities of the Nation's critical infrastructures and the effectiveness of the systems deployed to reduce those vulnerabilities.

(2) Economic and policy analysis to assess the distributed costs and benefits of alternative approaches to enhancing security.

(3) Evaluation of the effectiveness of measures deployed to enhance the security of institutions, facilities, and infrastructure that may be terrorist targets.

(4) Identification of instances when common standards and protocols could improve the interoperability and effective utilization of tools developed for field operators and first responders.

(5) Assistance for Federal agencies and departments in establishing testbeds to evaluate the effectiveness of technologies under development and to assess the appropriateness of such technologies for deployment.

(6) Design of metrics and use of those metrics to evaluate the effectiveness of homeland security programs throughout the Federal Government, including all national laboratories.

(7) Design of and support for the conduct of homeland security-related exercises and simulations.

(8) Creation of strategic technology development plans to reduce vulnerabilities in the

Nation's critical infrastructure and key resources.

(d) Consultation on Institute Activities.—In carrying out the duties described in subsection (c), the Institute shall consult widely with representatives from private industry, institutions of higher education, nonprofit institutions, other Government agencies, and federally funded reseach and development centers.

(e) Use of Centers.—The Institute shall utilize the capabilities of the National Infrastructure Simulation and Analysis Center.

(f) Annual Reports.—The Institute shall transmit to the Secretary and Congress an annual report on the activities of the Institute under this section.

(g) Termination.—The Homeland Security Institute shall terminate 3 years after the effective date of this Act.

SEC. 313. TECHNOLOGY CLEARINGHOUSE TO ENCOURAGE AND SUPPORT INNOVATIVE SOLUTIONS TO ENHANCE HOMELAND SECURITY.

(a) Establishment of Program.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish and promote a program to encourage technological innovation in facilitating the mission of the Department (as described in section 101).

(b) Elements of Program.—The program described in subsection (a) shall include the following components:

(1) The establishment of a centralized Federal clearinghouse for information relating to technologies that would further the mission of the Department for dissemination, as appropriate, to Federal, State, and local government and private sector entities for additional review, purchase, or use.

(2) The issuance of announcements seeking unique and innovative technologies to advance the mission of the Department.

(3) The establishment of a technical assistance team to assist in screening, as appropriate, proposals submitted to the Secretary (except as provided in subsection (c)(2)) to assess the feasibility, scientific and technical merits, and estimated cost of such proposals, as appropriate.

(4) The provision of guidance, recommendations, and technical assistance, as appropriate, to assist Federal, State, and local government and private sector efforts to evaluate and implement the use of technologies described in paragraph (1) or (2).

(5) The provision of information for persons seeking guidance on how to pursue proposals to develop or deploy technologies that would enhance homeland security, including information relating to Federal funding, regulation, or acquisition.

(c) Miscellaneous Provisions.—

(1) In general.—Nothing in this section shall be construed as authorizing the Secretary or the technical assistance team established under subsection (b)(3) to set standards for technology to be used by the Department, any other executive agency, any State or local government entity, or any private sector entity.

(2) Certain proposals.—The technical assistance team established under subsection (b)(3) shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.

(3) Coordination.—In carrying out this section, the Secretary shall coordinate with the Technical Support Working Group (organized under the April 1982 National Security Decision Directive Numbered 30).

TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

Subtitle A—Under Secretary for Border and Transportation Security

SEC. 401. UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

There shall be in the Department a Directorate of Border and Transportation Security headed by an Under Secretary for Border and Transportation Security.

SEC. 402. RESPONSIBILITIES.

The Secretary, acting through the Under Secretary for Border and Transportation Security, shall be responsible for the following:

(1) Preventing the entry of terrorists and the instruments of terrorism into the United States.

(2) Securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating those functions transferred to the Department at ports of entry.

(3) Carrying out the immigration enforcement functions vested by statute in, or performed by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the date on which the transfer of functions specified under section 441 takes effect.

(4) Establishing and administering rules, in accordance with section 428, governing the granting of visas or other forms of permission, including parole, to enter the United States to individuals who are not a citizen or an alien lawfully admitted for permanent residence in the United States.

(5) Establishing national immigration enforcement policies and priorities.

(6) Except as provided in subtitle C, administering the customs laws of the United States.

(7) Conducting the inspection and related administrative functions of the Department of Agriculture transferred to the Secretary of Homeland Security under section 421.

(8) In carrying out the foregoing responsibilities, ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce.

SEC. 403. FUNCTIONS TRANSFERRED.

In accordance with title XV (relating to transition provisions), there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of—

(1) the United States Customs Service of the Department of the Treasury, including the functions of the Secretary of the Treasury relating thereto;

(2) the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto;

(3) the Federal Protective Service of the General Services Administration, including the functions of the Administrator of General Services relating thereto;

(4) the Federal Law Enforcement Training Center of the Department of the Treasury; and

(5) the Office for Domestic Preparedness of the Office of Justice Programs, including the functions of the Attorney General relating thereto.

Subtitle B—United States Customs Service

SEC. 411. ESTABLISHMENT; COMMISSIONER OF CUSTOMS.

(a) Establishment.—There is established in the Department the United States Customs Service, under the authority of the Under Secretary for Border and Transportation Security, which shall be vested with those functions including, but not limited to those set forth in section 415(7), and the personnel, assets, and liabilities attributable to those functions.

(b) Commissioner of Customs.—

(1) In general.—There shall be at the head of the Customs Service a Commissioner of Customs, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Compensation.—Section 5314 of title 5, United States Code, is amended by striking

"Commissioner of Customs, Department of the Treasury"

and inserting

"Commissioner of Customs, Department of Homeland Security.".

(3) Continuation in office.—The individual serving as the Commissioner of Customs on the day before the effective date of this Act may serve as the Commissioner of Customs on and after such effective date until a Commissioner of Customs is appointed under paragraph (1).

SEC. 412. RETENTION OF CUSTOMS REVENUE FUNCTIONS BY SECRETARY OF THE TREASURY.

(a) Retention of Customs Revenue Functions by Secretary of the Treasury.—

(1) Retention of authority.—Notwithstanding section 403(a)(1), authority related to Customs revenue functions that was vested in the Secretary of the Treasury by law before the effective date of this Act under those provisions of law set forth in paragraph (2) shall not be transferred to the Secretary by reason of this Act, and on and after the effective date of this Act, the Secretary of the Treasury may delegate any such authority to the Secretary at the discretion of the Secretary of the Treasury. The Secretary of the Treasury shall consult with the Secretary regarding the exercise of any such authority not delegated to the Secretary.

(2) Statutes.—The provisions of law referred to in paragraph (1) are the following: the Tariff Act of 1930; section 249 of the Revised Statutes of the United States (19 U.S.C. 3); section 2 of the Act of March 4, 1923 (19 U.S.C. 6); section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c); section 251 of the Revised Statutes of the United States (19 U.S.C. 66); section 1 of the Act of June 26, 1930 (19 U.S.C. 68); the Foreign Trade Zones Act (19 U.S.C. 81a et seq.); section 1 of the Act of March 2, 1911 (19 U.S.C. 198); the Trade Act of 1974; the Trade Agreements Act of 1979; the North American Free Trade Area Implementation Act; the Uruguay Round Agreements Act; the Caribbean Basin Economic Recovery Act; the Andean Trade Preference Act; the African Growth and Opportunity Act; and any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(b) Maintenance of Customs Revenue Functions.—

(1) Maintenance of functions.—Notwithstanding any other provision of this Act, the Secretary may not consolidate, discontinue, or diminish those functions described in paragraph (2) performed by the United States Customs Service (as established under section 411) on or after the effective date of this Act, reduce the staffing level, or reduce the resources attributable to such functions, and the Secretary shall ensure that an appropriate management structure is implemented to carry out such functions.

(2) Functions.—The functions referred to in paragraph (1) are those functions performed by the following personnel, and associated support staff, of the United States

Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(c) NEW PERSONNEL.—The Secretary of the Treasury is authorized to appoint up to 20 new personnel to work with personnel of the Department in performing customs revenue functions.

SEC. 413. PRESERVATION OF CUSTOMS FUNDS.

Notwithstanding any other provision of this Act, no funds available to the United States Customs Service or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 may be transferred for use by any other agency or office in the Department.

SEC. 414. SEPARATE BUDGET REQUEST FOR CUSTOMS.

The President shall include in each budget transmitted to Congress under section 1105 of title 31, United States Code, a separate budget request for the United States Customs Service.

SEC. 415. DEFINITION.

In this subtitle, the term "customs revenue function" means the following:

(1) Assessing and collecting customs duties (including antidumping and countervailing duties and duties imposed under safeguard provisions), excise taxes, fees, and penalties due on imported merchandise, including classifying and valuing merchandise for purposes of such assessment.

(2) Processing and denial of entry of persons, baggage, cargo, and mail, with respect to the assessment and collection of import duties.

(3) Detecting and apprehending persons engaged in fraudulent practices designed to circumvent the customs laws of the United States.

(4) Enforcing section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks.

(5) Collecting accurate import data for compilation of international trade statistics.

(6) Enforcing reciprocal trade agreements.

(7) Functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(8) Functions performed by the following offices, with respect to any function described in any of paragraphs (1) through (7), and associated support staff, of the United States Customs Service on the day before the effective date of this Act: the Office of Information and Technology, the Office of Laboratory Services, the Office of the Chief Counsel, the Office of Congressional Affairs, the Office of International Affairs, and the Office of Training and Development.

SEC. 416. GAO REPORT TO CONGRESS.

Not later than 3 months after the effective date of this Act, the Comptroller General of the United States shall submit to Congress a report that sets forth all trade functions performed by the executive branch, specifying each agency that performs each such function.

SEC. 417. ALLOCATION OF RESOURCES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary shall ensure that adequate staffing is provided to assure that levels of customs revenue services provided on the day before the effective date of this Act shall continue to be provided.

(b) NOTIFICATION OF CONGRESS.—The Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate at least 90 days prior to taking any action which would—

(1) result in any significant reduction in customs revenue services, including hours of operation, provided at any office within the Department or any port of entry;

(2) eliminate or relocate any office of the Department which provides customs revenue services; or

(3) eliminate any port of entry.

(c) DEFINITION.—In this section, the term "customs revenue services" means those customs revenue functions described in paragraphs (1) through (6) and paragraph (8) of section 415.

SEC. 418. REPORTS TO CONGRESS.

(a) CONTINUING REPORTS.—The United States Customs Service shall, on and after the effective date of this Act, continue to submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate any report required, on the day before such the effective date of this Act, to be so submitted under any provision of law.

(b) REPORT ON CONFORMING AMENDMENTS.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under section 412(a)(2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this section.

SEC. 419. CUSTOMS USER FEES.

(a) IN GENERAL.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(1) in paragraph (1), by striking subparagraph (B) and inserting the following:

"(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).";

(2) in paragraph (4), by striking "(other than the excess fees determined by the Secretary under paragraph (5))"; and

(3) by striking paragraph (5) and inserting the following:

"(5)(A) There is created within the general fund of the Treasury a separate account that shall be known as the 'Customs Commercial and Homeland Security Automation Account'. In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A), $350,000,000.

"(B) There is authorized to be appropriated from the Account in fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

"(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.".

(b) CONFORMING AMENDMENT.—Section 311(b) of the Customs Border Security Act of 2002 (Public Law 107–210) is amended by striking paragraph (2).

Subtitle C—Miscellaneous Provisions

SEC. 421. TRANSFER OF CERTAIN AGRICULTURAL INSPECTION FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE.

(a) TRANSFER OF AGRICULTURAL IMPORT AND ENTRY INSPECTION FUNCTIONS.—There shall be transferred to the Secretary the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under the laws specified in subsection (b).

(b) COVERED ANIMAL AND PLANT PROTECTION LAWS.—The laws referred to in subsection (a) are the following:

(1) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading "Bureau of Animal Industry" in the Act of March 4, 1913; 21 U.S.C. 151 et seq.).

(2) Section 1 of the Act of August 31, 1922 (commonly known as the Honeybee Act; 7 U.S.C. 281).

(3) Title III of the Federal Seed Act (7 U.S.C. 1581 et seq.).

(4) The Plant Protection Act (7 U.S.C. 7701 et seq.).

(5) The Animal Health Protection Act (subtitle E of title X of Public Law 107–171; 7 U.S.C. 8301 et seq.).

(6) The Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

(7) Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540).

(c) EXCLUSION OF QUARANTINE ACTIVITIES.—For purposes of this section, the term "functions" does not include any quarantine activities carried out under the laws specified in subsection (b).

(d) EFFECT OF TRANSFER.—

(1) COMPLIANCE WITH DEPARTMENT OF AGRICULTURE REGULATIONS.—The authority transferred pursuant to subsection (a) shall be exercised by the Secretary in accordance with the regulations, policies, and procedures issued by the Secretary of Agriculture regarding the administration of the laws specified in subsection (b).

(2) RULEMAKING COORDINATION.—The Secretary of Agriculture shall coordinate with the Secretary whenever the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the functions transferred under subsection (a) under a law specified in subsection (b).

(3) EFFECTIVE ADMINISTRATION.—The Secretary, in consultation with the Secretary of Agriculture, may issue such directives and guidelines as are necessary to ensure the effective use of personnel of the Department of Homeland Security to carry out the functions transferred pursuant to subsection (a).

(e) TRANSFER AGREEMENT.—

(1) AGREEMENT REQUIRED; REVISION.—Before the end of the transition period, as defined in section 1501, the Secretary of Agriculture and the Secretary shall enter into an agreement to effectuate the transfer of functions required by subsection (a). The Secretary of Agriculture and the Secretary may jointly revise the agreement as necessary thereafter.

(2) Required Terms.—The agreement required by this subsection shall specifically address the following:

(A) The supervision by the Secretary of Agriculture of the training of employees of the Secretary to carry out the functions transferred pursuant to subsection (a).

(B) The transfer of funds to the Secretary under subsection (f).

(3) Cooperation and reciprocity.—The Secretary of Agriculture and the Secretary may include as part of the agreement the following:

(A) Authority for the Secretary to perform functions delegated to the Animal and Plant Health Inspection Service of the Department of Agriculture regarding the protection of domestic livestock and plants, but not transferred to the Secretary pursuant to subsection (a).

(B) Authority for the Secretary of Agriculture to use employees of the Department of Homeland Security to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(f) Periodic Transfer of Funds to Department of Homeland Security.—

(1) Transfer of funds.—Out of funds collected by fees authorized under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a), the Secretary of Agriculture shall transfer, from time to time in accordance with the agreement under subsection (e), to the Secretary funds for activities carried out by the Secretary for which such fees were collected.

(2) Limitation.—The proportion of fees collected pursuant to such sections that are transferred to the Secretary under this subsection may not exceed the proportion of the costs incurred by the Secretary to all costs incurred to carry out activities funded by such fees.

(g) Transfer of Department of Agriculture Employees.—Not later than the completion of the transition period defined under section .1501, the Secretary of Agriculture shall transfer to the Secretary not more than 3,200 full-time equivalent positions of the Department of Agriculture.

(h) Protection of Inspection Animals.—Title V of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 2279e, 2279f) is amended—

(1) in section 501(a)—

(A) by inserting "or the Department of Homeland Security" after "Department of Agriculture"; and

(B) by inserting "or the Secretary of Homeland Security" after "Secretary of Agriculture";

(2) by striking "Secretary" each place it appears (other than in sections 501(a) and 501(e)) and inserting "Secretary concerned"; and

(3) by adding at the end of section 501 the following new subsection:

"(e) Secretary Concerned Defined.—In this title, the term 'Secretary concerned' means—

"(1) the Secretary of Agriculture, with respect to an animal used for purposes of official inspections by the Department of Agriculture; and

"(2) the Secretary of Homeland Security, with respect to an animal used for purposes of official inspections by the Department of Homeland Security.".

SEC. 422. FUNCTIONS OF ADMINISTRATOR OF GENERAL SERVICES.

(a) Operation, Maintenance, and Protection of Federal Buildings and Grounds.—Nothing in this Act may be construed to affect the functions or authorities of the Administrator of General Services with respect to the operation, maintenance, and protection of buildings and grounds owned or occupied by the Federal Government and under the jurisdiction, custody, or control of the Administrator. Except for the law enforcement and related security functions transferred under section 403(3), the Administrator shall retain all powers, functions, and authorities vested in the Administrator under chapter 10 of title 40, United States Code, and other provisions of law that are necessary for the operation, maintenance, and protection of such buildings and grounds.

(b) Collection of Rents and Fees; Federal Buildings Fund.—

(1) Statutory construction.—Nothing in this Act may be construed—

(A) to direct the transfer of, or affect, the authority of the Administrator of General Services to collect rents and fees, including fees collected for protective services; or

(B) to authorize the Secretary or any other official in the Department to obligate amounts in the Federal Buildings Fund established by section 490(f) of title 40, United States Code.

(2) Use of transferred amounts.—Any amounts transferred by the Administrator of General Services to the Secretary out of rents and fees collected by the Administrator shall be used by the Secretary solely for the protection of buildings or grounds owned or occupied by the Federal Government.

SEC. 423. FUNCTIONS OF TRANSPORTATION SECURITY ADMINISTRATION.

(a) Consultation With Federal Aviation Administration.—The Secretary and other officials in the Department shall consult with the Administrator of the Federal Aviation Administration before taking any action that might affect aviation safety, air carrier operations, aircraft airworthiness, or the use of airspace. The Secretary shall establish a liaison office within the Department for the purpose of consulting with the Administrator of the Federal Aviation Administration.

(b) Report to Congress.—Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report containing a plan for complying with the requirements of section 44901(d) of title 49, United States Code, as amended by section 426 of this Act.

(c) Limitations on Statutory Construction.—

(1) Grant of authority.—Nothing in this Act may be construed to vest in the Secretary or any other official in the Department any authority over transportation security that is not vested in the Under Secretary of Transportation for Security, or in the Secretary of Transportation under chapter 449 of title 49, United States Code, on the day before the date of enactment of this Act.

(2) Obligation of aip funds.—Nothing in this Act may be construed to authorize the Secretary or any other official in the Department to obligate amounts made available under section 48103 of title 49, United States Code.

SEC. 424. PRESERVATION OF TRANSPORTATION SECURITY ADMINISTRATION AS A DISTINCT ENTITY.

(a) In General.—Notwithstanding any other provision of this Act, and subject to subsection (b), the Transportation Security Administration shall be maintained as a distinct entity within the Department under the Under Secretary for Border Transportation and Security.

(b) Sunset.—Subsection (a) shall cease to apply 2 years after the date of enactment of this Act.

SEC. 425. EXPLOSIVE DETECTION SYSTEMS.

Section 44901(d) of title 49, United States Code, is amended by adding at the end the following:

"(2) Deadline.—

"(A) In general.—If, in his discretion or at the request of an airport, the Under Secretary of Transportation for Security determines that the Transportation Security Administration is not able to deploy explosive detection systems required to be deployed under paragraph (1) at all airports where explosive detection systems are required by December 31, 2002, then with respect to each airport for which the Under Secretary makes that determination—

"(i) the Under Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a detailed plan (which may be submitted in classified form) for the deployment of the number of explosive detection systems at that airport necessary to meet the requirements of paragraph (1) as soon as practicable at that airport but in no event later than December 31, 2003; and

"(ii) the Under Secretary shall take all necessary action to ensure that alternative means of screening all checked baggage is implemented until the requirements of paragraph (1) have been met.

"(B) Criteria for determination.—In making a determination under subparagraph (A), the Under Secretary shall take into account—

"(i) the nature and extent of the required modifications to the airport's terminal buildings, and the technical, engineering, design and construction issues;

"(ii) the need to ensure that such installations and modifications are effective; and

"(iii) the feasibility and cost-effectiveness of deploying explosive detection systems in the baggage sorting area or other non-public area rather than the lobby of an airport terminal building.

"(C) Response.—The Under Secretary shall respond to the request of an airport under subparagraph (A) within 14 days of receiving the request. A denial of request shall create no right of appeal or judicial review.

"(D) Airport effort required.—Each airport with respect to which the Under Secretary makes a determination under subparagraph (A) shall—

"(i) cooperate fully with the Transportation Security Administration with respect to screening checked baggage and changes to accommodate explosive detection systems; and

"(ii) make security projects a priority for the obligation or expenditure of funds made available under chapter 417 or 471 until explosive detection systems required to be deployed under paragraph (1) have been deployed at that airport.

"(3) Reports.—Until the Transportation Security Administration has met the requirements of paragraph (1), the Under Secretary shall submit a classified report every 30 days after the date of enactment of the Aviation Security Improvement Act to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure describing the progress made toward meeting such requirements at each airport.".

SEC. 426. TRANSPORTATION SECURITY.

(a) Transportation Security Oversight Board.—

(1) Establishment.—Section 115(a) of title 49, United States Code, is amended by striking "Department of Transportation" and inserting "Department of Homeland Security".

(2) Membership.—Section 115(b)(1) of title 49, United States Code, is amended—

(A) by striking subparagraph (G);

(B) by redesignating subparagraphs (A) through (F) as subparagraphs (B) through (G), respectively; and

(C) by inserting before subparagraph (B) (as so redesignated) the following:

"(A) The Secretary of Homeland Security, or the Secretary's designee.".

(3) Chairperson.—Section 115(b)(2) of title 49, United States Code, is amended by striking "Secretary of Transportation" and inserting "Secretary of Homeland Security".

(b) Approval of AIP Grant Applications for Security Activities.—Section 47106 of title 49, United States Code, is amended by adding at the end the following:

"(g) Consultation With Secretary of Homeland Security.—The Secretary shall consult with the Secretary of Homeland Security before approving an application under this subchapter for an airport development project grant for activities described in section 47102(3)(B)(ii) only as they relate to security equipment or section 47102(3)(B)(x) only as they relate to installation of bulk explosive detection system.".

SEC. 427. COORDINATION OF INFORMATION AND INFORMATION TECHNOLOGY.

(a) Definition of Affected Agency.—In this section, the term "affected agency" means—

(1) the Department;

(2) the Department of Agriculture;

(3) the Department of Health and Human Services; and

(4) any other department or agency determined to be appropriate by the Secretary.

(b) Coordination.—The Secretary, in coordination with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall ensure that appropriate information (as determined by the Secretary) concerning inspections of articles that are imported or entered into the United States, and are inspected or regulated by 1 or more affected agencies, is timely and efficiently exchanged between the affected agencies.

(c) Report and Plan.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall submit to Congress—

(1) a report on the progress made in implementing this section; and

(2) a plan to complete implementation of this section.

SEC. 428. VISA ISSUANCE.

(a) Definition.—In this subsection, the term "consular office" has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(b) In General.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided in subsection (c) of this section, the Secretary—

(1) shall be vested exclusively with all authorities to issue regulations with respect to, administer, and enforce the provisions of such Act, and of all other immigration and nationality laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas, and shall have the authority to refuse visas in accordance with law and to develop programs of homeland security training for consular officers (in addition to consular training provided by the Secretary of State), which authorities shall be exercised through the Secretary of State, except that the Secretary shall not have authority to alter or reverse the decision of a consular officer to refuse a visa to an alien; and

(2) shall have authority to confer or impose upon any officer or employee of the United States, with the consent of the head of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in paragraph (1).

(c) Authority of the Secretary of State.—

(1) In general.—Notwithstanding subsection (b), the Secretary of State may direct a consular officer to refuse a visa to an alien if the Secretary of State deems such refusal necessary or advisable in the foreign policy or security interests of the United States.

(2) Construction regarding authority.—Nothing in this section, consistent with the Secretary of Homeland Security's authority to refuse visas in accordance with law, shall be construed as affecting the authorities of the Secretary of State under the following provisions of law:

(A) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)).

(B) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1154) (as it will take effect upon the entry into force of the Convention on Protection of Children and Cooperation in Respect to Inter-Country adoption).

(C) Section 212(a)(3)(B)(i)(IV)(bb) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IV)(bb)).

(D) Section 212(a)(3)(B)(i)(VI) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(VI)).

(E) Section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)(II)).

(F) Section 212(a)(3(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(G) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(H) Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(I) Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(J) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).

(K) Section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6034; Public Law 104-114).

(L) Section 613 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of Public Law 105-277) (Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999:; 112 Stat. 2681; H.R. 4328 (originally H.R. 4276) as amended by section 617 of Public Law 106-553.

(M) Section 103(f) of the Chemical Weapon Convention Implementation Act of 1998 (112 Stat. 2681-865).

(N) Section 801 of H.R. 3427, the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, as enacted by reference in Public Law 106-113.

(O) Section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107-115).

(P) Section 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723).

(d) Consular Officers and Chiefs of Missions.—

(1) In general.—Nothing in this subsection may be construed to alter or affect—

(A) the employment status of consular officers as employees of the Department of State; or

(B) the authority of a chief of mission under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(2) Construction regarding delegation of authority.—Nothing in this section shall be construed to affect any delegation of authority to the Secretary of State by the President pursuant to any proclamation issued under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)), consistent with the Secretary of Homeland Security's authority to refuse visas in accordance with law.

(e) Assignment of Homeland Security Employees to Diplomatic and Consular Posts.—

(1) In general.—The Secretary is authorized to assign employees of the Department to each diplomatic and consular post at which visas are issued, unless the Secretary determines that such an assignment at a particular post would not promote homeland security.

(2) Functions.—Employees assigned under paragraph (1) shall perform the following functions:

(A) Provide expert advice and training to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(B) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(C) Conduct investigations with respect to consular matters under the jurisdiction of the Secretary.

(3) Evaluation of consular officers.—The Secretary of State shall evaluate, in consultation with the Secretary, as deemed appropriate by the Secretary, the performance of consular officers with respect to the processing and adjudication of applications for visas in accordance with performance standards developed by the Secretary for these procedures.

(4) Report.—The Secretary shall, on an annual basis, submit a report to Congress that describes the basis for each determination under paragraph (1) that the assignment of an employee of the Department at a particular diplomatic post would not promote homeland security.

(5) Permanent assignment; participation in terrorist lookout committee.—When appropriate, employees of the Department assigned to perform functions described in paragraph (2) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional responsibility. If the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee established under section 304 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(6) Training and hiring.—

(A) In general.—The Secretary shall ensure, to the extent possible, that any employees of the Department assigned to perform functions under paragraph (2) and, as appropriate, consular officers, shall be provided the necessary training to enable them to carry out such functions, including training in foreign languages, interview techniques, and fraud detection techniques, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.

(B) Use of center.—The Secretary is authorized to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training described in subparagraph (A).

(7) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of State shall submit to Congress—

(A) a report on the implementation of this subsection; and

(B) any legislative proposals necessary to further the objectives of this subsection.

(8) Effective date.—This subsection shall take effect on the earlier of—

(A) the date on which the President publishes notice in the Federal Register that the President has submitted a report to Congress setting forth a memorandum of understanding between the Secretary and the Secretary of State governing the implementation of this section; or

(B) the date occurring 1 year after the date of enactment of this Act.

(f) No Creation of Private Right of Action.—Nothing in this section shall be construed to create or authorize a private right of action to challenge a decision of a consular officer or other United States official or employee to grant or deny a visa.

(g) Study Regarding Use of Foreign Nationals.—

(1) In general.—The Secretary of Homeland Security shall conduct a study of the role of foreign nationals in the granting or refusal of visas and other documents authorizing entry of aliens into the United States. The study shall address the following:

(A) The proper role, if any, of foreign nationals in the process of rendering decisions on such grants and refusals.

(B) Any security concerns involving the employment of foreign nationals.

(C) Whether there are cost-effective alternatives to the use of foreign nationals.

(2) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report containing the findings of the study conducted under paragraph (1) to the Committee on the Judiciary, the Committee on International Relations, and the Committee on Government Reform of the House of Representatives, and the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Government Affairs of the Senate.

(h) Report.—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report on how the provisions of this section will affect procedures for the issuance of student visas.

(i) Visa Issuance Program for Saudi Arabia.—Notwithstanding any other provision of law, after the date of the enactment of this Act all third party screening programs in Saudi Arabia shall be terminated. On-site personnel of the Department of Homeland Security shall review all visa applications prior to adjudication.

SEC. 429. INFORMATION ON VISA DENIALS REQUIRED TO BE ENTERED INTO ELECTRONIC DATA SYSTEM.

(a) In General.—Whenever a consular officer of the United States denies a visa to an applicant, the consular officer shall enter the fact and the basis of the denial and the name of the applicant into the interoperable electronic data system implemented under section 202(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1722(a)).

(b) Prohibition.—In the case of any alien with respect to whom a visa has been denied under subsection (a)—

(1) no subsequent visa may be issued to the alien unless the consular officer considering the alien's visa application has reviewed the information concerning the alien placed in the interoperable electronic data system, has indicated on the alien's application that the information has been reviewed, and has stated for the record why the visa is being issued or a waiver of visa ineligibility recommended in spite of that information; and

(2) the alien may not be admitted to the United States without a visa issued in accordance with the procedures described in paragraph (1).

SEC. 430. OFFICE FOR DOMESTIC PREPAREDNESS.

(a) In General.—The Office for Domestic Preparedness shall be within the Directorate of Border and Transportation Security.

(b) Director.—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Border and Transportation Security.

(c) Responsibilities.—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(1) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(2) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(3) directing and supervising terrorism preparedness grant programs of the Federal Government (other than those programs administered by the Department of Health and Human Services) for all emergency response providers;

(4) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(5) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(6) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States;

(7) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities of State, local, and tribal governments consistent with the mission and functions of the Directorate; and

(8) those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(d) Fiscal Years 2003 and 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

Subtitle D—Immigration Enforcement Functions

SEC. 441. TRANSFER OF FUNCTIONS TO UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

In accordance with title XV (relating to transition provisions), there shall be transferred from the Commissioner of Immigration and Naturalization to the Under Secretary for Border and Transportation Security all functions performed under the following programs, and all personnel, assets, and liabilities pertaining to such programs, immediately before such transfer occurs:

(1) The Border Patrol program.

(2) The detention and removal program.

(3) The intelligence program.

(4) The investigations program.

(5) The inspections program.

SEC. 442. ESTABLISHMENT OF BUREAU OF BORDER SECURITY.

(a) Establishment of Bureau.—

(1) In general.—There shall be in the Department of Homeland Security a bureau to be known as the "Bureau of Border Security".

(2) Assistant secretary.—The head of the Bureau of Border Security shall be the Assistant Secretary of the Bureau of Border Security, who—

(A) shall report directly to the Under Secretary for Border and Transportation Security; and

(B) shall have a minimum of 5 years professional experience in law enforcement, and a minimum of 5 years of management experience.

(3) Functions.—The Assistant Secretary of the Bureau of Border Security—

(A) shall establish the policies for performing such functions as are—

(i) transferred to the Under Secretary for Border and Transportation Security by section 441 and delegated to the Assistant Secretary by the Under Secretary for Border and Transportation Security; or

(ii) otherwise vested in the Assistant Secretary by law;

(B) shall oversee the administration of such policies; and

(C) shall advise the Under Secretary for Border and Transportation Security with respect to any policy or operation of the Bureau of Border Security that may affect the Bureau of Citizenship and Immigration Services established under subtitle E, including potentially conflicting policies or operations.

(4) Program to collect information relating to foreign students.—The Assistant Secretary of the Bureau of Border Security shall be responsible for administering the program to collect information relating to nonimmigrant foreign students and other exchange program participants described in

section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), including the Student and Exchange Visitor Information System established under that section, and shall use such information to carry out the enforcement functions of the Bureau.

(5) MANAGERIAL ROTATION PROGRAM.—

(A) IN GENERAL.—Not later than 1 year after the date on which the transfer of functions specified under section 441 takes effect, the Assistant Secretary of the Bureau of Border Security shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS–14 or above, shall—

(i) gain some experience in all the major functions performed by such bureau; and

(ii) work in at least one local office of such bureau.

(B) REPORT.—Not later than 2 years after the date on which the transfer of functions specified under section 441 takes effect, the Secretary shall submit a report to the Congress on the implementation of such program.

(b) CHIEF OF POLICY AND STRATEGY.—

(1) IN GENERAL.—There shall be a position of Chief of Policy and Strategy for the Bureau of Border Security.

(2) FUNCTIONS.—In consultation with Bureau of Border Security personnel in local offices, the Chief of Policy and Strategy shall be responsible for—

(A) making policy recommendations and performing policy research and analysis on immigration enforcement issues; and

(B) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services (established under subtitle E), as appropriate.

(c) LEGAL ADVISOR.—There shall be a principal legal advisor to the Assistant Secretary of the Bureau of Border Security. The legal advisor shall provide specialized legal advice to the Assistant Secretary of the Bureau of Border Security and shall represent the bureau in all exclusion, deportation, and removal proceedings before the Executive Office for Immigration Review.

SEC. 443. PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.

The Under Secretary for Border and Transportation Security shall be responsible for—

(1) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of the Bureau of Border Security that are not subject to investigation by the Inspector General for the Department;

(2) inspecting the operations of the Bureau of Border Security and providing assessments of the quality of the operations of such bureau as a whole and each of its components; and

(3) providing an analysis of the management of the Bureau of Border Security.

SEC. 444. EMPLOYEE DISCIPLINE.

The Under Secretary for Border and Transportation Security may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Border Security who willfully deceives the Congress or agency leadership on any matter.

SEC. 445. REPORT ON IMPROVING ENFORCEMENT FUNCTIONS.

(a) IN GENERAL.—The Secretary, not later than 1 year after being sworn into office, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Border Security, after the transfer of functions specified under section 441 takes effect, will enforce comprehensively, effectively, and fairly all the enforcement provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) relating to such functions.

(b) CONSULTATION.—In carrying out subsection (a), the Secretary of Homeland Security shall consult with the Attorney General, the Secretary of State, the Director of the Federal Bureau of Investigation, the Secretary of the Treasury, the Secretary of Labor, the Commissioner of Social Security, the Director of the Executive Office for Immigration Review, and the heads of State and local law enforcement agencies to determine how to most effectively conduct enforcement operations.

SEC. 446. SENSE OF CONGRESS REGARDING CONSTRUCTION OF FENCING NEAR SAN DIEGO, CALIFORNIA.

It is the sense of the Congress that completing the 14-mile border fence project required to be carried out under section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) should be a priority for the Secretary.

Subtitle E—Citizenship and Immigration Services

SEC. 451. ESTABLISHMENT OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.

(a) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There shall be in the Department a bureau to be known as the "Bureau of Citizenship and Immigration Services".

(2) DIRECTOR.—The head of the Bureau of Citizenship and Immigration Services shall be the Director of the Bureau of Citizenship and Immigration Services, who—

(A) shall report directly to the Deputy Secretary;

(B) shall have a minimum of 5 years of management experience; and

(C) shall be paid at the same level as the Assistant Secretary of the Bureau of Border Security.

(3) FUNCTIONS.—The Director of the Bureau of Citizenship and Immigration Services—

(A) shall establish the policies for performing such functions as are transferred to the Director by this section or this Act or otherwise vested in the Director by law;

(B) shall oversee the administration of such policies;

(C) shall advise the Deputy Secretary with respect to any policy or operation of the Bureau of Citizenship and Immigration Services that may affect the Bureau of Border Security of the Department, including potentially conflicting policies or operations;

(D) shall establish national immigration services policies and priorities;

(E) shall meet regularly with the Ombudsman described in section 452 to correct serious service problems identified by the Ombudsman; and

(F) shall establish procedures requiring a formal response to any recommendations submitted in the Ombudsman's annual report to Congress within 3 months after its submission to Congress.

(4) MANAGERIAL ROTATION PROGRAM.—

(A) IN GENERAL.—Not later than 1 year after the effective date specified in section 455, the Director of the Bureau of Citizenship and Immigration Services shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS–14 or above, shall—

(i) gain some experience in all the major functions performed by such bureau; and

(ii) work in at least one field office and one service center of such bureau.

(B) REPORT.—Not later than 2 years after the effective date specified in section 455, the Secretary shall submit a report to Congress on the implementation of such program.

(5) PILOT INITIATIVES FOR BACKLOG ELIMINATION.—The Director of the Bureau of Citizenship and Immigration Services is authorized to implement innovative pilot initiatives to eliminate any remaining backlog in the processing of immigration benefit applications, and to prevent any backlog in the processing of such applications from recurring, in accordance with section 204(a) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)). Such initiatives may include measures such as increasing personnel, transferring personnel to focus on areas with the largest potential for backlog, and streamlining paperwork.

(b) TRANSFER OF FUNCTIONS FROM COMMISSIONER.—There are transferred from the Commissioner of Immigration and Naturalization to the Director of the Bureau of Citizenship and Immigration Services the following functions, and all personnel, infrastructure, and funding provided to the Commissioner in support of such functions immediately before the effective date specified in section 455:

(1) Adjudications of immigrant visa petitions.

(2) Adjudications of naturalization petitions.

(3) Adjudications of asylum and refugee applications.

(4) Adjudications performed at service centers.

(5) All other adjudications performed by the Immigration and Naturalization Service immediately before the effective date specified in section 455.

(c) CHIEF OF POLICY AND STRATEGY.—

(1) IN GENERAL.—There shall be a position of Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—In consultation with Bureau of Citizenship and Immigration Services personnel in field offices, the Chief of Policy and Strategy shall be responsible for—

(A) making policy recommendations and performing policy research and analysis on immigration services issues; and

(B) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Border Security of the Department.

(d) LEGAL ADVISOR.—

(1) IN GENERAL.—There shall be a principal legal advisor to the Director of the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The legal advisor shall be responsible for—

(A) providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Director of the Bureau of Citizenship and Immigration Services with respect to legal matters affecting the Bureau of Citizenship and Immigration Services; and

(B) representing the Bureau of Citizenship and Immigration Services in visa petition appeal proceedings before the Executive Office for Immigration Review.

(e) BUDGET OFFICER.—

(1) IN GENERAL.—There shall be a Budget Officer for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—

(A) IN GENERAL.—The Budget Officer shall be responsible for—

(i) formulating and executing the budget of the Bureau of Citizenship and Immigration Services;

(ii) financial management of the Bureau of Citizenship and Immigration Services; and

(iii) collecting all payments, fines, and other debts for the Bureau of Citizenship and Immigration Services.

(f) CHIEF OF OFFICE OF CITIZENSHIP.—

(1) IN GENERAL.—There shall be a position of Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services shall be responsible for promoting instruction and training on citizenship responsibilities for aliens interested in becoming naturalized citizens of the United States, including the development of educational materials.

SEC. 452. CITIZENSHIP AND IMMIGRATION SERVICES OMBUDSMAN.

(a) IN GENERAL.—Within the Department, there shall be a position of Citizenship and Immigration Services Ombudsman (in this section referred to as the "Ombudsman"). The Ombudsman shall report directly to the Deputy Secretary. The Ombudsman shall have a background in customer service as well as immigration law.

(b) FUNCTIONS.—It shall be the function of the Ombudsman—

(1) to assist individuals and employers in resolving problems with the Bureau of Citizenship and Immigration Services;

(2) to identify areas in which individuals and employers have problems in dealing with the Bureau of Citizenship and Immigration Services; and

(3) to the extent possible, to propose changes in the administrative practices of the Bureau of Citizenship and Immigration Services to mitigate problems identified under paragraph (2).

(c) ANNUAL REPORTS.—

(1) OBJECTIVES.—Not later than June 30 of each calendar year, the Ombudsman shall report to the Committee on the Judiciary of the House of Representatives and the Senate on the objectives of the Office of the Ombudsman for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and—

(A) shall identify the recommendations the Office of the Ombudsman has made on improving services and responsiveness of the Bureau of Citizenship and Immigration Services;

(B) shall contain a summary of the most pervasive and serious problems encountered by individuals and employers, including a description of the nature of such problems;

(C) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action has been taken and the result of such action;

(D) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action remains to be completed and the period during which each item has remained on such inventory;

(E) shall contain an inventory of the items described in subparagraphs (A) and (B) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and shall identify any official of the Bureau of Citizenship and Immigration Services who is responsible for such inaction;

(F) shall contain recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers, including problems created by excessive backlogs in the adjudication and processing of immigration benefit petitions and applications; and

(G) shall include such other information as the Ombudsman may deem advisable.

(2) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subsection shall be provided directly to the committees described in paragraph (1) without any prior comment or amendment from the Secretary, Deputy Secretary, Director of the Bureau of Citizenship and Immigration Services, or any other officer or employee of the Department or the Office of Management and Budget.

(d) OTHER RESPONSIBILITIES.—The Ombudsman—

(1) shall monitor the coverage and geographic allocation of local offices of the Ombudsman;

(2) shall develop guidance to be distributed to all officers and employees of the Bureau of Citizenship and Immigration Services outlining the criteria for referral of inquiries to local offices of the Ombudsman;

(3) shall ensure that the local telephone number for each local office of the Ombudsman is published and available to individuals and employers served by the office; and

(4) shall meet regularly with the Director of the Bureau of Citizenship and Immigration Services to identify serious service problems and to present recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers.

(e) PERSONNEL ACTIONS.—

(1) IN GENERAL.—The Ombudsman shall have the responsibility and authority—

(A) to appoint local ombudsmen and make available at least 1 such ombudsman for each State; and

(B) to evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of the Ombudsman.

(2) CONSULTATION.—The Ombudsman may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services in carrying out the Ombudsman's responsibilities under this subsection.

(f) RESPONSIBILITIES OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.—The Director of the Bureau of Citizenship and Immigration Services shall establish procedures requiring a formal response to all recommendations submitted to such director by the Ombudsman within 3 months after submission to such director.

(g) OPERATION OF LOCAL OFFICES.—

(1) IN GENERAL.—Each local ombudsman—

(A) shall report to the Ombudsman or the delegate thereof;

(B) may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services regarding the daily operation of the local office of such ombudsman;

(C) shall, at the initial meeting with any individual or employer seeking the assistance of such local office, notify such individual or employer that the local offices of the Ombudsman operate independently of any other component of the Department and report directly to Congress through the Ombudsman; and

(D) at the local ombudsman's discretion, may determine not to disclose to the Bureau of Citizenship and Immigration Services contact with, or information provided by, such individual or employer.

(2) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the Ombudsman shall maintain a phone, facsimile, and other means of electronic communication access, and a post office address, that is separate from those maintained by the Bureau of Citizenship and Immigration Services, or any component of the Bureau of Citizenship and Immigration Services.

SEC. 453. PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.

(a) IN GENERAL.—The Director of the Bureau of Citizenship and Immigration Services shall be responsible for—

(1) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of the Bureau of Citizenship and Immigration Services that are not subject to investigation by the Inspector General for the Department;

(2) inspecting the operations of the Bureau of Citizenship and Immigration Services and providing assessments of the quality of the operations of such bureau as a whole and each of its components; and

(3) providing an analysis of the management of the Bureau of Citizenship and Immigration Services.

(b) SPECIAL CONSIDERATIONS.—In providing assessments in accordance with subsection (a)(2) with respect to a decision of the Bureau of Citizenship and Immigration Services, or any of its components, consideration shall be given to—

(1) the accuracy of the findings of fact and conclusions of law used in rendering the decision;

(2) any fraud or misrepresentation associated with the decision; and

(3) the efficiency with which the decision was rendered.

SEC. 454. EMPLOYEE DISCIPLINE.

The Director of the Bureau of Citizenship and Immigration Services may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Citizenship and Immigration Services who willfully deceives Congress or agency leadership on any matter.

SEC. 455. EFFECTIVE DATE.

Notwithstanding section 4, sections 451 through 456, and the amendments made by such sections, shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

SEC. 456. TRANSITION.

(a) REFERENCES.—With respect to any function transferred by this subtitle to, and exercised on or after the effective date specified in section 455 by, the Director of the Bureau of Citizenship and Immigration Services, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Bureau of Citizenship and Immigration Services; or

(2) to such component is deemed to refer to the Bureau of Citizenship and Immigration Services.

(b) OTHER TRANSITION ISSUES.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this subtitle may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in section 455.

(2) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel of the Department of Justice employed in connection with the functions transferred by this subtitle (and functions that the Secretary determines are properly related to the functions of the Bureau of Citizenship and Immigration Services), and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this subtitle, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Bureau of Citizenship and Immigration Services for allocation to the appropriate component of the Department. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated. The Secretary shall have the right to adjust or realign transfers of funds and personnel effected pursuant to this subtitle for a period of 2 years after the effective date specified in section 455.

SEC. 457. FUNDING FOR CITIZENSHIP AND IMMIGRATION SERVICES.

Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking "services, including the costs of similar services provided without charge to asylum applicants or other immigrants." and inserting "services.".

SEC. 458. BACKLOG ELIMINATION.

Section 204(a)(1) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)(1)) is amended by striking "not later than one year after the date of enactment of this Act;" and inserting "1 year after the date of the enactment of the Homeland Security Act of 2002;".

SEC. 459. REPORT ON IMPROVING IMMIGRATION SERVICES.

(a) IN GENERAL.—The Secretary, not later than 1 year after the effective date of this Act, shall submit to the Committees on the Judiciary and Appropriations of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Citizenship and Immigration Services, after the transfer of functions specified in this subtitle takes effect, will complete efficiently, fairly, and within a reasonable time, the adjudications described in paragraphs (1) through (5) of section 451(b).

(b) CONTENTS.—For each type of adjudication to be undertaken by the Director of the Bureau of Citizenship and Immigration Services, the report shall include the following:

(1) Any potential savings of resources that may be implemented without affecting the quality of the adjudication.

(2) The goal for processing time with respect to the application.

(3) Any statutory modifications with respect to the adjudication that the Secretary considers advisable.

(c) CONSULTATION.—In carrying out subsection (a), the Secretary shall consult with the Secretary of State, the Secretary of Labor, the Assistant Secretary of the Bureau of Border Security of the Department, and the Director of the Executive Office for Immigration Review to determine how to streamline and improve the process for applying for and making adjudications described in section 451(b) and related processes.

SEC. 460. REPORT ON RESPONDING TO FLUCTUATING NEEDS.

Not later than 30 days after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on changes in law, including changes in authorizations of appropriations and in appropriations, that are needed to permit the Immigration and Naturalization Service, and, after the transfer of functions specified in this subtitle takes effect, the Bureau of Citizenship and Immigration Services of the Department, to ensure a prompt and timely response to emergent, unforeseen, or impending changes in the number of applications for immigration benefits, and otherwise to ensure the accommodation of changing immigration service needs.

SEC. 461. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) ESTABLISHMENT OF TRACKING SYSTEM.—The Secretary, not later than 1 year after the effective date of this Act, in consultation with the Technology Advisory Committee established under subsection (c), shall establish an Internet-based system, that will permit a person, employer, immigrant, or nonimmigrant who has filings with the Secretary for any benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), access to online information about the processing status of the filing involved.

(b) FEASIBILITY STUDY FOR ONLINE FILING AND IMPROVED PROCESSING.—

(1) ONLINE FILING.—The Secretary, in consultation with the Technology Advisory Committee established under subsection (c), shall conduct a feasibility study on the online filing of the filings described in subsection (a). The study shall include a review of computerization and technology of the Immigration and Naturalization Service relating to the immigration services and processing of filings related to immigrant services. The study shall also include an estimate of the timeframe and cost and shall consider other factors in implementing such a filing system, including the feasibility of fee payment online.

(2) REPORT.—A report on the study under this subsection shall be submitted to the Committees on the Judiciary of the House of Representatives and the Senate not later than 1 year after the effective date of this Act.

(c) TECHNOLOGY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary shall establish, not later than 60 days after the effective date of this Act, an advisory committee (in this section referred to as the "Technology Advisory Committee") to assist the Secretary in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

The Technology Advisory Committee shall be established after consultation with the Committees on the Judiciary of the House of Representatives and the Senate.

(2) COMPOSITION.—The Technology Advisory Committee shall be composed of representatives from high technology companies capable of establishing and implementing the system in an expeditious manner, and representatives of persons who may use the tracking system described in subsection (a) and the online filing system described in subsection (b)(1).

SEC. 462. CHILDREN'S AFFAIRS.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Director of the Office of Refugee Resettlement of the Department of Health and Human Services functions under the immigration laws of the United States with respect to the care of unaccompanied alien children that were vested by statute in, or performed by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the effective date specified in subsection (d).

(b) FUNCTIONS.—

(1) IN GENERAL.—Pursuant to the transfer made by subsection (a), the Director of the Office of Refugee Resettlement shall be responsible for—

(A) coordinating and implementing the care and placement of unaccompanied alien children who are in Federal custody by reason of their immigration status, including developing a plan to be submitted to Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each such child, consistent with the law regarding appointment of counsel that is in effect on the date of the enactment of this Act;

(B) ensuring that the interests of the child are considered in decisions and actions relating to the care and custody of an unaccompanied alien child;

(C) making placement determinations for all unaccompanied alien children who are in Federal custody by reason of their immigration status;

(D) implementing the placement determinations;

(E) implementing policies with respect to the care and placement of unaccompanied alien children;

(F) identifying a sufficient number of qualified individuals, entities, and facilities to house unaccompanied alien children;

(G) overseeing the infrastructure and personnel of facilities in which unaccompanied alien children reside;

(H) reuniting unaccompanied alien children with a parent abroad in appropriate cases;

(I) compiling, updating, and publishing at least annually a state-by-state list of professionals or other entities qualified to provide guardian and attorney representation services for unaccompanied alien children;

(J) maintaining statistical information and other data on unaccompanied alien children for whose care and placement the Director is responsible, which shall include—

(i) biographical information, such as a child's name, gender, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the child came into Federal custody by reason of his or her immigration status;

(iii) information relating to the child's placement, removal, or release from each facility in which the child has resided;

(iv) in any case in which the child is placed in detention or released, an explanation relating to the detention or release; and

(v) the disposition of any actions in which the child is the subject;

(K) collecting and compiling statistical information from the Department of Justice, the Department of Homeland Security, and the Department of State on each department's actions relating to unaccompanied alien children; and

(L) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(2) COORDINATION WITH OTHER ENTITIES; NO RELEASE ON OWN RECOGNIZANCE.—In making determinations described in paragraph (1)(C), the Director of the Office of Refugee Resettlement—

(A) shall consult with appropriate juvenile justice professionals, the Director of the Bureau of Citizenship and Immigration Services, and the Assistant Secretary of the Bureau of Border Security to ensure that such determinations ensure that unaccompanied alien children described in such subparagraph—

(i) are likely to appear for all hearings or proceedings in which they are involved;

(ii) are protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitive activity; and

(iii) are placed in a setting in which they are not likely to pose a danger to themselves or others; and

(B) shall not release such children upon their own recognizance.

(3) DUTIES WITH RESPECT TO FOSTER CARE.—In carrying out the duties described in paragraph (1)(G), the Director of the Office of Refugee Resettlement is encouraged to use the refugee children foster care system established pursuant to section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)) for the placement of unaccompanied alien children.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) from the authority of any official of the Department of Justice, the Department of Homeland Security, or the Department of State.

(d) EFFECTIVE DATE.—Notwithstanding section 4, this section shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

(e) REFERENCES.—With respect to any function transferred by this section, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Office of Refugee Resettlement; or

(2) to such component is deemed to refer to the Office of Refugee Resettlement of the Department of Health and Human Services.

(f) OTHER TRANSITION ISSUES.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this section may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in subsection (d).

(2) SAVINGS PROVISIONS.—Subsections (a), (b), and (c) of section 1512 shall apply to a transfer of functions under this section in the same manner as such provisions apply to a transfer of functions under this Act to the Department of Homeland Security.

(3) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel of the Department of Justice employed in connection with the functions transferred by this section, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this section, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Office of Refugee Resettlement for allocation to the appropriate component of the Department of Health and Human Services. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(g) DEFINITIONS.—As used in this section—

(1) the term "placement" means the placement of an unaccompanied alien child in either a detention facility or an alternative to such a facility; and

(2) the term "unaccompanied alien child" means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained 18 years of age; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

Subtitle F—General Immigration Provisions

SEC. 471. ABOLISHMENT OF INS.

(a) IN GENERAL.—The Immigration and Naturalization Service of the Department of Justice is abolished.

(b) PROHIBITION.—The authority provided by section 1502 may be used to reorganize functions or organizational units within the Bureau of Border Security or the Bureau of Citizenship and Immigration Services, but may not be used to recombine the two bureaus into a single agency or otherwise to combine, join, or consolidate functions or organizational units of the two bureaus with each other.

SEC. 472. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who—

(A) has completed at least 3 years of current continuous service with 1 or more covered entities; and

(B) is serving under an appointment without time limitation;

but does not include any person under subparagraphs (A)–(G) of section 663(a)(2) of Public Law 104–208 (5 U.S.C. 5597 note);

(2) the term "covered entity" means—

(A) the Immigration and Naturalization Service;

(B) the Bureau of Border Security of the Department of Homeland Security; and

(C) the Bureau of Citizenship and Immigration Services of the Department of Homeland Security; and

(3) the term "transfer date" means the date on which the transfer of functions specified under section 441 takes effect.

(b) STRATEGIC RESTRUCTURING PLAN.—Before the Attorney General or the Secretary obligates any resources for voluntary separation incentive payments under this section, such official shall submit to the appropriate committees of Congress a strategic restructuring plan, which shall include—

(1) an organizational chart depicting the covered entities after their restructuring pursuant to this Act;

(2) a summary description of how the authority under this section will be used to help carry out that restructuring; and

(3) the information specified in section 663(b)(2) of Public Law 104–208 (5 U.S.C. 5597 note).

As used in the preceding sentence, the "appropriate committees of Congress" are the Committees on Appropriations, Government Reform, and the Judiciary of the House of Representatives, and the Committees on Appropriations, Governmental Affairs, and the Judiciary of the Senate.

(c) AUTHORITY.—The Attorney General and the Secretary may, to the extent necessary to help carry out their respective strategic restructuring plan described in subsection (b), make voluntary separation incentive payments to employees. Any such payment—

(1) shall be paid to the employee, in a lump sum, after the employee has separated from service;

(2) shall be paid from appropriations or funds available for the payment of basic pay of the employee;

(3) shall be equal to the lesser of—

(A) the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(B) an amount not to exceed $25,000, as determined by the Attorney General or the Secretary;

(4) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before the end of—

(A) the 3-month period beginning on the date on which such payment is offered or made available to such employee; or

(B) the 3-year period beginning on the date of the enactment of this Act,

whichever occurs first;

(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any payments which it is otherwise required to make, the Department of Justice and the Department of Homeland Security shall, for each fiscal year with respect to which it makes any voluntary separation incentive payments under this section, remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund the amount required under paragraph (2).

(2) AMOUNT REQUIRED.—The amount required under this paragraph shall, for any fiscal year, be the amount under subparagraph (A) or (B), whichever is greater.

(A) FIRST METHOD.—The amount under this subparagraph shall, for any fiscal year, be equal to the minimum amount necessary to offset the additional costs to the retirement systems under title 5, United States Code (payable out of the Civil Service Retirement and Disability Fund) resulting from the voluntary separation of the employees described in paragraph (3), as determined under regulations of the Office of Personnel Management.

(B) SECOND METHOD.—The amount under this subparagraph shall, for any fiscal year, be equal to 45 percent of the sum total of the final basic pay of the employees described in paragraph (3).

(3) Computations to be based on separations occurring in the fiscal year involved.—The employees described in this paragraph are those employees who receive a voluntary separation incentive payment under this section based on their separating from service during the fiscal year with respect to which the payment under this subsection relates.

(4) Final basic pay defined.—In this subsection, the term "final basic pay" means, with respect to an employee, the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) Effect of Subsequent Employment with the Government.—An individual who receives a voluntary separation incentive payment under this section and who, within 5 years after the date of the separation on which the payment is based, accepts any compensated employment with the Government or works for any agency of the Government through a personal services contract, shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment. Such payment shall be made to the covered entity from which the individual separated or, if made on or after the transfer date, to the Deputy Secretary or the Under Secretary for Border and Transportation Security (for transfer to the appropriate component of the Department of Homeland Security, if necessary).

(f) Effect on Employment Levels.—

(1) Intended effect.—Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in any covered entity.

(2) Use of voluntary separations.—A covered entity may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

SEC. 473. AUTHORITY TO CONDUCT A DEMONSTRATION PROJECT RELATING TO DISCIPLINARY ACTION.

(a) In General.—The Attorney General and the Secretary may each, during a period ending not later than 5 years after the date of the enactment of this Act, conduct a demonstration project for the purpose of determining whether one or more changes in the policies or procedures relating to methods for disciplining employees would result in improved personnel management.

(b) Scope.—A demonstration project under this section—

(1) may not cover any employees apart from those employed in or under a covered entity; and

(2) shall not be limited by any provision of chapter 43, 75, or 77 of title 5, United States Code.

(c) Procedures.—Under the demonstration project—

(1) the use of alternative means of dispute resolution (as defined in section 571 of title 5, United States Code) shall be encouraged, whenever appropriate; and

(2) each covered entity under the jurisdiction of the official conducting the project shall be required to provide for the expeditious, fair, and independent review of any action to which section 4303 or subchapter II of chapter 75 of such title 5 would otherwise apply (except an action described in section 7512(5) of such title 5).

(d) Actions Involving Discrimination.—Notwithstanding any other provision of this section, if, in the case of any matter described in section 7702(a)(1)(B) of title 5, United States Code, there is no judicially reviewable action under the demonstration project within 120 days after the filing of an appeal or other formal request for review (referred to in subsection (c)(2)), an employee shall be entitled to file a civil action to the same extent and in the same manner as provided in section 7702(e)(1) of such title 5 (in the matter following subparagraph (C) thereof).

(e) Certain Employees.—Employees shall not be included within any project under this section if such employees are—

(1) neither managers nor supervisors; and

(2) within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code.

Notwithstanding the preceding sentence, an aggrieved employee within a unit (referred to in paragraph (2)) may elect to participate in a complaint procedure developed under the demonstration project in lieu of any negotiated grievance procedure and any statutory procedure (as such term is used in section 7121 of such title 5).

(f) Reports.—The General Accounting Office shall prepare and submit to the Committees on Government Reform and the Judiciary of the House of Representatives and the Committees on Governmental Affairs and the Judiciary of the Senate periodic reports on any demonstration project conducted under this section, such reports to be submitted after the second and fourth years of its operation. Upon request, the Attorney General or the Secretary shall furnish such information as the General Accounting Office may require to carry out this subsection.

(g) Definition.—In this section, the term "covered entity" has the meaning given such term in section 472(a)(2).

SEC. 474. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the missions of the Bureau of Border Security and the Bureau of Citizenship and Immigration Services are equally important and, accordingly, they each should be adequately funded; and

(2) the functions transferred under this subtitle should not, after such transfers take effect, operate at levels below those in effect prior to the enactment of this Act.

SEC. 475. DIRECTOR OF SHARED SERVICES.

(a) In General.—Within the Office of Deputy Secretary, there shall be a Director of Shared Services.

(b) Functions.—The Director of Shared Services shall be responsible for the coordination of resources for the Bureau of Border Security and the Bureau of Citizenship and Immigration Services, including—

(1) information resources management, including computer databases and information technology;

(2) records and file management; and

(3) forms management.

SEC. 476. SEPARATION OF FUNDING.

(a) In General.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other deposits available for the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(b) Separate Budgets.—To ensure that the Bureau of Citizenship and Immigration Services and the Bureau of Border Security are funded to the extent necessary to fully carry out their respective functions, the Director of the Office of Management and Budget shall separate the budget requests for each such entity.

(c) Fees.—Fees imposed for a particular service, application, or benefit shall be deposited into the account established under subsection (a) that is for the bureau with jurisdiction over the function to which the fee relates.

(d) Fees Not Transferable.—No fee may be transferred between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security for purposes not authorized by section 286 of the Immigration and Nationality Act (8 U.S.C. 1356).

SEC. 477. REPORTS AND IMPLEMENTATION PLANS.

(a) Division of Funds.—The Secretary, not later than 120 days after the effective date of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report on the proposed division and transfer of funds, including unexpended funds, appropriations, and fees, between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(b) Division of Personnel.—The Secretary, not later than 120 days after the effective date of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report on the proposed division of personnel between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(c) Implementation Plan.—

(1) In general.—The Secretary, not later than 120 days after the effective date of this Act, and every 6 months thereafter until the termination of fiscal year 2005, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate an implementation plan to carry out this Act.

(2) Contents.—The implementation plan should include details concerning the separation of the Bureau of Citizenship and Immigration Services and the Bureau of Border Security, including the following:

(A) Organizational structure, including the field structure.

(B) Chain of command.

(C) Procedures for interaction among such bureaus.

(D) Fraud detection and investigation.

(E) The processing and handling of removal proceedings, including expedited removal and applications for relief from removal.

(F) Recommendations for conforming amendments to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(G) Establishment of a transition team.

(H) Methods to phase in the costs of separating the administrative support systems of the Immigration and Naturalization Service in order to provide for separate administrative support systems for the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(d) Comptroller General Studies and Reports.—

(1) Status reports on transition.—Not later than 18 months after the date on which the transfer of functions specified under section 441 takes effect, and every 6 months thereafter, until full implementation of this subtitle has been completed, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the House of Representatives and the Senate a report containing the following:

(A) A determination of whether the transfers of functions made by subtitles D and E have been completed, and if a transfer of functions has not taken place, identifying the reasons why the transfer has not taken place.

(B) If the transfers of functions made by subtitles D and E have been completed, an identification of any issues that have arisen due to the completed transfers.

(C) An identification of any issues that may arise due to any future transfer of functions.

(2) REPORT ON MANAGEMENT.—Not later than 4 years after the date on which the transfer of functions specified under section 441 takes effect, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the House of Representatives and the Senate a report, following a study, containing the following:

(A) Determinations of whether the transfer of functions from the Immigration and Naturalization Service to the Bureau of Citizenship and Immigration Services and the Bureau of Border Security have improved, with respect to each function transferred, the following:

(i) Operations.

(ii) Management, including accountability and communication.

(iii) Financial administration.

(iv) Recordkeeping, including information management and technology.

(B) A statement of the reasons for the determinations under subparagraph (A).

(C) Any recommendations for further improvements to the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(3) REPORT ON FEES.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report examining whether the Bureau of Citizenship and Immigration Services is likely to derive sufficient funds from fees to carry out its functions in the absence of appropriated funds.

SEC. 478. IMMIGRATION FUNCTIONS.

(a) ANNUAL REPORT.—

(1) IN GENERAL.—One year after the date of the enactment of this Act, and each year thereafter, the Secretary shall submit a report to the President, to the Committees on the Judiciary and Government Reform of the House of Representatives, and to the Committees on the Judiciary and Government Affairs of the Senate, on the impact the transfers made by this subtitle has had on immigration functions.

(2) MATTER INCLUDED.—The report shall address the following with respect to the period covered by the report:

(A) The aggregate number of all immigration applications and petitions received, and processed, by the Department;

(B) Region-by-region statistics on the aggregate number of immigration applications and petitions filed by an alien (or filed on behalf of an alien) and denied, disaggregated by category of denial and application or petition type.

(C) The quantity of backlogged immigration applications and petitions that have been processed, the aggregate number awaiting processing, and a detailed plan for eliminating the backlog.

(D) The average processing period for immigration applications and petitions, disaggregated by application or petition type.

(E) The number and types of immigration-related grievances filed with any official of the Department of Justice, and if those grievances were resolved.

(F) Plans to address grievances and improve immigration services.

(G) Whether immigration-related fees were used consistent with legal requirements regarding such use.

(H) Whether immigration-related questions conveyed by customers to the Department (whether conveyed in person, by telephone, or by means of the Internet) were answered effectively and efficiently.

(b) SENSE OF CONGRESS REGARDING IMMIGRATION SERVICES.—It is the sense of Congress that—

(1) the quality and efficiency of immigration services rendered by the Federal Government should be improved after the transfers made by this subtitle take effect; and

(2) the Secretary should undertake efforts to guarantee that concerns regarding the quality and efficiency of immigration services are addressed after such effective date.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.

There shall be in the Department a Directorate of Emergency Preparedness and Response headed by an Under Secretary for Emergency Preparedness and Response.

SEC. 502. RESPONSIBILITIES.

The Secretary, acting through the Under Secretary for Emergency Preparedness and Response, shall include—

(1) helping to ensure the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this title)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

(3) providing the Federal Government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the Strategic National Stockpile, the National Disaster Medical System, and (when operating as an organizational unit of the Department pursuant to this title) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources in the event of a terrorist attack or major disaster;

(4) aiding the recovery from terrorist attacks and major disasters;

(5) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;

(6) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan; and

(7) developing comprehensive programs for developing interoperative communications technology, and helping to ensure that emergency response providers acquire such technology.

SEC. 503. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto.

(2) The Integrated Hazard Information System of the National Oceanic and Atmospheric Administration, which shall be renamed "FIRESAT".

(3) The National Domestic Preparedness Office of the Federal Bureau of Investigation, including the functions of the Attorney General relating thereto.

(4) The Domestic Emergency Support Teams of the Department of Justice, including the functions of the Attorney General relating thereto.

(5) The Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness relating thereto.

(6) The Strategic National Stockpile of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.

SEC. 504. NUCLEAR INCIDENT RESPONSE.

(a) IN GENERAL.—At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency in the United States), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this title) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

SEC. 505. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) IN GENERAL.—With respect to all public health-related activities to improve State, local, and hospital preparedness and response to chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities and preparedness goals and further develop a coordinated strategy for such activities in collaboration with the Secretary.

(b) EVALUATION OF PROGRESS.—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

SEC. 506. DEFINITION.

In this title, the term "Nuclear Incident Response Team" means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear or radiological

emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and

(2) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions.

SEC. 507. ROLE OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) IN GENERAL.—The functions of the Federal Emergency Management Agency include the following:

(1) All functions and authorities prescribed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Carrying out its mission to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a comprehensive, risk-based emergency management program—

(A) of mitigation, by taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects;

(B) of planning for building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) of response, by conducting emergency operations to save lives and property through positioning emergency equipment and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services;

(D) of recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards; and

(E) of increased efficiencies, by coordinating efforts relating to mitigation, planning, response, and recovery.

(b) FEDERAL RESPONSE PLAN.—

(1) ROLE OF FEMA.—Notwithstanding any other provision of this Act, the Federal Emergency Management Agency shall remain the lead agency for the Federal Response Plan established under Executive Order 12148 (44 Fed. Reg. 43239) and Executive Order 12656 (53 Fed. Reg. 47491).

(2) REVISION OF RESPONSE PLAN.—Not later than 60 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall revise the Federal Response Plan to reflect the establishment of and incorporate the Department.

SEC. 508. USE OF NATIONAL PRIVATE SECTOR NETWORKS IN EMERGENCY RESPONSE.

To the maximum extent practicable, the Secretary shall use national private sector networks and infrastructure for emergency response to chemical, biological, radiological, nuclear, or explosive disasters, and other major disasters.

SEC. 509. USE OF COMMERCIALLY AVAILABLE TECHNOLOGY, GOODS, AND SERVICES.

It is the sense of Congress that—

(1) the Secretary should, to the maximum extent possible, use off-the-shelf commercially developed technologies to ensure that the Department's information technology systems allow the Department to collect, manage, share, analyze, and disseminate information securely over multiple channels of communication; and

(2) in order to further the policy of the United States to avoid competing commercially with the private sector, the Secretary should rely on commercial sources to supply the goods and services needed by the Department.

TITLE VI—TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS

SEC. 601. TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS.

(a) FINDINGS.—Congress finds the following:

(1) Members of the Armed Forces of the United States defend the freedom and security of our Nation.

(2) Members of the Armed Forces of the United States have lost their lives while battling the evils of terrorism around the world.

(3) Personnel of the Central Intelligence Agency (CIA) charged with the responsibility of covert observation of terrorists around the world are often put in harm's way during their service to the United States.

(4) Personnel of the Central Intelligence Agency have also lost their lives while battling the evils of terrorism around the world.

(5) Employees of the Federal Bureau of Investigation (FBI) and other Federal agencies charged with domestic protection of the United States put their lives at risk on a daily basis for the freedom and security of our Nation.

(6) United States military personnel, CIA personnel, FBI personnel, and other Federal agents in the service of the United States are patriots of the highest order.

(7) CIA officer Johnny Micheal Spann became the first American to give his life for his country in the War on Terrorism declared by President George W. Bush following the terrorist attacks of September 11, 2001.

(8) Johnny Micheal Spann left behind a wife and children who are very proud of the heroic actions of their patriot father.

(9) Surviving dependents of members of the Armed Forces of the United States who lose their lives as a result of terrorist attacks or military operations abroad receive a $6,000 death benefit, plus a small monthly benefit.

(10) The current system of compensating spouses and children of American patriots is inequitable and needs improvement.

(b) DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Any charitable corporation, fund, foundation, or trust (or separate fund or account thereof) which otherwise meets all applicable requirements under law with respect to charitable entities and meets the requirements described in subsection (c) shall be eligible to characterize itself as a "Johnny Micheal Spann Patriot Trust".

(c) REQUIREMENTS FOR THE DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—The requirements described in this subsection are as follows:

(1) Not taking into account funds or donations reasonably necessary to establish a trust, at least 85 percent of all funds or donations (including any earnings on the investment of such funds or donations) received or collected by any Johnny Micheal Spann Patriot Trust must be distributed to (or, if placed in a private foundation, held in trust for) surviving spouses, children, or dependent parents, grandparents, or siblings of 1 or more of the following:

(A) members of the Armed Forces of the United States;

(B) personnel, including contractors, of elements of the intelligence community, as defined in section 3(4) of the National Security Act of 1947;

(C) employees of the Federal Bureau of Investigation; and

(D) officers, employees, or contract employees of the United States Government,

whose deaths occur in the line of duty and arise out of terrorist attacks, military operations, intelligence operations, or law enforcement operations or accidents connected with activities occurring after September 11, 2001, and related to domestic or foreign efforts to curb international terrorism, including the Authorization for Use of Military Force (Public Law 107–40; 115 Stat. 224).

(2) Other than funds or donations reasonably necessary to establish a trust, not more than 15 percent of all funds or donations (or 15 percent of annual earnings on funds invested in a private foundation) may be used for administrative purposes.

(3) No part of the net earnings of any Johnny Micheal Spann Patriot Trust may inure to the benefit of any individual based solely on the position of such individual as a shareholder, an officer or employee of such Trust.

(4) None of the activities of any Johnny Micheal Spann Patriot Trust shall be conducted in a manner inconsistent with any law that prohibits attempting to influence legislation.

(5) No Johnny Micheal Spann Patriot Trust may participate in or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, including by publication or distribution of statements.

(6) Each Johnny Micheal Spann Patriot Trust shall comply with the instructions and directions of the Director of Central Intelligence, the Attorney General, or the Secretary of Defense relating to the protection of intelligence sources and methods, sensitive law enforcement information, or other sensitive national security information, including methods for confidentially disbursing funds.

(7) Each Johnny Micheal Spann Patriot Trust that receives annual contributions totaling more than $1,000,000 must be audited annually by an independent certified public accounting firm. Such audits shall be filed with the Internal Revenue Service, and shall be open to public inspection, except that the conduct, filing, and availability of the audit shall be consistent with the protection of intelligence sources and methods, of sensitive law enforcement information, and of other sensitive national security information.

(8) Each Johnny Micheal Spann Patriot Trust shall make distributions to beneficiaries described in paragraph (1) at least once every calendar year, beginning not later than 12 months after the formation of such Trust, and all funds and donations received and earnings not placed in a private foundation dedicated to such beneficiaries must be distributed within 36 months after the end of the fiscal year in which such funds, donations, and earnings are received.

(9)(A) When determining the amount of a distribution to any beneficiary described in paragraph (1), a Johnny Micheal Spann Patriot Trust should take into account the amount of any collateral source compensation that the beneficiary has received or is entitled to receive as a result of the death of an individual described in paragraph (1).

(B) Collateral source compensation includes all compensation from collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the death of an individual described in paragraph (1).

(d) TREATMENT OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Each Johnny Micheal Spann Patriot Trust shall refrain from conducting the activities described in clauses (i) and (ii) of section 301(20)(A) of the Federal Election Campaign Act of 1971 so that a general solicitation of funds by an individual described in paragraph (1) of section 323(e) of such Act will be permissible if such solicitation meets the requirements of paragraph (4)(A) of such section.

(e) NOTIFICATION OF TRUST BENEFICIARIES.—Notwithstanding any other provision of law, and in a manner consistent with the protection of intelligence sources and methods and sensitive law enforcement information, and other sensitive national security information, the Secretary of Defense, the Director of the Federal Bureau of Investigation, or the Director of Central Intelligence, or their designees, as applicable, may forward information received from an executor, administrator, or other legal representative of the estate of a decedent described in subparagraph (A), (B), (C), or (D) of subsection (c)(1), to a Johnny Micheal Spann Patriot Trust on how to contact individuals eligible for a distribution under subsection (c)(1) for the purpose of providing assistance from such Trust; provided that, neither forwarding nor failing to forward any information under this subsection shall create any cause of action against any Federal department, agency, officer, agent, or employee.

(f) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense, in coordination with the Attorney General, the Director of the Federal Bureau of Investigation, and the Director of Central Intelligence, shall prescribe regulations to carry out this section.

TITLE VII—MANAGEMENT

SEC. 701. UNDER SECRETARY FOR MANAGEMENT.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Management, shall be responsible for the management and administration of the Department, including the following:

(1) The budget, appropriations, expenditures of funds, accounting, and finance.

(2) Procurement.

(3) Human resources and personnel.

(4) Information technology and communications systems.

(5) Facilities, property, equipment, and other material resources.

(6) Security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources.

(7) Identification and tracking of performance measures relating to the responsibilities of the Department.

(8) Grants and other assistance management programs.

(9) The transition and reorganization process, to ensure an efficient and orderly transfer of functions and personnel to the Department, including the development of a transition plan.

(10) The conduct of internal audits and management analyses of the programs and activities of the Department.

(11) Any other management duties that the Secretary may designate.

(b) IMMIGRATION.—

(1) IN GENERAL.—In addition to the responsibilities described in subsection (a), the Under Secretary for Management shall be responsible for the following:

(A) Maintenance of all immigration statistical information of the Bureau of Border Security and the Bureau of Citizenship and Immigration Services. Such statistical information shall include information and statistics of the type contained in the publication entitled "Statistical Yearbook of the Immigration and Naturalization Service" prepared by the Immigration and Naturalization Service (as in effect immediately before the date on which the transfer of functions specified under section 441 takes effect), including region-by-region statistics on the aggregate number of applications and petitions filed by an alien (or filed on behalf of an alien) and denied by such bureau, and the reasons for such denials, disaggregated by category of denial and application or petition type.

(B) Establishment of standards of reliability and validity for immigration statistics collected by such bureaus.

(2) TRANSFER OF FUNCTIONS.—In accordance with title XV, there shall be transferred to the Under Secretary for Management all functions performed immediately before such transfer occurs by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service with respect to the following programs:

(A) The Border Patrol program.

(B) The detention and removal program.

(C) The intelligence program.

(D) The investigations program.

(E) The inspections program.

(F) Adjudication of immigrant visa petitions.

(G) Adjudication of naturalization petitions.

(H) Adjudication of asylum and refugee applications.

(I) Adjudications performed at service centers.

(J) All other adjudications performed by the Immigration and Naturalization Service.

SEC. 702. CHIEF FINANCIAL OFFICER.

The Chief Financial Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 703. CHIEF INFORMATION OFFICER.

The Chief Information Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 704. CHIEF HUMAN CAPITAL OFFICER.

The Chief Human Capital Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct and shall ensure that all employees of the Department are informed of their rights and remedies under chapters 12 and 23 of title 5, United States Code, by—

(1) participating in the 2302(c) Certification Program of the Office of Special Counsel;

(2) achieving certification from the Office of Special Counsel of the Department's compliance with section 2302(c) of title 5, United States Code; and

(3) informing Congress of such certification not later than 24 months after the date of enactment of this Act.

SEC. 705. ESTABLISHMENT OF OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.

(a) IN GENERAL.—The Secretary shall appoint in the Department an Officer for Civil Rights and Civil Liberties, who shall—

(1) review and assess information alleging abuses of civil rights, civil liberties, and racial and ethnic profiling by employees and officials of the Department; and

(2) make public through the Internet, radio, television, or newspaper advertisements information on the responsibilities and functions of, and how to contact, the Officer.

(b) REPORT.—The Secretary shall submit to the President of the Senate, the Speaker of the House of Representatives, and the appropriate committees and subcommittees of Congress on an annual basis a report on the implementation of this section, including the use of funds appropriated to carry out this section, and detailing any allegations of abuses described under subsection (a)(1) and any actions taken by the Department in response to such allegations.

SEC. 706. CONSOLIDATION AND CO-LOCATION OF OFFICES.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop and submit to Congress a plan for consolidating and co-locating—

(1) any regional offices or field offices of agencies that are transferred to the Department under this Act, if such officers are located in the same municipality; and

(2) portions of regional and field offices of other Federal agencies, to the extent such offices perform functions that are transferred to the Secretary under this Act.

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

SEC. 801. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to oversee and coordinate departmental programs for and relationships with State and local governments.

(b) RESPONSIBILITIES.—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland; and

(4) develop a process for receiving meaningful input from State and local government to assist the development of the national strategy for combating terrorism and other homeland security activities.

Subtitle B—Inspector General

SEC. 811. AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—Notwithstanding the last two sentences of section 3(a) of the Inspector General Act of 1978, the Inspector General shall be under the authority, direction, and control of the Secretary with respect to audits or investigations, or the issuance of subpoenas, that require access to sensitive information concerning—

(1) intelligence, counterintelligence, or counterterrorism matters;

(2) ongoing criminal investigations or proceedings;

(3) undercover operations;

(4) the identity of confidential sources, including protected witnesses;

(5) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3 of such Code, or any provision of the Presidential Protection Assistance Act of 1976; or

(6) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to national security.

(b) PROHIBITION OF CERTAIN INVESTIGATIONS.—With respect to the information described in subsection (a), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described in subsection (a), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

(c) NOTIFICATION REQUIRED.—If the Secretary exercises any power under subsection (a) or (b), the Secretary shall notify the Inspector General of the Department in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice and a written response thereto that includes—

(1) a statement as to whether the Inspector General agrees or disagrees with such exercise; and

(2) the reasons for any disagreement, to the President of the Senate and the Speaker of the House of Representatives and to appropriate committees and subcommittees of Congress.

(d) ACCESS TO INFORMATION BY CONGRESS.—The exercise of authority by the Secretary described in subsection (b) should not be construed as limiting the right of Congress or any committee of Congress to access any information it seeks.

(e) OVERSIGHT RESPONSIBILITY—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 8I the following:

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND SECURITY

"SEC. 8J. Notwithstanding any other provision of law, in carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Homeland Security shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the United States Customs Service and the Office of Inspections of the United States Secret Service. The head of each such office shall promptly report to the Inspector General the significant activities being carried out by such office.".

SEC. 812. LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL AGENTS.

(a) IN GENERAL.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(e)(1) In addition to the authority otherwise provided by this Act, each Inspector General appointed under section 3, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

"(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

"(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

"(C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

"(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

"(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

"(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

"(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

"(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

"(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

"(5)(A) Powers authorized for an Office of Inspector General under paragraph (1) may be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

"(B) Powers authorized to be exercised by any individual under paragraph (1) may be rescinded or suspended with respect to that individual upon a determination by the Attorney General that such individual has not complied with guidelines promulgated by the Attorney General under paragraph (4).

"(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

"(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

"(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.".

(b) PROMULGATION OF INITIAL GUIDELINES.—

(1) DEFINITION.—In this subsection, the term "memoranda of understanding" means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) that—

(A) are in effect on the date of enactment of this Act; and

(B) authorize such offices to exercise authority that is the same or similar to the authority under section 6(e)(1) of such Act.

(2) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(3) MINIMUM REQUIREMENTS.—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) NO LAPSE OF AUTHORITY.—The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

(2) INITIAL GUIDELINES.—Subsection (b) shall take effect on the date of enactment of this Act.

Subtitle C—United States Secret Service

SEC. 821. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and obligations of the United States Secret Service, which shall be maintained as a distinct entity within the Department, including the functions of the Secretary of the Treasury relating thereto.

Subtitle D—Acquisitions

SEC. 831. RESEARCH AND DEVELOPMENT PROJECTS.

(a) AUTHORITY.—During the 5-year period following the effective date of this Act, the Secretary may carry out a pilot program under which the Secretary may exercise the following authorities:

(1) IN GENERAL.—When the Secretary carries out basic, applied, and advanced research and development projects, including the expenditure of funds for such projects, the Secretary may exercise the same authority (subject to the same limitations and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United

States Code (except for subsections (b) and (f)), after making a determination that the use of a contract, grant, or cooperative agreement for such project is not feasible or appropriate. The annual report required under subsection (b) of this section, as applied to the Secretary by this paragraph, shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

(2) PROTOTYPE PROJECTS.—The Secretary may, under the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160). In applying the authorities of that section 845, subsection (c) of that section shall apply with respect to prototype projects under this paragraph, and the Secretary shall perform the functions of the Secretary of Defense under subsection (d) thereof.

(b) REPORT.—Not later than 2 years after the effective date of this Act, and annually thereafter, the Comptroller General shall report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate on—

(1) whether use of the authorities described in subsection (a) attracts nontraditional Government contractors and results in the acquisition of needed technologies; and

(2) if such authorities were to be made permanent, whether additional safeguards are needed with respect to the use of such authorities.

(c) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Secretary may—

(1) procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5, United States Code; and

(2) whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

(d) DEFINITION OF NONTRADITIONAL GOVERNMENT CONTRACTOR.—In this section, the term "nontraditional Government contractor" has the same meaning as the term "nontraditional defense contractor" as defined in section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note).

SEC. 832. PERSONAL SERVICES.

The Secretary—

(1) may procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109 of title 5, United States Code; and

(2) may, whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 833. SPECIAL STREAMLINED ACQUISITION AUTHORITY.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may use the authorities set forth in this section with respect to any procurement made during the period beginning on the effective date of this Act and ending September 30, 2007, if the Secretary determines in writing that the mission of the Department (as described in section 101) would be seriously impaired without the use of such authorities.

(2) DELEGATION.—The authority to make the determination described in paragraph (1) may not be delegated by the Secretary to an officer of the Department who is not appointed by the President with the advice and consent of the Senate.

(3) NOTIFICATION.—Not later than the date that is 7 days after the date of any determination under paragraph (1), the Secretary shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate—

(A) notification of such determination; and

(B) the justification for such determination.

(b) INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.—

(1) IN GENERAL.—The Secretary may designate certain employees of the Department to make procurements described in subsection (a) for which in the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $7,500.

(2) NUMBER OF EMPLOYEES.—The number of employees designated under paragraph (1) shall be—

(A) fewer than the number of employees of the Department who are authorized to make purchases without obtaining competitive quotations, pursuant to section 32(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(c));

(B) sufficient to ensure the geographic dispersal of the availability of the use of the procurement authority under such paragraph at locations reasonably considered to be potential terrorist targets; and

(C) sufficiently limited to allow for the careful monitoring of employees designated under such paragraph.

(3) REVIEW.—Procurements made under the authority of this subsection shall be subject to review by a designated supervisor on not less than a monthly basis. The supervisor responsible for the review shall be responsible for no more than 7 employees making procurements under this subsection.

(c) SIMPLIFIED ACQUISITION PROCEDURES.—

(1) IN GENERAL.—With respect to a procurement described in subsection (a), the Secretary may deem the simplified acquisition threshold referred to in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) to be—

(A) in the case of a contract to be awarded and performed, or purchase to be made, within the United States, $200,000; and

(B) in the case of a contract to be awarded and performed, or purchase to be made, outside of the United States, $300,000.

(2) CONFORMING AMENDMENTS.—Section 18(c)(1) of the Office of Federal Procurement Policy Act is amended—

(A) by striking "or" at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting "; or"; and

(C) by adding at the end the following:

"(H) the procurement is by the Secretary of Homeland Security pursuant to the special procedures provided in section 833(c) of the Homeland Security Act of 2002.".

(d) APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES.—

(1) IN GENERAL.—With respect to a procurement described in subsection (a), the Secretary may deem any item or service to be a commercial item for the purpose of Federal procurement laws.

(2) LIMITATION.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)) and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall be deemed to be $7,500,000 for purposes of property or services under the authority of this subsection.

(3) CERTAIN AUTHORITY.—Authority under a provision of law referred to in paragraph (2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for a procurement described in subsection (a).

(e) REPORT.—Not later than 180 days after the end of fiscal year 2005, the Comptroller General shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on the use of the authorities provided in this section. The report shall contain the following:

(1) An assessment of the extent to which property and services acquired using authorities provided under this section contributed to the capacity of the Federal workforce to facilitate the mission of the Department as described in section 101.

(2) An assessment of the extent to which prices for property and services acquired using authorities provided under this section reflected the best value.

(3) The number of employees designated by each executive agency under subsection (b)(1).

(4) An assessment of the extent to which the Department has implemented subsections (b)(2) and (b)(3) to monitor the use of procurement authority by employees designated under subsection (b)(1).

(5) Any recommendations of the Comptroller General for improving the effectiveness of the implementation of the provisions of this section.

SEC. 834. UNSOLICITED PROPOSALS.

(a) REGULATIONS REQUIRED.—Within 1 year of the date of enactment of this Act, the Federal Acquisition Regulation shall be revised to include regulations with regard to unsolicited proposals.

(b) CONTENT OF REGULATIONS.—The regulations prescribed under subsection (a) shall require that before initiating a comprehensive evaluation, an agency contact point shall consider, among other factors, that the proposal—

(1) is not submitted in response to a previously published agency requirement; and

(2) contains technical and cost information for evaluation and overall scientific, technical or socioeconomic merit, or cost-related or price-related factors.

SEC. 835. PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES.

(a) IN GENERAL.—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b).

(b) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity completes after the date of enactment of this Act, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) Definitions and Special Rules.—

(1) Rules for application of subsection (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) Certain stock disregarded.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity; or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) Plan deemed in certain cases.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is after the date of enactment of this Act and which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) Certain transfers disregarded.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) Special rule for related partnerships.—For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all domestic partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as I partnership.

(E) Treatment of certain rights.—The Secretary shall prescribe such regulations as may be necessary to—

(i) treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock; and

(ii) treat stock as not stock.

(2) Expanded affiliated group.—The term "expanded affiliated group" means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504 of such Code shall be applied by substituting "more than 50 percent" for "at least 80 percent" each place it appears.

(3) Foreign incorporated entity.—The term "foreign incorporated entity" means any entity which is, or but for subsection (b) would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) Other definitions.—The terms "person", "domestic", and "foreign" have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701 (a) of the Internal Revenue Code of 1986, respectively.

(d) Waivers.—The Secretary shall waive subsection (a) with respect to any specific contract if the Secretary determines that the waiver is required in the interest of homeland security, or to prevent the loss of any jobs in the United States or prevent the Government from incurring any additional costs that otherwise would not occur.

Subtitle E—Human Resources Management

SEC. 841. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) Authority.—

(1) Sense of congress.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) In general.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

"Sec.
"9701. Establishment of human resources management system.

"§9701. Establishment of human resources management system

"(a) In General.—Notwithstanding any other provision of this part, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security.

"(b) System Requirements.—Any system established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1), (8), and (9); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1), (8), and (9) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

"(D) any other provision of this part (as described in subsection (c)); or

"(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

"(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

"(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

"(c) Other Nonwaivable Provisions.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, and 79, and this chapter.

"(d) Limitations Relating to Pay.—Nothing in this section shall constitute authority—

"(1) to modify the pay of any employee who serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

"(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

"(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

"(3) to exempt any employee from the application of such section 5307.

"(e) Provisions to Ensure Collaboration With Employee Representatives.—

"(1) In general.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the participation of employee representatives in the planning, development, and implementation of any human resources management system or adjustments to such system under this section, the Secretary of Homeland Security and the Director of the Office of Personnel Management shall provide for the following:

"(A) Notice of proposal.—The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give each representative 30 calendar days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) Pre-implementation congressional notification, consultation, and mediation.—Following receipt of recommendations, if any, from employee representatives with respect to a proposal described in subparagraph (A), the Secretary and the Director shall accept such modifications to the proposal in response to the recommendations as they determine advisable and shall, with respect to any parts of the proposal as to which they have not accepted the recommendations—

"(i) notify Congress of those parts of the proposal, together with the recommendations of employee representatives;

"(ii) meet and confer for not less than 30 calendar days with any representatives who have made recommendations, in order to attempt to reach agreement on whether or how to proceed with those parts of the proposal; and

"(iii) at the Secretary's option, or if requested by a majority of the employee representatives who have made recommendations, use the services of the Federal Mediation and Conciliation Service during such meet and confer period to facilitate the process of attempting to reach agreement.

"(C) IMPLEMENTATION.—

"(i) Any part of the proposal as to which the representatives do not make a recommendation, or as to which their recommendations are accepted by the Secretary and the Director, may be implemented immediately.

"(ii) With respect to any parts of the proposal as to which recommendations have been made but not accepted by the Secretary and the Director, at any time after 30 calendar days have elapsed since the initiation of the congressional notification, consultation, and mediation procedures set forth in subparagraph (B), if the Secretary determines, in the Secretary's sole and unreviewable discretion, that further consultation and mediation is unlikely to produce agreement, the Secretary may implement any or all of such parts, including any modifications made in response to the recommendations as the Secretary determines advisable.

"(iii) The Secretary shall promptly notify Congress of the implementation of any part of the proposal and shall furnish with such notice an explanation of the proposal, any changes made to the proposal as a result of recommendations from employee representatives, and of the reasons why implementation is appropriate under this subparagraph.

"(D) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

"(ii) give each employee representative adequate access to information to make that participation productive.

"(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly as internal rules of departmental procedure which shall not be subject to review. Such procedures shall include measures to ensure—

"(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

"(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection;

"(C) the fair and expeditious handling of the consultation and mediation process described in subparagraph (B) of paragraph (1), including procedures by which, if the number of employee representatives providing recommendations exceeds 5, such representatives select a committee or other unified representative with which the Secretary and Director may meet and confer; and

"(D) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

"(1) SENSE OF CONGRESS.—It is the sense of Congress that—

"(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

"(i) should ensure that employees of the Department are afforded the protections of due process; and

"(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

"(A) shall be issued only after consultation with the Merit Systems Protection Board;

"(B) shall ensure the availability of procedures which shall—

"(i) be consistent with requirements of due process; and

"(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) PROVISIONS RELATING TO LABOR-MANAGEMENT RELATIONS.—Nothing in this section shall be construed as conferring authority on the Secretary of Homeland Security to modify any of the provisions of section 842 of the Homeland Security Act of 2002.

"(h) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 1501 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.".

(3) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) EFFECT ON PERSONNEL.—

(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS.—Except as otherwise provided in this Act, the transfer under this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Department.

(2) POSITIONS COMPENSATED IN ACCORDANCE WITH EXECUTIVE SCHEDULE.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 842. LABOR-MANAGEMENT RELATIONS.

(a) LIMITATION ON EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of such title 5; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—

(1) LIMITATION RELATING TO APPROPRIATE UNITS.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) LIMITATION RELATING TO POSITIONS OR EMPLOYEES.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of such title 5, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employees first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) WAIVER.—If the President determines that the application of subsections (a), (b), and (d) would have a substantial adverse impact on the ability of the Department to protect homeland security, the President may waive the application of such subsections 10 days after the President has submitted to Congress a written explanation of the reasons for such determination.

(d) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

(e) RULE OF CONSTRUCTION.—Nothing in section 9701(e) of title 5, United States Code, shall be considered to apply with respect to any agency or subdivision of any agency, which is excluded from the coverage of chapter 71 of title 5, United States Code, by virtue of an order issued in accordance with section 7103(b) of such title and the preceding provisions of this section (as applicable), or to any employees of any such agency or subdivision or to any individual or entity representing any such employees or any representatives thereof.

Subtitle F—Federal Emergency Procurement Flexibility

SEC. 851. DEFINITION.

In this subtitle, the term "executive agency" has the meaning given that term under section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 852. PROCUREMENTS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

The authorities provided in this subtitle apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on the date of the enactment of this Act.

SEC. 853. INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR PROCUREMENTS IN SUPPORT OF HUMANITARIAN OR PEACEKEEPING OPERATIONS OR CONTINGENCY OPERATIONS.

(a) TEMPORARY THRESHOLD AMOUNTS.—For a procurement referred to in section 852 that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provided for such an operation in those definitions were—

(1) in the case of a contract to be awarded and performed, or purchase to be made, inside the United States, $200,000; or

(2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, $300,000.

(b) SIMPLIFIED ACQUISITION THRESHOLD DEFINITIONS.—In this section, the term "simplified acquisition threshold definitions" means the following:

(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)).

(3) Section 2302(7) of title 10, United States Code.

(c) SMALL BUSINESS RESERVE.—For a procurement carried out pursuant to subsection (a), section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall be applied as if the maximum anticipated value identified therein is equal to the amounts referred to in subsection (a).

SEC. 854. INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.

.In the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) with respect to a procurement referred to in section 852, the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be $7,500.

SEC. 855. APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES TO CERTAIN PROCUREMENTS.

(a) AUTHORITY.—

(1) IN GENERAL.—The head of an executive agency may apply the provisions of law listed in paragraph (2) to a procurement referred to in section 852 without regard to whether the property or services are commercial items.

(2) COMMERCIAL ITEM LAWS.—The provisions of law referred to in paragraph (1) are as follows:

(A) Sections 31 and 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 427, 430).

(B) Section 2304(g) of title 10, United States Code.

(C) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)).

(b) INAPPLICABILITY OF LIMITATION ON USE OF SIMPLIFIED ACQUISITION PROCEDURES.—

(1) IN GENERAL.—The $5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)), section 2304(g)(1)(B) of title 10, United States Code, and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall not apply to purchases of property or services to which any of the provisions of law referred to in subsection (a) are applied under the authority of this section.

(2) OMB GUIDANCE.—The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of $5,000,000 under the authority of this section.

(c) CONTINUATION OF AUTHORITY FOR SIMPLIFIED PURCHASE PROCEDURES.—Authority under a provision of law referred to in subsection (a)(2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

SEC. 856. USE OF STREAMLINED PROCEDURES.

(a) REQUIRED USE.—The head of an executive agency shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement referred to in section 852, including authorities and procedures that are provided under the following provisions of law:

(1) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—In title III of the Federal Property and Administrative Services Act of 1949:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 303 (41 U.S.C. 253), relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 303J (41 U.S.C. 253j), relating to orders under task and delivery order contracts.

(2) TITLE 10, UNITED STATES CODE.—In chapter 137 of title 10, United States Code:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 2304, relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 2304c, relating to orders under task and delivery order contracts.

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Paragraphs (1)(B), (1)(D), and (2) of section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)), relating to inapplicability of a requirement for procurement notice.

(b) WAIVER OF CERTAIN SMALL BUSINESS THRESHOLD REQUIREMENTS.—Subclause (II) of section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) and clause (ii) of section 31(b)(2)(A) of such Act (15 U.S.C. 657a(b)(2)(A)) shall not apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 852.

SEC. 857. REVIEW AND REPORT BY COMPTROLLER GENERAL.

(a) REQUIREMENTS.—Not later than March 31, 2004, the Comptroller General shall—

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this subtitle; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) CONTENT OF REPORT.—The report under subsection (a)(2) shall include the following matters:

(1) ASSESSMENT.—The Comptroller General's assessment of—

(A) the extent to which property and services procured in accordance with this title have contributed to the capacity of the workforce of Federal Government employees within each executive agency to carry out the mission of the executive agency; and

(B) the extent to which Federal Government employees have been trained on the use of technology.

(2) RECOMMENDATIONS.—Any recommendations of the Comptroller General resulting from the assessment described in paragraph (1).

(c) CONSULTATION.—In preparing for the review under subsection (a)(1), the Comptroller shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the specific issues and topics to be reviewed. The extent of coverage needed in areas such as technology integration, employee training, and human capital management, as well as the data requirements of the study, shall be included as part of the consultation.

SEC. 858. IDENTIFICATION OF NEW ENTRANTS INTO THE FEDERAL MARKETPLACE.

The head of each executive agency shall conduct market research on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of commercially available market research methods, including use of commercial databases, to carry out the research.

Subtitle G—Support Anti-terrorism by Fostering Effective Technologies Act of 2002

SEC. 861. SHORT TITLE.

This subtitle may be cited as the "Support Anti-terrorism by Fostering Effective Technologies Act of 2002" or the "SAFETY Act".

SEC. 862. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall be responsible for the administration of this subtitle.

(b) DESIGNATION OF QUALIFIED ANTI-TERRORISM TECHNOLOGIES.—The Secretary may designate anti-terrorism technologies that qualify for protection under the system of risk management set forth in this subtitle in accordance with criteria that shall include, but not be limited to, the following:

(1) Prior United States government use or demonstrated substantial utility and effectiveness.

(2) Availability of the technology for immediate deployment in public and private settings.

(3) Existence of extraordinarily large or extraordinarily unquantifiable potential third party liability risk exposure to the Seller or other provider of such anti-terrorism technology.

(4) Substantial likelihood that such anti-terrorism technology will not be deployed unless protections under the system of risk management provided under this subtitle are extended.

(5) Magnitude of risk exposure to the public if such anti-terrorism technology is not deployed.

(6) Evaluation of all scientific studies that can be feasibly conducted in order to assess the capability of the technology to substantially reduce risks of harm.

(7) Anti-terrorism technology that would be effective in facilitating the defense against acts of terrorism, including technologies that prevent, defeat or respond to such acts.

(c) REGULATIONS.—The Secretary may issue such regulations, after notice and comment in accordance with section 553 of title 5, United States, Code, as may be necessary to carry out this subtitle.

SEC. 863. LITIGATION MANAGEMENT.

(a) FEDERAL CAUSE OF ACTION.—

(1) IN GENERAL.—There shall exist a Federal cause of action for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller. The substantive law for decision in any such action shall be derived from the law, including choice of law principles, of the State in which such acts of terrorism occurred, unless such law is inconsistent with or preempted by Federal law. Such Federal cause of action shall be brought only for claims for injuries that are proximately caused by sellers that provide qualified anti-terrorism technology to Federal and non-Federal government customers.

(2) JURISDICTION.—Such appropriate district court of the United States shall have original and exclusive jurisdiction over all actions for any claim for loss of property, personal injury, or death arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller.

(b) SPECIAL RULES.—In an action brought under this section for damages the following provisions apply:

(1) PUNITIVE DAMAGES.—No punitive damages intended to punish or deter, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment.

(2) NONECONOMIC DAMAGES.—

(A) IN GENERAL.—Noneconomic damages may be awarded against a defendant only in an amount directly proportional to the percentage of responsibility of such defendant for the harm to the plaintiff, and no plaintiff may recover noneconomic damages unless the plaintiff suffered physical harm.

(B) DEFINITION.—For purposes of subparagraph (A), the term "noneconomic damages" means damages for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and any other nonpecuniary losses.

(c) COLLATERAL SOURCES.—Any recovery by a plaintiff in an action under this section shall be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of such acts of terrorism that result or may result in loss to the Seller.

(d) GOVERNMENT CONTRACTOR DEFENSE.—

(1) IN GENERAL.—Should a product liability or other lawsuit be filed for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in paragraphs (2) and (3) of this subsection, have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller, there shall be a rebuttable presumption that the government contractor defense applies in such lawsuit. This presumption shall only be overcome by evidence showing that the Seller acted fraudulently or with willful misconduct in submitting information to the Secretary during the course of the Secretary's consideration of such technology under this subsection. This presumption of the government contractor defense shall apply regardless of whether the claim against the Seller arises from a sale of the product to Federal Government or non-Federal Government customers.

(2) EXCLUSIVE RESPONSIBILITY.—The Secretary will be exclusively responsible for the review and approval of anti-terrorism technology for purposes of establishing a government contractor defense in any product liability lawsuit for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in this paragraph and paragraph (3), have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller. Upon the Seller's submission to the Secretary for approval of anti-terrorism technology, the Secretary will conduct a comprehensive review of the design of such technology and determine whether it will perform as intended, conforms to the Seller's specifications, and is safe for use as intended. The Seller will conduct safety and hazard analyses on such technology and will supply the Secretary with all such information.

(3) CERTIFICATE.—For anti-terrorism technology reviewed and approved by the Secretary, the Secretary will issue a certificate of conformance to the Seller and place the anti-terrorism technology on an Approved Product List for Homeland Security.

(e) EXCLUSION.—Nothing in this section shall in any way limit the ability of any person to seek any form of recovery from any person, government, or other entity that—

(1) attempts to commit, knowingly participates in, aids and abets, or commits any act of terrorism, or any criminal act related to or resulting from such act of terrorism; or

(2) participates in a conspiracy to commit any such act of terrorism or any such criminal act.

SEC. 864. RISK MANAGEMENT.

(a) IN GENERAL.—

(1) LIABILITY INSURANCE REQUIRED.—Any person or entity that sells or otherwise provides a qualified anti-terrorism technology to Federal and non-Federal government customers ("Seller") shall obtain liability insurance of such types and in such amounts as shall be required in accordance with this section and certified by the Secretary to satisfy otherwise compensable third-party claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act.

(2) MAXIMUM AMOUNT.—For the total claims related to 1 such act of terrorism, the Seller is not required to obtain liability insurance of more than the maximum amount of liability insurance reasonably available from private sources on the world market at prices and terms that will not unreasonably distort the sales price of Seller's anti-terrorism technologies.

(3) SCOPE OF COVERAGE.—Liability insurance obtained pursuant to this subsection shall, in addition to the Seller, protect the following, to the extent of their potential liability for involvement in the manufacture, qualification, sale, use, or operation of qualified anti-terrorism technologies deployed in defense against or response or recovery from an act of terrorism:

(A) contractors, subcontractors, suppliers, vendors and customers of the Seller.

(B) contractors, subcontractors, suppliers, and vendors of the customer.

(4) THIRD PARTY CLAIMS.—Such liability insurance under this section shall provide coverage against third party claims arising out of, relating to, or resulting from the sale or use of anti-terrorism technologies.

(b) RECIPROCAL WAIVER OF CLAIMS.—The Seller shall enter into a reciprocal waiver of claims with its contractors, subcontractors, suppliers, vendors and customers, and contractors and subcontractors of the customers, involved in the manufacture, sale, use or operation of qualified anti-terrorism technologies, under which each party to the waiver agrees to be responsible for losses, including business interruption losses, that it sustains, or for losses sustained by its own employees resulting from an activity resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act.

(c) EXTENT OF LIABILITY.—Notwithstanding any other provision of law, liability for all claims against a Seller arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller, whether for compensatory or punitive damages or for contribution or indemnity, shall not be in an amount greater than the limits of liability insurance coverage required to be maintained by the Seller under this section.

SEC. 865. DEFINITIONS.

For purposes of this subtitle, the following definitions apply:

(1) QUALIFIED ANTI-TERRORISM TECHNOLOGY.—For purposes of this subtitle, the term "qualified anti-terrorism technology" means any product, equipment, service (including support services), device, or technology (including information technology) designed, developed, modified, or procured for the specific purpose of preventing, detecting, identifying, or deterring acts of terrorism or limiting the harm such acts might otherwise cause, that is designated as such by the Secretary.

(2) ACT OF TERRORISM.—(A) The term "act of terrorism" means any act that the Secretary determines meets the requirements

under subparagraph (B), as such requirements are further defined and specified by the Secretary.

(B) REQUIREMENTS.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States-flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States; and

(iii) uses or attempts to use instrumentalities, weapons or other methods designed or intended to cause mass destruction, injury or other loss to citizens or institutions of the United States.

(3) INSURANCE CARRIER.—The term "insurance carrier" means any corporation, association, society, order, firm, company, mutual, partnership, individual aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurance carrier.

(4) LIABILITY INSURANCE.—

(A) IN GENERAL.—The term "liability insurance" means insurance for legal liabilities incurred by the insured resulting from—

(i) loss of or damage to property of others;

(ii) ensuing loss of income or extra expense incurred because of loss of or damage to property of others;

(iii) bodily injury (including) to persons other than the insured or its employees; or

(iv) loss resulting from debt or default of another.

(5) LOSS.—The term "loss" means death, bodily injury, or loss of or damage to property, including business interruption loss.

(6) NON-FEDERAL GOVERNMENT CUSTOMERS.—The term "non-Federal Government customers" means any customer of a Seller that is not an agency or instrumentality of the United States Government with authority under Public Law 85-804 to provide for indemnification under certain circumstances for third-party claims against its contractors, including but not limited to State and local authorities and commercial entities.

Subtitle H—Miscellaneous Provisions

SEC. 871. ADVISORY COMMITTEES.

(a) IN GENERAL.—The Secretary may establish, appoint members of, and use the services of, advisory committees, as the Secretary may deem necessary. An advisory committee established under this section may be exempted by the Secretary from Public Law 92-463, but the Secretary shall publish notice in the Federal Register announcing the establishment of such a committee and identifying its purpose and membership. Notwithstanding the preceding sentence, members of an advisory committee that is exempted by the Secretary under the preceding sentence who are special Government employees (as that term is defined in section 202 of title 18, United States Code) shall be eligible for certifications under subsection (b)(3) of section 208 of title 18, United States Code, for official actions taken as a member of such advisory committee.

(b) TERMINATION.—Any advisory committee established by the Secretary shall terminate 2 years after the date of its establishment, unless the Secretary makes a written determination to extend the advisory committee to a specified date, which shall not be more than 2 years after the date on which such determination is made. The Secretary may make any number of subsequent extensions consistent with this subsection.

SEC. 872. REORGANIZATION.

(a) REORGANIZATION.—The Secretary may allocate or reallocate functions among the officers of the Department, and may establish, consolidate, alter, or discontinue organizational units within the Department, but only—

(1) pursuant to section 1502(b); or

(2) after the expiration of 60 days after providing notice of such action to the appropriate congressional committees, which shall include an explanation of the rationale for the action.

(b) LIMITATIONS.—

(1) IN GENERAL.—Authority under subsection (a)(1) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by this Act.

(2) ABOLITIONS.—Authority under subsection (a)(2) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by statute.

SEC. 873. USE OF APPROPRIATED FUNDS.

(a) DISPOSAL OF PROPERTY.—

(1) STRICT COMPLIANCE.—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485).

(2) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(b) GIFTS.—Gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

(c) BUDGET REQUEST.—Under section 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004, and for each subsequent fiscal year.

SEC. 874. FUTURE YEAR HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, shall, at or about the same time, be accompanied by a Future Years Homeland Security Program.

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and for any subsequent fiscal year, except that the first Future Years Homeland Security Program shall be submitted not later than 90 days after the Department's fiscal year 2005 budget request is submitted to Congress.

SEC. 875. MISCELLANEOUS AUTHORITIES.

(a) SEAL.—The Department shall have a seal, whose design is subject to the approval of the President.

(b) PARTICIPATION OF MEMBERS OF THE ARMED FORCES.—With respect to the Department, the Secretary shall have the same authorities that the Secretary of Transportation has with respect to the Department of Transportation under section 324 of title 49, United States Code.

(c) REDELEGATION OF FUNCTIONS.—Unless otherwise provided in the delegation or by law, any function delegated under this Act may be redelegated to any subordinate.

SEC. 876. MILITARY ACTIVITIES.

Nothing in this Act shall confer upon the Secretary any authority to engage in warfighting, the military defense of the United States, or other military activities, nor shall anything in this Act limit the existing authority of the Department of Defense or the Armed Forces to engage in warfighting, the military defense of the United States, or other military activities.

SEC. 877. REGULATORY AUTHORITY AND PREEMPTION.

(a) REGULATORY AUTHORITY.—Except as otherwise provided in sections 306(c), 862(c), and 1806(b), this Act vests no new regulatory authority in the Secretary or any other Federal official, and transfers to the Secretary or another Federal official only such regulatory authority as exists on the date of enactment of this Act within any agency, program, or function transferred to the Department pursuant to this Act, or that on such date of enactment is exercised by another official of the executive branch with respect to such agency, program, or function. Any such transferred authority may not be exercised by an official from whom it is transferred upon transfer of such agency, program, or function to the Secretary or another Federal official pursuant to this Act. This Act may not be construed as altering or diminishing the regulatory authority of any other executive agency, except to the extent that this Act transfers such authority from the agency.

(b) PREEMPTION OF STATE OR LOCAL LAW.—Except as otherwise provided in this Act, this Act preempts no State or local law, except that any authority to preempt State or local law vested in any Federal agency or official transferred to the Department pursuant to this Act shall be transferred to the Department effective on the date of the transfer to the Department of that Federal agency or official.

SEC. 878. COUNTERNARCOTICS OFFICER.

The Secretary shall appoint a senior official in the Department to assume primary responsibility for coordinating policy and operations within the Department and between the Department and other Federal departments and agencies with respect to interdicting the entry of illegal drugs into the United States, and tracking and severing connections between illegal drug trafficking and terrorism. Such official shall—

(1) ensure the adequacy of resources within the Department for illicit drug interdiction; and

(2) serve as the United States Interdiction Coordinator for the Director of National Drug Control Policy.

SEC. 879. OFFICE OF INTERNATIONAL AFFAIRS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary an Office of International Affairs. The Office shall be headed by a Director, who shall be a senior official appointed by the Secretary.

(b) DUTIES OF THE DIRECTOR.—The Director shall have the following duties:

(1) To promote information and education exchange with nations friendly to the United States in order to promote sharing of best practices and technologies relating to homeland security. Such exchange shall include the following:

(A) Exchange of information on research and development on homeland security technologies.

(B) Joint training exercises of first responders.

(C) Exchange of expertise on terrorism prevention, response, and crisis management.

(2) To identify areas for homeland security information and training exchange where the United States has a demonstrated weakness and another friendly nation or nations have a demonstrated expertise.

(3) To plan and undertake international conferences, exchange programs, and training activities.

(4) To manage international activities within the Department in coordination with other Federal officials with responsibility for counter-terrorism matters.

SEC. 880. PROHIBITION OF THE TERRORISM INFORMATION AND PREVENTION SYSTEM.

Any and all activities of the Federal Government to implement the proposed component program of the Citizen Corps known as Operation TIPS (Terrorism Information and Prevention System) are hereby prohibited.

SEC. 881. REVIEW OF PAY AND BENEFIT PLANS.

Notwithstanding any other provision of this Act, the Secretary shall, in consultation with the Director of the Office of Personnel Management, review the pay and benefit plans of each agency whose functions are transferred under this Act to the Department and, within 90 days after the date of enactment, submit a plan to the President of the Senate and the Speaker of the House of Representatives and the appropriate committees and subcommittees of Congress, for ensuring, to the maximum extent practicable, the elimination of disparities in pay and benefits throughout the Department, especially among law enforcement personnel, that are inconsistent with merit system principles set forth in section 2301 of title 5, United States Code.

SEC. 882. OFFICE FOR NATIONAL CAPITAL REGION COORDINATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Office of the Secretary the Office of National Capital Region Coordination, to oversee and coordinate Federal programs for and relationships with State, local, and regional authorities in the National Capital Region, as defined under section 2674(f)(2) of title 10, United States Code.

(2) DIRECTOR.—The Office established under paragraph (1) shall be headed by a Director, who shall be appointed by the Secretary.

(3) COOPERATION.—The Secretary shall cooperate with the Mayor of the District of Columbia, the Governors of Maryland and Virginia, and other State, local, and regional officers in the National Capital Region to integrate the District of Columbia, Maryland, and Virginia into the planning, coordination, and execution of the activities of the Federal Government for the enhancement of domestic preparedness against the consequences of terrorist attacks.

(b) RESPONSIBILITIES.—The Office established under subsection (a)(1) shall—

(1) coordinate the activities of the Department relating to the National Capital Region, including cooperation with the Office for State and Local Government Coordination;

(2) assess, and advocate for, the resources needed by State, local, and regional authorities in the National Capital Region to implement efforts to secure the homeland;

(3) provide State, local, and regional authorities in the National Capital Region with regular information, research, and technical support to assist the efforts of State, local, and regional authorities in the National Capital Region in securing the homeland;

(4) develop a process for receiving meaningful input from State, local, and regional authorities and the private sector in the National Capital Region to assist in the development of the homeland security plans and activities of the Federal Government;

(5) coordinate with Federal agencies in the National Capital Region on terrorism preparedness, to ensure adequate planning, information sharing, training, and execution of the Federal role in domestic preparedness activities;

(6) coordinate with Federal, State, local, and regional agencies, and the private sector in the National Capital Region on terrorism preparedness to ensure adequate planning, information sharing, training, and execution of domestic preparedness activities among these agencies and entities; and

(7) serve as a liaison between the Federal Government and State, local, and regional authorities, and private sector entities in the National Capital Region to facilitate access to Federal grants and other programs.

(c) ANNUAL REPORT.—The Office established under subsection (a) shall submit an annual report to Congress that includes—

(1) the identification of the resources required to fully implement homeland security efforts in the National Capital Region;

(2) an assessment of the progress made by the National Capital Region in implementing homeland security efforts; and

(3) recommendations to Congress regarding the additional resources needed to fully implement homeland security efforts in the National Capital Region.

(d) LIMITATION.—Nothing contained in this section shall be construed as limiting the power of State and local governments.

SEC. 883. REQUIREMENT TO COMPLY WITH LAWS PROTECTING EQUAL EMPLOYMENT OPPORTUNITY AND PROVIDING WHISTLEBLOWER PROTECTIONS.

Nothing in this Act shall be construed as exempting the Department from requirements applicable with respect to executive agencies—

(1) to provide equal employment protection for employees of the Department (including pursuant to the provisions in section 2302(b)(1) of title 5, United States Code, and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (Pub. L. 107–174)); or

(2) to provide whistleblower protections for employees of the Department (including pursuant to the provisions in section 2302(b)(8) and (9) of such title and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002).

SEC. 884. FEDERAL LAW ENFORCEMENT TRAINING CENTER.

(a) IN GENERAL.—The transfer of an authority or an agency under this Act to the Department of Homeland Security does not affect training agreements already entered into with the Federal Law Enforcement Training Center with respect to the training of personnel to carry out that authority or the duties of that transferred agency.

(b) CONTINUITY OF OPERATIONS.—All activities of the Federal Law Enforcement Training Center transferred to the Department of Homeland Security under this Act shall continue to be carried out at the locations such activities were carried out before such transfer.

SEC. 885. JOINT INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—The Secretary may establish and operate a permanent Joint Interagency Homeland Security Task Force composed of representatives from military and civilian agencies of the United States Government for the purposes of anticipating terrorist threats against the United States and taking appropriate actions to prevent harm to the United States.

(b) STRUCTURE.—It is the sense of Congress that the Secretary should model the Joint Interagency Homeland Security Task Force on the approach taken by the Joint Interagency Task Forces for drug interdiction at Key West, Florida and Alameda, California, to the maximum extent feasible and appropriate.

SEC. 886. SENSE OF CONGRESS REAFFIRMING THE CONTINUED IMPORTANCE AND APPLICABILITY OF THE POSSE COMITATUS ACT.

(a) FINDINGS.—Congress finds the following:

(1) Section 1385 of title 18, United States Code (commonly known as the "Posse Comitatus Act"), prohibits the use of the Armed Forces as a posse comitatus to execute the laws except in cases and under circumstances expressly authorized by the Constitution or Act of Congress.

(2) Enacted in 1878, the Posse Comitatus Act was expressly intended to prevent United States Marshals, on their own initiative, from calling on the Army for assistance in enforcing Federal law.

(3) The Posse Comitatus Act has served the Nation well in limiting the use of the Armed Forces to enforce the law.

(4) Nevertheless, by its express terms, the Posse Comitatus Act is not a complete barrier to the use of the Armed Forces for a range of domestic purposes, including law enforcement functions, when the use of the Armed Forces is authorized by Act of Congress or the President determines that the use of the Armed Forces is required to fulfill the President's obligations under the Constitution to respond promptly in time of war, insurrection, or other serious emergency.

(5) Existing laws, including chapter 15 of title 10, United States Code (commonly known as the "Insurrection Act"), and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), grant the President broad powers that may be invoked in the event of domestic emergencies, including an attack against the Nation using weapons of mass destruction, and these laws specifically authorize the President to use the Armed Forces to help restore public order.

(b) SENSE OF CONGRESS.—Congress reaffirms the continued importance of section 1385 of title 18, United States Code, and it is the sense of Congress that nothing in this Act should be construed to alter the applicability of such section to any use of the Armed Forces as a posse comitatus to execute the laws.

SEC. 887. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—The annual Federal response plan developed by the Department shall be consistent with section 319 of the Public Health Service Act (42 U.S.C. 247d).

(b) DISCLOSURES AMONG RELEVANT AGENCIES.—

(1) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) PUBLIC HEALTH EMERGENCY.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 319(a) of the Public Health Service Act (42

U.S.C. 247d(a)), the Secretary of Health and Human Services shall keep relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, fully and currently informed.

(3) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), has been made, all relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

SEC. 888. PRESERVING COAST GUARD MISSION PERFORMANCE.

(a) DEFINITIONS.—In this section:

(1) NON-HOMELAND SECURITY MISSIONS.—The term "non-homeland security missions" means the following missions of the Coast Guard:

(A) Marine safety.

(B) Search and rescue.

(C) Aids to navigation.

(D) Living marine resources (fisheries law enforcement).

(E) Marine environmental protection.

(F) Ice operations.

(2) HOMELAND SECURITY MISSIONS.—The term "homeland security missions" means the following missions of the Coast Guard:

(A) Ports, waterways and coastal security.

(B) Drug interdiction.

(C) Migrant interdiction.

(D) Defense readiness.

(E) Other law enforcement.

(b) TRANSFER.—There are transferred to the Department the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.

(c) MAINTENANCE OF STATUS OF FUNCTIONS AND ASSETS.—Notwithstanding any other provision of this Act, the authorities, functions, and capabilities of the Coast Guard to perform its missions shall be maintained intact and without significant reduction after the transfer of the Coast Guard to the Department, except as specified in subsequent Acts.

(d) CERTAIN TRANSFERS PROHIBITED.—No mission, function, or asset (including for purposes of this subsection any ship, aircraft, or helicopter) of the Coast Guard may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, except for details or assignments that do not reduce the Coast Guard's capability to perform its missions.

(e) CHANGES TO MISSIONS.—

(1) PROHIBITION.—The Secretary may not substantially or significantly reduce the missions of the Coast Guard or the Coast Guard's capability to perform those missions, except as specified in subsequent Acts.

(2) WAIVER.—The Secretary may waive the restrictions under paragraph (1) for a period of not to exceed 90 days upon a declaration and certification by the Secretary to Congress that a clear, compelling, and immediate need exists for such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot respond effectively if the restrictions under paragraph (1) are not waived.

(f) ANNUAL REVIEW.—

(1) IN GENERAL.—The Inspector General of the Department shall conduct an annual review that shall assess thoroughly the performance by the Coast Guard of all missions of the Coast Guard (including non-homeland security missions and homeland security missions) with a particular emphasis on examining the non-homeland security missions.

(2) REPORT.—The report under this paragraph shall be submitted to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Government Reform of the House of Representatives;

(C) the Committees on Appropriations of the Senate and the House of Representatives;

(D) the Committee on Commerce, Science, and Transportation of the Senate; and

(E) the Committee on Transportation and Infrastructure of the House of Representatives.

(g) DIRECT REPORTING TO SECRETARY.—Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary without being required to report through any other official of the Department.

(h) OPERATION AS A SERVICE IN THE NAVY.—None of the conditions and restrictions in this section shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

(i) REPORT ON ACCELERATING THE INTEGRATED DEEPWATER SYSTEM.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Commandant of the Coast Guard, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives that—

(1) analyzes the feasibility of accelerating the rate of procurement in the Coast Guard's Integrated Deepwater System from 20 years to 10 years;

(2) includes an estimate of additional resources required;

(3) describes the resulting increased capabilities;

(4) outlines any increases in the Coast Guard's homeland security readiness;

(5) describes any increases in operational efficiencies; and

(6) provides a revised asset phase-in time line.

SEC. 889. HOMELAND SECURITY FUNDING ANALYSIS IN PRESIDENT'S BUDGET.

(a) IN GENERAL.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

"(33)(A)(i) a detailed, separate analysis, by budget function, by agency, and by initiative area (as determined by the administration) for the prior fiscal year, the current fiscal year, the fiscal years for which the budget is submitted, and the ensuing fiscal year identifying the amounts of gross and net appropriations or obligational authority and outlays that contribute to homeland security, with separate displays for mandatory and discretionary amounts, including—

"(I) summaries of the total amount of such appropriations or new obligational authority and outlays requested for homeland security;

"(II) an estimate of the current service levels of homeland security spending;

"(III) the most recent risk assessment and summary of homeland security needs in each initiative area (as determined by the administration); and

"(IV) an estimate of user fees collected by the Federal Government on behalf of homeland security activities;

"(ii) with respect to subclauses (I) through (IV) of clause (i), amounts shall be provided by account for each program, project and activity; and

"(iii) an estimate of expenditures for homeland security activities by State and local governments and the private sector for the prior fiscal year and the current fiscal year.

"(B) In this paragraph, consistent with the Office of Management and Budget's June 2002 'Annual Report to Congress on Combatting Terrorism', the term 'homeland security' refers to those activities that detect, deter, protect against, and respond to terrorist attacks occurring within the United States and its territories.

"(C) In implementing this paragraph, including determining what Federal activities or accounts constitute homeland security for purposes of budgetary classification, the Office of Management and Budget is directed to consult periodically, but at least annually, with the House and Senate Budget Committees, the House and Senate Appropriations Committees, and the Congressional Budget Office.".

(b) REPEAL OF DUPLICATIVE REPORTS.—The following sections are repealed:

(1) Section 1051 of Public Law 105-85.

(2) Section 1403 of Public Law 105-261.

(c) EFFECTIVE DATE.—This section and the amendment made by this section shall apply beginning with respect to the fiscal year 2005 budget submission.

SEC. 890. AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT.

The Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in section 408 by striking the last sentence of subsection (c); and

(2) in section 402 by striking paragraph (1) and inserting the following:

"(1) AIR CARRIER.—The term 'air carrier' means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents (including persons engaged in the business of providing air transportation security and their affiliates) of such citizen. For purposes of the preceding sentence, the term 'agent', as applied to persons engaged in the business of providing air transportation security, shall only include persons that have contracted directly with the Federal Aviation Administration on or after and commenced services no later than February 17, 2002, to provide such security, and had not been or are not debarred for any period within 6 months from that date.".

Subtitle I—Information Sharing

SEC. 891. SHORT TITLE; FINDINGS; AND SENSE OF CONGRESS.

(a) SHORT TITLE.—This subtitle may be cited as the "Homeland Security Information Sharing Act".

(b) FINDINGS.—Congress finds the following:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.

(2) The Federal Government relies on State and local personnel to protect against terrorist attack.

(3) The Federal Government collects, creates, manages, and protects classified and

sensitive but unclassified information to enhance homeland security.

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attack.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected status of such information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without the need for granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(c) Sense of Congress.—It is the sense of Congress that Federal, State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SEC. 892. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.

(a) Procedures for Determining Extent of Sharing of Homeland Security Information.—

(1) The President shall prescribe and implement procedures under which relevant Federal agencies—

(A) share relevant and appropriate homeland security information with other Federal agencies, including the Department, and appropriate State and local personnel;

(B) identify and safeguard homeland security information that is sensitive but unclassified; and

(C) to the extent such information is in classified form, determine whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(b) Procedures for Sharing of Homeland Security Information.—

(1) Under procedures prescribed by the President, all appropriate agencies, including the intelligence community, shall, through information sharing systems, share homeland security information with Federal agencies and appropriate State and local personnel to the extent such information may be shared, as determined in accordance with subsection (a), together with assessments of the credibility of such information.

(2) Each information sharing system through which information is shared under paragraph (1) shall—

(A) have the capability to transmit unclassified or classified information, though the procedures and recipients for each capability may differ;

(B) have the capability to restrict delivery of information to specified subgroups by geographic location, type of organization, position of a recipient within an organization, or a recipient's need to know such information;

(C) be configured to allow the efficient and effective sharing of information; and

(D) be accessible to appropriate State and local personnel.

(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1)—

(A) to limit the redissemination of such information to ensure that such information is not used for an unauthorized purpose;

(B) to ensure the security and confidentiality of such information;

(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(D) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

(4) The procedures prescribed under paragraph (1) shall ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(5) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.

(6) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.

(c) Sharing of Classified Information and Sensitive but Unclassified Information With State and Local Personnel.—

(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include 1 or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into nondisclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Terrorism Early Warning Groups.

(d) Responsible Officials.—For each affected Federal agency, the head of such agency shall designate an official to administer this Act with respect to such agency.

(e) Federal Control of Information.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.

(f) Definitions.—As used in this section:

(1) The term "homeland security information" means any information possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization; or

(D) would improve the response to a terrorist act.

(2) The term "intelligence community" has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term "State and local personnel" means any of the following persons involved in prevention, preparation, or response for terrorist attack:

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private-sector entities that affect critical infrastructure, cyber, economic, or public health security, as designated by the Federal government in procedures developed pursuant to this section.

(4) The term "State" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

(g) Construction.—Nothing in this Act shall be construed as authorizing any department, bureau, agency, officer, or employee of the Federal Government to request, receive, or transmit to any other Government entity or personnel, or transmit to any State or local entity or personnel otherwise authorized by this Act to receive homeland security information, any information collected by the Federal Government solely for statistical purposes in violation of any other provision of law relating to the confidentiality of such information.

SEC. 893. REPORT.

(a) Report Required.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to the congressional committees specified in subsection (b) a report on the implementation of section 892. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements of section 892, to increase the effectiveness of sharing of information between and among Federal, State, and local entities.

(b) Specified Congressional Committees.—The congressional committees referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 894. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out section 892.

SEC. 895. AUTHORITY TO SHARE GRAND JURY INFORMATION.

Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (2), by inserting ", or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6," after "Rule 6"; and

(2) in paragraph (3)—

(A) in subparagraph (A)(ii), by inserting "or of a foreign government" after "(including personnel of a state or subdivision of a state";

(B) in subparagraph (C)(i)—

(i) in subclause (I), by inserting before the semicolon the following: "or, upon a request by an attorney for the government, when sought by a foreign court or prosecutor for use in an official criminal investigation";

(ii) in subclause (IV)—

(I) by inserting "or foreign" after "may disclose a violation of State";

(II) by inserting "or of a foreign government" after "to an appropriate official of a State or subdivision of a State"; and

(III) by striking "or" at the end;

(iii) by striking the period at the end of subclause (V) and inserting "; or"; and

(iv) by adding at the end the following:

"(VI) when matters involve a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate federal, state, local, or foreign government official for the purpose of preventing or responding to such a threat."; and

(C) in subparagraph (C)(iii)—

(i) by striking "Federal";

(ii) by inserting "or clause (i)(VI)" after "clause (i)(V)"; and

(iii) by adding at the end the following: "Any state, local, or foreign official who receives information pursuant to clause (i)(VI) shall use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

SEC. 896. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.

Section 2517 of title 18, United States Code, is amended by adding at the end the following:

"(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

"(8) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

SEC. 897. FOREIGN INTELLIGENCE INFORMATION.

(a) Dissemination Authorized.—Section 203(d)(1) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56; 50 U.S.C. 403–5d) is amended by adding at the end the following: "Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, obtained as part of a criminal investigation to be disclosed to any appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.".

(b) Conforming Amendments.—Section 203(c) of that Act is amended—

(1) by striking "section 2517(6)" and inserting "paragraphs (6) and (8) of section 2517 of title 18, United States Code,"; and

(2) by inserting "and (VI)" after "Rule 6(e)(3)(C)(i)(V)".

SEC. 898. INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE.

Section 106(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806) is amended by inserting after "law enforcement officers" the following: "or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)".

SEC. 899. INFORMATION ACQUIRED FROM A PHYSICAL SEARCH.

Section 305(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by inserting after "law enforcement officers" the following: "or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)".

TITLE IX—NATIONAL HOMELAND SECURITY COUNCIL

SEC. 901. NATIONAL HOMELAND SECURITY COUNCIL.

There is established within the Executive Office of the President a council to be known as the "Homeland Security Council" (in this title referred to as the "Council").

SEC. 902. FUNCTION.

The function of the Council shall be to advise the President on homeland security matters.

SEC. 903. MEMBERSHIP.

The members of the Council shall be the following:

(1) The President.

(2) The Vice President.

(3) The Secretary of Homeland Security.

(4) The Attorney General.

(5) The Secretary of Defense.

(6) Such other individuals as may be designated by the President.

SEC. 904. OTHER FUNCTIONS AND ACTIVITIES.

For the purpose of more effectively coordinating the policies and functions of the United States Government relating to homeland security, the Council shall—

(1) assess the objectives, commitments, and risks of the United States in the interest of homeland security and to make resulting recommendations to the President;

(2) oversee and review homeland security policies of the Federal Government and to make resulting recommendations to the President; and

(3) perform such other functions as the President may direct.

SEC. 905. STAFF COMPOSITION.

The Council shall have a staff, the head of which shall be a civilian Executive Secretary, who shall be appointed by the President. The President is authorized to fix the pay of the Executive Secretary at a rate not to exceed the rate of pay payable to the Executive Secretary of the National Security Council.

SEC. 906. RELATION TO THE NATIONAL SECURITY COUNCIL.

The President may convene joint meetings of the Homeland Security Council and the National Security Council with participation by members of either Council or as the President may otherwise direct.

TITLE X—INFORMATION SECURITY

SEC. 1001. INFORMATION SECURITY.

(a) SHORT TITLE.—This title may be cited as the "Federal Information Security Management Act of 2002".

(b) INFORMATION SECURITY.—

(1) IN GENERAL.—Subchapter II of chapter 35 of title 44, United States Code, is amended to read as follows:

"SUBCHAPTER II—INFORMATION SECURITY

"§ 3531. Purposes

"The purposes of this subchapter are to—

"(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

"(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

"(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

"(4) provide a mechanism for improved oversight of Federal agency information security programs;

"(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and

"(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.".

"§ 3532. Definitions

"(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

"(b) ADDITIONAL DEFINITIONS.—As used in this subchapter—

"(1) the term 'information security' means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

"(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

"(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information;

"(C) availability, which means ensuring timely and reliable access to and use of information; and

"(D) authentication, which means utilizing digital credentials to assure the identity of users and validate their access;

"(2) the term 'national security system' means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency, the function, operation, or use of which—

"(A) involves intelligence activities;

"(B) involves cryptologic activities related to national security;

"(C) involves command and control of military forces;

"(D) involves equipment that is an integral part of a weapon or weapons system; or

"(E) is critical to the direct fulfillment of military or intelligence missions provided that this definition does not apply to a system that is used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications);

"(3) the term 'information technology' has the meaning given that term in section 11101 of title 40; and

"(4) the term 'information system' means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, and includes—

"(A) computers and computer networks;

"(B) ancillary equipment;

"(C) software, firmware, and related procedures;

"(D) services, including support services; and

"(E) related resources.".

"§ 3533. Authority and functions of the Director

"(a) The Director shall oversee agency information security policies and practices, by—

"(1) promulgating information security standards under section 11331 of title 40;

"(2) overseeing the implementation of policies, principles, standards, and guidelines on information security;

"(3) requiring agencies, consistent with the standards promulgated under such section 11331 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

"(A) information collected or maintained by or on behalf of an agency; or

"(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

"(4) coordinating the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

"(5) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 11303(b)(5) of title 40, to enforce accountability for compliance with such requirements;

"(6) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3534(b);

"(7) coordinating information security policies and procedures with related information resources management policies and procedures; and

"(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

"(A) a summary of the findings of evaluations required by section 3535;

"(B) significant deficiencies in agency information security practices;

"(C) planned remedial action to address such deficiencies; and

"(D) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology under section 20(e)(7) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).".

"(b) Except for the authorities described in paragraphs (4) and (7) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

"§ 3534. Federal agency responsibilities

"(a) The head of each agency shall—

"(1) be responsible for—

"(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

"(i) information collected or maintained by or on behalf of the agency; and

"(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

"(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

"(i) information security standards promulgated by the Director under section 11331 of title 40; and

"(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

"(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

"(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

"(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

"(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 11331 of title 40 for information security classifications and related requirements;

"(C) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

"(D) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

"(3) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the requirements imposed on the agency under this subchapter, including—

"(A) designating a senior agency information security officer who shall—

"(i) carry out the Chief Information Officer's responsibilities under this section;

"(ii) possess professional qualifications, including training and experience, required to administer the functions described under this section;

"(iii) have information security duties as that official's primary duty; and

"(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

"(B) developing and maintaining an agencywide information security program as required by subsection (b);

"(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3533 of this title, and section 11331 of title 40;

"(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

"(E) assisting senior agency officials concerning their responsibilities under paragraph (2);

"(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

"(5) ensure that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

"(b) Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3533(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

"(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;

"(2) policies and procedures that—

"(A) are based on the risk assessments required by paragraph (1);

"(B) cost-effectively reduce information security risks to an acceptable level;

"(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

"(D) ensure compliance with—

"(i) the requirements of this subchapter;

"(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 11331 of title 40;

"(iii) minimally acceptable system configuration requirements, as determined by the agency; and

"(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

"(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

"(4) security awareness training to inform personnel, including contractors and other users of information systems that support the operations and assets of the agency, of—

"(A) information security risks associated with their activities; and

"(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

"(5) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

"(A) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3505(c); and

"(B) may include testing relied on in a evaluation under section 3535;

"(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

"(7) procedures for detecting, reporting, and responding to security incidents, including—

"(A) mitigating risks associated with such incidents before substantial damage is done; and

"(B) notifying and consulting with, as appropriate—

"(i) law enforcement agencies and relevant Offices of Inspector General;

"(ii) an office designated by the President for any incident involving a national security system; and

"(iii) any other agency or office, in accordance with law or as directed by the President; and

"(8) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

"(c) Each agency shall—

"(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b);

"(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

"(A) annual agency budgets;

"(B) information resources management under subchapter 1 of this chapter;

"(C) information technology management under subtitle III of title 40;

"(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

"(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101–576) (and the amendments made by that Act);

"(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

"(G) internal accounting and administrative controls under section 3512 of title 31, United States Code, (known as the 'Federal Managers Financial Integrity Act'); and

"(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

"(A) as a material weakness in reporting under section 3512 of title 31; and

"(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note).

"(d)(1) In addition to the requirements of subsection (c), each agency, in consultation with the Director, shall include as part of the performance plan required under section 1115 of title 31 a description of—

"(A) the time periods, and

"(B) the resources, including budget, staffing, and training,

that are necessary to implement the program required under subsection (b).

"(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1).

"(e) Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

"§ 3535. Annual independent evaluation

"(a)(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

"(2) Each evaluation by an agency under this section shall include—

"(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the agency's information systems;

"(B) an assessment (made on the basis of the results of the testing) of compliance with—

"(i) the requirements of this subchapter; and

"(ii) related information security policies, procedures, standards, and guidelines; and

"(C) separate presentations, as appropriate, regarding information security relating to national security systems.

"(b) Subject to subsection (c)—

"(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

"(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

"(c) For each agency operating or exercising control of a national security system, that portion of the evaluation required by this section directly relating to a national security system shall be performed—

"(1) only by an entity designated by the agency head; and

"(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

"(d) The evaluation required by this section—

"(1) shall be performed in accordance with generally accepted government auditing standards; and

"(2) may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

"(e) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

"(f) Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

"(g)(1) The Director shall summarize the results of the evaluations conducted under this section in the report to Congress required under section 3533(a)(8).

"(2) The Director's report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

"(3) Evaluations and any other descriptions of information systems under the authority and control of the Director of Central Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

"(h) The Comptroller General shall periodically evaluate and report to Congress on—

"(1) the adequacy and effectiveness of agency information security policies and practices; and

"(2) implementation of the requirements of this subchapter.

"§ 3536. National security systems

"The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

"(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

"(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

"(3) complies with the requirements of this subchapter.

"§ 3537. Authorization of appropriations

"There are authorized to be appropriated to carry out the provisions of this subchapter such sums as may be necessary for each of fiscal years 2003 through 2007.

"§ 3538. Effect on existing law

"Nothing in this subchapter, section 11331 of title 40, or section 20 of the National Standards and Technology Act (15 U.S.C. 278g–3) may be construed as affecting the authority of the President, the Office of Management and Budget or the Director thereof, the National Institute of Standards and Technology, or the head of any agency, with respect to the authorized use or disclosure of information, including with regard to the protection of personal privacy under section 552a of title 5, the disclosure of information under section 552 of title 5, the management and disposition of records under chapters 29, 31, or 33 of title 44, the management of information resources under subchapter I of chapter 35 of this title, or the disclosure of information to Congress or the Comptroller General of the United States.".

(2) CLERICAL AMENDMENT.—The items in the table of sections at the beginning of such chapter 35 under the heading "SUBCHAPTER II" are amended to read as follows:

"3531. Purposes.
"3532. Definitions.
"3533. Authority and functions of the Director.
"3534. Federal agency responsibilities.
"3535. Annual independent evaluation.
"3536. National security systems.
"3537. Authorization of appropriations.
"3538. Effect on existing law.".

(c) INFORMATION SECURITY RESPONSIBILITIES OF CERTAIN AGENCIES.—

(1) NATIONAL SECURITY RESPONSIBILITIES.—(A) Nothing in this Act (including any amendment made by this Act) shall supersede any authority of the Secretary of Defense, the Director of Central Intelligence, or other agency head, as authorized by law and as directed by the President, with regard to the operation, control, or management of national security systems, as defined by section 3532(3) of title 44, United States Code.

(B) Section 2224 of title 10, United States Code, is amended—

(i) in subsection 2224(b), by striking "(b) OBJECTIVES AND MINIMUM REQUIREMENTS.—(1)" and inserting "(b) OBJECTIVES OF THE PROGRAM.—";

(ii) in subsection 2224(b), by striking "(2) the program shall at a minimum meet the requirements of section 3534 and 3535 of title 44, United States Code."; and

(iii) in subsection 2224(c), by inserting ", including through compliance with subtitle II of chapter 35 of title 44" after "infrastructure".

(2) ATOMIC ENERGY ACT OF 1954.—Nothing in this Act shall supersede any requirement made by or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Restricted Data or Formerly Restricted Data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 1002. MANAGEMENT OF INFORMATION TECHNOLOGY.

(a) IN GENERAL.—Section 11331 of title 40, United States Code, is amended to read as follows:

"§ 11331. Responsibilities for Federal information systems standards

"(a) DEFINITION.—In this section, the term 'information security' has the meaning given that term in section 3532(b)(1) of title 44.

"(b) REQUIREMENT TO PRESCRIBE STANDARDS.—

"(1) IN GENERAL.—

"(A) REQUIREMENT.—Except as provided under paragraph (2), the Director of the Office of Management and Budget shall, on the basis of proposed standards developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)) and in consultation with the Secretary of Homeland Security, promulgate information security standards pertaining to Federal information systems.

"(B) REQUIRED STANDARDS.—Standards promulgated under subparagraph (A) shall include—

"(i) standards that provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(b)); and

"(ii) such standards that are otherwise necessary to improve the efficiency of operation or security of Federal information systems.

"(C) REQUIRED STANDARDS BINDING.—Information security standards described under subparagraph (B) shall be compulsory and binding.

"(2) STANDARDS AND GUIDELINES FOR NATIONAL SECURITY SYSTEMS.—Standards and guidelines for national security systems, as defined under section 3532(3) of title 44, shall be developed, promulgated, enforced, and overseen as otherwise authorized by law and as directed by the President.

"(c) APPLICATION OF MORE STRINGENT STANDARDS.—The head of an agency may employ standards for the cost-effective information security for all operations and assets within or under the supervision of that agency that are more stringent than the standards promulgated by the Director under this section, if such standards—

"(1) contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Director; and

"(2) are otherwise consistent with policies and guidelines issued under section 3533 of title 44.

"(d) REQUIREMENTS REGARDING DECISIONS BY DIRECTOR.—

"(1) DEADLINE.—The decision regarding the promulgation of any standard by the Director under subsection (b) shall occur not later than 6 months after the submission of the proposed standard to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

"(2) NOTICE AND COMMENT.—A decision by the Director to significantly modify, or not promulgate, a proposed standard submitted to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), shall be made after the public is given an opportunity to comment on the Director's proposed decision.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 40, United States Code, is amended by striking the item relating to section 11331 and inserting the following:

"11331. Responsibilities for Federal information systems standards.".

SEC. 1003. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), is amended by striking the text and inserting the following:

"(a) The Institute shall—

"(1) have the mission of developing standards, guidelines, and associated methods and techniques for information systems;

"(2) develop standards and guidelines, including minimum requirements, for information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency, other than national security systems (as defined in section 3532(b)(2) of title 44, United States Code);

"(3) develop standards and guidelines, including minimum requirements, for providing adequate information security for all agency operations and assets, but such standards and guidelines shall not apply to national security systems; and

"(4) carry out the responsibilities described in paragraph (3) through the Computer Security Division.

"(b) The standards and guidelines required by subsection (a) shall include, at a minimum—

"(1)(A) standards to be used by all agencies to categorize all information and information systems collected or maintained by or on behalf of each agency based on the objectives of providing appropriate levels of information security according to a range of risk levels;.

"(B) guidelines recommending the types of information and information systems to be included in each such category; and

"(C) minimum information security requirements for information and information systems in each such category;

"(2) a definition of and guidelines concerning detection and handling of information security incidents; and

"(3) guidelines developed in coordination with the National Security Agency for identifying an information system as a national security system consistent with applicable requirements for national security systems, issued in accordance with law and as directed by the President.

"(c) In developing standards and guidelines required by subsections (a) and (b), the Institute shall—

"(1) consult with other agencies and offices (including, but not limited to, the Director of the Office of Management and Budget, the Departments of Defense and Energy, the National Security Agency, the General Accounting Office, and the Secretary of Homeland Security) to assure—

"(A) use of appropriate information security policies, procedures, and techniques, in order to improve information security and avoid unnecessary and costly duplication of effort; and

"(B) that such standards and guidelines are complementary with standards and guidelines employed for the protection of national security systems and information contained in such systems;

"(2) provide the public with an opportunity to comment on proposed standards and guidelines;

"(3) submit to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code—

"(A) standards, as required under subsection (b)(1)(A), no later than 12 months after the date of the enactment of this section; and

"(B) minimum information security requirements for each category, as required under subsection (b)(1)(C), no later than 36 months after the date of the enactment of this section;

"(4) issue guidelines as required under subsection (b)(1)(B), no later than 18 months after the date of the enactment of this Act;

"(5) ensure that such standards and guidelines do not require specific technological solutions or products, including any specific hardware or software security solutions;

"(6) ensure that such standards and guidelines provide for sufficient flexibility to permit alternative solutions to provide equivalent levels of protection for identified information security risks; and

"(7) use flexible, performance-based standards and guidelines that, to the greatest extent possible, permit the use of off-the-shelf commercially developed information security products.

"(d) The Institute shall—

"(1) submit standards developed pursuant to subsection (a), along with recommendations as to the extent to which these should be made compulsory and binding, to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code;

"(2) provide assistance to agencies regarding—

"(A) compliance with the standards and guidelines developed under subsection (a);

"(B) detecting and handling information security incidents; and

"(C) information security policies, procedures, and practices;

"(3) conduct research, as needed, to determine the nature and extent of information security vulnerabilities and techniques for providing cost-effective information security;

"(4) develop and periodically revise performance indicators and measures for agency information security policies and practices;

"(5) evaluate private sector information security policies and practices and commercially available information technologies to assess potential application by agencies to strengthen information security;

"(6) evaluate security policies and practices developed for national security systems to assess potential application by agencies to strengthen information security;

"(7) periodically assess the effectiveness of standards and guidelines developed under this section and undertake revisions as appropriate;

"(8) solicit and consider the recommendations of the Information Security and Privacy Advisory Board, established by section 21, regarding standards and guidelines developed under subsection (a) and submit such recommendations to the Director of the Office of Management and Budget with such standards submitted to the Director; and

"(9) prepare an annual public report on activities undertaken in the previous year, and planned for the coming year, to carry out responsibilities under this section.

"(e) As used in this section—

"(1) the term 'agency' has the same meaning as provided in section 3502(1) of title 44, United States Code;

"(2) the term 'information security' has the same meaning as provided in section 3532(1) of such title;

"(3) the term 'information system' has the same meaning as provided in section 3502(8) of such title;

"(4) the term 'information technology' has the same meaning as provided in section 11101 of title 40, United States Code; and

"(5) the term 'national security system' has the same meaning as provided in section 3532(b)(2) of such title.".

SEC. 1004. INFORMATION SECURITY AND PRIVACY ADVISORY BOARD.

Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-4), is amended—

(1) in subsection (a), by striking "Computer System Security and Privacy Advisory Board" and inserting "Information Security and Privacy Advisory Board";

(2) in subsection (a)(1), by striking "computer or telecommunications" and inserting "information technology";

(3) in subsection (a)(2)—

(A) by striking "computer or telecommunications technology" and inserting "information technology"; and

(B) by striking "computer or telecommunications equipment" and inserting "information technology";

(4) in subsection (a)(3)—

(A) by striking "computer systems" and inserting "information system"; and

(B) by striking "computer systems security" and inserting "information security";

(5) in subsection (b)(1) by striking "computer systems security" and inserting "information security";

(6) in subsection (b) by striking paragraph (2) and inserting the following:

"(2) to advise the Institute and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems, including through review of proposed standards and guidelines developed under section 20; and";

(7) in subsection (b)(3) by inserting "annually" after "report";

(8) by inserting after subsection (e) the following new subsection:

"(f) The Board shall hold meetings at such locations and at such time and place as determined by a majority of the Board.";

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(10) by striking subsection (h), as redesignated by paragraph (9), and inserting the following:

"(h) As used in this section, the terms "information system" and "information technology" have the meanings given in section 20.".

SEC. 1005. TECHNICAL AND CONFORMING AMENDMENTS.

(a) FEDERAL COMPUTER SYSTEM SECURITY TRAINING AND PLAN.—

(1) REPEAL.—Section 11332 of title 40, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 40, United States Code, as amended by striking the item relating to section 11332.

(b) FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398) is amended by striking subtitle G of title X (44 U.S.C. 3531 note).

(c) PAPERWORK REDUCTION ACT.—(1) Section 3504(g) of title 44, United States Code, is amended—

(A) by adding "and" at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking "sections 11331 and 11332(b) and (c) of title 40" and inserting "section 11331 of title 40 and subchapter II of this title"; and

(ii) by striking the semicolon and inserting a period; and

(C) by striking paragraph (3).

(2) Section 3505 of such title is amended by adding at the end the following:

"(c) INVENTORY OF INFORMATION SYSTEMS.—(1) The head of each agency shall develop and maintain an inventory of the information systems (including national security systems) operated by or under the control of such agency;

"(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency;

"(3) Such inventory shall be—

"(A) updated at least annually;

"(B) made available to the Comptroller General; and

"(C) used to support information resources management, including—

"(i) preparation and maintenance of the inventory of information resources under section 3506(b)(4);

"(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), subtitle III of title 40, and related laws and guidance;

"(iii) monitoring, testing, and evaluation of information security controls under subchapter II;

"(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and

"(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33.

"(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.".

(3) Section 3506(g) of such title is amended—

(A) by adding "and" at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking "section 11332 of title 40" and inserting "subchapter II of this chapter"; and

(ii) by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

SEC. 1006. CONSTRUCTION.

Nothing in this Act, or the amendments made by this Act, affects the authority of the National Institute of Standards and Technology or the Department of Commerce relating to the development and promulgation of standards or guidelines under paragraphs (1) and (2) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)).

TITLE XI—DEPARTMENT OF JUSTICE DIVISIONS

Subtitle A—Executive Office for Immigration Review

SEC. 1101. LEGAL STATUS OF EOIR.

(a) EXISTENCE OF EOIR.—There is in the Department of Justice the Executive Office for Immigration Review, which shall be subject to the direction and regulation of the Attorney General under section 103(g) of the Immigration and Nationality Act, as added by section 1102.

SEC. 1102. AUTHORITIES OF THE ATTORNEY GENERAL.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) as amended by this Act, is further amended by—

(1) amending the heading to read as follows:

"POWERS AND DUTIES OF THE SECRETARY, THE UNDER SECRETARY, AND THE ATTORNEY GENERAL";

(2) in subsection (a)—

(A) by inserting "Attorney General," after "President,"; and

(B) by redesignating paragraphs (8), (9), (8) (as added by section 372 of Public Law 104–208), and (9) (as added by section 372 of Public Law 104–208) as paragraphs (8), (9), (10), and (11), respectively; and

(3) by adding at the end the following new subsection:

"(g) ATTORNEY GENERAL.—

"(1) IN GENERAL.—The Attorney General shall have such authorities and functions under this Act and all other laws relating to the immigration and naturalization of aliens as were exercised by the Executive Office for Immigration Review, or by the Attorney General with respect to the Executive Office for Immigration Review, on the day before the effective date of the Immigration Reform, Accountability and Security Enhancement Act of 2002.

"(2) POWERS.—The Attorney General shall establish such regulations, prescribe such forms of bond, reports, entries, and other papers, issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out this section.".

SEC. 1103. STATUTORY CONSTRUCTION.

Nothing in this Act, any amendment made by this Act, or in section 103 of the Immigration and Nationality Act, as amended by section 1102, shall be construed to limit judicial deference to regulations, adjudications, interpretations, orders, decisions, judgments, or any other actions of the Secretary of Homeland Security or the Attorney General.

Subtitle B—Transfer of the Bureau of Alcohol, Tobacco and Firearms to the Department of Justice

SEC. 1111. BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department of Justice under the general authority of the Attorney General the Bureau of Alcohol, Tobacco, Firearms, and Explosives (in this section referred to as the "Bureau").

(2) DIRECTOR.—There shall be at the head of the Bureau a Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives (in this subtitle referred to as the "Director"). The Director shall be appointed by the Attorney General and shall perform such functions as the Attorney General shall direct. The Director shall receive compensation at the rate prescribed by law under section 5314 of title V, United States Code, for positions at level III of the Executive Schedule.

(3) COORDINATION.—The Attorney General, acting through the Director and such other officials of the Department of Justice as the Attorney General may designate, shall provide for the coordination of all firearms, explosives, tobacco enforcement, and arson enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among any officer, employee, or agency of the Department of Justice involved in the performance of these and related functions.

(4) PERFORMANCE OF TRANSFERRED FUNCTIONS.—The Attorney General may make such provisions as the Attorney General determines appropriate to authorize the performance by any officer, employee, or agency of the Department of Justice of any function transferred to the Attorney General under this section.

(b) RESPONSIBILITIES.—Subject to the direction of the Attorney General, the Bureau shall be responsible for investigating—

(1) criminal and regulatory violations of the Federal firearms, explosives, arson, alcohol, and tobacco smuggling laws;

(2) the functions transferred by subsection (c); and

(3) any other function related to the investigation of violent crime or domestic terrorism that is delegated to the Bureau by the Attorney General.

(c) TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—Subject to paragraph (2), but notwithstanding any other provision of law, there are transferred to the Department of Justice the authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms, which shall be maintained as a distinct entity within the Department of Justice, including the related functions of the Secretary of the Treasury.

(2) ADMINISTRATION AND REVENUE COLLECTION FUNCTIONS.—There shall be retained within the Department of the Treasury the authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms relating to the administration and enforcement of chapters 51 and 52 of the Internal Revenue Code of 1986, sections 4181 and 4182 of the Internal Revenue Code of 1986, and title 27, United States Code.

(3) BUILDING PROSPECTUS.—Prospectus PDC-98W10, giving the General Services Administration the authority for site acquisition, design, and construction of a new headquarters building for the Bureau of Alcohol, Tobacco and Firearms, is transferred, and deemed to apply, to the Bureau of Alcohol, Tobacco, Firearms, and Explosives established in the Department of Justice under subsection (a).

(d) TAX AND TRADE BUREAU.—

(1) ESTABLISHMENT.—There is established within the Department of the Treasury the Tax and Trade Bureau.

(2) ADMINISTRATOR.—The Tax and Trade Bureau shall be headed by an Administrator, who shall perform such duties as assigned by the Under Secretary for Enforcement of the Department of the Treasury. The Administrator shall occupy a career-reserved position within the Senior Executive Service.

(3) RESPONSIBILITIES.—The authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms that are not transferred to the Department of Justice under this section shall be retained and administered by the Tax and Trade Bureau.

SEC. 1112. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 8D(b)(1) by striking "Bureau of Alcohol, Tobacco and Firearms" and inserting "Tax and Trade Bureau"; and

(2) in section 9(a)(1)(L)(i), by striking "Bureau of Alcohol, Tobacco, and Firearms" and inserting "Tax and Trade Bureau".

(b) Section 1109(c)(2)(A)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (7 U.S.C. 1445-3(c)(2)(A)(i)) is amended by striking "(on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms" and inserting "by manufacturers of tobacco products to the Tax and Trade Bureau".

(c) Section 2(4)(J) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173; 8 U.S.C.A. 1701(4)(J)) is amended by striking "Bureau of Alcohol, Tobacco, and Firearms" and inserting "Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice".

(d) Section 3(1)(E) of the Firefighters' Safety Study Act (15 U.S.C. 2223b(1)(E)) is amended by striking "the Bureau of Alcohol, Tobacco, and Firearms," and inserting "the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice,".

(e) Chapter 40 of title 18, United States Code, is amended—

(1) by striking section 841(k) and inserting the following:

"(k) 'Attorney General' means the Attorney General of the United States.";

(2) in section 846(a), by striking "the Attorney General and the Federal Bureau of Investigation, together with the Secretary" and inserting "the Federal Bureau of Investigation, together with the Bureau of Alcohol, Tobacco, Firearms, and Explosives"; and

(3) by striking "Secretary" each place it appears and inserting "Attorney General".

(f) Chapter 44 of title 18, United States Code, is amended—

(1) in section 921(a)(4)(B), by striking "Secretary" and inserting "Attorney General";

(2) in section 921(a)(4), by striking "Secretary of the Treasury" and inserting "Attorney General";

(3) in section 921(a), by striking paragraph (18) and inserting the following:

"(18) The term 'Attorney General' means the Attorney General of the United States";

(4) in section 922(p)(5)(A), by striking "after consultation with the Secretary" and inserting "after consultation with the Attorney General";

(5) in section 923(*l*), by striking "Secretary of the Treasury" and inserting "Attorney General"; and

(6) by striking "Secretary" each place it appears, except before "of the Army" in section 921(a)(4) and before "of Defense" in section 922(p)(5)(A), and inserting the term "Attorney General".

(g) Section 1261(a) of title 18, United States Code, is amended to read as follows:

"(a) The Attorney General—

"(1) shall enforce the provisions of this chapter; and

"(2) has the authority to issue regulations to carry out the provisions of this chapter.".

(h) Section 1952(c) of title 18, United States Code, is amended by striking "Secretary of the Treasury" and inserting "Attorney General".

(i) Chapter 114 of title 18, United States Code, is amended—

(1) by striking section 2341(5), and inserting the following:

"(5) the term 'Attorney General' means the Attorney General of the United States"; and

(2) by striking "Secretary" each place it appears and inserting "Attorney General".

(j) Section 6103(i)(8)(A)(i) of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by striking "or the Bureau of Alcohol, Tobacco and Firearms" and inserting ", the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, or the Tax and Trade Bureau, Department of the Treasury,".

(k) Section 7801(a) of the Internal Revenue Code of 1986 (relating to the authority of the Department of the Treasury) is amended—

(1) by striking "SECRETARY.—Except" and inserting "SECRETARY.—

"(1) IN GENERAL.—Except"; and

(2) by adding at the end the following:

"(2) ADMINISTRATION AND ENFORCEMENT OF CERTAIN PROVISIONS BY ATTORNEY GENERAL.—

"(A) IN GENERAL.—The administration and enforcement of the following provisions of this title shall be performed by or under the supervision of the Attorney General; and the term 'Secretary' or 'Secretary of the Treasury' shall, when applied to those provisions, mean the Attorney General; and the term 'internal revenue officer' shall, when applied to those provisions, mean any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives so designated by the Attorney General:

"(i) Chapter 53.

"(ii) Chapters 61 through 80, to the extent such chapters relate to the enforcement and administration of the provisions referred to in clause (i).

"(B) USE OF EXISTING RULINGS AND INTERPRETATIONS.—Nothing in this Act alters or repeals the rulings and interpretations of the Bureau of Alcohol, Tobacco, and Firearms in effect on the effective date of the Homeland Security Act of 2002, which concern the provisions of this title referred to in subparagraph (A). The Attorney General shall consult with the Secretary to achieve uniformity and consistency in administering provisions under chapter 53 of title 26, United States Code.".

(l) Section 2006(2) of title 28, United States Code, is amended by inserting ", the Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice," after "the Secretary of the Treasury".

(m) Section 713 of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 713. Audit of Internal Revenue Service, Tax and Trade Bureau, and Bureau of Alcohol, Tobacco, Firearms, and Explosives";

(2) in subsection (a), by striking "Bureau of Alcohol, Tobacco, and Firearms," and inserting "Tax and Trade Bureau, Department of the Treasury, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice"; and

(3) in subsection (b)

(A) in paragraph (1)(B), by striking "or the Bureau" and inserting "or either Bureau";

(B) in paragraph (2)—

(i) by striking "or the Bureau" and inserting "or either Bureau"; and

(ii) by striking "and the Director of the Bureau" and inserting "the Tax and Trade Bureau, Department of the Treasury, and the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice"; and

(C) in paragraph (3), by striking "or the Bureau" and inserting "or either Bureau".

(n) Section 9703 of title 31, United States Code, is amended—

(1) in subsection (a)(2)(B)—

(A) in clause (iii)(III), by inserting "and" after the semicolon;

(B) in clause (iv), by striking "; and" and inserting a period; and

(C) by striking clause (v);

(2) by striking subsection (o);

(3) by redesignating existing subsection (p) as subsection (o); and

(4) in subsection (o)(1), as redesignated by paragraph (3), by striking "Bureau of Alcohol, Tobacco and Firearms" and inserting "Tax and Trade Bureau".

(o) Section 609N(2)(L) of the Justice Assistance Act of 1984 (42 U.S.C. 10502(2)(L)) is amended by striking "Bureau of Alcohol, Tobacco, and Firearms" and inserting "Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice".

(p) Section 32401(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13921(a)) is amended—

(1) by striking "Secretary of the Treasury" each place it appears and inserting "Attorney General"; and

(2) in subparagraph (3)(B), by striking "Bureau of Alcohol, Tobacco and Firearms" and inserting "Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice".

(q) Section 80303 of title 49, United States Code, is amended—

(1) by inserting "or, when the violation of this chapter involves contraband described in paragraph (2) or (5) of section 80302(a), the Attorney General" after "section 80304 of this title."; and

(2) by inserting ", the Attorney General," after "by the Secretary".

(r) Section 80304 of title 49, United States Code, is amended—

(1) in subsection (a), by striking "(b) and (c)" and inserting "(b), (c), and (d)";

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c), the following:

"(d) ATTORNEY GENERAL.—The Attorney General, or officers, employees, or agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice designated by the Attorney General, shall carry out the laws referred to in section 80306(b) of this title to the extent that the violation of this chapter involves contraband described in section 80302 (a)(2) or (a)(5).".

(s) Section 103 of the Gun Control Act of 1968 (Public Law 90-618; 82 Stat. 1226) is amended by striking "Secretary of the Treasury" and inserting "Attorney General".

SEC. 1113. POWERS OF AGENTS OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

Chapter 203 of title 18, United States Code, is amended by adding the following:

"§ 3051. Powers of Special Agents of Bureau of Alcohol, Tobacco, Firearms, and Explosives.

"(a) Special agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, as well as any other investigator or officer charged by the Attorney General with the duty of enforcing any of the criminal; seizure, or forfeiture provisions of the laws of the United States, may carry firearms, serve warrants and subpoenas issued under the authority of the United States and make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

"(b) Any special agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives may, in respect to the performance of his or her duties, make seizures of property subject to forfeiture to the United States.

"(c)(1) Except as provided in paragraphs (2) and (3), and except to the extent that such provisions conflict with the provisions of section 983 of title 18, United States Code, insofar as section 983 applies, the provisions of the Customs laws relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property;

"(B) the disposition of such property;

"(C) the remission or mitigation of such forfeiture; and

"(D) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable provision of law enforced or administered by the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

"(2) For purposes of paragraph (1), duties that are imposed upon a customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws of the United States shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as may be authorized or designated for that purpose by the Attorney General.

"(3) Notwithstanding any other provision of law, the disposition of firearms forfeited by reason of a violation of any law of the United States shall be governed by the provisions of section 5872(b) of the Internal Revenue Code of 1986.".

SEC. 1114. EXPLOSIVES TRAINING AND RESEARCH FACILITY.

(a) ESTABLISHMENT.—There is established within the Bureau an Explosives Training and Research Facility at Fort AP Hill, Fredericksburg, Virginia.

(b) PURPOSE.—The facility established under subsection (a) shall be utilized to train Federal, State, and local law enforcement officers to—

(1) investigate bombings and explosions;

(2) properly handle, utilize, and dispose of explosive materials and devices;

(3) train canines on explosive detection; and

(4) conduct research on explosives.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to establish and maintain the facility established under subsection (a).

(2) AVAILABILITY OF FUNDS.—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 1115. PERSONNEL MANAGEMENT DEMONSTRATION PROJECT.

Notwithstanding any other provision of law, the Personnel Management Demonstration Project established under section 102 of title I of Division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 (Pub. L. 105–277; 122 Stat. 2681–585) shall be transferred to the Attorney General of the United States for continued use by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, and the Secretary of the Treasury for continued use by the Tax and Trade Bureau.

Subtitle C—Explosives

SEC. 1121. SHORT TITLE.

This subtitle may be referred to as the "Safe Explosives Act".

SEC. 1122. PERMITS FOR PURCHASERS OF EXPLOSIVES.

(a) Definitions.—Section 841 of title 18, United States Code, is amended—

(1) by striking subsection (j) and inserting the following:

"(j) 'Permittee' means any user of explosives for a lawful purpose, who has obtained either a user permit or a limited permit under the provisions of this chapter."; and

(2) by adding at the end the following:

"(r) 'Alien' means any person who is not a citizen or national of the United States.

"(s) 'Responsible person' means an individual who has the power to direct the management and policies of the applicant pertaining to explosive materials.".

(b) Permits for Purchase of Explosives.—Section 842 of title 18, United States Code, is amended—

(1) in subsection (a)(2), by striking "and" at the end;

(2) by striking subsection (a)(3) and inserting the following:

"(3) other than a licensee or permittee knowingly—

"(A) to transport, ship, cause to be transported, or receive any explosive materials; or

"(B) to distribute explosive materials to any person other than a licensee or permittee; or

"(4) who is a holder of a limited permit—

"(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials; or

"(B) to receive explosive materials from a licensee or permittee, whose premises are located outside the State of residence of the limited permit holder, or on more than 6 separate occasions, during the period of the permit, to receive explosive materials from 1 or more licensees or permittees whose premises are located within the State of residence of the limited permit holder."; and

(3) by striking subsection (b) and inserting the following:

"(b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—

"(1) a licensee;

"(2) a holder of a user permit; or

"(3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.".

(c) Licenses and User Permits.—Section 843(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by inserting "or limited permit" after "user permit"; and

(B) by inserting before the period at the end the following: ", including the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials, as well as fingerprints and a photograph of each responsible person";

(2) in the second sentence, by striking "$200 for each" and inserting "$50 for a limited permit and $200 for any other"; and

(3) by striking the third sentence and inserting "Each license or user permit shall be valid for not longer than 3 years from the date of issuance and each limited permit shall be valid for not longer than 1 year from the date of issuance. Each license or permit shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit, and upon payment of a renewal fee not to exceed one-half of the original fee.".

(d) Criteria for Approving Licenses and Permits.—Section 843(b) of title 18, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) the applicant (or, if the applicant is a corporation, partnership, or association, each responsible person with respect to the applicant) is not a person described in section 842(i);";

(2) in paragraph (4)—

(A) by inserting "(A) the Secretary verifies by inspection or, if the application is for an original limited permit or the first or second renewal of such a permit, by such other means as the Secretary determines appropriate, that" before "the applicant"; and

(B) by adding at the end the following:

"(B) subparagraph (A) shall not apply to an applicant for the renewal of a limited permit if the Secretary has verified, by inspection within the preceding 3 years, the matters described in subparagraph (A) with respect to the applicant; and";

(3) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(6) none of the employees of the applicant who will be authorized by the applicant to possess explosive materials is any person described in section 842(i); and

"(7) in the case of a limited permit, the applicant has certified in writing that the applicant will not receive explosive materials on more than 6 separate occasions during the 12-month period for which the limited permit is valid.".

(e) Application Approval.—Section 843(c) of title 18, United States Code, is amended by striking "forty-five days" and inserting "90 days for licenses and permits,".

(f) Inspection Authority.—Section 843(f) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "permittees" and inserting "holders of user permits"; and

(B) by inserting "licensees and permittees" before "shall submit";

(2) in the second sentence, by striking "permittee" the first time it appears and inserting "holder of a user permit"; and

(3) by adding at the end the following: "The Secretary may inspect the places of storage for explosive materials of an applicant for a limited permit or, at the time of renewal of such permit, a holder of a limited permit, only as provided in subsection (b)(4).".

(g) Posting of Permits.—Section 843(g) of title 18, United States Code, is amended by inserting "user" before "permits".

(h) Background Checks; Clearances.—Section 843 of title 18, United States Code, is amended by adding at the end the following:

"(h)(1) If the Secretary receives, from an employer, the name and other identifying information of a responsible person or an employee who will be authorized by the employer to possess explosive materials in the course of employment with the employer, the Secretary shall determine whether the responsible person or employee is one of the persons described in any paragraph of section 842(i). In making the determination, the Secretary may take into account a letter or document issued under paragraph (2).

"(2)(A) If the Secretary determines that the responsible person or the employee is not one of the persons described in any paragraph of section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue, to the responsible person or employee, a letter of clearance, which confirms the determination.

"(B) If the Secretary determines that the responsible person or employee is one of the persons described in any paragraph of section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue to the responsible person or the employee, as the case may be, a document that—

"(i) confirms the determination;

"(ii) explains the grounds for the determination;

"(iii) provides information on how the disability may be relieved; and

"(iv) explains how the determination may be appealed.".

(i) Effective Date.—

(1) In general.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

(2) Exception.—Notwithstanding any provision of this Act, a license or permit issued under section 843 of title 18, United States Code, before the date of enactment of this Act, shall remain valid until that license or permit is revoked under section 843(d) or expires, or until a timely application for renewal is acted upon.

SEC. 1123. PERSONS PROHIBITED FROM RECEIVING OR POSSESSING EXPLOSIVE MATERIALS.

(a) Distribution of Explosives.—Section 842(d) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "or who has been committed to a mental institution;"; and

(3) by adding at the end the following:

"(7) is an alien, other than an alien who—

"(A) is lawfully admitted for permanent residence (as defined in section 101 (a)(20) of the Immigration and Nationality Act); or

"(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

"(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business;

"(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

"(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Secretary in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

"(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

"(8) has been discharged from the armed forces under dishonorable conditions;

"(9) having been a citizen of the United States, has renounced the citizenship of that person.".

(b) POSSESSION OF EXPLOSIVE MATERIALS.—Section 842(i) of title 18, United States Code, is amended—

(1) in paragraph (3), by striking "or" at the end; and

(2) by inserting after paragraph (4) the following:

"(5) who is an alien, other than an alien who—

"(A) is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act); or

"(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

"(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business;

"(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

"(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Secretary in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

"(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

"(6) who has been discharged from the armed forces under dishonorable conditions;

"(7) who, having been a citizen of the United States, has renounced the citizenship of that person"; and

(3) by inserting "or affecting" before "interstate" each place that term appears.

SEC. 1124. REQUIREMENT TO PROVIDE SAMPLES OF EXPLOSIVE MATERIALS AND AMMONIUM NITRATE.

Section 843 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

"(i) FURNISHING OF SAMPLES.—

"(1) IN GENERAL.—Licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate shall, when required by letter issued by the Secretary, furnish—

"(A) samples of such explosive materials or ammonium nitrate;

"(B) information on chemical composition of those products; and

"(C) any other information that the Secretary determines is relevant to the identification of the explosive materials or to identification of the ammonium nitrate.

"(2) REIMBURSEMENT.—The Secretary shall, by regulation, authorize reimbursement of the fair market value of samples furnished pursuant to this subsection, as well as the reasonable costs of shipment.".

SEC. 1125. DESTRUCTION OF PROPERTY OF INSTITUTIONS RECEIVING FEDERAL FINANCIAL ASSISTANCE.

Section 844(f)(1) of title 18, United States Code, is amended by inserting before the word "shall" the following: "or any institution or organization receiving Federal financial assistance,".

SEC. 1126. RELIEF FROM DISABILITIES.

Section 845(b) of title 18, United States Code, is amended to read as follows:

"(b)(1) A person who is prohibited from shipping, transporting, receiving, or possessing any explosive under section 842(i) may apply to the Secretary for relief from such prohibition.

"(2) The Secretary may grant the relief requested under paragraph (1) if the Secretary determines that the circumstances regarding the applicability of section 842(i), and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of such relief is not contrary to the public interest.

"(3) A licensee or permittee who applies for relief, under this subsection, from the disabilities incurred under this chapter as a result of an indictment for or conviction of a crime punishable by imprisonment for a term exceeding 1 year shall not be barred by such disability from further operations under the license or permit pending final action on an application for relief filed pursuant to this section.".

SEC. 1127. THEFT REPORTING REQUIREMENT.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(p) THEFT REPORTING REQUIREMENT.—

"(1) IN GENERAL.—A holder of a license or permit who knows that explosive materials have been stolen from that licensee or permittee, shall report the theft to the Secretary not later than 24 hours after the discovery of the theft.

"(2) PENALTY.—A holder of a license or permit who does not report a theft in accordance with paragraph (1), shall be fined not more than $10,000, imprisoned not more than 5 years, or both.".

SEC. 1128. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as necessary to carry out this subtitle and the amendments made by this subtitle.

TITLE XII—AIRLINE WAR RISK INSURANCE LEGISLATION

SEC. 1201. AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.

Section 44303 of title 49, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Secretary of Transportation";

(2) by moving the text of paragraph (2) of section 201(b) of the Air Transportation Safety and System Stabilization Act (115 Stat. 235) to the end and redesignating such paragraph as subsection (b);

(3) in subsection (b) (as so redesignated)—

(A) by striking the subsection heading and inserting "AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—";

(B) in the first sentence by striking "the 180-day period following the date of enactment of this Act, the Secretary of Transportation" and inserting "the period beginning on September 22, 2001, and ending on December 31, 2003, the Secretary"; and

(C) in the last sentence by striking "this paragraph" and inserting "this subsection".

SEC. 1202. EXTENSION OF INSURANCE POLICIES.

Section 44302 of title 49, United States Code, is amended by adding at the end the following:

"(f) EXTENSION OF POLICIES.—

"(1) IN GENERAL.—The Secretary shall extend through August 31, 2003, and may extend through December 31, 2003, the termination date of any insurance policy that the Department of Transportation issued to an air carrier under subsection (a) and that is in effect on the date of enactment of this subsection on no less favorable terms to the air carrier than existed on June 19, 2002; except that the Secretary shall amend the insurance policy, subject to such terms and conditions as the Secretary may prescribe, to add coverage for losses or injuries to aircraft hulls, passengers, and crew at the limits carried by air carriers for such losses and injuries as of such date of enactment and at an additional premium comparable to the premium charged for third-party casualty coverage under such policy.

"(2) SPECIAL RULES.—Notwithstanding paragraph (1)—

"(A) in no event shall the total premium paid by the air carrier for the policy, as amended, be more than twice the premium that the air carrier was paying to the Department of Transportation for its third party policy as of June 19, 2002; and

"(B) the coverage in such policy shall begin with the first dollar of any covered loss that is incurred.".

SEC. 1203. CORRECTION OF REFERENCE.

Effective November 19, 2001, section 147 of the Aviation and Transportation Security Act (Public Law 107-71) is amended by striking "(b)" and inserting "(c)".

SEC. 1204. REPORT.

Not later than 90 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(A) evaluates the availability and cost of commercial war risk insurance for air carriers and other aviation entities for passengers and third parties;

(B) analyzes the economic effect upon air carriers and other aviation entities of available commercial war risk insurance; and

(C) describes the manner in which the Department could provide an alternative means of providing aviation war risk reinsurance covering passengers, crew, and third parties through use of a risk-retention group or by other means.

TITLE XIII—FEDERAL WORKFORCE IMPROVEMENT

Subtitle A—Chief Human Capital Officers

SEC. 1301. SHORT TITLE.

This title may be cited as the "Chief Human Capital Officers Act of 2002".

SEC. 1302. AGENCY CHIEF HUMAN CAPITAL OFFICERS.

(a) IN GENERAL.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

"Sec.
"1401. Establishment of agency Chief Human Capital Officers.
"1402. Authority and functions of agency Chief Human Capital Officers.

"§ 1401. Establishment of agency Chief Human Capital Officers

"The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

"(1) advise and assist the head of the agency and other agency officials in carrying out the agency's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

"(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and

"(3) carry out such functions as the primary duty of the Chief Human Capital Officer.

"§ 1402. Authority and functions of agency Chief Human Capital Officers

"(a) The functions of each Chief Human Capital Officer shall include—

"(1) setting the workforce development strategy of the agency;

"(2) assessing workforce characteristics and future needs based on the agency's mission and strategic plan;

"(3) aligning the agency's human resources policies and programs with organization mission, strategic goals, and performance outcomes;

"(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

"(5) identifying best practices and benchmarking studies, and

"(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

"(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—

"(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

"(A) are the property of the agency or are available to the agency; and

"(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

"(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"14. Agency Chief Human Capital Officers .... 1401".

SEC. 1303. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) ESTABLISHMENT.—There is established a Chief Human Capital Officers Council, consisting of—

(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) FUNCTIONS.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

(c) EMPLOYEE LABOR ORGANIZATIONS AT MEETINGS.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

(d) ANNUAL REPORT.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

SEC. 1304. STRATEGIC HUMAN CAPITAL MANAGEMENT.

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

"(c)(1) The Office of Personnel Management shall design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies.

"(2) The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for—

"(A)(i) aligning human capital strategies of agencies with the missions, goals, and organizational objectives of those agencies; and

"(ii) integrating those strategies into the budget and strategic plans of those agencies;

"(B) closing skill gaps in mission critical occupations;

"(C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;

"(D) sustaining a culture that cultivates and develops a high performing workforce;

"(E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and

"(F) holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.".

SEC. 1305. EFFECTIVE DATE.

This subtitle shall take effect 180 days after the date of enactment of this Act.

Subtitle B—Reforms Relating to Federal Human Capital Management

SEC. 1311. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAMS PERFORMANCE REPORTS.

(a) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

"(3) provide a description of how the performance goals and objectives are to be achieved, including the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

"(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).".

(b) PROGRAM PERFORMANCE REPORTS.—Section 1116(d) of title 31, United States Code, is amended—

(1) in paragraph (4), by striking "and" after the semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

"(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management; and".

SEC. 1312. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended—

(1) in section 3304(a)—

(A) in paragraph (1), by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period and inserting "; and"; and

(C) by adding at the end of the following:

"(3) authority for agencies to appoint, without regard to the provision of sections 3309 through 3318, candidates directly to positions for which—

"(A) public notice has been given; and

"(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria."; and

(2) by inserting after section 3318 the following:

"§ 3319. Alternative ranking and selection procedures

"(a) The Office, in exercising its authority under section 3304, or an agency to which the Office has delegated examining authority under section 1104(a)(2), may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

"(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS-9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

"(c)(1) An appointing official may select any applicant in the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

"(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

"(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on—

"(1) the number of employees hired under that system;

"(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islanders; and

"(3) the way in which managers were trained in the administration of that system.

"(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisions of this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3319 and inserting the following:

"3319. Alternative ranking and selection procedures.".

SEC. 1313. PERMANENT EXTENSION, REVISION, AND EXPANSION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—

(A) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Chapter 35 of title 5, United States Code, is amended by inserting after subchapter I the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"§ 3521. Definitions

"In this subchapter, the term—

"(1) 'agency' means an Executive agency as defined under section 105; and

"(2) 'employee'—

"(A) means an employee as defined under section 2105 employed by an agency and an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) who—

"(i) is serving under an appointment without time limitation; and

"(ii) has been currently employed for a continuous period of at least 3 years; and

"(B) shall not include—

"(i) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

"(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government.

"(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

"(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this subchapter or any other authority;

"(v) an employee covered by statutory reemployment rights who is on transfer employment with another organization; or

"(vi) any employee who—

"(I) during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379;

"(II) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or relocation bonus was or is to be paid under section 5753; or

"(III) during the 12-month period preceding the date of separation of that employee, performed service for which a retention bonus was or is to be paid under section 5754.

"§ 3522. Agency plans; approval

"(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

"(b) The plan of an agency under subsection (a) shall include—

"(1) the specific positions and functions to be reduced or eliminated;

"(2) a description of which categories of employees will be offered incentives;

"(3) the time period during which incentives may be paid;

"(4) the number and amounts of voluntary separation incentive payments to be offered; and

"(5) a description of how the agency will operate without the eliminated positions and functions.

"(c) The Director of the Office of Personnel Management shall review each agency's plan an may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Directive of the Office of Personnel Management.

"§ 3523. Authority to provide voluntary separation incentive payments

"(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

"(b) A voluntary incentive payment—

"(1) shall be offered to agency employees on the basis of—

"(A) 1 or more organizational units;

"(B) 1 or more occupational series or levels;

"(C) 1 or more geographical locations;

"(D) skills, knowledge, or other factors related to a position;

"(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

"(F) any appropriate combination of such factors;

"(2) shall be paid in a lump sum after the employee's separation;

"(3) shall be equal to the lesser of—

"(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

"(B) an amount determined by the agency head, not to exceed $25,000;

"(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

"(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

"(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on another other separation; and

"(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

"§ 3524. Effect of subsequent employment with the Government

"(a) The term 'employment'—

"(1) in subsection (b) includes employment under a personal services contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

"(2) in subsection (c) does not include employment under such a contract.

"(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States with 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

"(c)(1) If the employment under this section is with an agency, other than the General Accounting Office, the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, may waive the repayment if—

"(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

"(B) in case of an emergency involving a direct threat to life or property, the individual—

"(i) has skills directly related to resolving the emergency; and

"(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

"(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"§ 3525. Regulations

"The Office of Personnel Management may prescribe regulations to carry out this subchapter.".

(B) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 35 of title 5, United States Code, is amended—

(i) by striking the chapter heading and inserting the following:

"CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT";

and

(ii) in the table of sections by inserting after the item relating to section 3504 the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"3521. Definitions.
"3522. Agency plans; approval.
"3523. Authority to provide voluntary separation incentive payments.
"3524. Effect of subsequent employment with the Government.
"3525. Regulations.".

(2) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

(3) CONTINUATION OF OTHER AUTHORITY.—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.

(4) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this Act.

(b) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

"(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

"(B) is serving under an appointment that is not time limited;

"(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(D) is separated from the service voluntarily during a period in which, as determined by the office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(ii) a significant percentage of employees servicing in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(iii) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(i) 1 or more organizational units;

"(ii) 1 or more occupational series or levels;

"(iii) 1 or more geographical locations;

"(iv) specific periods;

"(v) skills, knowledge, or other factors related to a position; or

"(vi) any appropriate combination of such factors;".

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8414(b)(1) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

"(ii) is serving under an appointment that is not time limited;

"(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(iv) is separate from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(II) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(III) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(I) 1 or more organizational units;

"(II) 1 or more occupational series or levels;

"(III) 1 or more geographical locations;

"(IV) specific periods;

"(V) skills, knowledge, or other factors related to a position; or

"(VI) any appropriate combination of such factors.".

(3) GENERAL ACCOUNTING OFFICE AUTHORITY.—The amendments made by this subsection shall not be construed to affect the authority under section 1 of Public Law 106–303 (5 U.S.C. 8336 note; 114 State. 1063).

(4) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7001 of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 91) is repealed.

(5) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this subsection.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 1314. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL.—Section 7905(a)(1) of title 5, United States Code, is amended by striking "and a member of a uniformed service" and inserting ", a member of a uniformed service, and a student who provides voluntary services under section 3111".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3111(c)(1) of title 5, United States Code, is amended by striking "chapter 81 of this title" and inserting "section 7905 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81".

Subtitle C—Reforms Relating to the Senior Executive Service

SEC. 1321. REPEAL OF RECERTIFICATION REQUIREMENTS OF SENIOR EXECUTIVES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in chapter 33—

(A) in section 3393(g) by striking "3393a";

(B) by repealing section 3393a; and

(C) in the table of sections by striking the item relating to section 3393a;

(2) in chapter 35—

(A) in section 3592(a)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end;

(iii) by striking paragraph (3); and

(iv) by striking the last sentence;

(B) in section 3593(a), by striking paragraph (2) and inserting the following:

"(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43."; and

(C) in section 3594(b)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end; and

(iii) by striking paragraph (3);

(3) in section 7701(c)(1)(A), by striking "or removal from the Senior Executive Service for failure to be recertified under section 3393a";

(4) in chapter 83—

(A) in section 8336(h)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8339(h), in the first sentence, by striking ", except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive"; and

(5) in chapter 84—

(A) in section 8414(a)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8421(a)(2), by striking ", except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable retirement age".

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a)(2)(A), an appeal under the final sentence of section 3592(a) of title 5, United States Code, that is pending on the day before the effective date of this section—

(1) shall not abate by reason of the enactment of the amendments made by subsection (a)(2)(A); and

(2) shall continue as if such amendments had not been enacted.

(c) APPLICATION.—The amendment made by subsection (a)(2)(B) shall not apply with respect to an individual who, before the effective date of this section, leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.

SEC. 1322. ADJUSTMENT OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

(a) IN GENERAL.—Section 5307 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) Notwithstanding any other provision of this section, subsection (a)(1) shall be applied by substituting 'the total annual compensation payable to the Vice President under section 104 of title 3' for 'the annual rate of basic pay payable for level I of the Executive Schedule' in the case of any employee who—

"(A) is paid under section 5376 or 5383 of this title or section 332(f), 603, or 604 of title 28; and

"(B) holds a position in or under an agency which is described in paragraph (2).

"(2) An agency described in this paragraph is any agency which, for purposes of the calendar year involved, has been certified under this subsection as having a performance appraisal system which (as designed and applied) makes meaningful distinctions based on relative performance.

"(3)(A) The Office of Personnel Management and the Office of Management and Budget jointly shall promulgate such regulations as may be necessary to carry out this subsection, including the criteria and procedures in accordance with which any determinations under this subsection shall be made.

"(B) An agency's certification under this subsection shall be for a period of 2 calendar years, except that such certification may be terminated at any time, for purposes of either or both of those years, upon a finding that the actions of such agency have not remained in conformance with applicable requirements.

"(C) Any certification or decertification under this subsection shall be made by the Office of Personnel Management, with the concurrence of the Office of Management and Budget.

"(4) Notwithstanding any provision of paragraph (3), any regulations, certifications, or other measures necessary to carry out this subsection with respect to employees within the judicial branch shall be the responsibility of the Director of the Administrative Office of the United States Courts. However, the regulations under this paragraph shall be consistent with those promulgated under paragraph (3).".

(b) CONFORMING AMENDMENTS.—(1) Section 5307(a) of title 5, United States Code, is amended by inserting "or as otherwise provided under subsection (d)," after "under law,".

(2) Section 5307(c) of such title is amended by striking "this section," and inserting "this section (subject to subsection (d)),".

Subtitle D—Academic Training

SEC. 1331. ACADEMIC TRAINING.

(a) ACADEMIC DEGREE TRAINING.—Section 4107 of title 5, United States Code, is amended to read as follows:

"§ 4107. Academic degree training

"(a) Subject to subsection (b), an agency may select and assign an employee to academic degree training and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training—

"(1) contributes significantly to—

"(A) meeting an identified agency training need;

"(B) resolving an identified agency staffing problem; or

"(C) accomplishing goals in the strategic plan of the agency;

"(2) is part of a planned, systemic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

"(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

"(b) In exercising authority under subsection (a), an agency shall—

"(1) consistent with the merit system principles set forth in paragraphs (2) and (7) of section 2301(b), take into consideration the need to—

"(A) maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are appropriately represented in Government service; and

"(B) provide employees effective education and training to improve organizational and individual performance;

"(2) assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or qualify for appointment to a particular position for which the academic degree is a basic requirement;

"(3) assure that no authority under this subsection is exercised on behalf of any employee occupying or seeking to qualify for—

"(A) a noncareer appointment in the senior Executive Service; or

"(B) appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policy-making or policy-advocating character; and

"(4) to the greatest extent practicable, facilitate the use of online degree training.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by striking the item relating to section 4107 and inserting the following:

"4107. Academic degree training.".

SEC. 1332. MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) FINDINGS AND POLICIES.—

(1) FINDINGS.—Congress finds that—

(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

(2) POLICY.—It shall be the policy of the United States Government to—

(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving financial support for education and training from the United States Government.

(b) FULFILLMENT OF SERVICE REQUIREMENT IF NATIONAL SECURITY POSITIONS ARE UNAVAILABLE.—Section 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or"; and

(2) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); and".

TITLE XIV—ARMING PILOTS AGAINST TERRORISM

SEC. 1401. SHORT TITLE.

This title may be cited as the "Arming Pilots Against Terrorism Act".

SEC. 1402. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

"§ 44921. Federal flight deck officer program

"(a) ESTABLISHMENT.—The Under Secretary of Transportation for Security shall establish a program to deputize volunteer pilots of air carriers providing passenger air transportation or intrastate passenger air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy. Such officers shall be known as 'Federal flight deck officers'.

"(b) PROCEDURAL REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 3 months after the date of enactment of this section, the Under Secretary shall establish procedural requirements to carry out the program under this section.

"(2) COMMENCEMENT OF PROGRAM.—Beginning 3 months after the date of enactment of this section, the Under Secretary shall begin the process of training and deputizing pilots who are qualified to be Federal flight deck officers as Federal flight deck officers under the program.

"(3) ISSUES TO BE ADDRESSED.—The procedural requirements established under paragraph (1) shall address the following issues:

"(A) The type of firearm to be used by a Federal flight deck officer.

"(B) The type of ammunition to be used by a Federal flight deck officer.

"(C) The standards and training needed to qualify and requalify as a Federal flight deck officer.

"(D) The placement of the firearm of a Federal flight deck officer on board the aircraft to ensure both its security and its ease of retrieval in an emergency.

"(E) An analysis of the risk of catastrophic failure of an aircraft as a result of the discharge (including an accidental discharge) of a firearm to be used in the program into the avionics, electrical systems, or other sensitive areas of the aircraft.

"(F) The division of responsibility between pilots in the event of an act of criminal violence or air piracy if only 1 pilot is a Federal flight deck officer and if both pilots are Federal flight deck officers.

"(G) Procedures for ensuring that the firearm of a Federal flight deck officer does not leave the cockpit if there is a disturbance in the passenger cabin of the aircraft or if the pilot leaves the cockpit for personal reasons.

"(H) Interaction between a Federal flight deck officer and a Federal air marshal on board the aircraft.

"(I) The process for selection of pilots to participate in the program based on their fitness to participate in the program, including whether an additional background check should be required beyond that required by section 44936(a)(1).

"(J) Storage and transportation of firearms between flights, including international flights, to ensure the security of the firearms, focusing particularly on whether such security would be enhanced by requiring storage of the firearm at the airport when the pilot leaves the airport to remain overnight away from the pilot's base airport.

"(K) Methods for ensuring that security personnel will be able to identify whether a pilot is authorized to carry a firearm under the program.

"(L) Methods for ensuring that pilots (including Federal flight deck officers) will be able to identify whether a passenger is a law enforcement officer who is authorized to carry a firearm aboard the aircraft.

"(M) Any other issues that the Under Secretary considers necessary.

"(N) The Under Secretary's decisions regarding the methods for implementing each of the foregoing procedural requirements shall be subject to review only for abuse of discretion.

"(4) Preference.—In selecting pilots to participate in the program, the Under Secretary shall give preference to pilots who are former military or law enforcement personnel.

"(5) Classified information.—Notwithstanding section 552 of title 5 but subject to section 40119 of this title, information developed under paragraph (3)(E) shall not be disclosed.

"(6) Notice to congress.—The Under Secretary shall provide notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate after completing the analysis required by paragraph (3)(E).

"(7) Minimization of risk.—If the Under Secretary determines as a result of the analysis under paragraph (3)(E) that there is a significant risk of the catastrophic failure of an aircraft as a result of the discharge of a firearm, the Under Secretary shall take such actions as may be necessary to minimize that risk.

"(c) Training, Supervision, and Equipment.—

"(1) In general.—The Under Secretary shall only be obligated to provide the training, supervision, and equipment necessary for a pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot.

"(2) Training.—

"(A) In general.—The Under Secretary shall base the requirements for the training of Federal flight deck officers under subsection (b) on the training standards applicable to Federal air marshals; except that the Under Secretary shall take into account the differing roles and responsibilities of Federal flight deck officers and Federal air marshals.

"(B) Elements.—The training of a Federal flight deck officer shall include, at a minimum, the following elements:

"(i) Training to ensure that the officer achieves the level of proficiency with a firearm required under subparagraph (C)(i).

"(ii) Training to ensure that the officer maintains exclusive control over the officer's firearm at all times, including training in defensive maneuvers.

"(iii) Training to assist the officer in determining when it is appropriate to use the officer's firearm and when it is appropriate to use less than lethal force.

"(C) Training in use of firearms.—

"(i) Standard.—In order to be deputized as a Federal flight deck officer, a pilot must achieve a level of proficiency with a firearm that is required by the Under Secretary. Such level shall be comparable to the level of proficiency required of Federal air marshals.

"(ii) Conduct of training.—The training of a Federal flight deck officer in the use of a firearm may be conducted by the Under Secretary or by a firearms training facility approved by the Under Secretary.

"(iii) Requalification.—The Under Secretary shall require a Federal flight deck officer to requalify to carry a firearm under the program. Such requalification shall occur at an interval required by the Under Secretary.

"(d) Deputization.—

"(1) In general.—The Under Secretary may deputize, as a Federal flight deck officer under this section, a pilot who submits to the Under Secretary a request to be such an officer and whom the Under Secretary determines is qualified to be such an officer.

"(2) Qualification.—A pilot is qualified to be a Federal flight deck officer under this section if—

"(A) the pilot is employed by an air carrier;

"(B) the Under Secretary determines (in the Under Secretary's discretion) that the pilot meets the standards established by the Under Secretary for being such an officer; and

"(C) the Under Secretary determines that the pilot has completed the training required by the Under Secretary.

"(3) Deputization by other federal agencies.—The Under Secretary may request another Federal agency to deputize, as Federal flight deck officers under this section, those pilots that the Under Secretary determines are qualified to be such officers.

"(4) Revocation.—The Under Secretary may, (in the Under Secretary's discretion) revoke the deputization of a pilot as a Federal flight deck officer if the Under Secretary finds that the pilot is no longer qualified to be such an officer.

"(e) Compensation.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer. The Federal Government and air carriers shall not be obligated to compensate a pilot for participating in the program or for the pilot's training or qualification and requalification to carry firearms under the program.

"(f) Authority To Carry Firearms.—

"(1) In general.—The Under Secretary shall authorize a Federal flight deck officer to carry a firearm while engaged in providing air transportation or intrastate air transportation. Notwithstanding subsection (c)(1), the officer may purchase a firearm and carry that firearm aboard an aircraft of which the officer is the pilot in accordance with this section if the firearm is of a type that may be used under the program.

"(2) Preemption.—Notwithstanding any other provision of Federal or State law, a Federal flight deck officer, whenever necessary to participate in the program, may carry a firearm in any State and from 1 State to another State.

"(3) Carrying firearms outside united states.—In consultation with the Secretary of State, the Under Secretary may take such action as may be necessary to ensure that a Federal flight deck officer may carry a firearm in a foreign country whenever necessary to participate in the program.

"(g) Authority To Use Force.—Notwithstanding section 44903(d), the Under Secretary shall prescribe the standards and circumstances under which a Federal flight deck officer may use, while the program under this section is in effect, force (including lethal force) against an individual in the defense of the flight deck of an aircraft in air transportation or intrastate air transportation.

"(h) Limitation on Liability.—

"(1) Liability of air carriers.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of a Federal flight deck officer's use of or failure to use a firearm.

"(2) Liability of federal flight deck officers.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending the flight deck of an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

"(3) Liability of federal government.—For purposes of an action against the United States with respect to an act or omission of a Federal flight deck officer in defending the flight deck of an aircraft, the officer shall be treated as an employee of the Federal Government under chapter 171 of title 28, relating to tort claims procedure.

"(i) Procedures Following Accidental Discharges.—If an accidental discharge of a firearm under the pilot program results in the injury or death of a passenger or crew member on an aircraft, the Under Secretary—

"(1) shall revoke the deputization of the Federal flight deck officer responsible for that firearm if the Under Secretary determines that the discharge was attributable to the negligence of the officer; and

"(2) if the Under Secretary determines that a shortcoming in standards, training, or procedures was responsible for the accidental discharge, the Under Secretary may temporarily suspend the program until the shortcoming is corrected.

"(j) Limitation on Authority of Air Carriers.—No air carrier shall prohibit or threaten any retaliatory action against a pilot employed by the air carrier from becoming a Federal flight deck officer under this section. No air carrier shall—

"(1) prohibit a Federal flight deck officer from piloting an aircraft operated by the air carrier, or

"(2) terminate the employment of a Federal flight deck officer, solely on the basis of his or her volunteering for or participating in the program under this section.

"(k) Applicability.—

"(1) Exemption.—This section shall not apply to air carriers operating under part 135 of title 14, Code of Federal Regulations, and to pilots employed by such carriers to the extent that such carriers and pilots are covered by section 135.119 of such title or any successor to such section.

"(2) Pilot defined.—The term 'pilot' means an individual who has final authority and responsibility for the operation and safety of the flight or, if more than 1 pilot is required for the operation of the aircraft or by the regulations under which the flight is being conducted, the individual designated as second in command.".

(b) Conforming Amendments.—

(1) Chapter analysis.—The analysis for such chapter is amended by inserting after the item relating to section 44920 the following:

"44921. Federal flight deck officer program.".

(2) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (Public Law 107-71) is repealed.

(c) FEDERAL AIR MARSHAL PROGRAM.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the Federal air marshal program is critical to aviation security.

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act, including any amendment made by this Act, shall be construed as preventing the Under Secretary of Transportation for Security from implementing and training Federal air marshals.

SEC. 1403. CREW TRAINING.

(a) IN GENERAL.—Section 44918(e) of title 49, United States Code, is amended—

(1) by striking "The Administrator" and inserting the following:

"(1) IN GENERAL.—The Under Secretary";

(2) by adding at the end the following:

"(2) ADDITIONAL REQUIREMENTS.—In updating the training guidance, the Under Secretary, in consultation with the Administrator, shall issue a rule to—

"(A) require both classroom and effective hands-on situational training in the following elements of self defense:

"(i) recognizing suspicious activities and determining the seriousness of an occurrence;

"(ii) deterring a passenger who might present a problem;

"(iii) crew communication and coordination;

"(iv) the proper commands to give to passengers and attackers;

"(v) methods to subdue and restrain an attacker;

"(vi) use of available items aboard the aircraft for self-defense;

"(vii) appropriate and effective responses to defend oneself, including the use of force against an attacker;

"(viii) use of protective devices assigned to crew members (to the extent such devices are approved by the Administrator or Under Secretary);

"(ix) the psychology of terrorists to cope with their behavior and passenger responses to that behavior;

"(x) how to respond to aircraft maneuvers that may be authorized to defend against an act of criminal violence or air piracy;

"(B) require training in the proper conduct of a cabin search, including the duty time required to conduct the search;

"(C) establish the required number of hours of training and the qualifications for the training instructors;

"(D) establish the intervals, number of hours, and elements of recurrent training;

"(E) ensure that air carriers provide the initial training required by this paragraph within 24 months of the date of enactment of this subparagraph; and

"(F) ensure that no person is required to participate in any hands-on training activity that that person believes will have an adverse impact on his or her health or safety.

"(3) RESPONSIBILITY OF UNDER SECRETARY.—(A) CONSULTATION.—In developing the rule under paragraph (2), the Under Secretary shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, and representatives of air carriers, the provider of self-defense training for Federal air marshals, flight attendants, labor organizations representing flight attendants, and educational institutions offering law enforcement training programs.

"(B) DESIGNATION OF OFFICIAL.—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for overseeing the implementation of the training program under this subsection.

"(C) NECESSARY RESOURCES AND KNOWLEDGE.—The Under Secretary shall ensure that employees of the Administration responsible for monitoring the training program have the necessary resources and knowledge."; and

(3) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this section) with paragraphs (2) and (3) (as added by paragraph (2) of this section).

(b) ENHANCE SECURITY MEASURES.—Section 109(a) of the Aviation and Transportation Security Act (49 U.S.C. 114 note; 115 Stat. 613–614) is amended by adding at the end the following:

"(9) Require that air carriers provide flight attendants with a discreet, hands-free, wireless method of communicating with the pilots.".

(c) BENEFITS AND RISKS OF PROVIDING FLIGHT ATTENDANTS WITH NONLETHAL WEAPONS.—

(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to evaluate the benefits and risks of providing flight attendants with nonlethal weapons to aid in combating air piracy and criminal violence on commercial airlines.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary shall transmit to Congress a report on the results of the study.

SEC. 1404. COMMERCIAL AIRLINE SECURITY STUDY.

(a) STUDY.—The Secretary of Transportation shall conduct a study of the following:

(1) The number of armed Federal law enforcement officers (other than Federal air marshals), who travel on commercial airliners annually and the frequency of their travel.

(2) The cost and resources necessary to provide such officers with supplemental training in aircraft anti-terrorism training that is comparable to the training that Federal air marshals are provided.

(3) The cost of establishing a program at a Federal law enforcement training center for the purpose of providing new Federal law enforcement recruits with standardized training comparable to the training that Federal air marshals are provided.

(4) The feasibility of implementing a certification program designed for the purpose of ensuring Federal law enforcement officers have completed the training described in paragraph (2) and track their travel over a 6-month period.

(5) The feasibility of staggering the flights of such officers to ensure the maximum amount of flights have a certified trained Federal officer on board.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study. The report may be submitted in classified and redacted form.

SEC. 1405. AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.

(a) IN GENERAL.—Section 44903(i) of title 49, United States Code (as redesignated by section 6 of this Act) is amended by adding at the end the following:

"(3) REQUEST OF AIR CARRIERS TO USE LESS-THAN-LETHAL WEAPONS.—If, after the date of enactment of this paragraph, the Under Secretary receives a request from an air carrier for authorization to allow pilots of the air carrier to carry less-than-lethal weapons, the Under Secretary shall respond to that request within 90 days.".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in paragraph (1) by striking "Secretary" the first and third places it appears and inserting "Under Secretary"; and

(2) in paragraph (2) by striking "Secretary" each place it appears and inserting "Under Secretary".

SEC. 1406. TECHNICAL AMENDMENTS.

Section 44903 of title 49, United States Code, is amended—

(1) by redesignating subsection (i) (relating to short-term assessment and deployment of emerging security technologies and procedures) as subsection (j);

(2) by redesignating the second subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons) as subsection (i); and

(3) by redesignating the third subsection (h) (relating to limitation on liability for acts to thwart criminal violence for aircraft piracy) as subsection (k).

TITLE XV—TRANSITION

Subtitle A—Reorganization Plan

SEC. 1501. DEFINITIONS.

For purposes of this title:

(1) The term "agency" includes any entity, organizational unit, program, or function.

(2) The term "transition period" means the 12-month period beginning on the effective date of this Act.

SEC. 1502. REORGANIZATION PLAN.

(a) SUBMISSION OF PLAN.—Not later than 60 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a reorganization plan regarding the following:

(1) The transfer of agencies, personnel, assets, and obligations to the Department pursuant to this Act.

(2) Any consolidation, reorganization, or streamlining of agencies transferred to the Department pursuant to this Act.

(b) PLAN ELEMENTS.—The plan transmitted under subsection (a) shall contain, consistent with this Act, such elements as the President deems appropriate, including the following:

(1) Identification of any functions of agencies transferred to the Department pursuant to this Act that will not be transferred to the Department under the plan.

(2) Specification of the steps to be taken by the Secretary to organize the Department, including the delegation or assignment of functions transferred to the Department among officers of the Department in order to permit the Department to carry out the functions transferred under the plan.

(3) Specification of the funds available to each agency that will be transferred to the Department as a result of transfers under the plan.

(4) Specification of the proposed allocations within the Department of unexpended funds transferred in connection with transfers under the plan.

(5) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of agencies transferred under the plan.

(6) Specification of the proposed allocations within the Department of the functions of the agencies and subdivisions that are not related directly to securing the homeland.

(c) MODIFICATION OF PLAN.—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan until that part of the plan becomes effective in accordance with subsection (d).

(d) EFFECTIVE DATE.—

(1) In general.—The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (d), shall become effective for an agency on the earlier of—

(A) the date specified in the plan (or the plan as modified pursuant to subsection (d)), except that such date may not be earlier than 90 days after the date the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a); or

(B) the end of the transition period.

(2) Statutory construction.—Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balances of appropriations, or other assets of an agency on a single date.

(3) Supersedes existing law.—Paragraph (1) shall apply notwithstanding section 905(b) of title 5, United States Code.

SEC. 1503. REVIEW OF CONGRESSIONAL COMMITTEE STRUCTURES.

It is the sense of Congress that each House of Congress should review its committee structure in light of the reorganization of responsibilities within the executive branch by the establishment of the Department.

Subtitle B—Transitional Provisions

SEC. 1511. TRANSITIONAL AUTHORITIES.

(a) Provision of Assistance by Officials.—Until the transfer of an agency to the Department, any official having authority over or functions relating to the agency immediately before the effective date of this Act shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may request in preparing for the transfer and integration of the agency into the Department.

(b) Services and Personnel.—During the transition period, upon the request of the Secretary, the head of any executive agency may, on a reimbursable basis, provide services or detail personnel to assist with the transition.

(c) Acting Officials.—(1) During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this Act to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent and who was such an officer immediately before the effective date of this Act (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act. While so acting, such officers shall receive compensation at the higher of—

(A) the rates provided by this Act for the respective offices in which they act; or

(B) the rates provided for the offices held at the time of designation.

(2) Nothing in this Act shall be understood to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer whose agency is transferred to the Department pursuant to this Act and whose duties following such transfer are germane to those performed before such transfer.

(d) Transfer of Personnel, Assets, Obligations, and Functions.—Upon the transfer of an agency to the Department—

(1) the personnel, assets, and obligations held by or available in connection with the agency shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget and in accordance with the provisions of section 1531(a)(2) of title 31, United States Code; and

(2) the Secretary shall have all functions relating to the agency that any other official could by law exercise in relation to the agency immediately before such transfer, and shall have in addition all functions vested in the Secretary by this Act or other law.

(e) Prohibition on Use of Transportation Trust Funds.—

(1) In general.—Notwithstanding any other provision of this Act, no funds derived from the Highway Trust Fund, Airport and Airway Trust Fund, Inland Waterway Trust Fund, or Harbor Maintenance Trust Fund, may be transferred to, made available to, or obligated by the Secretary or any other official in the Department.

(2) Limitation.—This subsection shall not apply to security-related funds provided to the Federal Aviation Administration for fiscal years preceding fiscal year 2003 for (A) operations, (B) facilities and equipment, or (C) research, engineering, and development.

SEC. 1512. SAVINGS PROVISIONS.

(a) Completed Administrative Actions.—(1) Completed administrative actions of an agency shall not be affected by the enactment of this Act or the transfer of such agency to the Department, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) For purposes of paragraph (1), the term "completed administrative action" includes orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(b) Pending Proceedings.—Subject to the authority of the Secretary under this Act—

(1) pending proceedings in an agency, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this Act or the transfer of the agency to the Department, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted or the agency had not been transferred, and any such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(c) Pending Civil Actions.—Subject to the authority of the Secretary under this Act, pending civil actions shall continue notwithstanding the enactment of this Act or the transfer of an agency to the Department, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment or transfer had not occurred.

(d) References.—References relating to an agency that is transferred to the Department in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede such transfer or the effective date of this Act shall be deemed to refer, as appropriate, to the Department, to its officers, employees, or agents, or to its corresponding organizational units or functions. Statutory reporting requirements that applied in relation to such an agency immediately before the effective date of this Act shall continue to apply following such transfer if they refer to the agency by name.

(e) Employment Provisions.—(1) Notwithstanding the generality of the foregoing (including subsections (a) and (d)), in and for the Department the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, adopt the rules, procedures, terms, and conditions, established by statute, rule, or regulation before the effective date of this Act, relating to employment in any agency transferred to the Department pursuant to this Act; and

(2) except as otherwise provided in this Act, or under authority granted by this Act, the transfer pursuant to this Act of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

(f) Statutory Reporting Requirements.—Any statutory reporting requirement that applied to an agency, transferred to the Department under this Act, immediately before the effective date of this Act shall continue to apply following that transfer if the statutory requirement refers to the agency by name.

SEC. 1513. TERMINATIONS.

Except as otherwise provided in this Act, whenever all the functions vested by law in any agency have been transferred pursuant to this Act, each position and office the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V, of the Executive Schedule, shall terminate.

SEC. 1514. NATIONAL IDENTIFICATION SYSTEM NOT AUTHORIZED.

Nothing in this Act shall be construed to authorize the development of a national identification system or card.

SEC. 1515. CONTINUITY OF INSPECTOR GENERAL OVERSIGHT.

Notwithstanding the transfer of an agency to the Department pursuant to this Act, the Inspector General that exercised oversight of such agency prior to such transfer shall continue to exercise oversight of such agency during the period of time, if any, between the transfer of such agency to the Department pursuant to this Act and the appointment of the Inspector General of the Department of Homeland Security in accordance with section 103(b).

SEC. 1516. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, in consultation with the Secretary, is authorized and directed to make such additional incidental dispositions of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this Act, as the Director may determine necessary to accomplish the purposes of this Act.

SEC. 1517. REFERENCE.

With respect to any function transferred by or under this Act (including under a reorganization plan that becomes effective under section 1502) and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which such function is so transferred.

TITLE XVI—CORRECTIONS TO EXISTING LAW RELATING TO AIRLINE TRANSPORTATION SECURITY

SEC. 1601. RETENTION OF SECURITY SENSITIVE INFORMATION AUTHORITY AT DEPARTMENT OF TRANSPORTATION.

(a) Section 40119 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "and the Administrator of the Federal Aviation Administration each" after "for Security"; and

(B) by striking "criminal violence and aircraft piracy" and inserting "criminal violence, aircraft piracy, and terrorism and to ensure security"; and

(2) in subsection (b)(1)—

(A) by striking ", the Under Secretary" and inserting "and the establishment of a Department of Homeland Security, the Secretary of Transportation";

(B) by striking "carrying out" and all that follows through "if the Under Secretary" and inserting "ensuring security under this title if the Secretary of Transportation"; and

(C) in subparagraph (C) by striking "the safety of passengers in transportation" and inserting "transportation safety".

(b) Section 114 of title 49, United States Code, is amended by adding at the end the following:

"(s) Nondisclosure of Security Activities.—

"(1) In general.—Notwithstanding section 552 of title 5, the Under Secretary shall prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out security under authority of the Aviation and Transportation Security Act (Public Law 107-71) or under chapter 449 of this title if the Under Secretary decides that disclosing the information would—

"(A) be an unwarranted invasion of personal privacy;

"(B) reveal a trade secret or privileged or confidential commercial or financial information; or

"(C) be detrimental to the security of transportation.

"(2) Availability of information to congress.—Paragraph (1) does not authorize information to be withheld from a committee of Congress authorized to have the information.

"(3) Limitation on transferability of duties.—Except as otherwise provided by law, the Under Secretary may not transfer a duty or power under this subsection to another department, agency, or instrumentality of the United States.".

SEC. 1602. INCREASE IN CIVIL PENALTIES.

Section 46301(a) of title 49, United States Code, is amended by adding at the end the following:

"(8) Aviation security violations.—Notwithstanding paragraphs (1) and (2) of this subsection, the maximum civil penalty for violating chapter 449 or another requirement under this title administered by the Under Secretary of Transportation for Security shall be $10,000; except that the maximum civil penalty shall be $25,000 in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman).".

SEC. 1603. ALLOWING UNITED STATES CITIZENS AND UNITED STATES NATIONALS AS SCREENERS.

Section 44935(e)(2)(A)(ii) of title 49, United States Code, is amended by striking "citizen of the United States" and inserting "citizen of the United States or a national of the United States, as defined in section 1101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))".

TITLE XVII—CONFORMING AND TECHNICAL AMENDMENTS

SEC. 1701. INSPECTOR GENERAL ACT OF 1978.

Section 11 of the Inspector General Act of 1978 (Public Law 95-452) is amended—

(1) by inserting "Homeland Security," after "Transportation," each place it appears; and

(2) by striking "; and" each place it appears in paragraph (1) and inserting ";";

SEC. 1702. EXECUTIVE SCHEDULE.

(a) In General.—Title 5, United States Code, is amended—

(1) in section 5312, by inserting "Secretary of Homeland Security." as a new item after "Affairs.";

(2) in section 5313, by inserting "Deputy Secretary of Homeland Security." as a new item after "Affairs.";

(3) in section 5314, by inserting "Under Secretaries, Department of Homeland Security.", "Director of the Bureau of Citizenship and Immigration Services." as new items after "Affairs." the third place it appears;

(4) in section 5315, by inserting "Assistant Secretaries, Department of Homeland Security.", "General Counsel, Department of Homeland Security.", "Officer for Civil Rights and Civil Liberties, Department of Homeland Security.", "Chief Financial Officer, Department of Homeland Security.", "Chief Information Officer, Department of Homeland Security.", and "Inspector General, Department of Homeland Security." as new items after "Affairs." the first place it appears; and

(5) in section 5315, by striking "Commissioner of Immigration and Naturalization, Department of Justice.".

(b) Special Effective Date.—Notwithstanding section 4, the amendment made by subsection (a)(5) shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

SEC. 1703. UNITED STATES SECRET SERVICE.

(a) In General.—(1) The United States Code is amended in section 202 of title 3, and in section 3056 of title 18, by striking "of the Treasury", each place it appears and inserting "of Homeland Security".

(2) Section 208 of title 3, United States Code, is amended by striking "of Treasury" each place it appears and inserting "of Homeland Security".

(b) Effective Date.—The amendments made by this section shall take effect on the date of transfer of the United States Secret Service to the Department.

SEC. 1704. COAST GUARD.

(a) Title 14, U.S.C.—Title 14, United States Code, is amended in sections 1, 3, 53, 95, 145, 516, 666, 669, 673, 673a (as redesignated by subsection (e)(1)), 674, 687, and 688 by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(b) Title 10, U.S.C.—(1) Title 10, United States Code, is amended in sections 101(9), 130b(a), 130b(c)(4), 130c(h)(1), 379, 513(d), 575(b)(2), 580(e)(6), 580a(e), 651(a), 671(c)(2), 708(a), 716(a), 717, 806(d)(2), 815(e), 888, 946(c)(1), 973(d), 978(d), 983(b)(1), 985(a), 1033(b)(1), 1033(d), 1034, 1037(c), 1044d(f), 1058(c), 1059(a), 1059(k)(1), 1073(a), 1074(c)(1), 1089(g)(2), 1090, 1091(a), 1124, 1143, 1143a(h), 1144, 1145(e), 1148, 1149, 1150(c), 1152(a), 1152(d)(1), 1153, 1175, 1212(a), 1408(h)(2), 1408(h)(8), 1463(a)(2), 1482a(b), 1510, 1552(a)(1), 1565(f), 1588(f)(4), 1589, 2002(a), 2302(1), 2306b(b), 2323(j)(2), 2376(2), 2396(b)(1), 2410a(a), 2572(a), 2575(a), 2578, 2601(b)(4), 2634(e), 2635(a), 2734(g), 2734a, 2775, 2830(b)(2), 2835, 2836, 4745(a), 5013a(a), 7361(b), 10143(b)(2), 10146(a), 10147(a), 10149(b), 10150, 10202(b), 10203(d), 10205(b), 10301(b), 12103(b), 12103(d), 12304, 12311(c), 12522(c), 12527(a)(2), 12731(b), 12731a(e), 16131(a), 16136(a), 16301(g), and 18501 by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(2) Section 801(1) of such title is amended by striking "the General Counsel of the Department of Transportation" and inserting "an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security".

(3) Section 983(d)(2)(B) of such title is amended by striking "Department of Transportation" and inserting "Department of Homeland Security".

(4) Section 2665(b) of such title is amended by striking "Department of Transportation" and inserting "Department in which the Coast Guard is operating".

(5) Section 7045 of such title is amended—

(A) in subsections (a)(1) and (b), by striking "Secretaries of the Army, Air Force, and Transportation" both places it appears and inserting "Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security"; and

(B) in subsection (b), by striking "Department of Transportation" and inserting "Department of Homeland Security".

(6) Section 7361(b) of such title is amended in the subsection heading by striking "Transportation" and inserting "Homeland Security".

(7) Section 12522(c) of such title is amended in the subsection heading by striking "Transportation" and inserting "Homeland Security".

(c) Title 37, U.S.C.—Title 37, United States Code, is amended in sections 101(5), 204(i)(4), 301a(a)(3), 306(d), 307(c), 308(a)(1), 308(d)(2), 308(f), 308b(e), 308c(c), 308d(a), 308e(f), 308g(g), 308h(f), 308i(e), 309(d), 316(d), 323(b), 323(g)(1), 325(i), 402(d), 402a(g)(1), 403(f)(3), 403(l)(1), 403b(i)(5), 406(b)(1), 417(a), 417(b), 418(a), 703, 1001(c), 1006(f), 1007(a), and 1011(d) by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(d) Title 38, U.S.C.—Title 38, United States Code, is amended in sections 101(25)(d), 1560(a), 3002(5), 3011(a)(1)(A)(ii)(I), 3011(a)(1)(A)(ii)(II), 3011(a)(1)(B)(ii)(III), 3011(a)(1)(C)(iii)(II)(cc), 3012(b)(1)(A)(v), 3012(b)(1)(B)(ii)(V), 3018(b)(3)(B)(iv), 3018A(a)(3), 3018B(a)(1)(C), 3018B(a)(2)(C), 3018C(a)(5), 3020(m), 3035(b)(2), 3035(c), 3035(d), 3035(e), 3680A(g), and 6105(c) by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(e) Other Defense-Related Laws.—(1) Section 363 of Public Law 104–193 (110 Stat. 2247) is amended—

(A) in subsection (a)(1) (10 U.S.C. 113 note), by striking "of Transportation" and inserting "of Homeland Security"; and

(B) in subsection (b)(1) (10 U.S.C. 704 note), by striking "of Transportation" and inserting "of Homeland Security".

(2) Section 721(1) of Public Law 104-201 (10 U.S.C. 1073 note) is amended by striking "of Transportation" and inserting "of Homeland Security".

(3) Section 4463(a) of Public Law 102–484 (10 U.S.C. 1143a note) is amended by striking "after consultation with the Secretary of Transportation".

(4) Section 4466(h) of Public Law 102–484 (10 U.S.C. 1143 note) is amended by striking "of Transportation" and inserting "of Homeland Security".

(5) Section 542(d) of Public Law 103–337 (10 U.S.C. 1293 note) is amended by striking "of

Transportation" and inserting "of Homeland Security".

(6) Section 740 of Public Law 106–181 (10 U.S.C. 2576 note) is amended in subsections (b)(2), (c), and (d)(1) by striking "of Transportation" each place it appears and inserting "of Homeland Security".

(7) Section 1407(b)(2) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(b)) is amended by striking "of Transportation" both places it appears and inserting "of Homeland Security".

(8) Section 2301(5)(D) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671(5)(D)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(9) Section 2307(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6677(a)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(10) Section 1034(a) of Public Law 105–85 (21 U.S.C. 1505a(a)) is amended by striking "of Transportation" and inserting "of Homeland Security".

(11) The Military Selective Service Act is amended—

(A) in section 4(a) (50 U.S.C. App. 454(a)), by striking "of Transportation" in the fourth paragraph and inserting "of Homeland Security";

(B) in section 4(b) (50 U.S.C. App. 454(b)), by striking "of Transportation" both places it appears and inserting "of Homeland Security";

(C) in section 6(d)(1) (50 U.S.C. App. 456(d)(1)), by striking "of Transportation" both places it appears and inserting "of Homeland Security";

(D) in section 9(c) (50 U.S.C. App. 459(c)), by striking "Secretaries of Army, Navy, Air Force, or Transportation" and inserting "Secretary of a military department, and the Secretary of Homeland Security with respect to the Coast Guard,"; and

(E) in section 15(e) (50 U.S.C. App. 465(e)), by striking "of Transportation" both places it appears and inserting "of Homeland Security".

(f) TECHNICAL CORRECTION.—(1) Title 14, United States Code, is amended by redesignating section 673 (as added by section 309 of Public Law 104–324) as section 673a.

(2) The table of sections at the beginning of chapter 17 of such title is amended by redesignating the item relating to such section as section 673a.

(g) EFFECTIVE DATE.—The amendments made by this section (other than subsection (f)) shall take effect on the date of transfer of the Coast Guard to the Department.

SEC. 1705. STRATEGIC NATIONAL STOCKPILE AND SMALLPOX VACCINE DEVELOPMENT.

(a) IN GENERAL.—Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188; 42 U.S.C. 300hh–12) is amended—

(1) in subsection (a)(1)—

(A) by striking "Secretary of Health and Human Services" and inserting "Secretary of Homeland Security";

(B) by inserting "the Secretary of Health and Human Services and" between "in coordination with" and "the Secretary of Veterans Affairs"; and

(C) by inserting "of Health and Human Services" after "as are determined by the Secretary"; and

(2) in subsections (a)(2) and (b), by inserting "of Health and Human Services" after "Secretary" each place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SEC. 1706. TRANSFER OF CERTAIN SECURITY AND LAW ENFORCEMENT FUNCTIONS AND AUTHORITIES.

(a) AMENDMENT TO TITLE 40.—Section 581 of title 40, United States Code, is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by inserting "and" after the semicolon at the end of paragraph (1);

(B) by striking "; and" at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3).

(b) LAW ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—Section 1315 of title 40, United States Code, is amended to read as follows:

"§1315. Law enforcement authority of Secretary of Homeland Security for protection of public property

"(a) IN GENERAL.—To the extent provided for by transfers made pursuant to the Homeland Security Act of 2002, the Secretary of Homeland Security (in this section referred to as the 'Secretary') shall protect the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government (including any agency, instrumentality, or wholly owned or mixed-ownership corporation thereof) and the persons on the property.

"(b) OFFICERS AND AGENTS.—

"(1) DESIGNATION.—The Secretary may designate employees of the Department of Homeland Security, including employees transferred to the Department from the Office of the Federal Protective Service of the General Services Administration pursuant to the Homeland Security Act of 2002, as officers and agents for duty in connection with the protection of property owned or occupied by the Federal Government and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

"(2) POWERS.—While engaged in the performance of official duties, an officer or agent designated under this subsection may—

"(A) enforce Federal laws and regulations for the protection of persons and property;

"(B) carry firearms;

"(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or agent or for any felony cognizable under the laws of the United States if the officer or agent has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

"(D) serve warrants and subpoenas issued under the authority of the United States; and

"(E) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Federal Government or persons on the property.

"(F) carry out such other activities for the promotion of homeland security as the Secretary may prescribe.

"(c) REGULATIONS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Administrator of General Services, may prescribe regulations necessary for the protection and administration of property owned or occupied by the Federal Government and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in paragraph (2), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

"(2) PENALTIES.—A person violating a regulation prescribed under this subsection shall be fined under title 18, United States Code, imprisoned for not more than 30 days, or both.

"(d) DETAILS.—

"(1) REQUESTS OF AGENCIES.—On the request of the head of a Federal agency having charge or control of property owned or occupied by the Federal Government, the Secretary may detail officers and agents designated under this section for the protection of the property and persons on the property.

"(2) APPLICABILITY OF REGULATIONS.—The Secretary may—

"(A) extend to property referred to in paragraph (1) the applicability of regulations prescribed under this section and enforce the regulations as provided in this section; or

"(B) utilize the authority and regulations of the requesting agency if agreed to in writing by the agencies.

"(3) FACILITIES AND SERVICES OF OTHER AGENCIES.—When the Secretary determines it to be economical and in the public interest, the Secretary may utilize the facilities and services of Federal, State, and local law enforcement agencies, with the consent of the agencies.

"(e) AUTHORITY OUTSIDE FEDERAL PROPERTY.—For the protection of property owned or occupied by the Federal Government and persons on the property, the Secretary may enter into agreements with Federal agencies and with State and local governments to obtain authority for officers and agents designated under this section to enforce Federal laws and State and local laws concurrently with other Federal law enforcement officers and with State and local law enforcement officers.

"(f) SECRETARY AND ATTORNEY GENERAL APPROVAL.—The powers granted to officers and agents designated under this section shall be exercised in accordance with guidelines approved by the Secretary and the Attorney General.

"(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) preclude or limit the authority of any Federal law enforcement agency; or

"(2) restrict the authority of the Administrator of General Services to promulgate regulations affecting property under the Administrator's custody and control.".

(2) DELEGATION OF AUTHORITY.—The Secretary may delegate authority for the protection of specific buildings to another Federal agency where, in the Secretary's discretion, the Secretary determines it necessary for the protection of that building.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 40, United States Code, is amended by striking the item relating to section 1315 and inserting the following:

"1315. Law enforcement authority of Secretary of Homeland Security for protection of public property.".

SEC. 1707. TRANSPORTATION SECURITY REGULATIONS.

Title 49, United States Code, is amended—

(1) in section 114(l)(2)(B), by inserting "for a period not to exceed 90 days" after "effective"; and

(2) in section 114(l)(2)(B), by inserting "ratified or" after "unless".

SEC. 1708. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

There is established in the Department of Defense a National Bio-Weapons Defense Analysis Center, whose mission is to develop countermeasures to potential attacks by terrorists using weapons of mass destruction.

SEC. 1709. COLLABORATION WITH THE SECRETARY OF HOMELAND SECURITY.

(a) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The second sentence of section 351A(e)(1) of the Public Health Service Act (42 U.S.C. 262A(e)(1)) is amended by striking "consultation with" and inserting "collaboration with the Secretary of Homeland Security and".

(b) DEPARTMENT OF AGRICULTURE.—The second sentence of section 212(e)(1) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401) is amended by striking "consultation with" and inserting "collaboration with the Secretary of Homeland Security and".

SEC. 1710. RAILROAD SAFETY TO INCLUDE RAILROAD SECURITY.

(a) INVESTIGATION AND SURVEILLANCE ACTIVITIES.—Section 20105 of title 49, United States Code, is amended—

(1) by striking "Secretary of Transportation" in the first sentence of subsection (a) and inserting "Secretary concerned";

(2) by striking "Secretary" each place it appears (except the first sentence of subsection (a)) and inserting "Secretary concerned";

(3) by striking "Secretary's duties under chapters 203–213 of this title" in subsection (d) and inserting "duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)";

(4) by striking "chapter." in subsection (f) and inserting "chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)."; and

(5) by adding at the end the following new subsection:

"(g) DEFINITIONS.—In this section—

"(1) the term 'safety' includes security; and

"(2) the term 'Secretary concerned' means—

"(A) the Secretary of Transportation, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary; and

"(B) the Secretary of Homeland Security, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary.".

(b) REGULATIONS AND ORDERS.—Section 20103(a) of such title is amended by inserting after "1970." the following: "When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.".

(c) NATIONAL UNIFORMITY OF REGULATION.—Section 20106 of such title is amended—

(1) by inserting "and laws, regulations, and orders related to railroad security" after "safety" in the first sentence;

(2) by inserting "or security" after "safety" each place it appears after the first sentence; and

(3) by striking "Transportation" in the second sentence and inserting "Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters),".

SEC. 1711. HAZMAT SAFETY TO INCLUDE HAZMAT SECURITY.

(a) GENERAL REGULATORY AUTHORITY.—Section 5103 of title 49, United States Code, is amended—

(1) by striking "transportation" the first place it appears in subsection (b)(1) and inserting "transportation, including security,";

(2) by striking "aspects" in subsection (b)(1)(B) and inserting "aspects, including security,"; and

(3) by adding at the end the following:

"(C) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.".

(b) PREEMPTION.—Section 5125 of that title is amended—

(1) by striking "chapter or a regulation prescribed under this chapter" in subsection (a)(1) and inserting "chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security";

(2) by striking "chapter or a regulation prescribed under this chapter." in subsection (a)(2) and inserting "chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security."; and

(3) by striking "chapter or a regulation prescribed under this chapter," in subsection (b)(1) and inserting "chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security,".

SEC. 1712. OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended—

(1) in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting "homeland security," after "national security,"; and

(2) in section 208(a)(1) (42 U.S.C. 6617(a)(1)), by inserting "the Office of Homeland Security," after "National Security Council,".

SEC. 1713. NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM.

Section 7902(b) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(13) The Under Secretary for Science and Technology of the Department of Homeland Security.

"(14) Other Federal officials the Council considers appropriate.".

SEC. 1714. CLARIFICATION OF DEFINITION OF MANUFACTURER.

Section 2133(3) of the Public Health Service Act (42 U.S.C. 300aa–33(3)) is amended—

(1) in the first sentence, by striking "under its label any vaccine set forth in the Vaccine Injury Table" and inserting "any vaccine set forth in the Vaccine Injury table, including any component or ingredient of any such vaccine"; and

(2) in the second sentence, by inserting "including any component or ingredient of any such vaccine" before the period.

SEC. 1715. CLARIFICATION OF DEFINITION OF VACCINE-RELATED INJURY OR DEATH.

Section 2133(5) of the Public Health Service Act (42 U.S.C. 300aa–33(5)) is amended by adding at the end the following: "For purposes of the preceding sentence, an adulterant or contaminant shall not include any component or ingredient listed in a vaccine's product license application or product label.".

SEC. 1716. CLARIFICATION OF DEFINITION OF VACCINE.

Section 2133 of the Public Health Service Act (42 U.S.C. 300aa–33) is amended by adding at the end the following:

"(7) The term 'vaccine' means any preparation or suspension, including but not limited to a preparation or suspension containing an attenuated or inactive microorganism or subunit thereof or toxin, developed or administered to produce or enhance the body's immune response to a disease or diseases and includes all components and ingredients listed in the vaccines's product license application and product label.".

SEC. 1717. EFFECTIVE DATE.

The amendments made by sections 1714, 1715, and 1716 shall apply to all actions or proceedings pending on or after the date of enactment of this Act, unless a court of competent jurisdiction has entered judgment (regardless of whether the time for appeal has expired) in such action or proceeding disposing of the entire action or proceeding.

The SPEAKER pro tempore. Pursuant to House Resolution 600, the gentleman from Texas (Mr. ARMEY) and, without objection, the gentleman from California (Mr. WAXMAN) each will control 30 minutes.

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. ARMEY).

GENERAL LEAVE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5710 and to insert extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARMEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, what we are doing now is revisiting the issue of homeland defense. You will recall, Mr. Speaker, that in June the President challenged Congress to pass such a bill, and we went to work on it with a select committee appointed by the Speaker and the minority leader. On July 23 of this year the House passed H.R. 5005 by a vote of 295 to 132, more than two-thirds of the House.

Mr. Speaker, since that time we have waited upon the other body in terms of our hopes to have this work completed, and just last Friday the President again challenged Congress to work on this bill. During this period of time, from last Friday until today, we have had extensive consultation between Members of this body on the select committee, the committee of jurisdiction, the President, Members of the other body, and all of the committees that have jurisdiction on this bill.

In light of some of the concerns that we knew were fairly well known to us on the other side of the building, we were able to very quickly move through those issues that still remain, fully vet them with all interested parties, including the committees of jurisdiction in both bodies, and work out what we believe will be in the form of the bill before us right now a bill that can comfortably pass both bodies and be sent to the President for signature.

I should mention, Mr. Speaker, that this bill is essentially the same bill that was passed by the House of Representatives last July. There have been a few modifications that have been made to the bill but nothing that has not been fully vetted with the committees of jurisdiction and little that Members of this body will find objectionable.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree we need homeland security legislation. It is clear that the Federal Departments are not working together as they should to protect our Nation. Unfortunately, the bill that we are considering today has serious flaws. In fact, I think it may cause more problems than it solves.

I want to show two charts to this body. Here is how our homeland security agencies are organized today. This one right here. You can see all the different Departments. And the next chart over here is how they will be organized after the new Department is created. We are getting more bureaucracy. We are doing so at a tremendous cost to the taxpayer.

According to the Congressional Budget Office, just creating and managing the new Department will cost $4.5 billion, and this does not include any additional spending to make our Nation more secure against terrorist attacks. This bill gives the new Department a vast array of responsibilities that have nothing to do with homeland security, such as administering the national flood insurance program and cleaning up oil spills.

This bloats the size of the bureaucracy and dilutes the Department's counterterrorism mission. At the same time, the bill has no effective mechanism to coordinate the activities of the new Department with those of the FBI and the CIA and the other agencies that continue to have major homeland security functions.

I opposed this bill when it was before the House in July. I had hoped that it would be improved by a deliberative process before it was brought back for final passage, but instead we were given a massive new bill this morning that is being rushed through the House with no opportunity for deliberation and amendment. We do not even know the full implications of what we are doing in this bill.

Now, I want to talk about one of the hidden provisions we found buried in this massive bill today. Section 304 severely restricts the abilities of persons killed or injured by the small pox vaccine to receive any form of compensation. In fact, if you do not take the vaccine, but are disfigured or blinded because of your contact with someone who did, your ability to receive compensation is severely curtailed. Now think about this for a minute. This was not in the House-passed bill. This was not in the bill considered on the Senate floor. Suddenly this bill appears with this provision in it.

Now, I authored the vaccine compensation system that compensates children who may be injured when they get a vaccine where there is a bad result. But what we are saying in this hidden provision in the fine print is if you are hurt, you are out of luck. The vaccine manufacturer is going to be protected. The vaccine manufacturer for all practical purposes is going to be immune from liability.

Now this may be a legitimate decision on which we can have a disagreement, but I would feel differently had it been brought up honestly, up front, debated. I cannot believe that more than 10 people in the Congress even know that this provision is in the bill to create a Department of Homeland Security. I feel that this is a special interest provision and should not have been brought up in this particular way.

Another new provision reverses the policy adopted overwhelmingly by the House that prohibited the new Department from contracting with expatriate companies that have fled the United States to avoid paying their taxes. There was an overwhelming vote in the House, a bipartisan vote, to say to those companies that fled this Nation to act as if they are a foreign nation so they would not have to pay taxes would not be permitted to contract with the Department of Homeland Security. Well, now we got this bill and that provision is missing.

Moreover, the most egregious special interest provisions from the House bill remain in this legislation. The bill gives immunity to companies that make faulty bomb detectors, gas masks, or other homeland security products even if they engage in intentional wrong doing. Can you imagine that? The bill also allows large campaign contributors to lobby the new Department for special favors in absolute secret. We used to have a Freedom of Information Act that could get this information out before the public, and now we have a new exception created to the Freedom of Information Act that would allow these secret negotiations.

While the fine print of the bill contains loopholes and special amenities for corporate America, Federal workers take it on the chin. Their right to engage in collective bargaining is eliminated. They are no longer guaranteed the right to appeal grievances to the Merit System Protection Board.

I do not know what we are thinking. This new Department, this new bureaucracy will not work without dedicated Federal workers. Yet this bill treats them like second-class citizens, and this bill also rebuffs the families of the victims of September 11. All they asked for was an independent commission to examine what happened on September 11. But although this commission won overwhelming bipartisan support in the Senate, it was suddenly dropped from the bill.

There is an old adage that those who do not remember the past are condemned to repeat it, but that is what we are doing today. The Department of Energy was created 25 years ago, and it is still dysfunctional. The Department of Transportation was created 35 years ago, but it still has major structural problems; and it took nearly 40 years for the reorganization of the Department of Defense to work.

When we consider a bill like this, there is a temptation to ignore the defects and just vote for it; and perhaps, most likely, that is what will happen tonight. But voting against this bill could be politically damaging sometime in the future. But some things are more important than politics. Genuinely enhancing our national security is more important than politics, and getting this bill right is more important than politics.

Mr. Speaker, we should come back next year and make sure we create this new Department in the best way possible.

Mr. Speaker, I reserve the balance of my time.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. THORNBERRY), an early leader in the effort to create such a Department as this.

Mr. THORNBERRY. Mr. Speaker, I thank the majority leader for yielding me time, and I thank him for his work on this measure. It may well be his most important contribution to the safety and security of his grandchildren. I also want to appreciate the staff who have worked so long and hard to make this possible.

Mr. Speaker, having worked on this issue for close to 2 years, I have had many doubts that it would ever come to this point; but now I believe it will happen.

□ 1845

This is not a perfect bill, and it is relatively easy for me and others to find fault, ways that we wish it would be different. But all of those individual differences we may have with provisions are no competition in my mind to the fact that time is slipping by. If we do not do it this week, we are at least 3 months further along, 3 months during which our enemies are plotting and planning against us, more time during which we are not as prepared as we could and should be, more months where we are not making preparations to protect ourselves.

Time is a critical factor. Just yesterday we had another threat, and whether it is bin Laden's voice or not, it is clear it is someone who intends to kill more Americans. He is very explicit in the threat. We cannot sit by and have differences over this provision or that provision keep us from acting.

Mr. Speaker, organizational reform is no panacea. It does not solve all of the problems with the FBI or the CIA. It does not do everything, but what it can do is take 22 agencies, existing agencies that are scattered around the government, bring them together under one chain of command so we can actually work together as a team and make things happen.

That does not mean it solves all of our problems, but it is an important step. It does not create more bureaucracy, it tries to get a handle on the bureaucracy we have and make it work more effectively. It is an important step for us to take tonight. Hopefully the other body will follow suit and the President can sign it into law so we can begin to make this country safer.

Mr. WAXMAN. Mr. Speaker, I yield 3½ minutes to the gentleman from Ohio (Mr. KUCINICH), a very important member of our committee.

Mr. KUCINICH. Mr. Speaker, I want to thank the gentleman from California (Mr. WAXMAN) for the time he has spent in pointing out that this reorganization really has not made the case that America is going to be safer once this bill passes. As a matter of fact, as the gentleman points out, there is good reason to believe that a reorganization that will take at least 10 years and possibly more would cause a delay in real measures that could be taken to make this country somewhat safer. The American people want to feel safer; and 12,000 people in the last year were killed by handguns. This bill will not help them. Nor will it help the thousands of other Americans who die of violent crimes each year in this country.

What we have here is a paradoxical condition where the party which has gained the trust and support of the American people because of their challenge to big government suddenly becomes the party of big government advocating big government without really big services, big costs without big benefits, big security promises without big protections.

Americans ought to be concerned that we have the largest government department being created here in years without any indication as to how long the people of this country are going to have to wait to be safer.

So what is the alternative? One immediate alternative would be to provide more funds for local law enforcement. Every one of us knows that inevitably law enforcement in this country falls to the responsibility of the people at the local level. They know the communities. That is where we ought to be putting the billions of dollars that are going into creating a new bureaucracy.

There are a few other issues. Public safety depends on truth telling, exposing bureaucratic failings and busting cover-ups. The truth tellers are civil servants who blow the whistle, and in the largest Federal agency of all time being created today surely there are whistles to be blown, but this bill has dropped the protections. Our committee sat hours on end trying to ensure protections for whistleblowers. We passed the protections out of committee. They were stripped out of the bill.

Today if someone blows the whistle, is legally fired, they will not be able to get their job back or receive damages for unlawful firing. Whistleblower protection is critical for homeland security; without such protections, this bill fails.

In addition to that, we are talking about creating 22 different agencies into one large entity. That does not constitute efficient and effective government. I urge Members to vote no.

Before I conclude, the gentleman from California (Mr. WAXMAN) pointed out something about section 304(c) of the bill. I received a note from the American Association of Physicians and Surgeons, and they raise serious questions about the Secretary having unlimited power to define a real or potential threat to take any measures he decides, or to do it for as long as he wants. These are questions which have been raised about the administration of countermeasures against smallpox, will there be quarantines for smallpox immunizations, the definition of a bioterrorist incident. The American people need to know if this legislation is going to result in millions of Americans being forced to take smallpox immunizations and not having any legal protections if they are injured by those vaccinations.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WELDON), an extremely well-informed member of our Committee on Armed Services.

Mr. WELDON of Pennsylvania. Mr. Speaker, the only tragedy in this debate is it has taken us 12 months after 9/11 to move on organizing our homeland security and 5 months after the President challenged us with a plan to bring together 22 agencies with 170,000 employees and a $38 billion budget.

The only tragedy is we passed this in June and here we are today finally getting around to doing the job of the American people. This may not be a perfect plan, but I can guarantee this is better than what we had before 9/11, and even what we have today. It addresses the issue of coordinating our intelligence.

In fact, one of the four key components of this new agency is something we in Congress called for in 1999 and 2000 and which the administration back then looked at us and laughed. It is required in this plan to have a coordination of intelligence and data fusion. This plan provides for support for our first responders. In fact, for the first time, the President has called for $3.5 billion of new money to support local emergency responders, police, fire, and EMS. It provides for transportation security and the transfer of technology and the research necessary to understand emerging threats like chemical and biological weapons.

This new piece of legislation finally implements a program that we paid for back in 1997 to use our satellites above to detect wildland fires so we can go into those areas of the West and deal with them immediately. That should have been done 5 years ago. This plan provides for that through a provision that was added in the final conference.

Mr. Speaker, I think of the firefighters across America who to this day cannot communicate with each other because they are on different frequencies, and we say we want more time. They do not have more time. The time to pass this bill is tonight. Hopefully it will pass with overwhelming bipartisan support, and then we will take the next step, and the next step is to deal with the oversight jurisdiction, and that is the role of the Congress.

Mr. WAXMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. DAVIS), the ranking member of the Subcommittee on Civil Service, Census, and Agency Organization.

Mr. DAVIS of Illinois. Mr. Speaker, I am pleased to see homeland security under serious consideration, but as a member of the Subcommittee on Civil Service, Census and Agency Organization, as one who has looked closely at this legislation, I am very concerned about provisions in this proposal that would grant the Secretary of the Department of Homeland Security and the Director of Personnel Management blanket authority to set pay and other conditions of employment without regard to existing civil service rules and protections.

As a matter of fact, passage of this bill could in fact diminish or take away hard-won worker rights and protections that it has taken years and years of blood, sweat and tears to achieve. This bill which purports to be a compromise would permit administration officials to completely disregard civil service laws in hiring, firing, promoting and setting pay for more than 170,000 employees from 22 agencies that will make up the new agency.

Today these employees are not subject to the whims of agency officials when it comes to their pay promotions and collective bargaining rights, but tomorrow they could be. While this compromise legislation may be a victory for the President, it is a defeat for the men and women who go to work every day to serve and protect their country. Many of us have fought to develop and promote safeguards for small businesses and small business development. I am also disappointed that a provision that would have ensured that small businesses were considered and included in contracts awarded by the new department was omitted from the bill.

A provision that would have established an Office of Small Business and Disadvantaged Business Utilization in the Department of Homeland Security was included in the original bill passed by the House but has been excluded from this bill.

Federal workers, small and disadvantaged businesses, and real compromise have all fallen victim to the imbalance of power that looms ahead in the legislative and executive branches of government. Passage of this bill will cause insecurity among workers and small business owners as they see themselves set back in the name of homeland security. I urge my colleagues to oppose this legislation and vote no.

Mr. ARMEY. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary, a committee of jurisdiction.

Mr. SENSENBRENNER. Mr. Speaker, the most important part of this bill is its dismantling of the dysfunctional Immigration and Naturalization Service. The bill abolishes the agency and separates immigration enforcement from immigration services, the key to reform.

The immigration enforcement half of the INS becomes the Bureau of Border Security in the Directorate of Border and Transportation Security. The head of the enforcement bureau, the Assistant Secretary, will report to the Under Secretary of Border and Transportation Security and must have 5 years of law enforcement experience and 5 years of management experience. This work experience requirement will ensure that immigration enforcement is headed by someone with the expertise to enforce our immigration laws. The separation of this function from immigration services will allow the Assistant Secretary to focus on a single mission.

As current events have shown with the July 4 Los Angeles Airport shooter, Lee Malvo, and other recent alien criminals who have been released by the INS, an unencumbered immigration enforcement unit is long overdue.

The equally important immigration services half of the INS becomes the Bureau of Citizenship and Immigration Services apart from other DHS components. The Director of the services bureau reports directly to the Deputy Secretary of Homeland Security. This will ensure that immigration services receives the attention and resources that it needs, and that it will not be forgotten and neglected in a department otherwise devoted to fighting terrorism. Our government must remain welcoming to immigrants who follow our laws.

In addition, the bill requires separate budgets and accounts for the immigration services and enforcement bureaus so that each bureau receives all of its designated money and no poaching occurs, as has been known to happen between the two components in the current INS.

While the bill permits the President to consolidate components within the two bureaus to make them more efficient, it prohibits the President from merging the two bureaus back into one agency. This should ensure that the INS as we know it is history and our years-long effort to restructure this failed agency will be accomplished.

Mr. Speaker in addition to the monumental immigration and border security reforms contained in this bill, this legislation will profoundly affect Federal law enforcement. This legislation moves the Secret Service, Customs Service, Coast Guard, Border Patrol, Office of Domestic Preparedness, Federal Law Enforcement Training Center, and other law enforcement functions into the DHS.

□ 1900

At its core, homeland security is a law enforcement function, and law enforcement should be the predominant role. The Committee on the Judiciary will closely follow the integration of these important law enforcement entities to make sure they have the support and authority that they need to protect the country from terrorism and other criminal enterprises.

Finally, this legislation moves the law enforcement function of the Bureau of Alcohol, Tobacco, and Firearms to the Department of Justice as a distinct entity and makes important changes to the way we enforce explosives law and regulations.

I urge the membership to support this bill.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 4½ minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. I thank the very distinguished ranking member of the Committee on Government Reform for yielding me this time.

Mr. Speaker, I rise in opposition to this legislation on several grounds. Up until now, this proposal has been heavy on message but troubling in its substance. Unlike the rhetoric, approval of this legislation will have some real consequences for the Federal agencies we are about to reshuffle, the 170,000 Federal employees who work for these affected agencies, and the American people.

Its origins are telling. You may recall that the Office of Homeland Security was created by an executive order on October 8, 2001. Unfortunately its director, Governor Ridge, was barred by the President from testifying before Congress, overruled in White House councils, and preempted by more powerful Cabinet members. Then as public opinion began to sour against an administration that refused to even let Governor Ridge testify in public before the Congress, the administration reversed itself and after some reshuffling of Federal agencies on chalkboards in the basement of the White House, the administration proposed the creation of the Department of Homeland Defense.

It is a clever proposal, but it is not the solution. We are in a war against a new and deadly threat, and we need the resources abroad both for our diplomats to build alliances and for our armed services to prosecute this war. And at home we need the resources to protect our citizens. If we were serious about this threat, we would see a budget. But we just passed another continuing resolution that keeps everything funded at spending levels that were proposed and approved more than 18 months ago, a budget developed before September 11, 2001.

Where is the money for first responders? $2.6 billion is what is needed and what the President's party just voted against this afternoon. Where is the money for the Transportation Security Administration, which assumed responsibility for airport security in just 6 days, on November 19? Where is the money to improve border security or hire more FBI agents? It is not there because we have not passed the fiscal 2003 appropriation bills, as the gentleman from California (Mr. WAXMAN) has made clear.

Instead, we are now considering a proposal to incorporate 22 existing Federal agencies and transfer more than 170,000 Federal employees. I am not sure that consolidating Federal agencies is sufficient to address the challenges that confront us. The difficulty in stitching together vast and disparate organizational cultures has overwhelmed some of the best CEOs in the private sector. It is a process that most CEOs will tell you takes years to complete and more resources than previously assumed. CBO estimates it will take 5 to 10 years to get this new agency up and running. This effort is going to divert us from the important task of protecting this Nation from possible future attacks. It may strengthen the lines of communication and accountability, but it does not provide the resources to get the job done.

The bipartisan Commission on National Security found that the Customs Service, the Border Patrol, and the

Coast Guard were all on the verge of being overwhelmed by a mismatch between their growing duties and their mostly static resources. There are less than 7,000 customs inspectors and 619 canine officers to screen thousands of cargo containers and hundreds of thousands of vehicles entering the United States every day. Historically, most of these agencies have been starved of the resources they need to effectively carry out their mission. With 170,000 civil servants, they are going to have difficulty establishing a coherent and effective mission.

To be successful, we need to offer superior resources, equipment, and training. The workforce has to be given the incentive and expectation to improve performance. At a minimum, the new Department ought to be able to offer its employees pay parity and benefits. These adjustments are certain to add additional costs.

So why is the White House not asking for passage of the 2003 budget? That is what the White House ought to be asking us to do. The only response we have heard is that this reshuffling of agencies is going to be budget neutral.

It raises more questions than it answers. How are the agencies going to respond to programs that have nothing to do with homeland security? The Coast Guard's role in maritime safety and FEMA's role in national disasters are just a couple of examples. The CIA, the FBI and other intelligence agencies, they are the ones that are going to be gathering data. There is no access to raw data that these intelligence agencies monitor on the part of the Department of Homeland Security.

I do not think this is a good proposal. It ought to be opposed. We ought to come up with something better, and we ought to give what is better the resources necessary to carry out their function.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER), an original sponsor of this bill and one of the early innovators in the notion of homeland security.

Mrs. TAUSCHER. Mr. Speaker, I rise in support of this bill. This legislation is not perfect, but we must streamline the current bureaucracy if we are going to protect the American people. I have been working for more than a year to create a Cabinet-level Department of Homeland Security. I would like to applaud the gentleman from Texas (Mr. THORNBERRY) for his prescient knowledge about this issue and for taking the Hart-Rudman report 6 months before September 11 and crafting good legislation that we could follow.

This legislation today accomplishes that by bringing together the homeland security components of our government, including the national laboratories, Coast Guard, Border Patrol, and first responders. I am glad that this bill gives the TSA flexibility to allow larger airports like Oakland, San Francisco, San Jose and Sacramento more time to configure their explosive detection systems. This will save commuters from long lines and ensure that limited resources are being spent on the best equipment available. I also support the extension of war risk insurance for the aviation industry that is included in this bill.

To those that claim that this bill will only create a bigger government, I say this is not about making more bureaucracy, this is about making the bureaucracy work better. To those that think it is far from perfect, I say, I agree. I am concerned that this bill does not create a center to analyze intelligence inside the new agency. And I am deeply concerned that this bill could allow the President to weaken the labor protections of civil service employees. But this bill is just a starting point, and I am committed to work to fix these issues.

We must take this important step toward coordinating the dozens of government agencies responsible for fighting terrorism. Just as we must transform our military to be lighter, faster and more lethal at the time of asymmetrical threats, we must transform this Federal bureaucracy to be more responsive to threats to the homeland.

I urge my colleagues to support this bill, and I urge this Congress to continue to work to cure this bill.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time. Who could be against homeland security? I guess anybody out there in the public would want to know why should there even be a debate about what we do about homeland security. But the reality is that all of us are for homeland security. The question is how do we get there. That is what this debate is all about.

About 2 weeks ago I participated in a debate on homeland security at Case Western Reserve University in my congressional district. On the panel with me was a gentleman from GAO and a professor who has looked over departments and consolidation over the years. One of the things that the professor raised was the fact that even with this new Department of Homeland Security, there are going to be so many more responsibilities placed on local governments, at the State level, at the county level, at the Federal level. And in this bill, though it is presumed that it is, there are not dollars there to support these local agencies to do that job.

When I think about it, and we thought about it in the session, if something happens in Cleveland, Ohio, I am not going to call the FBI; I am going to call 911, and 911 is going to call the Cleveland Police Department. But in this legislation, I do not believe there is adequate increase of dollars going to cities. It would have been nice when we had the opportunity to continue the COPS program that we had given or designated more dollars to local police departments. Another question I have is coordination. Another question I have is this whole issue of public employees who have given their time and effort to the Federal Government losing their labor rights as a result of a consolidation.

I think that all of us are concerned about homeland security, that all of us want to tell this world and the people that live in the United States that we are going to protect them. But before we rush down the line to make a decision on this new 170,000-person Department of Homeland Security, we must make a commitment to the people of the United States that we are really going to secure their homeland.

Mr. ARMEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri (Mr. BLUNT) and, with heartfelt congratulations, the whip-elect, for the purpose of having a colloquy with the distinguished gentleman from Alaska, the chairman of the Committee on Transportation and Infrastructure.

Mr. BLUNT. Mr. Speaker, I thank the majority leader for his kind comments and for yielding me the time.

I would like to engage in a short discussion with Chairman YOUNG on two issues which are very important to me and I feel need some clarification. This relates to the training of pilots to carry firearms in the cockpit of our commercial airlines and to the training of cabin crew members in self-defense methods. As the House knows, these provisions were included in this bill; and I feel they are important provisions. However, I want to make clear in my own mind and in the record that these programs are not intended to be a new cost factor for the Federal Government or for our economically challenged airline industry. I understand they are voluntary. Just as our Constitution protects the rights of all citizens to own firearms for self-protection, we have provided the ability for airline pilots to voluntarily request that they be allowed to carry firearms for the protection of their passengers and crew while performing their duties in flight and other cabin crew to be trained in self-defense methods if they choose to do so. Nevertheless, I want to make sure the following is completely clear:

One, the Federal Government and air carriers are not obligated to compensate a pilot or cabin crew member for participating in any training program, qualification or requalification to carry a firearm or to train in self-defense. Again, the word there is "obligated." It does not mean that they cannot do it at the airline level, but they are not obligated to do it. And, number two, these training programs cannot be an excuse or reason to disrupt or otherwise interfere with any carrier's scheduled service. Therefore, an air carrier will certainly not be required to disrupt its scheduled service to accommodate a flight crew member's training after that crew member has already been scheduled for duty. These sections are not intended to cause further operational burdens on the airline industry. I just want to be sure in my own mind in this discussion with Chairman YOUNG that I understand what this does in a proper way.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, this gentleman, of course, is the chairman of the Committee on Transportation and Infrastructure. I agree with the gentleman's points. As the sponsor of the original bill for allowing the pilots to be armed in the cockpit, this is neither a mandate to disrupt schedules nor a requirement that either the Federal Government or air carrier compensate any crew member for these voluntary programs. I want to stress voluntary programs. It just gives a chance for the pilots themselves to arm and to properly train.

Mr. BLUNT. I thank the gentleman for that clarification.

Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Speaker, I do have a question for Chairman YOUNG at the appropriate time. I want to make my statement and put it in the RECORD, but on that same subject as far as the gun provision as put in the RECORD and the colloquy, can you clarify for me whether or not these pilots are going to be trained to carry these guns and how will it affect the public if the pilot accidentally kills someone?

Mr. YOUNG of Alaska. If my good friend will yield, I can suggest to her respectfully, under the bill they have to have the training; and I would rather have my pilot be armed and defend that cockpit as against an F-16 to be shot down. That is the whole intent. So in the bill they are trained, yes. All this says is that it is a voluntary process they go through, but the training is necessary.

Ms. BROWN of Florida. But they will be trained?

Mr. YOUNG of Alaska. Oh, absolutely.

Ms. BROWN of Florida. Yes, sir.

Let me just say as far as the bill is concerned that it is still the same flawed bill that this House passed in August. The problems with creating an agency of this size are still there. I do not see any new solutions. This bill is still taking agencies with important non-homeland security duties and placing them in agencies with no mission statement.

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The first agency to respond to the terrorist acts of September 11 was the United States Coast Guard. Within minutes, they were guarding our ports, bridges, and waterways from home. It was so reassuring to know that they were out there protecting us while other agencies were still in shock, all under the supervision, by the way, of the Department of Transportation.

I am strongly opposed to transferring the Coast Guard to the Department of Homeland Security. Moving the Coast Guard to the new department is not in the best interest of the Coast Guard, the Department of Homeland Security, or the American people.

Each year the Coast Guard conducts over 40,000 search and rescue cases. They inspect U.S. and foreign flag ships and protect millions of U.S. citizens who travel on cruise ships and ferries each year. Over 80 percent of the Coast Guard's operation budget is spent on missions that have nothing to do with border protection or Homeland Security.

Another reason why I oppose this bill is because of the horrible labor provisions. This bill does away with American workers' basic right to join together and stand up for their rights. This is just another example of the Bush administration's union-busting policy. Under the pretext of national security, the compromise legislation does away with all provisions of our Nation's civil service laws for employees of this new department and allows the President to strip employees of their rights to collective bargaining. In this bill employee unions could appeal even anti-worker personnel rules; yet they have no real power to overturn this.

We have heard many problems with the new Transportation Security Agency. The problems TSA is facing are a perfect example of why we need to be more deliberate in creating a homeland security agency. The Republican Party is supposed to be the party of small government, but today they are creating a huge monster.

Mr. ARMEY. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Connecticut (Mr. SHAYS), chairman of the subcommittee of jurisdiction, who has held over 30 hearings on this subject.

Mr. SHAYS. Mr. Speaker, we have been given a great opportunity to protect our countrymen and the world.

The Bremer Commission, the Gilmore Commission, the Hart-Rudman Commission, all warned us to wake up to the terrorist threat. Unfortunately that call came on September 11.

We need to know, as these commissions urged, what is the threat, what is our strategy? And how are we going to reorganize to deal with implement this strategy?

The threat is real. We are at war with terrorists to shut them down before they use weapons of mass destruction against us. This threat requires a new strategy. It requires detection and prevention. It requires us to be proactive and in some cases preemptive.

This new strategy requires us to reorganize, to take various government departments and bring them together in a focused, unified approach under the four pillars outlined by the President. The first has a border and transportation focus. The second is emergency preparedness and response; one place for first responders to come to in our government and one place for resources to go out to them.

The third pillar provide chemical, biological, and nuclear countermeasures. And the final pillar is information analysis, the plug into the intelligence community.

We need to reorganize our government to be able to implement our new strategy and confront the new terrorist threat facing this Nation and the world. We need to wake up and do it now.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the homeland security bill has a number of problems with it that invite my opposition. First, it has aviation provisions that will diminish security and safety. It will give inequitable benefits to airlines and private security companies. It extends the current deadline for screening all checked baggage for explosives, with the most modern explosive detection systems. Rather than encouraging delay, we ought to be pushing the Transportation Security Administration to meet existing deadlines. We should force TSA to use equipment that is now sitting in warehouses and give them the funding they need to acquire that equipment and meet the deadline rather than extend the deadline.

The bill requires TSA to allow unlimited numbers of pilots to carry guns. The Bush administration, their Secretary of Transportation, the Transportation Security Administration agree with me that there are many unanswered questions about widespread arming of pilots, whether that would create more safety hazards than security benefits. There should be no more than a trial program until these issues are resolved with a very small number of pilots.

The bill gives much needed relief to the airline from insurance costs. Yes, I am for that. But it provides no help, no assistance to airline workers who lost their jobs, lost their health insurance, deserve better from this Congress, were promised better by this Congress from this very well. The bill limits the liability of private security companies, including foreign-owned companies, for the tragedy of September 11. That is an abomination. That should not be permitted in this legislation.

The bill continues to have the Commandant of the Coast Guard report directly to the Secretary of Homeland Security. It allows all of the Coast Guard's homeland security missions, however, to be transferred from the Coast Guard, an agency that has defended our shores for over 200 years.

Mr. Speaker, I rise in opposition to H.R. 5710, the Homeland Security Act of 2002.

The aviation provisions in the bill will diminish security and safety, and give inequitable benefits to airlines and private security companies. In particular, H.R. 5710 would extend the deadlines for installing explosive detection systems (EDS) to screen checked baggage at airports; provides the airlines with $1 billion in relief from insurance costs, while providing no assistance to those airline workers who have lost their jobs and their health insurance; limits the liability of private security companies, including foreign owned companies, for their roles in the tragedy of September 11th; and requires the Transportation Security Administration (TSA) to allow unlimited numbers of pilots to carry guns.

Screening of checked baggage is a major building block in the comprehensive security program we need—a program with redundancies similar to the redundant safety systems, which have resulted in our airlines' outstanding safety record.

Extension of the December 31 deadline will do great harm. It will take all the pressure off TSA and the airports, and we will fail to install many explosive detection machines that could have been in place by December 31. This will increase the risk that we will fail to detect an explosive device in baggage checked by a suicide bomber.

Rather than encouraging additional delay, we should be pushing TSA to make every effort to meet the existing deadlines. We should force TSA to use equipment now sitting in waterhouses, and give them the funding they need to meet the deadline. Existing law allows TSA to deal with cases where a brief delay is needed. The Aviation Security Act requires that all baggage that cannot be inspected by EDS must be either matched with a passenger on the aircraft, or inspected by another means, such as a manual search, or canine detection in combination with other means.

Before we extend any deadline for EDS deployment, we should ensure that such extension requires the TSA to improve the interim program by mandating positive bag match for connecting passengers, and by requiring that more bags be subject to direct inspection.

The American traveling public wants to feel secure when they fly, and part of that security is knowing that their bags have been thoroughly screened for explosives when they board an aircraft.

As to extending the war risk provisions for another year, I support legislation to give the industry relief from the extraordinary problems created by September 11th and those that will arise from a war with Iraq. The Aviation Subcommittee has reported out legislation to deal with many of these problems; increased costs for insurance against terrorism, the loss of freight and postal business because of security restrictions, inadequate compensation to the airlines for some extraordinary security costs, and the implementation of passenger screening programs that unnecessarily inconvenience passengers who do not threaten security.

But there is a dark cloud hanging over our efforts to help the industry. While H.R. 5710 gives the airline industry financial relief from problems created by terrorism and war, the bill does not extend the same fair treatment to industry employees, who have also suffered disproportionately from terrorism and war. I and my colleagues on this side of the aisle insist that there must be balance in any relief package for the airline industry. H.R. 5710 does not remedy this problem, and therefore I am unable to support it.

This is not a new issue. When we passed a $15 billion assistance bill soon after September 11, I, and many of my colleagues, insisted that if the airline companies were to be afforded relief, so should employees who had lost their jobs. The Republican leadership told us that there was no time to develop a consensus proposal on employee relief, but on the House Floor, Speaker HASTERT promised prompt consideration of employee relief, including financial assistance, ability to retain health insurance, and training for new careers. Regrettably, the leadership has not followed through, and the House has never considered assistance for displaced airline employees.

Aviation industry workers, including employees of airlines, Boeing and aerospace suppliers, and airports, have suffered unprecedented job loss and economic uncertainty. Some 100,000 airline employees are out of work or facing imminent layoff. Another 30,000 Boeing workers are laid-off along with 51,000 additional aerospace employees. And with bankruptcies looming large, it is easy to conclude that the staggering job losses will only grow.

If the airline industry is entitled to special relief because it has suffered disproportionately from terrorism and war, its displaced employees are also deserving of relief.

Moreover, H.R. 5710 includes a special interest provision to immunize airport screening companies whose negligence may have contributed to the September 11 terrorist hijackings.

In the Aviation Security Act, we expressly decided that private screening companies should not be relieved of liability for any of their security deficiencies that played a part in the September 11th tragedies. However, H.R. 5710 would extend this protection to firms such as Globe Aviation Services and Huntleigh USA Corp., the security companies responsible for providing staff at Logan Airport on September 11th and that continue to contract with TSA today.

This provision is nothing more than a special interest provision that protects negligent airport screening companies at the expense of the victims of the September 11th tragedy.

Further, the bill requires TSA to allow unlimited numbers of pilots to carry guns. The Bush Administration agrees with me that there are many unanswered questions as to whether widespread arming of pilots would create more safety hazards than security benefits. Until these issues are resolved, there should be no more than a trial program with a small number of pilots.

I am also opposed to the bill because of provisions which threaten the ability of the Coast Guard and FEMA to carry out all of their important responsibilities, some of which involve security, and some of which do not. For example, in addition to security, the Coast Guard has responsibilities for maritime safety, environmental protection, and drug interdictions and FEMA has responsibilities for aiding recovery from natural disasters, such as floods and hurricanes.

The bill now before us divides these agencies and threatens their ability to continue to fulfill all of their responsibilities.

Although the bill continues to have the Commandant of the Coast Guard report directly to the Secretary of Homeland Security, it allows any or all of the Coast Guard's Homeland Security missions to be transferred from the Coast Guard—an agency that has defended our Nation's shorelines for more than 200 years. Under the bill, only non-homeland security missions of the Coast Guard may not be transferred from the Coast Guard.

We have been told that the intent was to keep the Coast Guard intact. How can you do that if you allow their homeland security missions to be transferred out of the agency?

Similarly, the bill splits the Federal Emergency Management Agency (FEMA) in two by transferring and consolidating FEMA's Office of National Preparedness into a new Office of Domestic Preparedness, which is under the Directorate of Border and Transportation Security, and transferring the remaining portion of FEMA to the Directorate of Emergency Preparedness and Response. By splitting FEMA in two, we threaten the effectiveness of one of our Nation's most effective and most respected agencies.

Moreover, this is essentially the same scheme that this Body rejected in July when, during consideration of the Homeland Security bill, the House unanimously adopted an amendment to ensure that FEMA would be kept intact within the new Department of Homeland Security.

In view of these and other deficiencies ion the bill now before us, I am convinced that the bill will do more harm than good. I urge defeat of the bill.

AVIATION

H.R. 5710, the Homeland Security bill, includes aviation provisions that will diminish security and safety, and give inequitable benefits to airlines and private security companies.

The bill extends the current deadline for screening all checked baggage with explosive detection equipment. Rather than encouraging additional delay, we should be pushing the Transportation Security Administration (TSA) to make every effort to meet the existing deadlines. We should force TSA to use equipment now sitting in warehouses, and give them the funding they need to meet the deadline. Existing law allows TSA to deal with cases where a brief delay is needed.

The bill requires TSA to allow unlimited numbers of pilots to carry guns. The Bush Administration agrees with me that there are many unanswered questions as to whether widespread arming of pilots would create more safety hazards than security benefits. Until these issues are resolved, there should be no more than a trial program with a small number of pilots.

The bill gives the airlines $1 billion relief from insurance costs, while providing no assistance to those airline workers who have lost their jobs and their health insurance.

The bill limits the liability of private security companies, including foreign owned companies, for the tragedy of 9/11.

COAST GUARD

Although the bill continues to have the Commandant of the Coast Guard report directly to the Secretary of Homeland Security, it allows any or all of the Coast Guard's Homeland Security missions to be transferred from the Coast Guard—an agency that has defended our Nation's shorelines for more than 200 years. Under the bill, only non-homeland security missions of the Coast Guard may not be transferred from the Coast Guard.

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FEMA

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In addressing the issue of our Nation's homeland security, we must get it right and this bill does not begin to achieve that objective.

I urge my colleagues to defeat this bill.

Mr. ARMEY. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. WELDON), my wife's favorite Congressman.

Mr. WELDON of Florida. Mr. Speaker, I thank the majority leader, and I am truly honored to be described in that fashion. Let me commend the gentleman on the outstanding work he has done in shepherding what I think was one of the most problematic pieces of legislation to come through this body.

Mr. Speaker, I am the chairman of the Committee on Civil Service, Census and Agency Organization, and I want to just specifically comment on the civil service issue which I think was the item that was really holding this up more than anything else. And with 1 minute I cannot get into this in detail, but I feel very, very strongly that this is a good compromise product. And indeed as the gentleman from Ohio (Mr. PORTMAN), my friend, said earlier today, and I am in 100 percent agreement with him, this will be probably the best civil service system within the Federal Government and can actually serve as a model for how we can reform the entire system so that it does what the American people want, which is really promote and reward excellence within our civil service work force, and that is what the people want who work for our Federal Government and that is what is necessary to protect the American people.

This is called the Department of Homeland Security. Let us remember their mission: Protecting the public.

Mr. ARMEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. PORTMAN), a member of the Select Committee on Homeland Security.

Mr. PORTMAN. Mr. Speaker, I thank the chairman for yielding me this time. His passion and his persistence are the reason that we are here tonight to do this important work, and I appreciate the role he played in moving this legislation through the system as chair of the Select Committee on Homeland Security.

Mr. Speaker, there is an old saying that goes "Times change and we change with them too." Times have changed and it is imperative to the security of our country, security of our families that our government change as well.

On September 11, 2001, the terrorists who struck our homeland killed more civilians than all our foreign enemies combined. We all woke up to the fact that the threats we face now are very different from the ones we faced in the past. During the Cold War, we adapted our government structure to better utilize the resources we had to fight then a superpower. Today we face a more unpredictable and a more agile enemy and a very deadly enemy, and today we must reorganize our government again so we can stop that enemy before it strikes again, and we are not ready. There are over 100 departments and agencies with some involvement in homeland security, and when every one is in charge, no one is in charge. There is no accountability in the current system.

Last summer President Bush presented to the Congress a very ambitious and visionary plan to merge and consolidate responsibilities in a new Department of Homeland Security, similar to what Senator LIEBERMAN had proposed and what various commissions had proposed. He laid out three strategic objectives: First, prevention of attacks; second, minimizing our vulnerabilities; and, third, minimizing the damage and maximizing recovery should an attack occur. These three pillars provided us with a clear framework to align our resources, people and capital, and to align responsibility and accountability. This single unified structure will make us more efficient, will make us more effective in the fight against terrorism. It will not make us immune, but it will make us safer.

I strongly believe in what we are doing tonight, not because we are creating a new department but because we are doing it the right way. We are giving this President and future Presidents the flexibility they will need to make it work. That is budget flexibility; it is organizational flexibility; and, yes, it is personnel flexibility to be sure the right people are in the right place at the right time to protect us. The 21st century threats that we now meet head on cannot be handled by early 20th century civil service rules and bureaucracy. So, yes, the President and the new Secretary of Homeland Security will have the flexibility to design a new human resources management system, but it is one that will preserve fundamental civil service and worker protections while at the same time building a team atmosphere that is absolutely crucial by rewarding and promoting excellence and ensuring that we can do all we can to recruit the best people to this task.

We have before us, Mr. Speaker, a bill that will both protect the homeland and protect workers' rights. It is the right balance.

Mr. Speaker, I urge my colleagues on both sides of the aisle to strongly support this legislation before us tonight. It represents an agreement between the House and the Senate and the White House, and by joining together we will send a strong message to the American people and to the other body that we are committed to doing all we can to protect our families and our country.

Mr. ARMEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Oklahoma (Mr. WATTS), the chairman of our conference and a member of the Select Committee on Homeland Security.

Mr. WATTS of Oklahoma. Mr. Speaker, I thank the gentleman from Texas (Mr. ARMEY) for yielding me this time. I appreciate very much his leadership that he has shown on this issue and his persistence.

Mr. Speaker, I rise to support this historic initiative to bolster the safety of Americans with an effective and focused Homeland Security Department. We are making the bureaucracy work for the American people rather than having the American people work for the bureaucracy.

The House has come back to work in a post-election session so we can pass an initiative that has languished for far too long. One year, 2 months and 2 days have passed since attacks on our

Nation provoked the war on terror. Our military has responded with might abroad, but our vulnerability remains unnecessarily high here at home. From seaports to the air, roads to the rail, terrorists have too many opportunities to exploit openings in a hole-ridden fence that is supposed to be our homeland defense.

I have been working on this issue for many years, and I was privileged to be a member of the Select Committee on Homeland Security. I commend my colleagues on that panel for their commitment, and I salute the President for his steadfast perseverance even as many thought we could not get the job done this year.

The domestic terrorism waged on my home State in 1995 opened the eyes of Americans to the evil that can be perpetrated by as few as two people. The bombing of the Oklahoma Federal building forever changed the lives of citizens who thought they were safe. The hijacking of four airplanes on September 11, 2001, multiplied that catastrophe to unspeakable proportions. Today, we are about to take a bold step to respond to such evil by learning from the actions of the past to prepare for unforeseen acts of terror in the future.

The Department of Homeland Security will organize a government that is fractured, divided, and underprepared to handle the all-important task of defending our great Nation from terrorist attack.

My colleagues on the other side of the aisle have tried to muddy the waters by invoking special interests over national security. But that is not what this bill is about. The President needs the freedom and flexibility to protect the homeland. He, just like every Commander in Chief since Jimmy Carter, must continue to have the ability to use presidential prerogative when it comes to the safety of the country.

An amendment I offered months ago in committee remains in today's legislation and will help foster a better relationship between the private sector and the new department by establishing a private sector liaison in the Secretary's office.

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This liaison will also work with government researchers and academia to procure the best tools mankind has to offer.

Again, we are talking about the security of our Nation. A promise made is a promise kept. By creating a Department of Homeland Defense, we will be better prepared for acts of terror.

This is an important victory for the safety of Americans from coast to coast, border to border. I urge my colleagues to pass this bill and help secure the future of this great land of ours we call home and the rest of the world calls America.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me thank the gentleman from California (Mr. WAXMAN), of course, for his leadership, and as well the bipartisan committee that was crafted in the House reflecting the work of many of our committees.

Might I say for a moment that I do want to acknowledge the work of the majority leader, a colleague of mine from Texas. Not knowing what legislative agenda we will have tomorrow, I would say to the gentleman from Texas (Mr. ARMEY), this might be a great swan song; and we thank the gentleman very much for the work that he has done.

I do want to raise some issues, and I appreciate the work of the Committee on Science and acknowledge that this may be the most important legislation created since maybe the creation of the now Defense Department, then the War Department, because it does deal with defense, security, domestic security, and ensuring that America is safe.

But we also have to have an agency that works, a Department that works. The Committee on Science appreciates the creation of the Under Secretary for Science and Technology and a Homeland Security Institute, because part of our security is in fact based upon the knowledge that we have.

I am somewhat disappointed that the idea I had involving involvement and consultation with NASA because of its extensive satellite system was not included, but I would look forward to this legislation being amended forthwith so we can work with this and improve it. I am also concerned about the function of the Inspector General and the issue of purging waste, fraud and abuse; and I am concerned as to the structure of that particular position.

Moving quickly to the immigration issues on the Judiciary Committee, I am gratified that the Department of Children's Affairs does still exist as we had designed it under the immigration legislation and in the Committee on the Judiciary, which separates out a procedure for children who are unaccompanied who are coming in as illegal immigrants. I believe that children need to be handled differently, and the gentlewoman from California (Ms. LOFGREN) and myself were very keen on this issue, and we thank those for their support.

Let me also say I am very much appreciative of the fact that we do have a bureau that deals with immigration services. I think that is good; and I think we should make sure this is a country of immigration, and immigration does not equate to terrorism.

I hope this bill has some ability to bring people together, but I also hope we will look at it in the future and make it a better bill.

Mr. ARMEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. MICA), the chairman of the Subcommittee on Aviation.

Mr. MICA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, not only is this an excellent bill that gives the President the flexibility he needs to provide homeland and domestic security, but this bill has some excellent provisions relating to aviation security and the future security of the aviation industry and our Nation. Let me address a couple of points that have been made here today.

First of all, the extension on the checked baggage screening requirement. The week of November 12, 2001, when we passed the bill before it was signed into law November 19, we knew that we could not manufacture the equipment necessary, that it would be ludicrous to spend billions of dollars to try to meet arbitrary deadlines with equipment that does not work. But what we provided for here is equipment that will work, that can be installed on a realistic basis; and we have assisted our airlines in not compromising security by putting in place in fact the very best measures.

We also put a provision in here to arm our pilots. They asked for that protection. That is a good provision and it is long overdue, because we know they are the last line of defense; and they have requested this, seeing the gaps in the security system in transition. So I am pleased with that provision.

Finally, the survival of the aviation industry. The war risk provisions and liability provisions are excellent. We held hearings on this issue, and one of the greatest areas of loss for our aviation industry is not being able to either obtain or obtain at reasonable cost liability and war risk insurance.

This does not compromise security, it does not compromise jobs, and it does not compromise the future economy and progress of this Nation.

So, Mr. Speaker, this is not a perfect bill. But it is a good bill, and it has some excellent provisions. I urge my colleagues to support this measure.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from California (Mr. WAXMAN) has 3 minutes remaining, the gentleman from Texas (Mr. ARMEY) has 5 minutes remaining, and the gentleman from Texas has the right to close.

Mr. WAXMAN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I listened to the arguments on the other side from people for whom I have an enormous amount of respect. The gentleman from Texas (Mr. THORNBERRY) has been working on this issue for some time, and the gentlewoman from my own State of California (Mrs. TAUSCHER) has also been very involved in creating such a Department. I, too, have supported the idea of a Department for Homeland Security. But I think this bill creates so much bureaucracy and inefficiency that I fear that it will not accomplish its purpose.

Primarily, what we should do is coordinate the activities of the FBI and the CIA. We know the history of the FBI and its problems. Problems such as Hansen, a double agent, and how the FBI pursued Wen Ho Lee. We know about the ongoing problems of coordinating between the FBI and the CIA. This bill does not do anything to enhance the cooperation between these two agencies.

Instead of giving the White House the authority to review the budgets and to coordinate the activities of the agencies of government involved in defending our homeland, this bill takes all those agencies of government and puts them into a new Department. Now there has to be a new bureaucracy set up in this new Department with all these new employees who used to do other things in other agencies to try to make this whole thing work.

The President was not originally for this Department. The idea came from Senator LIEBERMAN, particularly, and others. Many of us argued there should be a Homeland Security Department with the power to streamline, not bureaucratize. One that would be limited. One that controlled the operations of our border agencies, immigration, customs. We ought to have something along those lines. One with the White House authority written into law.

The President created an Office of Homeland Security and appointed Governor Ridge, but that office does not have the authority to make its decisions stick with other parts of the Federal Government bureaucracy. I, with all due respect, think this is a real problem with this bill.

In addition, we have not heard anybody on the other side get up and defend the smallpox special interest provision, the protection for the manufacturers of the vaccine. No one has even raised that issue on the other side. It was not in any bill that passed the House nor was before the Senate. Suddenly it appears here, condemning people who are injured with the inability to sue if there was negligence on the part of a manufacturer of a vaccine. This is the ordinary way in which they can pursue those claims at the present time.

Why is this special interest provision suddenly in this bill? Why is that here, without any opportunity to have it reviewed or analyzed? Why do we have provisions in this bill that protect the manufacturers who engage in negligent behavior when creating devices to be used for homeland security?

I am troubled by the way this whole bill has been considered, and I would urge my colleagues to vote against the legislation.

Mr. ARMEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I have listened carefully to the arguments in opposition to this bill. One reason being, Mr. Speaker, when we began this debate I was fascinating myself with the question of how could anybody oppose this bill. These are the four complaints I have heard:

One, there seems to be a concern that the bill is being rushed to the floor. The gentleman from California just pointed out, the President of the United States for a long time did not adopt this idea. It had been proposed by many people, and many Democrats. Only after seeing the thorough need and the thorough possibilities for success did the President in June propose Homeland Defense.

This House of Representatives worked on it, and with the Select Committee working in consultation with all the committees of jurisdiction in this House, with testimony taken from the chairman and ranking member of each of these committees, produced the bill that was brought to this floor and passed on July 23 with 295 votes. We have waited on the other body; and only after an exhaustive wait did the President propose, insist, last week that we move forward, and now it appears that both bodies will.

Pursuant to the President's insistence of last week, we have worked literally night and day in consultation with all the committees of jurisdiction in both bodies and with the White House to craft this legislation which today we bring to the floor.

In that regard, Mr. Speaker, let me say that we owe an expression of appreciation to so many staff on both sides of the aisle, on both sides of the building and in the White House and the agencies of the government for all of their hard work, night and day, literally, for the last 4 or 5 days.

But may I take just a moment for a special thank you. Those men and women who labor on behalf of all of us in the Office of Legislative Counsel are too seldom recognized; and with the indulgence of this body, let me single them out for special appreciation for the efforts they have made.

No, this was not rushed to the floor. We worked hard on it; we worked together on it. Virtually every Member of this body and the other body was consulted in some way on some part of this bill.

We are told that America does not care about homeland security. Were you not listening? I think they made the point last week. They do care. It is important.

We were told that Members did not get to participate. I know of no piece of legislation brought before this body in my 18 years I have been here where there has been more comprehensive, committee-by-committee, subcommittee-by-subcommittee, Member-by-Member participation in the process of preparing the bill.

We were told that the bill was being offered for political purposes in anticipation of the next election. Mr. Speaker, let me say as my final point, I know of no time in my 18 years in this body where the principal author of a bill brought to this floor had less interest in the next election than this time here.

Mr. BLUMENAUER. Mr. Speaker, from the beginning of the homeland security debate, after studying evidence and listening to Oregonians, my priorities have been clear. Strengthening the capacity of our government agencies to defend our nation from terrorist attacks is necessary and vital to our society. Our nation will benefit from better communication among federal agencies and from improved safety of air travel, our borders, our ports, and our water supplies. However, we must develop a focused strategy to protect our nation rather than taking cosmetic actions.

We need to address the intelligence failures that led up to the event of September 11. We need to work with local governments to coordinate responses to future attacks. The proposed Department does not address either. A massive restructuring of the federal government will not necessarily improve the security of our nation.

As has been documented time and again in jarring detail by the news media, the FBI and CIA were not properly coordinated before September 11. This enormous reorganization, rather than dealing with fundamental problems between these two agencies, adds a third governmental department to the uncoordinated mix.

My own experience is that government reorganizations are difficult and complex. There are many demands on employees and stripping away workers' protecting will only create friction and uncertainty. It would be more simple and fair to make adjustments for those employees that work primarily with intelligence or terrorism investigations than to strip away the collective bargaining rights of all employees included in this new government.

Finally, the timing is problematic. The leadership rushed the first bill through the House in an attempt to pass it into law before the anniversary of September 11. Now, just days after the election, the House and Senate Republicans produce a new bill, exempting labor protections for workers, in back room negotiations. A significant reorganization would be better served by an open, inclusive process. The Homeland Security Department, as proposed in this bill, will detract from our ability to truly protect our nation.

Mr. CONYERS. Mr. Speaker, the tone of bipartisanship the Republicans used to win control of Congress has ended. We saw a draft of this bill, which is the largest reorganization of the Federal government in decades, only late yesterday afternoon. We were not given any opportunity to make improvements, and we now find ourselves on the House floor under a rule that prohibits amendments. I have more concerns with this legislation that I can count, but I will focus on three: the anti-labor, anti-immigration, and pro-corporate irresponsibility provisions.

First, this legislation guts the civil services and collective bargaining protections that currently exist for Federal employees. It makes it difficult for employees of the Homeland Security Department to collective bargain for fair compensation. The argument from the other side seems to be that employees who have rights might not be able to do their jobs effectively. But does anyone remember who the heroes of September 11 were? It was the firefighters and police officers of New York and Virginia, all of whom were members in good standing of organized labor. Can anyone suggest that their civil service and union protections did anything to weaken their resolve? Of course not.

Second, this legislation moves the entire Immigration and Naturalization Service, its services and enforcement functions, into the new Department. To the contrary, in the INS reorganization bill that I supported and we passed earlier this Congress, we kept the services portion of the INS in the Justice Department and moved only the enforcement functions to the Homeland Security Department. By moving both functions of the INS to the Homeland Security Department, this legislation by implication treats all immigrants are terrorists.

Finally, this bill provides civil liability protections for government contractors that provided "anti-terrorism products." The new Secretary could immunize from any tort lawsuit the conduct of any company that sold defective anti-terrorism products to the government or the public. This means that a family that purchases a product to protect itself from terrorism, and finds the product to be useless, might have no cause of action against the contractor. The immunity provision also could shift the burden of identifying the wrongdoers and apportioning blame from the defendant to the victim.

Ms. SCHAKOWSKY. Mr. Speaker, I rise in opposition to H.R. 5710, the Homeland Security Act of 2002. This is the second homeland security bill the House has considered this session and it is still a far cry from a measure that will live up to the promise of its name. I am not convinced this bill will in fact make Americans safer than they are today. Moreover, the bill contains misguided and dangerous provisions that may cause more harm than good.

We all agree we must do more to protect our country from threats posed by those who wish us harm and those who wish to alter the way we live our lives. I am disappointed that the measure before us does not represent a more positive step in that direction. I am also disappointed that provisions I opposed when the House first considered this legislation are still in the bill.

There are a number of serious problems with this legislation that force me to vote against it for a second time.

This bill gives broad new authority to the President to reorganize the massive federal workforce created by this legislation. The bill gives the President an excuse to disregard and to take away hard-won civil service protections and collective bargaining rights for employees of the new Department. At a time when agencies throughout the federal government—in Washington, D.C. and in cities across the country—are having difficulty attracting and retaining qualified employees, this bill could turn employees of the new department into second class workers. What kind of a signal will we send to those federal workers if we ask them to move and tell them that they will lose many of the guaranteed rights that they now enjoy? How many of those workers will decide to leave federal service and move to the private sector? For those workers who do stay, how can we expect them to demonstrate high morale and commitment when they know that they lack the same rights as their federal colleagues in other agencies?

There is no national security rationale for stripping workers of their basic rights. I am particularly concerned about the fate of administrative workers in agencies that are to be transferred to the new department. Many of them are not directly involved with homeland security issues but will nevertheless be denied their rights. Congress enacted civil service protections and collective bargaining rights so that we could attract the very best to government service. We should not give this or any other Administration the right to take them away. As we stand together to fight terrorism, we should also stand together for the rights and well being of federal workers.

The House also missed an opportunity today to provide real protections for whistleblowers. I offered an amendment that would guarantee American patriots who come forward to expose improprieties and threats to our security a guarantee that, if they are retaliated against for their actions, they will have a right to legal recourse.

This bill creates an exclusion from the Freedom of Information Act to all information dealing with infrastructure vulnerabilities that is voluntarily submitted to the new department. This is an unnecessary provision because, under current law, the government already has the authority to exempt from FOIA information that meets one of several standards, including that which is related to national security and trade secrets. This bill also exempts committees created by the Secretary of Homeland Security from the Federal Advisory Committee Act. This would allow the Secretary to create secret forums where lobbyists for all sorts of special interests could push their agendas with the Administration without concern that the public would find out and regardless of whether their discussions are about security or business goals.

The legislation before us today negates the Congressionally-mandated requirement that all airports have the ability to screen checked baggage for explosives. One of our most frightful and realistic vulnerabilities is the status of our air travel system in this country. It is a sad message to send to our constituents and the flying public that we are not willing to do what it takes to ensure the skies are truly safe. Many on the Republican side have argued that the task of providing equipment to secure our planes and prevent terrorist devices from making their way on board is too costly. We cannot afford to do otherwise.

I am very disappointed to see that the bill before us today takes a step away from providing true security for people by protecting them from discrimination and mistreatment. Unlike H.R. 5005, which establishes an Office for Civil Rights and Civil Liberties with a Director, this new bill simply appoints an officer to review and assess information alleging abuses of civil rights, civil liberties, and racial and ethnic profiling. I offered an amendment to establish an Office for Civil Rights and Civil Liberties, and I feel that anything less will fail to adequately meet the goal of ensuring that no one is mistreated by this new department.

I would also like to draw my colleagues' attention to the issue of how our immigration system is organized within this bill. I come from an immigrant-rich district and I have made it a top priority to ensure that newcomers to this country are received in a fair and considerate manner. I am pleased that H.R. 5710 retains the provisions establishing an Ombudsman's office to assist individuals and employers in resolving problems with citizenship and immigration services. The bill also takes steps to hold the Bureau of Citizenship and Immigration Services accountable by requiring it to report how it is handling its immigration caseload and how it is working to eliminate its infamous backlogs. These are very important steps, and I urge my colleagues to continue to work to improve upon these new provisions, as well as the organization of immigration functions, so that the quality and efficiency of the services offered to immigrants are not compromised, and are in fact improved.

Unfortunately, this bill fails to address even the most obvious and immediate homeland security concerns. It does not address the serious problem of information sharing and communication among the intelligence community. The CIA and FBI are left out of this new department and there is no provision in this bill clearly stating the mechanism for past communications failures to be fixed. Instead, what the President and the Republicans in the House put forth is a massive reorganization of the federal government, nothing more than a reshuffling of the deck, with a few added tools for the Administration. Simply shifting people and agencies will not make America safer and that is all we will accomplish if we pass this bill. I urge all members to reject this flawed legislation and to focus on efforts that will actually enhance our security and maintain our American way of life.

Mr. HASTINGS of Florida. Mr. Speaker, I rise in strong opposition to the 11th-hour version of the Homeland Security Act.

When the House originally debated this legislation last August, more than one hundred amendments were submitted to the Rules Committee. Barely ¼ of those amendments were considered in order, despite recommendations from eleven congressional committees. Now we've been presented with a new, 484 page version of the bill, and are not being given any time to assess its merits and flaws.

During our first debate, I introduced an amendment that protected the Equal Employment Opportunity and whistleblower rights of civil servants. My amendment was unanimously approved, a clear indication that federal workers' rights are an important concern for this Congress. In fact, this issue was so important that it caused the first bill to get bogged down in the Senate for more than three months.

Although I note that the protections in my Amendment have been included, the new version gives the Secretary the authority to establish a "contemporary" human resources management system, but does not define the word "contemporary" in this context. This authority will affect the 170,000 federal workers who will transfer to the new department and deserves careful scrutiny and debate.

Another disturbing item in this bill is the unprecedented authority of the new Secretary, who will be able to transfer funding between departments in the new agency without any congressional authority or oversight. In other words, Congress can approve appropriations for one program, and the Secretary can arbitrarily decide to spend those tax dollars on something else, without congressional approval. This initiative sets a rather alarming precedent for the entire executive branch of government; one that deserves our full and careful attention.

Either we're going to create a new department, or we're going to change the civil service laws and revamp the Executive branch of government. I don't believe we should attempt to do both in one piece of legislation.

The American people are counting on us to create a new department that will reduce our vulnerability and prevent future terrorist attacks. They are also counting on us to do this in a fiscally responsible manner. The earliest the new department would be funded would be January 11, 2003. If we have a year, then let's take a year and do this right. Let's make sure that the new department will deliver what it promises, and let's make sure we know what it will cost.

The Homeland Security Act, as written, is not ready for prime time. We have been given no time to review the bill, and no opportunity to debate the bill and no option to amend the bill, but we are being asked to approve the bill.

Although there are differences between the first and second versions, different, in this case, does not mean better. As I said in my floor statement three months ago, if we don't take the time to do this right, we're going to have to make the time to do it over, and here we go again . . .

Let's give this legislation the time and attention it deserves and create a Department of Homeland Security that will do what we need it to do. We must have Homeland Security legislation that actually improves our homeland security, not just creates a new federal agency with new civil service rules and unmonitored spending authority for its Secretary.

I urge my colleagues to vote "no" on this bill.

Mr. HOYER. Mr. Speaker, much of the controversy swirling around this Homeland Security Act relates to our treatment of Federal employees, many of whom stand on the front lines in our war against terrorism.

I share the deep concern of those who believe that the reorganization proposed under this bill will undermine the rights given by law to thousands of our Federal employees.

And let me note: Earlier this year, I specifically asked OPM to cite even one example in our nation's history where union membership had threatened our national security. OPM could offer none.

However, the controversy surrounding the rights of Federal employees is not the basis of my opposition to this Homeland Security Act. And I am deeply concerned that the attention devoted to it obscures the larger point.

As the Baltimore Sun observed on September 23rd:

"Months of debate have made clear that this bureaucratic boondoggle offers no promise of making the homeland more secure. Worse, it takes the focus off the need for tighter oversight of the nation's security systems."

I am greatly concerned, Mr. Speaker, that this legislation could actually harm our ability and readiness to protect our homeland.

Under this legislation, 22 existing agencies and programs and 170,000 people would be integrated into this new department.

Yet, many of the agencies that are critical to our homeland security would not even be part of this reorganization.

Furthermore, this act fails to recognize that the FBI, DEA and INS are currently grouped within the Department of Justice, but do not effectively communicate with one another.

As special agent Colleen Rowley's testimony indicated earlier this year, the FBI even has trouble communicating within its own agency.

We must not delude ourselves into believing that rearranging deck chairs will protect our ship of state.

What's needed is greater sharing of information within and among the agencies that protect our homeland, so that we may coordinate and synthesize the enormous amounts of information that our government collects.

And we need a lean homeland security office that has the mission and authority to develop and implement a comprehensive strategy for homeland security.

In analyzing this issue, the General Accounting Office warned in July:

It is clear that fixing the wrong problems, or even worse, fixing the right problems poorly, could cause more harm than good in our efforts to defend our country against terrorism."

This act fails to fix our most obvious problem—effective information sharing among agencies.

I urge my colleagues to vote against it.

Mr. LANGEVIN. Mr. Speaker, I rise today in support of the creation of a Department of Homeland Security and am pleased that we are able to consider this important issue before the end of the 107th Congress.

I am pleased that this legislation largely reflects the recommendations of the U.S. Commission on National Security for the 21st Century, chaired by Senators Gary Hart and Warren Rudman, which assessed the nation's security vulnerabilities and recommended the creation of a Cabinet-level Department of Homeland Security. By consolidating the security functions of 22 separate federal agencies into one department, we can ensure that our nation puts forth a united front against terrorism on our soil. The new department represents a major step forward in our efforts to protect the American people. Furthermore, it will serve as an important resource to police, fire, and emergency medical service workers, who represent the first line of defense against terrorism.

In July, the House passed a similar measure, H.R. 5005, which I supported. However, at that time, I urged my colleagues to improve certain provisions in the bill so that we might safeguard civil service protections for department employees and preserve existing good government laws. I am disappointed that today's bill did not go further in those respects. The proposed Department of Homeland Security could employ as many as 170,000 people, and we should promote a work environment that enhances their ability to protect the American people.

I will support this legislation today because it is the responsibility of Congress to keep America safe from future acts of terror. Furthermore, I will closely monitor its implementation to ensure that we protect the security of our nation as effectively as possible.

Mr. PASTOR. Mr. Speaker, although I am a strong supporter of fully utilizing all possible resources to combat this new and tragic war on terrorism, I have serious reservations over the proposal being presented to us today.

Realistically, this bill would do nothing more than rearrange the deck chairs on the *Titanic*. What we really need is to address basic agency policies and promote efficient exchange of information without diminishing critical agency missions.

Keeping major intelligence gathering sources separated from this agency and moving desks across the hall, begs the question as to what we will be accomplishing by this move? Will it result in a smoother information flow, not just from one Washington office to another, but to the actual communities which must have as much lead time as possible to prepare for attack? Are we actually expanding agency areas of responsibility or will it be business as usual? What are we really doing to ensure dam, water supply, energy sources, and transportation safety? What are we really doing to provide an enhanced capability to address hazardous material, chemical, or biological threats? What are we really doing to improve our risk, threat, and vulnerability assessments? What are we really doing to improve the delivery of emergency food, shelter, and medical care in the event of another tragedy?

Troublesome are inconsistencies found in the bill. For example, is the Administration's repeated statements that this bill would consolidate training programs, yet, under Section 403 we see the Department of Justice's Office of Domestic Programs which does COPS training being placed under "Border and Transportation Security," while other training programs are being place under "Emergency Preparedness and Response" under Section 503.

Another example is found under Section 201(d)7, where the Under Secretary for Information Analysis and Infrastructure Protection is charged with exercising primary responsibility for public advisories related to threats to homeland security, while in Section 214(g) it states that the federal government may provide advisories, alerts, warnings to relevant companies, targeted sectors, other government entities, or the general public regarding potential threats. Where is the coordination and are we creating two separate sets of warnings?

Questions have been raised on the coordination mechanism between Homeland Security officials and other Departments. For example, if Homeland Security officials are designated to establish research efforts and attempt to direct Department of Defense agencies on those efforts, who actually has final authority?

In particular, I am troubled that this legislation offers so little to assist first responders, the men and women on the street who willingly put themselves in harm's way for the greater good. We must ensure that these dedicated citizens are provided with all possible resources to both protect them and support their mission.

I am hopeful that this legislation is defeated and the Congress continues to consult with experts in a more circumspect manner and that crafts a measured more approach that maximizes our ability to anticipate, prevent, and react to acts to terrorism.

Mr. BENTSEN. Mr. Speaker, today I rise in support of H.R. 5710, which establishes a Department of Homeland Security as an executive department of the United States, headed by a Secretary of Homeland Security. The primary mission of the Department of Homeland Security will be to anticipate and prevent future terrorist attacks, reduce America's vulnerability to terrorism, and improve upon our existing ability to respond and recover from any possible terrorist attacks. The tragedy of the September 11th terrorist attacks underscored a changing environment for the United States and exposed glaring weaknesses and vulnerabilities in our domestic security infrastructure. As a Congress, we must address our most fundamental priority and responsibility, ensuring the security and liberty of our nation. Today's legislation would do just that, consolidating 22 different agencies with varying responsibilities for border security, bioterrorism defenses, and disaster mismanagement into one streamlined organization, the Department of Homeland Security. Within the Department of Homeland Security will be four primary divisions: the Border and Transportation Security Directorate, the Emergency Preparedness and Response Division, the Science and Technology Directorate, and the Information Analysis and Infrastructure Protection Directorate.

More importantly, H.R. 5710 restructures key agencies by shifting control of their directives to the new Department of Homeland Security. A key example of this is the abolishment of the Immigration and Naturalization Service (INS). Instead, the bill creates two new agency components, one responsible for immigration enforcement and visa matters, and the other handling citizenship matters. This provision is similar to legislation I cosponsored in the previous 106th Congress, which would have split the INS into separate agencies to make it more efficient, accountable, and fair with regard to general immigration and citizenship matters. I am pleased that H.R. 5710 includes these crucial reforms, as the INS is an agency in dire need of overhaul.

Mr. Speaker, I am pleased that H.R. 5710 includes provisions similar to H.R. 4598, the Homeland Security Information Sharing Act, which will require the administration to develop procedures for the sharing of both classified and declassified information between federal agencies and the appropriate state and local authorities. Furthermore, existing barriers against the sharing of foreign intelligence are relaxed as well. As was so clearly demonstrated by the events of September 11th, the failure to share and disseminate crucial intelligence and timely threat information through the appropriate channels can have devastating consequences. While I understand the necessity of protecting intelligence-gathering methods, I believe that in order for there to be truly effective and comprehensive homeland security, state and local officials must be adequately informed of pending threats facing their communities. I believe H.R. 5710 strikes that careful balance between the protection of intelligence methods and the dissemination of necessary intelligence to state and local authorities, information crucial to them in protecting their communities.

Mr. Speaker, while I am in strong support of the core concepts behind the Department of Homeland Security, I continue to have some concerns about specific aspects of the legislation. I am concerned about provisions which would allow the new Department to establish a new personnel management system and pay systems for its employees, outside of the existing civil service system, which could possibly undermine important civil service protections. However, I am pleased that the current version of homeland security legislation, H.R. 5710, is an improvement over the House-passed H.R. 5005 in regards to civil service protection, because it allows for a period of notification, provides venues of mediation, and includes provisions for appeal procedures.

In addition, H.R. 5710 also limits legal liability for certain anti-terrorism products certified by the new Department. While the desire to promote the widespread commercial use of innovative new technology against terrorism is laudable, I believe it should not come at the expense of important legal accountability and safety standards.

However, I also find that there is much in H.R. 5710 that is very necessary for passage and enactment including authorization for Department of Health and Human Services to administer the smallpox vaccine to segments of the public, and the creation of tax-deductible charitable funds to be used to compensate military, law enforcement, and intelligence personnel killed in the line of duty as a result of a terrorist action.

For all these reasons, Mr. Speaker, I will support H.R. 5710, and support the effort to create this timely and vital cabinet-level Department. I urge my colleagues to join me as we take the steps necessary towards protecting our country from future potential attacks and to send a message to the American people before we adjourn the 107th Congress that this Congress, their Congress is determined and resolute in protecting them and their families at all costs.

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of H.R. 5710, a bill too long delayed, which will establish a Department of Homeland Security. I want to acknowledge the perseverance of the President and the Leadership, which has enabled this bill to come before us today. I also want to acknowledge the long weekends and nights of hard work that went into this bill, especially by Margaret Peterlin and the rest of the Majority Leader's staff. We appreciate the close working relationship our staff on the Science Committee has had with the Leadership staff.

Mr. Speaker, I'll be quite brief today because I outlined the Science Committee's perspective on this bill when H.R. 5005 passed in July.

Let me just say now that I am delighted that the Department of Homeland Security will have an Under Secretary for Science and Technology. As I keep saying, the war against terrorism, like Cold War, will be won as much in the laboratory as on the battlefield. With that in mind, we felt it essential that the Department have a directorate and an Under Secretary with clear responsibility for R&D across the Department. I'm pleased that just about everyone has come around to this point of view.

I believe that cybersecurity and R&D will be among the areas in which the Department will make its greatest contribution. These are areas in which the Department will not just improving coordination among existing agencies, but will have to build new capacity from the relatively limited building blocks that are being transferred into the Department. I urge passage of this bill.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in reluctant opposition to the Homeland Security Act today. There is not one Member of Congress who does not want to stand in a united front in our war against terrorism. And like all Members of this body, I recognize the importance of strengthening homeland security. The people of the 30th Congressional District of Texas have entrusted me to do both. However, in keeping with that trust, I could not vote for legislation that creates a sprawling bureaucracy while leaving so many important security questions unanswered.

Let me be clear that I remain committed to providing all of the resources necessary to combat terrorism through a strong, efficient Department of Homeland Security. I am also extremely supportive of the provision in this legislation that extends the December 31, 2002 deadline an additional year for airports to install explosives detection equipment. In my district in Texas, DFW Airport desperately needs more time to install the equipment necessary for the baggage screening deadline. I worked with leadership to ensure DFW would be granted this extension, and I commend negotiators of this legislation for including this desperately needed provision.

Unfortunately, the underlying legislation remains unacceptable for a number of reasons, and I must oppose the bill. I strongly oppose the provision in this legislation that will arm commercial airline pilots and strip away civil service protections for our nation's federal workers. As I have repeatedly said during this debate, arming pilots is simply not the answer to improving our airline security. If we truly want to increase safety aboard our nation's aircraft, we should concentrate our resources on putting Air Marshals on 100 percent of all flights. I must continue to stress to my colleagues that there are many unanswered questions as to whether widespread arming of pilots would create more safety hazards than security benefits.

I also remain concerned that Republicans, under the guise of homeland security, have made this legislation on assault on the civil service protections of our nation's federal workers. Among its provisions, legislation would allow DHS to arbitrarily reduce salaries of employees without giving them a legitimate appeals process comparable to employees of other federal departments. I cannot support this attempt to rob workers of their key employment protections.

I am also concerned about the disregard the formation of DHS has shown for the committee process. When the Science Committee marked up the Homeland Security legislation in July, I offered an amendment that would have aligned federally funded research at the new department with existing policies at the Departments of Defense and Energy. My amendment was based upon a sound, proven policy for dealing with classified research as articulated in 1985 by former President Ronald Reagan in National Security Decision Directive 189. My amendment was adopted by a bipartisan majority of almost 2 to 1. Yet when the Homeland Security legislation proceeded to the Select Committee, my amendment was stripped from the Science Committee's mark.

When I asked my friend and colleague from North Texas, Mr. ARMEY, why an amendment that passed in committee with overwhelming support was not included, he told me that the Science Committee did not support the amendment. I was unable to offer my amendment on the floor of the House, presumably for the same reason. As a result, once the Department of Homeland Security is signed into law, we will have federal agencies that conduct classified research in two very different ways, regardless of the fact that one of these ways has been proven to be sound policy in its almost two decades of use. This is very unfortunate, because it is contrary to the expert advice provided at the Science Committee's October 10, 2002, hearing entitled, "Conducting Research During the War on Terrorism: Balancing Openness and Security". Witnesses from academia and the Bush Administration attested to the wisdom of NSDD–189 and how it has been a guiding principle in conducting federally funded classified research.

It is my sincere hope that Congress will heed the advice of expert witnesses and two decades of proven science policy and reconsider the guidelines for federally funded classified research at the new DHS.

I realize that this legislation will pass today, and as I have mentioned, I sincerely wish I could lend my support to it in extending the current deadline for screening all checked baggage with explosive detection equipment. But since this bill includes provisions that will diminish aviation security and protections, I regret that I must vote against this bill.

Mr. SMITH of Texas. Mr. Speaker, the President has stated about the creation of a Homeland Security Department: "[we] face an urgent need, and we must move quickly, this year, before the end of the congressional session." We fulfill that request today by passing H.R. 5710, the Homeland Security Act.

This bipartisan legislation accomplishes many goals. The Gilmore Commission stated in 2000 that the national strategy against terrorism must address intelligence, deterrence, prevention, preemption, crisis management, and consequence management. This bill does just that.

H.R. 5710 includes the provisions of H.R. 3482, the Cyber Security Enhancement Act, legislation I introduced that passed the House overwhelmingly in July. These provisions strengthen the penalties against those who commit cyber crimes. They also establish the Office of Science and Technology within the National Institute of Justice, which guarantees the ability of NIJ to continue managing the important work of that office.

H.R. 5710 also includes legislation I cosponsored to require information sharing among Federal, state, and local law enforcement agencies.

The Department of Homeland Security will have a strong law enforcement role, but this role is distinct from that of the Department of Justice, which remains the principal law enforcement agency of the United States.

The role of the Department of Justice is further enhanced by the transfer to it the Bureau of Alcohol, Tobacco and Firearms and the law enforcement training functions of the Federal Law Enforcement Training Center.

The Homeland Security bill will improve our nation's immigration system by restructuring the INS. The INS has proven time after time that in its current form it is unable to handle the implementation of our nation's immigration laws. Among other improvements, the INS will be split into two agencies—one to handle services and one to handle enforcement. This will greatly improve the effectiveness and efficiency of our immigration system.

Defending against terrorists who can strike almost any time anywhere requires a change in how we approach the problem. The Department of Homeland Security will have a clear focus and clear mission to protect Americans from terrorists whether inside or outside our borders.

I urge my colleagues to support final passage.

Mr. THOMAS. Mr. Speaker, I rise in support of H.R. 5710 creating the Homeland Security Act of 2002.

The protection that we seek today with the creation of the new Department is for our people, our property, and our economy. The U.S. Customs Service has been on the frontline supporting and defending our nation for more than 200 years, since its creation by the fifth Act of Congress as the first Federal agency of the new Republic. The many functions of Customs are as important today as they were at the start of our nation.

Passage of the Homeland Security Act of 2002 is the right decision for the country. This country is only as safe and secure as the economy that supports it. Last year over $1 trillion in merchandise was imported into the country. That is indispensable fuel for our economy Customs collected over $20 billion of revenue. I am pleased the final bill keeps important elements recommended by the Ways and Means Committee in order to protect the trade functions of the Customs Service that are so vital to the strength of this land. In particular, the bill keeps Customs core revenue functions whole, which ensures that the many trade and enforcement functions will be carried out.

Our bipartisan agreement in this bill:

Transfers the Customs Service in its entirety to the Department of Homeland Security Division for Border and Transportation Security.

Identifies revenue-related offices and functions within Customs (about 25 percent of the agency) and prohibits reorganization or decrease in their resources or staff.

Requires that adequate staffing of customs revenue services be maintained, and requires timely notice to Congress of actions that would reduce such service.

Maintains the Commissioner of Customs as Senate-confirmed.

Transfers all authority exercised by Customs to Homeland Security with the exception of revenue collecting authority, which would remain at the Treasury Department. Treasury may delegate this authority to Homeland Security.

On this last point I would like to clarify that our purpose has been for the Treasury Department to remain integrated in the revenue, trade, and macroeconomic aspects of Customs' work. As such, we do not expect a wholesale abandonment of involvement by Treasury. We will scrutinize any delegation to assure that it fits within the purpose envisioned by Congress.

For these reasons I urge a "yes" vote on House Resolution 5710.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise in strong support of this bill and to commend my good friend, Majority Leader ARMEY for his efforts in putting together this bipartisan package. This legislation will allow us to have a coordinated response to any future terrorist threat. H.R. 5710 includes many critical provisions I authored that will allow us to work closely with the private sector to deploy the latest technology solutions, address ongoing information security weaknesses within the federal government, and facilitate necessary information sharing among our critical infrastructures.

The events of September 11th and the ensuing war on terrorism have raised an unprecedented awareness of the vulnerabilities we face. This has naturally focused more attention on security issues, particularly with respect to information security. From my work in the Government Reform Committee, it is clear that the state of federal information security suffers from a lack of coordinated, uniform management. Federal information systems continue to be woefully unprotected from both malevolent attacks and benign interruptions.

Poor information security management has persisted in both the public and private sectors long before IT became the ubiquitous engine driving governmental, business, and even home activities. As our reliance on technology and our desire for interconnectivity have grown, our vulnerability to attacks on Federal information systems has grown exponentially. The high degree of interdependence between information systems, both internally and externally, exposes the Federal government's computer networks to potentially serious disruptions.

Title X of H.R. 5710, the Federal Information Security Management Act (FISMA), will require that agencies utilize information security best practices that will ensure the integrity, confidentiality, and availability of Federal information systems. It builds on the foundation laid by the Government Information Security Reform Act (GISRA), which requires every Federal agency to develop and implement security policies that include risk assessment, risk-based policies, security awareness training, and periodic reviews.

FISMA will achieve several objectives vital to Federal information security. Specifically, it will:

1. Remove GISRA's sunset clause and permanently require a Federal agency-wide risk-based approach to information security management with annual independent evaluations of agency information security practices;
2. Require all agencies to implement a risk-based management approach to developing and implementing information security measures for all information and information systems;
3. Streamline and make technical corrections to GISRA to clarify and simplify its requirements;
4. Strengthen the role of NIST in the standards-setting process; and
5. Require OMB to implement minimum and mandatory standards for Federal information and information systems, and to consult with the Department of Homeland Security regarding the promulgation of these standards.

At a time when uncertainty threatens confidence in our nation's preparedness, the Federal government must make information security a priority. We demand that in our networked era, where technology is the driver, every Federal information system must be managed in a way that minimizes both the risk that breach or disruption will occur and the harm that would result should such a disruption take place. Chairman ARMEY understands this and has shown tremendous leadership by this including this critical language in this legislation.

Additionally, the bill includes the Critical Infrastructure Protective Act, which I developed after reviewing Presidential Decision Directive (PDD) 63 that identified the ongoing statutory barriers to information sharing. This important bill includes a FOIA exemption for critical infrastructure information along with recognition for private sector information sharing organizations (ISOs). It also includes a use protection for information shared with the government and a process based on the Defense Production Act of 1959 to address potential antitrust concerns.

In Presidential Decision Directive 63 issued by the previous Administration, concerns about the Freedom of Information Act, antitrust, and liability were identified as primary barriers to facilitating information sharing with the private sector.

The critical infrastructure of the United States is largely owned and operated by the private sector. Critical infrastructures are those systems that are essential to the minimum operations of the economy and government. Traditionally, these sectors operated largely independently of one another and coordinated with government to protect themselves against threats posed by traditional warfare. Today, these sectors must learn how to protect themselves against unconventional threats such as terrorist attacks, and cyber intrusions.

We must, as a nation, prepare both our public and private sectors to protect ourselves against such efforts. As we discovered when we went to the caves in Afghanistan, the Al Qaeda groups had copies of GAO reports and other government information obtained through FOIA. While we work to protect our nation's assets in this war against terrorism, we also need to ensure that we are not arming terrorists.

Today, the private sector has established many information sharing organizations (ISOs) for the different sectors of our nation's critical infrastructure. Information regarding potential physical or cyber vulnerabilities is now shared within some industries, but it is not shared with the government, and it is not shared across industries. The private sector stands ready to expand this model but has also expressed concerns about voluntarily sharing information with the government and the unintended consequences it could face for acting in good faith.

Specifically, there has been concern that industry could potentially face antitrust violations for sharing information with other industry partners, have their shared information be subject to the Freedom of Information Act, or face potential liability concerns for information shared in good faith. Additionally, this FOIA exemption extends the protection for FOIA to information shared at the state and local government level. Also, this bill gives the Secretary of Homeland Security the authority to share information protected under this FOIA exemption to share it with other impacted federal agencies while continuing to enjoy the protection. My language included in H.R. 5005 will address all three of these concerns. Additionally, consumers and operators will have the confidence they need to know that information will be handled accurately, confidentially, and reliably.

The Critical Infrastructure Information Act procedures are closely modeled after the successful Year 2000 Information and Readiness Disclosure Act by providing a limited FOIA exemption, civil litigation protection for shared information, and a new process for resolving potential antitrust concerns for information, shared among private sector companies for the purpose of correcting, avoiding, communicating or disclosing information about a critical infrastructure threat or vulnerability.

This legislation will enable the private sector, including ISOs, to move forward without fear from government, so that government and industry may enjoy a mutually cooperative partnership. This will also allow us to get a timely and accurate assessment of the vulnerabilities of each sector to physical and cyber attacks and allow for the formulation of proposals to eliminate these vulnerabilities without increasing government regulation, or expanding unfunded federal mandates on the private sector.

Also, H.R. 5710 includes language that I developed to allow for reaching out to new technology companies that may not being doing business with the government. We all know that the Federal, State and local governments will spend billions and billions of dollars to fight the war against terror. Contentious floor debates aside, we all support these efforts. But to me, the question isn't simply how much we spend, but how well we spend it.

Since the tragic events of 9/11 the Government, in general, and the Office of Homeland Security, in particular has been overwhelmed by a flood of industry proposals offering various solutions to our homeland security challenges. Because of a lack of staffing expertise, many of these proposals have been sitting unevaluated, perhaps denying the government breakthrough technology.

In February, I held a hearing in my Subcommittee on Technology and Procurement Policy on homeland security challenges facing the government. One theme that was expressed unanimously by industry was the need for an organized, cohesive, comprehensive process within the Government to evaluate private-sector solutions to homeland security problems. Now we have part of the solution, with the creation of the new Department of Homeland Security in the bill on the floor today. Section 313 of this bill will close the loop and provide a vehicle to get these solutions into government and to the front lines in the war against terror.

Section 313 of the Homeland Security Act establishes within the Department a program to meet the current challenge faced by the Federal government, as well as by state and local entities, in leveraging private sector innovation in the fight against terror. The section would establish a focused effort by:

Creating a centralized Federal clearinghouse in the new Department for information relating to terror-fighting technologies for dissemination to Federal, State, local and private sector entities and to issue announcements to industry seeking unique and innovative anti-terror solutions.

Establishing a technical assistance team to assist in screening proposals for terror-fighting technology to assess their feasibility, scientific and technical merit and cost.

Providing for the new Department to offer guidance, recommendations and technical assistance to Federal, State, local and private efforts to evaluate and use anti-terror technologies and provide information relating to Federal funding, regulation, or acquisition regarding these technologies.

Since September 11, we have all been struggling to understand what changes will occur in our daily lives, in our economy, and within the Government. We now will establish a new Department of Homeland Security to focus and coordinate the war against terror. The new section 313 in this landmark legislation will give the new Department the framework it needs to examine and act on the best innovations the private sector has to offer.

I am pleased to also have authored section 834 at the request of the Select Committee to allow federal agencies government-wide to accept unsolicited proposals. The language directs the FAR Council to amend FAR Part 15 to ensure that a proposal has not been submitted in relation to a previously published proposal. This ensures that contracting officials are not improperly avoiding a full and open competition. Existing ambiguity in the FAR language made government contracting officials hesitant to review and accept unsolicited proposals. The change recognizes the longstanding procurement reform goal of allowing contracting officials to include "best value" factors when reviewing such a proposal, and adds "technical merit" as a new criteria, which allows officials to review a proposal for potential future benefit. This language is critical as federal agencies attempt to update their information technology systems to better integrate information and serve the taxpayer. This is another step forward in moving the Federal government to a more commercial acquisition environment. This change in the FAR will allow federal agencies to rapidly acquire new products and services to assist them in winning the war on terrorism.

In ordinary times, primarily because of recent acquisition reforms, the current acquisition system will enable the new Department of Homeland Security to buy what it needs with reasonable efficiency. While we all hope that it will never be needed, we also know that in an emergency the new Department may have to quickly and efficiently acquire the high tech and sophisticated products and services needed for its critical mission. The provisions in H.R. 5710 would permit the Department to quickly acquire the emergency goods and services it needs while maintaining safeguards against wasteful spending. This authority is easily accessed by Department of Homeland Security officials through a written determination.

The acquisition provisions build on contracting authorities currently place; in fact, the procedures appear in Part 13 of the Federal Acquisition Regulation and provide for an extension of these authorities only upon a determination of the Secretary of Homeland Security or one of his Senatorially confirmed officials that the terror fighting mission of the new Department would be seriously impaired without their use. The new authorities would sunset at the end of fiscal year 2007. The GAO would be required to report to the Committee on Government Reform assessing the extent to which the authorities contributed to the mission of the Department, the extent to which the prices paid reflect best value, and the effectiveness of the safeguards put in place to monitor the use of the new authorities. The current government-wide procurement laws will govern the Department's "normal" purchases.

Specifically, the provisions would raise the current micro-purchase threshold from $2,500 to $7,500. It would raise the current $100,000 threshold for simplified acquisition procedures to $200,000 for use within the United States and $300,000 for overseas missions, and permit the application of the current streamlined commercial acquisition procedures and statutory waivers to noncommercial goods and services and increase the current $5,000,000 ceiling on the use of streamlined commercial procedures to $7,500,000 for these goods and services.

How could these new authorities be used? Well, for example, the increase in the micro-purchase threshold could be used in the event of a terror attack, to permit a Department of Homeland Security official at the scene to rent several floors of a nearby hotel to house rescue workers by simply presenting his Government credit card.

The increase in the simplified acquisition threshold would permit a Department official to quickly enter into a $200,000 contract for specialized medical services for rescue workers responding to a terror attack.

The application of streamlined commercial acquisition procedures would permit the Department to conduct a limited competition among high technology firms for a specialized advisory and assistance services contract valued at $7,500,000 to fight a cyber-attack.

Moreover, I am pleased that the House accepted the Senate Federal Emergency Procurement Flexibility Act. This basically extends the same emergency procedures given to the new Department to all Federal agencies to use to prepare for, or in response to a nuclear, biological, chemical, or radiological attack or an act of terrorism for the next fiscal year. This is based on legislation that I had introduced with my colleague and Chairman, DAN BURTON and with Senators JOHN WARNER and FRED THOMPSON at the request of Governor Tom Ridge. While this authority is not as accessible as it is for the Department of Homeland Security, it will certainly go a long way to giving all federal agencies additional help in winning the war on terrorism.

H.R. 5710 gives the Administration the necessary management flexibilities it will need to set up the new Department while maintaining longstanding statutory protections for the American taxpayer and for federal employees. In the civil service area, we struck the proper balance between needed flexibility and important employee protections. Dedicated federal employees, by virtue of the bill's new 30-day mediation period, have received the assurances they asked for, while the American people will have the benefit of a flexible, modern-day workforce that can respond to ever-evolving threats.

I worked hard to make sure aspects of Senator VOINOVICH'S human capital management legislation were included in the legislation; for example, having Human Capital Officers within each agency ensures that the Department's employees will be given the tools they need to prosper and develop professionally. And the demonstration project authority, which includes a pay-for-performance component, is a critical step that will help give the new department the ability to attract and retain the very best employees.

Finally, Mr. Speaker, I would again like to thank Majority Leader ARMEY for his outstanding leadership on this vital piece of legislation. Today, we are giving President Bush legislation that he has deemed critical to winning the war on terrorism. Majority Leader ARMEY and his talented staff worked tirelessly to ensure that we would get this legislation done this year. I am proud to have worked with my House colleagues and the Select Committee on H.R. 5710.

Mr. STENHOLM. Mr. Speaker, the protection of our national security from terrorist threats is a serious and sober matter. Since the events of September 11, 2001, we have all labored under a heightened awareness of the weight of that responsibility. This legislation represents an attempt to balance a wide array of far-flung government duties against one most-significant federal duty, the protection of the life and the liberty of each U.S. citizen. It is my hope that this legislation will help our government to more effectively execute that supreme trust, while not compromising lesser responsibilities that are, non-the-less, critical to our nation's welfare.

With that hope in mind, the House Committee on Agriculture acted earlier this year to mark up provisions of the Homeland Security legislation that impacted the duties of the U.S. Department of Agriculture. Two areas of concern were the transfer of the Plum Island Animal Disease Laboratory to the new Department of Homeland Security, and the transfer of certain USDA border inspection functions to that same new agency. Our intent as included in House Report 107–609 accompanying H.R. 5005 is as follows:

Sec. 310. Transfer of Plum Island Animal Disease Center, Department of Agriculture. Transfers the Plum Island Animal Disease Center from the Department of Agriculture to the Department of Homeland Security and requires the Secretary of Agriculture and the Secretary of Homeland Security, upon completion of the transfer, to enter into an agreement providing for continued access by USDA for research, diagnostic and other programs.

The Committee recognizes the critical importance of the Plum Island Animal Disease Center to the safety and security of animal agriculture in the United States. The Committee expects that the transfer of this foreign animal disease facility to the Department of Homeland Security shall be completed in a manner that minimizes any disruption of agricultural research, diagnostic or other Department of Agriculture activities. Likewise, the Committee expects that funds that have and continue to be appropriated for the maintenance, upgrade, or replacement of agricultural research, diagnostic and training facilities at the Plum Island Animal Disease Center shall continue to be expended for those purposes.

The Committee shares the goal of expanding the capabilities of the Plum Island Animal Disease Center. Likewise, the Committee supports the accompanying goal of building agro-terrorism prevention capabilities within the Department of Homeland Security. With this in mind, the Committee fully expects that in the absence of alternative facilities for current Department of Agriculture activities, the Secretary of Homeland Security shall make every possible effort to expand and enhance agricultural activities related to foreign animal diseases at the Plum Island Animal Disease Center.

Sec. 421. Transfer of Certain Agricultural Inspection Functions of the Department of Agriculture.

(a) Transfers to the Secretary of Homeland Security the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities.

The committee is aware that the Agricultural Quarantine and Inspection Program of the Department of Agriculture's Animal and Plant Health Inspection Service conducts numerous activities with respect to both domestic and international commerce in order to protect the health of agriculturally important animals and plants within the United States. Within the Department of Homeland Security will be created a mission area of Border and Transportation Security. In order that the new streamlined border security program operates efficiently, the Committee has transferred to the Department of Homeland Security the responsibility for certain agricultural import and entry inspection activities of the Department of Agriculture conducted at points of entry. This transfer will include the inspection of arriving passenger's luggage, cargo and means of conveyance into the United States to the Under Secretary for Border and Transportation Security. In addition to inspections at points of entry into the United States, responsibility for inspections of passengers, luggage and their means of conveyance, at points of departure outside the United States, where agreements exist for such purposes, shall be the responsibility of the Secretary of Homeland Security. The provision allows the Secretary of Homeland Security to exercise authorities related to import and entry inspection functions transferred including conducting warrantless inspections at the border, collecting samples, holding and seizing articles that are imported into the United States in violation of applicable laws and regulations, and assessing and collecting civil penalties at the border. The Committee intends that the Department of Agriculture will retain the responsibility for all other activities of the Agricultural Quarantine and Inspection Program regarding imports including pre-clearance of commodities, trade protocol verification activities, fumigation activities, quarantine, diagnosis, eradication and indemnification, as well as other sanitary and phytosanitary measures. All functions regarding exports, interstate and intrastate activities will remain at the Department of Agriculture.

(b) Delineates the laws governing agricultural import and entry inspection activities that are covered by the transfer of authorities.

The Committee is aware that the authority to inspect passengers, cargo, and their means of conveyance coming into the United States is derived from numerous statutes that date back, in some cases, more than 100 years. The Committee does not intend that the reference to these statutes should be construed to provide any authority to the Secretary of Homeland Security beyond the responsibility to carry out inspections (including pre-clearance inspections of passengers, luggage and their means of conveyance in such countries where agreements exist for such purposes) and enforce the regulations of the Department of Agriculture at points of entry into the United States.

(c) Excludes quarantine activities from the term "functions" as defined by this Act for the purposes of this section.

While agricultural inspection functions, as well as those related administrative and enforcement functions, shall be transferred and become the responsibility of the Secretary of Homeland Security, the legislation retains all functions to quarantine activities and quarantine facilities within the Department of Agriculture. Although the Committee has excluded quarantine activities from those functions transferred to the Department of Homeland Security, the Committee does not intend to preclude the Secretary of Homeland Security from taking actions related to inspection functions such as seizure or holding of plant or animal materials entering the United States. These authorities fall within the purview of inspection related enforcement functions that shall be transferred to the Secretary of Homeland Security.

(d) Requires that the authority transferred to the Secretary of Homeland Security shall be exercised in accordance with the regulations, policies and procedures issued by the Secretary of Agriculture; requires the Secretary of Agriculture to coordinate with the Secretary of Homeland Security whenever the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the covered laws related to the functions transferred under subsection (a); provides that the Secretary of Homeland Security, in consultation with the Secretary of Agriculture, may issue guidelines and directives to ensure the effective use of personnel of the Department of Homeland Security to carry out the transferred functions.

One intention of this legislation is to create a streamlined Border and Transportation Security program at points of entry into the United States. With regard to the protection of animal and plant health, the Committee does not intend or expect the Department of Homeland Security to make the determination of what animals, plants, animal or plant products, soils, or other biological materials present an unacceptable risk to the agriculture of the United States. Policies and procedures regarding actions necessary to detect and prevent such unacceptable risks shall remain the responsibility of the Secretary of Agriculture. Likewise, policies and regulations defining restrictions on movement into the United States of substances that would pose a threat to agriculture shall continue to be the responsibility of the Secretary of Agriculture.

The Committee has provided authority for the Secretary of Homeland Security to issue directives and guidelines in consultation with the Secretary of Agriculture in order to efficiently manage inspection resources. When exercising this authority, the Committee expects that the agricultural inspection function at points of entry into the United States shall not be diminished, and as a result, the Committee expects that Secretary of Homeland Security shall ensure that necessary resources are dedicated to carrying out agricultural inspection functions transferred from the Department of Agriculture.

(e) Requires the Secretary of Agriculture and the Secretary of Homeland Security to enter into an agreement to effectuate the transfer of functions. The agreement must address the training of employees and the transfer of funds. In addition the agreement may include authority for the Secretary of Homeland Security to perform functions delegated to APHIS for the protection of domestic livestock and plants, as well as authority for the Secretary of Agriculture to use employees of the Department of Homeland Security to carry out APHIS functions.

The Committee is aware of the unique nature and the specialized training necessary for effective and efficient border inspection activities carried out by the Agricultural Quarantine and Inspection Program. The Committee expects that the training of personnel and detector dogs for this highly specialized function will continue to be supervised by the Department of Agriculture.

While a large proportion of the personnel employed by the Agricultural Quarantine and Inspection Program are permanently stationed at one of 186 points of entry into the United States, the Committee is aware that the Secretary of Agriculture commonly redeploys up to 20% of the border inspection force in order to manage agricultural pests and diseases throughout the United States. In completing the transfer of Agricultural Quarantine and Inspection Program border inspectors to the Department of Homeland Security, the Committee expects that the Secretary of Agriculture and the Secretary of Homeland Security will enter into an agreement whereby inspection resources, where possible, would continue to be made available to the Secretary of Agriculture in response to domestic agricultural needs.

(f) Provides that the Secretary of Agriculture shall transfer funds collected by fee authorities to the Secretary of Homeland Security so long as the funds do not exceed the proportion of the costs incurred by the Secretary of Homeland Security in carrying out activities funded by such fees.

Beginning in fiscal year 2003, the unobligated balance of the Agricultural Quarantine and Inspection Fund will be transferred to other accounts within the Department of Agriculture and will be used to carry out import and domestic inspection activities, as well as animal and plant health quarantine activities, without additional appropriations. Fees for inspection services shall continue to be collected and deposited into these accounts in the manner prescribed by regulations issued by the Secretary of Agriculture. In effectuating the transfer of agricultural import inspection activities at points of entry into the United States, the Committee intends that funds from these accounts shall be transferred to the Department of Homeland Security in order to reimburse the Department of Homeland Security for the actual inspections carried out by the Department. The Committee expects that the Secretary of Agriculture shall continue to manage these accounts in a manner that ensures the availability of funds necessary to carry out domestic inspection and quarantine programs.

(g) Provides that during the transition period, the Secretary of Agriculture shall transfer to the Secretary of Homeland Security up to 3,200 full-time equivalent positions of the Department of Agriculture.

(h) Makes conforming amendments to Title V of the Agricultural Risk Protection Act of 2000 related to the protection of inspection animals.

Mr. COMBEST. Mr. Speaker, I rise in support of H.R. 5710, the Homeland Security Act of 2002. I appreciate the cooperation of the Select Committee on Homeland Security as the Agriculture Committee developed it's recommendations relating to agricultural import and entry inspection activities and the Plum Island Animal Disease Center.

The inspection programs administered by the Animal and Plant Health Inspection Service are designed to prevent both the intentional and inadvertent introduction of harmful plant and animal pests and diseases into the U.S. ecosystem—pests and diseases that could threaten the abundance and variety of the U.S. food supply and cost American taxpayers hundreds of millions of dollars to eradicate.

On average, more than 250,000 people travel to the United States each day. In addition, there are millions and millions of pieces of international mail and countless commercial import and export shipments. As part of the

USDA program, Plant Protection and Quarantine officers, with help from detector dogs in the USDA's Beagle Brigade which sniff luggage for hidden fruits and vegetables, inspect passenger baggage, mail, and cargo at all U.S. ports of entry.

USDA officers make about 2 million interceptions of illegal agricultural products every year. Included in that total are more than 295,000 lots of unauthorized meat and animal byproducts that have the potential to carry diseases to American livestock and poultry. Inspectors also find nearly more than a 100,000 plant pests and diseases that could have been dangerous to our agricultural industry.

The Administration's original proposal to move APHIS in its entirety was made in good faith. However, many of our constituents raised concerns about the scope of the proposal. While most organizations testified that the border inspection function of the USDA could theoretically be transferred, they did so with many concerns regarding the delivery of inspection services critical to the mission of safeguarding against the introduction of plant and animal pests and diseases.

After a hearing in the Agriculture Committee on June 26th, and numerous meetings with the Officer of Homeland Security, the Administration agreed to accept modifications of their original proposal. Instead of taking the entire Animal Plant & Health Inspection Service to the Department of Homeland Security, the Administration has accepted our proposal transferring just those agency personnel actually conducting import and entry inspections. The Plum Island Animal Disease Center would be transferred to the new Department, but access would be provided for USDA to continue research, diagnostic and other necessary activities.

Under our recommendation, the rest of APHIS would remain at the Department of Agriculture and would continue to operate largely as it does today. Additionally, USDA will set the policy for the border inspections to be conducted by the Department of Homeland Security and will supervise the training of those inspectors. All of the remaining functions, such as protecting animal and plant health, facilitating imports and exports, administering the Animal Welfare Act, operating Wildlife Services and providing technical support for trade negotiations, will remain at USDA.

Mr. Speaker, further clarification of the intent of the House Committee on Agriculture was included in House Report 107–609 which accompanied the original legislation—H.R. 5005. The description of the Committee's action and a statement of Congressional intent with regards to the provisions affecting agricultural programs is as follows:

Sec. 310. Transfer of Plum Island Animal Disease Center, Department of Agriculture. Transfers the Plum Island Animal Disease Center from the Department of Agriculture to the Department of Homeland Security and requires the Secretary of Agriculture and the Secretary of Homeland Security, upon completion of the transfer, to enter into an agreement providing for continued access by USDA for research, diagnostic and other programs.

The Committee recognizes the critical importance of the Plum Island Animal Disease Center to the safety and security of animal agriculture in the United States. The Committee expects that the transfer of this foreign animal disease facility to the Department of Homeland Security shall be completed in a manner that minimizes any disruption of agricultural research, diagnostic or other Department of Agriculture activities. Likewise, the Committee expects that funds that have and continue to be appropriated for the maintenance, upgrade, or replacement of agricultural research, diagnostic and training facilities at the Plum Island Animal Disease Center shall continue to be expended for those purposes.

The Committee shares the goal of expanding the capabilities of the Plum Island Animal Disease Center. Likewise, the Committee supports the accompanying goal of building agroterrorism prevention capabilities within the Department of Homeland Security. With this in mind, the Committee fully expects that in the absence of alternative facilities for current Department of Agriculture activities, the Secretary of Homeland Security shall make every possible effort tot expand and enhance agricultural activities related to foreign animal diseases at the Plum Island Animal Disease Center.

Sec. 421. Transfer of Certain Agricultural Inspection Functions of the Department of Agriculture.

(a) Transfers to the Secretary of Homeland Security the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities.

The Committee is aware that the Agricultural Quarantine and Inspection Program of the Department of Agriculture's Animal and Plant Health Inspection Service conducts numerous activities with respect to both domestic and international commerce in order to protect the health of agriculturally important animals and plants within the United States. Within the Department of Homeland Security will be created a mission area of Border and Transportation Security. In order that the new streamlined border security program operates efficiently, the Committee has transferred to the Department of Homeland Security the responsibility for certain agricultural import and entry inspection activities of the Department of Agriculture conducted at points of entry. This transfer will include the inspection of arriving passengers, luggage, cargo and means of conveyance into the United States to the Under Secretary for Border and Transportation Security. In addition to inspection at points of entry into the United States, responsibility for inspections of passengers, luggage and their means of conveyance, at points of departure outside the United States, where agreements exist for such purposes, shall be the responsibility of the Secretary of Homeland Security. The provision allows the Secretary of Homeland Security to exercise authorities related to import and entry inspection functions transferred including conducting warrantless inspections at the border, collecting samples, holding and seizing articles that are imported into the United States in violation of applicable laws and regulations, and assessing and collecting civil penalties at the border. The Committee intends that the Department of Agriculture will retain the responsibility for all other activities of the Agricultural Quarantine and Inspection Program regarding imports including pre-clearance of commodities, trade protocol verification activities, fumigation activities, quarantine, diagnosis, eradication and indemnification, as well as other sanitary and phytosanitary measures. All functions regarding exports, interstate and intrastate activities will remain at the Department of Agriculture.

(b) Delineates the laws governing agricultural import and entry inspection activities that are covered by the transfer of authorities.

The Committee is aware that the authority to inspect passengers, cargo, and their means of conveyance coming into the United States is derived from numerous statutes that date back, in some cases, more than 100 years. The Committee does not intend that the reference to these statutes should be construed to provide any authority to the Secretary of Homeland Security beyond the responsibility to carry out inspections (including pre-clearance inspections of passengers, luggage and their means of conveyance in such countries where agreements exist for such purposes) and enforce the regulations of the Department of Agriculture at points of entry into the United States.

(c) Excludes quarantine activities from the term "functions" as defined by this Act for the purposes of this section.

While agricultural inspection functions, as well as those related administrative and enforcement functions, shall be transferred and become the responsibility of the Secretary of Homeland Security, the legislation retains all functions related to quarantine activities and quarantine facilities within the Department of Agriculture. Although the Committee has excluded quarantine activities from those functions transferred to the Department of Homeland Security, the Committee does not intend to preclude the Secretary of Homeland Security from taking actions related to inspection functions such as seizure or holding of plant or animal materials entering the United States. These authorities fall within the purview of inspection related enforcement functions that shall be transferred to the Secretary of Homeland Security.

(d) Requires that the authority transferred to the Secretary of Homeland Security shall be exercised in accordance with the regulations, policies and procedures issued by Secretary of Agriculture; requires the Secretary of Agriculture to coordinate with the Secretary of Homeland Security whenever the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the covered laws related to the functions transferred under subsection (a); provides that the Secretary of Homeland Security, in consultation with the Secretary of Agriculture, may issue guidelines and directives to ensure the effective use of personnel of the Department of Homeland Security to carry out the transferred functions.

One intention of this legislation is to create a streamlined Border and Transportation Security program at points of entry into the United States. With regard to the protection of animal and plant health, the Committee does not intend or expect the Department of Homeland Security to make the determination of what animals, plants, animal or plant products, soils, or other biological materials present an unacceptable risk to the agriculture of the United States. Policies and procedures regarding actions necessary to detect and prevent such unacceptable risks shall remain the responsibility of the Secretary of Agriculture. Likewise, policies and regulations defining restrictions on movement into the United States of substances that would pose a threat to agriculture shall continue to be the responsibility of the Secretary of Agriculture.

The Committee has provided authority for the Secretary of Homeland Security to issue directives and guidelines in consultation with the Secretary of Agriculture in order to efficiently manage inspection resources. When exercising this authority, the Committee expects that the agricultural inspection function at points of entry into the United States shall not be diminished, and as a result, the Committee expects that Secretary of Homeland Security shall ensure that necessary resources are dedicated to carrying out the agricultural inspection functions transferred from the Department of Agriculture.

(e) Requires the Secretary of Agriculture and the Secretary of Homeland Security to enter into an agreement to effectuate the transfer of functions. The agreement must address the training of employees and the transfer of funds. In addition the agreement may include authority for the Secretary of Homeland Security to perform functions delegated to APHIS for the protection of domestic livestock and plants, as well as authority for the Secretary of Agriculture to use employees of the Department of Homeland Security to carry out APHIS functions.

The Committee is aware of the unique nature and the specialized training necessary for effective and efficient border inspection activities carried out by the Agricultural Quarantine and Inspection Program. The Committee expects that the training of personnel and detector dogs for this highly specialized function will continue to be supervised by the Department of Agriculture.

While a large proportion of the personnel employed by the Agricultural Quarantine and Inspection Program are permanently stationed at one of 186 points of entry into the United States, the Committee is aware that the Secretary of Agriculture commonly redeploys up to 20% of the border inspection force in order to manage agricultural pests and diseases throughout the United States. In completing the transfer of Agricultural Quarantine and Inspection Program border inspectors to the Department of Homeland Security, the Committee expects that the Secretary of Agriculture and the Secretary of Homeland Security will enter into an agreement whereby inspection resources, where possible, would continue to be made available to the Secretary of Agriculture in response to domestic agricultural needs.

(f) Provides that the Secretary of Agriculture shall transfer funds collected by fee authorities to the Department of Homeland Security so long as the funds do not exceed the proportion of the costs incurred by the Secretary of Homeland Security in carrying out activities funded by such fees.

Beginning in fiscal year 2003, the unobligated balance of the Agricultural Quarantine and Inspection Fund will be transferred to other accounts within the Department of Agriculture and will be used to carry out import and domestic inspection activities, as well as animal and plant health quarantine activities, without additional appropriations. Fees for inspection services shall continue to be collected and deposited into these accounts in the manner prescribed by regulations issued by the Secretary of Agriculture. In effectuating the transfer of agricultural import inspection activities at points of entry into the United States, the Committee intends that funds from these accounts shall be transferred to the Department of Homeland Security in order to reimburse the Department of Homeland Security for the actual inspections carried out by the Department. The Committee expects that the Secretary of Agriculture shall continue to manage these accounts in a manner that ensures the availability of funds necessary to carry out domestic inspection and quarantine programs.

(g) Provides that during the transition period, the Secretary of Agriculture shall transfer to the Secretary of Homeland Security up to 3,200 full-time equivalent positions of the Department of Agriculture.

(h) Makes conforming amendments to Title V of the Agriculture Risk Protection Act of 2000 related to the protection of inspection animals.

Mr. NEAL of Massachusetts. Mr. Speaker, I rise today in support of our mission to protect and secure the homeland, but also to oppose the efforts of those who excuse corporate expatriation.

Since September 11th, this nation has pulled together to fight the war on terrorism. And now, with more military action looming, we must face the fact that fighting a war and combating terrorism costs money. To fully fund the needs of our military and homeland security, every American taxpayer, individual and corporation alike, must be prepared to pay their fair share.

If corporate expatriates are not paying their tax bills (and evidence shows they avoid paying $4 billion worth), the American people know that someone will have to pick up the slack. We should use everything in our arsenal to stop corporate expatriation. No more government contracts for financial traitors. No more tax benefits for runaway corporations.

I regret that the Republican leaders struck the very reasonable federal contract ban from this bill—a ban supported by 318 Members of this House—and inserted instead an ineffective provision that affects no one.

Corporate expatriates cheat the federal government out of needed tax revenues and then have the audacity to return for a federal handout. However, the sensible contract ban passed by the House and then championed in the Senate by the late Paul Wellstone, was watered down to the ineffective provision we are debating today. Regrettably, this provision only affects companies who leave after the date of enactment. It makes as much sense as closing the barn door after all the cows are out.

Let's take Tyco, formerly of New Hampshire, now of Bermuda, for example. Tyco, which will be unaffected by the ban in this bill, avoids paying $400 million a year in U.S. taxes by setting up a shell headquarters offshore, but was awarded $182 million in lucrative defense and homeland security related contracts in 2001 alone. If Tyco had just paid its tax bill, Congress could have easily paid for 400 explosive detection systems (EDS), which are badly needed to protect U.S. travelers at airports around the nation.

Or let's examine corporate expatriate Ingersoll-Rand, formerly of New Jersey, and now also in Bermuda. Ingersoll-Rand, also unaffected by this bill, earned as much last year in U.S. defense and homeland security federal contracts as it avoids in U.S. taxes annually merely by renting a mailbox in Bermuda and calling it 'home.' If Ingersoll-Rand paid its U.S. tax bill, Congress could easily fund the proposed Cyberspace Warning Intelligence Network estimated to cost $30 million, or could also buy 400,000 gas masks for American citizens.

Mr. Speaker, the leadership of this House has thwarted all efforts to have a legitimate debate and vote on HR 3884, The Corporate Patriot Enforcement Act, a bipartisan bill to deny the benefits to corporations who flee to tax havens. We must show the American people that this Congress will not coddle corporate abusers. These financial traitors are escaping income taxes, and then, profiting from the very government they have left behind.

I urge my colleagues to fight for tax fairness, any way we can get it.

Ms. PRYCE of Ohio. Mr. Speaker, it has been nearly five months since the President called upon Congress to create a new Department of Homeland Security, and nearly four months since the House first took up that task. This legislation has been through a long journey, full of procedural and partisan roadblocks, weighed down by special interests, and slowed by a storm of misdirection.

I could not be more pleased that we are here today with this compromise legislation that will finally allow us to move the bill to the President's desk. This is a historic achievement.

In recent days, members of the House and Senate have been through a thoughtful, thorough, and cooperative process. Every effort was made to address each concern while maintaining a basic framework that creates an effective department.

This legislation will give the new Department of Homeland Security the tools it needs to succeed in its mission. And this, in my mind, is the key, because the new department's most basic and core mission will be to secure America from terrorist attack.

On September 11, 2001, the streets of New York and Northern Virginia were turned to ash, while a grassy field in Pennsylvania played quiet witness to the final act of a heroic group of Americans. Creation of the Department of Homeland Security is the bold and necessary next step we must a take to ensure that this dark day is never repeated.

We are not creating new government, we are creating better government. We are not legislating new bureaucracy, we are streamlining to face a new threat. We are making government smarter, more flexible, and ultimately, better able to secure America.

The perpetrators of terrorism are shadowy and agile, and they target us like predators without distinction between military target and ordinary citizen. They are a 21st Century enemy with an agelessly corrupt goal-destruction of life, elimination of liberty, and restriction of human freedom.

Our enemy has recognized that our greatest strength—the open society in which we live—also makes us vulnerable to their attacks. We fight this enemy not just on battlefields abroad, but in our very cities and towns. We must be able to respond at home in a strong, coordinated and agile way.

The new cabinet-level department is only one part of our national response, but it is an essential part. The new Department will consolidate the vital preparedness, intelligence analysis, law enforcement, and emergency response functions that are currently dangerously dispersed among numerous federal departments and agencies.

And in the process, the legislation balances the need to protect America with the need to preserve the American way of life that we are protecting.

Thus far, the government has shown immense resolve and dedication, going to extraordinary lengths to respond to the terrorist threat. We are safer than we were on September 10th one year ago. But as the government's efforts reach the limits of their bureaucracies, we must rethink our government structure so that our nation can be even stronger, smarter, and better prepared.

One of our revolutionary forefathers, George Mason, once said, "Government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community."

Make no mistake—our work today undertakes this very core function of government to secure the American people. I urge all of my colleagues to take measure of the task before us, and to support this fair rule and the underlying bill.

It has been a long journey, but this legislation, and the American people, are all the better for it.

Mrs. ROUKEMA. Mr. Speaker, I rise today in strong support of H.R. 5710, the Homeland Security Act of 2002.

At last, Members of both parties and the Administration have put their differences aside and agreed on a strong bill that will make America safer by creating a Cabinet-level Department of Homeland Security to unite essential agencies in our fight against terrorism here at home and abroad.

On the morning of September 11, 2001, a new enemy brought war to our shores. An enemy that considers any innocent man, woman, or child that cherishes freedom a target. An enemy that does not necessarily call any nation home. And an enemy that can hide for years in plain sight and in our own neighborhoods.

This new kind of war, that makes where we live and work a potential battleground, calls for a new response. The United States is a nation at risk of terrorist attacks and it will remain so for the foreseeable future. We need to strengthen our efforts to protect America, and the current governmental structure limits our ability to do so.

When President Bush established the Office of Homeland Security in October 2001, its fundamental mission would be to prevent terrorist attacks within the United States, reduce America's vulnerability to terrorism, and minimize the damage and recovery from attacks that do occur. Mr. Speaker, I believe this new bill will achieve this mission.

The new department will combine 170,000 workers from 22 agencies, including the ATF, Border Patrol, Coast Guard and Customs Service, into a Department of Homeland Security with a $37 billion budget. It balances concerns of federal workers with the need of the President to make personnel decisions in the interest of national security. It brings all immigration responsibilities under the Secretary of Homeland Security. Immigration services will be kept separate from enforcement functions within the Department. This will provide the INS the leadership, direction, and focus that I have been advocating for years.

Now all the necessary functions of government to keep our nation safe at home will fall under one department—where they should be. And that department will be part of the President's cabinet—and that is where it should be.

Let me add Mr. Speaker that leading a massive new federal department that is charged with protecting the homeland during such dangerous times is a Herculean task. There is no one in the nation more capable and prepared to provide that leadership than our former colleague Tom Ridge. Governor Ridge was called on by the President shortly after the tragic attacks on our nation and stepped into the breach to provide leadership on homeland security. This is not the first time he has answered his nation's call in time of war.

His leadership over the past year has prepared our nation and our government for the task ahead. Governor Ridge will succeed and I wish him well.

Finally Mr. Speaker, passage of this bill is the last of the profound accomplishments that this Congress has achieved since September 11, 2001. I am proud of the wise and prudent decisions we have made. Even though many on both sides have disagreed over details and those details have taken longer to work out than I would have liked, we have never disagreed on the goal of our actions. That goal is to protect and defend our nation in this new and awful era of war.

We may suffer another dastardly attack on our shores—given the diabolic treachery in which our enemy deals, it is probably certain they will attempt to attack us again. But we will endure, care for our own, and stand taller than before. As always, we did not ask for this war, especially one that attacks us at home. But we will fight it. And with the help of this legislation—we will win it.

Mr. Speaker, I urge all Members to support this legislation. God bless America.

Mr. DINGELL. Mr. Speaker, I rise today in strong support of strengthening our Nation's security, but in intense opposition to this bill before us. It will create an unwieldy and possibly unworkable department of 170,000 federal workers, and spend 4.5 billion dollars doing so.

Without a doubt, every Member of this body supports increasing America's security. However, I am troubled by the unseemly and unhelpful rush by the President and this body to hastily legislate on this matter in the closing days of this Congress. I would note that the bill we are debating is the result of a deal reached late yesterday. In fact, this bill was introduced early this morning. Why not let the public know what we are doing before we do it?

I served in Congress when we created both the Department of Transportation in 1966 and the Department of Energy in 1977. Congress held extensive hearings. There was testimony from experts in the fields. There were lengthy discussions before we created these Departments. However, even with extensive deliberation in Congress, folding diverse government agencies into one organization resulted in bureaucratic chaos that lasted for many years.

Likewise, the rush to create the Transportation Security Administration after September 11, 2001, has resulted in great confusion. TSA was created to take over security screening at our Nation's airports—a straightforward task that has not yet been accomplished. I think it would be in our Nation's best interest that the President ensures that the relatively small TSA is properly functioning before tackling a massive restructuring of the government.

I am also very concerned that this new Department will develop and operate in a culture of secrecy without adequate and proper public accountability or Congressional oversight. The changes made to the Freedom of Information Act are overly broad and restrictive. By including Section 214 as part of the backroom agreement, this body is ignoring the bipartisan compromise that was reached in the Senate and included in both the Senate Government Affairs Committee bill and the substitute offered by Senators GRAHAM and MILLER in favor of the flawed House provision.

Finally, I note that today we are talking about bureaucratic reorganization while the White House has opposed Democratic funding initiatives to enhance port security, equip local fire fighters and first responders with tools to effectively respond to another terrorist attack, and to improve security at nuclear weapons facilities. In addition, in key critical infrastructure areas where millions of Americans may be at risk, the Bush Administration has dropped the ball. For example, at present, there are no federal standards in place to require chemical plants to assess their vulnerabilities and take steps to reduce them. The Attorney General of the United States has failed to conduct or even initiate an evaluation of the state of chemical facility security (including the security of transportation regulated substances) as required by federal law (P.L. 106–40). Bureaucratic reorganization, even on a grand scale like this bill, is no substitute for real action with respect to chemical plant security and adequate funding for critical security needs.

In sum, I have serious concerns about the management and effectiveness of this new Department. The lessons learned from past governmental reorganizations is that simply rearranging the bureaucratic boxes usually does not get the intended result—oftentimes it gets you more confusion, more expense, more people and less work. This reorganization may actually make the country more vulnerable during the lengthy transition period—not less—particularly if it becomes the substitute for needed action and funding.

Mr. ARMEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

The amendment contained in section 2 of H. Res. 600 is considered as adopted.

Pursuant to H. Res. 600, the bill is considered read for amendment and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ROEMER. I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ROEMER moves to recommit the bill H.R. 5710 to the Select Committee on Homeland Security with instructions to report the same back to the House forthwith with the following amendment:

At the end, add the following new title:

TITLE XVIII—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SEC. 1801. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the "Commission").

SEC. 1802. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York, in Somerset County, Pennsylvania, and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001 (hereinafter in this title referred to as the "Joint Inquiry");

(B) other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally;

(4) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 1803. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as a co-chairperson of the Commission;

(2) 1 member shall be appointed by the minority leader of the Senate, in consultation with the minority leader of the House of Representatives, who shall serve as a co-chairperson of the Commission;

(3) 2 members shall be appointed by the majority leader of the Senate;

(4) 2 members shall be appointed by the Speaker of the House of Representatives;

(5) 2 members shall be appointed by the minority leader of the Senate; and

(6) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, law, public administration, intelligence gathering, commerce (including aviation matters), and foreign affairs.

(4) INITIAL MEETING.—If 90 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, begin the operations of the Commission.

(c) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the co-chairpersons or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 1804. FUNCTIONS OF THE COMMISSION.

(a) IN GENERAL.—The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive Order, regulation, plan, policy, practice, or procedure; and

(B) may include relevant facts and circumstances relating to—

(i) intelligence agencies;

(ii) law enforcement agencies;

(iii) diplomacy;

(iv) immigration, nonimmigrant visas, and border control;

(v) the flow of assets to terrorist organizations;

(vi) commercial aviation;

(vii) the role of congressional oversight and resource allocation; and

(viii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(b) RELATIONSHIP TO INTELLIGENCE COMMITTEES' INQUIRY.—When investigating facts and circumstances relating to the intelligence community, the Commission shall—

(1) first review the information compiled by, and the findings, conclusions, and recommendations of, the Joint Inquiry; and

(2) after that review pursue any appropriate area of inquiry if the Commission determines that—

(A) the Joint Inquiry had not investigated that area;

(B) the Joint Inquiry's investigation of that area had not been complete; or

(C) new information not reviewed by the Joint Inquiry had become available with respect to that area.

SEC. 1805. POWERS OF THE COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents,

as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only upon—

(I) the agreement of the co-chairpersons; or

(II) the affirmative vote of 5 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), subpoenas issued under paragraph (1)(B) may be issued under the signature of either co-chairperson or both co-chairpersons of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be served by any person designated by the co-chairperson, subcommittee chairperson, or member.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by either co-chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive Orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 1806. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the greatest extent feasible; and

(2) release public versions of the reports required under section 1810 (a) and (b).

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive Order.

SEC. 1807. STAFF OF THE COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The co-chairpersons, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 1808. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 1809. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

SEC. 1810. REPORTS OF THE COMMISSION; TERMINATION.

(a) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 2 years after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

SEC. 1811. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title $3,000,000, to remain available until expended.

Mr. ROEMER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana is recognized for 5 minutes in support of his motion to recommit.

□ 1945

Mr. ROEMER. Mr. Speaker, before I explain what my motion is, I see on the other side of the aisle, on the Republican side, somebody that served on the Committee on Education and the Workforce with me, and someone who has decided to step down after serving the country so well through his years, and has managed one of his final bills here.

I would just like to recognize the contributions of the majority leader, the gentleman from Texas (Mr. ARMEY), and salute him for his service to the body.

Mr. Speaker, oftentimes motions to recommit are both partisan and procedural. This motion is neither one. It is not partisan in that it is a reflection actually of the substance of a bipartisan agreement arrived at by members of the intelligence committees in both Chambers, on both sides of the aisle. It is not only bipartisan, it is substantive in what it tries to achieve: to create an independent commission to respond to the national and the international tragedy of 2,900 and 4,800 people dead with the terrorist attack on September 11.

Why on this bill would we offer an independent committee, an independent blue ribbon commission to look at answers as to why this tragic attack was perpetrated upon this country, and how to prevent future attacks? Why on homeland security?

Well, we passed the defense appropriations bill. In that bill we increased funding, and we have a plan for fighting terrorism in Afghanistan and around the world. When we are going to have a Homeland Security Department, as this bill lays out, we need to make sure that we understand how and why the September 11 tragedy took place, and to put all our resources together with the very best people that we can get to serve on this commission, Democrats and Republicans, to protect this country from future attacks and to make sure 2,900 people, 290 people, or 29 people do not die in another attack on this great Nation.

So this is not procedural, this is not partisan; this is an independent commission put forward by people such as

Senator SHELBY, Senator McCAIN, and Senator LIEBERMAN. It is reflective of a vote that took place in this body on the intelligence authorization bill, that passed this body, and one that passed the Senate with a 90 to 8 vote.

I think it is critically important that as we have reacted to attacks like Pearl Harbor on this great Nation, and it took us not 11 months to react to it but 11 days for President Roosevelt to say that we need to get to the facts and we need to find the answers, we do not need political witch-hunts or fingerpointing, we need to protect this country from any other kind of attack. That is what this independent blue ribbon commission would set forward. So it is bipartisan and it is substantive. It is on the right vehicle, the homeland security vehicle.

I may hear from somebody who opposes this that it would delay the creation of this Homeland Security Department, that the President wants and needs this bill to create this. It is a high priority of his.

I highly respect the President and his priorities, and respect the White House for their hard work on this bill. But I also say that this needs to be done and it needs to be done now. It needs to be done because we are at the end of the session, in the last few hours of this, the body's deliberative policymaking, and it needs to be done in a bipartisan way.

Mr. Speaker, when we read the headlines today in the papers and we read in the New York Times and the Post and the South Bend Tribune from my hometown that Osama bin Laden is going to attack, and he is applauding the attacks in Bali and Tunisia and Yemen and the killing of American soldiers, and he is prodding them to attack again, we need to act now. We need to pass with bipartisan votes this recommittal motion.

It is a forthwith recommittal. It would not send the motion back to the committee, it would come right back to the floor and stay on the floor. It will not delay one second this homeland security bill.

Mr. ARMEY. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas (Mr. ARMEY) is recognized for 5 minutes.

Mr. ARMEY. Mr. Speaker, let me thank the gentleman from Indiana (Mr. ROEMER) for raising this subject. The gentleman is correct, this motion to recommit is not procedure, it is not partisan; it is substantive, and it is important. I want to appreciate the gentleman for his interest and his commitment to this subject.

Why, then, Mr. Speaker, would I ask that we oppose the gentleman's motion? In all due respect to the gentleman's work, his commitment, and his fervor for the subject, all of which I applaud, I think we need to recognize that we had such language in the bill and we took it out. Why would we do that? Because we felt that it was not comprehensive enough to do exactly the job the gentleman from Indiana says is important, and we believed it could be properly structured. That work will be done.

The gentleman says it must be done now. More importantly, I would say that it must be done correctly. The negotiations between very important and well-informed members of the Permanent Select Committee on Intelligence, whose work is to be applauded here, and the White House and others will go on; so it will be done. Let me encourage the gentleman to know that.

We have done our job here. We will do this kind of a review. It will all be done right and it will be done thoroughly and it will be done soon. But doing it soon is better than doing it now.

I want to thank again the gentleman from Indiana (Mr. ROEMER). He is so correct in encouraging us to get this job done, get it done as quickly as possible, and get it done right. We must understand and we must care and we must, for the sake of all of our Nation, prevent any atrocities like that in the future.

So if I may, Mr. Speaker, close, again with my most sincere appreciation for the gentleman from Indiana, with respect for what he proposes and assurance that the gentleman's objectives will be fulfilled, and fulfilled soon, and ask that the body at this time, for this moment, reject this motion to recommit and move this other larger work forward.

Mr. HOLT. Mr. Speaker, we need to pass an Intelligence Authorization bill before the year is over. If we don't, our nation's intelligence community will not be able to take advantage of the much-needed increases in funding that we in Congress have appropriated for them. At this time in our Nation's history, when we face so many threats, we simply can't allow that.

But we need to pass an intelligence authorization bill that addresses all of the challenges we face. That means including the provision so many of us support for an independent commission to investigate the 911 terrorist attacks.

Many of my constituents lost their loved ones in the World Trade Center attacks. I am here on the floor today because widows like Lori Van Auken, Mindy Kleinberg, and Patty Casazza from central New Jersey do not want other Americans to share the fate of their husbands. They want our government to ensure that it is doing absolutely everything it can to prevent future terrorist attacks from claiming American lives.

The Administration keeps telling the public that another terrorist attack is inevitable. They say it is not whether another attack will happen, but when it will happen. Another attack is only inevitable if we do not fully examine what went wrong prior to 911. It is only inevitable if we do not learn from our mistakes.

All of us want to improve coordination and communication between the government agencies that are responsible for our security. We want to streamline and integrate their functions. We want to reform how they provide for our security and we want to do it in a systematic and scientific fashion. But we cannot begin fixing things until we know exactly what is broken.

When a reasonable person gets sick, he goes to the doctor to get a diagnosis. He does not try to treat himself. When a patient tries to heal himself sometimes all he does is makes things even worse. That's why Congressional oversight committees are not enough to fix our security apparatus.

Both Republicans and Democrats support an independent commission because we do not believe that agencies like the FBI and CIA are capable of healing themselves. We believe that they need an independent commission of experts who will dispassionately and honestly diagnose their problems and prescribe the proper treatment.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROEMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage. This will be a 15-minute vote on the motion to recommit followed by a 5-minute vote on passage.

The vote was taken by electronic device, and there were—yeas 203, nays 215, not voting 13, as follows:

[Roll No. 476]

YEAS—203

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blumenauer
Bonior
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Fossella
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich

LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—215

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—13

Blagojevich
Borski
Condit
Frank
Hooley
Houghton
John
McKinney
Morella
Rangel
Roukema
Shadegg
Stump

□ 2018

Mr. SAXTON changed his vote from "yea" to "nay."

Messrs. MASCARA, HILLIARD, and DOGGETT changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LaHood). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OXLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 299, nays 121, not voting 11, as follows:

[Roll No. 477]

YEAS—299

Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Clyburn
Coble
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Everett
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Horn
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Sawyer
Saxton
Schaffer
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Turner
Udall (CO)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NAYS—121

Abercrombie
Ackerman
Baldwin
Becerra
Berman
Blumenauer
Bonior
Brady (PA)
Brown (FL)
Brown (OH)
Cannon
Capps
Capuano
Carson (IN)
Clayton
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Doyle
Duncan
Evans
Farr
Fattah
Filner
Flake
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Holt
Honda
Hostettler
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kaptur
Kildee
Kilpatrick
Kleczka
Kucinich
LaFalce
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Markey
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Miller, George
Mollohan
Moran (KS)
Moran (VA)
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor

Paul
Payne
Rahall
Rivers
Rodriguez
Roemer
Roybal-Allard
Sabo
Sánchez
Sanders
Schakowsky
Scott
Serrano
Sherman
Slaughter
Snyder
Solis
Stark
Thompson (CA)
Tierney
Towns
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—11

Blagojevich
Borski
Condit
Frank
Hooley
Houghton
Morella
Rangel
Roukema
Rush
Stump

☐ 2030

Messrs. ROTHMAN, ROYCE, and BACA changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO SUBMIT PROCEEDINGS OF SELECT COMMITTEE ON HOMELAND SECURITY FOR PRINTING

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that, notwithstanding section 7 of House Resolution 449, the gentleman from Texas (Mr. ARMEY) be permitted through the end of the 107th Congress to submit the proceedings of the Select Committee on Homeland Security for printing pursuant to clause 1(c) of rule XI of the rules of the House of Representatives for the 107th Congress.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Ohio?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 1 p.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MAKING IN ORDER CALL OF PRIVATE CALENDAR ON TOMORROW

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be in order on Thursday, November 14.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 31 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 2200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 10 p.m.

CONFERENCE REPORT ON H.R. 3210, TERRORISM RISK PROTECTION ACT

Mr. SHAYS submitted the following conference report and statement on the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

CONFERENCE REPORT (H. REPT. 107–779)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3210), to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Terrorism Risk Insurance Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TERRORISM INSURANCE PROGRAM

Sec. 101. Congressional findings and purpose.
Sec. 102. Definitions.
Sec. 103. Terrorism Insurance Program.
Sec. 104. General authority and administration of claims.
Sec. 105. Preemption and nullification of preexisting terrorism exclusions.
Sec. 106. Preservation provisions.
Sec. 107. Litigation management.
Sec. 108. Termination of Program.

TITLE II—TREATMENT OF TERRORIST ASSETS

Sec. 201. Satisfaction of judgments from blocked assets of terrorists, terrorist organizations, and State sponsors of terrorism.

TITLE III—FEDERAL RESERVE BOARD PROVISIONS

Sec. 301. Certain authority of the Board of Governors of the Federal Reserve System.

TITLE I—TERRORISM INSURANCE PROGRAM

SEC. 101. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the ability of businesses and individuals to obtain property and casualty insurance at reasonable and predictable prices, in order to spread the risk of both routine and catastrophic loss, is critical to economic growth, urban development, and the construction and maintenance of public and private housing, as well as to the promotion of United States exports and foreign trade in an increasingly interconnected world;

(2) property and casualty insurance firms are important financial institutions, the products of which allow mutualization of risk and the efficient use of financial resources and enhance the ability of the economy to maintain stability, while responding to a variety of economic, political, environmental, and other risks with a minimum of disruption;

(3) the ability of the insurance industry to cover the unprecedented financial risks presented by potential acts of terrorism in the United States can be a major factor in the recovery from terrorist attacks, while maintaining the stability of the economy;

(4) widespread financial market uncertainties have arisen following the terrorist attacks of September 11, 2001, including the absence of information from which financial institutions can make statistically valid estimates of the probability and cost of future terrorist events, and therefore the size, funding, and allocation of the risk of loss caused by such acts of terrorism;

(5) a decision by property and casualty insurers to deal with such uncertainties, either by terminating property and casualty coverage for losses arising from terrorist events, or by radically escalating premium coverage to compensate for risks of loss that are not readily predictable, could seriously hamper ongoing and planned construction, property acquisition, and other business projects, generate a dramatic increase in rents, and otherwise suppress economic activity; and

(6) the United States Government should provide temporary financial compensation to insured parties, contributing to the stabilization of the United States economy in a time of national crisis, while the financial services industry develops the systems, mechanisms, products, and programs necessary to create a viable financial services market for private terrorism risk insurance.

(b) PURPOSE.—The purpose of this title is to establish a temporary Federal program that provides for a transparent system of shared public and private compensation for insured losses resulting from acts of terrorism, in order to—

(1) protect consumers by addressing market disruptions and ensure the continued widespread availability and affordability of property and casualty insurance for terrorism risk; and

(2) allow for a transitional period for the private markets to stabilize, resume pricing of such insurance, and build capacity to absorb any future losses, while preserving State insurance regulation and consumer protections.

SEC. 102. DEFINITIONS.

In this title, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) CERTIFICATION.—The term "act of terrorism" means any act that is certified by the Secretary, in concurrence with the Secretary of State, and the Attorney General of the United States—

(i) to be an act of terrorism;

(ii) to be a violent act or an act that is dangerous to—

(I) human life;

(II) property; or

(III) infrastructure;

(iii) to have resulted in damage within the United States, or outside of the United States in the case of—

(I) an air carrier or vessel described in paragraph (5)(B); or

(II) the premises of a United States mission; and

(iv) to have been committed by an individual or individuals acting on behalf of any foreign

person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

(B) LIMITATION.—No act shall be certified by the Secretary as an act of terrorism if—

(i) the act is committed as part of the course of a war declared by the Congress, except that this clause shall not apply with respect to any coverage for workers' compensation; or

(ii) property and casualty insurance losses resulting from the act, in the aggregate, do not exceed $5,000,000.

(C) DETERMINATIONS FINAL.—Any certification of, or determination not to certify, an act as an act of terrorism under this paragraph shall be final, and shall not be subject to judicial review.

(D) NONDELEGATION.—The Secretary may not delegate or designate to any other officer, employee, or person, any determination under this paragraph of whether, during the effective period of the Program, an act of terrorism has occurred.

(2) AFFILIATE.—The term "affiliate" means, with respect to an insurer, any entity that controls, is controlled by, or is under common control with the insurer.

(3) CONTROL.—An entity has "control" over another entity, if—

(A) the entity directly or indirectly or acting through 1 or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other entity;

(B) the entity controls in any manner the election of a majority of the directors or trustees of the other entity; or

(C) the Secretary determines, after notice and opportunity for hearing, that the entity directly or indirectly exercises a controlling influence over the management or policies of the other entity.

(4) DIRECT EARNED PREMIUM.—The term "direct earned premium" means a direct earned premium for property and casualty insurance issued by any insurer for insurance against losses occurring at the locations described in subparagraphs (A) and (B) of paragraph (5).

(5) INSURED LOSS.—The term "insured loss" means any loss resulting from an act of terrorism (including an act of war, in the case of workers' compensation) that is covered by primary or excess property and casualty insurance issued by an insurer if such loss—

(A) occurs within the United States; or

(B) occurs to an air carrier (as defined in section 40102 of title 49, United States Code), to a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs, or at the premises of any United States mission.

(6) INSURER.—The term "insurer" means any entity, including any affiliate thereof—

(A) that is—

(i) licensed or admitted to engage in the business of providing primary or excess insurance in any State;

(ii) not licensed or admitted as described in clause (i), if it is an eligible surplus line carrier listed on the Quarterly Listing of Alien Insurers of the NAIC, or any successor thereto;

(iii) approved for the purpose of offering property and casualty insurance by a Federal agency in connection with maritime, energy, or aviation activity;

(iv) a State residual market insurance entity or State workers' compensation fund; or

(v) any other entity described in section 103(f), to the extent provided in the rules of the Secretary issued under section 103(f);

(B) that receives direct earned premiums for any type of commercial property and casualty insurance coverage, other than in the case of entities described in sections 103(d) and 103(f); and

(C) that meets any other criteria that the Secretary may reasonably prescribe.

(7) INSURER DEDUCTIBLE.—The term "insurer deductible" means—

(A) for the Transition Period, the value of an insurer's direct earned premiums over the calendar year immediately preceding the date of enactment of this Act, multiplied by 1 percent;

(B) for Program Year 1, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 1, multiplied by 7 percent;

(C) for Program Year 2, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 2, multiplied by 10 percent;

(D) for Program Year 3, the value of an insurer's direct earned premiums over the calendar year immediately preceding Program Year 3, multiplied by 15 percent; and

(E) notwithstanding subparagraphs (A) through (D), for the Transition Period, Program Year 1, Program Year 2, or Program Year 3, if an insurer has not had a full year of operations during the calendar year immediately preceding such Period or Program Year, such portion of the direct earned premiums of the insurer as the Secretary determines appropriate, subject to appropriate methodologies established by the Secretary for measuring such direct earned premiums.

(8) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(9) PERSON.—The term "person" means any individual, business or nonprofit entity (including those organized in the form of a partnership, limited liability company, corporation, or association), trust or estate, or a State or political subdivision of a State or other governmental unit.

(10) PROGRAM.—The term "Program" means the Terrorism Insurance Program established by this title.

(11) PROGRAM YEARS.—

(A) TRANSITION PERIOD.—The term "Transition Period" means the period beginning on the date of enactment of this Act and ending on December 31, 2002.

(B) PROGRAM YEAR 1.—The term "Program Year 1" means the period beginning on January 1, 2003 and ending on December 31, 2003.

(C) PROGRAM YEAR 2.—The term "Program Year 2" means the period beginning on January 1, 2004 and ending on December 31, 2004.

(D) PROGRAM YEAR 3.—The term "Program Year 3" means the period beginning on January 1, 2005 and ending on December 31, 2005.

(12) PROPERTY AND CASUALTY INSURANCE.—The term "property and casualty insurance"—

(A) means commercial lines of property and casualty insurance, including excess insurance, workers' compensation insurance, and surety insurance; and

(B) does not include—

(i) Federal crop insurance issued or reinsured under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), or any other type of crop or livestock insurance that is privately issued or reinsured;

(ii) private mortgage insurance (as that term is defined in section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901)) or title insurance;

(iii) financial guaranty insurance issued by monoline financial guaranty insurance corporations;

(iv) insurance for medical malpractice;

(v) health or life insurance, including group life insurance;

(vi) flood insurance provided under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.); or

(vii) reinsurance or retrocessional reinsurance.

(13) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(14) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, each of the United States Virgin Islands, and any territory or possession of the United States.

(15) UNITED STATES.—The term "United States" means the several States, and includes the territorial sea and the continental shelf of the United States, as those terms are defined in the Violent Crime Control and Law Enforcement Act of 1994 (18 U.S.C. 2280, 2281).

(16) RULE OF CONSTRUCTION FOR DATES.—With respect to any reference to a date in this title, such day shall be construed—

(A) to begin at 12:01 a.m. on that date; and

(B) to end at midnight on that date.

SEC. 103. TERRORISM INSURANCE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—There is established in the Department of the Treasury the Terrorism Insurance Program.

(2) AUTHORITY OF THE SECRETARY.—Notwithstanding any other provision of State or Federal law, the Secretary shall administer the Program, and shall pay the Federal share of compensation for insured losses in accordance with subsection (e).

(3) MANDATORY PARTICIPATION.—Each entity that meets the definition of an insurer under this title shall participate in the Program.

(b) CONDITIONS FOR FEDERAL PAYMENTS.—No payment may be made by the Secretary under this section with respect to an insured loss that is covered by an insurer, unless—

(1) the person that suffers the insured loss, or a person acting on behalf of that person, files a claim with the insurer;

(2) the insurer provides clear and conspicuous disclosure to the policyholder of the premium charged for insured losses covered by the Program and the Federal share of compensation for insured losses under the Program—

(A) in the case of any policy that is issued before the date of enactment of this Act, not later than 90 days after that date of enactment;

(B) in the case of any policy that is issued within 90 days of the date of enactment of this Act, at the time of offer, purchase, and renewal of the policy; and

(C) in the case of any policy that is issued more than 90 days after the date of enactment of this Act, on a separate line item in the policy, at the time of offer, purchase, and renewal of the policy;

(3) the insurer processes the claim for the insured loss in accordance with appropriate business practices, and any reasonable procedures that the Secretary may prescribe; and

(4) the insurer submits to the Secretary, in accordance with such reasonable procedures as the Secretary may establish—

(A) a claim for payment of the Federal share of compensation for insured losses under the Program;

(B) written certification—

(i) of the underlying claim; and

(ii) of all payments made for insured losses; and

(C) certification of its compliance with the provisions of this subsection.

(c) MANDATORY AVAILABILITY.—

(1) INITIAL PROGRAM PERIODS.—During the period beginning on the first day of the Transition Period and ending on the last day of Program Year 2, each entity that meets the definition of an insurer under section 102—

(A) shall make available, in all of its property and casualty insurance policies, coverage for insured losses; and

(B) shall make available property and casualty insurance coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism.

(2) PROGRAM YEAR 3.—Not later than September 1, 2004, the Secretary shall, based on the factors referred to in section 108(d)(1), determine whether the provisions of subparagraphs (A) and (B) of paragraph (1) should be extended through Program Year 3.

(d) STATE RESIDUAL MARKET INSURANCE ENTITIES.—

(1) IN GENERAL.—The Secretary shall issue regulations, as soon as practicable after the date of enactment of this Act, that apply the provisions of this title to State residual market insurance entities and State workers' compensation funds.

(2) TREATMENT OF CERTAIN ENTITIES.—For purposes of the regulations issued pursuant to paragraph (1)—

(A) a State residual market insurance entity that does not share its profits and losses with private sector insurers shall be treated as a separate insurer; and

(B) a State residual market insurance entity that shares its profits and losses with private sector insurers shall not be treated as a separate insurer, and shall report to each private sector insurance participant its share of the insured losses of the entity, which shall be included in each private sector insurer's insured losses.

(3) TREATMENT OF PARTICIPATION IN CERTAIN ENTITIES.—Any insurer that participates in sharing profits and losses of a State residual market insurance entity shall include in its calculations of premiums any premiums distributed to the insurer by the State residual market insurance entity.

(e) INSURED LOSS SHARED COMPENSATION.—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of compensation under the Program to be paid by the Secretary for insured losses of an insurer during the Transition Period and each Program Year shall be equal to 90 percent of that portion of the amount of such insured losses that exceeds the applicable insurer deductible required to be paid during such Transition Period or such Program Year.

(B) PROHIBITION ON DUPLICATIVE COMPENSATION.—The Federal share of compensation for insured losses under the Program shall be reduced by the amount of compensation provided by the Federal Government to any person under any other Federal program for those insured losses.

(2) CAP ON ANNUAL LIABILITY.—

(A) IN GENERAL.—Notwithstanding paragraph (1) or any other provision of Federal or State law, if the aggregate insured losses exceed $100,000,000,000, during the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, or during Program Year 2 or Program Year 3 (until such time as the Congress may act otherwise with respect to such losses)—

(i) the Secretary shall not make any payment under this title for any portion of the amount of such losses that exceeds $100,000,000,000; and

(ii) no insurer that has met its insurer deductible shall be liable for the payment of any portion of that amount that exceeds $100,000,000,000.

(B) INSURER SHARE.—For purposes of subparagraph (A), the Secretary shall determine the pro rata share of insured losses to be paid by each insurer that incurs insured losses under the Program.

(3) NOTICE TO CONGRESS.—The Secretary shall notify the Congress if estimated or actual aggregate insured losses exceed $100,000,000,000 during the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, or during Program Year 2 or Program Year 3, and the Congress shall determine the procedures for and the source of any payments for such excess insured losses.

(4) FINAL NETTING.—The Secretary shall have sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final.

(5) DETERMINATIONS FINAL.—Any determination of the Secretary under this subsection shall be final, unless expressly provided, and shall not be subject to judicial review.

(6) INSURANCE MARKETPLACE AGGREGATE RETENTION AMOUNT.—For purposes of paragraph (7), the insurance marketplace aggregate retention amount shall be—

(A) for the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, the lesser of—

(i) $10,000,000,000; and

(ii) the aggregate amount, for all insurers, of insured losses during such period;

(B) for Program Year 2, the lesser of—

(i) $12,500,000,000; and

(ii) the aggregate amount, for all insurers, of insured losses during such Program Year; and

(C) for Program Year 3, the lesser of—

(i) $15,000,000,000; and

(ii) the aggregate amount, for all insurers, of insured losses during such Program Year.

(7) RECOUPMENT OF FEDERAL SHARE.—

(A) MANDATORY RECOUPMENT AMOUNT.—For purposes of this paragraph, the mandatory recoupment amount for each of the periods referred to in subparagraphs (A), (B), and (C) of paragraph (6) shall be the difference between—

(i) the insurance marketplace aggregate retention amount under paragraph (6) for such period; and

(ii) the aggregate amount, for all insurers, of insured losses during such period that are not compensated by the Federal Government because such losses—

(I) are within the insurer deductible for the insurer subject to the losses; or

(II) are within the portion of losses of the insurer that exceed the insurer deductible, but are not compensated pursuant to paragraph (1).

(B) NO MANDATORY RECOUPMENT IF UNCOMPENSATED LOSSES EXCEED INSURANCE MARKETPLACE RETENTION.—Notwithstanding subparagraph (A), if the aggregate amount of uncompensated insured losses referred to in clause (ii) of such subparagraph for any period referred to in subparagraph (A), (B), or (C) of paragraph (6) is greater than the insurance marketplace aggregate retention amount under paragraph (6) for such period, the mandatory recoupment amount shall be $0.

(C) MANDATORY ESTABLISHMENT OF SURCHARGES TO RECOUP MANDATORY RECOUPMENT AMOUNT.—The Secretary shall collect, for repayment of the Federal financial assistance provided in connection with all acts of terrorism (or acts of war, in the case of workers compensation) occurring during any of the periods referred to in subparagraph (A), (B), or (C) of paragraph (6), terrorism loss risk-spreading premiums in an amount equal to any mandatory recoupment amount for such period.

(D) DISCRETIONARY RECOUPMENT OF REMAINDER OF FINANCIAL ASSISTANCE.—To the extent that the amount of Federal financial assistance provided exceeds any mandatory recoupment amount, the Secretary may recoup, through terrorism loss risk-spreading premiums, such additional amounts that the Secretary believes can be recouped, based on—

(i) the ultimate costs to taxpayers of no additional recoupment;

(ii) the economic conditions in the commercial marketplace, including the capitalization, profitability, and investment returns of the insurance industry and the current cycle of the insurance markets;

(iii) the affordability of commercial insurance for small- and medium-sized businesses; and

(iv) such other factors as the Secretary considers appropriate.

(8) POLICY SURCHARGE FOR TERRORISM LOSS RISK-SPREADING PREMIUMS.—

(A) POLICYHOLDER PREMIUM.—Any amount established by the Secretary as a terrorism loss risk-spreading premium shall—

(i) be imposed as a policyholder premium surcharge on property and casualty insurance policies in force after the date of such establishment;

(ii) begin with such period of coverage during the year as the Secretary determines appropriate; and

(iii) be based on a percentage of the premium amount charged for property and casualty insurance coverage under the policy.

(B) COLLECTION.—The Secretary shall provide for insurers to collect terrorism loss risk-spreading premiums and remit such amounts collected to the Secretary.

(C) PERCENTAGE LIMITATION.—A terrorism loss risk-spreading premium (including any additional amount included in such premium on a discretionary basis pursuant to paragraph (7)(D)) may not exceed, on an annual basis, the amount equal to 3 percent of the premium charged for property and casualty insurance coverage under the policy.

(D) ADJUSTMENT FOR URBAN AND SMALLER COMMERCIAL AND RURAL AREAS AND DIFFERENT LINES OF INSURANCE.—

(i) ADJUSTMENTS.—In determining the method and manner of imposing terrorism loss risk-spreading premiums, including the amount of such premiums, the Secretary shall take into consideration—

(I) the economic impact on commercial centers of urban areas, including the effect on commercial rents and commercial insurance premiums, particularly rents and premiums charged to small businesses, and the availability of lease space and commercial insurance within urban areas;

(II) the risk factors related to rural areas and smaller commercial centers, including the potential exposure to loss and the likely magnitude of such loss, as well as any resulting cross-subsidization that might result; and

(III) the various exposures to terrorism risk for different lines of insurance.

(ii) RECOUPMENT OF ADJUSTMENTS.—Any mandatory recoupment amounts not collected by the Secretary because of adjustments under this subparagraph shall be recouped through additional terrorism loss risk-spreading premiums.

(E) TIMING OF PREMIUMS.—The Secretary may adjust the timing of terrorism loss risk-spreading premiums to provide for equivalent application of the provisions of this title to policies that are not based on a calendar year, or to apply such provisions on a daily, monthly, or quarterly basis, as appropriate.

(f) CAPTIVE INSURERS AND OTHER SELF-INSURANCE ARRANGEMENTS.—The Secretary may, in consultation with the NAIC or the appropriate State regulatory authority, apply the provisions of this title, as appropriate, to other classes or types of captive insurers and other self-insurance arrangements by municipalities and other entities (such as workers' compensation self-insurance programs and State workers' compensation reinsurance pools), but only if such application is determined before the occurrence of an act of terrorism in which such an entity incurs an insured loss and all of the provisions of this title are applied comparably to such entities.

(g) REINSURANCE TO COVER EXPOSURE.—

(1) OBTAINING COVERAGE.—This title may not be construed to limit or prevent insurers from

obtaining reinsurance coverage for insurer deductibles or insured losses retained by insurers pursuant to this section, nor shall the obtaining of such coverage affect the calculation of such deductibles or retentions.

(2) LIMITATION ON FINANCIAL ASSISTANCE.—The amount of financial assistance provided pursuant to this section shall not be reduced by reinsurance paid or payable to an insurer from other sources, except that recoveries from such other sources, taken together with financial assistance for the Transition Period or a Program Year provided pursuant to this section, may not exceed the aggregate amount of the insurer's insured losses for such period. If such recoveries and financial assistance for the Transition Period or a Program Year exceed such aggregate amount of insured losses for that period and there is no agreement between the insurer and any reinsurer to the contrary, an amount in excess of such aggregate insured losses shall be returned to the Secretary.

(h) GROUP LIFE INSURANCE STUDY.—

(1) STUDY.—The Secretary shall study, on an expedited basis, whether adequate and affordable catastrophe reinsurance for acts of terrorism is available to life insurers in the United States that issue group life insurance, and the extent to which the threat of terrorism is reducing the availability of group life insurance coverage for consumers in the United States.

(2) CONDITIONAL COVERAGE.—To the extent that the Secretary determines that such coverage is not or will not be reasonably available to both such insurers and consumers, the Secretary shall, in consultation with the NAIC—

(A) apply the provisions of this title, as appropriate, to providers of group life insurance; and

(B) provide such restrictions, limitations, or conditions with respect to any financial assistance provided that the Secretary deems appropriate, based on the study under paragraph (1).

(i) STUDY AND REPORT.—

(1) STUDY.—The Secretary, after consultation with the NAIC, representatives of the insurance industry, and other experts in the insurance field, shall conduct a study of the potential effects of acts of terrorism on the availability of life insurance and other lines of insurance coverage, including personal lines.

(2) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1).

SEC. 104. GENERAL AUTHORITY AND ADMINISTRATION OF CLAIMS.

(a) GENERAL AUTHORITY.—The Secretary shall have the powers and authorities necessary to carry out the Program, including authority—

(1) to investigate and audit all claims under the Program; and

(2) to prescribe regulations and procedures to effectively administer and implement the Program, and to ensure that all insurers and self-insured entities that participate in the Program are treated comparably under the Program.

(b) INTERIM RULES AND PROCEDURES.—The Secretary may issue interim final rules or procedures specifying the manner in which—

(1) insurers may file and certify claims under the Program;

(2) the Federal share of compensation for insured losses will be paid under the Program, including payments based on estimates of or actual insured losses;

(3) the Secretary may, at any time, seek repayment from or reimburse any insurer, based on estimates of insured losses under the Program, to effectuate the insured loss sharing provisions in section 103; and

(4) the Secretary will determine any final netting of payments under the Program, including payments owed to the Federal Government from any insurer and any Federal share of compensation for insured losses owed to any insurer, to effectuate the insured loss sharing provisions in section 103.

(c) CONSULTATION.—The Secretary shall consult with the NAIC, as the Secretary determines appropriate, concerning the Program.

(d) CONTRACTS FOR SERVICES.—The Secretary may employ persons or contract for services as may be necessary to implement the Program.

(e) CIVIL PENALTIES.—

(1) IN GENERAL.—The Secretary may assess a civil monetary penalty in an amount not exceeding the amount under paragraph (2) against any insurer that the Secretary determines, on the record after opportunity for a hearing—

(A) has failed to charge, collect, or remit terrorism loss risk-spreading premiums under section 103(e) in accordance with the requirements of, or regulations issued under, this title;

(B) has intentionally provided to the Secretary erroneous information regarding premium or loss amounts;

(C) submits to the Secretary fraudulent claims under the Program for insured losses;

(D) has failed to provide the disclosures required under subsection (f); or

(E) has otherwise failed to comply with the provisions of, or the regulations issued under, this title.

(2) AMOUNT.—The amount under this paragraph is the greater of $1,000,000 and, in the case of any failure to pay, charge, collect, or remit amounts in accordance with this title or the regulations issued under this title, such amount in dispute.

(3) RECOVERY OF AMOUNT IN DISPUTE.—A penalty under this subsection for any failure to pay, charge, collect, or remit amounts in accordance with this title or the regulations under this title shall be in addition to any such amounts recovered by the Secretary.

(f) SUBMISSION OF PREMIUM INFORMATION.—

(1) IN GENERAL.—The Secretary shall annually compile information on the terrorism risk insurance premium rates of insurers for the preceding year.

(2) ACCESS TO INFORMATION.—To the extent that such information is not otherwise available to the Secretary, the Secretary may require each insurer to submit to the NAIC terrorism risk insurance premium rates, as necessary to carry out paragraph (1), and the NAIC shall make such information available to the Secretary.

(3) AVAILABILITY TO CONGRESS.—The Secretary shall make information compiled under this subsection available to the Congress, upon request.

(g) FUNDING.—

(1) FEDERAL PAYMENTS.—There are hereby appropriated, out of funds in the Treasury not otherwise appropriated, such sums as may be necessary to pay the Federal share of compensation for insured losses under the Program.

(2) ADMINISTRATIVE EXPENSES.—There are hereby appropriated, out of funds in the Treasury not otherwise appropriated, such sums as may be necessary to pay reasonable costs of administering the Program.

SEC. 105. PREEMPTION AND NULLIFICATION OF PRE-EXISTING TERRORISM EXCLUSIONS.

(a) GENERAL NULLIFICATION.—Any terrorism exclusion in a contract for property and casualty insurance that is in force on the date of enactment of this Act shall be void to the extent that it excludes losses that would otherwise be insured losses.

(b) GENERAL PREEMPTION.—Any State approval of any terrorism exclusion from a contract for property and casualty insurance that is in force on the date of enactment of this Act, shall be void to the extent that it excludes losses that would otherwise be insured losses.

(c) REINSTATEMENT OF TERRORISM EXCLUSIONS.—Notwithstanding subsections (a) and (b) or any provision of State law, an insurer may reinstate a preexisting provision in a contract for property and casualty insurance that is in force on the date of enactment of this Act and that excludes coverage for an act of terrorism only—

(1) if the insurer has received a written statement from the insured that affirmatively authorizes such reinstatement; or

(2) if—

(A) the insured fails to pay any increased premium charged by the insurer for providing such terrorism coverage; and

(B) the insurer provided notice, at least 30 days before any such reinstatement, of—

(i) the increased premium for such terrorism coverage; and

(ii) the rights of the insured with respect to such coverage, including any date upon which the exclusion would be reinstated if no payment is received.

SEC. 106. PRESERVATION PROVISIONS.

(a) STATE LAW.—Nothing in this title shall affect the jurisdiction or regulatory authority of the insurance commissioner (or any agency or office performing like functions) of any State over any insurer or other person—

(1) except as specifically provided in this title; and

(2) except that—

(A) the definition of the term "act of terrorism" in section 102 shall be the exclusive definition of that term for purposes of compensation for insured losses under this title, and shall preempt any provision of State law that is inconsistent with that definition, to the extent that such provision of law would otherwise apply to any type of insurance covered by this title;

(B) during the period beginning on the date of enactment of this Act and ending on December 31, 2003, rates and forms for terrorism risk insurance covered by this title and filed with any State shall not be subject to prior approval or a waiting period under any law of a State that would otherwise be applicable, except that nothing in this title affects the ability of any State to invalidate a rate as excessive, inadequate, or unfairly discriminatory, and, with respect to forms, where a State has prior approval authority, it shall apply to allow subsequent review of such forms; and

(C) during the period beginning on the date of enactment of this Act and for so long as the Program is in effect, as provided in section 108, including authority in subsection 108(b), books and records of any insurer that are relevant to the Program shall be provided, or caused to be provided, to the Secretary, upon request by the Secretary, notwithstanding any provision of the laws of any State prohibiting or limiting such access.

(b) EXISTING REINSURANCE AGREEMENTS.—Nothing in this title shall be construed to alter, amend, or expand the terms of coverage under any reinsurance agreement in effect on the date of enactment of this Act. The terms and conditions of such an agreement shall be determined by the language of that agreement.

SEC. 107. LITIGATION MANAGEMENT.

(a) PROCEDURES AND DAMAGES.—

(1) IN GENERAL.—If the Secretary makes a determination pursuant to section 102 that an act of terrorism has occurred, there shall exist a Federal cause of action for property damage, personal injury, or death arising out of or resulting from such act of terrorism, which shall be the exclusive cause of action and remedy for claims for property damage, personal injury, or death arising out of or relating to such act of terrorism, except as provided in subsection (b).

(2) PREEMPTION OF STATE ACTIONS.—All State causes of action of any kind for property damage, personal injury, or death arising out of or

resulting from an act of terrorism that are otherwise available under State law are hereby preempted, except as provided in subsection (b).

(3) Substantive law.—The substantive law for decision in any such action described in paragraph (1) shall be derived from the law, including choice of law principles, of the State in which such act of terrorism occurred, unless such law is otherwise inconsistent with or preempted by Federal law.

(4) Jurisdiction.—For each determination described in paragraph (1), not later than 90 days after the occurrence of an act of terrorism, the Judicial Panel on Multidistrict Litigation shall designate 1 district court or, if necessary, multiple district courts of the United States that shall have original and exclusive jurisdiction over all actions for any claim (including any claim for loss of property, personal injury, or death) relating to or arising out of an act of terrorism subject to this section. The Judicial Panel on Multidistrict Litigation shall select and assign the district court or courts based on the convenience of the parties and the just and efficient conduct of the proceedings. For purposes of personal jurisdiction, the district court or courts designated by the Judicial Panel on Multidistrict Litigation shall be deemed to sit in all judicial districts in the United States.

(5) Punitive damages.—Any amounts awarded in an action under paragraph (1) that are attributable to punitive damages shall not count as insured losses for purposes of this title.

(b) Exclusion.—Nothing in this section shall in any way limit the liability of any government, an organization, or person who knowingly participates in, conspires to commit, aids and abets, or commits any act of terrorism with respect to which a determination described in subsection (a)(1) was made.

(c) Right of Subrogation.—The United States shall have the right of subrogation with respect to any payment or claim paid by the United States under this title.

(d) Relationship to Other Law.—Nothing in this section shall be construed to affect—

(1) any party's contractual right to arbitrate a dispute; or

(2) any provision of the Air Transportation Safety and System Stabilization Act (Public Law 107–42; 49 U.S.C. 40101 note.).

(e) Effective Period.—This section shall apply only to actions described in subsection (a)(1) that arise out of or result from acts of terrorism that occur or occurred during the effective period of the Program.

SEC. 108. TERMINATION OF PROGRAM.

(a) Termination of Program.—The Program shall terminate on December 31, 2005.

(b) Continuing Authority To Pay or Adjust Compensation.—Following the termination of the Program, the Secretary may take such actions as may be necessary to ensure payment, recoupment, reimbursement, or adjustment of compensation for insured losses arising out of any act of terrorism occurring during the period in which the Program was in effect under this title, in accordance with the provisions of section 103 and regulations promulgated thereunder.

(c) Repeal; Savings Clause.—This title is repealed on the final termination date of the Program under subsection (a), except that such repeal shall not be construed—

(1) to prevent the Secretary from taking, or causing to be taken, such actions under subsection (b) of this section, paragraph (4), (5), (6), (7), or (8) of section 103(e), or subsection (a)(1), (c), (d), or (e) of section 104, as in effect on the day before the date of such repeal, or applicable regulations promulgated thereunder, during any period in which the authority of the Secretary under subsection (b) of this section is in effect; or

(2) to prevent the availability of funding under section 104(g) during any period in which the authority of the Secretary under subsection (b) of this section is in effect.

(d) Study and Report on the Program.—

(1) Study.—The Secretary, in consultation with the NAIC, representatives of the insurance industry and of policy holders, other experts in the insurance field, and other experts as needed, shall assess the effectiveness of the Program and the likely capacity of the property and casualty insurance industry to offer insurance for terrorism risk after termination of the Program, and the availability and affordability of such insurance for various policyholders, including railroads, trucking, and public transit.

(2) Report.—The Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1) not later than June 30, 2005.

TITLE II—TREATMENT OF TERRORIST ASSETS

SEC. 201. SATISFACTION OF JUDGMENTS FROM BLOCKED ASSETS OF TERRORISTS, TERRORIST ORGANIZATIONS, AND STATE SPONSORS OF TERRORISM.

(a) In General.—Notwithstanding any other provision of law, and except as provided in subsection (b), in every case in which a person has obtained a judgment against a terrorist party on a claim based upon an act of terrorism, or for which a terrorist party is not immune under section 1605(a)(7) of title 28, United States Code, the blocked assets of that terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party) shall be subject to execution or attachment in aid of execution in order to satisfy such judgment to the extent of any compensatory damages for which such terrorist party has been adjudged liable.

(b) Presidential Waiver.—

(1) In general.—Subject to paragraph (2), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive the requirements of subsection (a) in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(2) Exception.—A waiver under this subsection shall not apply to—

(A) property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that has been used by the United States for any nondiplomatic purpose (including use as rental property), or the proceeds of such use; or

(B) the proceeds of any sale or transfer for value to a third party of any asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(c) Special Rule for Cases Against Iran.—Section 2002 of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386; 114 Stat. 1542), as amended by section 686 of Public Law 107–228, is further amended—

(1) in subsection (a)(2)(A)(ii), by striking "July 27, 2000, or January 16, 2002" and inserting "July 27, 2000, any other date before October 28, 2000, or January 16, 2002";

(2) in subsection (b)(2)(B), by inserting after "the date of enactment of this Act" the following: "(less amounts therein as to which the United States has an interest in subrogation pursuant to subsection (c) arising prior to the date of entry of the judgment or judgments to be satisfied in whole or in part hereunder)";

(3) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(4) by inserting after subsection (c) the following new subsection (d):

"(d) Distribution of Account Balances and Proceeds Inadequate To Satisfy Full Amount of Compensatory Awards Against Iran.—

"(1) Prior judgments.—

"(A) In general.—In the event that the Secretary determines that 90 percent of the amounts available to be paid under subsection (b)(2) are inadequate to pay the total amount of compensatory damages awarded in judgments issued as of the date of the enactment of this subsection in cases identified in subsection (a)(2)(A) with respect to Iran, the Secretary shall, not later than 60 days after such date, make payment from such amounts available to be paid under subsection (b)(2) to each party to which such a judgment has been issued in an amount equal to a share, calculated under subparagraph (B), of 90 percent of the amounts available to be paid under subsection (b)(2) that have not been subrogated to the United States under this Act as of the date of enactment of this subsection.

"(B) Calculation of payments.—The share that is payable to a person under subparagraph (A), including any person issued a final judgment as of the date of enactment of this subsection in a suit filed on a date added by the amendment made by section 686 of Public Law 107–228, shall be equal to the proportion that the amount of unpaid compensatory damages awarded in a final judgment issued to that person bears to the total amount of all unpaid compensatory damages awarded to all persons to whom such judgments have been issued as of the date of enactment of this subsection in cases identified in subsection (a)(2)(A) with respect to Iran.

"(2) Subsequent judgment.—

"(A) In general.—The Secretary shall pay to any person awarded a final judgment after the date of enactment of this subsection, in the case filed on January 16, 2002, and identified in subsection (a)(2)(A) with respect to Iran, an amount equal to a share, calculated under subparagraph (B), of the balance of the amounts available to be paid under subsection (b)(2) that remain following the disbursement of all payments as provided by paragraph (1). The Secretary shall make such payment not later than 30 days after such judgment is awarded.

"(B) Calculation of payments.—To the extent that funds are available, the amount paid under subparagraph (A) to such person shall be the amount the person would have been paid under paragraph (1) if the person had been awarded the judgment prior to the date of enactment of this subsection.

"(3) Additional payments.—

"(A) In general.—Not later than 30 days after the disbursement of all payments under paragraphs (1) and (2), the Secretary shall make an additional payment to each person who received a payment under paragraph (1) or (2) in an amount equal to a share, calculated under subparagraph (B), of the balance of the amounts available to be paid under subsection (b)(2) that remain following the disbursement of all payments as provided by paragraphs (1) and (2).

"(B) Calculation of payments.—The share payable under subparagraph (A) to each such person shall be equal to the proportion that the amount of compensatory damages awarded that person bears to the total amount of all compensatory damages awarded to all persons who received a payment under paragraph (1) or (2).

"(4) Statutory construction.—Nothing in this subsection shall bar, or require delay in, enforcement of any judgment to which this subsection applies under any procedure or against assets otherwise available under this section or under any other provision of law.

"(5) Certain rights and claims not relinquished.—Any person receiving less than the

full amount of compensatory damages awarded to that party in a judgment to which this subsection applies shall not be required to make the election set forth in subsection (a)(2)(B) or, with respect to subsection (a)(2)(D), the election relating to relinquishment of any right to execute or attach property that is subject to section 1610(f)(1)(A) of title 28, United States Code, except that such person shall be required to relinquish rights set forth—

"(A) in subsection (a)(2)(C); and

"(B) in subsection (a)(2)(D) with respect to enforcement against property that is at issue in claims against the United States before an international tribunal or that is the subject of awards by such tribunal.

"(6) GUIDELINES FOR ESTABLISHING CLAIMS OF A RIGHT TO PAYMENT.—The Secretary may promulgate reasonable guidelines through which any person claiming a right to payment under this section may inform the Secretary of the basis for such claim, including by submitting a certified copy of the final judgment under which such right is claimed and by providing commercially reasonable payment instructions. The Secretary shall take all reasonable steps necessary to ensure, to the maximum extent practicable, that such guidelines shall not operate to delay or interfere with payment under this section.".

(d) DEFINITIONS.—In this section, the following definitions shall apply:

(1) ACT OF TERRORISM.—The term "act of terrorism" means—

(A) any act or event certified under section 102(1); or

(B) to the extent not covered by subparagraph (A), any terrorist activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iii))).

(2) BLOCKED ASSET.—The term "blocked asset" means—

(A) any asset seized or frozen by the United States under section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)) or under sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701; 1702); and

(B) does not include property that—

(i) is subject to a license issued by the United States Government for final payment, transfer, or disposition by or to a person subject to the jurisdiction of the United States in connection with a transaction for which the issuance of such license has been specifically required by statute other than the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or the United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.); or

(ii) in the case of property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, or that enjoys equivalent privileges and immunities under the law of the United States, is being used exclusively for diplomatic or consular purposes.

(3) CERTAIN PROPERTY.—The term "property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations" and the term "asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations" mean any property or asset, respectively, the attachment in aid of execution or execution of which would result in a violation of an obligation of the United States under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.

(4) TERRORIST PARTY.—The term "terrorist party" means a terrorist, a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))), or a foreign state designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

TITLE III—FEDERAL RESERVE BOARD PROVISIONS

SEC. 301. CERTAIN AUTHORITY OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following new subsection:

"(r)(1) Any action that this Act provides may be taken only upon the affirmative vote of 5 members of the Board may be taken upon the unanimous vote of all members then in office if there are fewer than 5 members in office at the time of the action.

"(2)(A) Any action that the Board is otherwise authorized to take under section 13(3) may be taken upon the unanimous vote of all available members then in office, if—

"(i) at least 2 members are available and all available members participate in the action;

"(ii) the available members unanimously determine that—

"(I) unusual and exigent circumstances exist and the borrower is unable to secure adequate credit accommodations from other sources;

"(II) action on the matter is necessary to prevent, correct, or mitigate serious harm to the economy or the stability of the financial system of the United States;

"(III) despite the use of all means available (including all available telephonic, telegraphic, and other electronic means), the other members of the Board have not been able to be contacted on the matter; and

"(IV) action on the matter is required before the number of Board members otherwise required to vote on the matter can be contacted through any available means (including all available telephonic, telegraphic, and other electronic means); and

"(iii) any credit extended by a Federal reserve bank pursuant to such action is payable upon demand of the Board.

"(B) The available members of the Board shall document in writing the determinations required by subparagraph (A)(ii), and such written findings shall be included in the record of the action and in the official minutes of the Board, and copies of such record shall be provided as soon as practicable to the members of the Board who were not available to participate in the action and to the Chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate and to the Chairman of the Committee on Financial Services of the House of Representatives.".

And the Senate agree to the same.

From the Committee on Financial Services, for consideration of the House bill and the Senate amendment thereto, and modifications committed to conference:

MICHAEL G. OXLEY,
RICHARD H. BAKER,
ROBERT W. NEY,
SUE W. KELLY,
CHRISTOPHER SHAYS,
VITO FOSSELLA,
MICHAEL FERGUSON,
JOHN J. LAFALCE,
PAUL E. KANJORSKI
KEN BENTSEN,
JAMES H. MALONEY,
DARLENE HOOLEY,

From the Committee on the Judiciary, for consideration of sec. 15 the House bill and sec. 10 and 11 of the Senate amendment thereto, and modifications committed to conference:

JOHN CONYERS, JR.,
Managers on the Part of the House.

PAUL SARBANES,
CHRISTOPHER J. DODD,
JACK REED,
CHARLES SCHUMER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment.

The Conference Report includes the following provisions:

Section 1. Short title; table of contents

The short title of this legislation is "Terrorism Risk Insurance Act of 2002."

TITLE I—TERRORISM INSURANCE PROGRAM

Section 101. Congressional findings and purpose

Following the widespread financial market uncertainties due to the terrorist attacks of September 11, 2001, Congress determined that there was a need for a temporary Federal program to establish a system of shared public/private compensation for insured losses resulting from acts of terrorism to protect consumers and create a transitional period for the private insurance markets to stabilize.

Section 102. Definitions

Section 102 defines terms necessary for implementation of this legislation. The Federal backstop is triggered when the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General, certifies that an event meets the definition of an act of terrorism. The legislation only applies to U.S. risks, including domestic air carriers and flag vessels, U.S. territorial seas and continental shelf, and U.S. missions. The legislation applies only to acts that are committed by an individual or individuals acting on behalf of a foreign person or foreign interest.

The terms "affiliate" and "control" are meant to ensure that affiliated insurers are treated as a consolidated entity for calculating direct earned premiums. The term "insured loss" includes losses resulting from an act of terrorism (and from an act of war in the case of workers compensation). Each insurer will be responsible for paying out a prescribed amount of insured losses, the "insurer deductible," before Federal assistance becomes available. This deductible is based on a percentage of direct earned premiums from the previous calendar year. Insurers' deductibles are 1% during a transition period for the remainder of 2002, 7% in 2003, 10% in 2004, and 15% in 2005. Except as otherwise specifically provided, the Conferees intend the legislation to apply only to primary and excess commercial property and casualty insurance (including cyber-terrorism and business interruption coverage).

Section 103. Terrorism Insurance Program

The Terrorism Insurance Program is established in the Department of the Treasury under which the Federal government will share the risk of loss from future terrorist attacks with the commercial property and causality insurance marketplace, for a temporary period of time. The Secretary of the Treasury (hereafter "Secretary") shall administer the Program and pay the Federal share of compensation for insured losses. The Federal government pays 90% of insured losses in excess of an insurer's deductible while the insurer pays 10%. Insurers may reinsure their insurer deductibles and 10% co-shares. Losses covered by the Program will be capped at $100 billion per year; above this amount, Congress is to determine the procedures for and the source of any payments.

Before receiving Federal assistance under this Act, an insurer must certify its claim for payment of insured losses, that a policyholder (or person acting on the policyholder's behalf) has filed a claim for such loss, and the insurer's compliance with the Act. The Secretary may not reimburse an insurer for such losses unless the insurer has provided clear and conspicuous disclosure to the policyholder of the premium charged for terrorism coverage and the Federal share of compensation. This disclosure to the policyholder must occur at the time of offer, purchase, and renewal of the policy for policies issued after the date of enactment, and must be made on a separate line item in the policy with respect to policies issued more than 90 days after enactment. For policies issued before the date of enactment, the disclosure must be made within 90 days of such date. The Conferees intend this disclosure to enhance the competitiveness of the marketplace by better enabling consumers to comparison shop for terrorism insurance coverage, and to make policyholders better aware that the Federal government will be sharing the costs of such coverage with the insurers, thereby reducing the insurers's exposure. Insurers must submit premium and claims information to the Secretary who may investigate and audit all claims under the Program.

Each entity meeting the definition of insurer under this legislation is required to participate in the Program. During the first two years of the Program each such insurer must make available in all of its property and casualty insurance polices coverage for insured losses, and shall make such coverage available on terms that do not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism. The Secretary has discretion to extend this requirement to the third year of the Program, to preserve this important option for policyholders.

Section 103 provides for insurance marketplace retentions of $10 billion in Program year 1 (including any remainder of 2002), $12.5 billion in Program year 2, and $15 billion in Program year 3. Federal assistance within the retention above in insurer deductibles and 10% co-shares must be recouped while additional amounts of Federal assistance may be recouped based on economic factors in the judgment of the Secretary. Mandatory recoupment within the insurance marketplace retention is through terrorism loss risk-spreading premiums (surcharges) paid by all commercial property and casualty policyholders based on premium rates with any year's surcharge (mandatory and discretionary combined) capped at 3% of the premium charged for property and casculty insurance coverage under the policy in each such year. The Secretary has discretion over the timing of recoupment, and to adjust amounts for urban, smaller commercial, and rural areas, as well as for different lines of insurance, so long as the mandatory amounts are ultimately recouped. The Secretary may assess civil penalties on insurers for submission of false or misleading information or failure to repay the Secretary for any amount required to be repaid, or for other failure to comply with the provisions of this title.

This section directs the Secretary to apply the provisions of the legislation to State residual market insurance entities and State workers compensation funds. The Secretary is directed to either treat State residual market insurance entities as separate insurers, or to calculate the premiums, losses, and Federal backstop based on each insurer's share of the entity, imputing such amounts as part of their total business. This calculation would apply to all insurers that participate in such entities, regardless of whether they otherwise provide commercial property and casualty insurance as set forth in the legislation. This section further gives the Secretary discretion to apply the legislation to various classes of captives and self-insurance programs (such as workers' compensation self-insurance programs and State workers' compensation reinsurance pools).

The Secretary is also directed to conduct an expedited study to determine whether adequate and affordable catastrophe reinsurance for acts of terrorism is available to group life insurers and whether the threat of terrorism is reducing the availability of group life insurance for consumers. Should the Secretary determine that terrorism coverage is not or will not be reasonably available to insurers and consumers, the Secretary would be required to include group life insurance in the Terrorism Insurance Program. In so doing, the Secretary would have discretion to determine the most appropriate way to include group life insurance in the Program.

The Secretary, after consultation with the NAIC, is to conduct a study of the potential effects of acts of terrorism on the availability of life insurance generally and other lines of insurance coverage, including personal lines, to be submitted to Congress not later than 9 months from the date of enactment.

Section 104. General authority and administration of claims

The Secretary shall have the powers and authorities necessary to carry out the Program. The Secretary shall annually compile information on the terrorism risk insurance premium rates of insurers for the preceding year. To the extent that such information is not otherwise available, the Secretary may require insurers to submit their terrorism risk insurance premium rates to the NAIC, which shall make such information available to the Secretary.

Section 105. Preemption and nullification of preexisting terrorism exclusions

This section voids any commercial property and casualty terrorism insurance exclusion that is in force on the date of the enactment of this Act to the extent that it excludes that in force on the date of the enactment of this Act to the extent that it excludes losses that would otherwise be insured losses. Any Sate approval of any commercial property and casualty terrorism insurance exclusion in force on the date of enactment is also void to the extent that it excludes losses that would otherwise be insured losses.

This provision is intended to create immediate terrorism coverage for commercial property and casualty policyholders upon enactment for a short window of time, while allowing insurers to immediately send notices of the increased premium for such coverage and giving policyholders the option within 30 days of such notice to pay such increased premium or allow reinstatement of any preexisting terrorism exclusion.

Section 106. Preservation provisions

This section preserves State regulatory authority except as specifically provided in this legislation. A uniform definition of a terrorist act is established in this legislation. Until the end of 2003, States would be required to allow rate and form changes to take effect immediately but would retain authority to disapprove any rates as excessive, inadequate, or unfairly discriminatory and where a State has prior approval authority for forms, subsequent review of such forms is permitted. During the period in which the Secretary's authority to carry out the Program is in effect, the Secretary would have access to any books and records of insurers that are relevant to the Program.

Section 107. Litigation management

The Conferees agreed to a provision on litigation management.

Section 108. Termination of program

This section provides a three-year program (with a transition period for the balance of 2002) that terminates on December 31, 2005. The Secretary shall conduct a study and report to Congress no later than June 30, 2005 on the effectiveness of the Program and the likely capacity of the property and casualty insurance industry to offer insurance for terrorism risk after termination of the Program, and the availability and affordability of such insurance for various policyholders, including railroads, trucking, and public transit.

TITLE II—TREATMENT OF TERRORIST ASSETS

Section 201. Satisfaction of judgments from blocked assets of terrorists, terrorist organizations, and state sponsors to terrorism

The purpose of Section 201 is to deal comprehensively with the problem of enforcement of judgments rendered on behalf of victims of terrorism in any court of competent jurisdiction by enabling them to satisfy such judgments through the attachment of blocked assets of terrorist parties. It is the intent of the Conferees that Section 201 establish that such judgments are to be enforced. Section 201 builds upon and extends the principles in section 1610(f)(1) of the Foreign Sovereign Immunities Act (28 U.S.C. §1610(f)(1)), authorizes the enforcement of judgment against terrorist organizations and eliminates the effect of any Presidential waiver issued prior to the date of enactment purporting to bar or restrict enforcement of such judgments, thereby making clear that all such judgments are enforceable against any assets or property under any authorities referenced in Section 1610(f)(1).

Section 201(c) establishes a special rule for cases against Iran. In Section 2002 of the Victims of Trafficking and Violence Protection Act of 2000 (2000 Act), Congress directed that specified claimants against Iran under Section 1605(a)(7) of the Foreign Sovereign Immunities Act receive payment in satisfaction of judgments. Unfortunately, several victims and families of victims who brought suit against Iran, were left out of the 2000 Act. The Conferees has sought to correct this injustice.

In order to accommodate additional dates within the equitable formula for payment of remaining amounts in the accounts and rental proceeds, the Conferees added to Section

(c) an adjustment to the proportional formula for payment to qualifying claimants.

In Section 201(d), the Conferees broadened the definition of "act of terrorism" for purposes of that section; defined the term "blocked assets"; and clarified the term "terrorist organization" to mean any entity included in the definition provided in Section 212(a)(3)(B)(vi) of the Immigration and Nationality Act, (8 U.S.C. §1182(a)(3)(B)(vi)). This provision is intended to reach terrorist organizations.

TITLE III—FEDERAL RESERVE BOARD PROVISIONS

Section 301. Certain authority of the Board of Governors of the Federal Reserve System

The Conferees agreed to certain changes to Section 11 of the Federal Reserve Act.

From the Committee on Financial Services, for consideration of the House bill and the Senate amendment thereto, and modifications committed to conference:

Michael G. Oxley,
Richard H. Baker,
Robert W. Ney,
Sue W. Kelly,
Christopher Shays,
Vito Fossella,
Michael Ferguson,
John J. LaFalce,
Paul E. Kanjorski,
Ken Bentsen,
James H. Maloney,
Darlene Hooley,

From the Committee on Judiciary, for consideration of sec. 15 the House bill and sec. 10 and 11 of the Senate amendment thereto, and modifications committed to conference:

John Conyers, Jr.,
Managers on the Part of the House.

Paul Sarbanes,
Christopher J. Dodd,
Jack Reed,
Charles Schumer,
Managers on the Part of the Senate.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 1 minute p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. Sessions) at 11 o'clock and 6 minutes p.m.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 1214, MARITIME TRANSPORTATION ANTITERRORISM ACT OF 2002

Mr. DIAZ-BALART, from the Committee on Rules, submitted a privileged report (Rept. No. 107–780) on the resolution (H. Res. 605) waiving points of order against the conference report to accompany the Senate bill (S. 1214) to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 333, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001

Mr. DIAZ-BALART, from the Committee on Rules, submitted a privileged report (Rept. No. 107–781) on the resolution (H. Res. 606) waiving points of order against the conference report to accompany the bill (H.R. 333) to amend Title XI, United States Code, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3210, TERRORISM RISK PROTECTION ACT

Mr. DIAZ-BALART, from the Committee on Rules, submitted a privileged report (Rept. No. 107–782) on the resolution (H. Res. 607) waiving points of order against the conference report to accompany the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. DIAZ-BALART, from the Committee on Rules, submitted a privileged report (Rept. No. 107–783) on the resolution (H. Res. 608) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 5063, ARMED FORCES TAX FAIRNESS ACT OF 2002

Mr. DIAZ-BALART, from the Committee on Rules, submitted a privileged report (Rept. No. 107–784) on the resolution (H. Res. 609) providing for consideration of the Senate amendments to the bill (H.R. 5063) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, which was referred to the House Calendar and ordered to be printed.

ADJOURNMENT

Mr. DIAZ-BALART. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, November 14, 2002, at 1 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9926. A letter from the Acting Principal DeputyAssociate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Diflubenzuron; Pesticide Tolerances Correction [OPP-2002-0224; FRL-7277-9] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9927. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Thiamethoxam; Pesticide Tolerance [OPP-2002-02 98; FRL-7279-6] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9928. A letter from the Under Secretary, Acquisition and Technology, Department of Defense, transmitting a copy of the Selected Acquisition Reports (SARs) for the quarter ending September 30, 2002; to the Committee on Armed Services.

9929. A letter from the Deputy Chief of Naval Operations, Department of Defense, transmitting notification of the decision to convert to contractor performance; to the Committee on Armed Services.

9930. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Clarification of Eligibility of Citizens of Freely Associated States for Housing Assistance [Docket No. FR-4754-F-01] (RIN: 2577-AC35) received November 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9931. A letter from the Director, Office of Management and Budget, transmitting a report on the Cost Estimate For Pay-As-You-Go Calculations; to the Committee on the Budget.

9932. A letter from the Deputy Secretary, Department of Health and Human Services, transmitting the annual report on the Community Services Block Grant (CSBG) National Information Service and the annual report on the Community Services Block Grant Implementation Assessments; to the Committee on Education and the Workforce.

9933. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report for Fiscal Years 1999-2001 entitled "Superfund Five Year Review"; to the Committee on Energy and Commerce.

9934. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the

Agency's final rule — Approval and Promulgation of Implementation Plans; State of Iowa [IA 159-1159a; FRL-7403-7] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9935. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of Kansas [MO 165-1165a; FRL-7401-4] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9936. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; State of Washington; Yakima Carbon Monoxide Redesignation to Attainment and Designation of Areas for Air Quality Planning Purposes [Docket # WA-01-006; FRL-7267-8] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9937. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Determination of Attainment of 1-hour Ozone Standard as of November 15, 1993, for the Birmingham, Alabama, Marginal Ozone Nonattainment Area [AL-200302; FRL-7403-5] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9938. A letter from the Secretary, American Battle Monuments Commission, transmitting the FY 2002 annual report, pursuant to 31 U.S.C. 3512(c)(3) and Public Law 100—504; to the Committee on Government Reform.

9939. A letter from the Chairman and Chief Executive Officer, Chemical Safety and Hazard Investigation Board, transmitting the consolidated report on audit and investigative coverage required by the Inspector General Act of 1978 as amended, and the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

9940. A letter from the Vice Chairman, Defense Nuclear Facilities Safety Board, transmitting the consolidated report for the year ending September 30, 2002, on the Federal Managers' Financial Integrity Act and the status of our internal audit and investigative activities, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

9941. A letter from the Under Secretary, Department of Defense, transmitting the Department's annual implementation report required by the Federal Financial Assistance Management Improvement Act of 1999, pursuant to Public Law 106—107, section 5 (113 Stat. 1488); to the Committee on Government Reform.

9942. A letter from the Librarian, Library of Congress, transmitting the report of the activities of the Library of Congress, including the Copyright Office, for the fiscal year ending September 30, 2001, pursuant to 2 U.S.C. 139; to the Committee on House Administration.

9943. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Sikorsky Aircraft Corporation Model S-76A, S-76B and S-76C Helicopters; [Docket No. 2001-SW-59-AD; Amendment 39-12913; AD 2002-21-07] (RIN: 2120-AA64) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9944. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pilatus Aircraft Ltd. Model PC-6 Airplanes [Docket No. 2002-CE-08-AD; Amendment 39-12914; AD 2002-21-08] (RIN: 2120-AA64) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9945. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; British Aerospace Jetstream Model 3201 Airplanes [Docket No. 2002-CE-25-AD; Amendment 39-12905; AD 2002-20-08] (RIN: 2120-AA64) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9946. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company Beech Models C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B Airplanes [Docket No. 93-CE-37-AD; Amendment 39-12919; AD 94-20-04 R1] (RIN: 2120-AA64) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9947. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Agusta S.p.A. Model A109E Helicopters [Docket No. 2002-SW-06-AD; Amendment 39-12918; AD 2002-21-12] (RIN: 2120-AA64) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9948. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier-Rotax GmbH Type 912 F, 912 S and 914 F Series Reciprocating Engines [Docket No. 2002-NE-33-AD; Amendment 39-12923; AD 2002-21-16] (RIN: 2120-AA64) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9949. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Britax Sell GmbH & Co. OHG Water Boilers, Coffee Makers, and Beverage Makers [Docket No. 2000-NE-58-AD; Amendment 39-12907; AD 2002-21-01] (RIN: 2120-AA64) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9950. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), DC-9-87 (MD-87), and MD-88 Airplanes [Docket No. 2002-NM-216-AD; Amendment 39-12912; AD 2002-21-06] (RIN: 2120-AA64) Recieved October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9951. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-10, -20, -30, -40, and -50 Series Airplanes [Docket No. 2000-NM-57-AD; Amendment 39-12915; AD 2002-21-09] (RIN: 2120-AA64) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9952. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company Beech Models 35, 35R, A35, and B35 Airplanes [Docket No. 2000-CE-44-AD; Amendment 39-12920; AD 2002-21-13] (RIN: 2120-AA64) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9953. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200, -200CB, and -300 Series Airplanes [Docket No. 2000-NM-392-AD; Amendment 39-12921; AD 2002-21-14] (RIN: 2120-AA64) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9954. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt and Whitney PW4000 Series Turbofan Engines [Docket No. 2000-NE-47-AD; Amendment 39-12916; AD 2002-21-10] (RIN: 2120-AA64) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9955. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney JT8D-200 Series Turbofan Engines [Docket No. 2002-NE-11-AD; Amendment 39-12924; AD 2002-21-17] (RIN: 2120-AA64) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9956. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; EXTRA Flugzeugbau GmbH Model EA-300S Airplanes [Docket No. 99-CE-85-AD; Amendment 39-12917; AD 2002-21-11] (RIN: 2120-AA64) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9957. A letter from the Administrative Specialist, Federal Railroad Administration, Department of Transportation, transmitting the Department's final rule — Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, and Acquisitions of Control [FRA Docket No. 1999-4985, Notice No. 5] (RIN: 2130-AB24) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9958. A letter from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting the Department's final rule — Hazardous Materials: Retention of Shipping Papers [Docket No. RSPA-01-10568 (HM-207B)] (RIN: 2137-AC64) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9959. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30338; Amdt. No. 3030] (RIN: 2120-AA65) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9960. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes [Docket No. 2002-NM-214-AD; Amendment 39-12929; AD 2002-22-05] (RIN: 2120-AA64) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9961. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E5 Airspace; Franklin, NC Correction [Airspace Docket No. 02-ASO-10] received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9962. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Stemme GmbH & Co. KG Model S10-VT Sailplanes [Docket No. 2002-CE-29-AD; Amendment 39-12928; AD 2002-22-04] (RIN: 2120-AA64) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9963. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pilatus Britten-Norman Limited BN-2, BN-2A, BN-2B, BN-2T, and BN2A MK. III Series Airplanes [Docket No. 2002-CE-21-AD; Amendment 39-12926; AD 2002-22-02] (RIN: 2120-AA64) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9964. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; PILATUS Aircraft Ltd. Model PC-7 Airplanes [Docket No. 2002-CE-28-AD; Amendment 39-12927; AD 2002-22-03] (RIN: 2120-AA64) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9965. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; MORAVAN a.s. Models Z-143L and Z-242L Airplanes [Docket No. 99-CE-71-AD; Amendment 39-12925; AD 2002-22-01] (RIN: 2120-AA64) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9966. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Hartzell Propeller Inc., Model HD-E6C-3() Propellers [Docket No. 2001-NE-43-AD; Amendment 39-12933; AD 2002-22-08] (RIN: 2120-AA64) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9967. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Honeywell International, Inc., (formerly AlliedSignal, Inc. and Texton Lycoming) LF507 and ALF502R Series Turbofan Engines [Docket No. 2002-NE-21-AD; Amendment 39-12931; AD 2002-22-06] (RIN: 2120-AA64) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9968. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; REVO, Incorporated Models Lake LA-4, Lake LA-4A, Lake LA-4P, Lake LA-4-200, and Lake Model 250 Airplanes [Docket No. 2002-CE-40-AD; Amendment 39-12911; AD 2002-21-05] (RIN: 2120-AA64) received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9969. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Model G-V Series Airplanes [Docket No. 2002-NM-255-AD; Amendment 39-12909; AD 2002-21-03] (RIN: 2120-AA64) received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9970. A letter from the Acting Chairman, National Transportation Safety Board, transmitting the Board's 2000 and 2001 annual report, pursuant to 49 U.S.C. 1117; to the Committee on Transportation and Infrastructure.

9971. A letter from the Director, Office of Personnel Management, transmitting the Office's Fiscal Year 2001 annual report on Veteran's Employment in the Federal Government, pursuant to 38 U.S.C. 4214(e)(1); to the Committee on Veterans' Affairs.

9972. A letter from the Attorney General, Department of Justice, transmitting a report required by Section 310 of the Intelligence Authorization Act for FY 2002, pursuant to Public Law 107—108; to the Committee on Intelligence (Permanent Select).

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DIAZ-BALART: Committee on Rules. House Resolution 600. Resolution providing for consideration of the bill (H.R. 5710) to establish the Department of Homeland Security, and for other purposes (Rept. 107–773). Referred to the House Calendar.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 601. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 107–774). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 602. Resolution providing for consideration of the joint resolution (H.J. Res. 124) making further continuing appropriations for the fiscal year 2003, and for other purposes, and for consideration of the bill (H.R. 5708) to reduce preexisting PAYGO balances, and for other purposes (Rept. 107–775). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 603. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 107–776). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee of Conference. Conference report on S. 1214. An act to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes (Rept. 107–777). Ordered to be printed.

Mr. BURTON: Committee on Government Reform. H.R. 5215. A bill to protect the confidentiality of information acquired from the public for statistical purposes, and to permit the exchange of business data among designated statistical agencies for statistical purposes only; with an amendment (Rept. 107–778). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee of Conference. Conference report on H.R. 3210. A bill to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism (Rept. 107–779). Ordered to be printed.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 605. Resolution waiving points of order against the conference report to accompany the bill (S. 1214) to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes (Rept. 107–780). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 606. Resolution waiving points of order against the conference report to accompany the bill (H.R. 333) to amend title 11, United States Code, and for other purposes (Rept. 107–781). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 607. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism (Rept. 107–782). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 608. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 107–783). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 609. Resolution providing for consideration of the Senate amendment to the bill (H.R. 5063) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services (Rept. 107–784). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BORSKI:

H.R. 5712. A bill to amend title 23, United States Code, to improve roadway safety for motor vehicles, bicycles, and pedestrians and workers in proximity to vehicle traffic; to the Committee on Transportation and Infrastructure.

By Mr. THOMAS (for himself and Mr. Rangel):

H.R. 5713. A bill to amend the Internal Revenue Code of 1986 to make technical corrections, and for other purposes; to the Committee on Ways and Means.

By Mr. SMITH of Michigan (for himself, Ms. Eddie Bernice Johnson of Texas, Mr. Boehlert, Mr. Hall of Texas, Mr. Smith of Texas, Mrs. Morella, Mr. Honda, Mr. Ehlers, Mr. Baird, Mr. Etheridge, Mrs. Biggert, Mr. Barcia, Mr. Gilchrest, Mr. Baca, Mr. Calvert, Mr. Udall of Colorado, and Ms. Lofgren):

H.R. 5714. A bill to authorize appropriations for fiscal years 2003, 2004, and 2005 for the National Science Foundation, and for other purposes; to the Committee on Science.

By Mr. BURTON of Indiana (for himself, Mrs. Maloney of New York, and Mr. Ose):

H.R. 5715. A bill to amend the Immigration and Nationality Act to render inadmissible to the United States the extended family of international child abductors, and for other purposes; To the Committee on the Judiciary.

By Mr. BOEHNER (for himself, Mr. George Miller of California, Mr. Tauzin, and Mr. Dingell):

H.R. 5716. A bill to amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to extend the mental health benefits parity provisions for an additional year; referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CROWLEY (for himself, Mr. Grucci, Mr. Israel, Mr. King, Mrs. McCarthy of New York, Mr. Ackerman, Mr. Meeks of New York, Mr. Nadler, Mr. Weiner, Mr. Towns, Mr. Owens, Ms. Velázquez, Mr. Fossella, Mrs. Maloney of New York, Mr. Rangel, Mr. Serrano, Mr. Engel, Mrs. Lowey, Mr. Gilman, Mr. McNulty, Mr. Sweeney, Mr. Boehlert, Mr. McHugh, Mr. Walsh, Mr. Hinchey, Mr. Reynolds, Ms. Slaughter, Mr. LaFalce, Mr. Quinn, Mr. Houghton, and Mrs. Kelly):

H.R. 5717. A bill to name the Department of Veterans Affairs outpatient clinic in Sunnyside, Queens, New York, as the "Thomas P. Noonan, Jr., Department of Veterans Affairs Outpatient Clinic"; to the Committee on Veterans' Affairs.

By Mr. GRAVES:

H.R. 5718. A bill to amend the Higher Education Act of 1965 to expand and improve the program of loan forgiveness for teachers, and to amend the Elementary and Secondary Education Act of 1965 to focus the expenditure of certain recruitment and professional development funds on high-need local educational agencies; to the Committee on Education and the Workforce.

By Mr. GREENWOOD (for himself and Mr. Waxman):

H.R. 5719. A bill to amend part B of title XVIII of the Social Security Act to provide coverage of certain self-administered intramuscular and subcutaneous drugs under the Medicare Program; referred to the Committee on Energy and Commerce, and in Addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LIPINSKI (for himself, Mr. Moran of Kansas, and Mr. Sullivan):

H.R. 5720. A bill to amend title 49, United States Code, relating to foreign air transportation; to the Committee on Transportation and Infrastructure.

By Mr. McINNIS:

H.R. 5721. A bill to facilitate a land exchange to provide for the acquisition of a private inholding in the San Isabel National Forest in the State of Colorado, and for other purposes; to the Committee on Resources.

By Mr. McINNIS:

H.R. 5722. A bill to designate certain lands in Colorado as wilderness; to the Committee on Resources.

By Mr. McINNIS:

H.R. 5723. A bill to amend the Internal Revenue Code of 1986 to exempt certain student loan financing businesses from treatment as personal holding companies; to the Committee on Ways and Means.

By Mr. MEEHAN (for himself and Mr. Hansen):

H.R. 5724. A bill to prevent the sale of tobacco products to minors, and the circumvention of State tobacco taxes, by means of electronic sales, and for other purposes; to the Committee on Energy and Commerce.

By Mr. NADLER:

H.R. 5725. A bill to authorize a national memorial at, or proximate to, the World Trade Center site to commemorate the tragic events of September 11, 2001, to establish the World Trade Center Memorial Advisory Board, and for other purposes; to the Committee on Resources.

By Mr. PALLONE:

H.R. 5726. A bill to provide health benefits for workers and their families; referred to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce, Ways and Means, Government Reform, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RAMSTAD (for himself and Mr. Cardin):

H.R. 5727. A bill to amend title XVIII of the Social Security Act to improve access to Medicare+Choice plans for special needs Medicare beneficiaries by allowing plans to target enrollment to special needs beneficiaries; referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURTON of Indiana (for himself, Mrs. Maloney of New York, and Mr. Ose):

H. Con. Res. 516. A concurrent resolution expressing the sense of Congress that United States diplomatic and consular missions should provide the full and complete protection of the United States to certain citizens of the United States living abroad; to the Committee on International Relations.

By Mr. HASTINGS of Florida:

H. Con. Res. 517. A concurrent resolution condemning the Democratic People's Republic of Korea for its failure to comply with the Treaty on the Non-Proliferation of Nuclear Weapons and the U.S.-North Korea Agreed Framework of 1994; to the Committee on International Relations.

By Mr. FARR of California (for himself, Mr. Ballenger, Mr. Gilman, Ms. Eddie Bernice Johnson of Texas, Mr. McGovern, Ms. Lee, Mr. George Miller of California, Ms. Kilpatrick, Mr. Brown of Ohio, and Mr. Delahunt):

H. Res. 604. A resolution expressing the sense of the House of Representatives that the United States should adopt a global strategy to respond to the current coffee crisis, and for other purposes; to the Committee on International Relations.

By Mr. DIAZ-BALART:

H. Res. 605. Resolution waiving points of order against the conference report to accompany the bill (S. 1214) to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes.

By Mr. SESSIONS:

H. Res. 606. Resolution waiving points of order against the conference report to accompany the bill (H.R. 333) to amend title 11, United States Code, and for other purposes.

By Mr. SESSIONS:

H. Res. 607. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

By Mr. GOSS:

H. Res. 608. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules.

By Mr. LINDER:

H. Res. 609. Resolution providing for consideration of the Senate amendments to the bill (H.R. 5063) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services.

By Mr. HASTINGS of Florida:

H. Res. 610. A resolution honoring Chief Charles Moose of the Montgomery County, Maryland, Police Department, and the local and Federal law enforcement officers who worked tirelessly to bring an end to the sniper shootings; to the Committee on Government Reform.

By Ms. LEE:

H. Res. 611. A resolution reaffirming the Universal Declaration of Human Rights and expressing support for "Universal Declaration of Human Rights Day"; to the Committee on International Relations.

By Ms. LOFGREN (for herself, Mr. Honda, Ms. Eshoo, Ms. Sánchez, Ms. Roybal-Allard, Mr. Stark, Ms. Lee, Ms. Solis, Mr. Baca, Mrs. Napolitano, Mr. Rodriguez, Mr. Ortiz, Mr. Serrano, Mr. Pastor, Mr. Becerra, Mr. Menendez, Mr. Reyes, Ms. Velázquez, Mr. Hinojosa, Mr. Gutierrez, Mr. Gonzalez, Mr. Acevedo-Vilá, Mr. Underwood, and Mr. Farr of California):

H. Res. 612. A resolution honoring the life of Dr. Roberto Cruz; to the Committee on Education and the Workforce.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

411. The SPEAKER presented a memorial of the Legislature of the State of Utah, relative to House Concurrent Resolution No. 8 memorializing the United States Congress that the Legislature of the State of Utah, the Governor concurring therein, recognizes the members of the American Gold Star Mothers, Incorporated, and Blue Star Mothers of America, Incorporated, for their sacrifices and for their dedicated and patriotic support of the United States; to the Committee on Armed Services.

412. Also, a memorial of the Legislature of the State of Utah, relative to House Concurrent Resolution No. 5 memorializing the United States Congress that the Legislature of the State of Utah, the Governor concurring therein, recognize the military units and personnel stationed in Utah and throughout the nation, and express deep gratitude for their willingness to protect and preserve the freedoms enjoyed in the United States of America; to the Committee on Armed Services.

413. Also, a memorial of the Legislature of the State of Utah, relative to House Joint Resolution No. 25 memorializing the United States Congress that the Legislature of the State of Utah authorizes the Utah Athletic Foundation to adopt an investment policy relating to all funds it may receive for the operation and maintenance of the Olympic

venues it manages; to the Committee on Financial Services.

414. Also, a memorial of the Legislature of the State of Alaska, relative to Legislative Resolve No. 66 memorializing the United States Congress to grant a two-year moratorium on state maintenance of effort requirements for federally funded programs so that states may have more flexibility to address priorities and to react to the fiscal situation; to the Committee on Government Reform.

415. Also, a memorial of the Legislature of the State of Utah, relative to House Concurrent Resolution No. 4 memorializing the United States Congress that the Legislature of the State of Utah, the Governor concurring therein, recognize the outstanding service Congressman James V. Hansen has rendered to the citizens of Utah; to the Committee on House Administration.

416. Also, a memorial of the Legislature of the State of Alaska, relative to Legislative Resolve No. 59 memorializing the United States Congress to pass House Joint Resolution 36 or Senate Joint Resolution 7, or comparable legislation, and present to the legislatures of the several states an amendment to the Constitution of the United States that would provide the Congress power to prohibit the physical desecration of the Flag of the United States; to the Committee on the Judiciary.

417. Also, a memorial of the Legislature of the State of Utah, relative to House Joint Resolution No. 30 memorializing the United States Congress that the Legislature proposes to amend the Utah Constitution to add a property tax exemption for property not owned but under the control of the State or a political subdivision; to the Committee on the Judiciary.

418. Also, a memorial of the Legislature of the State of Alaska, relative to Legislative Resolve No. 67 memorializing the United States Congress to respectfully urge the Canadian government to honor their agreement and provide the additional funds necessary through direct federal appropriations, independent of the federal funds apportioned to Alaska by the FHA, to complete the remaining portions of the Shakwak project; to the Committee on Transportation and Infrastructure.

419. Also, a memorial of the Legislature of the State of Utah, relative to Senate Joint Resolution No. 1 memorializing the United States Congress that the Legislature of the State of Utah urges the United States Department of Energy to encourage Congress to provide monies for research and development grants to promote advances in clean coal technology; to the Committee on Science.

420. Also, a memorial of the Legislature of the State of Utah, relative to; to the Committee on Ways and Means.

421. Also, a memorial of the Legislature of the State of Utah, relative to Senate Joint Resolution No. 11 memorializing the United States Congress that the Legislature of the State of Utah expresses support for the Steel Revitalization Act of 2001 and the emergency measures that need to be taken to save the American steel industry; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 336: Mr. LARSEN of Washington.

H.R. 342: Mr. MEEHAN.

H.R. 408: Ms. LEE.

H.R. 418: Mr. ALLEN.

H.R. 488: Mr. HOYER.

H.R. 551: Mr. PASTOR.

H.R. 600: Mr. BRADY of Pennsylvania.

H.R. 690: Mr. SCHIFF and Mr. WYNN.

H.R. 792: Mr. DELAHUNT.

H.R. 968: Mr. DEFAZIO.

H.R. 1202: Mrs. KELLY and Mrs. BIGGERT.

H.R. 1256: Mr. MEEHAN.

H.R. 1322: Mr. NEAL of Massachusetts.

H.R. 1466: Mr. SIMMONS.

H.R. 1723: Mr. TIERNEY.

H.R. 1724: Mr. ANDREWS, Mr. MARKEY, and Mr. FOSSELLA.

H.R. 1903: Ms. LEE.

H.R. 1918: Ms. WOOLSEY.

H.R. 2117: Mr. RAHALL and Mr. ROTHMAN.

H.R. 2173: Mr. ABERCROMBIE.

H.R. 2442: Ms. HARMON.

H.R. 2484: Mr. TIERNEY.

H.R. 2573: Ms. JACKSON-LEE of Texas and Mr. HOLT.

H.R. 2629: Mr. SIMMONS and Ms. BERKLEY.

H.R. 2638: Ms. JACKSON-LEE of Texas and Mr. DIAZ-BALART.

H.R. 2649: Mr. SHUSTER and Mr. LUCAS of Oklahoma.

H.R. 2674: Mr. GUTIERREZ.

H.R. 2735: Mr. DEMINT and Mr. GEKAS.

H.R. 2799: Ms. BAIRD.

H.R. 3132: Ms. BERMAN, Mrs. CHRISTENSEN, Mr. FORD, Mr. HOLDEN, Mr. WATT of North Carolina, and Mr. SMITH of New Jersey.

H.R. 3145: Ms. WATSON.

H.R. 3363: Ms. SÁNCHEZ.

H.R. 3412: Mr. PAUL, Mr. PRICE of North Carolina, Mr. WILSON of South Carolina, Mr. CUMMINGS, and Mr. JEFF MILLER of Florida.

H.R. 3431: Mr. SIMMONS and Mr. SIMPSON.

H.R. 3464: Mr. NADLER and Mr. ENGEL.

H.R. 3612: Mr. PETERSON of Minnesota.

H.R. 3695: Mr. FRANK.

H.R. 3710: Mr. GREEN of Wisconsin.

H.R. 3775: Mr. SAM JOHNSON of Texas, Mr. SESSIONS, Mr. BARTON of Texas, Mr. CULBERSON, Mr. BRADY of Texas, Mr. EDWARDS Mr. THORNBERRY, Mr. PAUL, Mr. BONILLA, Mr. ARMEY, Ms. GRANGER, Mr. COMBEST, and Mr. SMITH of Texas.

H.R. 3794: Mr. MEEHAN.

H.R. 3834: Mr. SIMMONS, Mr. MARKEY, and Mr. TIERNEY.

H.R. 3887: Ms. BERKLEY.

H.R. 3974: Mr. BERRY.

H.R. 4060: Ms. NORTON.

H.R. 4078: Mr. MORAN of Virginia.

H.R. 4089: Mr. GUTIERREZ, Mr. BENTSEN, Mr. MORAN of Virginia, and Ms. SLAUGHTER.

H.R. 4091: Mr. BENTSEN and Mr. CARSON of Oklahoma.

H.R. 4483: Mrs. JONES of Ohio.

H.R. 4524: Mr. SANDERS and Ms. NORTON.

H.R. 4644: Ms. MILLENDER-MCDONALD.

H.R. 4683: Mrs. CAPPS, Mr. MALONEY of Connecticut, Mr. FILNER, Mr. ANDREWS, and Ms. NORTON.

H.R. 4704: Mr. ROTHMAN.

H.R. 4728: Mr. FILNER.

H.R. 4763: Mrs. TAUSCHER, Mr. DEFAZIO, Ms. HARMAN, Mr. CRAMER, Mrs. NAPOLITANO, and Ms. SCHAKOWSKY.

H.R. 4957: Mr. BAIRD.

H.R. 5031: Mr. WILSON of South Carolina, Mr. RUSH, Mr. QUINN, Mr. DEFAZIO, Mr. UPTON, Mr. BOEHLERT, Mr. BENTSEN, Mr. RODRIGUEZ, Mr. GEORGE MILLER of California, and Mr. NADLER.

H.R. 5077: Mr. SANDERS.

H.R. 5078: Mr. SANDERS and Mr. LANGEVIN.

H.R. 5089: Mr. MARKEY.

H.R. 5187: Mr. GUTIERREZ.

H.R. 5235: Mr. WILSON of South Carolina and Mr. WHITFIELD.

H.R. 5241: Mr. UPTON, Mr. CRAMER, Mr. OLVER, and Mr. SIMMONS.

H.R. 5250: Mr. WALDEN of Oregon.

H.R. 5281: Mr. SCHAFFER.

H.R. 5326: Mr. MEEHAN.

H.R. 5334: Mr. ACEVEDO-VILÁ, Mr. BLUMENAUER, Mr. DEUTSCH, Mr. FILNER, Mr. GRAHAM, Mr. JEFFERSON, Mr. KUCINICH, Mrs. MYRICK, Mr. SCHAFFER, Mr. SPRATT, and Mr. KIND.

H.R. 5350: Mr. SANDERS.

H.R. 5352: Mr. SANDERS.

H.R. 5395: Mr. QUINN, Mr. DINGELL, Mr. SAXTON, Mr. GEORGE MILLER of California, Ms. LEE, Mr. MCGOVERN, Mr. WALSH, Mr. WYNN, and Mr. MARKEY.

H.R. 5398: Mr. CRANE and Mr. PRICE of North Carolina.

H.R. 5412: Mr. PAYNE.

H.R. 5414: Mr. CARSON of Oklahoma and Mr. THOMPSON of California.

H.R. 5441: Mr. FRANK.

H.R. 5484: Mr. REYNOLDS.

H.R. 5497: Mr. KUCINICH.

H.R. 5509: Mr. HORN.

H.R. 5518: Mr. STUPAK and Mr. GRUCCI.

H.R. 5556: Mr. WAMP.

H.R. 5571: Mr. SCHROCK.

H.R. 5612: Mr. COBLE.

H.R. 5619: Mr. BALLENGER.

H.R. 5648: Mr. FROST and Mr. GRUCCI.

H.R. 5657: Mr. SENSENBRENNER and Mr. LANTOS.

H.R. 5674: Ms. NORTON, Mrs. CHRISTENSEN, Mr. OWENS, Mr. MCDERMOTT, and Ms. BERKLEY.

H.R. 5690: Mr. SCHIFF and Mr. BERMAN.

H.R. 5699: Mr. COX.

H.R. 5704: Mrs. LOWEY.

H.R. 5710: Mr. OSBORNE.

H.J. Res. 31: Mr. ACEVEDO-VILÁ, Mr. KUCINICH, Ms. CARSON of Indiana, and Mr. TOWNS.

H. Con. Res. 351: Mr. DELAHUNT, Mr. ROTHMAN, Mr. CRAMER, Ms. ROYBAL-ALLARD, Mr. ROHRABACHER, Mr. STRICKLAND, Mr. FERGUSON, and Mr. WEINER.

H. Con. Res. 382: Mr. BROWN of Ohio.

H. Con. Res. 402: Mrs. MORELLA and Ms. RIVERS.

H. Con. Res. 447: Ms. HOOLEY of Oregon, Mr. DEUTSCH, Mr. BOSWELL, Mr. LUCAS of Kentucky, Mr. SAXTON, Mr. PRICE of North Carolina, Mr. OWENS, Ms. NORTON, and Mr. CALVERT.

H. Con. Res. 477: Mr. FRANK, Mr. TIERNEY, Mr. OLVER, Mr. CARSON of Oklahoma, Mr. WYNN, and Mr. LOBIONDO.

SENATE—*Thursday, November 14, 2002*

The Senate met at 9:30 a.m. and was called to order by the Honorable CARL LEVIN, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Sovereign God, our Help in all the ups and downs of life, all the triumphs and defeats of political life, and all the changes and challenges of leadership, You are our Lord in all seasons and for all reasons. We can come to You when life makes us glad or sad. There is no circumstance beyond Your control. Wherever we go, You are there waiting for us. You are already at work with people before we encounter them. You prepare solutions for our complexities, and You are always ready to help us resolve conflicts even before we ask. We claim Your promise given through Jeremiah: "I have plans for you: plans for good and not evil, to give you a future and a hope" (Jeremiah 29:11).

Lord, we want to do our work this day so that we will hear You say, "Well done, good and faithful servant." Our only goal is to please You in what we say and accomplish. Bless the Senators in the decisions they make and the votes they cast. Give them, and all of us who work with them, Your strength to endure and Your courage to triumph in things great and small that we may attempt the good of all. In Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CARL LEVIN led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 14, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, the chairman of the Commerce Committee has just come into the Chamber. As the Chair will announce, we will have a rollcall vote at approximately 10:30 this morning.

Upon the conclusion of that action on the conference report on Port Security, the Senate will resume consideration of H.R. 5005, the homeland security legislation. Prior to that, however, Senator SANTORUM is going to be recognized to offer a UC. And it is my understanding that Senator CANTWELL is also going to be recognized to offer a unanimous consent request.

Currently pending is a Gramm substitute amendment and a Lieberman first-degree amendment to the homeland security legislation. Cloture was filed on the Gramm amendment and on the bill itself. Therefore, Senators have until 1 p.m. today to file first-degree amendments to that legislation.

Mr. President, the Senate is also expected to consider other important legislation today. We understand that last night the House took to the Rules

NOTICE

If the 107th Congress, 2d Session, adjourns sine die on or before November 22, 2002, a final issue of the Congressional Record for the 107th Congress, 2d Session, will be published on Monday, December 16, 2002, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Friday, December 13. The final issue will be dated Monday, December 16, 2002, and will be delivered on Tuesday, December 17, 2002.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at "Record@Sec.Senate.gov".

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerkhouse.house.gov. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT–60.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record may do so by contacting the Congressional Printing Management Division, at the Government Printing Office, on 512–0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

MARK DAYTON, *Chairman.*

Committee the conference report on bankruptcy, which we have been waiting for for more than a year, and also the terrorism insurance conference report, legislation we have been trying to complete for more than a year. So we should be able to complete those two matters. It may be necessary, on one of them, to file a cloture motion, but that would be determined at a subsequent time.

So other votes could occur over the course of today's session. Certainly on Friday there will be votes with respect to cloture and maybe other items.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MARITIME TRANSPORTATION SECURITY ACT OF 2002—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the conference report to accompany S. 1214, which the clerk will report.

The bill clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1214), to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes, having met, have agreed that the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment and the House agree to the same, signed by all conferees on the part of both Houses.

The Senate proceeded to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 13, 2002.)

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 60 minutes for debate on the conference report, with the time to be equally divided and controlled between the chairman and ranking member of the Commerce Committee.

The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, first, I ask for the yeas and nays on the conference report.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the American public is most familiar with airline, highway and rail transportation. But perhaps the most vulnerable link in our transportation system is the component that few Americans ever see: our major seaports.

Our 361 sea and river ports handle 95 percent of U.S. international trade. These ports annually transfer more than 2 billion tons of freight—often in huge containers from ships that discharge directly onto trucks and railcars that immediately head onto our highways and rail systems. But less than 2 percent of those 5 million containers are ever checked by customs or law enforcement officials.

That is a gaping hole in our national security that must be fixed. That is why the Senate passed The Port and Maritime Security Act of 2001 in December of 2001 and the House and Senate have filed the conference report on the Maritime Transportation Security Act of 2002.

Before discussing the specifics of this conference report, I want to discuss the vulnerabilities at America's seaports:

Lloyd's List International reported that a NATO country's intelligence service has identified 20 merchant vessels believed to be linked to Osama bin Laden. Those vessels are now subject to seizure in ports all over the world. Some of the vessels are thought to be owned outright by bin Laden's business interests, while others are on long-term charter. The Times of London reported that bin Laden used his ships to import into Kenya the explosives used to destroy the U.S. embassies in Kenya and Tanzania.

A suspected member of the al-Quida terrorist network was arrested in Italy after he tried to stow-away in a shipping container heading to Toronto. The container was furnished with a bed, a toilet, and its own power source to operate the heater and recharge batteries. According to the Toronto Sun, the man also had a global satellite telephone, a laptop computer, an airline mechanics certificate, and security passes for airports in Canada, Thailand and Egypt.

In October, a French-flagged tanker was attacked by terrorists in a manner very similar to the speed boat attack on the USS *Cole* in 2000. The attack caused 60,000 tons of oil to be released into the waters off Yemen and killed one crew member.

These stories really bring home this issue of seaport security. Except for those of us who live in port cities like Charleston, people often do not think about their ports—the ports that load industrial and consumer goods onto trucks and railroad cars heading directly to their hometowns. But making these ports more secure is vital to protecting our national security. The destruction that can be accomplished through security holes at our seaports potentially exceed any other mode of transportation. And yet we have failed to make seaport security a priority.

Most Americans would be surprised to discover that until the provisions in this bill there has been no unified federal plan for overseeing the security of the international borders at our seaports. And that's what seaports are: international borders that must be protected as well as our land borders with Canada and Mexico.

The U.S. Coast Guard and U.S. Customs Service are doing an outstanding job, but they are outgunned. In the year 2000, we imported 5.5 million trailer truckloads of cargo. Due to that volume, the U.S. Customs Service is only able to inspect between 1 to 2 percent of containers. In other words, potential terrorists and drug smugglers have a 98 percent chance of randomly importing illegal and dangerous materials.

Senator BOB GRAHAM a few years ago convinced President Clinton to appoint a commission to look at seaport security. At the time, the main focus of port security was stopping illegal drugs, the smuggling of people, and cargo theft. While those problems still exist, the new—and very real—threat of terrorism strikes right at the heart of our national defense.

The Interagency Commission on Crime and Security at U.S. Seaports issued a report a year ago that said security at U.S. seaports "ranges from poor to fair." Let me repeat that: 17 federal agencies reviewed our port security system and found it in poor shape.

According to the Commission:

> Control of access to the seaport or sensitive areas within the seaports is often lacking. Practices to restrict or control the access of vehicles to vessels, cargo receipt and delivery operations, and passenger processing operations at seaports are either not present or not consistently enforced, increasing the risk that violators could quickly remove cargo or contraband. Many ports do not have identification cards issued to personnel to restrict access to vehicles, cargo receipt and delivery operations, and passenger processing operations.

The report said:

> At many seaports, the carrying of firearms is to restricted, and thus internal conspirators and other criminals are allowed armed access to cargo vessels and cruise line terminals. In addition, many seaports rely on private security personnel who lack the crime prevention and law enforcement training and capability of regular police officers.

The report also found that port-related businesses did not know where to report cargo theft and other crimes, and that federal, state and local law enforcement agencies responsible for a port's security rarely meet to coordinate their work.

That is what our legislation does—it creates mechanisms to integrate all these different security agencies and their efforts to improve the security of our seaports, and the railways and highways that converge at our seaports. Our seaport security bill also directly funds more security officers, more screening equipment, and the building of important security infrastructure.

Each agency is good at what they do individually. But they will be even stronger working together, sharing information and tactics, and coordinating security coverage at our seaports. More teamwork between these federal, state and local agencies—along with our security partners in the private sector—will produce a more secure seaport environment that is stronger than the sum of each agency's individual efforts. To foster that teamwork, our bill sets up a National Maritime Security Advisory Committee responsible for coordinating programs to enhance the security and safety of U.S. seaports.

Most important in the bill are the requirements to implement security plans that will provide for efficient, coordinated and effective action to deter and minimize damage from a transportation security incident. The plans will be developed as a national plan, a regional area plan, and facility and vessel plans. The National and Area Security Plans will be developed by the Coast Guard and will be adequate to deter a transportation security incident to the maximum extent possible. The facility and vessel plans are for the individual waterfront facilities and vessels and must be consistent with the federal and area plans. The Secretary of Transportation will conduct an initial assessment of vessels and facilities on and near the water. The assessment will identify those facilities and vessel types that pose a high risk of being involved in a transportation security incident. These assessments will identify the vulnerable assets and infrastructure as well as the threats to those assets and infrastructure.

Within a year the initial assessments will be made, interim security measures will be implemented, and more detailed assessments will be conducted, from which vessel and facility security plans will be devised. These plans will be based on the Coast Guard vulnerability assessments and security recommendations. The plans will be submitted to the Coast Guard by port authorities, waterfront facilities, and vessel operators. All ports, waterfront facilities and vessels are required to operate under approved security plans that are consistent with the Federal and Area Security Plans.

To further enhance law enforcement cooperation, we will require the establishment of Area Security Advisory Committees at each port to coordinate security plans among all the involved agencies: law enforcement, intelligence agencies, Customs, Coast Guard, Immigration, port authorities, shipping companies, and port workers. The bill also creates new programs to professionally train port security personnel. Certification and training of maritime security personnel will be crucial in increasing the professionalism of our federal, state, local, and private sector security personnel.

To address the immediate risk of terrorist activities at or through our seaports, the bill directs the Secretary of Transportation to immediately establish domestic maritime safety and security teams to respond to terrorist activity, criminal activity, or other threats. The units will be composed of officers trained in anti-terrorism, drug interdiction, navigation assistance, and facilitating response to security threats. I would like to thank Senator EDWARDS for his work on this provision. The bill also creates a Sea Marshal program to more specifically authorize the Coast Guard to board vessels in order to deter, prevent, or respond to acts of terrorism. These Sea Marshals will ride along aboard some vessels entering U.S. ports as a deterrent against hijacking or other criminal activity. I would like to thank Senator JOHN KERRY and Senator JOHN BREAUX for working on the Sea Marshal initiative. I also commend Senator BREAUX for all his work on seaport security. He is the Chairman of the Subcommittee on Surface Transportation and Merchant Marine, he has toured throughout the nation reviewing security at our seaports and has done a yeoman's job helping to pass this bill.

The bill will require ports to limit access to security-sensitive areas. Ports also will be required to limit cars and trucks, coordinate with local and private law enforcement, and develop an evacuation plan. Port areas will have increased security with specific area within the port being designated as controlled access where only those with the appropriate credentials will be allowed. The bill also will require criminal background checks of employees with access to ocean manifests or access-controlled areas of a port or terminal. These background checks are designed to ensure that individuals with access to our terminals and cargo facilities are not a terrorism security threat. A system of appeals and waivers will be provided to ensure that port workers are given full and adequate opportunity to explain mitigating factors justifying any waiver requests.

This bill will require for the first time that we know more in advance about the cargo and crew members coming into the United States. The more we know about a ship's cargo—and where it originated—the better our Customs agents and other law enforcement officers can target the most suspicious containers and passengers. I am also pleased that we established performance standards for the locking and sealing of containers. It is vitally important that we ensure that shipping containers are adequately designed and constructed and that we check that they are securely locked for shipment.

The bill modifies a rulemaking requirement for advanced cargo information. The original requirement was included in the Senate passed version of the bill. The rulemaking was then included in the Trade Act, and S. 1214 makes modifications to the Trade Act to incorporate additional changes. I would like to thank the Finance Committee for their cooperative spirit in our effort to enhance cargo security.

Perhaps most importantly, we will give port authorities and local entities support in implementing and paying the costs of addressing Coast Guard identified vulnerabilities. We are dealing with an issue of national security—and we will treat it as such. It would be great if we could simply declare our ports to be more secure. But it takes money to make sure these international borders at our seaports are fully staffed with customs, law enforcement, and immigration personnel. It takes money to make sure they have modern security equipment, including the newest scanners to check cargo for the most dangerous materials. And it takes money to build the physical infrastructure of a secure port.

For seaport security infrastructure, the bill directly authorizes amounts sufficient to upgrade security infrastructure such as gates and fencing, security-related lighting systems, and remote surveillance systems, equipment such as security vessels and screening equipment. I had hoped that we would have an agreement on a dedicated funding mechanism to ensure that state, local and private sector entities that are required to comply with federal security mandates would have the necessary funds to aggressively pursue compliance with security requirements. Unfortunately, I was not able to convince all of the conferees that this was the proper course of action. I was happy that we did reach an agreement to have the Administration report on how to pay for the federal portion of the seaport security responsibility. I will be following this very closely to ensure that we have some sort of agreement to allow for the aggressive pursuit of a new system of seaport security.

U.S. Customs officers must be able to screen more than just 2 percent of the cargo coming into our seaports. We cannot expect to screen every marine container entering the United States, but there must be some expectation of inspection to deter cargo smugglers. While we spend billions of dollars on an anti-ballistic missile defense system, we fail to see perhaps even a greater threat to our national security coming through our ports. A cargo container can be delivered to anywhere in the United States for less than $5,000. The enemies of America can afford $5,000 to import a container of explosive or hazardous materials much more easily than millions of dollars to launch a rocket.

Investing in new screening technologies will help human screeners inspect more cargo, and detect the most dangerous shipments. To increase the amount of cargo screened, the bill directly grants and authorizes $90 million in research and development grants to be awarded to develop methods to increase the ability of the U.S. Customs Service to inspect merchandise carried on any vessel that will arrive in the United States; develop equipment to detect nuclear materials; improving the tags and seals used on shipping containers, including smart sensors for tracking shipments; and tools to mitigate the consequences of terrorist attack. The research and development funds are intended to fund any enhancements that are necessary to enhance technology at U.S. Seaports.

The destruction that can be accomplished through security holes at our seaports potentially exceeds any other mode of transportation. We all know the damage that can be caused by one truck bomb. But one ship can carry thousands of truck-sized containers filled with hazardous materials. A hijacked tanker holding 32 million gallons of oil or other explosive material that is rammed into a port city like Boston, New York, Miami, Los Angeles or Seattle could potentially kill thousands of people and destroy many city blocks.

That vulnerability is magnified by the type of facilities along our coasts and rivers. There are 68 nuclear power plants located along U.S. waterways. Along the 52-mile Houston Ship Channel, there are 150 chemical plants, storage facilities and oil refineries. The Baltimore Sun reported that "within a mile of the Inner Harbor of Baltimore is a major East Coast import and export hub for a broad range of dry and liquid chemicals. If ignited, many are capable of producing ferocious fires, explosions and clouds of noxious fumes—immediately adjacent to such densely populated row house neighborhoods as Locust Point, Highlandtown, and Canton."

Most of the security procedures and infrastructure improvements contained in our bill have long been practiced at our airports and land border crossings. But, for some unfathomable reason, we don't take these preventive steps at our seaports—where most of our cargo arrives, and where we are most vulnerable.

Our agents at the Mexican border near Tijuana will tear the seats out of a car to search for drugs—while a crane just up the coast in Los Angeles lifts thousands of truck-sized cargo containers onto the dock with no inspection at all.

For the first time we will require federal approval of seaport security plans, better coordination and training of law enforcement, more information about cargo, and directly fund more Coast Guard personnel, U.S. Customs agents and security screening equipment to protect against crime and terrorism threats.

Prior to September 11, 2001 we already faced security problems at our seaports related to smuggling, drugs, and cargo theft. But now we face the even greater threat of terrorism—a threat that requires us to immediately tighten security at our seaports, the most vulnerable part of our international border, in the defense of our nation.

This landmark bill also incorporates a Coast Guard authorization bill—the first Coast Guard authorization bill that has passed Congress since 1998. The Coast Guard provisions in the bill reflect the provisions of S. 951, the Coast Guard Authorization Act of 2001, which was reported out of the Commerce Committee last year.

The bill provides increased authorization levels for appropriations in fiscal year 2003, as well as increased personnel. The bill authorizes approximately $6 billion for the Coast Guard's total budget for fiscal year 2003. This is approximately $1 billion higher than the amount appropriated in the FY 2002 Transportation Appropriations bill, and is approximately $200 million higher than the $5.8 billion of total enacted amounts in FY 2002, which includes two supplemental appropriations.

The bill also increases the maximum end-of-year strength to 45,500 active duty military personnel, up from about 35,500, and includes personnel incentives.

The authorizations of appropriations in this bill include $725,000,000 for capital investments, to ensure that the multi-year Deepwater program and the overhaul of the National Distress and Response System (NDS), or "Maritime 911," are adequately funded in 2003.

Ensuring that the Coast Guard has sufficient personnel and capital resources could not come at a more important time. Since the tragic events of September 11, far greater demands have been placed on the Coast Guard in the area of homeland security. Traditionally, the Coast Guard invested only 2 percent of its operating budget into seaport security; this climbed to over 50 percent of its total operating budget after September 11. Now, approximately 22 percent of the budget is envisioned for seaport security.

The Coast Guard has unique missions not covered by any other federal agency. It has the primary responsibility of enforcing U.S. fisheries laws, carrying out drug interdiction at sea, search and rescue operations, and protecting the marine environment against pollution.

With the new responsibilities for port security, combined with the traditional role the Coast Guard plays in other mission areas, it is critically important that the Coast Guard has a vision for how to achieve the "new normalcy," wherein it carries out all of its traditional and new missions, as well as the means to ensure its ability to carry out such functions.

This bill requires the Coast Guard to examine and report to Congress its expenditures by mission area before and after September 11, and the level of funding need to fulfill the Coast Guard's additional responsibilities. The bill also requires the Coast Guard to provide a strategic plan to Congress identifying mission targets for 2003, 2004 and 2005 and the specific steps necessary to achieve those targets.

Even prior to 9/11, there were serious concerns about the Coast Guard's ability to carry out its core missions. For example, the Coast Guard's 30-year-old National Distress and Response System (NDS), also known as "Maritime 911," is breaking down, and has 88 gaps in its geographical area of coverage. Failure to retain experienced crew has plagued the Coast Guard for years. The lack of experienced personnel has resulted in tragedy, with unanswered calls for help leading to the loss of lives at sea. In 1997, all four passengers of the sailboat *Morning Dew*, three of them children, drowned outside of Charleston Harbor as a result of a failed search and rescue system.

The bill requires the Coast Guard to establish and implement standards for the safe operation of all search and rescue facilities. These include standards for the length of time an individual may serve on watch, and acquisition of equipment to achieve safety in the interim, as the entire system is upgraded.

Since the events of September 11, our demands on the Coast Guard have risen dramatically. We must ensure that the Coast Guard is equipped with all of the tools and resources that it needs to protect our seaports, and to carry out all of its traditional missions. I am pleased that we have reached a successful result in the Conference with the House, and that by enacting a Port Security bill, we will at the same time be passing a Coast Guard authorization bill this year.

Mr. President, the morning news reports that Osama bin Laden is alive and well and al-Qaida operates. Four years ago, we started working on this measure, because it was just prior to that time that one of al-Qaida's tankers pulled into Mombassa, the port at Kenya, and the terrorist crew jumped off and blew up the embassy at Nairobi and then Dar Es Salaam's embassy in Tanzania. Lloyds of London reports Osama bin Laden has actual ownership of some 10 oil tankers, and he has control of some other 10 cargo tankers.

I point this out because it is the real threat. Yes, we have maybe a hijacking threat, but the real threat now, as we see it develop, is with respect to our seaports. That is why we started in the committee, some 4 years ago, with respect to seaport security.

Only, last year in Italy we found a suspected al-Qaida terrorist network was operating, coming in through containers. There are some 5 million containers that come into the United States of America each year with 2 billion tons of freight. Only 2 percent of those containers are inspected at this time.

But that one particular suspected terrorist had a bed and a toilet; he had his own power source and everything else like that ready to operate. He could just as easily have come, and may have, unbeknownst to us, into the United States of America.

But let's go right to just last month, the oil tanker off of Yemen, the French tanker with some 60,000 tons of oil. As they blew up the USS *Cole*, they blew up this particular tanker. One can easily foresee that a regular tanker could come up the Delaware River with a suicidal al-Qaida group in operation or in control, where they throw the captain overboard and run it right into an oil tank farm there in Philadelphia, blowing the whole thing up, closing down the eastern seaboard.

So we worked very hard on this legislation. I commend the Senate itself because it was last year at this time, and both sides of the aisle, under the leadership and working with my distinguished colleague, Senator MCCAIN—the soon-to-be chairman again—we worked and unanimously reported out a port security bill from our Commerce Committee. We passed it in the Senate 100 to 0.

It languished on the House side for some months. And it was in June that they finally passed it. And we have been with the staff.

I must emphasize the outstanding work of our staff in this particular regard. We worked all summer long. We thank particularly our colleague Mr. OBERSTAR who worked with us as diligently as he could. In any event, now we have the conference report. It is not complete in the sense that it is not funded. We provide in here certain sums as is necessary to be reported to us in the Congress within 6 months.

We tried to get funding. The Senate had approved a user fee. They called it a tax, and we had some effort over the summer working it out to make sure it was a user fee. Then they said it was an origination problem. Thereupon we said: All right. Just take the conference report. You introduce it. We are not proud of its origin particularly. And you put it in, and we will approve it on the Senate side. So that caused a great delay, but now it's ready to go.

The Maritime Transportation Security Act will provide for the first time a national system for securing our maritime borders. Heretofore, we have known every plane that approaches the continental limits of the United States. They have transponders. We have the radar. We track them. But we couldn't tell what ship was coming, when it was coming, or how. We moved some weather satellites to repair that particular deficiency. We now know, with the Coast Guard working overtime, of the ships approaching. But we now have a secure system for our maritime borders.

We have to first ask that the Secretary of Transportation conduct an assessment of all vessels and facilities on or near the water and identify the risks of being involved in an incident. Then we develop a port and area security plan.

Let me emphasize, you have the Coast Guard. You have Customs. You have DEA. You have local law enforcement. You have the Immigration and Naturalization Service. When everybody is in charge, nobody is in charge. Under the present law, the captain of the port is in charge. We haven't changed that, but we have given him assistance.

We have the Coast Guard authorization bill also in this particular conference report, increasing the Coast Guard amounts and authorizations some $1 billion this fiscal year 2003 over 2002. So we are beginning now to upgrade the wherewithal of the Coast Guard itself that has been doing an outstanding job.

The plans are based on the Coast Guard security recommendations, which they will make within 1 year, of all ports, facilities, and vessels determined to be vulnerable. They then have the local port security committees, which will coordinate the Federal, State, and local and private enforcement efforts.

We have been doing this, I know in the ports of Charleston and several others on the eastern seaboard. They have just been awaiting this legislation to make sure we are working in lockstep with the Federal requirements. But then when I say they have to have the private efforts, think about it. If you went down to the Rio Grande, to the border, and to the State of Arizona and told a rancher down there: Wait a minute, there are some illegal immigrants coming across the border in the nighttime, and what you have to do is not only put a barbed wire enclosure around your particular ranch, but you have to turn the lights on at night and everything else like that, this is a private ranch, he would look at you and laugh. He would say: What are you talking about?

That is what we are doing with respect to many of the ports that are operated privately. The Danes operate the Port of New York; the Chinese operate the Long Beach Port; the union operates the Seattle Port; the State of South Carolina operates our ports. So you can see this particular task has to be a comprehensive and coordinated effort.

We then develop secure areas in the ports as part of the security plans. That is approved by the Department of Transportation. There is a grant program here of allocations to the different ports authority, the size, the threat, and whatever else is there. There is $90 million in research grants to be awarded to develop the methods to increase the ability of the U.S. Customs to inspect the merchandise. There is a $33 million program intended for the development of security training.

There is an established maritime intelligence system to work with this new Department of Homeland Security. They have to take all of this information, not just from the FBI, CIA, NSA, and Secret Service, but the DEA in large measure furnishes intelligence.

We will have transponders on the various vessels coming in. Within that year, we will have a certified system of transportation that is a secure system of transportation allowing for secure maritime borders. They will have to be screened prior to entry.

The transportation oversight board will establish a security program to develop the secure areas as well as the standards. People working in those secure areas will be required to have background checks. Not everybody coming there delivering the Cokes for the Coke machine or whatever will need it, but there will be secure areas, and people working in them will have to have background checks. We have established a sea marshal program that the maritime folks have wanted for quite a while.

We have an assessment of the foreign antiterrorism measure. And let me commend Mr. Bonner, the Director of Customs, who has already gone overseas and coordinated this. What we are doing is establishing assessment and check methods and secure methods for the ports of the cargo being loaded into the containers before they leave, let's say, the Port of London. We are going to have to do the same things to facilitate delivery when it comes into the United States.

I emphasize the Coast Guard authorization bill. We haven't had one since 1998. We have been struggling with that. But now everybody has in their minds front and center the Coast Guard, the magnificent job it has been doing, even as it has been understaffed and underfunded. We are going to build that up.

I yield such time as is necessary to the distinguished Senator from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, let me start by, once again, thanking Chairman HOLLINGS for his leadership in addressing identified safety and security problems at our Nation's seaports. I applaud his leadership and steadfastness as we finally bring this important piece of legislation to completion.

The conference report we are considering today is an important step forward and will provide both the guidance and funding authorization needed to improve maritime and port security. It is past time to send this legislation to the President for his signature.

The old adage, "a chain is only as strong as its weakest link," is very true when it comes to securing our homeland. Today, our Nation's seaports remain a weak link in border security. This conference agreement will go a long way in strengthening that link.

Both the Hart-Rudman Report on Homeland Security and the Interagency Commission on Crime and Seaport Security found our seaports to be vulnerable to crime and terrorism. While there is no way to make our Nation's seaports completely crime free and impenetrable to terrorist attacks, this conference report will undoubtably advance port security and help strengthen overall national security.

The report by the Interagency Commission on Crime and Seaport Security, also known as the Graham Commission, in recognition of Senator GRAHAM's efforts to establish such a commission,was a catalyst 2 years ago for the Commerce Committee's initial efforts to address crime and security issues at our Nation's seaports.

The committee held a number of hearings in Washington focused on seaport security issues and the Subcommittee on Surface Transportation and Merchant Marine also held field hearings on the west coast in Seattle, WA, and Portland, OR, and on the southeast and gulf coast in Port Everglades, FL, New Orleans, LA, Houston, TX, and Charleston, SC. The input from numerous witnesses contributed significantly to the development of this agreement.

As I have mentioned many times during the past year, it is widely reported that transportation systems are the target of 40 percent of terrorist attacks worldwide. This conference agreement would provide for increased security at our Nation's seaports, helping to reduce crime and protect vessels and vital transportation infrastructure from terrorist attacks.

The conference agreement includes a number of important provisions. It requires coordination among the many entities that play a role in security at our Nation's seaports and on our navigable waterways, including the Coast Guard, the Customs Service, and the many other Federal, State, local, and private agencies. It directs these entities to work together to establish security plans aimed at decreasing vulnerabilities and reducing threats to our ports and maritime transportation system. These plans will help define specific responsibilities and secure our seaports.

The conference agreement also requires the Secretary to establish incident response plans that explain the role of each agency and how their efforts are to be coordinated in the event of an attack on our Nation's maritime transportation system. In addition to providing guidance on how to respond in the event of an attack, it is expected the detailed planning called for in the agreement will help deter terrorist attacks and other criminal acts aimed at our seaports.

The conference agreement further requires the Secretary to establish a grant program to provide much needed funding to ports and facilities to help defray the compliance costs associated with both area and facility security plans. The Secretary will also be required to establish a program to provide grants to look at new and existing technologies that can be used to better secure and protect our Nation's maritime transportation system.

The conference agreement takes into account not only the wide range of threats and crimes surrounding our seaports, but also the unique nature of our ports. A "one-size-fits-all" approach will not work. The planning process established in the conference agreement requires the Secretary to consider the fact that our Nation's seaports are complex and diverse in both geography and infrastructure.

While there are still many questions regarding how far we must go to secure our ports and waterways, I am confident that the compromise reached with our House colleagues will create a safer and more secure maritime transportation system in the United States and allow the flow of commerce to continue.

Mr. President, this conference agreement also includes the provisions from our Coast Guard authorization. The Coast Guard has been operating without an authorization since 1998, and the resources and personnel benefits provided in this measure for the men and women serving in the Coast Guard are long overdue.

This agreement authorizes funding for the Coast Guard for fiscal year 2003 at the levels requested by the President for six accounts: one, operation and maintenance expenses; two, acquisition, construction, and improvement of facilities and equipment, AC&I; three, research, development, testing, and evaluation, RDT&E; four, retirement pay; five, environmental compliance and restoration; and six, alteration or removal of bridges. It also authorizes end-of-year military strength and training loads to ensure that the Coast Guard will have the flexibility to respond to its ever growing missions.

The provisions from the Coast Guard authorization bill include numerous measures which will improve the Coast Guard's ability to recruit, reward, and retain high-quality personnel. The conference agreement addresses various Coast Guard personnel management issues such as promotions, retention, housing authorities, and education, along with measures that grant the Coast Guard parity with its Department of Defense counterparts.

Additionally, this legislation provides a number of changes to U.S. maritime laws and Coast Guard authorities such as extending the time for recreational vessel recalls, and increasing penalties for negligent vessel operations. This bill also provides much needed advance funding authority for the Oil Spill Liability Trust Fund which will allow the Coast Guard to better respond to the ever increasing costs of environmental cleanups.

In closing, Mr. President, I want to commend the conferees for their work to reach a compromise on this important legislation. I urge my colleagues to support final passage of this legislation.

Again, I thank Senator HOLLINGS for his dedicated and deeply involved work on this legislation, including conduct of field hearings throughout the United States, including the important port of Charleston, SC.

Mr. President, I know the Senator from Texas, Mrs. HUTCHISON, wishes to speak on the conference report. I yield the floor.

Mr. HOLLINGS. Momentarily our distinguished colleague from Florida will speak. It was Senator GRAHAM of Florida who persuaded President Clinton to appoint the investigating commission with respect to seaport security.

I wish to add a couple comments with respect to the Coast Guard authorization. As I have stated, it is the first authorization since 1998, and it increases the Coast Guard budget $1 billion, with 10,000 additional active duty military personnel. They have been understaffed. I know of a tragic situation of search and rescue that did not work in Charleston, SC, my backyard. There are provisions in this legislation so we have adequate personnel manpower there.

The Coast Guard is to examine and report to Congress its expenditures and missions by September of next year. We want to get in lockstep as they increase their effort from 2 percent of the budget to some 22 percent of the budget with respect to seaport security.

I can point out many other provisions, but I will yield such time as is necessary to the distinguished Senator from Florida.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, first, I wish to extend my congratulations to the Senator from South Carolina and the Senator from Arizona, who have been working on this issue for many months and have carried the position of the Senate in the conference committee. I commend you for the success we have achieved today and for the battles we both recognize will be required in the future in order to fully realize the goals of this legislation.

Mr. HOLLINGS. I thank the Senator.

Mr. GRAHAM. Mr. President, I am very pleased to rise in support of the Maritime Transportation Security Act of 2002.

This legislation will secure one of our Nation's greatest vulnerabilities, our seaports.

This bill not only ensures that our ports remain a driving force in the American economy, it also commences the closing of the floodgates of vulnerability to the terrorist threat to American seaports.

Mr. President, there is much work that remains to be done.

For this legislation to be effective, it must have a predictable and sustained funding source for the agencies tasked with maintaining the security of our maritime borders.

It was in December of 2001, almost a year ago, that the Senate unanimously passed a comprehensive seaport security bill. The House of Representatives passed its own version in June of 2002. This legislation has been in conference for 4 months. Valuable time has been passing while an important part of our homeland economy, as well as our homeland security and the Nation's 360 seaports, have remained extremely vulnerable.

I am pleased a final agreement has been reached and the bill is completed and it will soon go to the President for his signature.

To quote the Florida Ports Council:

> Seaport security must be addressed in a comprehensive, intelligent, practical manner by the Federal Government—now, not in 2004 or 2006, or 2008.
>
> The security of our borders is a national responsibility. No matter how good our State processes and practices are—without the Federal Government requiring realistic security plans and standards—the public domain will remain at risk.

I am pleased we are doing that today and starting to fulfill our Federal responsibilities.

We live not only in a democracy but also in a nation that allows its citizens and visitors the freedom to travel throughout our great country.

The United States thrives on global trade and global travel.

But support for democracy and freedom must go hand-in-hand with strong protection of our maritime borders.

Fortunately, our seaports have not yet been attacked. Fortunately, as of today, one of those container cargoes, 16,000 of which arrive at America's seaports every day, has not been used as the means by which a weapon of mass destruction will be delivered within the United States.

This means instead of looking at the security of America's seaports through the rearview mirror, as we have been doing since the events affecting airlines and airports as a result of September 11, 2001, we are looking at seaport security through the windshield, albeit a foggy windshield. We not only have a responsibility but an opportunity to take steps to avoid the head-on collision at America's seaports that has not yet occurred.

Since September 11, there has been a lot of discussion about connecting the dots, what could have been pieced together, the things we should have seen before that tragic day. And, like 9/11, information about our seaports presents a disturbing array of dots. But from these, there is a clear pattern of vulnerability at our seaports and the cargo containers which they deliver.

Many of these dots are available only in classified form, which are not disclosed for national security reasons. But there are many instances of security breaches at seaports that have been publicly disclosed—in open sources—that paint a stunning portrait of our maritime vulnerabilities. Weekly, I read newspaper accounts of stowaways and narcotics arriving in our country, and of security lapses at our ports.

I have several articles I would like to bring to the attention of my colleagues, and I ask unanimous consent that they be printed in their entirety in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM. On May 13, 2001, Fox News and the Associated Press reported that 25 Islamic extremists, hidden on commercial freighters as stowaways, illegally entered the United States. These individuals reportedly entered the United States through four seaports in Miami; Port Everglades, Fort Lauderdale; Savannah; and Long Beach. Where have these men gone and, more importantly, what are their intentions?

The Washington Times, in a January 22, 2002, article entitled "Seaports Seen as Terrorist Target," reported al-Qaida "shipped arms and bomb-making materials via Osama bin Laden's covertly owned freighters." These explosives were later used to blow up the U.S. embassies in Kenya and Tanzania.

What if these ships were making port calls at a port in the United States of America?

Further, in a front page article dated February 26, 2002, USA Today reported that in October of 2001, a month after 9/11, port authorities in Italy opened a suspicious container and found an Egyptian-born Canadian person, equipped with a satellite phone, laptop, false credit cards, and security passes for airports in Egypt, Thailand, and Canada. What if this container and person made a successful, undetected entry into the United States?

On June 16, 2002, the Washington Post reported that three men captured by CIA and Morrocan authorities told interrogators they escaped Afghanistan and came to Morocco on a mission to use bomb-laden speedboats for suicide attacks on U.S. and British warcrafts in the Strait of Gibraltar.

On October 6, 2002, the French-flagged supertanker *Limberg* was attacked and holed by a small boat packed with explosives, possibly a remote-controlled boat, off the coast of Yemen. This attack is now widely believed to be the work of al-Qaida operatives.

Yemen is, of course, the same location as the USS *Cole* bombing of 2 years earlier.

On October 29, 2002, as seen on national television, a 50-foot coastal freighter with 234 Haitians and 2 Dominicans landed close to Miami, in Biscayne Bay, Florida. How did this boat manage to get so close to a major American city? This vessel was not detected by the Coast Guard until the last few hours of its voyage.

Finally, less than 2 weeks ago, November 4, 2002, The Houston Chronicle reported 23 stowaways to Honduras who were captured at the port, 16 on the barge and 7 more who had tried to swim ashore.

Mr. President, the current assessment from the U.S. intelligence community is that 19 of the 35 State Department-designated foreign terrorist organizations have access to maritime conveyances, or are directly associated with maritime terrorism.

Since 1991, there have been 131 maritime attacks. This includes 19 ship hijackings, bombings, armed attacks, or kidnappings in the 4-year period between January 1996 and December of 2000.

Clearly, both our seaports and maritime borders and their vulnerability to terrorists remain a primary U.S. security concern.

In 1998, I asked former President Bill Clinton to establish a Federal commission to evaluate both the nature and extent of crime in our seaports. I have become aware of the extensive and expanding use of seaports for a variety of criminal activities.

In response to this request, President Clinton established the Interagency Commission on Crime and Security in U.S. Seaports on April 27, 1999.

The three distinguished cochairs of the commission were Raymond Kelly, then commissioner of the U.S. Customs Service, now head of the New York City police department; James Robinson, then assistant Attorney General; and Clyde Hart, then administrator of the Maritime Administration.

In October of 2000, the commission issued its final report. This report outlined many of the common security problems that were unearthed at U.S. seaports. The commission made 20 findings and included recommendations to respond to these threats. Our seaport security bill addresses many of them directly.

For example; the Commission reported a "need for a more comprehensive and definitive statement of the specific federal responsibilities," including the "lead agencies" of Customs for international cargo and Coast Guard for seaport security.

Our seaport security bill provides new authorities for both of these agencies.

The Commission also noted that:

> Comprehensive interagency crime threat assessments * * * currently are not conducted at seaports and that the federal government should establish baseline vulnerability and threat assessments for terrorism at U.S. seaports.

The seaport security bill requires the Coast Guard to survey all ports, prioritize them, and then conduct detailed port and vessel type vulnerability assessments.

The Commission called for a "comprehensive initiative to improve cargo import procedures," noting that "vessel manifest information, import and export, is sometimes deficient" and "is more easily utilized * * * if it is received in electronic data formats before the arrival of the vessel."

The seaport security bill requires vessel and cargo data to be submitted in advance and in a format to be prescribed by the Secretary of Transportation.

The Commission was concerned that "no minimum security standards or guidelines exist for seaports and their facilities."

The seaport security bill would require security standards and provide federal grants for these improvements.

These are but a few of the many vital provisions in this seaport security bill.

On September 11, 2001, four commercial airliners were hijacked and turned into weapons of mass destruction, crashing into three symbols of American strength. The fourth airliner was destined for yet another symbol of American strength but for the courageous passengers and crew who intervened. We were not able to prevent these hijackings before they happened.

After that tragic day, Congress quickly responded and introduced the Aviation Security Act on September 24. It was signed into law on November 19, 2001. This law requires safer cockpits, air marshals, Federal oversight of all the airport security operations, advanced anti-hijacking training for all flight crews, establishment of a security fee, and background checks for flight school students.

On September 21, 2001, 10 days after the attack, Congress approved a relief package for the airline industry. This included $5 billion of immediate cash infusion for U.S. air carriers and $10 billion in loan guarantees.

We responded because we had been hit. The challenge of this legislation is: Are we prepared to respond before we are assaulted?

I believe we are beginning to answer that question in the affirmative with the adoption of this legislation.

The threat to our seaports is urgent and real. When a cargo container arrives on our shores, it is quickly loaded into a truck or a train, leaving all Americans, not just those who are located close to a seaport, vulnerable to a security lapse which occurs at the seaport because the seaport is the last point at which that container can reasonably be checked and evaluated to determine if it represents a threat to the American people.

While our bill is a step in the right direction, we must fully commit to our seaports as we have to our airports, which includes a steady stream of funding.

As my colleagues may be aware, the primary reason this seaport security bill was in conference for 4 months was the inability of Members to reach agreement on how to fund these security measures. So what we are passing today is essentially an authorization bill. We are providing the basic architecture of the security, but the challenge to provide the plumbing and the electrical systems that will bring this architecture to life is yet to be faced.

My preference was to pass a bill which would have contained that plumbing and electrical system in the form of user fees, as we have already done for airports and airlines, giving our ports an immediate influx of money to quickly address the security lapses that have been identified.

Why is this so important? If we do not have a dedicated stream of user-generated revenue, our commitment to seaport security may be viewed as temporary and piecemeal.

The PRESIDING OFFICER. The time reserved for the Senator from South Carolina has expired. The Senator from Arizona controls the balance of the time.

The Senator from Arizona.

Mr. McCAIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Eighteen and a half minutes.

Mr. GRAHAM. I ask the Senator from Arizona for a minute to close.

Mr. McCAIN. Certainly. I yield 3 minutes to the Senator from Florida.

Mr. GRAHAM. As chairman of the Senate Select Committee on Intelligence, over the past 2 years, I have worked with the committee on a 5-year plan of enhancing technology and human skills within the intelligence community.

It is our expectation that these investments will yield rich dividends in the intelligence community, to understand the terrorist threat to our Nation, better inform decisionmakers on policies that can defend against these threats, and take direct action against the terrorists.

It should be no different at our Nation's seaports. Investing in security along our maritime borders is as vital as investing in our intelligence capabilities or our Nation's airports. But I am troubled by the prospects. The administration has shown no willingness to request any funding for our seaports.

The administration's fiscal year 2002 and 2003 budgets contained no funding for seaport security. To date, all funding for enhancing security at our seaports has been as a result of congressional action on supplemental appropriation bills.

Illustrative of this gap between congressional funding and the administration's funding is the fact that only $93 million was available from the Transportation Security Administration for over $700 million of seaport security grant requests.

While this funding has aided some ports, comprehensive security improvements for all ports will cost significantly more.

Based on a survey of just 52 large ports by the American Association of Port Authorities, the improvement costs totaled over $2.2 billion.

In addition, the United States needs a consistent policy on how much of the additional security costs are the responsibility of the Government and how much by industry and its consumers. We need to fairly apply this policy across all parts of the industries and economy.

Ultimately, it should be similar to our approach, and response to, the aviation industry. Undoubtedly, funding security improvements at our ports must be a major task and priority for the 108th Congress.

Seaports are an important economic engine. They are the major gateway to America for cargo and consumer goods.

Annually, the U.S. marine transportation system handles 2 billion tons of freight, 3 billion tons of oil, and 7 million cruise ship passengers. Over 800 ships make more than 22,000 port visits per year in the United States.

One terrorist incident at a seaport could impact an entire coast or the entire economy of the United States. The financial impact of the closing of our seaports would be devastating.

As reported last September in USA Today and numerous other publications, the closure of 29 seaports on the west coast due to labor issues reportedly cost $1 billion a day.

I ask my colleagues, what would happen if we had to close all of our 361 seaports? Factories and plants would quickly be out of parts and be forced to shut down. Commodity hoarding would begin and prices would rise. The stock market would undoubtedly be shaken. Energy and oil prices would rocket upwards.

On April 1, 2002, Business Week magazine observed that "if a disruption at one of the country's 361 ports leads the U.S. Government to shut them down the way it grounded air traffic in September, it would bring some $2 billion a day in seaborne trade to a dead stop and instantly cripple the domestic economy."

The issue of seaport security is not going away.

Foreign trade accounts for over one-fourth of the total U.S. gross domestic product.

According to the U.S. Coast Guard, by 2020, one-third of all container ships will be massive vessels termed "megaships," oil imports will increase to two-thirds of our consumption, and liquefied natural gas imports will increase by nine-fold.

The Customs Service estimates that by 2020 the volume of imported cargo will more than double.

While we have passed this important bill, we now have a responsibility to finding funding for these need security improvements.

I urge my colleagues to make the security of our ports a priority and to pass, and later fund, this legislation.

We must not leave our maritime industry vulnerable to the potential use by a terrorist organization. The possibilities are horrific: The possibility of major loss of life, the possibility of major economic damage, or the possibility of the delivery of a weapon of mass destruction.

We have take the first steps forward in aviation. Why would we leave our seaports and the maritime industry behind? The action that we take today is a beginning.

For this beginning to realize its promise of substantially enhanced security at America's seaports, within the flood tide of cargo containers that arrive each day, further action is required.

Working with the House of Representatives, it is my hope that, early in 2003, we will take the next step, providing a permanent and sufficient funding source for today's legislation.

An appropriate place to start the discussion is using the model of airports and aviation security, where funding is provided by the industry and its customers and the general public.

The President will recommend in his budget for 2004 what he considers the appropriate level for seaport security.

I urge him to be more forthcoming than in the last two budget submissions.

With the President's level of general revenue support, the Congress will be in a better position to determine what level of user fee will give Americans assurance of security at our Nation's seaports.

We understand the threat and the horrible outcomes from terrorism so much better than 1 year ago.

After the terrorist attacks, Congress took quick action to restructure our aviation security program, in order to better protect our country and prevent another attack.

We need to strengthen our seaports, with the same intensity demonstrated at our airports. We must guard our maritime borders against obvious weaknesses and their potential use as a terrorist target.

Our seaports are a vital national asset.

I close by saying we have work to do, and the primary focus of that work is going to be to arrive at a sustainable, reliable funding source for these important security measures. We will have an early indication of what portion of this the President is going to recommend be paid through general tax revenue when we see his budget for the year 2004.

This legislation also requires the President, within 6 months of enactment, to submit a funding proposal on a permanent basis to the Congress. It is my hope that funding proposal will use as its starting point what we have already done for the airline industry where we have made some decisions as to how much of the security costs should be borne by general taxpayers and how much should be borne by the users and the industry. It seems to me we should strive to have a parity and balance of allocation of financial responsibility across our transportation systems. If we are committed, as the action today indicates, to providing security for our seaports before they are attacked and will not await a 9/11 to arrive at a city in the United States through a cargo container with a weapon of mass destruction, which 48 hours earlier had come through a seaport, if we are committed to security without having to be awakened through an assault, then we should also be committed to recognize this is not going to be cheap and it is not going to be a temporary commitment. It will be expensive and it will be sustained and we should provide the revenue to meet those realities.

EXHIBIT 1

[From USA Today, Feb. 26, 2002]

SHIPPING CONTAINERS COULD HIDE THREAT TO U.S.

(By Fred Bayles)

CHARLESTON, S.C.—The odd noises that came from the 40-foot shipping container at Gioia Tauro, Italy, harbor in October demonstrated the danger facing officials at ports around the world. When port authorities opened the suspect container, they found Amir, Farid Rizk, 43, an Egyptian-born Canadian equipped with satellite phone, laptop, false credit cards and security passes for airports in Egypt, Thailand and Canada.

Officials charged Rizk with terrorism but later released him after his lawyers argued he was fleeing religious and legal persecution in Egypt and was not a terrorist.

Rizk's choice of transportation highlighted a security problem that has troubled U.S. officials since well before Sept. 11.

More than 6 million shipping containers arrive here at Wando Welch yards in Charleston and other U.S. ports annually. Only 2% are inspected. The rest remain sealed as they are shipped throughout the country. It would be easy, some fear, to take a container, stuff it with explosives, a chemical weapon or a nuclear device and inject it into the nation's economic bloodstream. Security experts had thought about the massive flow of unchecked containers before the attacks on New York and Washington. In the November 2000 issue of Foreign Affairs, Coast Guard Cmdr. Stephen Flynn, a security expert with the Council on Foreign Relations, offered this scenario.

Suppose, he wrote, Osama bin Laden loaded a biological weapon into a container and shipped it through foreign ports to the USA. The container, unnoticed in the day-to-day bustle of trade, could then be put on a rail car at Long Beach destined for Newark, N.J. Somewhere along the 2,800-mile route, it is detonated.

As bad as the destruction such an attack might cause, the chaos that would follow could devastate the nation's economy.

The nation's shipping system could shut down, as airports did after Sept. 11. "The economic damage would be incalculable," Flynn says. "It would accomplish what a terrorist group wants to do, which is to disrupt this country's economic structure."

So what can be done? Looking inside each of the 6 million containers from abroad would disrupt the flow of goods. Technological solutions, including x-ray machines, are costly, expensive and not infallible. The answer may lie in better surveillance at the container's point of origin. Instead of inspecting every container upon arrival, sophisticated computer and intelligence systems are being established to identify suspicious containers before they leave foreign ports.

"You want to do something that doesn't wait until the container is offloaded here," U.S. Customs Commissioner Robert Bonner says. "The big idea is to think about how to push the border back."

WANDO WELCH

In South Carolina, the blur of movement at the port of Charleston's Wando Welch Terminal vividly shows the shipping business's need for speed. Massive cranes lift cargo containers off merchant ships arriving from around the world. The containers are stacked like giant Lego pieces across the 237-acre facility.

The activity at this, the nation's third-busiest, container facility is a tribute to the efficiency of the "intermodal" transportation system, which makes possible the quick transfer of seaborne containers to railcars and trucks without unloading and reloading their contents. The system touches every facet of the economy. Each state receives goods from an average 15 different ports every day, according to the American Association of Port Authorities.

That is why the industry balks at inspecting every container coming into the country. Several members of Congress, including Sen. Charles Schumer, D–N.Y., have proposed such steps.

At the Wando yards, the time a Customs inspector needs to examine a single container illustrates the challenge. One container, singled out because its manifest listed a cargo of "human aids," turns out to have been filled with bundles of used clothing bound from Italy to Bolivia. It took the inspector and a civilian crew most of the day to offload and inspect the bundles, then reload the container and send it back to the shipping yards.

"It would be very difficult to search every container without severely disrupting the flow of goods," Bonner says.

A glimpse of that kind of disruption came in late 1999. The nation's Western rail system slowed dramatically as it adjusted to a merger of two railroads, a booming economy and other factors.

The slowdown created havoc for weeks. Christmas items did not arrive to stores on time. Perishable goods rotted. Factories closed because needed parts were delayed.

"It was only temporary, but it created big headaches," says John Foertsch, the Southeast operations manager for OOCL (Orient Overseas Container Line), a major container shipper based in Hong Kong. "It's hard to imagine the chaos that would come if delays like that became the routine."

TECHNOLOGY SOLUTIONS

Some look to technology as a solution. Last summer, Customs agents at busier ports began using drive-through mobile X-ray units that can scan containers as they are driven past a checkpoint, much like luggage through an airport screening station.

Sitting in the cab of such a unit on the Charleston docks, Customs Inspector Eddie Basham peers at a computer screen displaying the shadowy interiors of passing containers. "Tires," he says, pointing to a stack of spirals filling one container. On the next, he notices a dark, irregular shape and sends it to the side for inspection.

Occasionally, the equipment hits immediate pay dirt. "There's a few times I've seen people standing in the inside of a container," Basham says. Police took the illegal immigrants into custody.

Other screening devices are being tested and deployed. In Norfolk, Va., Virginia International Terminals is installing radiation detectors on cranes, which will screen each container as it is offloaded. As of now, Customs agents use pager-sized radiation monitors that warn of excessive radiation as they walk by rows of containers. Some estimates put the cost of equipping all major ports with large scanners at $5 billion.

BETTER INTELLIGENCE

Some say the solution would be to inspect all U.S.-bound containers before they leave a foreign port. But the difficulty of doing that may be too great.

"No one can argue against vetting cargo before it is shipped, but you need the political will and resources to do it," says John Hyde, general manager for security with Maersk Sealand, one of the world's largest shipping companies. "When you're talking about putting requirements on other sovereign nations, you can never be sure of what the reaction will be."

Many in industry and government, argue that there is no need to check each of the thousands of containers that arrive daily. They note that only 1,000 < less than 1% < of the 450,000 shippers who send cargo to the USA, account for nearly 60% of all containers shipped to this country. A majority of containers come from well-known and trusted companies that make regular weekly runs to U.S. ports. "It is impossible to inspect everything, but you don't need to inspect everything,"Bonner says. "We are pretty good at being able to sort out what needs to be inspected."

To that end, the Coast Guard has joined with Customs, the Immigration and Naturalization Service and several intelligence agencies to begin sorting out information about containers before they arrive. After Sept. 11, the Coast Guard initiated the Ship Arrival Notification System, the nation's first centralized database on the movement of cargo ships.

Before this system, the Coast Guard captain in charge of security at each port only had to be notified of a shipment 24 hours before a cargo ship was due to arrive. Now that same information arrives 96 hours in advance at the Coast Guard's computer center in West Virginia. Information about the ship, its containers and crew is entered into a database that can be cross-referenced with immigration, FBI and Customs data.

The database allows many agencies to track the movement of cargo around the world. Officials hope it will help zero in on unknown shipping companies or a sudden shift in business practices or cargoes that makes no sense. "If a ship leaves Genoa, Italy with palm oil bound for a port that normally doesn't import palm oil, you might take a closer look," says Capt. Tony Regalbutto, the Coast Guard's director of port security.

Flynn sees this as the first step to a system that will track individual containers as they are loaded overseas and sent to U.S. ports. "People have compared this to a needle in a haystack problem," he says. "But if you develop good intelligence about what is a threat and what isn't, you get the information down to a manageable number of targets."

[From Business Week, Apr. 1, 2002]

COMMENTARY: FREIGHT TRANSPORT: SAFE FROM TERROR?

(By Lorraine Woellert)

With its heavy traffic and massive chemical-storage tanks, the Port of Houston would seem a tempting target for terrorists. Touring the site in January, Senator John Breaux (D-La.) asked what had been done to protect the 25-mile-long seaway. A Coast Guard official assured him that the harbor had been declared a security zone. Breaux was unimpressed. "That's like putting a 'No Trespassing' sign on a nuclear reactor," he said.

In the wake of the September 11 attacks, Washington scrambled to shore up aviation security with tough new passenger- and baggage-screening laws and criminal-background checks on airport workers. But half a year later, U.S. land and sea borders remain almost as vulnerable as ever. Lawmakers hot to jump on the homeland-security bandwagon a few months ago have succumbed to inertia, leaving the nation's most at-risk transportation systems unprotected. "There has been a gross lack of focus," says Edward Wytkind, executive director of the AFL–CIO's transportation-trades division.

Altogether, trains, trucks, and ships move more than $1 trillion worth of freight—about 99% of all U.S. cargo—into the country every year. Seaports, which handle some $700 billion of that cargo, are the first line of vulnerability. If a disruption at one of the country's 361 ports leads the U.S. government to shut them down the way it grounded air traffic in September, it would bring some $2 billion a day in seaborne trade to a dead stop and instantly cripple the domestic economy.

Today, port "security" means little more than a few miles of fencing and the occasional container search. Despite stepped-up patrols by Coast Guard and Customs agents after September 11, ships sail freely in and out of the nation's inland and coastal ports. The network relies on an honor system: It's up to carriers to announce their arrivals and disclose their hauls. Federal agents search only about 2% of the 11 million containers that make their way through the U.S. maritime system each year—double the pre-September 11 rate but still frighteningly low. "You have a ship with 7,000 containers on it, and what do we do? Check the manifest," laments Representative Don Young (R-Ala.), chair of the House Transportation & Infrastructure Committee, which is working on a port-security bill. "We're taking containers from Pakistan, and we don't know what's in them."

Lawmakers may be indignant, but their efforts to plug security gaps have been few and ill-fated. In December, the Senate, led by Commerce Committee Chairman Earnest F. Hollings (D–S.C.), passed a $4 billion wish list of grants and loans to buy equipment to search more incoming cargo containers. Hollings' bill also would toughen hiring standards by requiring maritime workers to pass a criminal-background check similar to one imposed on nearly all airport workers.

However, the idea of eliminating felons from the workforce, a provision that sailed through Congress as part of an aviation-security bill last year, has come under fire from labor, including the Teamsters and the AFL–CIO-affiliated longshoremen. They say requiring no felony convictions as a prerequisite to holding a job amounts to double jeopardy for workers who have already paid their dues to society.

Industry has its own problems with the idea. As a major player at U.S. ports, the American Trucking Assn. supports criminal-background checks but fears its members could be sued by disgruntled job applicants denied work because of something that showed up on their record. The ATA wants protection from liability. It also worries that a background check involving multiple agencies will prove time-consuming and costly.

In the House, Young has labeled the Hollings measure "stupid" because it puts the onus on the U.S. government to search every incoming vessel instead of forcing overseas transportation centers such as China and Panama to boost their own security. But Young's vision has problems of its own. He is seeking to establish an entirely new cargo-information tracking system under the Transportation Dept., duplicating work already being done by Customs and adding another layer to the multi-agency bureaucracy that now regulates container traffic. "Neither shippers, carriers, nor the government would be served by competing cargo-information systems," says Christopher L. Koch, president and CEO of the World Shipping Council in Washington.

Lawmakers—lacking the attention span or the willpower necessary to sort out freight's complexities—seem inclined to settle on politically expedient legislation that emphasizes high-tech gadgetry, spot container searches, and other piecemeal fixes. Such an approach could derail container-traffic flow as dramatically as a terrorist attack. "It would grind the U.S. economy to a halt," says Jonathan Gold, trade-policy director at the International Mass Retailers Assn.

As Congress treads water, the next-best option is emerging in the U.N., where the Coast Guard is pushing new international standards for container inspection, worker licensing, sea marshals, and a long-overdue system for tracking ships at sea. It's an ambitious goal, and one that requires U.S. cooperation. "If we ask these foreign ports to put security measures in place, then we have to be prepared to do the same thing here," Fold says. Whether it's motivated by fear or by shame, Congress must push harder for secure transportation systems.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. It is my understanding from leadership that the vote is now going to take place at 11:15. I ask unanimous consent that the remaining time be equally divided between now and 11:15.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I yield to the Senator from Alaska such time as he may consume.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the Aviation Security Act of 2001 came in the immediate wake of the September 11 terrorist attacks and we may soon send to the President for his signature the bill creating the Department of Homeland Security. The Maritime and Transportation Security Act of 2002 is another important piece of national security legislation that will provide the organizational structure, coordination and planning needed to safeguard our Nation's ports. I thank Senator HOLLINGS, Senator MCCAIN and Congressman DON YOUNG for their tireless efforts to move this legislation through Congress.

Under the Act, initial vulnerability assessments will be made to determine vessels and ports that pose a high risk of being involved in a marine transportation security incident. Attention will be given to deterring and responding to such incidents, and an overall evaluation will be provided on the potential threat level of maritime terrorist attacks.

This port security assessment is imperative for our State of Alaska, which has roughly one-half the coastline in the United States. Alaska's economy and quality of life are directly related to the functionality of it's numerous ports. The majority of our Alaskan communities, including Juneau our State Capital, are not on the road system and depend almost exclusively on marine trade for the delivery of basic goods. A terrorist attack at a port in Alaska, or anywhere on the West Coast, would cause significant interruptions in maritime service to our State, greatly affecting our way of life.

In addition, there are several other ports in Alaska vital to Alaska and the rest of the Nation. This is especially true of the Port of Valdez, which is the southern terminus of the 800 mile long Trans-Alaska oil pipeline. Valdez is an important off-loading terminal for our Nation's domestic energy supply. A terrorist incident here would impact U.S. oil production, without any question, and have a devastating effect on Alaska's fisheries. Dutch Harbor is consistently the top commercial fishing port in America, processing and shipping product to the rest of the world. Kodiak has the largest Coast Guard presence in the Nation and the Island of Kodiak has launch facilities that make it an important staging area for future military and NASA operations that are vital to our Nation's national missile defense system.

The Maritime and Transportation Security Act of 2002 also includes Coast Guard authorization for fiscal year 2003. This is extremely important for the continued success of the Coast Guard in its ever evolving and expanding role in securing our Nation's coastal boundaries.

I commend the chairman and the future chairman of the Commerce Committee for bringing this bill to the floor, and I support its immediate passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. REID. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. REID. For purposes of notifying Members of the Senate, there has been a train accident. I hope it is not serious, but we have a couple of people on the train. We are now in the process of working out a unanimous consent agreement to have the vote maybe 45 minutes later than scheduled.

Mr. HOLLINGS. We scheduled the vote for 11 a.m.

Mr. McCAIN. Actually, 11:15.

Mr. REID. It may be later than that.

Mr. HOLLINGS. I yield such time as he may consume to the distinguished Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I thank my distinguished chairman of the Commerce Committee for his involvement and his leadership in bringing this legislation to the floor, as well as the ranking member of the Commerce Committee, the Senator from Arizona, and everyone really who has been involved in this legislation.

Suffice it to say, the conditions in the world, and in the United States in particular, have changed dramatically since the events of 9/11. Things we took for granted, things we did not pay a great deal of attention to, are no longer the status quo. The Commerce Committee, to the credit of the leadership of our committee and Senator HOLLINGS, had taken up the concept of making sure our ports were more secure even before 9/11.

The Commerce Committee in August of 2001, before 9/11, passed a seaport security bill by a unanimous vote. The committee was clearly on top of potential problems before 9/11. But certainly after the events of 9/11 it became clear we needed to do more even than we originally had done in the legislation.

I have the privilege of chairing, under the Commerce Committee, the Subcommittee on Surface Transportation. At the suggestion of the chairman, it was determined we should have field hearings around the United States. We had field hearings in six different port cities in the country. We had hearings in the chairman's hometown of Charleston, SC, and the home of the Senator from Texas, the Port of Houston. We had hearings in the Port of New Orleans. We had hearings in Fort Lauderdale. We had hearings on the west coast. We had hearings on the gulf, Atlantic, and Pacific, to learn the conditions of the ports of the United States regarding security.

We found when everyone is in charge, no one is in charge. In a number of ports, the sheriff's department was involved in security. In some ports they had port security police partially in charge. In some areas they depended totally on the U.S. Coast Guard to do all the work—which they cannot do. Some had very lax security on the perimeter, on the shore surrounding the ports.

Every day, literally thousands and thousands of men and women drive trucks loaded with containers into port facilities. We need to know who they are. We need to know what their purpose in being there is. We need to know as much as we can about who comes and who exits these international ports.

It is very interesting how commerce works. One container can carry as much as 60,000 pounds of whatever you want to put in it. There are ships entering our ports and laying alongside the docks containing as much as 3,000 separate containers on one ship. Each container carried as much as 60,000 pounds of whatever someone wants to put in them.

The USS *Cole* had a small vessel pull alongside of it and blow a hole in the side of it, killing American sailors; one relatively small boat pulled right alongside the USS *Cole*, a military naval warship. At the same time, remember what happened in Oklahoma City. Approximately 15,000 pounds of explosives blew down the Federal Building with drastic consequences to human life and to the stability of that city, shaking the confidence of this Nation. One person with 15,000 pounds of explosives knocked down an entire Federal building.

One container has 60,000 pounds of product that can be put into a ship that may have 3,000 containers. The potential for damage if a terrorist wants to target one of the ports of this country by placing explosives in one of these containers is great.

We had the example of one Egyptian who took a container and practically made an apartment out of it. He got a container in the Middle East, had himself equipped with a cell phone, food, a bunk to sleep in, and literally was transported from the Middle East, through Italy, destined for Canada, and ultimately to the United States. Who knows what he was intent on doing?

Again, one ship, with 3,000 containers; how do we determine what is in each container?

Some of our large container vessels pull alongside our ports. We saw in Houston, in the Port of New Orleans at the hearings we held, the Port of south Louisiana, the Port of Baton Rouge—there are miles and miles of ports—some of these ports have, right alongside them, a liquefied natural gas facility. Next to the liquefied natural gas facility there could be an oil and gas refinery. Imagine the damage that could occur with one container loaded with explosives in a ship docked alongside an LNG facility, which is next to an oil and gas refinery, which may be followed by several other chemical plants. One container exploding could set off a chain reaction with a great deal of damage and a great loss of life.

Some of our ports are located in urban areas. The Port of Houston, the Port of New Orleans, the Port of New York, the Port of New Jersey, the Port of Fort Lauderdale, the Port of Savannah, the Port of Charleston they are all located in urban areas. There is a grave potential for damage.

The point I make is that things have changed since 9/11. A port manager was asked: How do you secure vessels pulling alongside these LNG facilities? How do you assure they know what they are doing? How do you secure the area? This individual said: Well, we have a sign posted that says "No Trespassing." I doubt a person intent on blowing up a city or doing grave damage to one of our ports will be deterred by a sign that says "No Trespassing." They will not pay any attention to it.

The fact is we have to have people involved in security. We have to have people in a chain of command, people who know what they are doing, who is doing it, and what is the responsibility of each particular segment of law enforcement operations.

This legislation will help do that. This legislation for the first time will say every port in the United States of America will have to develop a comprehensive port security plan. Some of them have plans in place now, but I don't think they are as comprehensive as they need to be, and some have almost nothing. A comprehensive port security plan under the U.S. Coast Guard, working with the local port and local law enforcement officials, can design a plan that fits a particular port. What may be necessary in the Port of Savannah may not be necessary in the Port of Houston. What is necessary in the Port of Houston may not fit in the Port of Charleston. Each port has to have a plan designed to meet the needs of that particular area.

Not only do the operations along the water's edge have to be better secured, the entire facility has to be secured. As I said, we have literally thousands of incoming and outgoing trucks loaded with containers. We need to know who those people are bringing in the containers, what their purpose is. No longer can a port be a tourist attraction. No longer can someone say let's go to the port and see the ships. Unfortunately, times have changed. We need better security, better perimeter protection, better knowledge about the cargo on the ships, better knowledge of the crew on the ships.

We have transponders on airplanes. We have GPS systems in automobiles. There is no reason every ship that comes into an American port will not have a GPS system on it, an identification system on it, an automatic identification signal that can transport to the port authorities where that ship is at all times—not just when it comes in, but when it actually reaches the floor, while it is in port.

Senator GRAHAM, who has been instrumental in helping pass this legislation, raised at the press conference yesterday the concern about the vessel that came in from Haiti. That vessel did not just come close to the U.S. shores, it actually landed on the beaches of Key Biscayne, FL. As Senator GRAHAM has pointed out, instead of being a group of refugees, suppose it was a same-sized vessel, loaded with explosives, with a terrorist who was willing to commit suicide, who instead of dropping off several hundred refugees had pulled alongside one of the large buildings in the Port of Miami, or pulled alongside one of the cruise vessels loaded with passengers, and blew up his vessel and the vessels surrounding his vessel. That cannot be allowed to happen.

This legislation will help the ports do the job they need to do. Unfortunately, we do not have any funding other than a grant program to the local ports. Most of the cost will have to be borne by the U.S. Coast Guard. I say to Senator HOLLINGS and those on the Appropriations Committee, it is going to be their great task to make sure we adequately fund the Coast Guard to carry out those plans, because they are going to cost more. We have to do a better job. It is going to cost money. What about the local ports? We talked about a user fee, which I thought was a better idea, to spread the cost across society. It would be very small if we did it that way, but that's not part of this bill. There are local grants that ports can apply for, because it is going to cost to do the security they need. I am hopeful that program will be sufficient in order to allow our ports to do the work that is needed.

This is a good piece of legislation. It can go a long way toward securing U.S. ports, which today are very vulnerable, which today, I would add, are potential targets. This legislation, when in place, will go a long way to providing the security of which we can all be proud.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I would first like to thank Senator HOLLINGS and Senator MCCAIN for helping us get this bill through the committee. Senator BREAUX's remarks were right on target. I hosted Senator BREAUX's hearing in Houston. He toured the Port of Houston with me. We saw firsthand what some of the problems are.

I have to say, I was very impressed with what the Port of Houston is doing on its own. Using its own resources, it has beefed up its patrols and its security guards. Certainly, the Coast Guard is more involved in checking manifests and the ships that come into the Port of Houston. But the fact is, the Port of Houston is the largest port in America in terms of foreign tonnage. It handles more than half of the Nation's petrochemical capacity. We certainly need Federal funding and support to make sure a port like this one, which is vulnerable, and presents such a risk, has a fully implemented security system.

I thank Senator BREAUX for coming to see firsthand this great port in my State, for looking at what they are doing on their own, and then realizing the need to give them added help through this port security bill. I am very pleased that we are taking this first step.

Due to the volume of hazardous materials, a terrorist attack in the Port of Houston could result in the loss of millions of lives. Of course, it would also interrupt our Nation's energy supplies, delivering a huge blow to our economy at a time when we certainly cannot afford any more economic disturbances. However, there are other ports as well in my State, and smaller ports throughout our Nation.

In my State of Texas we have Corpus Christi, Brownsville, Port Lavaca, Galveston, Freeport, and Texas City. They each have different challenges. Some have to safeguard cruise ships. Cruise ships are a new, burgeoning tourist industry that is working particularly in Galveston. We are very happy about this, but it means we have to safeguard these cruise ships by taking similar security measures.

Texas City, on the other hand, faces the security challenge of screening cargo containers and shipping vessels on a shoestring budget. We have Brownsville and Corpus Christi that are becoming very important ports for Central and South American goods coming in. We are very pleased about that, but they too need security.

So this is a compromise bill. It lays the foundation for a port security system under the Transportation Security Administration. It requires security plans for every port, background checks for employees with access to secure areas, and improved identification technology for both individuals and vessels traveling in United States waters. The proposed Homeland Security Department would also be tasked to assess potential threats presented by security practices at foreign ports, so that we are able to find out if a foreign port is particularly lax. Then we would have to take extra steps for ships coming into the United States from that port, whether it is the port of origin or whether it is a through-port.

I think those are the steps we need to take. I support this compromise because certainly it is important to take these immediate first steps. However, I do not think the bill goes far enough. I am an original cosponsor, with Senator FEINSTEIN, of the Comprehensive Seaport and Container Security Act that would provide more resources and greater emphasis on port security. Our bill requires profiling of cargo containers and scrutiny of high-risk shippers.

We are not closing the book on port security with the passage of this compromise bill, but we are taking a major first step. I look forward to working with Senator MCCAIN, Senator HOLLINGS, Senator BREAUX, and others who are very concerned about the whole port security issue. In the next session, I look forward to really addressing the container cargo and other high-risk port needs, and to assure we do not have a void in our port areas. Senator STEVENS was saying the other night that 50 percent of the American people live within 50 miles of a port. That is a very important statistic. We have to check our ports, our people, and the goods coming into this country.

I am very pleased we have taken this first step, because what we have done in aviation certainly has been a huge improvement. Are we finished with aviation? No, we are not. But are our airports safer today than they were on 9/10/01? Yes, they are.

I travel as much as anybody in America, commuting back and forth to my home State every week. I see a significant difference in the quality of screening with the new Transportation Authority personnel. They are trained. They are polite. They are doing their jobs in a professional way and I am very proud of that. We need to do more and, hopefully, we are going to address some of the other aviation needs in the very near future. But right now we are addressing a major area of responsibility for our country and that is the security of our ports, the people, and the cargo that comes through our ports.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I will be brief. I came over from my committee meeting for two reasons. One is to compliment the chairman, the Senator from South Carolina. Frankly, were it not for his consistent and persistent efforts on security—port security and, I might add, rail security—we would not be standing here today. There is much to say about this legislation and I am not going to take the time now.

I do want to add one other point. I am sorry many more of my colleagues, understandably, are in committee meetings right now and are not here to hear this. We are taking the action that is necessary to deal with a legitimate and real security concern for America's ports. I might add there is more traffic up and down the Delaware River into Philadelphia, with oil traffic in particular, than I think almost any other place in the country. There are a number of refineries in my State and in the neighboring State of Pennsylvania and ports in New Jersey and Pennsylvania and Delaware. So this is very important to us.

But equally important to us is rail security. My friend, the Presiding Officer, a former Governor, knows about security, what the CIA indicated. I can publicly indicate it. They indicated the most likely target is going to be rail. Since 9/11, my friend from South Carolina passed out very significant rail security legislation—$1.2 billion. It is a clearly documented need and an overwhelming concern, listed by the CIA as a likely target for terrorists—and we have done nothing on it. We have done nothing.

I realize it is a bit of a broken record. I have been on the floor many times speaking to this. But I just say we are going to rue the day we failed to take the action that has been documented which we need to take to enhance the security of our rail system.

Let me give you again two examples. Then I will cease. But I want the RECORD to show every day we wait, we are putting thousands of lives in jeopardy. When you say thousands of lives, what are you talking about, Senator? Right now, as we speak, there are more people in a tunnel on a train under New York City—at this moment—than there are on five full 747 aircraft. Those tunnels were built at the turn of the century. They have no escape. They have no lighting. They have no ventilation. Immediately after the Civil War, the Baltimore tunnel was built for freight and passengers.

You may remember that a little over a year ago there was a fire in the Baltimore tunnel—just a regular old fire—no terrorist act. It shut down Baltimore. In that tunnel, there is nothing. It was cut through granite in 1869. Nothing has been done to that tunnel. Even its signal systems are not adequate. We know this. Contracts have already been let. We already have the design. There is no need for design work. It has already been done. We could literally start tomorrow.

My friend from South Carolina has documented all of this in his hearings. He has laid it out in spades. He has made it clear to everybody. But somehow we just think, OK, rail transportation is not very much. It is the ultimate stepchild, both in terms of our transportation network and in terms of security.

It has been over a year since my friend from South Carolina reported out a $1.2 billion piece of legislation on security. I am not even talking about Amtrak—just basic security needs. We don't even have dogs available to sniff luggage in cars. There is nothing. There is virtually nothing at all.

I just want to say I am not going to be here saying I told you so, because that would be unfair. But we are making a serious mistake, totally ignoring what the CIA has publicly pointed out is a targeting concern, and what everybody knows; that is, the threat of terror and the richness of the targets available on the rail system.

I am all for this port security bill. I think it is a very positive step forward. But I just say to my friends we are making a tragic mistake having held up now for the better part of a year the rail security legislation that was passed out of committee and for which I think there is a consensus. We can't get a vote on it. I think it is a tragic mistake.

Again, this is not in any way suggesting my State is very much impacted by this port security legislation. We have thousands upon thousands of containers coming into my little State. We have major export and import of automobiles coming in the Port of Wilmington. We are within the shadow of the Port of Philadelphia in Camden. More oil comes up the Delaware River than I think any other estuary, taking care of the Delaware Valley where there are over 10 million people.

I am in no way suggesting we shouldn't be doing what we are doing. I am suggesting we are making a tragic mistake by not acting on rail security.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I yield myself such time as I may take.

I am very surprised by the comments made by the Senator from Delaware. The fact is we did pass out a rail security bill. The Senator from Delaware wanted to add on billions of dollars for all kinds of assistance to railroads, which has had very little to do with security. I am all for security. But the Senator from Delaware and I are known for our differences of opinion about Amtrak and how much of American tax dollars should be spent on Amtrak. In fact, it has been about $20 billion to $30 billion in the last few years. We are still subsidizing rail routes to the tune of $200 to $300 per passenger.

But the fact is the reason we don't have a rail security bill is because of the desire to add on the bill billions and billions that have nothing to do with rail security.

If the Senator from Delaware wants to pass our version of the bill which has nothing to do with the additional billions that are the subject of debate on the transportation bill and other bills, that is fine. But the reason we are making a tragic mistake here is because we didn't move forward just rail security. There was a strong desire by supporters of Amtrak to lard onto it billions of dollars of additional spending having nothing to do with rail security.

I look forward to working with the Senator from Delaware. They should be separated. Subsidization forever of Amtrak is not something this Senator will ever support when we subsidize rail routes, in the case of a line in Wisconsin—recently terminated, thank God—at $2,000 per passenger. There is something wrong with the way Amtrak is being subsidized.

I look forward to working with the Senator from Delaware. But let us have no doubt as to why rail security didn't pass this floor with this Senator's endorsement, which is because of the additional billions of dollars that were going to be added onto it.

Mr. McCAIN. Mr. President, that has nothing to do with rail security. And as incoming chairman of the committee, I will be glad to review this issue of Amtrak. We will get the GAO up again, and the GAO will talk about the incredible subsidization of Amtrak which costs American taxpayers billions and billions of dollars per passenger. That is the subject of another day of debate.

But to come on this floor and say that we are making a "tragic mistake," in the words of the Senator from Delaware, by not passing the rail security bill, I say it is a tragic mistake to add billions of dollars of pork onto rail security when rail security should have been the primary and only focus of a rail security bill.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I agree this is not the moment for debate on that. Let me respond very briefly.

The bill was $1.2 billion and $900 million was for the tunnels, period. I don't know where the additional billions of dollars come from. OK, $1.2 billion. Subtract $900 million. You are then talking about $300 million. Of that, the money went to a lot of things that relate to dogs, sniffers, and a whole range of additional Amtrak police. We can argue about rail signal systems and other things, which I think are essential. Let us get the numbers straight. We are talking about $1.2 billion. Usually what we do when we have billions like this is we disagree. We at least bring them up and debate them on the floor. We can't even get the bill brought up and debated on the floor.

If my friend from Arizona—and he is my friend—is correct about billions of dollars of subsidization to Amtrak, then I am sure he will prevail when we talk about a security bill. But I respectfully suggest that is not the case.

No. 2, this really is for another day. I will just take 2 minutes.

We talk about, for example, the Wisconsin line. We do airports. We pay $150 million a year. I think we added another $100 million—don't hold me to that—to go into something like 350 cities where nobody wants to fly, nobody wants to go. We pay the airlines. We subsidize them to go into Bemidji, MN. I don't know where they go—places that no one wants to fly into or out of. We subsidize them with 150 million bucks. We do that. We just roll over. That is no problem.

At any rate, that is for another day. But in the meantime, I hope we will at least be able to get to the point where we can debate on the floor here the rail security legislation and not prevent it from being discussed on the floor unless we have what individual Members want in a bill before it even gets to the floor.

I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. Mr. President, I would like to briefly speak in support of this legislation.

I come from a coastal area. When I was in the House of Representatives, I served on the Merchant Marine and Fisheries Committee and was a member of the Commerce Committee. I pay close attention to the maritime industry and what is happening with our ports and our ships and shipping industry.

I am very pleased to see this legislation has been brought to the floor. I commend the chairman of the committee, Senator HOLLINGS, and the ranking member, Senator McCAIN, as well as others who were involved in working through some of the difficulties to produce results. Senator STEVENS was involved in that, and Congressman YOUNG on the House side. I had more than one conversation with Senator THOMAS and Senators BAUCUS and GRASSLEY.

A lot of people worked to help make the production of this legislation possible. I must say, I am amazed it took that kind of a heave because this is such necessary legislation. We probably could have and should have done it last summer. There is no use reviewing all of what went into that, but there is no doubt in my mind that we need to pay attention to port security. That is a place where we could have vulnerability.

I believe we are making progress in using sophisticated technology to begin to address those threats, but, still, we need to pay attention to this area and make sure we are doing all we can to protect the American people from terrorist attack or exploitation in our ports.

The vast majority of the U.S. international trade flows through our ports. And I have worried that some enterprising terrorist could put some very devastating material on a tramp steamer or a boat that would come into South Carolina, New York, Baltimore, or Pascagoula, MS, and have a devastating impact on those communities. So we need to think through this.

Over the past few decades, international and domestic port transportation systems have responded to ever-increasing volumes of two-way trade by increasing their efficiency at moving cargo. The challenge before us, though, is to take steps to find out what is on those ships, what is in that cargo. We have to look at the port of demarcation. How do we deal with them on the high seas? How do we make sure a threat is properly checked into or assessed? What do we do once they get into the ports?

So this is important legislation. It is not to diminish the threat in all the areas of transportation. We have to think about and review all of them: aviation, trucking, automobiles, points of entry on land. But this is one area in which we need to take action, and that is what the legislation does.

The administration took immediate steps to increase the security for our maritime transportation system. The Coast Guard dedicated increasing resources to protecting our ports. The Customs Service initiated programs to improve its awareness of all cargo movements into the United States and to push its inbound cargo screening efforts out to foreign ports.

The Maritime Transportation Security Act of 2002, that we are considering now, provides new direction to the administration and additional authority so we can deal with this area in a comprehensive manner.

The bill establishes a system of national, area, port, and waterfront facility and vessel security and response planning and involves the State officials, local officials, and Federal officials and industry representatives.

The bill improves the authority for the Customs Service to collect cargo information. It promotes the sharing of intelligence information among agencies involved in maritime transportation security and close coordination of security planning and operations among those agencies.

To me, it is unfathomable that they could not do that anyway; that is, exchange information and get information. This bill will make sure that authority is there.

The bill establishes a national transportation security card system to control personnel access to secure maritime terminal areas, including performing background checks on applicants. Again, I cannot believe we actually did not already have a system such as this in place. I hope the administration will, and I urge them to, work closely with the maritime industry, especially in those sectors with frequent personnel turnover, such as the inland waterway towing vessel industry, to address their needs for quick approval of employee access to these secure areas. We do not want to become another bureaucratic nightmare and maze of delay, but this system needs to be put in place.

So I do believe this bill will help us to assess the effectiveness of our antiterrorism measures at foreign ports and to work with those ports to improve those measures. It will provide additional funds in this area. It will give the Coast Guard more authority and authorizes more assistance as they deal with marine safety and the maritime policy improvements.

So this bill is a good achievement. I am glad we are getting it done. It may wind up being one of only four or five conference reports on which we do complete action before we leave at the end of this session, but this is one of which we should be proud.

I commend the chairman, once again, for being willing to take my calls and sit down and say: Can't we just work together? We did and we got the results. So I thank you, Mr. Chairman.

Mr. HOLLINGS. Will the Senator yield?

Mr. LOTT. I yield to the Senator from South Carolina.

Mr. HOLLINGS. I was asked at a news conference yesterday, did we capitulate on account of the elections? I said no. Under Senator LOTT's leadership, we capitulated before the election. You got us together, and I really thank the Senator on behalf of all of us.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield such time as is necessary to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I thank our distinguished chairman, our distinguished now minority leader, and our distinguished ranking member for this legislation of vital importance to my community of New York, one of the largest ports in the world.

We all know what the bill does. And all of these things are good steps forward. I particularly thank Chairman HOLLINGS for his steadfastness on this bill.

All of us probably would have wanted a little more in this bill, and in a minute I am going to talk about one particular area of importance to me. But one of our jobs here is not to let the perfect be the enemy of the good.

We need to do so much in our ports, and this is a good first step. The idea of assessing what our problems are, the idea of having a security identification card, background checks, and all of these other things I think are extremely important in terms of getting the needed technology because the terrorists are going to look for our most vulnerable pressure points.

We are doing the job on tightening up air security. I flew in from New York this morning. I saw the new Federal people there. It is better. I do not know if it is good enough yet, but it is better. But with our ports, we have virtually done nothing. This bill is a very good first step. And, again, I thank our chairman.

I want to talk about one area, and that is, the authorizing language is in the bill we worked on, but, unfortunately, not all the money is there to do it. I will try to alert my colleagues to this.

My great nightmare, as I think of how the terrorists would come back and strike us again—it might be al-Qaida; it might be Iraq; but who knows, it could be someone else, Chechens, East Timorese—but someone takes a nuclear weapon and smuggles it into one of the containers that come into one of our ports over our northern or southern borders and then detonates it in a huge population area. As horrible as 9/11 was—and, believe me, I know that horror—this would be much worse.

So we should be doing everything we can to make sure our ports are secure and to prevent nuclear weapons from being smuggled into our country, particularly in one of the large containers that come, by the thousands, to our ports on the east coast and west coast and the containers that come over our borders.

I have talked to experts, and they have said there is good news. The good news is that every nuclear device emits gamma rays, and gamma rays go through almost everything, so they are detectable. Only lead can stop it. And that can be dealt with by having an x-ray detector there as well.

The good news, in addition, was that at our national energy labs, such as Brookhaven and Argonne Forest, have such detection devices that work 50 or 60 feet away. Unfortunately, the bad news is the only practical commercial device is a Geiger counter. A Geiger counter works from 2 or 3 feet away. And it is virtually impossible for us to send personnel on to every container that comes to our ports or across our borders and hold that Geiger counter a couple of inches from each of the scores of crates that are on each container.

As I talked further to these experts, they said, for a relatively small sum, they could take the radiation detectors that now exist in our cyclotrons and can detect radiation 50 or 60 feet away and make them practical; namely, they have to make them smaller because they are very large, and they have to make them less delicate because they could bounce around. But imagine if we had such detectors. We could put them on every crane that loads or unloads a container. We could put them on every tollbooth that a truck, over the Mexican border or Canadian border, drives by and prevent a nuclear weapon from coming in. And even if these terrorists were so sophisticated that they surrounded the bomb in lead, we put an x ray next to it, and the x ray could detect the lead, and we know something is up, and we inspect the crate.

I brought this to the attention of my friend from Virginia, Senator WARNER, and we introduced legislation that would do just this. We worked long and hard to try to get it as part of the homeland security bill, but that did not happen. But the knight on the white horse in this area was the chairman from South Carolina because he put the language that we devised, with some suggestions by the Senator from Arizona and some by his own folks, in this bill.

We are now authorized to do research to figure out a way to detect nuclear devices from 50 or 60 or 70 feet away to prevent—God forbid—somebody from bringing in a device.

There is only one problem. I regret to bring this up, but it is true. The Senator from South Carolina has made the fight. We need about $250 million to come up with such a device. Unfortunately, only $90 million is authorized for the entire research and development section of this bill. This is not a frivolous expenditure. This is not pork. This is vital to our security.

I am supportive of this bill. I am grateful to the chairman. He made the fight. I don't care if the Government or the private sector pays for this; somebody should be paying for this research because we don't want to wake up one morning and find a device smuggled into our country when we can stop it. That is the frustrating thing. We can stop it. This is not one of those things like cancer where we can put billions of dollars in and hope and pray that research finds a cure and stops the disease.

We know if we put in the money, these devices, which already exist, can be practicalized so they can be put on every crane and on every toll booth where a truck with a container comes over our borders.

I hope when we come back next year—this is hardly a partisan issue; as I said, it was the Senator from Virginia and myself who spearheaded this—that we will put new effort into authorizing and appropriating a few more dollars so the research that needs to be done to make us nuclear secure is done.

I supported our President's motion for the war on Iraq. One of the reasons I did was I was afraid that Iraq would develop nuclear weapons down the road, and we couldn't allow them to do that because they might be smuggled in here. It is not going to be just Iraq.

In our brave new world, our post-9/11 world, other groups can come up with these devices. It is our solemn obligation to do everything we can to prevent them from being smuggled in.

The bill the chairman has sponsored is a great first step. I hope with his leadership and that of the Senator from Arizona, who made many suggestions to this part of our bill, that next year we will move forward to appropriate the necessary dollars to get this done quickly and make our country safe.

I yield back the time to the Senator from South Carolina.

Mrs. FEINSTEIN. Mr. President, I rise today to speak on the Maritime Transportation Security Act of 2002.

I applaud Senator HOLLINGS, Chairman of the Commerce Committee, Senator MCCAIN, the Ranking Member, and other members of the Port Security Conference Committee for their efforts, but I believe this legislation can best be summed up as "too little, too late."

The Senate passed Port Security Legislation last December, yet only now, almost a year later, is the Congress sending this bill to the President. Moreover, once this legislation passes, it will be years before the Department of Transportation and the Department of Homeland Security implement effective security measures at our 361 seaports.

I would have preferred seeing the Conferees embrace other ideas to improve port security such as the legislation I introduced with Senators KYL, SNOWE, and HUTCHISON. Instead, the Conferees rejected many proposals on port security and slimmed down the Senate Bill so that it is now one part security and three parts Coast Guard authorization language that has nothing to do with security.

I believe Congress "missed the boat" with this legislation and squandered an opportunity to take aggressive action to erect a formidable barrier at our seaports.

We know ports present optimal targets to terrorists. And we know al-Qaida operatives are coming after us. As CIA director George Tenet said recently before the Intelligence Committee, of which I am a member: "al-Qaida is in an execution phase and intends to strike us both here and overseas; that's unambiguous as far as I am concerned."

And this week we learned of a new tape that seems to be by Osama bin Laden, which made clear al-Qaida intends to go after us again soon.

The October 2002 report by Gary Hart and Warren Rudman demonstrates that our ports remain especially vulnerable even more than a year after September 11. The report points out, "Only the tiniest percentage of containers, ships, trucks, and trains that enter the United States each day are subject to examination, and a weapon of mass destruction could well be hidden among this cargo."

The Hart-Rudman report recommends revising transportation security because "the vulnerabilities are greater and the stakes are higher in the sea and land modes than in commercial aviation. Systems such as those used in the aviation sector, which start from the assumption that every passenger and every bag of luggage poses an equal risk, must give way to more intelligence-driven and layered security approaches that emphasize prescreening and monitoring based on risk-criteria."

Since we cannot inspect every ship and every container, I introduced the "Comprehensive Seaport and Container Security Act" earlier this year to establish a system for container profiling. The Feinstein-Kyl-Snowe-Hutchison Port Security Bill would also push U.S. security scrutiny beyond our Nation's borders to intercept cargo before it arrives near America's shores.

This complements the strategy Customs Commissioner Robert C. Bonner is in the process of implementing. To prevent a weapon of mass destruction from getting to the U.S. in the first place, Customs has entered into formal agreements with a handful of foreign governments to station U.S. inspectors at ports overseas to profile high risk cargo and target suspicious shipments for inspection.

The Customs Service is working to put groups of U.S. experts at the top 20 ports as soon as possible and they are moving at an impressive pace.

Hitting the 20 port threshold is essential because together, these ports account for approximately 70 percent of the 5.7 million containers shipped by sea to the U.S. annually.

We have known for a long time that America's ports needed an extensive security strategy and upgrade. In the fall of 2000, a comprehensive report was issued by the "Interagency Commission on Crime and Security in U.S. Seaports." I testified before the Commission and I believe the group's report serves as a very thorough primer on seaport security issues.

While often out of the public eye, ports across the United States are our nation's economic gateways. Every year U.S. ports handle over 800 million tons of cargo valued at approximately $600 billion. Excluding trade with Mexico and Canada, America's ports handle 95 percent of U.S. trade. Two of the busiest ports in the nation are in California, at Los Angeles / Long Beach and at Oakland.

S. 1214, the Senate-passed bill written by Chairman HOLLINGS and members of the Commerce Committee, was drafted before the September 11 terrorist attacks to incorporate the recommendations made by the Interagency Commission into law. While changes were made to this legislation before the Senate passed it in December of 2001 to focus more on antiterrorism, I believe the Conferees could have taken more aggressive action to improve the bill.

I would like to cite a few examples to show how this Conference Report is weaker than the Comprehensive Seaport and Container Security Act I have introduced.

The Feinstein-Kyl-Snowe-Hutchison port security bill establishes a comprehensive risk profiling plan for the Customs Service to focus their limited inspection capabilities on high-risk cargo containers.

However, the only mention of such a plan in the Maritime Security Act conference report is this paragraph of report language: "A vessel screening system which provides shipping intelligence and analysis can be utilized to identify those vessels requiring close inspection by the Coast Guard and other agencies. We urge the Coast Guard and port authorities to include vessel risk profiling in their enhanced security procedures."

The Feinstein-Kyl-Snowe-Hutchison port security bill strengthens U.S. security scrutiny beyond our Nation's borders to monitor and inspect cargo and containers before they arrive on America's shores.

However, the conferees of this Maritime Transportation Security Act only required foreign ports to be evaluated and authorized a program for U.S. officials to train foreign security officers abroad.

The Feinstein-Kyl-Snowe-Hutchison port security bill imposes steep monetary sanctions and criminal penalties for incorrect cargo manifest information or failure to comply with filing requirements.

However, the conferees of this Maritime Transportation Security Act only authorized civil penalties of up to $25,000 for a violation.

The Feinstein-Kyl-Snowe-Hutchison port security bill requires the Transportation Security Administration to set standards to ensure each port has a secure perimeter, secure parking facilities, controlled points of access into the port, sufficient lighting, buildings with secure doors and windows and an alarm.

However, the conferees of this Maritime Transportation Security Act only required vulnerability assessments and a National Maritime Transportation Security Plan.

The Feinstein-Kyl-Snowe-Hutchison port security bill requires the use of high security seals and electronic tags on all containers coming into the U.S. and requires empty containers destined for U.S. ports to be sealed.

However, the conferees of this Maritime Transportation Security Act only mandated the development of performance standards for seals and locks on cargo containers.

I have pointed out several areas where I believe the Conferees could have taken more aggressive steps, but I do want to endorse many of the security measures in this conference report such as the requirement for all workers in a secure area of the port to have a transportation security card and I support the $15 million annual authorization for 5 years to fund research and development efforts.

I thank Senator HOLLINGS, Senator McCAIN, and other members of the Commerce Committee for the work they have done on this important issue.

I look forward to continue to work with the chairman and ranking member of the Commerce Committee to address the threats to our ports. I believe additional legislation will be essential to follow up on this security bill. We must be better prepared for a terrorist attack than we were last year.

Mr. KERRY. Mr. President, I would like to take this opportunity to congratulate Senator HOLLINGS and Senator McCAIN the Chairman and Ranking Member of the Commerce Committee for reaching an agreement with the House on the Maritime Transportation and Security Act of 2002, S. 1214. I am proud to have served as a conferee on this very important legislation that will significantly improve security in our Nations seaports. In addition the bill would reauthorize the Coast Guard, a major component in improving security in our ports and harbors.

As Chairman of the Oceans, Fisheries and Atmosphere Subcommittee, I had the opportunity to chair an oversight hearing on the Coast Guard's role in improving maritime security after the terrible attacks of September 11. As Senators HOLLINGS and McCAIN well know, even before September 11, our maritime and port security was in sorry shape.

I wish to thank Chairman HOLLINGS for including three provisions from S. 1587, the Port Threat and Security Act, which I introduced last year in order to improve safety and security in our nations ports.

The first provision requires an annual report to the Congress that would list those nations whose vessels the Coast Guard has found would pose a risk to our ports, or that have presented our government with false, partial, or fraudulent information concerning cargo manifests, crew identity, or registration of the vessel. In addition the report would identify nations that do not exercise adequate control over their vessel registration and ownership procedures, particularly with respect to security issues. We need hard information like this if we are to force "flag of convenience" nations from providing cover to criminals and terrorists. This is very important as Osama bin Laden has used flags of convenience to hide his ownership in various international shipping interests. In 1998, one of bin Laden's cargo freighters unloaded supplies in Kenya for the suicide bombers who later destroyed the embassies in Kenya and Tanzania.

Also included from S. 1587, was my proposal on Sea Marshals. Sea Marshals would be authorized to be used on vessels as well as shore facilities both private and public to ensure safe transportation of high interest vessels into our ports, such as liquefied natural gas tankers and cruise ships. In Boston we have an LNG facility in the middle of Boston Harbor. Obviously we need increased security each time an LNG tanker offloads natural gas. Prior to September 11 these vessels were escorted by Coast Guard vessels into the port but no armed guards were present on the vessel. I strongly believe that having armed personnel, such as sea marshals, on these high interest vessels is very important and will considerably increase security in our Nation's ports, including Boston. The ability of terrorists to board a vessel and cause a deliberate release of LNG or gasoline for that matter is very real. Sea marshals will make it much more difficult for this to happen. In addition, this legislation would require a feasibility study to determine the potential to use other Federal, State or local law enforcement personnel as well as documented United States Merchant Marine personnel as sea marshals in the future.

Finally, this legislation includes a provision that would require the administration to begin a vigorous foreign port threat assessment program. Inspectors would evaluate the effectiveness of security practices in both cargo and passenger terminals around the world. This legislation allows the United States to prohibit any vessel from entering the United States if the vessel has embarked passengers or cargo from foreign ports that do not have adequate security measures as determined by our port threat assessment teams. Last year, inspectors in Italy checking a container bound for Canada discovered a member of the al-Qaida terrorist organization hiding in a shipping container equipped with a bed and makeshift bathroom. The suspect, an Egyptian in a business suit, had with him a Canadian passport, a laptop computer, two cell phones, airport maps, security passes for airports in three countries and a certificate proclaiming him an airplane mechanic. We simply cannot allow any country to have such poor security such that terrorists can stow away in a shipping container.

As I mentioned earlier this bill would also reauthorize the Coast Guard. The events of September 11 resulted in a new normalcy for the Coast Guard as port security and homeland defense missions rose to the forefront and our country realized the security shortcomings in our ports. This legislation recognizes this fact and authorizes nearly $6 billion for the Coast Guard in 2003. Obviously this country needs a viable and robust Coast Guard to safeguard our ports, and to ensure that commerce and trade can continue to occur in our ports, safely, efficiently and most importantly without terrorist incident.

At the same time, the Coast Guard also has unique missions not covered by any other federal agency. It is the only U.S. military service with domestic law enforcement authority. It has the primary responsibility of enforcing U.S. fisheries laws, carrying out drug interdiction at sea, and protecting the marine environment against pollution. I want to make it clear that all of these missions are important. And these traditional missions are suffering from resource constraints.

This bill would also increase authorization for Coast Guard personnel from approximately 35,000 today, which is roughly the size of the New York City Police Department to 45,500 by the end of this fiscal year.

This bill would authorize $4.3 billion for operating expenses in FY2003. Operating expenses cover all of the various activities of the Coast Guard, from boater safety and drug interdiction to port security, and adequate authorization is necessary to ensure that all of these Coast Guard operations can be carried out effectively.

This bill would also authorize $725 million in FY2003 for acquisition, construction, and improvement of equipment and facilities. Most of this funding will be used to fund the Deepwater Project, a long overdue modernization of the Coast Guard's Deepwater assets. The Coast Guard is the world's 7th largest navy yet they operate a fleet of ships that rank 39th in age out of the world's 41 maritime fleets. The Coast Guard is operating World War II-era cutters in the deepwater environment to perform crucial environmental protection, national defense, and law enforcement missions. In addition, Coast Guard aircraft, which are operated in a maintenance-intensive salt water environment, are reaching the end of their useful lives as well. Besides high operating costs, these assets are technologically and operationally obsolete. The Deepwater program will not only reduce operational and maintenance costs, but will significantly improve upon current command and control capabilities in the deepwater environment. I am delighted to see this program moving forward.

Every day on average, the Coast Guard saves 14 lives, seizes 209 pounds of marijuana and 170 pounds of cocaine, and saves $2.5 million in property. Through boater safety programs and maintenance of an extensive network of aids to navigation, the Coast Guard protects thousands of other people engaged in coastwise trade, commercial fishing activities, and recreational boating. In addition, the Coast Guard has a role to play in Homeland Defense. It is vitally important that we adequately fund and staff all of the missions of the Coast Guard. This legislation, while not as generous as many of us would like, is a step in the right direction.

Ms. SNOWE. Mr. President, I rise today in support of the legislation before the Senate which is designed to overhaul port security in this Nation. Port security is a national imperative in the wake of September 11. Frankly, I think it is regrettable that it has taken us this long to get to this point. After all, like aviation security, port security is national security, and it must now be viewed as such. We have to assume that every facet of our transportation system remains a target for terrorism. Last year, we moved swiftly in an effort to close many of the gaps in our aviation security system, but we still have a long way to go on port and maritime security.

We cannot underestimate the importance of this issue. A terrorist attack at a major port could cost countless lives and have a devastating impact on the national and global economy. As U.S. Customs Service Commissioner Robert Bonner said recently, "if terrorists used a sea container to conceal a weapon of mass destruction and detonated it on arrival at a port, the impact on global trade and the global economy could be immediate and devastating—all nations would be affected." At the same time, the 2000 interagency commission report found the state of security in U.S. seaports generally ranges from poor to fair.

Remember, our ports link us to the world. They serve a crucial purpose. They give us access to global markets. Ships carry goods totaling 95 percent of our foreign trade, excluding that with Canada and Mexico. Furthermore, the volume of goods passing through our ports is expected to double in the next 20 years. United States waters also sustain a $24 billion commercial fishing industry and a $71 billion recreational and tourism industry.

As a member of the Senate Committee on Commerce, Science, and Transportation and the port security conference committee, I am aware of the important responsibility we have to turn this situation around. And we can only achieve this with a comprehensive, exhaustive approach that recognizes that the entire system is only as strong as its weakest link.

The conference report before us today represents a multifaceted approach that runs the gamut and sets the stage for a complete reevaluation of port security from the ground up. We have an incredible amount of collective talent and experience in this country, and I hope that it can all be brought together to effect the kind of changes we need to fix the deficiencies brought tragically home by 9/11.

First and foremost, it is vital that we ensure that the sum total of the knowledge and resources of Federal, State, and local governments are brought to bear to both prevent disasters and respond to them. In that light, coordination is critical, and the measure before us today provides for greater coordination in this regard. In the wake of the September 11 attacks, we saw outstanding responses at the local level, but these actions were ad hoc—there were no national, standardized directives that could have been quickly disseminated and uniformly understood and applied—in contrast to the FAA directive to ground all planes, which was enormously successful.

Well, I do not think there is any doubt we can no longer afford such a piecemeal approach—if we are talking about our national security, which we are, we are talking about the need to establish a national response.

To confront the challenge of terrorism aimed at our maritime sector, we need better information, better information sharing, and more coordination. We need to enhance our ability to track cargo, and know what is being moved, with more inspectors, and improved technology. And we need stringent international standards, so we stop terrorist plots before they reach our shores.

Security coordination between Federal, State, and local authorities has been one of my top priorities in the aftermath of September 11, and I am pleased that the conference report greatly enhances coordination with respect to port security. The bill requires comprehensive security and incident response plans for the Nation's 361 commercial seaports. It also establishes a national maritime security committee and local maritime security committees at each local port to better coordinate efforts and share critical information and intelligence.

I am particularly pleased that the conference report includes provisions that build on legislation I introduced last fall to require ships to electronically send their cargo manifests to a port before gaining clearance to enter. The port security conference report expands on cargo security measures contained in the Trade Act of 2002 by requiring that cargo and crew member information be relayed to port security authorities prior to a cargo carrier's arrival in the United States. The U.S. Customs Service would determine how far in advance to require such pre-arrival information.

The bill will also provide grants to local port security authorities, as well as $15 million annually during fiscal years 2003 through 2008 for research and development grants for port security. I have seen firsthand how important these port security grants are. In my home State of Maine, the city of Portland recently received a Federal grant of $175,000 for port security upgrades. However, the fact is that ports in Maine and across the country still need additional security-related funding.

The conference report also addresses the complex issue of access to secure areas of a port by requiring the Secretary of Transportation to design a comprehensive credentialing process for port workers. The bill establishes a national standard for biometric security cards for transportation workers, and would allow the Secretary to determine whether an individual posed enough of a security risk to be denied an identification card.

Finally, as ranking member of the commerce Committee's Subcommittee on Oceans, Atmosphere, and Fisheries, I am please that this conference agreement includes provisions from my Coast Guard authorization bill. The conference report will provide the Coast Guard with the funding and personnel authorization levels it needs as well as over 30 other provisions important to the Coast Guard and the maritime community. This is the first time the Coast Guard has had an authorization bill since 1998 and it was drafted to provide the Coast Guard with the tools it needs to operate in our post-September 11 reality.

The legislation provides a 1-year authorization for the Coast Guard to reflect the agency's changing priorities since September 11, including authorization for $1 billion in new funding, as President Bush proposed in Portland, ME in February, and the authority to hire 5,500 new personnel to meet both its new homeland security needs as well as carry out its other traditional missions.

This bill also includes numerous measures which will improve the Coast Guard's ability to recruit, reward, and retain high-quality personnel. It addresses various Coast Guard personnel management and quality of life issues such as promotions, retention, housing authorities, and education.

Last year alone, the Coast Guard responded to over 40,000 calls for assistance, assisted $1.4 billion in property, and saved 3,355 lives. These brave men and women risk their lives to defend our borders from drugs, illegal immigrants, and other national security threats. In 2001, the Coast Guard seized a record 132,920 pounds of cocaine and 50,000 pounds of marijuana, preventing these substances from reaching our streets and playgrounds. they also stopped 4,210 illegal migrants from reaching our shores. They conducted patrols to protect our vital fisheries stocks and they responded to over 11,000 pollution incidents.

And in the wake of September 11, the men and women of the Coast Guard have been working harder than ever in the service's largest peacetime port security operation since World War II. These operations are all critical to defending our country, protecting our borders, preserving our environment, saving lives, and ensuring commerce moves safely through our waters.

As a conferee on this bill, I am proud of the work we have done, and that we are sending a strong and meaningful port security bill to the President. We know full well that the world has changed, and seaport security cannot be taken for granted. We also know that our transportation system must be secure if we are to move the Nation forward, and also ensure that we are in a position of strength to be able to wage the kind of war necessary to eradicate terrorism.

So I urge all my colleagues to offer a strong show up support for this important legislation.

Mr. WYDEN. Mr. President, I rise to express my strong support for the important agreement that my fellow conferees and I achieved in the conference on the Port and Maritime Security bill. For many months, our staffs have worked tirelessly to help us reach an agreement that meets the needs of security while allowing commerce to flourish. This bipartisan legislation strikes a good balance between security and trade, and I'm glad to see that it will be headed for the President's desk.

This legislation, of which I am an original cosponsor, aims to protect U.S. ports against terrorist attacks. The safer Oregon's ports are, the more prosperous they will be. I am also pleased to see that many programs important to Oregon will continue to thrive. These programs play a critical role in supporting Oregon's commerce and ports, which support 1 in 7 jobs in the State. The Maritime Fire Safety Association on the Lower Columbia will continue its important work along with the important Coast Guard stations that maintain safety and manage fisheries for communities on the Columbia River and along Oregon's coast.

In addition to safeguards for Oregon businesses, I am also pleased that the agreement recognizes the important environmental laws that help maintain our State's environmental treasures and will continue to protect Oregon's ocean and coastal environment.

I especially want to commend Chairman HOLLINGS for his perseverance on this legislation, and I thank my fellow conferees for their hard work on this important bill.

Mr. BIDEN. Mr. President, today, the Senate will consider and approve a final agreement on maritime and seaport security. This important legislation will address critical security issues at America's seaports, and I rise to applaud the efforts of Chairman HOLLINGS and my other colleagues who served on the conference committee that brokered this historic agreement.

Conference negotiations always involve a delicate dance of give-and-take. In this case, the conferees have been true to the intent and spirit of the originally passed legislation. They have retained important improvements, including a requirement that ports develop terrorism response plans; the creation of a coordinated maritime intelligence system; and a mandate that the U.S. Department of Transportation conduct background checks of port workers and require worker identification cards. As important, the agreement reflects some of the priorities I advanced in my own port security legislation—including enhanced requirements for the electronic submission of cargo information and the development of a uniform system for securing containers destined for the United States. This legislation, while not a cure-all, constitutes a substantial improvement over the current security situation at many of our Nation's ports, and I proudly cast my vote in favor of it.

That said, passage of this legislation should not lessen our resolve to remain vigilant in our efforts to protect America's seaports. Each year, an estimated 11 million containers worldwide are loaded and unloaded at least 10 times. The U.S. marine transportation system alone moves more than 2 billion tons of domestic and international freight and imports 3.3 billion tons of oil. Surprisingly, notwithstanding the magnitude of cargo transported by sea, there exists no uniform or mandatory standards for security at leading facilities, no uniform or mandatory system of sealing containers, and no independent checks to ensure that basic safeguards are undertaken.

In order to remedy these gaps in our current security scheme, there remains much work to be done. As I have suggested, we should recalibrate our transportation agenda to focus more sequarely on threats to sea and land. We should adopt stiffer criminal penalties, including enhanced penalties for noncompliance with certain reporting requirements; continue to explore policies and technologies that will ensure container security—shockingly, as an independent task force recently observed, most containers are now seated with a 50-cent lead tag—make sure that border agents are trained and equipped to detect threats like nuclear devices, which would easily be concealed in the mass of uninspected cargo that enters the United States each day; work in partnership with the trade community to ensure appropriate data security; and provide for proper data collection and reporting systems that capture the magnitude of serious crime at seaports and related facilities.

Let there be no doubt about it: this legislation provides no reprieve from our obligation to safeguard the homeland. The task will be difficult and requires dogged perseverance, but the building blocks are before us. Moreover, we know what we must do: first, we must have solid intelligence to identify and track our enemies; second, we must erect the proper barriers and preventive strategies to keep weapons and other instruments of destruction out of their hands; third, if those strategies fail, we must be prepared and able to stop any threat before it arrives on our shores; and fourth, as a fail-stop measure, we must have the capacity to detect and destroy any threat that makes its way to our borders. No matter what your political stripe or special interest, those basic principles must guide our fundamental strategy. And this legislation moves us substantially in that direction. I am committed to continuing to work aggressively on these issues in the 108th Congress and invite my colleagues on both sides of the aisle to join me.

Mr. NELSON of Florida. Mr. President, I rise in support of the Maritime Transportation Security Act of 2002. Of all of the important legislation we have worked on this year to protect our Nation from further acts of terrorism, I consider this bill to be one of utmost importance.

Most terrorist attacks around the world target transportation, and the Nation's 361 seaports, 14 of which are in Florida, are especially vulnerable. Our seaports are open and exposed to acts of terrorism as well as to drug trafficking, cargo theft, and especially important to Florida, the smuggling of illegal immigrants. The fact that many of our ports are located in and around large urban areas makes the security of the seaports of paramount importance. The extreme vulnerability of the urban areas in and around seaports was underscored recently by the fishing boat that eluded Coast Guard interdiction and arrived just off the shores of Key Biscayne, FL, carrying a large number of Haitian immigrants. Had this boat carried terrorists or dangerous cargo, a tragedy might have occurred.

A terrorist attack at our seaports would produce devastating effects both in terms of loss of life and in economic disruption. Florida's seaports play a critical role in our national, State, and local economies. Florida's seaports are major gateways of commerce for the flow of goods and passengers along the Nation's and Florida's transportation corridors of commerce. Florida ranks fourth in the Nation's total container movements, and is home to four of the major container ports in the country.

Florida has the top three busiest cruise ports in the world. Approximately twelve million passengers embarked or disembarked at Florida seaports during 2001 and approximately 80 percent of those passengers were U.S.

citizens. The security of the Nation's seaports is crucial to the future of the cruise tourism industry.

Although Florida has the largest international water border in the continental U.S., and thus the largest Federal maritime domain of any State in the continental U.S., Florida's seaports receive very limited Federal law enforcement resources, and no Federal funding for security infrastructure to provide the security controls necessary to protect themselves from threats of large-scale terrorism, cargo theft, drug trafficking, and the smuggling of contraband and aliens. The increased threat of terrorism at our borders demands that action be taken immediately.

This legislation lays out important security measures that must be taken to ensure the safety and security of our seaports. It significantly increases funding for the Coast Guard to $6 billion in fiscal year 2003. It also authorizes $90 million in research and development grants to improve our ability to screen cargo for dangerous contraband, to detect unauthorized people or goods from entering through seaports, and to secure access to sensitive areas of our ports. This bill also mandates the development of standards for training Federal, State, and private security professionals and provides funding to carry out that training and education. It also mandates for the first time, the development by ports, facilities, and vessels, of comprehensive security and incident response plans.

Unfortunately, the final version of this legislation does not include a dedicated funding source necessary to carry out the needed security measures. The grant program it establishes will help fund some of the security enhancements, but there must be more funding allocated to individual seaports. Florida has already spent more than $7 million securing our 14 deepwater seaports. Florida needs more Federal funding to comply with the mandated security measures of this bill. We must also ensure that ports that have already spent substantial amounts of funding on security measures are reimbursed for those improvements. Without a dedicated funding source, it is hard to see how we will achieve the high level of security at our seaports envisioned by this bill.

No one deserves more credit for the passage of this important legislation than my good friend and colleague Senator **BOB GRAHAM**. It is an important step forward to securing our seaports and making our nation safer. But, as Senator **BOB GRAHAM** has said, we have much more to do. I look forward to working with him and my colleagues on the Commerce Committee to take the next steps in making our seaports safe.

Mr. McCAIN. How much time remains on both sides?

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from South Carolina controls 17 minutes; the Senator from Arizona, 11½.

Mr. McCAIN. Mr. President, I am glad to yield some of my time to the Senator from South Carolina, if he needs it.

Mr. HOLLINGS. I appreciate it.

Let me thank the distinguished Senator from New York. He is right as rain. We did not get adequate funds. That was a struggle over on the House side. That was the Gordian knot broken by our distinguished minority leader, Senator **TRENT LOTT**. But we are going to have to find not only the money for the research, we will have to find about $4 billion at least to implement this measure.

I thank the Senator from New York. I particularly thank the Senator and chairman of our subcommittee, Senator **BREAUX**. We had those six field hearings. We had the Director of Customs there. We had the Commandant of the Coast Guard. They were very comprehensive hearings with limited time. I can tell you now, we saw at one particular port a Ford pickup truck back out of that container, and another container that we happened upon had a bunch of mahogany desks from Mexico that we didn't see at the particular time. But later on up in Delaware, the Philadelphia area, it was opened up. It was all full of cocaine. So we made a good raid at one of those hearings.

Otherwise, the chairman on the House side, Mr. **DON YOUNG**, and his ranking member, **JIM OBERSTAR**, worked around the clock. They had to feel like we had over on the Senate side to take care of this with the user fee. But we just couldn't get the support on the House side. We are only here on account of the leadership of Chairman **YOUNG** and Congressman **OBERSTAR**. We had Senator **TED STEVENS** reconciling a good bit of the differences from time to time. And in the financial area, we had Senator **BOB GRAHAM** and Chairman **CHUCK GRASSLEY** of the Finance Committee who worked with us.

I think we ought to understand that this, for the first time, requires a national maritime security plan. As part of the plan, each regional area would be required to have a security plan. It requires for the first time ever that all waterfront facilities and vessels have a security plan that would have to be reviewed and approved by the Coast Guard. It requires for the first time ever that the Government will do assessments of security at our ports, and these reports would be the basis for port security planners. The security requirements will be implemented instantly after review by the Coast Guard, and the act would be fully implemented within 1 year.

We have background checks on all of the employees. We have the development of technology for seaport security, the maritime intelligence system; that requires tracking of vessels through satellite legal authority over territorial waters, advanced reporting requirements for vessels and cargo. And one final word: We did work with the unions in this particular measure. The White House, the unions, the Republicans, the Democrats, the House, the Senate worked out those background checks on union employees. So when we got together and much has been said that on the homeland security bill that was the holdup—we worked out a very comprehensive system that was approved by all and will give security to our port facilities.

I thank the distinguished Senator from Arizona for his courtesy in yielding and his leadership on this particular measure.

The PRESIDING OFFICER. The Senator from Arizona controls the remainder of the time.

Mr. McCAIN. Mr. President, I want to go back for a moment to the discussion I had with the Senator from Delware concerning rail security.

First of all, I agree with the Senator from Delaware. We need absolutely to pass that legislation, particularly now that we have acted on airport and port security. Rail security is obviously a very critical item. My point was that there are two bills: One is S. 1550, the rail security bill, which provides $1.7 billion. $515 million for Amtrak systemwide security, and then $998 million for tunnel life safety projects in New York, Baltimore, and Washington, DC, which comes up to $998 million, and $254 million for safety and security improvements.

That bill I supported and worked through the committee and would support it, even though over 50 percent of it goes for just three areas: New York, Baltimore, and Washington, DC. But that is where tunnels that need work are located.

I was referring also to S. 1991, which is the Amtrak reauthorization, which calls for $4 billion annually and also includes the provisions of S. 1550. Holds were put on S. 1550. I do not support S. 1991 because it authorizes as much as $4 billion annually.

The Senator from Delaware always talks about the fact that we subsidize aviation projects. We do. We do primarily through user fees. There are no user fees that are imposed on the railways of America and Amtrak.

I am pleased with some of the actions that have been taken by the new regime over at Amtrak. The new chairman is doing a much better job in making some very tough decisions.

I look forward to working with the Senators from Delaware. The junior Senator from Delaware, Mr. **CARPER**, has been very committed and involved in the project. I look forward to working with him and Senator **HOLLINGS**. A top priority will be, in my view, rail security; we should pass it.

I want to make it clear I don't believe other extraneous projects should be associated with it. The Amtrak reauthorization should be taken up on its merits or demerits. But I hope we can move forward with S. 1550, the rail security bill. Holds have been put on the bill. It has received my support, as well as that of the distinguished chairman of the committee.

The issue of Amtrak rail security is of prime importance. The issue of the future of Amtrak is also of significant importance—not as important as that of rail security. I look forward to working with Senator HOLLINGS and the Senators from Delaware and the members of the committee, including Senator BREAUX, as we try to work through this whole issue of the future of Amtrak. There are a number of different kinds of proposals, and Mr. Ken Mead of GAO, under whose responsibilities Amtrak lies, is one to whom all of us pay a great deal of attention.

Finally, I again thank Senator HOLLINGS for his leadership on this very important legislation. I don't think there is any doubt in the minds of most safety and security experts that port security is an area of significant vulnerability. We hold no illusions there will be immediate confidence that we can have security in the airports of America, but I am confident that the implementation of this legislation, over time, will provide Americans, to a large extent, with the security and safety that is necessary in the ports of America.

In some ways, you can argue that the way the ports operate in America, the challenges are even greater than at the airports, or even rail security, given the hundreds of thousands of containers that come through these ports on a daily basis, and how vital they are to the economy of the United States, as we found out in the slowdown/strike in the west coast ports recently.

So I again thank all involved. I also thank our friends in the other body, the House, and also for the involvement of the administration.

Mr. President, I yield whatever remaining time I have to the Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Senator from Arizona. I am glad to hear him say we are going to work together on port security and the reauthorization of Amtrak because that is vital. I think if the leader here, the Senator from Nevada, and the other side are ready, we can yield back time and proceed to the vote. I yield back any time I may have. I thank the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The Senator from Arizona and the Senator from South Carolina yielded back their time. I think it is appropriate to start the vote a couple minutes early.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mr. CARPER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—95

Akaka
Allard
Allen
Barkley
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carnahan
Carper
Chafee
Cleland
Clinton
Cochran
Collins
Conrad
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham
Gramm
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Hutchison
Inhofe
Jeffords
Johnson
Kerry
Kohl
Kyl
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stabenow
Stevens
Thomas
Thompson
Thurmond
Voinovich
Warner
Wyden

NOT VOTING—5

Helms
Inouye
Kennedy
Landrieu
Torricelli

The conference report was agreed to.

Mr. HOLLINGS. I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

CHARITY AID RECOVERY AND EMPOWERMENT ACT OF 2002

Mr. SANTORUM. I thank the Presiding Officer. I appreciate the opportunity to speak. I am prepared to offer a unanimous consent on the CARE Act, which is the act that passed out of the Finance Committee 147 days ago. It is the Charity Aid Recovery and Empowerment Act of 2002. I will let the Members know what the legislation does, and then I will ask unanimous consent to consider the legislation before we leave.

This legislation came out of the Finance Committee with 28 bipartisan cosponsors. More than 1,600 small and large charitable organizations support this act because it promotes giving, it promotes savings for low-income individuals, and makes the Tax Code more fair, particularly for the low-income and moderate-income individuals who do not fill out the long form on their tax return.

It provides 86 million Americans the opportunity to itemize charitable organizations, which now they cannot do because they do not fill out the long form. It allows 300,000 low-income individuals the opportunity to build assets through something that Senator LIEBERMAN and Senator FEINSTEIN and others on both sides of the aisle have promoted—individual development accounts. It will provide incentives for $1 billion in food donations from farmers, restaurants, and corporations. It will provide $150 million in a compassionate capital fund to provide money for smaller charities.

A lot of charities do not participate in government funding programs because they do not have the technical expertise to do so. We are providing money for technical assistance to some of the community grassroots organizations, faith-based organizations, and non-faith-based organizations to participate in providing social services in a very effective and compassionate way.

This is the way to do it. It adds something Senator LIEBERMAN was a great advocate of, $1.2 billion in new social service block grant funds to provide social services to those in need in our society. It allows people to give tax-free contributions from their individual retirement accounts. Again, right now if someone wants to give to a charitable organization, and you want to give it out of your IRA, you have to pay taxes and penalties. This allows for a distribution from people who have money in their IRA's who have a desire to give to charitable organizations. We will allow them to do that, liberating hundreds of millions and billions of dollars to faith-based organizations.

This is legislation designed in response to 9/11 and the recession we have been going through to try to target resources to these small, charitable organizations; to try to get moderate- or low-income individuals the opportunity to deduct the charitable contributions. One of the ways it is paid for is through corporate inversion. I argue we are nailing corporations that are moving their operations out of the United States and avoiding taxes. We are taking money that could be raised by these corporate inversion provisions and channeling it to those most in need in our society.

That is what the legislation does. There is one other provision I make clear. There is equal treatment language in this legislation. Let me state what that does. It is noncontroversial, equal treatment language. It says organizations that receive government funds can display a religious icon, that they can have a religious name. Believe it or not, I have been to many organizations, particularly in the Jewish community, and because they have a Hebrew name, they are automatically left off the list of organizations that can participate in government funds, even though they are not Jewish in nature. They may be Jewish, but they are not in any way affiliated with the Jewish faith. They just happen to be culturally a Jewish organization.

Having a religious name like St. John's should not eliminate you from participating in government funds, if you are not religious in nature, or do something unique for a religious purpose. You can have religious language in your chartering documents, you can quote the Bible in your chartering documents, and it should not eliminate you from Federal funds. Again, these are not controversial. You can use on your governing boards, nonprofits, not paid governing boards some sort of religious criteria as to who serves. So if you are the Mormon Church and have a governing board on your social service agencies, you can require they be Mormons. I don't know that necessarily discriminates against anybody in the sense these are not paid positions. They are church-affiliated. We are not discriminating in the hiring. We are talking about oversight of charitable organizations.

These are the provisions of this act. I believe if you look just at the four walls of this bill, there is not a lot of controversy in this legislation. What we have attempted to do, Senator LIEBERMAN and myself—we have been working this legislation now for almost 150 days. Obviously this is legislation the President strongly supports. He believes we need to get this money out into communities to try to help those in need in our society.

We have been working with Senator DASCHLE. I thank Senator DASCHLE and Senator REID for their good-faith effort to try to move this legislation forward. As many here in the Chamber know, Senator DASCHLE said publicly over and over, over the past couple of years, he would give the President a vote on this initiative, which is just a piece of the President's faith-based initiative. He has worked diligently to try to make that happen.

We have been hotlining a unanimous consent agreement. The unanimous consent agreement would allow for four Democrat amendments on the substance of the legislation, attacking the substance of the legislation, and one Republican amendment.

I want to repeat we are allowing the Democrat side four amendments and we have accepted it on our side. We hotlined it this week. There is no objection on our side of the aisle to giving four times as many amendments to the Democrats as we have on this side.

I am hopeful that, given the importance of this legislation, given the fact this is going to help those in need at a time of economic distress and uncertainty, we can liberate literally billions of dollars to be targeted to organizations that want to help those in need in our society.

I ask unanimous consent that at a time determined by the majority leader, after consultation with the Republican leader—however, no later than the close of business of the Senate—the Senate proceed to the consideration of Calendar No. 496, H.R. 7, and it be considered under the following limitations: That there be 1 hour for general debate on the bill equally divided between the two managers, the only amendments in order, other than the managers' substitute, be the following: An amendment prohibiting proselytization using public funds, an amendment prohibiting discrimination using public funds, an amendment prohibiting direct funding of religion, an amendment preserving State and local government options—these amendments were provided to us by Senator DASCHLE, I believe to be offered by Senator REID—and a Republican amendment, to be offered by Senator GRAMM, is an amendment expanding benefits of land conservation provisions to all charities; the amendments be limited to 60 minutes each, to be divided between the proponents and opponents, with no second degrees in order. I ask following the disposition of the amendments and expiration of debate, the bill will be read a third time, and the Senate proceed to a vote on passage of the bill with no further intervening action or debate.

Several Senators addressed the Chair.

Mr. LIEBERMAN. Mr. President, reserving the right to object, and I will not object, I support the request of the Senator from Pennsylvania for unanimous consent. I have been his cosponsor and coworker in this cause for many a year now. This is part of an attempt to find a constitutionally appropriate way to engage. The initial attempt was to engage faith-based groups in making this a better society, using the particular skills they have, and sense of mission that faith-based groups have, to help us deal with some of society's social problems.

Of course, there are thousands of faith-based groups that are doing that today with regard to fundamental human needs such as hunger and homelessness, and going beyond that, to violence, family dysfunction, drug abuse, substance abuse, and a host of other problems. This was an attempt to see if we could find a constitutionally appropriate way to have the Government help these groups do that.

Along the way many concerns were raised. The bill was passed in the House, so-called charitable choice, building, in fact, on a charitable choice provision that was in the welfare reform bill of 1996 and signed by President Clinton. A similar provision was adopted in three other social service programs, but when it came to introducing this legislation last year—which President Bush had coordinated and initiated—there was some opposition and controversy around it.

I must say here, and perhaps it is timely and appropriate to say it, as the pending legislation before the Senate is the homeland security legislation, where this Senator has said several times I have felt the administration, on a particular point, has been inflexible or—in any case, in this measure, with regard to faith-based institutions, the administration has in fact been quite flexible. We have now come together on a proposal that is not really any longer strictly a faith-based initiative. It is a charity initiative. We have eliminated all of the controversial sections that were in the House-passed legislation, passed earlier in the 107th session. We have it honed down now to very significant tax incentives for charitable giving, for people to give to charities, faith-based and otherwise, at a time when those charities' income is falling because of the economy and other demands. Yet the needs, if anything, as the economy is stagnating, are even greater.

As to the $1.2 billion to social services block grants, if there was nothing else in this bill, I would say it was worth it because these are critically important, humane programs that are carried out. Again, they don't just go to faith-based groups. They go to all—they go mostly to nonfaith-based groups. And then technical assistance for charities to be able to qualify for public assistance, the Individual Development Accounts, which were a wonderful way—experimented with in several places around the country—to help poor people build savings that are matched by financial institutions, to get some wealth and work their way up into the middle class.

I know there remain some concerns about the bill. But they are not about the language of the bill, which I believe is noncontroversial at this point. They are about trying, around this bill, to change some language that is in the statute now—particular language in title VII of the Civil Rights Act that allows faith-based groups to hire people only of the faith of the group. That is an issue on which we can all agree or disagree. But I plead with my colleagues, it is an issue for another day.

The fact is, under the unanimous consent proposal that the Senator from Pennsylvania has made, our colleagues who are concerned about that issue, though it is not specifically within the parameters of this proposal, will have the opportunity to introduce amendments to alter it.

I think this is a very reasonable proposal which is all good and will help charitable groups of all kinds help us make this a better country. Therefore, I appeal to my colleagues to allow this unanimous consent to be adopted so that, before we leave, we can in a sense give a gift, as we approach the holiday season, to those who are most in need in our society and particularly directly to those charitable groups where the focus is on helping those most in need.

I hope we can agree on this unanimous consent proposal.

I yield the floor.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, my problem with this unanimous consent request relates to the limitation on amendments. There have been four amendments specified. I have been trying for weeks and months, in some cases years, and other Members of this body have also been attempting to get other amendments that relate to the Finance Committee's work before this body for a vote.

The Senator from Connecticut talks about the needy. Clearly, he is right. There are needy people in this country. One of the neediest groups is the people who have exhausted their unemployment benefits. We have been trying for months to get an extension of unemployment compensation before this body for a vote. In prior recessions, there have been extensions of unemployment of 29 weeks in 1974, 26 weeks in 1981, 33 weeks in 1990, and 26 weeks in 2002. We need an extension of unemployment benefits. We have a large number of people—900,000 workers—who have exhausted all of their additional weeks of Federal unemployment insurance between May and July of 2002. This number is going to grow to 2.2 million before the end of the year. We have lost 2 million private sector jobs in this country since January of 2001—an actual decline in private sector jobs for the first time in 50 years.

We have economic problems. We have suffering. We want to extend unemployment benefits. Yet I am precluded—as have our other colleagues who have been working diligently on this issue—from offering an amendment to this bill to extend unemployment benefits. It is that limitation, that restriction, that prohibition in the unanimous consent proposal that I have a problem with. I think it is important that those who are fighting for an extension of unemployment compensation have this opportunity on this bill because this is a bill which can pass and offer immediate and critical help to our people.

That is the problem I have with the unanimous consent request.

In addition to the extension of unemployment benefits, I ask if the author of this unanimous consent request would consider modifying his request to allow three amendments I have been trying to get considered by this body. One is the extension of unemployment compensation which many people have been attempting for months to have considered by this body. I would like to see that locked in and guaranteed for consideration on this bill. This bill can pass. No. 1.

No. 2, an amendment relevant to stock options which was blocked. Senator McCAIN was blocked from offering it a number of months ago. The amendment would simply require the Financial Accounting Standards Board to consider the issue of stock options within a year and report back.

The third is the Securities and Exchange Commission administrative enforcement amendment.

We circulated those amendments. They are clearly within the jurisdiction of this committee. The only way we are going to get these amendments considered is if they are part of a unanimous consent request such as this.

I ask the Senator from Pennsylvania whether he would consider amending his unanimous consent request to allow three additional amendments. That is the only problem I have with his unanimous consent request—it precludes amendments from being offered which are within the jurisdiction of this committee, which are critically important to this country, and which won't be considered unless we can make them part of a unanimous consent request.

That is my question to the sponsor of the unanimous consent.

Mr. SANTORUM. Mr. President, let me address the three amendments.

With respect to the first amendment, I agree with the Senator from Michigan. That is something we should do. Even though I believe it is not germane to the package we have before us, it is certainly within—from the standpoint of what this bill is trying to do, which is help with the financial and economic stress—it certainly meets the overall goal of the legislation.

My understanding is that there is a very good chance the House is going to pass an extension today and send that over. In fact, I feel very confident about that. They are going to pass an extension and send it over, which I hope we will be able to act upon and pass.

I would say to the Senator from Michigan with respect to this piece of legislation that I think you will have an opportunity to deal with that issue on the bill that certainly will have just as much chance of passing as this bill.

Mr. LEVIN. Will the Senator yield on that point? Is it the Senator's understanding that that extension is simply an extension or part of a larger package which has many other features to it?

Mr. SANTORUM. I do not know if anybody else has a better understanding than I do. If they do, feel free to chime in.

My understanding is they are going to pass a clean extension.

Mr. SARBANES. Mr. President, will the Senator from Michigan yield on that question?

Mr. LEVIN. Yes.

Mr. SARBANES. It is my understanding that the unemployment extension benefits that the House is considering, first of all, are embraced within the package that encompasses other things as well.

Second, and more importantly perhaps, the unemployment insurance benefits issue itself is very limited and falls far short of the sort of amendment the Senator from Michigan is considering in terms of extending these unemployment insurance benefits, which is a growing crisis in the country. We need to recognize that. I certainly support the Senator from Michigan in his effort to ensure the unemployment benefits. But what the House is considering, as I understand it, is grossly inadequate in terms of addressing the unemployment insurance. It doesn't even carry forward a full extension of the current situation beyond that. There are going to be people falling off the cliff here very shortly. Many of them have already fallen off the cliff.

Mr. SANTORUM. Mr. President, the Senator is making the point that he doesn't have another vehicle for an opportunity to offer his amendment. My point is, when this bill comes over, he will have an opportunity to offer an amendment on unemployment extension, and he does not need to use this vehicle. That is the point.

Mr. LEVIN. Is my understanding correct that an unemployment benefit extension is part of a larger package which has many controversial issues in it? If so, then that bill may not go anywhere because of the other parts of it—not because of the unemployment extension, which purportedly everyone favors around here but then wants it to be used to produce other achievements and successes that are highly controversial.

This is not a controversial amendment. This extension we are talking about is not a particularly controversial amendment. The Senator from Pennsylvania favors it. And yet, when I am asking whether he favors an extension——

Mr. SANTORUM. I haven't seen the amendment. I do not know.

Mr. LEVIN. I withdraw that—favors an extension of unemployment compensation, we may be able to sit down and work out something that the Senator from Pennsylvania does favor in the area of unemployment compensation extension and include that in his unanimous consent.

But it seems to me it is absolutely reasonable to ask for a more certain way of getting an unemployment benefit extension passed through this Congress. It is critically important to hundreds of thousands of people who are suffering. It is immediate. It is urgent.

I therefore renew my request that those three amendments be added to the unanimous consent request of the Senator.

Mr. SANTORUM. Mr. President, I would certainly be willing on the first amendment to sit down with the Senator to see if there is an unemployment extension that can be agreed to. I think it is something we need to do. I think there is a willingness on our side to have an unemployment extension. I would have no objection to setting aside the unanimous consent request to try to work out a unanimous agreement on the issue of unemployment compensation.

There are other issues which are really outside the scope of this, and they are very controversial. I understand the Senator—I know because I have been on the floor many times—from Michigan has attempted to get the initiative aired. I understand his passion on it. I respect how he feels about it. But I think the Senator from Michigan would agree with me that these are hotly contested. In fact, one of the cosponsors of this legislation on the other side of that issue is the Senator from Michigan. I think adding those two amendments that really aren't germane for helping those in need in our society are outside of the scope, and in fact the amendments would sink the entire bill if they were adopted.

I can try to meet the Senator halfway. Let us try to work together on unemployment. If we can do that, and if the Senator is willing to set aside the other two amendments, then we can try to move forward with the consent request. I would be happy to work with him.

Mr. LEVIN. Mr. President, let me ask the Senator from Pennsylvania about the third amendment to which I referred, which wasn't particularly controversial but yet precluded when we considered the Sarbanes bill, which has to do with administrative enforcement by the SEC of their regulations.

The only area that the SEC cannot now administratively enforce with civil fines is the area of regulations involving corporate executives and auditors. When it comes to the stockbrokers, they are able to enforce administratively their regulations with the use of civil fines, of course subject to the appeals courts. But the area which has been so crucial and so sensitive—violations of regulations which have contributed so much to the suffering in the economy, violations by corporate executives and by auditors—in that area, the SEC does not have the authority to proceed administratively. They want it. I do not know of folks who oppose it. But unless we can act on it this year, there will be another delay.

I ask the Senator from Pennsylvania whether or not his offer to go halfway would include the second of the three amendments relative to the SEC administrative enforcement.

Mr. SANTORUM. My understanding is that third amendment is not a tax-related amendment and would be appropriate to be offered, for example, if you wanted to, on the homeland security bill or another piece of legislation that is coming through. So there isn't a need to have that amendment attached particularly to a tax vehicle.

I understand your second amendment has tax implications and is necessary to offer to a tax bill. But this amendment you could offer, if you wanted to, once we leave this unanimous consent, to homeland security. It probably has a much better chance of being passed and signed by the President in this legislation.

So I would say to the Senator, if he wants to do that, I would argue that the better opportunity for him to do it is on homeland security, not this tax bill.

Mr. LEVIN. Will the Senator yield on that?

Actually, both the amendments have tax revenue implications. Stock options have been, in my judgment, excessively used in an inconsistent way, where a tax deduction is given to a stock option which is not shown as an expense on the books but is taken as an expense on the tax return. So there are very significant tax issues on the stock option issue.

Also, on the auditors and executive issue, there are tax revenue implications because in both cases we have lost significant amounts. Because of violation of regulations by auditors and by executives, we have lost tax revenue.

Mr. SANTORUM. Mr. President, I say to the Senator from Michigan, the third amendment, from my reading of it, is an amendment that is under the jurisdiction of the Banking Committee and not under the jurisdiction of the Finance Committee and not a tax-related amendment. There may be revenue implications, but there are lots of revenue implications of things we do here that are in the jurisdiction of other committees having to do with enforcement. But there is no tax implication. Therefore, there is no need to offer it here in this tax legislation. The second one certainly does.

Mr. LEVIN. On the stock option, there has even been a hearing in the Finance Committee.

Mr. SANTORUM. I understand the third one, that you are arguing for now, is not necessarily appropriate for this legislation.

Mr. LEVIN. Happily, the Senator's argument against it on the third amendment helps me on the second amendment because it is clearly in the jurisdiction——

Mr. SANTORUM. The second amendment is highly controversial and would be an amendment that would surely sink any possibility of this legislation being passed.

Mr. SARBANES. Would the Senator yield for a question about his second amendment on the stock option?

Mr. LEVIN. Yes.

Mr. NICKLES. Regular order.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Does the Senator from Pennsylvania yield?

Mr. SANTORUM. I yield.

Mr. SARBANES. It is my understanding that the amendment the Senator from Michigan is talking about on stock options does not have a substantive result contained in the amendment. It is simply a request that the Financial Accounting Standards Board study the issue and report back.

Mr. LEVIN. The Senator is correct.

Mr. SARBANES. In that sense, it is neutral on the substance of the issue; is that correct?

Mr. LEVIN. That is correct. There is a requirement that they report back in a year. But the Senator is correct, on the substance of the issue, it is neutral.

I think the Senator from Pennsylvania might also find that some of the people who previously opposed the effort in the area of stock options may not object to having the Financial Accounting Standards Board review this matter and report back in a year, for the very reason that the Senator from Maryland raises, which is that it is substantively neutral.

Mr. DURBIN addressed the Chair.

Mr. NICKLES. Regular order.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Pennsylvania has the floor.

Is there objection?

Mr. DURBIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you very much.

I say to my colleague from Pennsylvania and my colleague from Connecticut, I understand the importance of this issue to each of you personally, and to those who are cosponsors, and why you are anxious to raise the flag and at least raise the issue in the closing days and hours of this session.

I find it interesting, in listening to the presentation here, that we have focused on the Finance Committee and tax implications, referrals from the Finance Committee, and their debate, and really have, unfortunately, not addressed what I consider to be the larger issue, an issue which should have been addressed by the Judiciary Committee, an issue which goes to constitutionality and the premise of the separation of church and state in the United States of America—something that many of us find fundamental to the American experience and to our American society.

I do not quarrel with the premise of the Senator from Pennsylvania. I could list, and he could, too, so many faith-based charities in his home State and my home State that have done wonderful work, and continue to do so. They receive Government assistance, and they should. I have supported them. I have found appropriations for them. I will continue to do that. I do not believe that is the issue here.

Frankly, if that were the referendum before us, it would receive a unanimous vote. We all concede charitable and faith-based organizations do exceptional work, and governmental assistance, under the right circumstances, can be of benefit to America as a society.

But the President's initiative that you have brought to the floor suggests the way we have done business in America for decades has to be changed substantially, dramatically. Those changes deserve an airing and full debate.

The Senator from Pennsylvania has been kind enough to acknowledge four amendments prepared by Senator JACK REED of Rhode Island as well as myself to bring to the floor. I would argue, perhaps, that 1 hour of debate for each of these amendments, considering the gravity and importance, is not nearly adequate.

But I also say this to my colleague from Pennsylvania. Is it not a fact that with the House minutes or hours away from adjournment, and the fact that no conference committee is likely to ever convene on this issue, there is little that can be accomplished in a substantive way on an issue of this importance?

Is it also not a fact that this issue is of such importance to us that we should take time to engage in a debate which, frankly, will give all sides an opportunity to express themselves, to make certain we do not——

Mr. NICKLES. Regular order.

The PRESIDING OFFICER. The Senator from Oklahoma has called for the regular order.

Mr. DURBIN. Let me say I reserve the right to object.

The PRESIDING OFFICER. The regular order is that a request has been made.

Mr. DURBIN. Well, then, I object.

The PRESIDING OFFICER. And a Senator, when the regular order is called for, must either object or the request will be granted.

Did the Senator from Illinois object?

Mr. DURBIN. I was trying to keep the floor open for those who wanted to express themselves on this issue. If I am forced to object, I will, but I have other colleagues here who would like to share some concerns with the Senator from Pennsylvania. And as I understood, there was a dialogue between us, or at least I hoped there would be. That was the reason I was asking questions of the Senator. And if it is necessary at this point to object, and it will foreclose my colleagues from making a statement, I did not want that to happen. But if that is where we stand on this, I suppose I have no alternative. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Pennsylvania continues to have the floor.

Mr. SANTORUM. Mr. President, I am very disappointed that there was an objection. I understand the Senator from Illinois and the Senator from Rhode Island have objections to this legislation. As the Senator from Connecticut said very clearly and very articulately in his statement, the objections they have are not with this legislation. They may be with current law, the 1996 Welfare Act and the three other provisions that were signed by President Clinton and passed by this Senate, two of which were passed unanimously, to my recollection.

The objections are to underlying law, not to this legislation. This legislation does not deal with any of the issues that are in the amendments the Senator from Illinois has offered.

The Senator mentioned that an hour's debate is not enough. I am willing to spend as long—2 hours, 3 hours per amendment. I offered an hour of debate as an accommodation to the leader, to the majority leader, in trying to find a reasonable amount of time to finish.

I agree with the Senator from Illinois, this is a very important piece of legislation. But if the problem is that we need more time for debate, I certainly would, and I know the Senator from Connecticut would, be perfectly willing to come here.

I think these are important issues, but I would argue they are not issues about this legislation. They are not issues in your amendments having to do with proselytization using public funds. There is nothing in this legislation that permits that—nothing. Nothing even addresses it or comes close to it. These are tax provisions that allow——

Mr. REED. Will the Senator yield?

Mrs. CLINTON. Mr. President, regular order.

The PRESIDING OFFICER. The Senator from Pennsylvania does have the floor.

Mr. SANTORUM. Thank you, Mr. President. I will yield to the Senator from Rhode Island for a question.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. The Senator from Pennsylvania points out that the legislation is silent on the critical issues, but the silence is not correct. There are potential constitutional flaws that are inherent in the legislation. As I understand it, part of the legislation is to authorize directly funding religious institutions to provide social services.

Mr. SANTORUM. Reclaiming my time, I will read to you the provisions of this legislation on what the money is expended for. No. 1, it talks about $2.6 billion of this legislation is a nonitemized or charitable deduction. It is not for religious organizations. It allows people who fill out the short form to deduct charitable contributions.

No. 2, IRA charitable rollovers. What it says is people who have an IRA can roll over that IRA into a charitable organization, qualified under 501(c)(3) or other, whatever organizations would be eligible, and that is $2.9 billion over the next 10 years—again, nothing to do with faith-based organizations; no direct government dollars to anybody.

Third has to do with enhancing charitable deductions for farmers, restaurateurs, and businesses for food donations. Again, it has nothing to do with charitable choice, nothing to do with any kind of government funds going to charitable organizations.

Fourth, we have enhanced charitable deductions for book donations—again, nothing to do with charitable choice. Incentives for S corporations to give more money to charities—again, nothing to do with faith-based organizations. We have an IDA amendment, which is something the Senator from Connecticut and the Senator from California, Mrs. FEINSTEIN, have championed, and I have worked on our side to allow low-income individuals to have matched savings accounts for purposes of buying a home, going to school, or starting a small business—again, nothing to do with charitable, faith-based organizations.

Also, we have the social services block grant fund which I know is wildly popular on the Democratic side of the aisle. That is $1.37 billion over the next 2 years.

So if you look at all of these provisions, I understand the Senator from Rhode Island and the Senator from Illinois have serious concerns about the existing charitable choice provisions in law. I accept that. I understand that. I understand the Senators from Rhode Island and from Illinois have problems with the bill the House passed because it did have an expansion of that in the House-passed bill. But the Senator from Connecticut has been very tough at negotiating with the White House and with the Senator from Pennsylvania in leaving every controversial element that could touch on any kind of constitutional infirmity out of this legislation.

You can argue that we don't fix the problem that may be in existing law, but there is nothing in this legislation that even comes close to any of those provisions. You have as much argument, in my opinion, to offer the amendments that you have offered to homeland security as you do to this bill because neither of them deal with the subject of your amendments.

I understand there is a problem. I understand there is a debate that needs to be had on these issues, but not on this bill because this bill doesn't do what many are suggesting it does.

Mr. REID. Will the Senator yield for a question?

Mr. SANTORUM. I am happy to yield.

Mr. REID. I worked with the two leaders in arranging time that you could offer this unanimous consent request. The two managers are very anxious to get to homeland security. We have two cloture votes facing us. People wanted to offer amendments. I would ask that the Senator from Pennsylvania, as soon as he has completed his statement, yield the floor so we automatically, as I understand it, go back to homeland security. Is that right, Mr. President?

The PRESIDING OFFICER. The Senator from Nevada is right. The Senate would resume consideration of the pending business which is the substitute on homeland security.

Mr. REID. I would say to the Senator from Pennsylvania, we anticipated this taking just a little bit of time. It has taken a large amount of time.

To all my friends who have problems with this legislation, as has been indicated, the homeland defense bill is open for debate and certainly amendment. Anyone who has anything they have not been able to complete saying now on this issue could complete their statements on H.R. 5005.

All I am saying is, I hope the Senator from Pennsylvania won't talk too much longer.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. SANTORUM. Mr. President, I want to say with all respect to the Senator from Nevada, the Senator from Pennsylvania has been trying to respond, actually giving the opportunity to other Members to express their concerns about this legislation. I did not call for regular order. I did not try to limit in any way those who have concerns about the legislation from having the opportunity to speak. I was using the time I had to give them the opportunity to express their concerns and then, to the extent I could, try to respond to their concerns.

I have no intention of trying to hold up the homeland security bill. I just wanted the opportunity, if we could, to have a discussion to see if we could reach some sort of accord to actually move what many of us believe is a very important piece of legislation. It does not look as if that is going to happen. I am disappointed because I do not believe the issues that have been raised about infirmities of other pieces of statutory law are in any way impacted by this legislation. It is a tragedy that literally tens of billions of dollars that could go to low-income individuals, incentives for people to give, the opportunity to have matched savings accounts for low-income individuals to buy a home and to start a small business or to get an education, that is going to be forfeited on issues that have nothing to do with the underlying bill.

That is unfortunate. I am hopeful that now that we have had this discussion, Members will think more about it and hopefully come to a different conclusion as to whether to object to this legislation.

The PRESIDING OFFICER. The Senator from New York.

UNANIMOUS CONSENT REQUEST— S. 3009

Mrs. CLINTON. Mr. President, I intend to offer a unanimous consent request that the Senate proceed to immediate consideration of the extension of unemployment insurance. As the dialog between the distinguished Senators from Pennsylvania and Michigan just illustrated, this is an issue that had bipartisan support—really, nonpartisan support.

There are 2.2 million workers who have exhausted or are about to exhaust their benefits without finding a job. Ignoring these people, especially as we are about to enter into the Thanksgiving-Christmas holiday season, will not make them go away. It is not going to help them automatically find a job because they have been out there diligently looking.

The fact is, we don't have enough jobs right now. All of us hope that is going to turn around. But if you look at the statistics available, there are 1.7 million workers who have been unemployed for longer than 6 months as of October. That is an increase of 70,000 over September and over 180,000 over August. One out of every five of these unemployed has been out of work for more than 6 months. That is a proportion larger than at any time in the previous 8 years.

I believe that extending these benefits now sends a message to those who lost their jobs through no fault of their own in States such as mine and that of Senator CANTWELL of Washington. The provision we are asking unanimous consent on would provide 13 more weeks of unemployment insurance for everyone who lost their job, were laid off, cannot find a job. The bill would not provide a single additional benefit, if you look at what the Republicans are proposing. So our bill is a much better one because the Republicans would permit those who are about to crash into the brick wall of December 31 no relief.

I believe it is imperative that we take action before we leave.

Mr. NICKLES. Will the Senator yield for a question?

Mrs. CLINTON. Certainly.

Mr. NICKLES. I wish to ask her a question before she asks unanimous consent. Just to clarify the record, to be correct, I believe she stated her proposal is a 13-week extension. Is her proposal S. 3009?

Mrs. CLINTON. Yes, it is.

Mr. NICKLES. Just to clarify, I believe that is not a 13-week extension; it is a 26-week extension.

Also, just for your information, the House may soon try to pass legislation that would eliminate this cliff as of December 31. So I want the Senator to know that efforts are being made by some in the House to pass legislation that would address the unemployment compensation issue, and extend welfare authorization, among other things.

I wanted to make sure you are aware that the bill you are trying to pass by unanimous consent, S. 3009, is not a 13-week extension, but it is a 26-week extension and costs $17.1 billion. A simple 13-week extension costs less than half of that. I wanted to make those few facts known before I object to the Senator's request.

Mrs. CLINTON. I appreciate the Senator's factual intervention. It is the same proposal that was used in the early 1990s to extend unemployment insurance under the first President Bush. It is what has historically been done. Now, some people benefit more because of the circumstances in which they find themselves. Indeed, when we passed the only extension of unemployment insurance back in, I think, March, there were a couple of States that had been very hard hit that were given additional benefits.

As the Senator points out, what the House is about to send over is not just an unemployment insurance extension; it changes welfare law, it provides Medicare benefits to a certain category of Medicare recipients and not to others. So I think that it would be far better for us to ensure that an unemployment insurance benefit was going to be extended.

Ms. CANTWELL. Will the Senator yield?

Mrs. CLINTON. Yes.

Ms. CANTWELL. I am joining the Senator in support of bringing this up under a unanimous consent. The issue the House is looking at is simply another 5-week extension. So, yes, maybe more for the holidays people will think they have 5 more weeks. But the issue is that expansion of this unemployment program is about helping people through a tough economic time. We don't expect that it is going to get any better January 1 or January 31.

Frankly, I think if you listen to Alan Greenspan and everybody else in the administration, they don't expect it is going to get any better in the next 5 months. So the point is that we want to have a stimulus for those local economies.

My State of Washington, with nearly 80,000 people impacted, has been putting something into the economy. But starting December 31, they won't be because they won't be able to make mortgage payments or take care of health care or do a lot of things. So this is about making a statement and expanding the program beyond another 5-week Band-Aid. If we had a commitment that we were going to be here on January 1 when the next 5 weeks runs out, and we were going to take a look at the next 6 months—but we are not doing that. We are saying we expect no economic improvement. We are not willing to step up, as the Bush 1 administration was willing to do in the 1990s, and say, yes, an extension of unemployment is a good stimulus, a safeguard, while the economy is needed to improve. That is what we are talking about here. So the Band-Aid approach that the House is sending over is simply 5 weeks, basically taking care of the worse case scenario. We need to make a positive statement. I have talked to many business people in my State who are supportive from that perspective of not taking out this income from the local economies that are being crunched.

I wanted to add to my colleague from New York, the numbers are staggering. New York has over 300,000 people who will be impacted as of December. Other States: Illinois with almost 170,000 people; Georgia, 125,000 people; Pennsylvania, 125,000 people; Texas, 215,000 people.

So there are States throughout this country that are feeling this impact. I think the previous Bush administration was very wise to say a good stimulus and a good support for unemployed workers who have lost jobs through no fault of their own, who cannot find employment, let's keep the basic income going and give a stimulus to the economy. I don't know that the Senator from New York is opposed to negotiating any kind of proposal that would get us past just a Band-Aid. I think we are willing to look at what the proposal is, but this is about the sixth or seventh unanimous consent request and negotiation proposal this side of the aisle has put forward.

We are saying that the time has run out and that these individuals are going to get very minimal—if next to nothing—good news about their economic opportunity for the next year or year and a half.

Mr. NICKLES. Will the Senator yield for a question?

Mrs. CLINTON. I yield to the Senator from Maryland.

Mr. SARBANES. I commend the Senator for offering this unanimous consent request. Secondly, in response to the points raised by the Senator from Oklahoma, as I understand it, the bill provides for an additional 13 weeks. If you have exhausted your benefits, having drawn the basic 26 weeks, and the additional 13 weeks that we have provided for in March of this year, you could then draw another 13 weeks. So for that limited group would, in fact, get 52 weeks. I point out that that limited group is unemployed. They have not been able to get a job in a labor market that is not working.

In fact, Chairman Greenspan, yesterday, testifying before the Joint Economic Committee, when asked about extending unemployment insurance benefits, testified that the extended unemployment insurance provides a timely boost of disposable income. He acknowledged that we are currently in a period where jobs are falling. He stated:

> I have always argued that in periods like this that the economic restraints on the unemployment insurance system almost surely ought to be eased.

That is exactly what this legislation seeks to do.

Secondly, there is $27 billion in the trust fund to pay unemployment insurance benefits, specifically designed to meet this kind of situation. Those moneys have been paid into the trust fund over a period of time. The whole system was structured to have this trust fund build up in good times, and then to utilize it in bad times.

We certainly are facing bad times now. In fact, we have 2.2 million who have lost, or will lose, their unemployment benefits by the end of the year. The long-term unemployed—those more than 26 weeks—rose 71,000 last month alone. There are now more than 1.6 million long-term unemployed—a million more than when President Bush took office.

What the Senator is seeking to do was done, I must point out, under President Bush the first. For the life of me, I don't understand why President Bush the second won't agree to and support this measure.

What are these people to do who have lost their jobs? The premise of the system is you get some short-term support, the labor market picks up, and you can go back and find a job. They cannot find these jobs. In fact, not only can they not find them, more people are losing their jobs. So the labor market is constraining, not expanding. These people need help. There is $27 billion that has been paid into the trust fund for the very purpose of providing unextended employment insurance benefits.

Now, the Senator in this legislation has not, as I understand it, sought to do some of the other proposals that have been floating around here in terms of providing a more extended coverage of the system, upping the benefits and other proposals.

There are many who think the existing system is inadequate. She is not seeking to correct that, as I understand it. We are only seeking to do this 13-week extension. I certainly think we ought to do that before this Congress leaves.

I thank the Senator.

Mrs. CLINTON. I thank the Senator.

Mr. NICKLES. Will the Senator yield?

Mrs. CLINTON. Yes, I yield to the Senator from Oklahoma.

Mr. NICKLES. I want to make a statement. Too many times it happens—the Senator yields to me to ask a question, not to make a speech—many times in the debate people have yielded the floor as if they control the floor. The Presiding Officer controls the floor. The Senator can yield for a question but not yield for a speech. I did not hear a question the last time. I do not want to get too technical, but we ought to adhere to normal Senate rules.

Now my question: The Senator is trying to pass a bill. I stated that the bill is a 26-week extension, not a 13-week extension. I keep hearing people say it is a 13-week extension. That is not factually correct. It is a 26-week extension. If you just entered into the program, am I not correct, you can exhaust your 26 weeks of State benefits and qualify for 26 weeks of 100 percent Federal benefits? It is a 26-week extension which doubles the cost of the program. It is a $17 billion program. Am I not correct—I want to be factually correct. If I am wrong, I am happy to be corrected. But am I not correct it is really a 26-week extension for anybody entering into the program? So people could qualify for 26 weeks of State benefits and 26 weeks of Federal benefits if the Senator's bill should pass?

Mrs. CLINTON. With all due respect to my friend from Oklahoma, that is not what the bill says. The bill provides 13 weeks for those first coming into the system, but for people who have already exhausted their 13 weeks, it does provide an additional 13 weeks, which adds up to 26 weeks.

Maybe it is not artfully enough drafted. I certainly have the greatest respect for my colleague from Oklahoma, who is one of the premier legislators in this body, but if it is not clear, then I will be more than happy to write it so it is absolutely clear.

The intention is, as I have stated, to provide an additional 13 weeks to people who have exhausted their benefits. To echo the eloquent comments of my colleagues from Washington and Maryland, there are lots of people out there. The Senator from Washington read the numbers. Let me give you one quick example.

Mr. NICKLES. I want an answer to my question.

Mrs. CLINTON. The answer is the bill does not provide for those first coming into the system 26 weeks. It does provide an additional 13 weeks so that those who have exhausted their first 13 weeks can have 26 weeks.

Mr. NICKLES. Will the Senator yield further for a question?

Mrs. CLINTON. Yes.

Mr. NICKLES. I believe the bill offers 26 additional weeks for anybody who just came into the system.

Mrs. CLINTON. We would be more than happy to clarify that. That is not the way the bill was intended. It certainly is not the way it was meant to be drafted. If there is any—

Mr. NICKLES. Will the Senator yield for an additional question?

Mrs. CLINTON. Let me finish my answer. You get to ask, I get to answer. My answer is, it is intended to be a 13-week extension. If there needs to be a cutoff point so it is absolutely clear that this is the intention, we stand ready to do that.

In contrast, the bill the House is working on is a 5-week extension for those who already are in the system, and then it is over. No more help. From my perspective, representing 300,000 unemployed New Yorkers, 120,000 of whom lost their jobs directly as a result of September 11, it is very hard to go back to New York and look at people such as Felix Batista who worked for 22 years at Windows on the World, with four children—luckily was not there that day when the terrorist attack occurred—and has not been able to find work, even though we have all been trying to help him. He is a man of limited skills, but a good, hard-working person, a father of four. He has no help. What is he supposed to do? Let me ask that question of the Senator from Oklahoma. Where is my office supposed to send literally thousands of people who have no work because the economy is not producing jobs?

Mr. NICKLES. Will the Senator yield for an additional question?

Mrs. CLINTON. Yes, I will be more than happy to yield.

Mr. NICKLES. The proposal before us still has the adjusted insured unemployment rate to where it includes the following paragraph:

> Except that individuals exhausting their right to regular compensation during the most recent three calendar months for which data is available before the close of the period for which such rate is being determined shall be taken into account as if they were individuals filing claims for regular compensation for each week during the period for which the rate is being determined.

Basically that means if someone even completes the system and gets a job, they still are counted as unemployed; is that still in this legislation?

Mrs. CLINTON. What we did, in response to the Senator from Oklahoma—and maybe we were misinformed about this—we went back to our last recession under the previous President Bush. We thought that would be a good model as to what was done five times to extend unemployment insurance benefits. We took the language the first Bush administration and the bipartisan body here at that time decided was the appropriate legislative language to bring about the result that people agreed was needed.

If it was in some way misguided to rely upon the first Bush administration's extension of unemployment insurance, then we are going to say we did the best we could to look at what had been effective and worked in the past.

In direct response, the people who are still being counted in the unemployment insurance is a relatively small number because, obviously, to get them on and off does take some bureaucratic and technical adjustments. There are certainly some—I am sure I could find a few in Oklahoma and a few in New York. But the fact is the overwhelming number of people who will be eligible and will receive benefits are people who deserve it, and that is, I think, the goal we should be addressing.

Mr. NICKLES. So the answer to my question is that language is still in the bill?

Mrs. CLINTON. We have the same language that was used in the first Bush recession. Now we are in the second Bush recession. We are using the same language. It worked then.

Mr. NICKLES. Will the Senator yield again? So that language is still in there. I will tell my colleague, I will never agree to this language passing. I will also tell my colleague, if she is politicizing this, talking about the first Bush recession and the second Bush recession, the first compensation package did not have the same triggers. I did not agree with the first. I do not like the language that somebody who gets a job is still counted as unemployed for these rates. I would never agree to it. I did not know it was in the first program ten or so years ago, and it will not be in the next one if I am still standing around here.

I also ask my colleague, are not the triggers different under this proposal than the compensation packages that passed in the early nineties?

Mrs. CLINTON. It is the same kind of trigger, I am advised.

Mr. NICKLES. There are different triggers. More States would qualify for greater benefits; is that not correct?

Mrs. CLINTON. It includes States with concentrated high unemployment. That is true, there is a slightly different trigger. Again, I was not around in 1991 and 1992, so I cannot speak to what the Senator would or would not have done. The fact is, we have a problem. We have tried repeatedly—eight separate times—to work out some way to provide some additional benefits for people who deserve them. If there is a way to work out a better approach, to do something that will clearly meet the objections of the Senator from Oklahoma, I stand ready to do that.

I am just worried about all of these decent people who are running out of unemployment benefits. There is nowhere for them to go. I do not know what else to bring to the floor other than those stories. We can argue about triggers. I am sure between the two of us, we can fix a trigger if there was a willingness to act on that. What is coming over from the House, larded with other controversial provisions, is not a good-faith effort to extend unemployment benefits to people in need. It is an effort to basically try to say something was done which will not have any lasting benefit for those who are most in need.

Mr. NICKLES. Will the Senator yield?

(Ms. CANTWELL assumed the chair.)

Mrs. CLINTON. Clearly, if the Senator from Oklahoma is going to object to our following the precedent of the triggers of the President Bush 1 package, then obviously we are going to have to go back to the drawing board.

Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 619, S. 3009, a bill to provide for a 13-week extension of unemployment compensation; that the bill be read three times, passed, and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Madam President, reserving the right to object, the UC request, as I read it, says it is a 13-week extension. The bill before us is a 26-week extension. A 13-week extension, I believe, costs $7.3 billion; a 26-week extension cost—by CBO—is $17.1 billion. That is the proposal before us, and, therefore, I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Nevada.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. It is my understanding that we now automatically go to the homeland security legislation. Is that true?

Mrs. CLINTON. Will the Senator from Nevada yield?

Mr. REID. Yes.

Mrs. CLINTON. Did the Senator from Oklahoma actually propound an objection or reserve the right to object?

Mr. NICKLES. I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Nevada.

Mr. REID. The two managers of this bill have been very patient and cooperative, but we have to ask their patience once again. We have a matter that the Senator from Minnesota, Mr.

BARKLEY, wishes to bring forward in honor of Senator Wellstone. This will take a short period of time, and I ask that we be able to move to that at this time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I ask for time before the Senators from Minnesota speak.

Mr. REID. I ask that the Senator from Washington be recognized after the two Senators from Minnesota speak. Would that be appropriate?

Mrs. MURRAY. How much time will the Senators from Minnesota require?

Mr. REID. Could I ask of my two friends how much time they wish to take on this matter?

Mr. BARKLEY. Madam President, I wish to take approximately 4 minutes.

Mr. DAYTON. Madam President, I will be approximately the same.

Mr. REID. I ask unanimous consent that the two Senators from Minnesota be recognized for 10 minutes equally divided between the two of them. Following their statements—I understand they want to move legislation—I ask unanimous consent that the Senator from Washington be recognized.

Senator MURRAY indicates she only wishes to speak for up to 5 minutes. So I am sure my two friends would allow her to proceed for up to 5 minutes, and then following that the two Senators from Minnesota would be recognized for up to 10 minutes.

Following that, we will definitely go to the homeland security bill. There are people waiting to offer amendments. So I make that in the form of a unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

Mrs. MURRAY. Madam President, I thank my colleague from Nevada for his indulgence, and I thank my colleagues from Minnesota for allowing me a few minutes before they pay a very important tribute to Senator Paul Wellstone.

PIPELINE SAFETY

Mrs. MURRAY. I rise today to note a very significant event that occurred last night on the floor of the Senate, and that was the passage of the pipeline safety conference report.

As the Presiding Officer knows, in our State of Washington, a tragic accident occurred 3½ years ago when a pipeline blew up on a sunny June afternoon, tragically killing three young children in our State and devastating a mile-wide section of a river that travels through Bellingham, WA. This was a traumatic event that has impacted the lives not only of those families and their friends but hundreds of people in Bellingham and across this country.

At the time, I thought this was a uniquely tragic accident that occurred in my State when a pipeline suddenly blew up on a sunny Friday afternoon, after school. But after coming back to Washington, DC, and researching what was known about pipelines, I found out that in a short time period, between 1986 and 1999, there had been 5,700 pipeline accidents.

What happened in my home State was not unique. Three hundred twenty-five people had died in that time period. There had been 1,500 injuries that had occurred and $850 million in environmental damage. Working with many colleagues, Senator MCCAIN, who chaired the Commerce Committee, and Senator HOLLINGS, who worked diligently with me, Senators INOUYE, BREAUX, WYDEN, BROWNBACK, BINGAMAN, DOMENICI, CORZINE, TORRICELLI, my colleague who is presiding today, Senator CANTWELL, and former Senator Gorton, made this an issue in this country. It has been a long and difficult road. We have passed this bill out of the Senate on several occasions. We have been stopped in the House, and today we are finally at a point where the House, I believe, is going to pass this legislation as well, and it will be sent to the President of the United States. It will put into place significant new improvements on training and qualifications of our pipeline personnel, on inspection and prevention practices, on tough penalties for people who violate this, and States' abilities to expand their safety activities.

For the thousands of families who live next to pipelines, who work next to pipelines, who send their kids to schools next to pipelines, this is definitely an improvement in our law.

Is it everything we ask for? No. But today I want to rise and thank all of my colleagues, and Congressman LARSEN as well, for finally moving us to a point where the families of Wade King, Stephen Tsiorvas, and Liam Wood can realize the hard work they have put in is going to finally result in a change of law that means some future child, some future family, some future community, will not have to face the situation as they have.

I thank my colleagues for their work on this, and I look forward to having the President sign this into law.

I yield the floor.

PAUL AND SHEILA WELLSTONE CENTER FOR COMMUNITY BUILDING ACT

Mr. BARKLEY. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. 3156, introduced earlier today by myself and Senator DAYTON.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3156) to provide a grant for the construction of a new community center in St. Paul, Minnesota, in honor of the late Senator Paul Wellstone and his beloved wife, Sheila.

There being no objection, the Senate proceeded to consider the bill.

Mr. BARKLEY. Madam President, today, Senator DAYTON and I are introducing legislation to pay tribute to Senator Paul Wellstone and his beloved wife Sheila.

Our legislation would provide a $10 million authorization of Federal funds for construction of the "Paul and Sheila Wellstone Center for Community Building" at Neighborhood House in St. Paul, MN, where Paul and Sheila lived.

First, let me thank the leadership on both sides of the aisle for facilitating consideration of this legislation. Senator DAYTON and his staff, Senator Wellstone's family and staff, and especially my colleague from West Virginia, Senator BYRD, have literally moved heaven and earth to bring this bill to the floor.

I may be the newest Member of this Chamber, but I fully appreciate the extraordinary efforts of so many to allow Senator DAYTON and I to create a living legacy in honor of Paul and Sheila Wellstone in such short order.

Neighborhood House was founded by the women of Mount Zion Temple in the 1880's as a settlement house, helping newly arrived Eastern European Jewish immigrants to establish a new life and thrive in their new community.

Senator Wellstone always had a genuine affinity for Neighborhood House, as his parents, Leon and Minnie, were Russian Jewish immigrants themselves. But his affinity reached far beyond this personal link. Neighborhood House truly embodies everything that Paul Wellstone fought for over the course of his entire life: that all people, no matter their background or economic status or country of origin or race or creed, would have a fair shake at life, and an opportunity to belong to and enrich their communities.

Neighborhood House has been building doorways of opportunity for diverse communities for nearly 120 years. The Neighborhood House is a multicultural-multilingual agency that provides and houses an array of programs, including legal services, child care, recreation programs, senior programs and education. "Senator Paul," as he was referred to by many at Neighborhood House, came every year to the Freedom Festival at Neighborhood House to honor the new American citizens from the Hmong, Latino, and other communities.

Indeed, the entire Wellstone family was very committed to Neighborhood House. Just 2 weeks before their deaths, Senator Wellstone sent his daughter Marcia to tour Neighborhood House and talk with staff about important issues for our community.

In addition, Sheila Wellstone's championing of women's issues is embodied in Neighborhood House programs such as Hispanic Women in Action, a cultural empowerment group that enables women to retain their culture while learning a new one, address challenging family issues, and develop into leaders not only for their families but also their community.

When Neighborhood House began to research the construction of a new facility to meet growing needs, it was Senator Wellstone himself who suggested that the organization seek a Federal statute to help fund the construction.

The Paul and Sheila Wellstone Center for Community Building will be a 93,000 square foot state-of-the-art community gathering place on St. Paul's west side. It will house social services, community engagement, recreation, and arts programs for residents of St. Paul, as well as new Americans in the greater Twin Cities area.

The Paul and Sheila Wellstone Center for Community Building will also serve as an education and learning center for communities throughout the entire State of Minnesota. Last evening, the memorial program for the service to celebrate the lives of Paul and Sheila Wellstone contained these words:

> Complete those dear, unfinished tasks of mine. And I, perchance, may therein comfort you.

Paul, this is our first step toward finishing your work. I also commit to working during my short tenure in this distinguished body to try to help pass your signature legislation, the Mental Health Parity Act.

Again, I thank the Senate leadership for the extraordinary accommodation to allow us to bring this bill to the floor today. It, too, is a tribute to the respect and love of Paul Wellstone by his Senate colleagues.

I yield the floor.

Mr. DAYTON. Madam President, I am proud to join with my colleague, Senator BARKLEY, in cosponsoring the Paul and Sheila Wellstone Center for Community Building Act. I pay tribute to my colleague, Senator BARKLEY, for taking the initiative on this matter, for your leadership. I believe it has been one week to the day since the Senator arrived in Washington, and even before he had undertaken the oath of office and assumed the official title of Senator from Minnesota, he was acting on behalf of our State.

He deserves the credit for this measure. Others are moving Heaven and Earth, as the Senator said. I believe he is too modest. He is the prime mover in this matter. I salute my colleague for his doing so under such extraordinary circumstances. I could not think of a better way for anyone to begin service in this Chamber than to honor our colleague, Paul Wellstone, and his wife Sheila, who cared about these matters from their own heart.

As Senator BARKLEY said, with the experience that Paul had being the son of immigrants and his undying compassion for those who came to this country under any circumstances, Paul's concern extended beyond those who could do him some good in this society. Paul's concern was for those he could do good in this society. He devoted countless hours, thousands and thousands of hours to people and causes where there was no benefit for him, there was no political advantage.

Most of the people coming to this center were not citizens and would not be for a number of years. Paul did it out of his heart; Sheila did it out of her heart, out of their common compassion for their fellow citizens, with no thought of gain or benefit to themselves.

This is a fitting first tribute. I hope it will be only the first tribute. I join with Senator BARKLEY in asking my colleagues here and in the House to ultimately pay tribute to Paul and Sheila, especially Paul, since this was his matter of concern, the Mental Health Parity Act. He worked tirelessly with Senator DOMENICI to pass this in the Senate, and unfortunately it was not adopted in conference committee.

I join Senator BARKLEY in hoping that measure could be passed in this session. If it is not possible, I will do everything I can, working with Senator DOMENICI and others next year to see it does pass. This is an important statement of the Senate and the House. We need to pass it, honoring Paul and Sheila Wellstone. It is appropriate because it symbolizes that compassion, that spirit of humanity which marked their lives.

The PRESIDING OFFICER (Mr. JOHNSON). Do Senators yield back their time?

Mr. BARKLEY. Mr. President, I ask unanimous consent the bill be read three times and passed and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3156) was read the third time and passed, as follows:

S. 3156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paul and Sheila Wellstone Center for Community Building Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Senator Paul Wellstone was a tireless advocate for the people of Minnesota, particularly for new immigrants and the economically disadvantaged.

(2) Paul and Sheila Wellstone loved St. Paul, Minnesota, and often walked the neighborhoods of St. Paul to better understand the needs of the people.

(3) Neighborhood House was founded in the late 1800's in St. Paul, Minnesota, by the women of Mount Zion Temple as a settlement house to help newly arrived Eastern European Jewish immigrants establish a new life and thrive in their new community.

(4) Paul and Sheila Wellstone were very committed to Neighborhood House and its mission to improve the lives of its residents.

(5) When Senator Wellstone became aware that the Neighborhood House Community Center was no longer adequate to meet the needs of the St. Paul community, he suggested that Neighborhood House request Federal funding to construct a new facility.

(6) As an honor to Paul and Sheila Wellstone, a Federal grant shall be awarded to Neighborhood House to be used for the design and construction of a new community center in St. Paul, Minnesota, to be known as "The Paul and Sheila Wellstone Center for Community Building".

SEC. 3. CONSTRUCTION GRANT.

(a) GRANT AUTHORIZED.—The Secretary of Housing and Urban Development shall award a grant to Neighborhood House of St. Paul, Minnesota, to finance the construction of a new community center in St. Paul, Minnesota, to be known as "The Paul and Sheila Wellstone Center for Community Building".

(b) MAXIMUM AMOUNT.—The grant awarded under this section shall be $10,000,000.

(c) USE OF FUNDS.—Funds awarded under this section shall only be used for the design and construction of the Paul and Sheila Wellstone Center for Community Building.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 for fiscal year 2003, which shall remain available until expended, to carry out this Act.

The PRESIDING OFFICER. The Senator from Connecticut

Mr. LIEBERMAN. I congratulate our new colleague from Minnesota, not only for the nobility of the purpose for which this legislation is dedicated, to honor the memory of our dear friends Paul and Sheila Wellstone, but for the fact he achieved the passage of a measure so early in his time here as a Member of the Senate. I congratulate him for his purpose and for his success.

HOMELAND SECURITY ACT OF 2002—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The bill clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Thompson (for Gramm) amendment No. 4901, in the nature of a substitute.

Lieberman/McCain amendment No. 4902 (to amendment No. 4901), to establish within the legislative branch the National Commission on Terrorist Attacks Upon the United States.

Mr. LIEBERMAN. Mr. President, I will speak on the substitute on homeland security introduced yesterday by Senator THOMPSON on behalf of Senators GRAMM and MILLER. My feelings about this substitute, to put it as directly as I can, are mixed. The substitute would create a single strong Department of Homeland Security under the leadership of an accountable Secretary, which many Members have supported, actually, for more than a year now in response to the terrorist attacks of September 11, 2001, and the dangerous vulnerabilities in our federal homeland security system that those attacks revealed.

The substitute is also problematic in many ways. I categorize them in four chunks.

First, this substitute contains several provisions that are just ill-conceived, missed opportunities to close vulnerabilities in our security or that otherwise make the wrong choice.

Second, the bill contains provisions that are unrelated to homeland security legislation. Apparently, as often happens in Congress, some of our colleagues have decided to put the provisions on what they assumed was the last bus out of town during this session rather than waiting for the right ride.

Third, the bill contains provisions that do seem, as we approach December, to be gift wrapped by lobbyists to satisfy some special interests, not carefully considered to improve the security of the American people.

Fourth, a number of provisions in the bill are 11th hour additions, new to everyone in the Senate, not previously included either in the legislation that came from our Governmental Affairs Committee or in the so-called Graham-Miller substitute, at least in its previous iterations. This makes it difficult to know whether these provisions are good or bad. It is in that sense that these last-minute conditions on a critically important bill are not up to the standards the Senate should follow, and are not of the urgent necessity that cries out for this bill, which is to protect the homeland security of the American people.

There are many good things to say about the substitute in a number of areas. The bill has made real progress from earlier proposals, both from the President and from our Republican colleagues. I am grateful, once again, as in the previous Gramm-Miller substitute, the overall architecture and composition of the proposed Department of Homeland Security is quite similar to what we conceived in the legislation approved by the Governmental Affairs Committee, first on a partisan vote in May and then unfortunately in a bipartisan vote in July of this year.

This bill, the substitute, would create a new Department with major provisions responsible for border and transportation security, intelligence, and critical infrastructure protection, emergency preparedness and response, science and technology, and immigration services.

This bill is nearly identical to the bill approved by the Governmental Affairs Committee in deciding which domestic defense-related agencies and offices should be transferred and how they should be organized. In fact, when we say, as has been said so often in this debate in this Chamber, that there is agreement on 90 to 95 percent of what we should be doing here with regard to homeland security, that is what we mean. We mean we agree on the big picture, if I may put it that way. That is a big deal.

We recognize that today's terrible vulnerabilities are there and we agree not only on the need for a comprehensive reorganization to close those vulnerabilities but almost all of the components that have reorganization.

Today, homeland security is institutionally homeless—everyone is in charge and therefore no one is in charge. Under this substitute, as under our committee-approved legislation, that will no longer be the case. Under this bill, as under our bill, for the first time we would bolster emergency preparedness and response efforts to ensure that all areas and levels of government are working together to anticipate and prepare for the worst. Today, the fact is that coordination of our homeland security agencies is the exception, not the rule. That is unacceptable.

Under this bill, as under our bill, for the first time we will have a single focal point for all of the intelligence available to our Government so it can be properly fused and analyzed, and so that we will enhance our ability to deter, prevent, and respond to terrorist attacks.

This was clearly one of the most glaring weaknesses of our Government leading up to September 11, 2001, as the excellent work done by the Joint Intelligence Committee investigations has made clear.

Under this bill, again as under our committee bill, for the first time we would build strong bonds between Federal, State, and local governments to target terrorism. State and local officials are on the front lines of the fight against terrorism, as we learned so clearly and painfully in the death tallies of the September 11 heroes. Today, local communities are waiting for better training, for new tools, and for coordinated prevention and protection strategy. And this proposal, as under our committee bill, would accomplish that.

Under this bill also, as under our committee bill, for the first time we would bring key border and national entry agencies together to ensure that dangerous people and dangerous goods are kept out of our country without restricting the flow of legal immigration and commerce that clearly nourishes our Nation. Today, threats to America may be slipping through the cracks because of our disorganization, and that is indefensible.

Under this bill, as under our bill, for the first time we would promote significant new research and technology development opportunities and homeland defense. The war against terrorism has no traditional battlefield. One of the untraditional battlefields where we must fight to emerge victorious is the laboratory. Today these efforts are dispersed and often blurred. That is unwise. We cannot tolerate this any longer.

Under this bill, as under our bill, for the first time we would facilitate close and comprehensive coordination between the public and private sectors to protect critical infrastructure. Fully 85 percent of our critical infrastructure is owned and operated by the private sector. We are talking here about electric grids, transportation, food distribution systems, cyber-systems, and the like. We have to close vulnerabilities in those systems before terrorists strike them. To do so, we have to be working with the private sector.

In all of these areas, this piece of legislation, the substitute, will usher in, I am confident, a much more secure nation. Beyond its overall structure, I am also pleased the substitute has moved toward our committee-approved bill in a number of specific areas, namely intelligence, science, and technology, workforce improvement, and appropriations. I want to discuss these each briefly now.

First, intelligence. The President's initial proposal had a very limited conception of the intelligence powers and responsibilities of the new Department. The intelligence provisions in this bill borrowed heavily from our legislation, and as a result will give our Government a much better opportunity to avoid repeating the disastrous disconnects that prevented us from connecting those dots before September 11.

First, the bill would, like our committee legislation, make it clear that the purpose of the new Department's information analysis function includes fusing, analyzing, and disseminating intelligence to deter, prevent, preempt or respond to all terrorist threats against the United States. That is a central change from the President's initial, more limited conception of an intelligence division designed primarily to protect our critical infrastructure. We argued that was inadequate because—well, the World Trade Center itself, and the Pentagon, are not parts of our traditional critical infrastructure, nor are shopping malls and places of public gathering which terrorists unfortunately strike.

This substitute also made progress in priority setting. It gives the Under Secretary the authority to work with the Director of Central Intelligence and other agencies to establish intelligence collection priorities and insures that the Department of Homeland Security will be at the table with the rest of the intelligence community when intelligence requirements and priorities are established.

Finally on this point, the bill does seem to have moved closer to the committee bill on the crucial issue of access to information by giving the new Department access to information except in cases where the President objects.

However, some differences do remain on intelligence. Rather than creating separate Senate-confirmed Under Secretary positions to oversee intelligence analysis and infrastructure protection, the substitute creates Assistant Secretaries within the same division of the new Department. In my view, intelligence and infrastructure protection should each be led by a separate Senate-confirmed Under Secretary, each of whom can bring the necessary clout, attention, resources, and attention to those complex and different challenges. The access to information provisions—Senator SPECTER and I agree, and he may also have an amendment on them—also could be enhanced.

On the whole, however, this critical function of the Department, intelligence, has been greatly improved in this substitute. The Department created by this bill will systematically organize, scrutinize, and bring together all relevant data in order to much better protect the American people from terrorism.

Science and technology next. So, too, has this substitute moved toward our legislation on science and technology. Our committee worked very hard to give this new Department the creative abilities it needs to develop and deploy a full range of technologies to detect and defeat danger on our home soil.

In World War II, of course, we had the Manhattan Project, scientists who came together to design revolutionary weaponry which was ultimately decisive in that war.

In the war against terrorism here at home, we need revolutionary defense technologies, machines that can scan for dangerous materials—biometric identification systems, information analysis software, vaccines and antidotes to deadly pathogens—poisons. The list goes on and on, most of it probably at this moment unimaginable in detail but critically important to our future security.

I am very gratified to see the substitute before us provides for a Directorate of Science and Technology headed by a Senate-confirmed Under Secretary, a Homeland Security Advanced Research Projects Agency that is modeled after DARPA in the Department of Defense, federally funded research and development centers to provide analytical support to the Department, and a mechanism for allowing the Department to access any of the Department of Energy laboratories and sites.

All of these were not included in the President's original homeland security proposal. I am grateful to the authors of the substitute for including them now.

There are some other points of progress in the bill I think are worth noting.

First, thanks I gather in large measure to the effective advocacy by the senior Senator from Alaska, Senator STEVENS, and unlike the President's original proposal, this substitute has wisely preserved congressional accountability over spending by the new Department—after all, that is our constitutional role—and in doing so has rejected the administration's call for expansive authority to shift money among accounts—appropriated money, the public's money—without approval by Congress.

Second, this bill has made significant strides in safeguarding the Department's integrity, cost-effectiveness, and respect for individual rights.

The original Gramm-Miller substitute, offered on behalf of the administration, would have created a department without a civil rights officer or privacy officer, and with an inspector general over whom the Department's Secretary would have had unprecedented authority, thereby making it possible that the inspector general's independence would have been compromised.

In this new substitute now pending, there is once again a civil rights officer in the Department, there is a privacy officer, and the Secretary's authority over the inspector general has been substantially checked.

I wish the improvements had gone further. Our committee-endorsed bill, for instance, would have given the civil rights officer and the inspector general more authority than the substitute does and, therefore, help assure a new Department of Homeland Security that would more likely adhere to the highest standards of values and conduct. But I am grateful for what has changed in this substitute.

Finally, I am pleased that the substitute amendment has incorporated the entire Federal workforce improvement bipartisan proposal developed by Senators AKAKA and VOINOVICH, both distinguished members of our Governmental Affairs Committee. That reform package will help this Department and all other Federal Departments attract, retain, and reward the best talent with the help of new personnel management tools and management flexibility given to the new Secretary.

Mr. President, unfortunately, as I said at the beginning, there is some bad news. That was the good news in the substitute. There is some bad news as well.

While this bill, as I have just indicated, does incorporate, particularly in the Akaka-Voinovich agreement, some substantial human capital reforms for the Federal workforce, it unfortunately also takes a step backward in other related areas. On the personnel issues—the Federal workforce issues that became such an unfortunate wedge between us here in this Chamber for so long—I must say I am not happy with the outcome. I don't want to rehash the arguments for and against keeping civil service protections in place and giving union representative employees basic protection against having their rights arbitrarily terminated. But let me just say this. What motivated us all along was a desire to ensure this new Department would from day one have not only the best leadership, the most sensible organization, and the resources necessary to do the big job we are giving it, but that it would also have the highest quality and best motivated workforce it could possibly have; that we would not begin the history of this new Department with expressions of suspicion about the commitment—even perhaps the patriotism—of these Federal employees, but that we would engage them together as part of a team, as respected members of the team, and indeed as those members of the team who would be doing the critical work every hour of every day to protect the security of the American people at home.

We often in our debate referred to the events of September 11 and the fact that those firefighters and police officers who we honored for their heroism, who we mourned for the ultimate sacrifice that they gave, were all members of unions, were all governed by civil service rules. But in the hour of crisis, in the hour of public need, not a single one of them but for a second thought about their union rights, or their collective bargaining agreement, or their civil service agreement. They rushed to the duty that they had, and accepted it as public employees.

At one point a few months ago, a group of us met with a battalion chief from the New York City Fire Department. He told us that on that day, September 11, he was off duty with a group of friends who were off duty. When they heard the planes had hit the World Trade Center, they just rushed to the scene. He talked about terrible frustration and heartbreak because some of his colleagues, when they got to the scene, were told they could not go into the building to try to rescue those who were there. That is what public service is about. Civil service protections and collective bargaining rights never come between public employees and their obligation or responsibility to do duty. It was shown over and over again by the Federal employees in the departments and agencies that will be consolidated into this new Department.

On this front, this substitute continues to be a disappointment to me. The bill fails to correct major problems in the previous Gramm-Miller substitute, and, as a result, I fear, invites politicization, arbitrary treatment, and other personnel abuses in the Federal Government in a way that may damage the merit-based workplace Federal employees and the American people—we the American people—who these Federal employees serve and in this new Department must protect have come to depend upon.

I hope, of course, that what many fear does not occur and that if, or probably when, this substitute passes, this and future administrations will not overstep their bounds, will not unfairly use the unprecedented authority they are given in parts of this legislation, and will not undermine thereby the effectiveness of the new Department.

I must say I still personally fail to understand why any President would need to remove collective bargaining rights from unionized employees who have a long and proud history of helping to protect the homeland, as the 45,000-some employees who will be unionized of the 170,000, who will be moved to this Department, and who will continue to do exactly the same work they have done for decades.

While previous Presidents have had the same authority and have not exercised it to remove their collective bargaining rights, they will continue to do that work in this new Department. If and when this President or any future Presidents should decide to eliminate collective bargaining within a unit of the Department—as they will have the legal power to do if this substitute passes unilaterally—I am confident the Congress will not just sit back and watch.

We will expect the President to take such a step only if it is truly essential to national security and not merely a management convenience or an ideological compulsion. We will expect the Department's leadership will have first made good-faith efforts to work cooperatively with their employees who are union members, determining that union representation is in fact incompatible with national security. We will expect the explanation the President provides to Congress, required under this substitute, to be thorough. The administration for its part has said, particularly in recent days, it is not out to break Federal employee unions, but only to retain an extraordinary authority that has been exercised only a handful of times over the last four decades. We in Congress and our successors and I believe the American people will hold both this President and his successors to that promise.

When it comes to the creation of a modified personnel management system, we expect the employees in the new Department will be hired, promoted, disciplined, and fired based only on merit. We expect that if and when existing civil service rights and protections are altered or removed, the administration can demonstrate a clear need for doing so in the context of the homeland security mission of the Department. We expect fair and independent procedures will be maintained for all employees with grievances, especially those who allege abuse or corruption within the Department—whistleblowers. We expect changes to the system will be carefully crafted through negotiation and collaboration with employees and their representatives at all levels, from the rank and file to top echelons of management. And if a disagreement arises, or an agreement is not possible to obtain, the required 30 days of mediation and negotiation between the administration and the unions will be substantial and in good faith, not cosmetic.

The administration has pledged not to undermine the integrity of a merit-based public-sector workplace. Here again, the American people and we in Congress will be watching, and watching carefully.

Let me discuss a few other concerns that I have about the substitute. On immigration, this bill takes what, in my view, is a step backward from our committee-approved legislation by splitting the Immigration and Naturalization Service programs between the Border Directorate, where all immigration enforcement will be housed, and a new Bureau for Citizenship and Immigration Services, which will handle immigration services.

I am concerned that this configuration may diffuse responsibility for immigration policy and coordination among a large number of officials. And it is contrary to the earlier bipartisan Kennedy-Brownback immigration legislation.

I am also troubled that the bill weakens provisions we had carefully developed to ensure that the independence of immigration courts would be preserved and that vulnerable child aliens would not be lost in the shuffle to the new Department.

I regret that the bill would shield private-sector information that is voluntarily submitted to the new Department from the Freedom of Information Act from being used in civil litigation and even from release by State and local governments under their own sunshine laws. That is a major retreat from the carefully crafted bipartisan Bennett-Levin-Leahy compromise that was included in our committee bill and in the Gramm-Miller substitute in its original form, and is of particular concern to community groups, workers, environmental advocates, and watchdogs who depend on access to this information to help them reduce environmental health and safety risks to themselves, their families, and the public.

In addition, out of the blue, if I may phrase it that way, this substitute includes a provision that had not been seen in any previous proposals regarding homeland security, and that would take complaints about vaccine additives out of the courts and require them to be made through the Federal Vaccine Injury Compensation Program.

That would affect potential claims involving the mercury-based preservative thimerosal. Because there are a number of class action lawsuits pending on this issue, this is a highly controversial and complicated issue, one that the relevant committee of the Senate, which has been working on it, the HELP Committee, has not been able to come to a consensus on after several months of deliberation.

So why is this provision being rushed through now in the context of homeland security legislation in a way that makes it very hard for us to reach a proper conclusion, though we have very significant fears that rights of injured parties are being severely limited?

The bill also omits a vital provision in our bill that would have provided $1 billion for each of the fiscal years 2003 and 2004 to local governments to hire firefighters. This provision, sponsored in our committee, and cosponsored—again, bipartisan—by Senators Carnahan and Collins, would create what is effectively a firefighter's version of the immensely successful and productive and valued COPS Program that we created in the 1990s. I believe it started in 1994 for police officers locally.

After September 11, the firefighters are people we depend on, particularly in an emergency. The fire departments have taken on new responsibilities throughout the country post September 11 and are doing more hiring, so we need to help them pay for their new personnel. We need to help them train and equip those personnel. Unfortunately, that pathbreaking, productive, progressive provision has been taken out of the substitute.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. LIEBERMAN. I will yield for a question from the Senator from West Virginia.

Mr. BYRD. My question is this: The distinguished Senator is pointing out some very glaring differences between the bill—I call it a bill. Is this the hydra-headed monster that has come over from the House in the last 24 hours or so? And is this the item before the Senate today? And is this the vehicle to which the distinguished Senator from Connecticut is addressing his remarks? That would be my first question.

Mr. LIEBERMAN. Through the Chair, I thank the Senator from West Virginia.

The House, last night, adopted a proposal which I gather is essentially the same, perhaps totally the same, as this substitute which was offered yesterday by Senators THOMPSON, GRAMM, and MILLER.

Mr. BYRD. So what we have before the Senate—Mr. President, will the Senator yield further?

Mr. LIEBERMAN. I will.

Mr. BYRD. What we have before the Senate is a massive piece of legislation with 480-odd pages, that has been virtually dropped into our laps within the last 36 hours, allowing for yesterday and thus far today. This is a virtually new bill, as I see it; is it not? It is something that was—I read about it in the newspapers—something to the effect this is a compromise that was passed by the House and sent to the Senate. It is now under discussion in the Senate.

The distinguished Senator from Connecticut is performing, as I see it, a great service in addressing his remarks to this monstrosity. That is my word for it. It is a monstrosity. It is almost 500 pages, and it is just suddenly dropped into our laps. This is not the bill which came out of the committee chaired by the Senator from Connecticut, is it?

Mr. LIEBERMAN. I thank the Senator. As I said at the outset of the remarks I am giving here, there is a lot that is in this substitute that has, in fact, been taken from our committee bill. But as I am enumerating now, there is a lot also that has been added, and some of it really at the last moment.

Some of it is compromise legislation, for instance, on the question of Federal worker rights, which we have been debating here for several weeks now. But some of it, such as the provision on child vaccine and the liability of pharmaceutical companies in cases of injury from that vaccine, we have never seen in any of the many forms of homeland security legislation that have been introduced or discussed, and not only in the Senate but I believe in the House as well.

Mr. BYRD. Mr. President, will the distinguished Senator yield for a further question?

Mr. LIEBERMAN. I will.

Mr. BYRD. Mr. President, in speaking of the vaccines, as you know, in this town, and in this Chamber, there is often a great deal said about pork, about pork, and particularly with reference to appropriations bills.

This seems, to me, to be some pork—some pork—in this bill for the pharmaceutical companies.

That is what it sounds like. I believe the distinguished Senator from Illinois will later have something to say about this, possibly have an amendment in regard to it. That was kind of what I understood from a conversation earlier today. It sounds to me as if this is something brand new to the distinguished Senator from Connecticut.

What I am leading up to is this question: Here we have a bill we are being asked to pass virtually sight unseen. We have had yesterday and thus far today to study this new vehicle that has come to us from the House, passed by the House, I believe. And this vehicle itself did not come before the committee that is so ably chaired by the distinguished Senator from Connecticut. This is a new piece of legislation, virtually sight unseen in many ways. There are many parts of it, of course, that, as the distinguished Senator from Connecticut has indicated, were probably lifted out of the measure which he and the other members of his committee, both Republicans and Democrats, reported from that committee some several months ago, that bill we referred to back in those days as the Lieberman substitute.

Mr. LIEBERMAN. I remember those days fondly.

Mr. BYRD. Yes, I remember them fondly also.

Mr. LIEBERMAN. I thank the Senator.

Mr. BYRD. But I am very disturbed by the fact that here we have before the Senate a measure which is in many ways a measure that has not been seen, studied, except for the few hours of yesterday and today we and our staffs have been able to allot to it. This is something new, and we are going to be asked to vote on cloture on this vehicle, this piece of legislation. We are going to be asked to vote on cloture by no later than tomorrow on this matter, and we don't know what is in it. I don't know what is in it. I have had my staff on it since yesterday when it first made its appearance in my office in the form of several separate pages which I hold in my hand, various and sundry pieces of it, almost 500 pages.

Here we are going to be asked to vote on cloture on this measure tomorrow. I hope we don't invoke cloture. I hope Senators will not vote to invoke cloture on this matter tomorrow. The Senate is entitled to have more time in studying this measure before we vote on it. The American people are entitled to know more about what is in this bill as it comes to us now from the House, what is in the bill before we vote on cloture. I think people are entitled to that.

I say to the distinguished Senator from Connecticut, again, he is performing an extremely important service to the Senate, to his people, and to the people of the United States. I was in my office when I heard him talking. I heard him talking about the vaccines. I heard him talking about other areas of the bill which are new to him, some of which he had not seen. He indicated they are new to him.

Why should we vote? I ask this question. The distinguished Senator may not wish to answer it right now, but it is a question. I am within my rights to ask the Senator a question, if he is willing to listen to my question. Perhaps this is a rhetorical question. But why should Senators invoke cloture? Why should Senators vote to invoke cloture on a measure when they don't know what is in it? Many of them did not know what was in H.R. 5005 before the August recess, and many of the Senators, I assume, did not know a great deal about what was in that bill even after we debated it for a considerable length of time.

The distinguished Senator from Connecticut has put most of the summer and a great deal of the spring of this year into his bill. He and his committee have worked hard. Mr. THOMPSON and others have worked hard on this homeland security bill.

I will take my own time on the floor later today to say these things, but I will just say this: We are being importuned by this administration, by this President, to vote quickly on this bill creating a department of homeland security. I think it is irresponsible of the administration to insist upon the Senate's acting on this legislation in such a great hurry.

One might say, well, they have had all summer. But we have not had all summer. We have something new here that was just brought into the Senate yesterday, and we are being importuned to vote for this legislation before we go out of session, presumably maybe at the end of next week, maybe not. But I think it is most irresponsible for the administration to put this kind of pressure on the Senate, especially when the administration has turned its back on appropriations bills that have been reported from my committee, the committee chaired by me and the ranking member, Mr. TED STEVENS, former chairman of the Appropriations Committee and soon to be chairman again.

I think the administration has had before it these various and sundry appropriations bills, many of which contain homeland security appropriations. Yet this administration has put the pressure on the other body, the Republican-controlled House, not to pass those appropriations bills.

There was homeland security. There was real homeland security. If the administration would just have taken the bonds or the chains or the handcuffs off the House and let it act on those appropriations bills, there is homeland security. If we really want to do something for the people, do it fast for them—and I will go into this in greater length later today—there was the chance. Instead of putting the pressure on that, instead of pushing hard to get the appropriations bills through and get them down to the President so he could sign them, the administration has instead put great pressure on the Senate now to pass this homeland security bill.

Yet we don't know what is in the bill. We haven't had much time.

My question is—the Senator may not want to answer it—does he not think that the Senate ought to take more time before invoking cloture? I respect the fact that sooner or later cloture will be invoked. But it wouldn't hurt—I will say this on my own—for this bill to go over until next year when we could have more time to look at the 485 pages—I may be missing one or two—so that we could take our time and know what we are voting on.

They will say: Something may happen. The terrorists may strike. We need to get this done.

Let me say to my dear friend the Senator and other Senators and to the Chair: Passing this bill won't make one whit of difference if a terrorist attack occurs tonight, tomorrow, next week, next month. Passing this bill will not make one whit of difference. The people who are to protect us under this bill, if we ever get the bill passed and get it implemented, this new department up and running, the people who will be ensuring the safety of the American people under this bill are out there right now: Immigration and Naturalization Service, the Customs Bureau, the policemen, firemen, the emergency health personnel, the border security personnel, the security at the ports. These people are out there now. They are out there every day.

This bill, only for political reasons, is going to amount to a hill of beans. That will be all it will be worth. They can say, well, they passed the bill. But it won't make the people of this country a bit more secure.

As a matter of fact, they will be lulled into a feeling of security when they will be very insecure with this bill—as much so, or more, perhaps, than if we didn't pass it. I am one of those who, first, may I say to my friend—if he will allow one further comment and then my question—I am one of those who first advocated a Department of Homeland Security; I am one of the first to advocate it. But I have had the bitter experience of trying to get the Director of Homeland Security up before the Appropriations Committee, and Mr. STEVENS, the ranking member, joined me in inviting Mr. Ridge up before the committee, but the President said no. He put his foot down and said, no, he is on my staff; he doesn't have to come. We had no alternative but to go ahead with the seven department heads and various and sundry mayors and Governors throughout this country, and police organizations, health organizations, firemen organizations, and so on.

We came up with a good bill. But in that bill, we also included language that would have required the Director of Homeland Security to be confirmed by the U.S. Senate. So we said, OK, it won't be done by invitation; you will come because you are going to have to be confirmed by the Senate, and then you will come. So the administration saw that coming down like a Mack truck. They saw it coming down the track. It passed the Senate with 71 votes—at least 71, as I recall. There wasn't a finger raised against that provision, not an amendment offered to strike that provision; and the administration saw that bearing down on them like a Mack truck, so they rushed to get ahead of the wave, which they are pretty good at doing. Out of the bowels of the White House, they hatched this idea of homeland security, and here it was—not here it is. This is something new. It came up here. This Department of Homeland Security had been hatched by Mitch Daniels, Director of the Office of Management and Budget, and by Andrew Card, and by Tom Ridge, and Mr. Gonzalez, the White House counsel. Those four eminent public officials hatched up this great, grand idea and unveiled it.

The President called us down for the unveiling. I remember, he said he had to go to St. Louis to make a speech, but before he went, he said he had this package. He didn't explain what was in the package. He referred to it as "this package." He wanted to see this package passed quickly and he was going to have to go to St. Louis and make a speech. I seldom go down to the White House. I am not invited much anymore, but I am not crying about that. I don't want to go down there, as a matter of fact. I went down when I was majority leader and minority leader and majority whip so much that I got tired of going. Others may have the pleasure. But on this occasion I went.

The President said here we have this package, and he said he wanted to thank the Members of Congress for their input. I scratched my head. What input is he talking about? The Members of Congress haven't had any input. He said, "I have to hurry and go to speak." He called on the Speaker for a few words. He called on the distinguished Republican leader here, and he called upon the distinguished Democratic leader, and he called upon the distinguished Democratic leader in the House, and then he was finished. He didn't call on me. I was just invited to come as an ornament, I suppose, one that is not often seen by people at the White House.

In any event, the President started off to make that speech in St. Louis. I said, "Wait a minute, Mr. President. I heard you say something about this package, how you want this passed. I don't know what is in this package." Then he said to somebody down the line that may have been a Member of the House, may have been a Democratic leader there—I don't recall—maybe I do, but I don't need to say. Anyhow, when reference was made to this "thing," that we need to pass this thing in time for the first anniversary of September 11, I said, "I heard something said about this 'thing,' that we need to pass it in time for the first anniversary. I don't know what this 'thing' is."

I kind of dismissed it in my feeble way, in that manner, saying I didn't know what they are talking about, this thing, this package. Nobody explained this "package" to me down there. Nobody explained what this thing was down there. So I came back up to the Hill, knowing little more than I knew when I went down.

I say all that to say this: Here, today, we don't even have the "package" they had that day. We don't even have the "thing" they were talking about that day. Here is a brand new animal that has been brought in here—480-odd pages—and they are saying we have to pass it. The Senator and I and others are going to be asked to vote for cloture on this "thing"—the new thing.

My question is, does not the Senator feel it would be time well spent if this Senate did not invoke cloture tomorrow, or maybe the day after, or next week, but would it not be time well spent if the Senate took the necessary hours to carefully study what is in this new package that has been dropped on our desks not more than 6 hours ago? Is that a fair question?

Mr. LIEBERMAN. I thank the Senator from West Virginia. It is a fair question. I would like to answer it by continuing to outline some of the shortcomings in the substitute before us, and then offering a conclusion, and then I will yield to the Senator from Illinois, who has been waiting to be recognized.

I thank the Senator from West Virginia for his comments and his recollection of the history here.

Mr. BYRD. Also, the Senator has made some valuable contributions today by pointing out already some of the differences that he sees in the new language. So it seems to me—I will answer my own question—that we need to take more time than just tomorrow in invoking cloture on this bill. We owe it to ourselves and to the people.

We are creating a brand spanking new, big, massive Department. In this package, we are going to make a massive transfer of power to the executive branch. I plead to Senators that they not vote for cloture on this tomorrow. At least give us another week.

I thank the distinguished Senator for his patience, which is a customary characteristic of his. I value him, and I am going to listen with great interest to what he continues to have to say about this measure.

Mr. LIEBERMAN. I thank the distinguished Senator from West Virginia once again. I mentioned, when the Senator asked a question or two, about the omission from the bill of the program that our committee created, which would have authorized a COPS-like program for firefighters, which would be critically important to local fire departments all around America, who are already spending more money to get ready to protect their people from terrorist attack. I want to go on with a few more of what I call the bad news in the substitute. The substitute also grants—it's ironic that I come to this moment now, but it grants the Secretary of the Department of Homeland Security broad reorganization—I'm sure Senator BYRD will speak to this later in the day—with no need for congressional approval. The President would simply submit a reorganization plan to Congress within 60 days after enactment. No congressional approval would be required, as it would under both Gramm-Miller and our committee bill. Only notice.

The substitute also contains a sweeping liability protection provision that eliminates punitive damages and provides other caps and immunities from liability for any products that the Secretary of the new Department of Homeland Security certifies as antiterrorism technologies.

This provision, if construed broadly, could do serious damage to individuals' rights. The Secretary must simply designate that a new technology is antiterrorism-related, and the exemption and the protections that are provided by this section of the bill go into effect.

Perhaps the most egregious flaw is the bill would cap liability at the limits of a seller's insurance, meaning people who allege they have been injured by one of these technologies certified by the Secretary can go either completely or partially uncompensated even if a seller who is liable has more than enough money to compensate them because the provision of this bill says the limits of liability are the limits of coverage of the seller's insurance.

Even if, as I read this provision, the seller has assets and the plaintiff has proved that his or her injuries are the result of negligence by the seller, the liability is capped at the limit of the insurance policy. That is a significant change in tort law.

At various times in this Senate, I have been quite active in advancing what is broadly called tort reform. This section some may describe as tort reform, but I think it goes way over the line in compromising the rights of individuals under our system of negligence and tort law.

Finally, the bill fails to include a package of vital information technology reforms initiated by Senator DURBIN, who will speak soon, and cosponsored by Senator THOMPSON and myself that were included in our committee-approved legislation. This amendment would dramatically improve the way data is managed in the new Department, and that will be central to the Department's effectiveness of protecting the security of the American people at home.

It would also improve the way data is managed throughout all agencies related to homeland security by allowing agencies to share and integrate their data swiftly and seamlessly. By failing to tackle information technology management, the substitute misses a huge opportunity to fix one of the most frustrating bureaucratic barriers to effective homeland security, and it will be a shame if this provision, which is noncontroversial, is omitted from the substitute.

Finally, I wish to say briefly, because I spoke to this yesterday when Senator MCCAIN and I offered the amendment, I was deeply disappointed to find that the substitute bill fails to include an independent citizens commission to investigate the September 11 attacks. How can we learn from the past if we do not face up to our own failures honestly and directly and bravely? How can we reassure the American people we are taking every necessary step to protect them against terrorism if we are unwilling to scrutinize every agency in our Federal system unflinchingly?

The answer, unfortunately, is we cannot. That is why the homeland security legislation our committee proposed was amended by the Senate by a resounding, overwhelming bipartisan vote of 90 to 8 to include a provision offered by Senator MCCAIN and me and others to create a bipartisan, nonpolitical blue ribbon commission to investigate the Government's failures in all the years leading up to September 11.

In fact, the earlier iteration of the so-called Gramm-Miller substitute embraced, after the Senate spoke so resoundingly, that same idea for a bipartisan commission. Yet this substitute omits that proposal. That is outrageous and unacceptable. We should not accept it, and I can tell you that the families of the victims of September 11 do not and will not accept it.

Senator MCCAIN and I said yesterday, and I repeat today, that we, and I am sure many others on both sides of the aisle, will be persistent and steadfast and continue to search for and find every possible vehicle and method we can to get this independent commission to investigate September 11 adopted.

Let me now say by way of conclusion, I have tried to describe the good parts of this bill because, again, most of the proposals in the bill, the overall architecture of the new Department, and most of the specific provisions are taken from the bipartisan legislation that emerged from the Governmental Affairs Committee in the Senate, which I have been privileged to chair.

In fact, in some significant ways that I have outlined, this second iteration of the Gramm-Miller substitute has been improved to take in even more parts of our initial proposal. We have all learned together how to improve this legislation. That is all to the good.

I do disagree respectfully with my dear colleague from West Virginia because I believe there is an urgent necessity now to better organize our homeland defenses because the current disorganization was part of the cause of September 11. The continuing disorganization is dangerous. Yes, the various agencies are out there, but as I said at the beginning of my statement, everyone is in charge, therefore no one is in charge. We need to bring these agencies together. We need to eliminate overlap and save some money by doing that. We need to make them more efficient and, most of all, have a clear line of accountability.

There remains—and this really gnaws at me, and I know many Members of the Senate—a disconnection between too much of our intelligence community apparatus and law enforcement apparatus, including State and local law enforcement, and that disconnection means we do not have in one place all the information that can telegraph to this new agency that a terrorist attack is coming and give us the time to stop it before the terrorists act. This agency will create such an intelligence division now. The urgent necessity for a new Department has to be weighed against the shortcomings and the late additions that I have described.

I cannot repeat the plain facts about our persistent vulnerabilities often enough. I have said them before and I will repeat them. The writer H.G. Wells once said:

> Adapt or perish, now as ever, is nature's inexorable imperative.

Adapt or perish, and that is our challenge and our choice today. Adapt to the new terrorist threat or grow weaker and watch some of our fellow Americans perish.

Adapt to build on our strength and our ingenuity, or continue to have the American people live in fear.

Adapt or have your children grow up feeling that they are at the mercy of our terrorist enemies, no matter how strong we are in conventional military power, in economic strength, in cultural strength, in values, rather than seize the moment and control our own destiny through our strength and the organization of it.

A bill creating a Department of Homeland Security led by a strong and accountable Secretary will make sure that our domestic defense efforts do adapt to this new threat. It is really a source of continuing regret and frustration that the substitute comes to us now not only with compromises that have been made that are less than I would have liked—very few of us get exactly what we would like in legislation; that is the nature of the process—but that irrelevant and very troubling additions have been made to the legislation, and that is the balance that we are going to have to strike.

For my part, I have filed several amendments by the 1 o'clock deadline today to strike various parts of this substitute that I think are not only marginally relevant but, in some cases, totally irrelevant to the central task of homeland security, and not only do not add but subtract from the rights and freedom from fear of the American people.

It is nonetheless urgent to go forward and act on this measure. I, for one, do intend to vote for cloture to bring this debate to a conclusion, but I have attempted to fashion the amendments I have filed in a way that cloture will not prevent me from obtaining a vote in my attempt to strike some of the objectionable and unnecessary provisions of this substitute proposal.

"Adapt or perish, now as ever, is nature's inexorable imperative," those words of H.G. Wells speak to each one of us as we balance the good and bad in this substitute and decide how to vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I express my gratitude to the Senator from Connecticut, the chairman of the Governmental Affairs Committee. I do not believe those following this debate, unless they have watched it for a long time, can appreciate the amount of time and effort that has been put into this bill by Senator LIEBERMAN and his staff. The record and history will demonstrate that before the President introduced a Department of Homeland Security, Senator LIEBERMAN not only introduced one, which I was proud to cosponsor, but passed it favorably from the Governmental Affairs Committee without the support of a single Republican Senator.

There was some confusion on the Republican side as to what the President's intentions were, but there was no confusion on the Democratic side. Senator LIEBERMAN believed, and still does, as I do, that a Department of Homeland Security is important for the defense of America against the threat of terrorism.

About 2 weeks after Senator LIEBERMAN's bill passed out of committee, the President introduced his own. Senator LIEBERMAN then addressed the issue again to make his bill and our bill conform more closely with the President's intentions and brought this matter to the floor. There was a controversy which ensued. It was an incredible controversy because it related to the rights of new employees in this Department. I use the word "new" advisedly because the 170,000 employees of the Department of Homeland Security are already working for the Federal Government.

With the passage of this legislation and its implementation, they will come under a new roof and a new title, but, frankly, they will be doing many of the same things they have done for years.

There was a question as to whether or not we would be able to protect these employees who had collective bargaining rights in the new Department. It was a contentious issue and one on which the White House and many Members of Congress disagreed.

Senator LIEBERMAN, again in good faith, tried to find some common ground. With the help of some of our colleagues, such as Senators BREAUX and LANDRIEU of Louisiana, as well as many Republicans, we came up with compromise language weeks ago that could have raised this issue and moved it forward.

I say pointblank, there were Members of the Senate who did not want this issue resolved before the election. They did not want the Department of Homeland Security enacted before the election. They wanted to be able to campaign across America suggesting that the Democratic Senate had not passed this important legislation. As a result, they used every procedural trick in the book. They slowed down the process. They refused to have a vote and they got their way. We left for the election without the passage of this important legislation with the compromise language that had been prepared.

In many States and many congressional districts across the Nation, this became a political issue. Sadly, it had an impact on the election far beyond its actual gravity because we could have passed this legislation, and sadly, we come today in an effort to try to bring this issue to a close in the hopes of doing it before we adjourn for the year, before the new Congress comes into session. I certainly hope we can achieve that.

The point has been made by Senator BYRD, Senator LIEBERMAN, and others that we were literally given a 484-page document, which passed the House of Representatives late last night, which creates this new Department of Homeland Security. There are many items in this document that are repetitive. Looking back to the President's original proposal and the proposal from the Governmental Affairs Committee, a lot of this is not new although many things are new. Many of us are trying to digest it.

I was paging through this bill as the debate was ensuing on the floor, picking out sections that raised questions in my own mind. If one looks around the Senate Chamber, they will see a 484-page bill on each desk. By my rough calculation, some 48,000 pages of documentation, many of which will never be read, are looked at by colleagues in the Senate. I do not say that being critical because, frankly, it is almost impossible for an individual Senator to monitor and evaluate every page of a bill. We rely on staff and people who we trust to get that done. But the fact is this just came over.

The reason I raise that issue is as soon as I finish this presentation, I am going to propose a second-degree amendment to Senator LIEBERMAN's amendment which relates to an issue that is completely ignored in this 484-page bill on the Department of Homeland Security.

To give a little background, on September 11, 2001, I was in a meeting in this building when word came that we had to evacuate because of the planes flying into the World Trade Center. With hundreds of others, I raced down the steps of the Capitol on to the lawn outside. We stood there, not knowing quite what to do next. I heard a sonic boom as we scrambled the fighter jets over Washington, DC, to prepare for further attack. We could see on the other side of the Capitol the black smoke billowing out of the Pentagon. Many of us who are entrusted with the responsibilities of serving in Congress were bewildered as to what had happened to our country and wondered what we could do, as individual Senators and Congressmen, to make it safer. I thought about it long and hard, and there is one area on which I decided to focus. I do not profess great expertise when it comes to first response in fighting terrorism, but the one omission I found that needed to be addressed in the administration of our Government was the information technology systems, the computer systems used by the Federal Government.

The reason I had been alerted to this problem was that in a hearing in the Senate Judiciary Committee a few weeks before September 11 we brought in the Federal Bureau of Investigation and, among other things, asked them about the state of their computers.

I am sorry to report to the Senate and those following this debate that the computer systems in the Federal Bureau of Investigation, the premier law enforcement agency in the United States of America, is disgraceful. It reflects a mentality within that agency that has resisted change, resisted new technology and, as a result, is currently operating with computer systems that small businesses in my hometown of Springfield, IL, would reject out of hand as archaic.

I dare say, we could bring in from anyplace in the United States a grade school student who is familiar with computers and they would find the FBI computer system laughable. What they are using to fight crime in the United States, to track down terrorism around the world, is outclassed by computers that can be purchased off the shelf at Sears, Best Buy, and Radio Shack. As hard as that may be to believe, it is a fact.

I also might add that we came to learn that the computer systems of the major agencies which we are depending on to protect America cannot communicate with one another. Would any of my colleagues want to be the CEO of a corporation with a variety of different departments and offices around America that had computer systems that could not communicate with each other? That is a fact today in the Federal Government. It is a fact of life, and it is a disgrace. This bill which we are considering to establish the Department of Homeland Security virtually ignores this problem.

How could we say to the American people, we are going to create a Department to make them and their family feel safer if we do not address the most fundamental issue of the exchange of information? In my concern over this issue, I decided to try to focus on it. I said this is the one thing I will work on. There are 535 Members of Congress. Everyone has a different agenda. I am going to try to carve out this niche and work on upgrading the computer systems in the FBI and creating what they call interoperability, the power of computers in different Federal agencies to communicate with one another. I have worked on it for over a year. I came up with some ideas based on historical experience.

I looked back in history because others have written of this challenge. They make reference to the Manhattan Project. For those who are not students of history, that was in 1939, before World War II. Before the attack on Pearl Harbor, our scientists in America discovered nuclear fission. It was a breakthrough. They knew they had something with great potential with the nuclear fission process. They were not quite sure what they could do with it on a positive or negative basis.

Then President Franklin Roosevelt created the uranium committee to explore the various scientific things that could be done with nuclear fission and report back. The committee, like most, did some things but did not do them very quickly and did not produce much.

Then came December 7, 1941. The Japanese attacked Pearl Harbor. Within 2 days, President Roosevelt came before a joint session of Congress and asked for a resolution of war against the empire of Japan and its allies, Germany and Italy, and America was truly at war.

In August of 1942, President Roosevelt was reminded about this uranium committee. He made a historic decision. He put them out of business. He said, we want to create a new project under the Army Corps of Engineers. We are going to, in this new project, try to take on a much bigger challenge. In charge of this project was an individual, a commanding officer named General Leslie R. Grove. Under what was called the Manhattan Project, we said to General Grove, you have the responsibility to gather together in the Manhattan Project the scientific, industrial, and military capability of America so that we can take nuclear fission and develop weapons that could win World War II.

General Grove is an interesting figure. From what I have read, I understand he was a powerful individual. In the course of several years, 4 years, he spent $2 billion. This is the early 1940s. In today's dollars, that would be $20 billion on the Manhattan Project. He developed four bombs, which were detonated over Japan, which brought an end to World War II. The Manhattan Project was successful.

Think about that when we talk about our own computer capability. I believe we need a Manhattan Project when it comes to the computer information technology of our Federal Government. I believe we need to empower a person and an agency to not only look to bring the most modern technology to each agency but to determine how they work together. That is what is missing.

The Department of Homeland Security bill, 484 pages long, does not even envision this as a challenge to be met. How, then, can we offer security to this country? How, then, can we use the best technology and scientific resources to make this a safer nation?

Currently, each of the agencies—the Coast Guard, the Customs Service, FEMA, INS, the Secret Service, the new Transportation Security Administration, and others—are to be coordinated under this Homeland Security Department. They each operate with their own information technology system and with their own budget. Needless to say, they do not communicate with outside agencies as the FBI or the CIA. These agencies already spend about $2 billion a year on information technology. The President is asking for $37.5 billion for a new Department, which is being gathered from current budgets.

Let me illustrate for a moment an example of why this challenge is important. A few hours ago, we considered port security—I voted for it; 95 Senators did—to try to make our ports safer in the United States. Of course, representing Chicago and Lake Michigan, I understand the importance of port security. Take a ship entering the U.S. waters that comes down the St. Lawrence Seaway. It comes into the Great Lakes. What happens? Four agencies of the Federal Government collect information on that ship. One agency determines whether the ship is carrying contraband. Another Federal agency checks whether the ship has paid its tariffs and fees. Another agency determines whether the ship and its crew comply with immigration law. And another agency checks for adherence to health and safety regulations. One ship, four different Federal agencies.

As currently planned, much of this information will end up in separate systems—some of them new and expensive. One of those, a $1.3 billion Customs Services project known as the automated commercial environment, is an import processing system. Another, the student exchange and visitor information system, is being developed by the Immigration and Naturalization Service. Other border protection is held on databases held by the Coast Guard and by the Department of Agriculture.

The new Transportation Security Administration also will collect and hold relevant information in its systems. Think of how many different agencies I have just mentioned are concerned about the one ship that we fear may be bringing the wrong people with the wrong cargo to threaten the United States.

Now reflect on this: None of these information technology systems are designed to communicate with one another, none of them. How in the world can we assure the American people of their safety when we are dealing with such archaic standards, when we are ignoring the most basic requirement—that these agencies work together and share information? This bill, 484 pages in length, ignores this challenge. We cannot ignore this challenge. Frankly, we have to respond because these divergent systems will ultimately need to be linked to the Homeland Security Department. We need to make certain there is a seamless interconnected system.

We have to ask key questions about the best way to ensure that the homeland security components communicate and share information with one another. By whom, when, how, and at what cost can the systems be linked. In addition, it is equally important to establish appropriate links between the Homeland Security Department and other agencies, particularly the intelligence community and law enforcement agencies.

Think about the ship coming into Lake Michigan from a foreign port and all of the questions that I just proposed. Would you not want to make certain that the FBI and the CIA had access to that information? In addition, the National Security Agency, Department of Defense, State Department, State and local officials, all of them could benefit by having access to that information. These links are needed because the Homeland Security Department will be inordinately dependent upon full and timely information exchange.

We cannot put a soldier or policeman on every corner in America and make this a safe nation. But what we can do is gather important information and share it so that it can be evaluated and coordinated and acted upon. That cannot happen with this bill as it currently stands before the Senate. This bill does not even envision that as a goal to be met. The status quo, which unfortunately this bill in many ways preserves, is not adequate to do the job.

At a June 26 Governmental Affairs Committee meeting focusing on the Department of Homeland Security in the intelligence community, I introduced the concept of ensuring interoperability, the communication of different computer systems in the Federal Government. I talked about the history of the Manhattan Project. My premise was if we are going to combine the intelligence resources and gathering of the Department of Defense, the Department of State, the Department of Justice, and the new Department of Homeland Security, would it not make common sense to establish a Manhattan Project when it comes to information technologies so all these agencies can communicate with one another, share information, and try to make the job more effective?

We have all this discussion on reorganization, but we are not facing the basic challenge. Given the current state of affairs in the Federal information technology systems, it is obvious we need to address the information technology issues that are raised as part of the new Manhattan Project.

Let me tell you about some of the current problems and challenges we face, if you wonder how we are going to make America safer against the threats of terrorism. Six years ago the U.S. Congress mandated the Immigration and Naturalization Service to establish a database to record visa holders exiting the United States. Understand the process. You are a foreign national and you want to come to the United States for any number of reasons—as a student, as a visitor, for some other reason. You go through the Immigration and Naturalization Service and a visa is offered to you through our consulates overseas. That is recorded. That is part of their database.

We then said to the INS we want you to make a record of those leaving the United States so we have, at any given time, an inventory of people who are visa holders in our country. It makes sense. If you don't do that, frankly, you are turning loose visa holders with no accountability as to whether they overstayed the legally permitted period for their visa or something else.

Six years ago we said to the INS, come up with a database that will record the exit dates of visa holders. We received a report a few months ago from the Director General that, despite 6 years of effort, the INS is unable and incapable of creating this database. Think about that for a second, about making America safer, about visa holders and people coming into this country. We have been unable in a 6-year period of time to establish that database:

Let me give you one other illustration. Both the Federal Bureau of Investigation and the Immigration and Naturalization Service collect fingerprints. They, of course, do that in the course of law enforcement, in the course of people visiting the United States. Three years ago we said to these two agencies, the INS and the FBI, combine the fingerprint database. We want to know if you have a person who is a criminal suspect who also may be out of status with the Immigration and Naturalization Service. We want to put that information together into one single database of fingerprints available to law enforcement in the United States. Three years later, still it has not been done.

As we look at the challenges we face, it is one thing to move the boxes around on the chart, to talk about a new Department of Homeland Security with 170,000 employees, but it is quite another to make certain that when these employees sit down at their desks in their offices, they have computer capability to literally protect America. This bill does not address that.

This is our Department of Homeland Security. It is being given to us by the House, which will soon adjourn without any effort to address this challenge.

An article in the July 27 edition of Fortune magazine also ascribes such a styling to the concept, pointing out:

> There is an abundance of breathtakingly versatile technology available to counter the menace of terrorist attacks at home. Now for the bad news: Computers are only as smart as the bureaucrats who use them.

This is Fortune magazine speaking.

> It may require a Manhattan Project of social engineering to induce agencies that have traditionally viewed each other mostly as rivals for budget dollars to reach out and hold hands.

At the hearing which we held before the Government Affairs Committee, I asked several of our witnesses to comment. One of the witnesses was GEN Hughes, LTG Patrick Hughes, U.S. Army, retired, former director of the Defense Intelligence Agency, 1996 to 1999. I talked to him about what I have just said in my opening remarks here. Here is what he said—first replying. General Hughes said to me:

> First, your characterization of this problem is, in my view, right, but it is not about technology. The technology to do the things that you are talking about wanting to do is present and available. It is about parochial interests, managing and constructing the technology for their own purposes, as opposed to the synergistic, larger effect of mission support across the government.

This man, who for 3 years had the responsibility in the Defense Intelligence Agency, knows what the problem is. He knows, unfortunately, that it is a problem that is not addressed by this Department of Homeland Security proposal. The amendment which I propose to create a Manhattan Project through the Department of Management and Budget had the bipartisan cosponsorship of Senator LIEBERMAN, who was on the floor earlier, as well as Senator THOMPSON, who is here. It was added to the bill by unanimous consent of all members of committee. Section 171 of the committee-approved legislation requires the Director of the Office of Management and Budget to develop a comprehensive enterprise architecture for information systems of agencies related to homeland security.

It calls for designating a key official at OMB, approved by the President, whose primary responsibility is to carry out the duties of the Director. This is our General Grove. This would be our Manhattan Project. The President would have the last word on this person and the responsibilities he would have to execute. OMB must make sure agencies implement the plan and regularly submit status and progress reports to Congress, as they should.

The enterprise architecture and resulting systems must be designed so they can achieve interoperability between and among Federal agencies responsible for homeland security and homeland defense, whether inside or adjunct to the new Department.

These systems must be capable of quick deployment. These must be readily upgraded with improved technologies. Effective security measures must be maintained as well.

The OMB director and Secretary of the new Department shall also facilitate interoperability between information systems of Federal, State, and local agencies responsible for homeland defense. This is a common complaint. I have heard it from the City of Chicago and other agencies across my home State, that the whole question of homeland security has to work its way down to the first responders at the local level, as does the information. This bill, sadly, does not address that because it does not include the amendment which I proposed in committee.

Enterprise architectures require systematically thinking through the relationship between operations and underlying information technologies. Used increasingly by industry and some governments, they can reduce redundancies, modernize operations, and improve program performance.

Historically, Federal agencies have developed information systems in what you call, euphemistically, parochial stovepipes with little or no thought about communication with other agencies. Agencies vital to homeland security are currently plagued by outdated technology, poor information security, and, unfortunately, not the necessary motivation to make the positive change.

An article appearing in this month's issue of Government Executive magazine captured the problem. Let me give you just a few words from that article, if I might. This is from Government Executive, September, 2002:

> When a computer mistakes a 70-year-old black woman for a 28-year-old white man who is a triple murder suspect on the FBI's terrorist group list, something is wrong with the computer or the information inside it.

The terrorist list on which this person's name appeared is just one of more than 25 maintained by dozens of law enforcement, intelligence and Defense Department agencies. Those lists are not integrated and often are not shared. We must build a system of systems that can provide the right information at all the right times. Information will be shared horizontally, across each level of government, and vertically among Federal, State, and local government, private industry, and citizens. Electronically tying together the more than 20 agencies to be merged into a new Department will harness their security capabilities, thereby making America safer.

It goes on to quote John Koskinin. He was the Federal Y2K chief brought to avert what we thought might be a computer crisis. He was asked to assess the challenge of bringing them together. I am for bringing them together. Here is a man who worked to analyze all the computers of the Federal Government and what he says is, I am afraid, chilling. I quote:

You'll never get your arms around it.

He believes placing all the security agency systems under one roof and building more systems will not make agencies communicate. He understands the challenge we face. This bill does not face that challenge and that, unfortunately, is a terrible shortcoming.

Interoperable information systems would permit efficient sharing of data and better communication. I have discussed this with a man I respect very much. Tom Ridge and I came to Congress in 1982, and we served many years together in the House. I was one who praised the President for choosing Governor Ridge of Pennsylvania as the first person to direct our homeland security operation. I called him on this issue. I explained to him what it was all about. Tom said to me, in his own words, he believed that what I am proposing here in this amendment would be a "force multiplier." It would enhance our technology, enhance our ability to protect America.

This substitute which we have before us does not include that force multiplier. This substitute, unfortunately, falls short of utilizing the resources we have most effectively.

It scratches the surface by tasking an under secretary with ensuring informational systems compatibility. Yet there is no corresponding duty outside of this Department of Homeland Security with any other agency or any other director in government.

If there is a coordination of information technology within the Department of Homeland Security, there is no premise or promise that we are going to have this agency communicate with the CIA, with the FBI, with the Department of Defense, with the Department of State, and without that interoperability, we are missing this force multiplier. The amendment would make sense and fill the gap. It would give an overarching job to OMB for homeland security enterprise architectures.

I think we can all agree there is no one single magic silver bullet to protect America. But we have to strengthen our security. We have to use the information we collect and use it effectively.

When you take a look at the systems, we have to consider a recent challenge. On October 23 of this year—a few weeks ago—GovExec.com, an online news service, reported that the FBI ran into serious shortcomings in its effort to capture the Washington-area snipers. A system known as "Rapid Start" was set up at the investigation command center in Rockville, MD. Leads called in to the center and to hotlines were manually entered into a database which organized the information to try to find the snipers. They assigned investigators to follow up. According to the news article, Rapid Start—the computer system at the FBI—was never designed to handle the large volume of information and the 67,000 calls they received. The system was overwhelmed. What is even more compelling is that Rapid Start was created by the FBI as a way to avoid working with the Federal Bureau of Investigation's existing computer system, the "Automated Case Support System." The agents of the FBI had already determined the existing computer capability at the FBI could not handle the investigation to find two snipers in the Washington, DC area. The FBI's antiquated technology systems don't allow its agents to share information among field offices.

Let me give an illustration. The September 11 disaster occurred. Within a few hours, we collected photographs of the 19 suspected terrorists who we believed to be on those airplanes. The FBI, when they collected these photographs, communicated that information and these photos to their field offices.

How would you do that if you were at a home computer and you wanted to send a photograph to your grandson or your granddaughter? Virtually every computer system that is worth its salt has the capacity to transmit photographs. But not the computer system of the Federal Bureau of Investigation. They had to FedEx the photos of the suspects to their field offices because the computer system couldn't transmit photographs.

Think about that. Would you buy a computer system if you were a law enforcement agency that couldn't do that? That is a fact today.

The Automated Case Support System that Rapid Start was built to circumvent was blamed for the loss of 4,000 documents in the prosecution of Timothy McVeigh for the Oklahoma City bombing.

According to a recent article, only in recent months did the FBI start a computer system through a project known as Trilogy. It is starting to replace obsolete desktops. I have been talking about this for a long time. This committee has tried to address it. We did address it with a bipartisan amendment agreed to by Senator LIEBERMAN, Senator THOMPSON, Republicans and Democrats in the committee. We put it in the bill. But it is not in this bill that has come over to us from the House of Representatives.

What I am proposing to my colleagues on the Senate floor is this: Please let us depoliticize this issue. Why in the world should this became a partisan matter? The computers of this government are going to serve all of the citizens. No one is going to be able to have bragging rights—Democrats or Republicans, or anyone of any other political stripe. It is a question of whether we are going to put in place the resources and tools and weapons we need to fight terrorism.

The amendment which I am about to propose as a second-degree amendment would do just that. It would take the exact language from the Governmental Affairs Committee on a bipartisan basis, put it in this bill, and give us a chance to establish interoperability and enterprise architecture across the Federal Government.

How in the world can we pass this legislation without doing that? How can we leave Washington and say to America, "Sleep safely. You know the terrorist threats are there. We are doing everything we can"? We are not.

This 484-page bill fails in one of the most basic challenges. It does not challenge us to establish the very best in computer technology for the Federal Government. The fact of the matter is our current system doesn't even measure up to the most basic standards of requirements of computers and computer basics across America. Shouldn't we bring to the American people the very best in computer technology to protect our Nation, our families, our children? That, I think, is what is at stake here.

I implore my colleagues. I understand what is going on here. We were told the House will leave town, we will get this 484-page bill, don't change a period, a comma, or a single word—no amendments, take it or leave it—and we are going home. That isn't good. That really isn't good.

I think the Senate has a responsibility. We can identify the glaring omissions from this bill—and one that ultimately has to be corrected. But in the months before we return, while this problem still festers and looms, we are not going to be protecting America as much as we should. We will not be providing the American people the kind of defense against terrorism which they deserve. We will not be using the best resources of our government and technology to make America safer.

I am hoping my colleagues will consider this amendment and give it the same type of bipartisan approval they did in the Governmental Affairs Committee.

AMENDMENT NO. 4906 TO AMENDMENT NO. 4902

I would like to offer the amendment which I filed with the clerk as a second-degree amendment to the pending Lieberman amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 4906 to amendment No. 4902.

Mr. DURBIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for the development of a comprehensive enterprise architecture for information systems to achieve interoperability within and between agencies with responsibility for homeland security, and for other purposes)

At the appropriate place, insert the following:

SEC. . INTEROPERABILITY OF INFORMATION SYSTEMS.

(a) DEFINITION.—In this section, the term "enterprise architecture"—

(1) means—

(A) a strategic information asset base, which defines the mission;

(B) the information necessary to perform the mission;

(C) the technologies necessary to perform the mission; and

(D) the transitional processes for implementing new technologies in response to changing mission needs; and

(2) includes—

(A) a baseline architecture;

(B) a target architecture; and

(C) a sequencing plan.

(b) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall—

(1) endeavor to make the information technology systems of the Department, including communications systems, effective, efficient, secure, and appropriately interoperable;

(2) in furtherance of paragraph (1), oversee and ensure the development and implementation of an enterprise architecture for Department-wide information technology, with timetables for implementation;

(3) as the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (2); and

(4) report to Congress on the development and implementation of the enterprise architecture under paragraph (2) in—

(A) each implementation progress report required under this Act; and

(B) each biennial report required under this Act.

(c) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall develop—

(A) a comprehensive enterprise architecture for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security; and

(B) a plan to achieve interoperability between and among information systems, including communications systems, of agencies with responsibility for homeland security and those of State and local agencies with responsibility for homeland security.

(2) TIMETABLES.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall establish timetables for development and implementation of the enterprise architecture and plan under paragraph (1).

(3) IMPLEMENTATION.—The Director of the Office of Management and Budget, in consultation with the Secretary and acting under the responsibilities of the Director under law (including the Clinger-Cohen Act of 1996), shall—

(A) ensure the implementation of the enterprise architecture developed under paragraph (1)(A); and

(B) coordinate, oversee, and evaluate the management and acquisition of information technology by agencies with responsibility for homeland security to ensure interoperability consistent with the enterprise architecture developed under subsection (1)(A).

(4) UPDATED VERSIONS.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall oversee and ensure the development of updated versions of the enterprise architecture and plan developed under paragraph (1), as necessary.

(5) REPORT.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall annually report to Congress on the development and implementation of the enterprise architecture and plan under paragraph (1).

(6) CONSULTATION.—The Director of the Office of Management and Budget shall consult with information systems management experts in the public and private sectors, in the development and implementation of the enterprise architecture and plan under paragraph (1).

(7) PRINCIPAL OFFICER.—The Director of the Office of Management and Budget shall designate, with the approval of the President, a principal officer in the Office of Management and Budget, whose primary responsibility shall be to carry out the duties of the Director under this subsection.

(d) AGENCY COOPERATION.—The head of each agency with responsibility for homeland security shall fully cooperate with the Director of the Office of Management and Budget in the development of a comprehensive enterprise architecture for information systems and in the management and acquisition of information technology consistent with the comprehensive enterprise architecture developed under subsection (c).

(e) CONTENT.—The enterprise architecture developed under subsection (c), and the information systems managed and acquired under the enterprise architecture, shall possess the characteristics of—

(1) rapid deployment;

(2) a highly secure environment, providing data access only to authorized users; and

(3) the capability for continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

Mr. DURBIN. Madam President, let me clarify one point. Recent news stories indicate the former national security adviser John Poindexter is working at the Department of Defense to develop a plan to shift private database research in fear that it might be useful for intelligence purposes. That proposal raises some privacy questions, I concede. Another mistaken news story suggests that homeland security will facilitate that kind of investigation into private databases.

My proposal has nothing to do with this DOD plan. My proposal focuses only on making sure the Federal Government computer databases can communicate with one another when necessary to make certain, for example, that the INS and the FBI can share internal information—not information on private databases—to help protect against terrorist risk.

I yield the floor.

VISIT TO THE SENATE BY MEMBERS OF THE EUROPEAN PARLIAMENT

Mr. DASCHLE. Madam President, one of the privileges accorded to the majority leader is the opportunity to welcome and to introduce our fellow legislators from the European Parliament. This is a tradition that began in 1972, and it has continued every year since.

Earlier this year in July, we welcomed the President of the European Parliament to the Senate. Today, I am pleased to welcome another 16 of his colleagues representing countries from across that great continent. As I said when Mr. COX visited in July, this tradition is especially meaningful, because although the Atlantic Ocean separates us from our European friends, we are certainly connected—connected in beliefs and in the rule of law, and a commitment to the betterment of the people we serve and the world we share.

Today's visit has added significance, coming as it does at a period of heightened concern across Europe about the potential new terrorist attacks.

So we reiterate today our strong determination to stand together, united by our shared values and by our commitment to stand, as we have for now so long, on issues related to commerce, on issues related to trade, and on issues related to war.

I ask unanimous consent that the names of our colleagues from the European Parliament be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EUROPEAN PARLIAMENT DELEGATION FOR RELATIONS WITH THE UNITED STATES, 55TH EP/US CONGRESS INTERPARLIAMENTARY MEETING, 11–17 NOVEMBER 2002, WASHINGTON, DC, AND SAN DIEGO

[List of participants (16) in protocol order]

	Group	Country
Mr. Jim Nicholson, Chair	PPE-DE	United Kingdom.
Mr. Bastiaan Belder, 1st Vice-Chair	EDD	Netherlands.
Mr. Harlem Desir, 2nd Vic-Chair	PSE	France.
Mr. Renzo Imbeni	PSE	Italy.
Mr. José Pacheco Pereira	PPE-DE	Portgual.
Mr. Jorge Salvador Hernandez Mollar	PPE-DE	Spain.
Ms. Erika Mann	PSE	Germany.

EUROPEAN PARLIAMENT DELEGATION FOR RELATIONS WITH THE UNITED STATES, 55TH EP/US CONGRESS INTERPARLIAMENTARY MEETING, 11–17 NOVEMBER 2002, WASHINGTON, DC, AND SAN DIEGO—Continued

[List of participants (16) in protocol order]

	Group	Country
Mr. Jas Gawronski	PPE–DE	Italy.
Ms. Imelda Mary Read	PSE	United Kingdom.
Mr. Dirk Sterckx	ELDR	Belgium.
Ms. Nuala Ahern	Verts/ALE	Ireland.
Mr. Peter William Skinner	PSE	United Kingdom.
Ms. Arlene McCarthy	PSE	United Kingdom.
Mr. Brian Crowley	UEN	Ireland.
Mr. Marco Cappato	NI	Italy.
Ms. Piia-Noora Kauppi	PPE–DE	Finland.

PPE–DE Group of the European People's Party (Christian Democrats) and European Democrats.
PSE Group of the Party of European Socialists.
ELDR Group of the European Liberal, Democrat and Reform Party.
Verts/ALE Group of the Greens/European Free Alliance.
GUE/NGL Confederal Group of the European United Left/Nordic Green Left.
UEN Union for Europe of the Nations Group.
EDD Group for a Europe of Democracies and Diversities.
NI Non-attached.

Mr. DASCHLE. I would also like to notify Senators that our colleagues from the European Parliament are available now to meet on the floor. I welcome them. I am delighted they are here.

Madam President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, it is so ordered.

The Chair recognizes the majority leader.

Mr. DASCHLE. Mr. President, I reiterate again our thanks to our colleagues for their willingness to join us on the Senate floor. It is a real pleasure for us to have the opportunity to talk with them. We wish them well in their travels within the United States.

We again reiterate how welcome they are and how hopeful we are that we can continue to maintain the dialog, the friendship, and the partnership that we have as countries interested in a mutual goal.

We thank them for being here.

HOMELAND SECURITY ACT OF 2002—Continued

Mr. DASCHLE. Madam President, I now ask that we return to the regular order.

The PRESIDING OFFICER (Ms. CANTWELL). Regular order.

The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I have sought recognition to comment on the bill generally, and to discuss three amendments which I have filed.

I believe it is vitally important that the Senate conclude action on homeland security at the earliest possible date. And I believe, regrettably, but importantly, that we should accept the bill which was passed by the House of Representatives because if we do not, we will not have a bill this year.

The House has passed a homeland security bill and has given notice that it intends to depart. This has left the Senate with the choice of take it or leave it. I believe that the national interest and the public welfare requires that we take it, even though I believe we would have a much better bill if it were to be amended in certain respects.

I have filed three amendments which I think would vastly improve the House bill.

If these amendments are offered and accepted, then there will have to be a conference. The prospects for having a conference, with the House of Representatives having departed, is remote, and the likelihood of passing this bill this year would be virtually nonexistent.

It is with reluctance that I say these amendments will not be offered, but these are amendments which I intend to pursue next year. In coming to this conclusion not to offer these amendments, I have done so at the request of President Bush who is very anxious that this legislation be enacted and sent to his desk so that the country may proceed to reorganize the Government to provide for homeland security.

Earlier today, I talked to President Bush, I talked to Vice President CHENEY, and I talked to Governor Ridge about these three amendments. The President urged me not to offer these amendments so that this legislation could be passed. The President stated that he would be willing to sit down and discuss the concerns I have and the amendments I have proposed, with a view to possible action on them next year. He is obviously not committing to accept these amendments until he has had a chance to review them, but did say there would be full review by the President. The President said that. And the Vice President also said he would review the matters.

I talked at length to Governor Ridge, to whom I have talked on many occasions. These are amendments which I have had an opportunity to discuss with the President in the past, in meetings in the White House. As soon as the homeland security bill was introduced, he brought in a number of Members who were interested. I have had a chance to discuss the amendments with him at several leadership meetings, and when he traveled to Pennsylvania recently to campaign, I had a chance to discuss the matter with him.

One of the amendments I have filed, denominated amendment No. 4920, provides that the Secretary of Homeland Defense, subject to the disapproval of the President, would have the authority to direct the agencies to provide intelligence information, analysis of intelligence information, and such other intelligence-related information as the Assistant Secretary for Information Analysis determines necessary.

This language is important because it would empower the Secretary of Homeland Defense to "direct." That is very different from asking. My experience as chairman of the Intelligence Committee in the 104th Congress convinced me about the turf battles which go on among the various intelligence agencies. Those turf battles are endemic and epidemic.

In chairing the Judiciary Committee Subcommittee on Department of Justice Oversight, I have seen the same turf battles going on in the FBI and know of the turf battles which have gone on in other intelligence agencies.

I believe that had all of the dots been put on a big screen prior to September 11 of 2001, 9/11 could have been prevented. We knew the FBI had an extensive report coming out of Phoenix about a suspicious individual taking flight training. The man had a big picture of Osama bin Laden in his apartment. That FBI memorandum was buried, and never reached appropriate personnel at headquarters.

We know the Central Intelligence Agency had information on two al-Qaida men in Kuala Lumpur. That information was not transmitted to the FBI or the Immigration and Naturalization Service. Those al-Qaida terrorists got into the United States and piloted one of the suicide bombers on 9/11.

We know the computer of Zacharias Moussaoui had a tremendous amount of useful information in his possession which was not obtained because the FBI did not use the proper standard applying for a search warrant under the Foreign Intelligence Surveillance Act. We know that a Pakistani al-Qaida member by the name of Murad had stated in 1995 that al-Qaida planned to have airplanes loaded with explosives fly into the CIA. We know the National Security Agency had a warning on September 10, 2001, about something to happen the next day, and it was not translated until September 12. I believe there was a veritable blueprint, had all of these dots been on the same screen and put together.

When FBI Director Mueller came to testify before the Judiciary Committee in early June of this year and was questioned about the Foreign Intelligence Surveillance Act and I saw the entire picture, I stated at that hearing that I thought there was a veritable blueprint.

I do not agree with CIA Director George Tenet that another 9/11 is imminent. The CIA Director testified to that at a public hearing before the Intelligence Committee a few weeks ago. Perhaps it is an effort to inoculate the CIA so that if there is an attack, somebody can say: Well, after all, we are not surprised.

But I do not believe in the defeatist attitude that we have to sustain another attack. I believe our intelligence services are capable, if they are under one unified direction and they have one screen and put all of the dots on one board, that we have an excellent chance of preventing another September 11.

While it is important to have antidotes for anthrax and to deal with smallpox and to deal with the problems of bacteriological warfare or chemical warfare, that if we are attacked, most of the damage will already have occurred. So a very sharp focus of our attention should be to prevent another 9/11.

To accomplish that, I believe the current bill is not the best of the bills. It does bring all of the analysis agencies under one umbrella, but it does not give the Secretary of Homeland Defense the authority to direct them. If the Secretary of Homeland Defense does not have the authority to direct the head of the CIA or to direct the head of the FBI or to direct the head of the Defense Intelligence Agency or to direct the head of the National Security Agency or the other intelligence agencies, then we are likely to have the same old turf battles which we have had up until now.

That is why I believe this amendment, which I had wanted to offer and have discussed on this floor on many occasions, would vastly improve this bill.

But we all know that the better is often the enemy of the good. I believe it is of sufficient importance to move this bill ahead now that I am prepared to wait until next year and to accept the offer the President has made—and the Vice President and Governor Ridge—to sit down and go over the concerns I have expressed and these amendments, if we can get administration support on these amendments.

There has been enormous controversy on the issue of labor-management relations. This was the subject of extensive debate when this bill was on the floor from September 3 until October 4. This Senator engaged in extensive discussions with Senator LIEBERMAN, the manager of the bill for the Democrats, and Senator THOMPSON, the manager of the bill for the Republicans, as to what the Nelson-Chafee-Breaux amendment meant. That amendment had incorporated the essence of what Representative CONNIE MORELLA had put in with two paragraphs, and the issue was whether or not those two paragraphs were in place of, or in addition to, the paragraphs of existing law.

The paragraphs of existing law, under section 7103 of title 5, provide that there can be a national security waiver of collective bargaining, that the President can make a determination to deny collective bargaining coverage for national security reasons. When the colloquy was entered into with the Senator from Connecticut, Mr. LIEBERMAN, he agreed that the two paragraphs of the Nelson amendment were in addition to and not in place of existing law, and these two additional paragraphs made it a little more difficult for the President to exercise the national security waiver; but still the national security waiver could have been exercised and there could have been harmony with the employees had that change been made.

Then, with respect to the provisions for personnel flexibility, the amendment I have submitted as No. 4921 would have taken the format for denying collective bargaining coverage with the national security determination and added the additional two paragraphs which, again, would have provided for harmony, meeting the concerns that had been expressed by governmental employees.

It is my hope that we will yet have an opportunity next year, in consultation with the President, the Vice President, and Governor Ridge, to have consideration of this amendment and have the law changed next year.

In addition, I have filed amendment No. 4936, which contains provisions for a Presidential override but has, as a compensating factor, provisions for the utilization of the Federal Services Impasse Panel, and that again would bring harmony with the concerns and objections that have been raised by Federal employees.

So, in essence, what I am proposing to do is not to offer these amendments, Nos. 4920, 4921, and 4936; but I do believe they are important amendments, and I intend to press them in the 108th Congress. To repeat, I have discussed these issues directly with the President, who asked that I not put these amendments forward in the interest of expediting passage of this bill and avoiding a possibility of having a Senate bill different from the House bill, which would then require a conference and, most probably, preclude the enactment of legislation on homeland security this year.

There will be a number of amendments offered. There are already amendments that are pending, and some of them, frankly, I agree with. But I believe that the better is the enemy of the good here, and it is very much in the national interest for national security that this Senate move ahead and pass a bill.

I do not like the fact that the House enacts passage of a bill, sends it here, and then leaves town, which is just an example of legislative blackmail. But that is where we are. It is not an unusual occurrence. Although we had a full month to debate these issues and to vote on them, that never occurred, notwithstanding the fact that this Senator and others were on the floor. And I made these arguments about the necessity for a Secretary of Homeland Defense to have the authority to direct, and I made the arguments that when you added the two paragraphs of the so-called Morella amendment to the existing language, the President's national security waiver remained intact.

At this point, that is all history. Now we are faced with the alternatives of either accepting the House bill and moving on and getting this Department established, so that we can make our maximum effort to protect the American people, or to offer amendments and try to get them passed and improve the bill, which will lead to the conclusion of no legislation this year. So, with great reluctance, I have acceded to the requests of the administration. I will not offer these amendments.

I exhort and urge my colleagues not to change the bill, no matter how good their amendments may be, but to take this bill; and if there are matters that ought to be changed, let's work on them next year. Before we leave town—hopefully this week, but in any event not later than next week—let's put the legislation in a posture where it can be sent to the President, be signed and become law, to do our utmost to protect the American people and to secure our homeland from another terrorist attack.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Tennessee is recognized.

Mr. THOMPSON. Madam President, I thank the Senator from Pennsylvania for his statesmanlike approach to this matter. He is absolutely right that the way we are proceeding is not a usual occurrence. It is also a fact, however, that these are not usual times. I agree with him that it is vitally important we move forward. We have had a month or so of discussion and debate on this bill. We have a small window of opportunity now to do what we all know we need to do, and that is to go ahead and pass a homeland security bill. The Senator's actions that he has just taken will help that along immeasurably, and I thank him for that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ALLEN. Madam President, I ask unanimous consent that I may speak up to 15 minutes on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Madam President, I rise today to thank my colleagues in the House and in the Senate, as well as the leaders in the White House, who have worked very well together to arrive at a reasonable plan to allow this President the opportunity to properly establish a Department of Homeland Security and meet this threat before the 107th Congress adjourns.

I especially want to thank Senators FRED THOMPSON and PHIL GRAMM for their tireless work and their dedication, commitment and, as always, their very thoughtful leadership. Both of these gentlemen, Senator THOMPSON of Tennessee and Senator GRAMM of Texas, are concluding their distinguished service in the Senate, and what a perfect way to do it, with such a strong finishing kick in their sterling record of leadership.

I believe the Department of Homeland Security proposal that we are now considering—the same one passed by the House last evening—preserves the essential functions outlined in the President's plan while also addressing several changes that will help ensure successful implementation.

Specifically, the new provisions clarify the roles and responsibilities of the Department and help form a top-notch workforce within the civil service framework. They also enhance research and development opportunities and protect civil liberties.

I am hopeful that my colleagues will come together and support this proposal as soon as possible. Let's get the job done. The job needs to get done without any further dilatory or political delays. Since September 11 of 2001, we have all seen the need to improve our homeland security. This matter has been debated for many months. As Senator SPECTER said—I will paraphrase him—as far as I am concerned, it has been fine-tuned to near perfection. It may not be 100 percent of what everybody wants, but 98 or 99 percent is pretty good work.

Madam President, as you may know, I am the chairman of the Republican high-tech task force, and I am very pleased to see that this proposal highlights the vital role technology and innovation play in our Nation's war to protect the people of our homeland from a variety of permutations of terrorism and terrorist threats.

This measure recognizes the importance of information technology and research and development in achieving the most effective homeland security.

There has been a lot of talk and a lot of focus on flow charts that talk about which department is here and which box goes here and this subagency there. All those flow charts are very interesting and relatively important, but most important is the flow of information, the ability of various Federal agencies to analyze the volumes of information and bits and facts and details—analyze all those thousands or tens of thousands of bits of information, analyze it, flag it, then act on it and, in some cases, also share that information within that Federal agency and also other Federal agencies, as well as State and local law enforcement agencies that also have a need to know that information.

New technologies are being developed every day that can help save lives and improve the ability of our Government to fight and respond to terrorist threats. It is incumbent upon us as elected leaders to ensure our team, in fighting terrorism, is equipped with the best available and the most advanced technology.

I have consistently maintained the Federal Government should and, indeed, must procure, adopt, and use these innovative technologies in an efficient and flexible manner in addressing this country's defense and homeland security needs.

I wish to briefly touch on a few of the important provisions I have worked on with representatives from the technology community and my colleagues in the Senate, such as Senators BENNETT, WARNER, and WYDEN, which, I am happy to say, are addressed in this legislation. Again, I thank Senator THOMPSON and Senator GRAMM and their staffs for listening—listening to me and listening to my staff as well, and in particular I thank Frank Cavaliere—to these ideas in addressing these important provisions.

Let me highlight a few of the more salient provisions.

First, this proposal protects companies developing advanced technologies that help detect and prevent terrorism from assuming unlimited liabilities for claims arising from a terrorist strike. This provision helps ensure that effective antiterrorism technologies that meet stringent requirements are commercially available.

The reality is that without these safeguards, the threat of unlimited liability prevents leading technology companies from providing their best products to protect American citizens, American businesses, and governmental agencies.

The liability protections in this legislation are responsible to the Government, the industry, and also, very importantly, to the American taxpayer. I thank my colleague from Virginia, Senator WARNER, for all his assistance, experience, and constructive leadership in this important aspect of the bill.

Second, along with Senator BOB BENNETT of Utah, I am very pleased to see this legislation remove some of the legal barriers to information sharing between private industry and the Government. The threat to this country's critical information systems is extraordinary and this bill establishes procedures that encourage private industry to share infrastructure vulnerability information with the Government. The dialog between the Government and the private sector will ultimately help identify and correct weaknesses in our Nation's critical infrastructure while not compromising any of the provisions or protections provided under the Freedom of Information Act in other government agencies.

Information-sharing protections are particularly important in the area of cyber-security and threats. Taking preemptive measures to disclose vulnerabilities with the Government will help both the private and public sectors develop strategies to combat the numerous and constantly evolving cyber attacks threatening our Nation's critical infrastructure.

I encourage industry, law enforcement, and Federal officials to continue to work to build trust-based relationships and processes that will foster more information-sharing reporting.

Removing legal obstacles—which is what this bill does, which is very good—removing legal barriers to information sharing is very important and essential, but so is building trust.

A national forum on combating e-crime and cyber-terrorism was held at the Computer Sciences Corporation offices in Northern Virginia just 2 weeks ago by the Information Technology Association of America and the U.S. Attorney's Office for the Eastern District of Virginia where they brought together law enforcement and private sector leaders from all around the country to address some of the remaining obstacles to improving cooperation. These are the types of efforts I encourage, and I am hopeful this legislation will continue to promote.

Also included in the Thompson-Gramm amendment is the Federal Information Security Management Act, or FISMA, which will strengthen and protect the Federal Government's information and communications networks. FISMA establishes guidelines that are performance based. Let me repeat that. The guidelines are performance based so they can quickly adapt and respond to the fast-changing cyber-security threats. Strengthening the Government's information security is a vital component and piece of the homeland security puzzle. FISMA will foster accountability and make sure that every agency and department in our Federal Government prioritizes information security and promotes the use of commercially available technologies while avoiding technology-specific or product-specific government-wide security standards.

This is vitally important in making sure we get procurement that is good for the taxpayers and allowing all those who have great ideas to offer their programs, their systems, their products, and their efforts.

I am also happy to see this compromise proposal establishes a national technology guard or NET Guard. This is a bill that Senator WYDEN and I introduced earlier this year to help local communities respond and recover from attacks on their information systems and communications networks.

After the September 11 attacks, I, along with other Senators, received volumes of information from numerous companies about their varied products, their systems, their programs, and their ideas regarding the defense of our homeland. As public servants, we want to be sure the Government has the necessary structure and process in place to test and apply new technologies to meet our homeland security needs.

The new Department of Homeland Security will have a designated center—and this is part of this bill—to serve as a technology clearinghouse to encourage and to support private sector solutions that enhance our homeland security.

Lastly, the Thompson-Gramm amendment makes the coordination of our Federal, State, and local officials charged with protecting our homeland a national priority. Over the last year, I have strongly advocated that any homeland security plan focus on interaction with local public safety officials as they are really on the front line of combating terrorist threats and attacks.

Specifically, I have worked in the Senate to promote the development at the local level of a voice and data interoperable communications system for Federal, State, and local emergency responders. Last year, this Congress appropriated $20 million for the CapWIN project. CapWIN has started to award contracts for the development of an interoperable communications system for Federal, State, and local public safety organizations in the greater Washington, DC area. That is Northern Virginia, the Maryland suburbs, and the District.

The CapWIN project is a real-life example of adapting technologies, specifically communications technologies, to address and overcome existing national security concerns, as well as homeland security concerns in this region.

I again thank my colleagues for listening to me, and to the tech community for their persistence and their positive leadership on this historic legislation. I respectfully urge all of my colleagues to support this carefully crafted measure that will help the President, Federal, State, and local agencies, and the private sector utilize the best innovations of technology, to analyze and respond and, thereby, protect the security of our American homeland.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, this homeland security bill has been debated for 7 weeks. We have pretty well talked about the issue enough. I do believe we are on the verge of acting on it, so I wanted to come over this afternoon, given that we are going to have a vote on cloture tomorrow, to make a few comments.

First, I do not think anybody set out with the goal of turning this into a partisan issue. We came very close to that happening. In the aftermath of the election, I think we have pulled back from that.

I thank the President for that. In the aftermath of an election where the President triumphed—I do not think there is another fair word—there might have been some who in those circumstances would have said: Let's take this over to next year and I will write it exactly like I want it. I think we could have all understood had the President taken that approach.

In the aftermath of the election, he had the right to take that approach, but I would have to say I admire the President for the fact he did not take that approach. There are not many people, after validating an issue in an election, who are still willing to compromise, but that is what the President did.

We now have a bill that will give the President the tools he needs. We have responded to legitimate concerns that have been raised. We have strengthened to some degree the ability of those people who are going to be affected by the second largest governmental reorganization in the history of our country to be heard, but on the other hand not have the power to obstruct; to have input but not the ability to dictate. I think that represents a reasonable compromise.

Senator BYRD raised probably the most significant issue in that the original proposal would have dramatically transferred power from the legislative branch to the executive branch by giving the President the ability to reorder priorities in appropriations. If the Constitution is clear on one subject, it is that Congress has the power of the purse. I believe we have reached a reasonable compromise in that area. I know Senator BYRD is not for this bill, but I believe a major concern he raised has been dealt with, and I think his input improved the bill.

If I were writing the bill by myself, it would be different than the compromise we have reached, but to be honest it would not be much different. I say to people who are opposed to this bill to look at the alternative as we come down to the final moments before it is adopted. The alternative, it seems to me, is to wait for another bill until next year. For those who oppose the bill and for those who believe it gives the President too much power, I ask them to honestly ask the question: Do they believe waiting 3 more months in a new Congress, under new leadership, they will get a bill more to their liking than the bill that is before us? I believe an honest answer to that question is no.

I also believe 3 months does make a difference. Finishing the work in this Congress is important. Getting on with this Department is the right thing to do. So whichever side my colleagues are on—whether they are on the side of Senator THOMPSON and the President and believe that this is a good bill that ought to be adopted now, or whether they oppose it because they believe it gives the President too much power—it seems to me the right thing to do is to finish this job now, because if we wait until we come back in the next Congress, it will be February before we can get to it. The bill that will be adopted in February will be less to the liking of the President's opponents on this issue than the bill before us, and we will have squandered 3 months.

This is an incredible issue that does not come along very often, where at this point in time, no matter where one stands on the issue, it seems to me a plausible, logical, reasonable, and I believe correct case can be made that we should go ahead and act.

I am not expecting 100 Senators to vote for the bill, but I do hope people will allow us to go forward and adopt the bill. I do hope we get a strong vote. It does make a difference whether a bill passes 51 or 65, especially when we are trying to do something that is going to be very difficult and the President is going to need all the help he can get.

I thank Senator THOMPSON for his leadership and his in-depth knowledge on this issue which has been an indispensable ingredient for those of us who have tried to work on it.

I thank Senator LIEBERMAN. Earlier, when I was off doing something else, I understand Senator LIEBERMAN said he intended to vote for cloture. I think that is an act of leadership, and I applaud him for it.

I thank my dear colleague ZELL MILLER, who has worked with me on the substitute that Senator THOMPSON has offered on our behalf. I think Senator MILLER's leadership has been indispensable on this bill. He has a way of getting down to the bottom line of what an issue is about and express it in terms that people can understand, and that has been a very important ingredient in getting us to this point.

I am ready to move forward. It is my understanding we are going to vote on cloture tomorrow. I hope after that cloture vote we could move to a vote on final passage tomorrow. If that is not to be the case and we carry it over until early next week, then we carry it over into early next week. But I do believe it is important we pass this bill in this Congress.

The House will finish its business this afternoon and will leave town. They have no intention of coming back. This is not really a take it or leave it kind of deal because this deal was negotiated over the weekend. We had broad input. We have some 53 Members who are committed to voting for this compromise. So it clearly has a majority, and I am hopeful that we will see that majority prevail.

I yield the floor.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Tennessee.

Mr. THOMPSON. Madam President, I thank Senator GRAMM of Texas for his strong leadership on this issue. He is one of the most eloquent, logical, and persuasive Senators who has ever served in the Senate, I am sure of that. The Senate is going to miss his strong voice. He is fierce in battle and he is magnanimous in victory. I am proud he is my friend, and I thank him for his comments.

It does look as if we are at a point where we can come together on a homeland security bill. I hope it is not done in a way that is a grudging concession for some, that they believe it is a bad bill but must on balance vote for it. I hope the employees who are going to be in this Homeland Security Department do not feel they are going to be taken advantage of or this bill in some way strips them of basic rights. Those sorts of things have been alluded to, but they are simply not accurate.

This bill preserves the antidiscrimination provisions and protections of title V—for example, discrimination based on color, race, religion, sex, age, handicap, marital status, or political affiliation; those protections are preserved. Those were never at issue. Protection from political coercion, a basic right that is set forth in title V, is preserved. Fair competition for employment is preserved, protection from nepotism whistleblower protection is preserved. Those rights are not trampled upon in any way. Workers are not being deprived of those rights. Veterans preference provisions are preserved. Equal pay for equal work provisions are preserved.

I hope we do not go down this road together, but still separate, in our feeling for the need for this bill because we feel in some way we can still draw lines between management and workers and play on any hostility or misunderstanding that might be out there. It is not based upon reality. It is based upon a recognition that our Government is simply not working very well in some areas, in some basic provisions. Many of our departments have troubles.

Senator DURBIN, with whom I will engage in a colloquy shortly concerning some technology provisions, is absolutely right when he talks about the problems our Government has with regard to getting our computers to talk to each other. This is simply another example of our Government not working very well. We have spent billions of dollars in the IRS trying to get the computers to talk to each other, to upgrade them and incorporate technology capabilities that private industry has employed for a long time. We had great difficulty in doing that. That is one small area of the problem. The other side of that problem coin has to do with personnel.

When the IRS was in such bad shape, we gave them additional flexibility to pay people more, to go outside the personnel rules and pay people more and give them more flexibility as to who they could hire. That is the sort of thing you do to solve the problem. Do not just identify the problem; try to solve the problem.

In department after department, agency after agency, we have looked at the problems our Government has as it grows, as the bureaucracy grows, and we get bogged down and cannot hire the people we need and we cannot fire the people we do not need. We get bogged down in endless disputes over minute matters such as smoking facilities and the color of the carpets in offices and things of that nature. We have given flexibilities to get around those things. That is what we are doing in this bill.

It is not a heavy-handed cram down that violates people's rights. It is simply a response to the fact that this Nation is in a different era now. We recognize the difference we are in, the different threat this Nation faces, one that it has never faced before. We are not fearful of vast armies and tanks and battalions rushing across Europe anymore and threatening our friends and our troops in that part of the world. It is much more insidious and much more dangerous than that, where a handful of people with modern technology can destroy the lives of thousands of people. We are just in the baby steps phase of even beginning to deal with that.

That is what the homeland security bill is about. It is taking the first baby step to organize ourselves to deal with that. We have a big battleship of a government and we are trying to turn it around a little bit. Oftentimes it is wasteful, inefficient. As Senator DURBIN points out, the computers cannot talk to each other. We have all the things that make it difficult to face the high-tech threats we are facing. That is what homeland security is all about.

We simply cannot exist in this environment in the world when, while we are the world's superpower, we are also the world's supertarget. We cannot exist the same way we have in times past, being willing to pay a few billion here and a few billion there because of waste and inefficiency in government, knowing things may not work—so be it—and we simply add another bureaucracy on top of that, have another election, and spend a few more billion dollars and absorb it because of our economic strength. We cannot do that anymore. We have to do things differently.

It goes back to equipment, computers, technology, and personnel and the flexibility to use and interchange those things to meet the modern conditions we are facing. We cannot go along anymore with a system that takes 6 months to hire someone and 18 months to fire someone. That does not work. Where, if you want to transfer someone to the front and get your best people in certain crucial places you have endless appeal rights that take years to resolve. We cannot do that anymore. It is not a matter of trying to take advantage of someone, it is a matter of trying to protect this country. That is what this is all about.

I hope this is not viewed as a take-it-or-leave-it proposition that has not been compromised. Some have said this is not a compromise, this is an agreement—meaning, apparently, the President was not willing to bend; or our side was not willing to compromise in any way, but we did agree to disagree and we are going to vote for the bill. That is the way I interpret that. It should not be that way. I don't think that is a justifiable response to the situation.

Going back to the beginning of this legislation, we must go back to Senator LIEBERMAN. Senator LIEBERMAN began this process. He should get great credit for that. He and a few others heightened our awareness to the need to take a different look. It was in the Governmental Affairs Committee, the committee that deals with Government organizations and reorganizations. Goodness knows, many Members have known the whole Government has needed a reorganization for many years. He said we should look at a reorganization with regard to the parts of Government regarding homeland security. We did not agree on exactly how to do that.

We had several hearings. We had committee consideration. I offered several amendments as ranking member on the Governmental Affairs Committee. Some of the amendments simply were trying to incorporate current law into the Homeland Security Department and were voted down pretty much along partisan lines. We tried to negotiate the personnel flexibility issue at that point. We did not meet with any success at that point in trying to negotiate any of those things out. Senator LIEBERMAN had the votes. He passed the bill. He is to be commended for that. We might not be here today if it was not for him.

The fact is, there was disagreement and discussion and his side prevailed along party lines on just about every vote when we tried to get some authority for the President that other Presidents had. The answer was no. We tried to get personnel flexibility; some of the unions opposed that, but I think the people support it. The answer was no, all along the line. This has not been a totally one-sided proposition from our standpoint. I voted against the proposal in committee at that time. It was before a national strategy had been submitted by the President. I thought the President ought to have an opportunity, at a minimum, to analyze the nature of the problem and come forth with a comprehensive national strategy. That is what happened.

This bill, today, not only is not what Senator LIEBERMAN proposed, it is not what the President originally proposed, either. The President had more flexibility in his original proposal than is found in this amendment. The original bill did not have the various provisions in title V, nonwaivables. I do not think there was an intention to make them expendable at all, the various protections were not in the bill, but we wound up putting those in the bill. The President wanted appropriations transfer authority, up to 5 percent of appropriated funds. The President did not get that. That is not in this bill.

When it came down, Senator GRAMM and Senator ZELL MILLER, the two Senators who made the major proposal and response to the Lieberman bill, and whose work was so effective and we certainly would not be here today without their work, they suggested 2 percent, the President be given appropriations transfer authority up to 2 percent. We are going to have to create a new Department. We have to have some flexibility, some money to make these changes up to this amount. That is not in the bill either. An indemnification provision that was in Gramm-Miller, that is not in this bill either.

So there are things that each side wanted that are not in this bill. It has been compromised and discussed all along the way. It is true that somewhere along the line someone has to prevail on certain key issues. It is true that the President stood pat, pretty much, on his national security authority and took the position from day 1, and maintained that position throughout, that he simply was not going to relinquish any authority that all other Presidents had since the time, really, of John F. Kennedy, when there was an Executive order that gave him that authority, and since the time of Jimmy Carter, that there has been a statute that gave them that authority. Democrat and Republican Presidents both exercised that authority. It passes down to George W. Bush, and the proposal on the other side was that there be new hurdles the President might have to go jump over before he could exercise that authority.

It made no sense to us or to the President that in a time of war we would be giving the President additional hurdles and roadblocks in order to, on occasion, exercise his national security authority in certain areas. He maintained that provision. He prevailed on that position. That is the position that is in this bill, and rightfully so.

The same thing is true with respect to personnel flexibility. I will discuss that perhaps in some detail. We have had a lot of discussion about this agreement or compromise, or whatever you would call it, that we introduced yesterday, but we really have not gotten into the details of what is in it to any great extent. If anyone wants to come down and speak on this bill, I will be glad to let them do so. But until that time, I will just go over a few of the provisions that are in this amendment that we filed.

With regard to the issue of personnel flexibility, as we know, the bill to create a Department of Homeland Security consolidates 22 Federal agencies comprising 170,000 employees, 17 different unions, 77 existing collective bargaining agreements, 7 payroll systems, 80 different personnel management systems. It is a monumental job under any circumstances—a monumental job. Reorganizing an agency with all the vested interests and positions that involves is a big job. This is a monumental job. It is imperative that some sort of procedure is put in place to enable the Secretary to create one unified Department to prevent terrorist attacks and protect our homeland.

We all agree that flexibility is needed. We have not been able to come to agreement, up until now, as to how much flexibility is required—flexibility meaning the guy who is going to run the agency, have to take the responsibility, have the accountability but be given the tools to get the job done with. That is a big job—the most important job, probably, in Government, outside the Presidency itself, in light of the world in which we live.

The idea of providing agencies with some increased flexibility with regard to personnel management is not revolutionary. Almost half of all Federal executive branch employees already work in agencies with human resource management programs that operate, in whole or in part, outside the framework of Federal employees laws that are in title V.

I think we need to realize on the one hand that employees probably should not have an equal seat at the table with managers when it comes to running a Department; on the other hand, we need to emphasize in the law that some employee rights are basic they are basic and should not be subject to the whim of a manager.

An employee is entitled to appeal rights. We can discuss whether it ought to take 5 years to get something resolved or whether we ought to have five different levels of appeal. I think that is ridiculous in the day and age we live in now. We can do better than that but still keep those appeal rights. The manager should not be the judge and jury and executioner but should have the right to manage and then some appeal rights if he oversteps his authority.

This new bill sets up a consultation process for the creation of a human resources management system. It sets four steps management must take in order to create the new system. There is detailed language that provides for a preimplementation congressional notification, consultation, and mediation process the Department must go through, involving the management and employees of the Department, the Office of Personnel Management, Congress, Federal employee unions, and the Federal Mediation and Conciliation Service. So there is quite an elaborate process of consultation and even mediation where these views have an opportunity to be aired.

It is not all one sided. Sometimes reasonable people can actually sit down and modify their views when they have a chance to talk. It is not as if all the employees are going to look at it the same way. If I were a good employee, the way most of the employees are, and I were offered the opportunity of my management, my Department, having some more flexibility so that I could move more toward the things I am interested in and good at, that had a chance of higher pay and more recognition and a more significant mission, such as homeland security, but in exchange I had to agree that if I did something that caused disciplinary action I would only have, let's say, three levels of appeal instead of five, I think I would take that deal. I think most employees would take that deal.

In the first place, the overwhelming number of employees do not even get in that position because they are good employees. This is not something about which most employees are going to be concerned. I think it is going to be something most employees will embrace, if some of their leadership will be honest with them about what this is all about.

We are not talking about lower pay. We are talking about potentially higher pay. We cannot get good technicians in the modern marketplace to work for the Government at the salaries we are paying now. We are going to have to do better.

There is good news in this bill. It is not an onerous thing, looking for a way to fire a bunch of people. That would never work. Natural attrition is going to take a tremendous toll on Federal employees anyway. We are going to be looking for good people. But a manager simply has to have the right in any kind of organization, especially one this big, especially one this complex, especially one that has this troublesome track record that so many of our Departments and Agencies already have—a manager must have some flexibility. We cannot incorporate the mess we have created in so many areas of Government into homeland security.

We have a golden opportunity to take the first steps toward doing something different, doing something right, something that can be a template, an example for other parts of government.

Also in this amendment is a provision concerning reorganization authority. It is important for Congress to consider granting the Secretary the ability to make programmatic reorganizations within the Department. It will take many years for the Department to get up and running efficiently. There may be many instances, for example, in which the various functions within the Department can be consolidated in order to eliminate overlap and duplication.

If you listen to GAO, and you ever read any of those reports—and you could fill this room to the ceiling with GAO reports talking about inefficiency, waste, fraud, abuse, overlap and duplication, year after year, Department after Department after Department. But in order to deal with this, a manager ought to have a right to do some consolidation.

While waiting for Congress, both Houses, with its 88 committees and subcommittees of jurisdiction, to hold hearings, introduce legislation, consider their proposal in subcommittee and committee, debate on the issue, vote, and then hold a conference on the legislation, it is important the Secretary be able to implement these changes in a timely manner.

Gramm-Miller was somewhat broader. The Secretary could go outside the agency, reporting to Congress. This does not allow going outside an agency. But it does not require a report to Congress. So there is an adjustment there. There is a compromise there. There is another indication that this is not a cram-down. This is the product of serious discussions back and forth, just as was Gramm-Miller. That whole process was a product of Senator GRAMM and Senator MILLER and others of us sitting down across tables and working out minute details.

That work product, which is the basis of where we are today, was moved further toward the positions of some of our other colleagues in order to get something that people not only could grudgingly support but something they really thought was a good product and still got the job done.

You can always compromise and get an agreement just about on anything if it is meaningless enough and inconsequential enough. That is not the only key—getting a deal. The key is to get a deal that will get the job done and people can feel good about.

The bill before us today would enable the Secretary to initiate an internal reorganization that would reallocate functions among the offices of the Department so long as the Secretary submits a comprehensive reorganization plan to Congress.

I think this language goes a long way toward giving the Secretary the flexibility needed to ensure the long-term viability of this new Department.

Procurement flexibility is another important area. It is important throughout Government. It is especially important here. All of these problems need to be looked at with a magnifying glass. All these problems we see in these other areas—all of these, well, we need to do better here or there—become really magnified when you realize a handful of people with modern technology can murder tens of thousands or hundreds of thousands of people when you consider the vast ranging infrastructure that we have which is 90 to 95 percent in private hands. It is not something the Government can turn a switch and change overnight. When you consider that, all of these difficulties that we have had become greatly magnified.

Procurement is another issue that, for many years, we have accepted that the Federal Government has paid a premium, both in dollars and in time spent for goods and services it buys solely because of the unique requirements it places on contractors.

While the Federal procurement system has been streamlined and simplified over the last several years, much redtape and barriers still exist. This is due in part to trying to maintain the proper balance between an efficient procurement system and accountability when spending taxpayer dollars.

Last year, Congress provided the Defense Department with the authority to quickly and efficiently purchase the most high-tech and sophisticated products and services in support of the warfighter. I am pleased that the present bill includes provisions giving the Department of Homeland Security similar authority in its efforts to defend against terrorism and provide flexibility to buy technologies or products that are cutting edge but that may not have made it through the commercial marketplace yet.

Further, the bill also includes language that gives similar flexibilities to Federal agencies Governmentwide to support antiterrorism efforts and to defend against biological, chemical, radiological, or other technology attacks. Although these Governmentwide flexibilities are more limited than those provided for in the new Department, all agencies of Government will be able to better avail themselves of the most sophisticated technologies in order to successfully fight against terrorism—one of the things Senator DURBIN was talking about just a while ago.

The bill before us today includes a provision that requires the Secretary to develop and submit to Congress a plan for consolidating and coallocating the more than 1,000 field offices that will fall under the new Department's jurisdiction. Previous versions of the legislation required the Secretary to come back to Congress to ask permission to change these field offices. The language in this bill is more proactive, requiring the Secretary to take the initiative to come up with a way to unify the Department's front line of defense.

As to congressional oversight structure, we know what the situation is there. We have to have a sense of the Senate. Congress is beginning to acknowledge the obvious. As I mentioned before, the Department of Homeland Security will have 88 committees and subcommittees claiming jurisdiction over various aspects of this Department. It is bad enough for departments that must answer to two or three different committees. I can't imagine how much energy will have to be focused on reporting to Congress rather than to the Department. That oversight responsibility is important. It is just not the amount; it is the quality of it.

There is a provision in this bill for a sense of Congress rather than an actual requirement for Congress to revise its committee structure. That at least is a step in the right direction and an acknowledgment that Congress really should address the question of revising its committee structure and doing something about the fact that there are 88 committees and subcommittees that deal with this matter. That is not going to work. I think Congress would acknowledge that.

Another issue that is important to highlight is the compromise proposal for securing our Nation's borders.

There has been little dispute that the Immigration and Naturalization Service needs much improvement. On the one hand, there have been problems with INS enforcement functions and ensuring that those who may want to enter the United States to do us harm are not admitted. On the other hand, the INS has experienced big problems in backlogs in the processing of applications for visas and other immigration benefits for those qualified aliens who lawfully want to enter the country. So we have a law enforcement function and a services function.

This bill both strengthens the INS functions and promotes a stronger border. It places all of the INS enforcement functions, including Border Patrol inspections, within the Border and Transportation Security Director. This will allow the Border Under Secretary to effectively coordinate immigration efforts at the border with Customs and the Transportation Security Administration allowing the Department to create a seamless border.

In addition, it establishes a bureau of citizenship and immigration services which will report directly to the Deputy Secretary.

The services part is not getting lost in the shuffle. It is important and will report directly to the Deputy Secretary.

This bureau will focus on immigration service, including the processing of visas and naturalization applications and administering other immigration benefits. The separating and restructuring of the immigration enforcement and service functions within this new

Department will help establish the framework for increased security at our borders, as well as improve services for lawful immigrants.

I picked up the New York Times this morning, and I read a story that starts out as follows:

> "The Immigration and Naturalization Service has begun an internal review to determine how a man suspected of having ties to the Islamic radical group Hezbullah was able to become a naturalized United States citizen," several agency officials said yesterday.

There is story after story after story. We must—must—do better, and hopefully this will be a significant step in the right direction.

During my tenure on the Governmental Affairs Committee, I spent a lot of time on legislation and oversight to protect the security of Federal computers and information systems. Senator LIEBERMAN and I worked very closely together in this regard for some years. I am pleased that this bill includes the Federal Information Security Management Act which will require Federal agencies to utilize information security best practices to ensure the integrity, confidentiality, and availability of Federal information systems. This language builds on and makes permanent the foundation laid by the Government Information Security Reform Act, a relatively new law which Senator LIEBERMAN and I sponsored, which requires every Federal agency to develop and implement security policies that include risk assessments, risk-based policies, security awareness training, and periodic reviews.

Now, that sounds like a big mouthful that is hard to understand, but what it means is our computers are very vulnerable to cyber-attack. As a part of our infrastructure, it is very vulnerable. A lot of people think the next big attack, if we ever have one in this country, will be preceded by this kind of cyber-attack. We must do more and do better in that regard.

At a time when uncertainty threatens confidence in our Nation's preparedness, the Federal Government must make information security a priority. The language in this bill is vitally important to accomplish this objective.

Law enforcement authority for inspectors general may seem like a small item, but it is an important item, and it is a part of an even more important thing; that is, the homeland security bill itself. I am pleased this bill includes a provision, which again Senator LIEBERMAN and I sponsored, to codify law enforcement authority for certain Presidentially appointed inspectors general.

In the wake of September 11, the FBI is diverting resources and agents to fight against terrorism like we have never seen before. As a result, the Bureau will rely even more heavily on the work of inspectors general to investigate fraud and other crimes in the Federal Government. This provision will ensure that the IGs have the tools they will need to carry out these investigations.

Now, this is not exactly the bill I would have drafted myself. I think almost anybody who speaks on behalf of it would say that. Some would say that is an earmark of a good bill. Some would say that is an earmark not of something that is being forced down folks' throats but is the earmark of something that has been compromised and worked out.

The intelligence issue is an extremely important one. How do we handle the intelligence issue with regard to the Department of Homeland Security? It is a big issue. It is a big problem.

Throughout this process, there have been a couple of different approaches to the creation of an intelligence directorate for the new Department. Some have sought to create a superintelligence agency that could direct other agencies that would be responsible for connecting the counterterrorism dots. It is a complicated problem.

We talk about connecting the dots. If the dots had been connected and had been there on the board for one person to connect, we would have avoided 9/11. The problem with that is these dots were within a sea of dots. For every dot we now know was significant, there were scores of dots right around it that looked the same that we now know apparently were not significant. So it is a big problem, much bigger than just putting somebody in charge of dot connecting.

Others, like myself, have argued for a structure much more modest that would be responsible for conducting threat and risk analysis and producing vulnerability assessments; in other words, look at our infrastructure. We have problems enough just assessing the vulnerability of our farflung infrastructure in this country, and then working with intelligence to figure out how best to protect it.

The emphasis of this structure would be on a critical infrastructure. One of my chief concerns, which I have repeatedly expressed in the Governmental Affairs Committee and on this floor, is that we not act too broadly in regard to creating this intelligence directorate. It is imperative we do not lull Members into believing we have taken comprehensive reform of our intelligence community when so much, in my opinion, remains to be done in that regard.

But, for the most part, I am satisfied with the intelligence provisions in the compromise legislation that is before us. These provisions combine the directorates for information analysis and critical infrastructure, as requested by the President. It would be responsible for analyzing terrorism threat information, assessing the vulnerabilities of the American homeland, and producing risk assessments, something not being done anywhere else in the Federal Government.

These assessments tell us of the likelihood that a target will be attacked and will help us best allocate our limited resources. I believe this is the proper emphasis for this directorate.

Still, this bill goes further than I would prefer in the amount of information that is provided to the new Department. Specifically, the access-to-information provisions provided in this new directorate mean they will receive all information on terrorist threats, even if the provider of the information considers such information to be highly sensitive or not particularly useful or raw material. The only way to avoid this requirement is for the provider to convince the President the information should not be shared. If the President says this information is not to be shared, it will not be shared.

So I would prefer the burden be on the recipient to show a need for this information rather than the burden being on the President to stop it, but it is not a major consideration.

The fact of the matter is, we are going to try this out for a while to see what is best. We are not going to have it right in a lot of these areas, no matter which direction we take. But we will only learn how we can improve by getting started. That is why this bill right now is so important. We need to get started and see how it works.

Even our Constitution, as the Framers of our Constitution knew, is not a perfect document in that it would be exactly the way we would want it for 200 years without any changes. We saw some ways we could improve it. And that will not be any different with this legislation.

This provision will radically alter the current relationship between consumers and providers of intelligence information. I certainly agree with those who suggest the traditional means of sharing intelligence information with the community must be revamped. But I think it should be done next year as a part of a larger look at our intelligence community. I am concerned. The intelligence community is no different than the rest of our Government in that you live and you learn and you adjust. And we are undergoing a big adjustment now because of the change in the nature of the primary threats to this country, and the reprioritizing that is going on, and the fact that for well over a decade we saw a decline in emphasis of some of the things we know are very important now, such as human intelligence, such as signals, intelligence capabilities, and still have the same operation. There is much more out there for that same operation to collect and deal with. They are swamped with information, and there are big adjustments to make. I admire the men and women who are valiantly trying to deal with it, but they have not dealt with it well in some respects.

We simply have to let the chips fall where they may after we have done a thorough analysis of what we are doing right and what we are doing wrong, and to what extent we need to reorganize, to what extent leadership has to be different. How do we get the good people we need? How do we keep them motivated? What should Congress do to give them political support?

Congress is great about seeing the horse running out of the barn and down the road and pointing out that the horse is out of the barn. We need to see how we can do a little bit better in terms of helping to resolve the problem instead of criticizing the way we have done it, and causing our intelligence community to hunker down and have as their No. 1 goal, which is the impression I get sometimes, not getting in trouble, not getting in trouble with us. I think that is a good goal, but it is not an exclusive goal. It is not even the most important goal.

All that needs to be looked at. If we think, in creating this Homeland Security Department, and a little Intelligence component emphasizing our infrastructure, that we have really dealt with all of that, we are fooling ourselves. That is a job for a little further down the road.

I notice the Senator from Illinois in the Chamber. I have a bit more, but if the Senator wanted to comment, I would be glad to relent.

I yield the floor.

Mr. DURBIN. I thank the Senator from Tennessee. I also thank him for his dialog with me during the last hour or two concerning my pending second-degree amendment which, as we noted in the RECORD, relates to modernizing information technology in the Federal Government to protect our Nation against terrorism.

I have discussed this with the Senator from Tennessee, and I know from some experience in this body that there are moments in time when you should try to find a good exit strategy which achieves as closely as possible your goals. I believe the Senator from Tennessee and I have agreed on such a strategy. I would certainly like to see my amendment adopted as part of the Department of Homeland Security legislation. It would be a valuable addition.

The Senator from Tennessee and I have discussed it. He has supported my amendment in committee, and I believe he agrees with it at least in principle. However, we are faced with an extraordinary legislative responsibility to pass this bill literally in the closing hours of this session with very limited opportunities, if any, for amendment, or conference committee, resolving differences with the House.

So what I have agreed to with the Senator from Tennessee is to take a different approach and to be prepared to withdraw the amendment with an understanding and a colloquy between us on the floor relative to the issue. I thank the Senator from Tennessee for agreeing to that.

I believe there is a serious omission in this bill in that it does not address directly the issue of modernizing and coordinating information technology. The amendment which I have suggested, however, adds little more to the existing Federal statutory requirement of the Office of Management and Budget.

In 1996, two colleagues I have served with, former Congressman Bill Clinger of Pennsylvania and former Senator Bill Cohen of Maine, passed the Clinger-Cohen Act related to information technology management reform—1966, 6 years ago. If you read this and what they said in the law and required of the Office of Management and Budget, you reach the inescapable conclusion that this agency already has been tasked with the responsibility of modernizing information technology in the Federal Government. The sad reality is that after the passage of this legislation in 1996, it appears that little has been done, certainly not nearly enough has been done to meet the challenge we currently face since September 11, 2001, in terms of modernizing our computers.

The Director of the Office of Management and Budget is required, under the Clinger-Cohen Act of 1996, to make plans for information technology acquisition. Note that I said 1996. The reason I believe this amendment is necessary is that many years have passed with relatively little progress on improving Federal information systems and their interoperability. I believe that we can't wait any longer. In the name of national security, in the name of homeland security, we must demand that the Director of the Office of Management and Budget take the steps that would have been required by my amendment and by the Clinger-Cohen Act of 1996.

OMB must, in consultation with the Secretary of this new Department, develop a comprehensive enterprise architecture plan for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security, including the agencies inside the new Department and those that are outside of it but key to homeland security, such as the FBI and the CIA.

OMB must develop time lines, realistic and enforceable time lines, that are met to implement this plan. And a particular person must be designated to be responsible for this effort. There has to be someone in charge of this project beyond Mr. Daniels, who serves as head of the Office of Management and Budget. There needs to be a person who is well skilled and versed in information technology with the authority, the power, and the responsibility of dealing with this issue. This person has to carry out the duties of the Director of OMB.

I also believe OMB must keep Congress informed on the development and implementation of this plan. My amendment would have required a yearly report.

I am fortunate that the people of my home State of Illinois have renewed my contract a week or so ago and given me an opportunity to serve for another 6 years. It will give me an opportunity to stay on top of this issue. I will pursue this issue and others of law and order in this venue, while my colleague from Tennessee pursues them in another venue. But I believe that what we are doing here is to at least serve notice on OMB that under Clinger-Cohen of 1996, they have the power and the responsibility, and with this new Department, they have a new imperative to meet these guidelines, these schedules, these time lines, and to really make significant progress.

We need to do more than just ask for a report. We need action. I will revisit this issue again in the next Congress, if significant progress is not made, but I trust that Mr. Daniels and members of the administration who share my concern about information technology will put their best efforts to work to make certain that it is met.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, as I understand it, my colleague from Illinois has withdrawn his amendment.

AMENDMENT NO. 4906 WITHDRAWN

Mr. DURBIN. Mr. President, if I may at this point, pursuant to the agreement I had with the Senator from Tennessee, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I appreciate my colleague's withdrawal of his amendment. As he knows, I agree with what he is trying to do with this amendment. I was a cosponsor of it when he offered it in the Governmental Affairs Committee. I agreed to cosponsor his amendment in committee because the problem of interoperability of Government information systems is a real problem and one we have tried to address for years. I mentioned the IRS a while ago as being a very good example of that.

Congress passed the Clinger-Cohen Act of 1996 in response to concerns about how the Federal Government was managing and acquiring information technology. Clinger-Cohen built on the information management requirements of the Paperwork Reduction Act. The Director of the Office of Management and Budget, under both of these laws, is charged with the responsibility of overseeing and evaluating agencywide information technology management and acquisition. It is certainly consistent with OMB's own implementing guidance to expect that the Director will develop, in consultation with the new Secretary of Homeland Security, a comprehensive enterprise architecture plan for information systems, including communications systems to achieve interoperability. I agree with Senator DURBIN that OMB should develop and meet time lines to implement this plan.

Senator DURBIN's amendment would have required a particular person to be designated to be responsible for this effort. Certainly with all those people they have at OMB, I am sure they have someone with the expertise to be responsible for the success of this effort. I do know this is something that the folks at OMB are concerned about, and I have full faith that they will do the right thing about it.

I thank Senator DURBIN for his leadership on this important issue. I am confident the administration hears this and will be responsive on this issue.

On a couple of other issues having to do with our amendment that is under consideration today, as we attempt to wrap up the homeland security bill, there are provisions here dealing with the Department of Energy National Laboratories on which I would like to comment for a moment.

I strongly believe the new Department of Homeland Security, and particularly the Science and Technology Directorate, can benefit greatly from the cutting edge research and development being performed at our National Laboratories in this country—crown jewels of this Nation—much of which is directly related to homeland security.

Senator DOMENICI, Senator BINGAMAN, and I have worked hard to craft language that will allow the new Department of Homeland Security to take advantage of the expertise that is resonant at our National Laboratories in order to strengthen homeland security. I must say, however, I am disappointed that the compromise bill included language allowing the new Department to select a so-called "headquarters laboratory" from the National Laboratory system to serve as the focus for homeland security R&D.

I believe all the National Laboratories have something to offer this new Department and that the DHS should be able to directly access whichever laboratory it believes can best serve a given need. There should be a level playing field in this regard.

For example, if the Oak Ridge National Laboratory in Tennessee—just to pick a laboratory at random—has developed a technology that would help to strengthen our homeland security, or is conducting research in an area of particular interest in the new Department, the Secretary should be able to go to this laboratory directly and take advantage of that. The Senate bills—the Gramm-Miller bill and Lieberman bill—set up a mechanism to allow this type of interaction.

The compromise includes many of our principles in these bills but doesn't place the same emphasis on this level playing field. I will note that the language in the compromise is permissive; that is, it allows the new Department to select a headquarters laboratory but doesn't require it to do so. I encourage the new Secretary, whoever he or she may be, not to do so. I hope the new Department will look at all of the National Laboratories for assistance and fully utilize the tremendous capabilities they have to help strengthen our homeland security.

On the issue of risk sharing and indemnification, which has been referred to earlier, I am disappointed the bill doesn't include language that would give the President the ability to exercise existing discretionary authority to indemnify contractors and subcontractors for Federal agencies' procurement of antiterrorism technologies and services. I had hoped this bill would clarify that the President, if he chooses, may use the indemnification authority of current law to provide companies supplying goods and services to the Government some certainty about the risk involved when developing cutting edge counterterrorism tools.

The law now covers wartime products and services—certain products and services having to do with wartime, and they are defined in the law and in the bill. But there are other items, such as mail sorters, and things of that nature, that may not fit into the same category I think ought to be covered, too. Instead of the indemnification provisions included in the Gramm-Miller amendment, this bill includes some limited tort reform provisions to protect the manufacturers and sellers of antiterrorism technologies that satisfy certain requirements.

Under the principles of federalism on which our country is based, tort laws are traditionally reserved to the authority of several States. I have never been one, just because I liked a certain policy, to federalize something that had been the province of the States for 200 years, simply because I wanted to conform it to my idea of national policy. That is inconsistent with our position on federalism. There comes a point on balance where the need for the development and deployment of effective antiterrorism technologies throughout the Nation supports the creation of national or Federal standards, upon the determination by the Secretary, of the technology if it meets the statutory criteria.

As time goes on, things change, certain things become national issues, certain things become matters of concern of even national security. We are living in a different world, and I think we must respond to that. We make some progress toward doing that, without wholesale so-called reform that would totally federalize the areas that have been under the province of States since the creation of our Government.

Corporate inversion is another area that is dealt with in this bill. I am disappointed that the bill includes language to prohibit the Secretary from entering into contracts with U.S. firms that have reincorporated outside the U.S. through a series of transactions, commonly referred to as inversion. It is a very popular idea to punish folks who go outside and incorporate. We would do a whole lot better if we concentrated on improving the tax that caused it to happen. It is going to be part of this bill, and I wish it was not.

The Committee on Governmental Affairs, which has jurisdiction over Federal procurement policy, has not held a single hearing to consider this issue and its impact on the procurement process.

There are consequences to what we do around here. I think we will discover there are some consequences to this—maybe unintended—and they will be addressed later. So be it. One result of the language would be—get this—to allow foreign companies that have always been foreign based to bid on Department of Homeland Security contracts, but it would preclude foreign companies headquartered in the U.S. before the Department was created from bidding on U.S. Department of Homeland Security contracts, even if the work would be performed in the U.S. by American workers.

Maybe somebody will step up and tell me how that makes sense. It is in there, and it is not nearly as important an area as these other very beneficial sections of this bill.

In the interest of full disclosure, as I go through these provisions, I have to state my honest beliefs about them. This provision is not one of our finer moments in the bill.

In conclusion, I think we have come a long way since the Governmental Affairs Committee, under Senator LIEBERMAN's leadership, first considered legislation to create a Department of Homeland Security back in June. I look forward to the Senate's final consideration in the next few hours, days, or whatever, of this compromise amendment that I have introduced on behalf of Senators GRAMM, MILLER, and myself. I do not believe we will necessarily get everything right the first time around. But it is important that we come to agreement as soon as possible. I think this bill does that and, for that, I am happy.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Mr. President, I come to the floor in support of Senator LIEBERMAN's amendment to strike the provisions in the homeland security package that have nothing to do with homeland security.

Mr. President, we are here for the most critical and compelling of public interests; namely, our homeland security. But I have to say that we make a mockery of our duties if, instead of focusing our attention, our time, as we end this session, on this absolutely essential issue, we let the Homeland Security Department bill become a vehicle for other matters, special interests, pet projects that Members in either House have, instead of focusing on the business at hand.

Senator LIEBERMAN has eloquently listed a number of these provisions that have been inserted into the homeland security bill in the other House. I know my colleague from Connecticut is here to talk about something taken out of the bill that has direct implications for homeland security, which makes the shell game going on even harder to understand.

Among the many provisions that have no business being in this bill at this late hour of this session is one that offers special protection against litigation for pharmaceutical companies that manufacture childhood vaccines by using the homeland security bill to dismiss existing lawsuits. Now, I, along with Senators DODD and DEWINE, have legislation that we think is very important when it comes to pharmaceuticals and children.

We believe that protecting our children against shortages in the universally recommended childhood vaccines for diseases such as measles, tetanus, and polio is absolutely critical. Our bill would provide stockpiles and advance notice so that the Centers for Disease Control can manage shortfalls without having to turn children away when they come for immunizations.

There are very few public health achievements in the last century more significant than protecting children against vaccine-preventable diseases. Yet as we meet today, we are struggling with a vaccine shortage which clearly we need to deal with as soon as possible. It is a very important, sensitive issue.

We have bipartisan consensus around what we should do. Yet we could not put it on the homeland security bill. We were not given an opportunity to try to deal with a real problem, namely, the shortage of vaccines. We were told it was an unsuitable vehicle. Yet we find that others have not shown the same degree of respect for our Nation's security and have added all kinds of unrelated provisions.

I specifically want to focus on the vaccine liability provision. By excluding our vaccine supply proposal, they cannot even argue with a straight face that these provisions are needed to protect our children and protect their access to required vaccines.

The few one-sided provisions that have been snuck into this bill not only fail to protect or advance homeland security, they even fail to adequately protect our children against preventable diseases. All they do is protect manufacturers of vaccines against lawsuits.

What is really sad is that we in the HELP Committee had been working on a comprehensive approach to dealing with these vaccine issues. Senator FRIST from Tennessee had such a bill that would include many of these provisions because he acknowledged, as a physician, that we not only needed to figure out what was appropriate to protect manufacturers from unnecessary liability, but, first and foremost, how to benefit children, consumers, and families.

We have worked very closely over a number of months with the Senators and their staffs—Senator FRIST, Senator GREGG, Senator KENNEDY, as well as Senator DEWINE and Senator DODD—to try to figure out how we would deal with these vaccine issues. They have been very productive discussions. We fully expect we will reach a bipartisan resolution early in the next session.

Unfortunately, we are now confronted with a homeland security bill that not only undermines our discussions but, once again, puts the health of our pharmaceutical companies in front of the health of our children. That is by no definition I am aware of homeland security. In fact, it is just the opposite. It is home insecurity. What are our families supposed to do? Many of us read the article in last week's New York Sunday Times magazine about the potential link between this very ingredient that the House has decided to protect against lawsuits, a compound known as thimerosal which is made of mercury that was put into a number of pharmaceutical preparations to preserve them, including into vaccines.

My colleagues read the article. We do not know what the right conclusion is. We do not know whether this has any effect on the rather alarming increase in the number of children who are diagnosed with autism and the related problems associated with the autistic condition, but we know it is a problem. Now all of a sudden, we are taking one provision out of all of the hard work that Senator FRIST and others have done to deal in a comprehensive way with our vaccine issues of shortage, liability, manufacturing standards, and everything else, plucking one thing the pharmaceutical companies wanted out and sticking it in homeland security. It is not surprising I guess after being here now for nearly 2 years. It is still stunning that in the midst of a debate about how to protect ourselves, by George, we are going to protect our pharmaceutical companies from what may or may not be fair questions about liability.

Now we will never know because it was those parents of children who had developed autism who were bringing the lawsuits to get to the information to figure out what was going on with this compound. Now they will be foreclosed from pursuing their lawsuits. They will be told: Sorry, whatever research and work you have done to come up with some answers—and these parents deserve these answers—apply to the vaccine liability fund and we will take care of you, but we are not going to go any further; we are not going to try to find out what really is at the root of this increase in autism.

It is a very sad commentary that this is where we have come with this debate. As I listened to my colleague from Connecticut, whose idea it was to have the Homeland Security Department, whose legislation he masterfully maneuvered through the Governmental Affairs Committee, against the opposition of the administration, list all of these extraneous untested provisions that have been stuck into this bill at the last minute is disheartening because there has been no one who has believed more strongly in homeland security and the need to get our Federal Government smarter and quicker and more flexible than Senator LIEBERMAN.

I urge my colleagues to support the Lieberman amendment to strike unrelated provisions. If what we are concerned about is homeland security, if what the administration and the President have been talking about during this past election season about protecting our homeland is absolutely what we are supposed to be doing, then let's do that job. Let's do the job that needs to be done on homeland security without undermining other important issues that should go through the legislative process to reach the kind of bipartisan resolution they deserve.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, before my colleague from New York leaves the floor, I wish to join with her in this call for support of the striking amendment. I am going to try to offer a couple of amendments—I do not know what kind of success I am going to have—to put some provisions back into the homeland security legislation dealing with the professional firefighters, as well as some law enforcement officials.

I have letters I will read into the RECORD shortly from the International Association of Firefighters and from Federal Law Enforcement Officers Associations urging in the strongest words possible that these amendments be included as part of the homeland security bill.

The point my colleague from New York has made, the great irony she has pointed out is that we now have provisions in the bill that have nothing to do with homeland security. They are a backdoor effort to undermine legislation being developed in a bipartisan fashion. We had cooperation.

We are now being told in this bill that we are going to undo efforts made dealing with children's safety and children's health and exclude the very provisions that are asked for by the first responders to homeland security threats—firefighters and law enforcement.

Mrs. CLINTON. Will the Senator from Connecticut yield for a question?

Mr. DODD. I will be happy to yield.

Mrs. CLINTON. I am well aware of the Senator's longtime support for firefighters and the work he has done throughout his career to make sure our firefighters have the resources they need.

Isn't it ironic that we stand here debating a homeland security bill which has no money for first responders, and the only money that was in there they have now taken out? There is not a single penny that is going to the firefighters, the police officers, the emergency responders on the ground, and we are going to leave with a continuing resolution that also has no additional resources.

Since September 11 of last year, with our firefighters and police officers having faced many more challenges, is it not the Senator's understanding they have not received additional resources?

Mr. DODD. My colleague is absolutely correct. In fact, one of the things we find—I am sure the Presiding Officer has had the same experience—are simple things such as interconnectivity so that firefighters can talk to police departments. One of the problems we discovered in New York, the State that our distinguished colleague so ably represents, in the wake of 9/11 in New York City, was that the firefighters could not speak to each other—incompatibility of systems. They have been asking for some Federal help so police departments could talk to fire departments, could talk to emergency medical services and get some help in doing so. That was one of the provisions we wanted. That has been included in this bill.

It is incredible that we are faced with provisions in this bill to protect—and I say this as someone who represents many of them—the pharmaceutical companies that have objected to the idea of having to face a potential liability as a result of efforts to protect children from dreadful health problems. Yet the bill excludes language that would do exactly what the Senator from New York has described, and that is to see to it we have additional new firefighters on the ground. We have asked for it.

Reading from a letter from the International Association of Fire Fighters, they state:

> On behalf of the 250,000 professional fire fighters who are members of the International Association of Fire Fighters, I want to express our deep gratitude—

And I apologize we are not going to be able to fulfill their sense of gratitude.

> for your leadership and effort in amending the homeland security bill to provide for fire fighter staffing. Your fire fighter staffing amendment expands upon the FIRE Act Grant program . . .

And then it goes on to say:

> As fire fighters in New York and Washington demonstrated on September 11, fire fighters save lives and are the linchpin to an effective terrorism response. Fire fighter staffing must be part of the homeland security bill.

It has been stricken. It is no longer a part of this bill at all. The Federal Law Enforcement Officers Association efforts are also not reflected in this bill now. They have been trying to get some help and support and that is not in here.

I ask unanimous consent that the correspondence from the International Association of Fire Fighters, the International Association of Fire Chiefs, and the Federal Law Enforcement Officers Association be printed in the RECORD so our colleagues can have the benefit of reading what these national and international organizations are calling for.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERNATIONAL ASSOCIATION OF
FIRE FIGHTERS,
Washington, DC, November 14, 2002.

Hon. CHRISTOPHER DODD,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: On behalf of the more than 250,000 professional fire fighters who are members of the International Association of fire Fighters, I want to express our deep gratitude for your leadership and effort in amending the homeland security bill to provide for fire fighter staffing.

Your fire fighter staffing amendment expands upon the FIRE Act Grant Program to allow for the hiring of thousands of new additional career fire fighters. Currently, inadequate staffing is the major crisis facing the fire service. Two-thirds of all fire departments currently do not have enough fire fighters to meet industry standards for safe fire ground operation. This exposes fire fighters to increased hazards when they respond to emergencies. Your amendment addresses this major firefighting hazard.

As fire fighters in New York and Washington demonstrated on September 11, fire fighters save lives and are the lynchpin to an effective terrorism response. fire fighter staffing must be part of the homeland security bill.

Again, thank you for your time and leadership on this important issue.

Sincerely,

HAROLD A. SCHAITBERGER,
General President.

INTERNATIONAL ASSOCIATION OF
FIRE CHIEFS,
Fairfax, VA, November 14, 2002.

Hon. CHRISTOPHER J. DODD,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: The International Association of Fire Chiefs (IAFC) strongly supports your amendment to Department of Homeland Security bill (HR 5005) which would create a federal grant program to assist local governments in hiring career fire service personnel.

As you well know, our nation's first responders have been historically short-handed on the front line in responding to fire and life safety emergencies within our communities, as well as to emergencies involving the nation's critical infrastructure. Response to fires, medical emergencies, specialized rescue, releases of hazardous materials, and now threats and acts of terrorism have placed significant stresses on our limited personnel. The need for additional training, staffing and equipment has increased dramatically over the last several years as the nation's first responders have accepted these additional critical response roles.

The federal government stepped forward in 2000, recognizing that the fire service's expanded role needed support beyond that which most communities were capable of providing. The Firefighter Investment and Response Enhancement (FIRE) Act provided much needed funding to purchase basic equipment and safety programs for communities unable to afford them.

But, our most critical resource is people. National studies have shown that a crew of four (4) on a responding apparatus is the most efficient crew when attacking a structure fire. The same studies showed that there was not only a higher level of efficiency in carrying out the department's mission, but a higher margin of safety for the public and emergency response personnel. However, there are few communities capable of providing that level of staffing. National statistics show that sixty percent (60%) of fire departments operate at emergency scenes with inadequate staffing. In addition, many of our members also serve in our nation's armed forces as reservists and national guardsmen and women. When they are called to duty in defense of our country they are no longer available to serve their communities in the fire department. This places an additional strain on our already limited human resources.

The LAFC greatly appreciate your leadership on this issue.

Very truly yours,

GARRY L. BRIESE, CAE,
Executive Director.

FEDERAL LAW ENFORCEMENT
OFFICERS ASSOCIATION,
Washington, DC, November 14, 2002.

Hon. CHRISTOPHER J. DODD,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: On behalf of the 20,000 federal agents who are members of the Federal Law Enforcement Officers Association (FLEOA), we respectfully request that SA 4839 be attached to the pending legislation creating a Department of Homeland Security. As you know, SA 4839 is an extension of S. 2770 introduced by you in May 2002 with bi-partisan support. FLEOA believes this is an urgently needed solution to the grievous problems existing in the federal agent pay structure.

FLEOA is a non-partisan professional association representing federal agents from the agencies listed on the left masthead. We are on the front line of fighting terrorism and crime across the United States and abroad. The current pay structure for federal law enforcement does not enable us to recruit the best and brightest to our ranks and retain senior agents in high cost of living areas. SA 4839 is the first step to rectifying this tremendous problem. SA 4839 only amends the locality pay for federal agents that were specified in Public Law 101-509. This proposal is supported by the Fraternal Order of Police (FOP), National Association of Police Organizations (NAPO), National Troopers Coalition (NTC), International Brotherhood of Police Organization (IBPO), and the Police Executives' Research Forum.

Again, FLEOA respectfully requests that SA 4839 be attached to the legislation creating the Department of Homeland Security. We thank you for your leadership on this issue.

Sincerely,

RICHARD J. GALLO.

Mr. DODD. I ask unanimous consent that we temporarily lay aside the pending amendment so I may offer two amendments en bloc.

Mr. THOMPSON. I would have to object.

The PRESIDING OFFICER. The objection is heard.

Mr. THOMPSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4951 TO AMENDMENT NO. 4902

Mr. DODD. Mr. President, I will send to the desk an amendment in the second degree. This does not strike any provisions of the underlying amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment No. 4951 to amendment No. 4902.

Mr. DODD. I ask unanimous consent reading of the amendment be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for workforce enhancement grants to fire departments)

At the end insert the following:

SEC. . GRANTS FOR FIREFIGHTING PERSONNEL.

Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

"(c) PERSONNEL GRANTS.—

"(1) DURATION.—In awarding grants for hiring firefighting personnel in accordance with subsection (b)(3)(A), the Director shall award grants extending over a 3-year period.

"(2) MAXIMUM AMOUNT.—The total amount of grants awarded under this subsection shall not exceed $100,000 per firefighter, indexed for inflation, over the 3-year grant period.

"(3) FEDERAL SHARE.—

"(A) IN GENERAL.—A grant under this subsection shall not exceed 75 percent of the total salary and benefits cost for additional firefighters hired.

"(B) WAIVER.—The Director may waive the 25 percent non-Federal match under subparagraph (A) for a jurisdiction of 50,000 or fewer residents or in cases of extreme hardship.

"(4) APPLICATION.—An application for a grant under this subsection, shall—

"(A) meet the requirements under subsection (b)(5);

"(B) include an explanation for the applicant's need for Federal assistance; and

"(C) contain specific plans for obtaining necessary support to retain the position following the conclusion of Federal support.

"(5) MAINTENANCE OF EFFORT.—Grants awarded under this subsection shall only be used to pay the salaries and benefits of additional firefighting personnel, and shall not be used to supplant funding allocated for personnel from State and local sources."; and

(3) in subsection (f) (as redesignated by paragraph (1)), by adding at the end the following:

"(3) SUPPLEMENTAL APPROPRIATION.—In addition to the authorization provided in paragraph (1), there are authorized to be appropriated $1,000,000,000 for each of fiscal years 2003 and 2004 for the purpose of providing personnel grants described in subsection (c). Such sums may be provided solely for the purpose of hiring employees engaged in fire protection (as defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203)), and shall not be subject to the provisions of paragraphs (10) or (11) of subsection (b).".

Mr. DODD. Mr. President, I thank my colleague from Tennessee.

I wanted to offer two amendments in one slot. I thought creatively of having one amendment en bloc, but that was not acceptable, so I made a choice on the two amendments, both of which are very important. I will explain both of them. The one pending deals with the firefighters and the tremendous need that exists to expand the workforce of first responders. I don't care which State you go to, when you talk of responding to terrorism, those called upon first to respond are State police, local police, firefighters, emergency medical service providers.

That point hardly needs to be made. Those who watched the scenes of 9/11, know who were the first responders to the World Trade Center and the first responders to the Pentagon. It is ironic, as we consider this homeland security legislation, the provisions struck by the other body as they sent the bill over were the provisions for assistance to the local first responders in the case, God forbid, of a terrorist attack.

I wanted to include an amendment to amend the Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas. The Presiding Officer is sensitive to this question, as we represent neighboring States. There, we are losing people from our Federal law enforcement agencies because of the pay differentials. It is impossible to meet the costs of living in certain areas of the country. I will make another effort before this bill is completed to see if we can consider that critically important amendment to the homeland security effort.

For purposes of this debate, the only amendment that will be under consideration is the amendment dealing with firefighters. Both of these amendments fix glaring omissions in the pending substitute. The amendment I am offering on behalf of the firefighters provides Federal assistance to local fire departments to hire 75,000 new firefighters to address new homeland security needs.

Senator JOHN WARNER, my friend and colleague from Virginia, and I recognized the problem of firefighter understaffing shortly after September 11 and we wrote legislation to help solve the problem. The amendment is based on the bill Senator WARNER and I wrote. This amendment also builds on the FIRE Act, which Senator DEWINE and I authored in 2000. With the support of Senators WARNER and LEVIN the FIRE Act became law, and has provided some $400 million to tens of thousands of firefighters around the country. Today's amendment is also nearly identical to an amendment authored by Senator CARNAHAN, which was accepted by the Governmental Affairs Committee earlier this year.

One aspect of being prepared is to have the men and women on the ground who can put out the fires and respond to the injuries and the tragedies that may occur. Just as we call upon the National Guard to meet the increased needs of more manpower in the military, we must make a national commitment to hire additional firefighters necessary to protect the American people on the homefront. The legislation we proposed would put 75,000 new firefighters on America's streets over 7 years.

Since 1970, the number of firefighters as a percentage of the U.S. workforce has steadily declined. Today in the United States there is only one firefighter for every 280 citizens. We have fewer firefighters per capita than nurses and police officers, and we need to turn this around now more than ever. Understaffing is such a problem that according to the International Association of Fire Fighters, nearly two thirds of all fire departments cannot meet minimum safety standards. OSHA standards require that for every team of two firefighters in a burning structure, another team of two be stationed outside to assist men in the event of collapse. Sadly, too many men and women are lost because there is no second team outside the unstable buildings. We saw this in Worcester, Massachusetts a few years ago.

I will not go down all of the provisions that emphasize the importance of having the additional personnel on the ground. I mentioned earlier we had a letter from the International Association of Fire Fighters, and that letter is printed in the RECORD, along with a letter from the International Association of Fire Chiefs. So this is a case where you have both labor and management making the same request as we consider this homeland security legislation.

I do not want to belabor the point. I am struck by the fact we would drop provisions which have been almost universally supported in this Chamber even prior to 9/11, the need for additional personnel on the ground to provide assistance to local communities through grant applications. To give an idea of the pent-up need, when we originally authored the FIRE Act which was to provide grant moneys to local departments, the 33,000 around the country, paid, volunteer, or combination departments, there was $100 million put into the budget to provide grants to local communities. In excess of $3 billion in applications in the first year came to FEMA because of the pent-up need that exists across the country for additional equipment, and to provide additional personnel, additional training, so firefighters can respond.

Most Americans today are aware, obviously, that the role of firefighters and EMS services are vastly different than even a few years ago. Today, firefighters are called upon to respond to situations where highly toxic chemical materials are involved. The degree of sophistication to be brought to the trade of firefighters is so much more complicated than before, as the demands have increased dramatically. When we speak of volunteer departments, for instance, we rely on the good will and the spirit of volunteerism. In many of our rural and local communities, people volunteer to serve. Yet today they are called upon to respond to very complicated and dangerous situations.

There was an overwhelming degree of support when Senator WARNER and Senator LEVIN took the bill that Senator DEWINE, myself, and others fashioned and included as part of the Defense authorization bill. Then, of course, the appropriations were forthcoming and the demand was evident. After 9/11, the demand increased dramatically as a result of the new threats of terrorism.

I am deeply troubled and saddened that we are talking about homeland security and yet there is nothing in this bill, nothing, that provides one red penny to hire first responders of terrorist attacks. How ludicrous is that? We are talking about a homeland security bill and we have nothing in here to go to local police, fire, and EMS services, and we will call this a homeland security bill. The great irony, as our colleague from New York pointed out, is there are provisions in this bill to protect the pharmaceutical industries from lawsuits where vaccines are developed for kids. How do you explain that to the American public? We sneak provisions in this bill to protect corporate America, yet we will not provide money to those who are called upon to respond, God forbid, if another terrorist attack occurs. How do you explain that to the American public?

Under these procedures we are dealing with—and it gets confusing even for those who have been here a while with post cloture and other procedural roadblocks—I am probably not going to get a vote on this amendment dealing with the firefighters. I probably should not waste the time to bring it up, but people ought to know that while people go around and beat their chest about homeland security in this bill, you should not be deluded by the name. The name may sound pretty good, but underneath it are a lot of problems. There are things that are in this bill that have nothing to do with homeland security, and there are things that should be in here that are not. These firefighters need our help and support and backing.

I regret I was not able to include the problem dealing with law enforcement, an amendment which has—I will not bother listing everyone here, I will include these names for the Record—a broad-based constituency here of some 30 Members of this Chamber who have supported this bill, S. 2770: Senator BAUCUS, Senator BIDEN, Senator SNOWE, Senator DEWINE, Senator DURBIN, Senator COLLINS, Senator CORZINE, Senator SCHUMER, Senator MURRAY, Senator WARNER—the list goes on here, of our colleagues who have supported this law enforcement provision that I mentioned earlier about the great disparity in pay. We are losing these people.

I am not allowed under the procedures to offer that amendment now. I will try to find a chance to do it in the next few days, at least to make an effort to have it as part of this bill. Again, I have a very strong letter from the law enforcement agents, asking for some assistance here.

I don't know how you explain to people what we are doing in homeland security as law enforcement and firefighters here are basically going to be left out of this bill. I regret that is the case.

I am faced now with this particular second-degree amendment, and we will see what happens over the next day or so and whether or not we can actually get a vote on it, but I wanted to take a few minutes to explain my concerns about it.

Earlier this year, of course, we had adopted funding for the FIRE Act as a separate appropriation. It was not vetoed, but it was tantamount to a veto. It was what we call sequestered by the President. He took those moneys and basically said I am not going to sign this into law. So the grant money for communities in Rhode Island and New Jersey and Michigan—all across the country—who were looking for us to be a partner in getting better prepared to deal with the threats of terrorism, I am sorry to tell you, are not included in here. I don't know who you are including in homeland security, but you are not part of the deal. Apparently the pharmaceutical industry is, but we are not. We will try our best in the next few days to rectify this, but under the rules and procedures I don't think it is going to happen, I am sad to report. Maybe we can try in the next Congress.

But I am saddened we are passing a homeland security bill and firefighters and law enforcement officials are not going to be a part of this effort, at least as far as these amendments are concerned.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, first I thank the Senator from Connecticut for his eloquent remarks. I could not agree with him more.

When we look at this bill, a bill that I fully want to support—I support setting up a Department of Homeland Security and the goals involved, and have supported moving this forward. But as we look at the details of what has been given to us from the House, it is unbelievable. When we look at first responders, people in Michigan on the front lines on the ground—not only police and firefighters and EMS but our Border Patrol who are working double time and triple time, and those from local law enforcement who have been assigned—we have been trying to provide some reimbursement for, their overtime and the costs to local units of government. It is amazing to me that in the name of homeland security we have a bill in front of us that does not include many things that are critical to our security in this country but that includes items, frankly, that are outrageous special interest items that are being stuck in the bill, hoping we will not notice.

We all are concerned about homeland security and want to move forward together to put together the strongest safety and security for our citizens. I want to speak to one of those today that colleagues have already spoken to that is a provision, unfortunately, in this bill, that protects the financial security of the pharmaceutical industry, not the homeland security of the people of America. This provision I find absolutely outrageous and I intend to support the Lieberman amendment to withdraw this from the bill.

The homeland security bill contains a provision that will expand the liability protections that currently exist for vaccines to include other components such as vaccine preservatives like thimerosal. This was included in the bill with no debate, no committees.

How many times have we heard on this floor as we were debating so many bills—I remember on prescription drugs—we heard over and over again that we should not be adding important provisions that would lower the prices of prescription drugs because, colleagues on the other side of the aisle were saying, we had not gone through the regular legislative process. We had not had hearings. There had not been votes in committees.

Yet now, in the 11th hour of the session of this Congress, we see a provision added that nobody has looked at other than a few people, I would argue, operating on behalf of one of literally the strongest special interests in this country today.

There are six drug company lobbyists for every one Member of the Senate. They certainly have earned their pay on this bill.

When we look at this particular provision and we look at the fact that we have an industry that has stopped a bill that we sent to the House, S. 812, that was a bipartisan bill to create more competition for the industry through generics, opening the border to Canada, giving States the ability to negotiate on behalf of the uninsured, a bill that would lower prescription prices today, immediately when passed—they are successful in killing that bill that passed last July in the Senate. Yet they are able to place a provision in the homeland security bill that will virtually exempt from liability a company that is making a product over which there is great concern as it relates to the safety of children.

Thimerosal, which is manufactured by Eli Lilly and Company, is the subject of several class action lawsuits based on increasing research connecting this preservative, which contains mercury, to the rising incidence of autism in children. Just this weekend the New York Times ran a very comprehensive six-page story about the growing body of evidence connecting thimerosal with autism and other developmental disorders in children. While the research is far from conclusive, is this narrowly written special interest provision, unrelated to homeland security, the way to respond to concerns that relate to this issue and concerns about mercury as it relates to vaccines and additives and the whole question of autism in children and what contributes to it? Is this the way to do that?

Don't children and their families merit the full protection under the law and due process to be able to sort through some very serious issues and to allow the courts to work their will, looking at the evidence? The provision in this homeland security bill, brought to us from the House of Representatives, would severely limit parents' ability to get justice for their children. How is that homeland security?

The provisions include vaccine components in the National Vaccine Injury Compensation Program. It is a program in which awards are given and they are limited to funds available through a special trust fund so liability is limited. Instead, it is a no-fault system. That would now include vaccine components, which is a far broader definition than vaccines.

In 1988, Congress enacted the National Vaccine Injury Compensation Program as a no-fault alternative to the tort system for resolving claims resulting from adverse reactions to mandated childhood vaccines. This Federal no-fault system is designed to compensate individuals or families of individuals who have been injured by childhood vaccinations, whether administered in the public or private sector. Damages are awarded out of a trust fund that is financed by excise taxes of 75 cents per dose imposed on each vaccine covered under the program.

This bill seems to be protecting the financial interests of a company, Eli Lilly, rather than the taxpayers who will now see, through this fund, a greater subsidy, and families and children across this country.

What I find particularly disturbing is we are looking at a company whose CEO is in the top five for compensation with $4.3 million in compensation last year and unexercised stock options valued at $46 million in the year 2001. A 2001 study of the top 50 drugs marketed to seniors shows that Eli Lilly and Company posted $115 billion in revenue. I do not in any way object to successful business, although I guess in this case I would say given the inability of people to receive medicines, I find that kind of salary and others across the industry disturbing.

But what I am particularly concerned about is that a company which is so successful, an industry that is the most successful in the country, and highly subsidized by taxpayers, would now be in a situation to protect themselves from liability, and to jeopardize families and children who are asking that their case be heard about potential threats of mercury placed into vaccines and the possible connections to autism.

The protection in this bill is included for an industry that gets a higher return on its revenue than any other industry in this country, or in the world. If we are looking at protection, certainly we ought not to be adding another subsidy to an industry that is so heavily subsidized by all of us now—highly subsidized. And, yet, most people, many people in this country cannot afford the product they make.

I support the Lieberman amendment to strike this provision. This provision does not belong in the homeland security bill. This provision should go through the process of hearings so both sides can be heard. We also have a court process going on that we need to respect and allow to continue.

I am hopeful my colleagues will join with us to exempt this provision from the bill so we can in fact focus on homeland security, and not a very clear special interest provision put in by an industry that already receives many special provisions.

An issue as serious as potential mercury poisoning of children certainly deserves serious deliberation and deserves the full legislative process.

Let me say again that colleagues earlier this year on the Medicare prescription drug bill—on our generic bill as well as on many other bills—have come to the floor from the other side of the aisle expressing concern about issues that had not gone through committee. If this is a serious issue—and I believe it is a very serious issue—doesn't it merit that same high standard? Subsidizing Eli Lilly and taking away the ability of families to recover from liability because of potential mercury poisoning of their children does not belong in this homeland security bill. I find it shameful that it was put in.

I hope my colleagues on both sides of the aisle will join with us to remove this provision.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, may I say to the distinguished Senator from Michigan, Senator STABENOW, that I have listened to what she has said. I am not surprised by what she has indicated that she has found in this reservation. I think it supports my viewpoint; namely, that we ought not vote on cloture tomorrow on this bill—cloture at some point, undoubtedly. But I hope we don't vote for it tomorrow. This bill needs further scrutiny. It needs a microscope upon it. We need to study it. We need to know what is in this bill which has suddenly been foisted upon us within the last 48 hours—a new bill.

There are those who maintain we have been on this subject matter for 5, 6, or 8 weeks, or more. That is one thing. But we haven't been on this bill. This is a new bill. Senator STABENOW is talking about provisions that are in this bill that haven't seen the light of day before. These are new and disturbing. And yet we are being asked on tomorrow to apply cloture to shut off debate so there can only be 30 hours remaining for debate on this bill.

I hope Senators will listen to Senator STABENOW. I hope they will not vote for cloture tomorrow. We ought to do our duty. Our duty is to stay on this bill until the American people know what is in it, and so we Senators know what is in it. There are 484 pages in this bill which just came to light on yesterday. It is a new bill. There are some provisions in it that have been in other bills that have been discussed in the Senate earlier in the fall and in the summer. But there are many provisions in this bill that are absolutely new. We really do not know what else is in the bill. Things are being discovered as we go along. But who knows what else is in the bill?

I compliment the distinguished Senator from Michigan, a Senator who is absolutely able and always dedicated, always serving her constituents and the people of this country, who has a fine mind, and who is a tremendous legislator. I have so much admiration for her. I sit with her on the Budget Committee. And what she has said with respect to this particular bill I think we should hear. We should listen to her. I hope Senators will not vote for cloture on tomorrow.

Is there anything the distinguished Senator wishes to add?

Mr. President, I ask unanimous consent to yield to the Senator without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, first of all, I thank the Senator for his kind words. Second, I simply say, as Senator BYRD has said so many times on the floor, we need to look at details. We need to know what is in this bill. It is a different bill that came back. I was deeply disturbed as I looked through it. I want to support homeland security. I support developing a department. We all share that. This is not a partisan issue. We want to have maximum safety, security and ability, communicate it effectively and efficiently, and create the kind of confidence people expect us to create in terms of the ability to respond and ideally prevent attacks. But my fear is that under the name of homeland security we are saying special interest provisions are put in this bill which are outrageous and should not have the light of day. I think it is our responsibility to shine the light of day on those provisions.

I thank the Senator from West Virginia. I appreciate his good work.

Mr. BYRD. Mr. President, I thank the distinguished Senator. She has performed a tremendous service. I congratulate her, and I again thank her.

Mr. President, we hear this is a compromise bill. It is a compromise, all right. It is a compromise in many ways. It is a compromise of our civil liberties. It is a compromise of our separation of powers. It is a compromise of our checks and balances. It is a compromise of workers' rights. There are many compromises in this bill.

To express it as a compromise is a term that is often used around here in the legislative halls. Legislation is the art of compromise. We often compromise on legislation. Compromise on legislation is a series of compromises among Republicans and Democrats, and among committees. But, in this sense, this is a far different animal we have here. By passing this legislation, we are all complicit in a giant hoax. This is the worst kind of game playing possible in trying to foist this Department onto the American people as a substitute for real action on homeland security.

This Congress and this administration are both being irresponsible. Instead of providing the American people with real security, we are offering them a placebo, a sugar pill that will not protect them and will not make them safer, not by even the slightest measurement.

There will be an uncertain sound of the trumpet. And when I refer to the "uncertain sound of the trumpet," let me refer more specifically to the Book of 1st Corinthians, the 14th chapter. And I read from the 8th verse:

> For if the trumpet give an uncertain sound, who shall prepare himself to the battle?

Mr. President, Congress is about to give an uncertain sound to the American people. Based on what we shall all too soon, I am afraid, pass as a homeland security bill, they are going to feel more secure. They will not be. They are going to feel that Congress has enacted legislation that will make their homes safer, make their schools safer, make their communities safer, make them safer on the jobs. This legislation will not make jobs or schools or homes or communities one whit safer, not one whit safer.

The same people who will be employed in implementing the homeland security legislation to make the people safe are out there now, right this minute. They are on the northern border. They are on the southern border. They are in the ports of this country. They are in the hospitals. They are in the fire departments. They are in the law enforcement agencies. They are in the FBI. They are in Customs. They are already out there now. And tonight, at midnight, when you and I are in our beds and on our pillows, they will be out there.

We are not waiting until this bill passes for them to be out there. They have been out there for weeks and months. They have been doing a good job with what they have had placed in their hands by way of resources that they could use.

We saw the FBI arrest the persons in the cell in New York. The FBI was on the job. The FBI did not wait for this legislation to pass this Senate or the House and be sent down to the President and signed. The FBI was on the job.

People are not going to be one whit safer with the passage of this bill. They are going to feel a lot safer because we are trying to make them believe they are going to be safer. We are trying to make the American people believe that with the passage of this bill—and the administration is complicit, absolutely complicit in this.

The President himself has been out there all throughout the land, especially during the campaign, raising money for campaign purposes for electing their candidates, and all the while they have been with a nice backdrop of American Marines or soldiers or airmen, or whatever, but a patriotic backdrop, trying to make the American people believe that with the passage of this—if the Congress would only pass this homeland security bill, they, the people out there in the plains, in the mountains, in the valleys, on the prairies, will all be safer. They will not be 10 cents safer, Mr. President. They might be even less safe because in the next year, during which time these various and sundry agencies are going to be phased into this new Department of Homeland Security, during that time there is going to be chaos in a lot of these agencies. They will be moving phones, moving desks, moving chairs, trying to get accustomed to the new visions, the new objectives, and the people themselves are going to be less secure.

So we are offering the American people a placebo, a sugar pill. It is a political pill. It will not make the people safer.

We ought to be taking real action to protect lives now. Sadly, we are walking away from that responsibility. I only pray our irresponsibility does not result in lost lives.

Now, this is not how the American people expect this Congress to operate. When we were Members of the House of Representatives, or earlier than that, perhaps, or at some point, we have sent out letters, we have sent out booklets, telling the young people in this country—we tell these young pages up here—how your laws are made.

I remember years ago, when I was in the House of Representatives, sending out a little booklet to the people in my then-congressional district of how our laws are made. It is a joke.

We tell our young people that, first of all, a bill is offered by a Member of the Senate or the House. That bill is referred to a committee. And at a certain date, at a certain time, the chairman of that committee will have his committee called together, and he will place the bill before the committee for its consideration. And the members on both sides of the tables in that particular committee which has jurisdiction over that particular legislation will debate it back and forth, and they will offer amendments in the committee. They will talk about the bill. They will have their staffs seated around them. They will have good discussions of this bill that has been introduced by the legislature. Then the bill will be amended, perhaps, or, perhaps, in any event, it will finally be reported by the committee to the Senate or to the House for action. There it will be placed on the calendar.

Sometimes these beautifully written pieces on how our laws are made are illustrated by cartoons. We have all seen those cartoons. We then see that the bill is off to the Senate, and it is placed upon the calendar. And at some point in time, the majority leader or a Member, according to those cartoons, will call up the bill, and then will ensue a debate, a heated debate, Republicans on one side, Democrats on the other. And they will all work together. They will offer amendments again, and they will have a heated debate. They will answer questions. The witnesses, which first appeared in committees and testified on the bills, may then be seated in the galleries listening to the debate as it goes forward in the Senate and in the House.

After a while, then, after they amend, after that bill is appropriately amended, it finally reaches a vote, and it is passed by that body.

Then, according to the booklet on how our laws are made, that bill then goes to the other body. If it originated in the Senate, it goes to the House. If it originated in the House, after going through the workings of the committees, and so forth, and the debate on the floor, after its passage, it is sent over to the Senate. It goes through the same procedure then in the other body, where it is amended. And if there are differences in the House bill and the Senate bill, the bill is sent to a conference made up of Members of the two bodies, and the areas that are not in agreement will be worked on in the conference between the representatives of the two legislative bodies. Agreement will finally be reached as to every difference that was to be found between the two bodies. So all those differences will be resolved.

Then the conference report will be brought back to the House and brought back to the Senate and brought up at the appropriate time by the managers of the legislation on whatever committee had jurisdiction over the legislation, and then conference reports are brought up. Conference reports are debated, and they are agreed upon in both Houses.

Off goes the bill which is now an act. It goes by special messenger down to the President of the United States. It appears on his desk where he may sign it or he may veto it.

So we all remember how those laws are made according to the script as prepared there in those handsome little booklets that we send out.

That is how the American people expect this Congress to operate. That is the way we are supposed to operate. But the way this bill was brought in here,. less than 48 hours ago, a brandnew bill. It had not been before any committee. It had undergone no hearings, not this bill. It is a bill on our desks that has 484 pages. There are 484 pages in this bill. It has not been before any committee. There have been no hearings on this bill. There have been no witnesses who were asked to appear to testify on behalf of the bill or in opposition to it. It did not undergo any such scrutiny. It was just placed on the Senate Calendar. It was offered as an amendment here. And so here it is before the Senate now. There it is.

That is not the way in which our children are taught how we make our laws—not at all. The American people expect us to provide our best judgment and our best insight into such monumental decisions. This is a far, far cry from being our best. This is not our best. As a matter of fact, it is a mere shadow of our best. Yet we are being asked, as the elected representatives of the American people, those of us who are sent here by our respective States are being asked on tomorrow to invoke cloture on these 484 pages.

If I had to go before the bar of judgment tomorrow and were asked by the eternal God what is in this bill, I could not answer God. If I were asked by the people of West Virginia, Senator BYRD, what is in that bill, I could not answer. I could not tell the people of West Virginia what is in this bill. There are a few things that I know are in it by virtue of the fact that I have had 48 hours, sleeping time included, in which to study this monstrosity, 484 pages.

If there ever were a monstrosity, this is it. I hold it in my hand, a monstrosity. I don't know what is in it. I know a few things that are in it, and a few things that I know are in it that I don't think the American people would approve of if they knew what was in there. Even Senator LIEBERMAN, who is chairman of the committee which has jurisdiction over this subject matter, even he saw new provisions in this legislation as he looked through it yesterday and today. As his staff looked through it, they saw provisions they had not seen before, that they had not discussed before, that had not been before their committee before.

Yet we are being asked on tomorrow to invoke cloture on that which means we are not going to debate in the normal course of things. We are going to have 30 hours of debate. That is it, 30 hours. That is all, 30 hours; 100 Senators, 30 hours of debate. And this is one of the most far-reaching pieces of legislation I have seen in my 50 years.

I will have been in Congress 50 years come January 3. God help me to reach that date of January 3, 2003, the year of our Lord. In my 50 years here, that is the most far-reaching, certainly one of the most far-reaching pieces of legislation that I have seen in my 50 years. I have been on this Hill longer than anybody else in this Capitol on either side of the aisle in either body. In both bodies, I am the only person, 50 years. I have been here longer than all of you, staff people, Members, Members' wives. Take it or leave it, ROBERT BYRD has been here longer than anybody else—the security personnel, any policemen, whatever you call it, pull them out here, nobody, nobody in the House. JOHN DINGELL, he is the dean of the House; I served with his father in the House.

Never have I seen such a monstrous piece of legislation sent to this body. And we are being asked to vote on that 484 pages tomorrow. Our poor staffs were up most of the night studying it. They know some of the things that are in there, but they don't know all of them. It is a sham and it is a shame. We are all complicit in going along with it.

I read in the paper that nobody will have the courage to vote against it. Well, ROBERT BYRD is going to vote against it because I don't know what I am voting for. That is one thing. And No. 2, it has not had the scrutiny that we tell our young people, that we tell these sweet pages here, boys and girls who come up here, we tell them our laws should have.

Listen, my friends: I am an old meatcutter. I used to make sausage. Let me tell you, I never made sausage like this thing was made. You don't know what is in it. At least I knew what was in the sausage. I don't know what is in this bill. I am not going to vote for it when I don't know what is in it.

I trust that people tomorrow will turn thumbs down on that motion to invoke cloture. It is our duty. We ought to demand that this piece of legislation stay around here a while so we can study it, so our staffs can study it, so we know what is in it, so we can have an opportunity to amend it where it needs amending.

Several Senators have indicated, Senator LIEBERMAN among them, that there are areas in here that ought to be amended.

What the people of the United States really care about is their security. That is what we are talking about.

We don't know when another tragic event is going to be visited upon this country. It can be this evening, it can be tomorrow, or whatever. But this legislation is not going to be worth a continental dime if it happens tonight, tomorrow, a month from tomorrow; it is not going to be worth a dime. There are people out there working now to secure this country and the people. They are the same people who are already on the payroll. They are doing their duty right now to secure this country.

This is a hoax. This is a hoax. To tell the American people they are going to be safer when we pass this is to hoax. We ought to tell the people the truth. They are not going to be any safer with that. That is not the truth. I was one of the first in the Senate to say we need a new Department of Homeland Security. I meant that. But I didn't mean this particular hoax that this administration is trying to pander off to the American people, telling them this is homeland security. That is not homeland security.

Mr. President, the Attorney General and Director of Homeland Security have told Americans repeatedly there is an imminent risk of another terrorist attack. Just within the past day, or few hours, the FBI has put hospitals in the Washington area, Houston, San Francisco, and Chicago on notice of a possible terrorist threat. This bill does nothing—not a thing—to make our citizens more secure today or tomorrow. This bill does not even go into effect for up to 12 months. It will be 12 months before this goes into effect. The bill just moves around on an organizational chart. That is what it does—moves around on an organizational chart.

Mr. President, do you really believe Osama bin Laden cares whether the associate commissioner for border enforcement will have his title changed to the Assistant Secretary of the Bureau of Border Security? Will that make any difference to Osama bin Laden? Do you think the al-Qaida organization cares one whit whether that Assistant Secretary works for the Commissioner of the Immigration and Naturalization Service or for the new Under Secretary for Border and Transportation Security? No. Osama bin Laden doesn't give a whit what his title is going to be. The al-Qaida doesn't care about that. They are tickled to sit back and watch us be fooled into complacency by virtue of our passing this piece of trash.

That is not to say there are not some parts of the bill that are good. This whole thing is being rushed through, and we are all being pressured to pass it, vote for cloture. Let's get out of here. We have to go home, let's go. Let's get this thing out of the way. What Osama bin Laden would care about is whether there are more security guards, better detection equipment at our ports and airports. What Osama bin Laden would care about is whether we have enough border patrol agents to capture his terrorists as they try to enter this country. What Osama bin Laden would care about is whether we have sufficient security at our nuclear powerplants to deter his efforts to steal nuclear material or blow up a nuclear facility.

The Senate Appropriations Committee, on which Senator STEVENS and I sit, along with 27 other Senators, including the distinguished Senator who presides over the Chamber at this moment, the Senator from Rhode Island, Mr. REED, tried to provide funds to programs to hire more FBI agents, to hire more border patrol agents, to equip and train our first responders, to improve security at our nuclear powerplants, to improve bomb detection at our airports. That committee of 29 Senators—15 Democrats and 14 Republicans—voted to provide the funds for these homeland security needs. Those funds have been in bills that have been out there for 4 months. This administration, right down here at the other end of the avenue, has had its leaders over in the Republican-controlled House sitting on those bills. The chairman in the Appropriations Committee in the House saw the need for these bills. He tried to get the leadership in the House to take the cuffs off his hands and wrists and let him go forward with these appropriations bills. The answer was no. So the money has been there. All that needed to be done, all we needed in order to release those funds—I can remember in one bill we had $2.5 billion in homeland security funds. All the President had to do was sign his name to the effect that this was an emergency. That money would have flowed; it would have been out there now—not next week, not next year, but now it would have been out there.

Various people at the local level—the firemen, the policemen, people on the borders, border patrol, people in the ports, securing the ports, people at the airports that help the emergency personnel—all of these people would have had the advantage of that money flowing immediately for homeland security.

But the President said no—no, he would not sign it. President Bush is the man I am talking about. He would not sign that as an emergency. These moneys have been reported by a unanimous Appropriations Committee. But this administration said no. So that is what happened. These are actions that would make America more secure today. Did the President help us to approve these funds? No. Instead, the President forced us—forced us—to reduce homeland security funding by $8.9 billion, and he delayed another $5 billion.

This is shameful; this is cynical; this is being irresponsible. It is unfair to the American people. And then to tell them Congress ought to pass that homeland security bill—that is passing the buck.

Mr. President, I call attention to a column in the New York Times. This is entitled "You Are A Suspect." It is by William Safire. I will read it:

> If the homeland security act is not amended before passage, here is what will happen to you:

Listen, Senators. This is what William Safire is saying in the New York Times of November 14, 2002. That is today. This is what the New York Times is saying to you, to me, to us:

> If the Homeland Security Act is not amended before passage, here is what will happen to you:
>
> Every purchase you make—

Hear me now—

> Every purchase you make with a credit card, every magazine subscription you buy and medical prescription you fill, every Web site you visit and e-mail you send or receive, every academic grade you receive, every bank deposit you make, every trip you book and every event you attend—all these transactions and communications will go into what the Defense Department describes as "a virtual, centralized grand database."
>
> To this computerized dossier on your private life from commercial sources, add every piece of information that government has about you—passport application, driver's license and bridge toll records, judicial and divorce records, complaints from nosy neighbors to the F.B.I., your lifetime paper trail plus the latest hidden camera surveillance—and you have the supersnoop's dream: a "Total Information Awareness' about every U.S. citizen.

Every U.S. citizen, and that is you, that is you, that is you, that is you, that is you.

> This is not some far-out Orwellian scenario. It is what will happen to your personal freedom in the next few weeks if John Poindexter gets the unprecedented power he seeks.
>
> Remember Poindexter? Brilliant man, first in his class at the Naval Academy, later earned a doctorate in physics, rose to national security adviser under President Ronald Reagan. He had this brilliant idea of secretly selling missiles to Iran to pay ransom for hostages, and with the illicit proceeds to illegally support Contras in Nicaragua.
>
> A jury convicted Poindexter in 1990 on five felony counts of misleading Congress and making false statements, but an appeals court overturned the verdict because Congress had given him immunity for his testimony. He famously asserted, "The buck stops here," arguing that the White House staff, and not the president, was responsible for fateful decisions that might prove embarrassing.
>
> This ring-knocking master of deceit is back again with a plan even more scandalous than Iran-Contra. He heads the "Information Awareness Office" in the otherwise excellent Defense Advanced Research Projects Agency, which spawned the Internet and stealth aircraft technology. Poindexter is now realizing his 20-year dream: getting the "data-mining" power to snoop on every public and private act of every American.
>
> Even the hastily passed U.S.A. Patriot Act, which widened the scope of the Foreign Intelligence Surveillance Act and weakened 15 privacy laws, raised requirements for the government to report secret eavesdropping to Congress and the courts. But Poindexter's assault on individual privacy rides roughshod over such oversight.
>
> He is determined to break down the wall between commercial snooping and secret government intrusion. The disgraced admiral dismisses such necessary differentiation as bureaucratic "stovepiping." And he has been given a $200 million budget to create computer dossiers on 300 million Americans.
>
> When George W. Bush was running for president, he stood foursquare in defense of each person's medical, financial and communications privacy. But Poindexter, whose contempt for the restraints of oversight drew the Reagan administration into its most serious blunder, is still operating on the presumption that on such a sweeping theft of privacy rights, the buck ends with him and not with the president.

This time, however, he has been seizing power in the open. In the past week John Markoff of The Times, followed by Robert O'Harrow of The Washington Post, have revealed the extent of Poindexter's operation, but editorialists have not grasped its undermining of the Freedom of Information Act.

Political awareness can overcome "Total Information Awareness," the combined force of commercial and government snooping. In a similar overreach, Attorney General Ashcroft tried his Terrorism Information and Prevention System (TIPS), but public outrage at the use of gossips and postal workers as snoops caused the House to shoot it down. The Senate should now do the same to this other exploitation of fear.

The Latin motto over Poindexter's new Pentagon office reads "Scientia Est Potentia"—"knowledge is power." Exactly: the government's infinite knowledge about you is its power over you. "We're just as concerned as the next person with protecting privacy," this brilliant mind blandly assured The Post. A jury found he spoke falsely before.

If the American people, if the American public is to believe what they read in this week's newspapers, the Congress stands ready to pass legislation to create a new Department of Homeland Security. Not with my vote. Passage of such legislation would be the answer to the universal battle cry that this administration adopted shortly after the September 11 attacks: Reorganize the Federal Government.

How is it that the Bush administration's No. 1 priority has evolved into a plan to create a giant, huge bureaucracy? How is it that the Congress bought into the belief that to take a plethora of Federal agencies and departments and shuffle them around would make us safer from future terrorist attacks?

Osama bin Laden is still alive and plotting more attacks while we play bureaucratic shuffle board after we have already spent about $20 billion in Afghanistan to capture or to obliterate Osama bin Laden. He has surfaced on audio tapes boasting about how he is plotting additional terrorist attacks against the United States. Yet our only response is to reorganize the Federal Government. That is our only response, reorganize the Federal Government.

Right here it is, 484 pages of it, reorganizing the Federal Government. Am I missing something here?

Eleven of the thirteen appropriations bills have not yet been passed. Together they contain over $25.6 billion in funds to improve our homeland defense. That is money to hire additional border security personnel. That is money to purchase equipment at our seaports and airports to inspect packages for weapons of mass destruction. That is money for protection against cyber-attacks. That is money to protect our nuclear facilities, not a year from now but now. That is money to assist local police, local firefighters, local health care workers in case of additional terrorist attacks.

Yet the administration is refusing to allocate this money, refusing to turn on the spigot and let it flow, let it roll.

This is real money to improve America's safety, but instead of pushing for these resources, the administration's top and seemingly only priority is a bureaucratic reshuffling of agencies. So this administration will continue holding up the money needed to protect Americans—your children, your grandchildren, your wife, your in-laws, your friends—at home and it will be allowed to do so because it will have this flimsy 484 pages of legislation to cover its political backside.

The design of this hulking bureaucracy has been the administration's focus for the past several months. That is where it wanted Congress to focus its attention. That is where the administration wanted the American people to focus, not on providing real homeland security but, rather, on playing bureaucratic shuffle board.

We have witnessed a great show. We have been told that if only we pass this 484 pages of legislation—this political hoax that I hold in my hand, that many of us have not seen before yesterday—the American people have been told that if only we pass this legislation, all would be well.

But like the great and powerful Wizard of Oz, with his terrifying smoke, flames and roar, the reality of this too-good-to-be-true proposal will eventually be unveiled.

Mr. President, my concerns about this legislation and its several iterations are many. It gives the President too much unchecked authority. It gives the Secretary of the new Department too much unchecked authority. It makes massive changes in Government structure with little scrutiny, and it allows those changes to be made without the approval of the Congress.

It threatens changes to worker protections that could have enormous and detrimental effects. It extends the cloak of secrecy that has been a hallmark of this White House.

The PRESIDING OFFICER (Mr. DAYTON). The Senator will suspend. Senators will kindly take their conversations off the floor.

The Senator from West Virginia.

Mr. BYRD. Mr. President, this legislation not only cuts the Congress out of the loop, it also includes provisions to keep the people and the press—and the press had better take notice—it includes provisions to keep the people and the press, the members of the fourth estate, in the dark.

I don't think the media realize this about this bill. And the media has apparently swallowed the line that this is a compromise. It is more than that. It is a compromise of our personal liberties. It is a compromise of the privacy rights of our people. It is a compromise of the checks and balances. It is a compromise of the separation of powers. It is a compromise of the American people's right to know—the American people's right to know. It is a compromise of that.

For those who do not understand what I am saying, they should get this bill, 484 pages of it. It is a new bill. It did not exist anywhere until yesterday.

We have talked about how this whole idea of a Homeland Security Department, presented to us by this administration, we have talked about how it was hatched in secrecy in the bowels of the White House, how it was hatched in secrecy, cooked up by four different persons in the White House. I have named them earlier today: Mr. Card, Mr. Gonzales, Mr. Mitch Daniels, and Mr. Ridge. No disrespect to any of them—they are all fine people; they are all fine public servants—but they are not anything extraordinary, I would say that, insofar as people go. They hatched this thing. They hatched it in secrecy.

We understand from the newspapers this was talked about among the people in the administration, down in the secrecy of the White House. It had been talked about. It had been developed. And then it sprang forth like Minerva from the forehead of Jove, fully clothed, fully armed. There it was.

We could say the same thing about this bill that we are passing here. We have little right to complain about the White House and about the way in which it developed in secrecy this whole egg that was hatched and sprung upon us as the homeland security bill.

We have done the same thing right here. This was concocted in secrecy in the darkness of the night. It didn't see the light of day until yesterday—484 pages. We are expected to pass this. We are expected to invoke cloture on it tomorrow and pass it and tell the American people they are safer after the passage of that monstrosity.

No doubt there are some good things about that bill. There are some good things in it. Some of the provisions in this 484-page bill have come out of Senator LIEBERMAN's committee's deliberations, and it passed. Some of these have been discussed before, but not all of them. There are a lot of provisions in this bill that had not seen the light of day until yesterday.

The press has been kept in the dark. The press is going to realize all too late what has happened to the people's right to know that we were going to pass right here in this bill. I am going to address those provisions briefly in a few minutes. I hope the press will stay tuned because I want to point out to the press what is about to happen to the people's right to know.

I have often had my differences with reporters, but I am a firm believer in the freedom of the press and in the responsibilities of the fourth estate. If the Congress is going to so willingly blindfold itself to the inner workings of this administration and this new bureaucracy, I hope the press will not be so compliant. Hear me, those in the fourth estate. You stay tuned. I will point out part of this bill in a few minutes. But if you haven't read it as yet, it is going to turn your stomach because you believe in the people's right to know. I hope it will keep a watchful eye. I am talking about the media. I hope the media will keep a watchful eye on this new agency. Unfortunately, provisions contained in this bill will make it harder for the fourth estate—harder for you in the press—and harder for the people to do so.

I still find it difficult to believe that the American war on terrorism hinges on the building of a new, huge bureaucracy. Our plan to eradicate a vicious, cunning nest of vipers is to reorganize the Government.

I have read much about Senator BYRD and whether or not he would filibuster this bill. If I thought for a moment I could kill this bill here tonight by filibustering it, I would do it. But there are a lot of Senators here who wouldn't know a filibuster—a lot of people who wouldn't know a filibuster—if they met one on the way home. There are a lot of people who wouldn't know it if they met it in the middle of the road.

I intend to stand on my feet and try to expose some of the things in this bill that are not going to be good for the American people and which will not contribute to their safety.

Our plan to eradicate a vicious, cunning nest of vipers is to reorganize the Government. This is a massive reorganization. This is our battle plan—talking about the administration. This is its priority. This is our ammunition against the terrorist threat to our homeland.

A certain Senator here a few days ago talked about killing snakes. He talked about snakes in his State. He knew snakes when he saw them. Well, there are some snakes in West Virginia too. I knew about those snakes when I walked the red clay hills of southern West Virginia in Mercer County. We had copperheads back in those hills in those days and a few rattlesnakes. There are snakes. I know a snake when I see it. I saw a snake in this bill. This bill is a snake. If I could chop off its head, kill it dead, dead, dead, I would do it.

This 484 pages right here is what I am talking about. This is our initiative—this is the administration's ammunition. They know better than that. They know that is not going to make this homeland one whit safer.

I have listened very hard. I do not hear the American people clamoring for us to build a new, cumbersome, bureaucratic leviathan.

The midterm elections—despite what many of the pundits may believe—had little to do with the creation of this new Department. The American people weren't clamoring for this new bureaucracy. While Americans cast their ballots, they may have had hopes for safer communities than protection from terrorism, but I sincerely doubt that they were voting to create a huge, new bureaucracy.

Surely nobody believes that building a giant bureaucracy has suddenly become the nemesis to the threat of the acts of madmen on our people here at home.

With a battle plan such as the Bush administration is proposing, instead of crossing the Delaware River to capture the Hessian soldiers on Christmas Day, George Washington would have stayed on his side of the river and built a bureaucracy.

During the Civil War, President Lincoln would dismiss one general after another until he found one capable of building a better bureaucracy.

Perhaps what we are lacking to make this new idea really resonate with the American people is a powerful, stimulating slogan—a dramatic slogan such as the kind of slogan that we politicians slap on bumper stickers, one that would serve to inspire and unite our soldiers and our citizens.

Maybe we could draw from history to see how our new lust for a huge bureaucracy would fair.

I can picture Nathan Hale saying: I regret that I have but one bureaucracy to lose. I regret that I have but one life to give for my bureaucracy.

I can hear Captain John Paul Jones on September—I believe it was September 23, 1779—shouting: I have not yet begun to fight for my bureaucracy.

I can think of Commodore Oliver Perry hoisting his famous flag upon his ship with the motto: Don't give up the bureaucracy.

I can just imagine Commodore Stephen Decatur returning from the war on the Barbary Coast, offering his famous toast: My bureaucracy, right or wrong.

It just gives me chills to think of the people of Texas remembering the Alamo and being inspired to fight with the restoring battle cry: Remember the bureaucracy.

What about the professorial President Woodrow Wilson taking us into World War I with the proclamation: The world must be made safe for bureaucracy.

I was born during his administration. Nonsense, of course. But it has been said that necessity is the mother of invention. I guess then that political expediency has now become the mother of bureaucracy.

I don't think there is much doubt that the Senate will pass this legislation to restructure our homeland defense agencies. But my point is that the administration's plan is a sham. It is a sham. It is a political ploy. It worked well during the campaign. It was worked up in haste and for the wrong reasons.

Homeland security is a serious and dangerous matter involving the lives and the livelihoods of millions of Americans. We ought to be ashamed of ourselves to offer our people a quick bureaucratic pacifier instead of taking our time and working thoughtfully and carefully on an effective and lasting plan for the protection of the American people.

What we ought to be even more ashamed of, however, is the manner in which we are passing this bill. Prior to our recessing, hundreds of amendments were filed to make changes to the pending bill that had been reported by the Governmental Affairs Committee.

There were hundreds of amendments up at that desk. Yet Senators are choosing not to call up amendments. We are told that any amendments to this bill would force a conference with the House.

Now, get this. We are told that if we amend this bill, it will force a conference with the House of Representatives and could delay or even kill this bill. So Senators are being urged not to call up their amendments. And in many instances, they are choosing not to call up their amendments.

Is the Senate afraid of its own shadow? Are we afraid to think, to debate, to ask questions, to stand for something? Are we afraid to stand for something? Are we afraid to stand against a President of the United States? Is the Senate afraid to stand up against an administration, a political administration? Is the Senate afraid? Are Senators afraid to stand up against the President, to be the loyal opposition at this time of great distress?

It is a dangerous thing when a President believes that he is so right that he should be given any and all powers he deems necessary to achieve his ends. That is a dangerous thing. It is dangerous when a President believes that he possesses the people's consent to freely tamper with their rights and their liberties.

But it is considerably more dangerous when the elected officials such as ourselves, whose duty it is to protect the people's liberties against the excesses of an overreaching Executive, an overreaching White House, accede to a President's every request. Shame on us. Shame on us.

And it is even worse when we not only fail to impose restraint but actually aid and abet the Executive in a brazen power grab. That is exactly what this is.

The American people feel unsettled. They are nervous. They are jittery. They are scared. And they have every right to be. Their President has spent months and loads of taxpayers' dollars frightening them. Their Government has issued an unceasing proliferation of warnings about potential violence.

But the threats to our homeland go well beyond terrorist attacks. Our Nation is threatened, perhaps most seriously threatened, by a mentality that says that Presidents should have a free hand to do whatever they deem necessary whenever they deem to do it as necessary.

Our President has been speaking a great deal in recent months about our enemies and how they hate our freedoms. Mr. President, I doubt that they hate our freedoms. They hate our arrogance. They do not hate our freedoms. They hate our arrogance.

Our President has made protecting our freedoms a rallying cry. I have been working at protecting our freedoms for 50 years in this Congress. Fifty years come January 3, I have been working at protecting our freedoms. I have been helping to appropriate the moneys for our men and our women who serve in our military services.

The President has touched a raw nerve with the public, in speech after speech after speech about foreign terrorists who are attacking their liberties, and yet, in many ways, it is this President's proposals that are the most serious threats to the liberties of Americans.

We should be standing up and fighting for what is right in this legislation. That is the place to start to fight. That is where we start to fight to protect this land of ours, these people of ours, its institutions, the institutions of our country.

We should be standing up and fighting for what is right in this legislation. We talk about justice. Justice is fine. But what is right? We should be debating, offering amendments, and telling the American people like it is. We should be honest enough to admit that this new Department is a massive undertaking that is far more likely to provide political security for its proponents than to provide domestic security for the American people out there, at least for the foreseeable future.

I do not believe this is a time for us or for the American people to cower in a corner. I do not believe this is a time for the elected representatives of the American people to run like whipped dogs. This is a time for us to seize the power that was established for us by the courageous Founders of our Nation.

Mr. President, were it not for this Constitution, which I hold in my hand, you would not be presiding over this body at this moment. I say that to every Senator who sits in this body. And I say that for the people on the staffs of Senators. You would not be here. You would not be here, I would not be here were it not for this Constitution and for the great compromise—talk about a compromise—the great compromise which was entered into on July 16, 1787, out of which came this Senate, and the equality of votes of every State that is represented in this body.

This is not a time to be voiceless. This is not a time to be silent. This is not a time to vote for cloture and to hurry away home. This is not a time to give in and to give up on the ideals that led to the creation of our country.

Far too many Americans failed to go to the polls on election day and vote—far too many. I spoke of Nathan Hale, who said: "I only regret that I have but one life to lose for my country." And how many Americans did not even walk around the corner to cast a vote? They did not give one vote for their country. Far too many felt that the outcome of the election was beyond their control, that their votes would make no difference.

Today, I see far too many Members in this Senate falling into the same desultory way of thinking. Our votes matter, if we have the guts to make them matter. But, no, we are going to tuck our tails between our legs and run like whipped dogs and vote for cloture and go home. That is not right.

The American people have a right to know what is in these 484 pages. My constituents have a right to know. Your constituents, Mr. President, have a right to know. The constituents of every Senator on both sides of the aisle have a right to know what is in this bill.

We Senators have a right to know what is in this bill. We Senators ought to insist that we not invoke cloture on tomorrow but that we wait. Invoking cloture is all right down the road somewhere, maybe a week from now, but we ought to take the time to study this bill. Our staffs ought to know what is in this bill. We ought to know what is in this bill before we cast our votes.

Yes, I admit the handwriting on the wall is all too obvious. But I will do what is right in my frail way of thinking and seeing things. I will vote against this bill, unless it is amended—unless it is amended.

(Mr. CORZINE assumed the Chair.)

Mr. BYRD. I will probably vote against it, anyhow, because we are being pressured into voting for something that has not had a committee hearing, not a single hearing, 484 pages. There has not been a single hearing on this bill. There have been no witnesses called to testify in support of this bill. There have been no witnesses who have had an opportunity to stand before a committee and oppose this bill.

That is no way to legislate. Yet we are going to pass one of the most far-reaching pieces of legislation that we have passed in my 50 years in Congress.

It will provide for a massive shift of power. To whom? To the President of the United States. If he were a Democrat, I would oppose this just as vociferously, just as strongly, just as bitterly as I oppose this piece of legislation right here. I don't oppose it because we have a Republican President. I am going to oppose it because it gives away the powers of the people. It provides for a massive shift of power to the executive branch. It upsets that delicate balance of power the Framers provided to the American people over 200 years ago.

The popularity of a President is a fleeting thing, a fleeting thing. Our duty to our Nation is not.

One serious problem with the legislation before the Senate is the expanded authority it gives to the executive branch to conduct its actions in secret. Here is where I hope the press, the fourth estate, will pay close attention.

I have great respect for a free press. I have not always been happy with what the free press has written about me, but in my 50 years, I think overall the press has been very fair to me. I have no complaints. Some of the things the press has said that I didn't like I deserved. I am for a free press.

One serious problem with the legislation currently before the Senate is the expanded authority that this legislation gives to the executive branch to conduct its actions in secret, protected from the oversight, protected from the scrutiny of the Congress, the media, and the American people.

An example of this expanded secrecy that has been added in this new bill can be found in the exemptions that it provides from the Federal Advisory Committee Act. This is section 871 of the new substitute that we have just been given, the substitute that fell like manna from heaven. But this didn't come from heaven, I can assure you. It fell into our laps about 48 hours ago without any warning, and we are asked to invoke cloture on this thing tomorrow.

Let me say that again. An example of this expanded secrecy that has been added in this new bill can be found in the exemptions it provides from the Federal Advisory Committee Act. Section 871 of this new substitute we have just been given provides the Secretary of Homeland Security blanket authority—get that, blanket authority—to exempt all advisory committees in the Department from existing public disclosure rules.

That is pretty serious. This provision was not included in Senator LIEBERMAN's substitute, but it has been slipped into this new bill which was made available to us, as I said, late Tuesday night of this week. I am told it was 5 in the morning. It appeared on the web site of the House Rules Committee, I believe, the night before, Tuesday night. It was made available to us just within these last 48 hours with the hope that Senators will not have enough time to scrutinize this dramatic change to an existing statute.

The statute I am talking about here, the Federal Advisory Committee Act, applies to the ad hoc committees that are often used in the executive branch to formulate policy. This statute, the Federal Advisory Committee Act, which has been on the books for 30 years now, requires the advice provided by these advisory committees is objective and accessible to the public.

The purpose of making this information available to the public is to allow the Congress, the media, and groups outside of Government to know how the executive branch is making important policy decisions. The role of this oversight and scrutiny from the public and a free press is central to upholding the principles of our government, of our constitutional system. It ensures that the people—the people—will be the ultimate judges of the wisdom of the policies of the Federal Government.

I understand this new Homeland Security Department will be wrestling with many issues of national security that should not be subjected to public disclosure rules. Sometimes these advisory committees will be dealing with classified intelligence information or with sensitive security policy, and making this information available to the public might compromise national security and the fight against terrorism. I understand that. But that is exactly why existing law allows the President of the United States, be he a Democrat or a Republican, to waive these public disclosure rules for any advisory committee for national security reasons.

The President can do that on a case-by-case basis in the current law. So the President has this authority today. He will have it tomorrow. And he will be able to use it to protect any advisory committee in the Homeland Security Department from having to disclose information when national security information is involved. But he will be accountable for that. He will be responsible for that.

So why do we see an expansion of this authority given to the Secretary in this bill? Why do we see an expansion of this authority given to the Secretary of the Department of Homeland Security in this bill?

Advisory committees can already be exempted from public disclosure rules for national security reasons by the President on a case-by-case basis. So why does this bill, then, allow the Secretary of Homeland Security to exempt any committee, regardless of whether national security is pertinent?

Why is it in there? Why do we see this new blanket authority in this bill? I will tell you why. It is because this administration wants to shield itself from any scrutiny of the public. This administration has made it very clear that it does not want anyone meddling in executive branch decisions—not the Congress, not the media, not the American public.

Since the first day this administration took office, all we have seen is a concerted effort to prevent outside criticism of its policies and conduct. The White House has refused to share information or cooperate with the Congress at every turn—maybe not at every turn, but at all too many turns.

The Vice President has refused to release documents concerning a secret energy working group, even after court orders demanding that he do so. We have read in the newspapers that the Attorney General is trying to expand the powers of the Justice Department to operate in secret, appealing another court decision that rejected his new secrecy rule. Even Tom Ridge, the President's top man in the war on terrorism, refused to testify before Congress about the steps that the administration was taking to protect the American people.

With the President's support, top officials in this administration have stonewalled Congress—stonewalled the Congress. Tom Ridge stonewalled the Appropriations Committee of the U.S. Senate. I know; I am the chairman of that committee. Invitation after invitation was extended by my colleague, Senator STEVENS, and myself for him to appear before the Appropriations Committee to testify. The answer was no. With the President's support, top officials in the administration have stonewalled Congress, stonewalled the media, and they have stonewalled the American public. Now they are hoping to expand their ability to operate in secret, to allow even less public scrutiny. There it is. It is in the bill.

The provisions in the bill allow the Secretary to use ad hoc advisory committees to craft policy in secret, without making specific findings that such secrecy is necessary in any particular instance. This unnecessary new blanket authority will give the President carte blanche to expand the culture of secrecy that now permeates this White House.

This substitute language that we have just been given also provides the same blanket exemption from disclosure rules for the Justice Department's new Office of Science and Technology. This new exemption will allow John Ashcroft, the Attorney General, to conduct even more of his duties in secret, even after the courts and the press have recently rebuked the Justice Department for secrecy abuses. This Senate is being asked to authorize the Attorney General to cloak even more of the Justice Department's activities in secrecy.

I am worried that exempting this new Science and Technology Office will allow the Justice Department to provide special treatment for corporate campaign contributors who are pushing new technologies.

Let me say that again. I am worried that exempting this new Science and Technology Office will allow the Justice Department to provide special treatment for corporate campaign contributors who are pushing new technologies. These exemptions are unnecessary and they are a danger to our people's liberty.

I believe that I have a duty to the people I represent to do what I can to improve this legislation. So I hope to offer an amendment to strike these exemptions from the bill. I will do whatever I can do to improve the legislation and keep the people and the press from being locked out of the process. The people have a right to know.

I am not among those who are willing to let this Senate be beaten into rubber stamping the language sent to us by the House. It is our job as legislators to see that the Senate protects the interests of the people who sent us here and who will foot the bill for this behemoth department.

The public disclosure exemptions in this bill are a license for abuse. I do not believe that they are worthy of the Senate's approval. So I am doing everything I can to see that this Senate does not roll over at the command of any President—whether he is a Democrat or a Republican or an Independent—when there are dangerous provisions remaining in this bill that ought not be put into law.

These issues are too fundamental to let slide with the vain hope that we will get a chance to revisit them next year. Don't forget, it is easier to pass a law than it is to repeal that law. We only need a majority in each body to pass a law and have the President sign it. Once that law is on the books, in order to repeal it, a President can veto the repeal. And, then, if only one-third plus one in either body uphold that President's veto, that is the end of it. There won't be any repeal.

The Senate must act, and act responsibly, and we ought not to be in all that hurry to pass this legislation.

Having been up until almost 2 o'clock this morning, I am tired. I want to speak a little longer. I won't be able to speak tomorrow. The Senate is going to vote on cloture in the morning. And as I wet my finger and hold it to the wind, I sense that the pressure is going to be on tomorrow to invoke cloture on this bill.

Here it is, 484 pages. It has only seen the light of 2 days—yesterday and today. It has not been before a committee; there has not been a single hearing on this bill; not a single witness has appeared before any committee in support of this 484-page bill. I doubt that any Senator in this body knows everything there is to know about this bill. I do believe that the great majority of Senators know very little about this bill, and what little most Senators know about this bill comes about as a result of some of the provisions in the bill that have been lifted out of the legislation that was reported out of Senator LIEBERMAN's committee when the bill was reported earlier this year.

Mr. President, the pressure is on. We are going to be asked to vote for cloture tomorrow. I will be surprised if the Senate does not vote for cloture. But I appeal to Senators on both sides of the aisle not to vote for cloture. Nathan Hale regretted that he had but one life to lose for his country. I hope Senators will take the same view about their responsibilities to the people.

They have a responsibility to stay until they know what is in this bill, and not to invoke cloture on it until they know what is in it, until their staffs know what is in it, and until they, Senators, have had an opportunity to offer amendments to make corrections in the bill.

I daresay many Senators will find provisions in this bill they have not seen in any bill before, that are new to this bill, that are new to the Senate, and that they, those Senators, dislike. They have a duty to their constituents. I do not have to tell other Senators what their duties are to their constituents. They have the same duties to their constituents that I have to my constituents. But I have a duty to my constituents not to roll over and play dead, not to roll over and appear to be oblivious to what is in the bill, just pass it and go home and say: We have passed a bill creating the Department of Homeland Security. Whoopee. This will make us all safer.

This will not make us one whit, not one tiny whit safer.

That bill, if it passed tomorrow, would not be implemented for another year. It will take another 12 months before it is implemented. The same people who will be out there protecting the homes of the American people a year from today, if they are out there a year from today, will be out there tomorrow. They are out there tonight. They are out there on the borders—the northern border, the southern border—the Atlantic coastline, the Pacific coastline, the gulf coastline, the ports of this country, the ports of entry.

They are out there tonight protecting the airports. They are protecting the ports of entry all over this country. They are protecting the nuclear facilities, the nuclear plants. They are standing at their stations in the law enforcement agencies. They are standing at their stations in the fire departments. They are standing at their stations in the health departments. They are out there now. They are out there tonight. When I go home to sleep tonight and pray the Lord my soul to keep, they will be out there. I will be asleep; they will be there.

This bill is not what is putting them there. They are already there, and they are being put there by the taxpayers' money that flows through the Appropriations Committee in this Senate. So they are there. Do not think for a moment that this country has to have this bill creating this massive bureaucracy in which there will be at least 28 agencies that will be crammed into a new Department—170,000 people employed.

May I say to the people sitting back here on the benches—I am talking to these staff people right back here—pay attention here—170,000 people employed in this new agency. They are not employed by virtue of these 484 pages in this bill.

The Senate apparently is on a path to rush to consider this legislation, and we can all say: Whoopee, let's go home now. We have created a Department of Homeland Security. Everybody is safer now.

But don't you believe it.

The Senate's legislative counsel did not finish drafting this behemoth bill until the wee hours of yesterday morning, and now Senators are being pressured to pass it without question and without comment. What a shabby way to treat the security and safety of the American people, those people who are looking right at us through those electronic lenses.

As I have said all along, this new Department likely will take many years to become effective. We should not simply put a new name on a hodgepodge of agencies and claim that the Nation is, ipso facto, instantly safer. What a sham. What a sham. A lot of Senators who vote for this are going to come to realize that when it is too late to change their votes. What a sham. Yet this legislation is being bull-rushed through Congress and is being hailed as the great homeland security panacea.

This new bill is 484 pages long. Here it is. I have not weighed it, but it weighs as heavy as 484 pages. Yet we will not be one whit closer to homeland security if it passes.

If the House and Senate wanted to provide true protections, we would be working to complete action on the appropriations bills instead of playing this gargantuan shell game. If the President wanted to do more than score political points in a rehashed retread of a stump speech, he would loose the bonds, he would cut the handcuffs from the House leadership and urge them to pass appropriations bills which contain critical homeland security funds that could provide real protection for our people, and provide it quickly.

Those dollars could make a difference today. Those dollars and the protections they would fund could save people's lives. We need not wait for a new Department to set up yet another huge bureaucracy. Instead, the House leadership is stuck in concrete. The appropriations bills may never see the light of day. There are 11 of them—11 of them—that have been reported from the Senate Appropriations Committee. They may never see the light of day, and the security of American people continues to be at risk.

How many tape recordings of Osama bin Laden do we need to hear before we start to take immediate action to protect ourselves in a meaningful way, not in a sham, sham legislative procedure that will produce another massive bill, massive shift of power, in a massive new bureaucracy? How many more threats do we need to hear? How many more threats need to be made?

Just in recent times, in recent hours the newspapers are reporting that U.S. intelligence officials believe that terrorist groups may be planning a new wave of attacks on Western targets. According to these reports, our intelligence agencies have detected a significant spike in intelligence chatter during the last 10 days that strongly indicate new assaults are being planned.

What more warning do we need? Do we have to wait until the chatter turns into screams of terror? Do we really believe this new Department of Homeland Security will provide the immediate protections that are so desperately needed? We are not only fooling ourselves, we are also jeopardizing the lives of the American people.

The new Department of Homeland Security will provide no immediate security—none. The legislation gives the President another year in which to put the pieces of this Department together. That is a year without any significant improvements to our Nation's protections. Maybe we should rename this the Department of Homeland Security Delay.

The appropriations bills, on the other hand, that are languishing in the other body controlled by the President's party would provide real security right now. All we have to do is just enact them.

The Senate Appropriations Committee reported appropriations bills for fiscal year 2003 that contained a total of $25.6 billion for homeland defense funding.

That is a lot of money, $25.6 billion for homeland defense. That is real money for the real defense of our homeland that could be available now, under our committee-reported bill, if the House Republican leadership on the other side of the Capitol could get White House permission to complete action on those appropriations bills. It could be done now.

The House is getting ready to leave town. They do not have to leave town. They could stay in town. We ought to pass those appropriations bills. That is money available now to protect lives and prevent future attacks. But under this constant stream of continuing resolutions, many homeland defense investments cannot take place.

The Commerce-Justice-State appropriations bill, the Treasury appropriations bill, the Agriculture appropriations bill, the VA/HUD appropriations bill, the Labor, Health and Human

Services appropriations bill, these are fancy names that probably do not mean that much to anyone listening, but to the security and safety of the American people, these bills mean a whole lot more than a new letterhead on the same old Government stationery, which will come about as a result of the passage of this 484-page bill.

Instead, we are being told to create this new bureaucracy and put funding for homeland security on autopilot with a constant stream of continuing resolutions. It is an irresponsible path and one I hope Congress has the wisdom to avoid. The Senate's VA/HUD and Commerce Justice State appropriations bills provide more than $3.5 billion for police officers, for firefighters, and for other first responders. That is $3.5 billion that could be made available next week. All that has to be done is for the House to get the signal from the executive branch which controls the Republican leadership in the House. All that is needed is for the White House to unloose the shackles that are on the House leadership and say, pass that appropriations bill. We restored over $1 billion of cuts the President proposed for State and local law enforcement programs. That is real safety, without any delay.

What is the administration's response? The administration says we are spending too much money on the security of the American people.

Mr. President, you cannot place a price tag on homeland security. You cannot protect lives on the cheap.

The Senate Labor, Health and Human Services appropriations bill provides $3.8 billion to protect against biological and chemical weapons. We know that terrorists have them. We are fools if we do not invest in defenses against these weapons. The funds in these appropriations bills help to provide real savings now, without delay. You do not have to wait on passing a 484-page bill which cannot be implemented for another 12 months.

What is the President's response? Hold the line on the appropriations, he says. Hold the line. He has stopped the House Republican leadership from allowing these investments in homeland security to move forward.

Mr. President—I am talking to the President at the other end of the avenue—you cannot place a price tag on homeland security. You cannot protect lives on the cheap.

The Senate Agriculture appropriations bill includes more than $150 million for the Food and Drug Administration to ensure our food supply is protected from terrorism and to accelerate the development and approval of medicines and tests to protect Americans from bioterrorism agents. This is a real saving. There is no delay here. Just pass the appropriations bill. We stand ready. But the administration has the handcuffs on the House leadership.

Apparently the administration thinks a safe food supply and vaccines to counter anthrax are too expensive. I say once again, a price tag cannot be placed on homeland security. You cannot protect lives on the cheap.

Take the Senate Commerce-Justice-State appropriations bill. It funds new FBI agents. The Treasury appropriations bill funds critical border security initiatives. These bills represent billions of dollars for homeland security. They help to provide real safety without delay, but regrettably the White House says no deal. According to this administration, the price is too high.

In my 50 years in Congress, if the Lord lets me live a few more days, this is the most cynical and potentially most devastating political game any administration has ever played. I am talking about administrations under Republican Presidents and under Democratic Presidents.

While funding battles are not uncommon and while many Congresses and administrations have not agreed on all the priorities, there has never been such a dispute that threatens the security of the American people. This administration would rather protect its political backside than the lives of this Nation's citizens. It is a calculated, cynical, manipulative, and irresponsible approach that I pray does not result in lost lives.

It disgusts me that the President has worked with the House Republican leadership to delay these appropriations bills. That is exactly what has happened. You mark my word. After the new year, when there is a new administration that takes over and this body goes under Republican control, as the other body will be under Republican control, you watch how fast those appropriations bill will pass. They will then pass, and this administration will be able to say; see now how things work under this new administration, how fast we get things done. I think that is the game we will see.

In fact, at the administration's urging, the House of Representatives has not considered a regular appropriations bill in 16 weeks. That is 4 months. And the White House machinations have not stopped at the regular appropriations bills. At the direction of the administration, $8.9 billion for homeland security investments were squeezed out of supplemental appropriations bills approved unanimously by the Senate Appropriations Committee, made up of 15 Democrats and 14 Republicans. If the President were serious about homeland security, we would do far more than simply pass a feel-good bill of 484 pages that creates a new department. We would pass these appropriations bills. We would train our first responders. We would provide them with equipment to carry out their mission of protecting the American people. We would put more agents on the borders. We would close the security loopholes in our ports. We would buy vaccines and increase our capacity to handle an attack using a biological weapon. We would invest in immediate homeland security initiatives and not rely on a campaign slogan to protect us 6 months or 1 year or even 5 years from now.

I hope we will not try to sell the American people this bill of goods on homeland security. It is nothing but snake oil. A new department would be welcome, but it will not be enough. We need to do much more and we need to do it quickly.

The Senate Appropriations Committee reported appropriations bills for fiscal year 2003 that contained a total of $25.6 billion for non-DOD homeland defense funding, an increase of $5 billion over the levels approved last year. That is real money for the defense of our homeland that could be available now, under our committee-reported bills for fiscal year 2003, if the White House would but take off the shackles from the House Appropriations Committee and let it work, let it complete action on the bills in the regular manner.

This authorizing bill we are debating right now provides nothing immediately for homeland defense. It has a 12-month transition period built into it. It sounds good. It will make a good headline. But it does nothing immediately to increase the security of our country. The appropriations bills, on the other hand, would do something immediately. Right now, all we have to do is enact. That is real money for real protection.

Under the continuing resolution we are operating under now, the significant increases for homeland defense funding that we approved in our committee bills cannot take place. Let me give some examples of what will not be funded under the continuing resolution.

Under the continuing resolution, only $651 million will be available for the Office of Domestic Preparedness to train and equip State and local law enforcement personnel to handle biological and chemical weapons, this compared to $2 billion that would be available in the Senate Commerce-Justice-State appropriations bill. Crucial bioterrorism research will be postponed. The Senate Labor-HHS appropriations bill provided nearly $1.5 billion for bioterrorism activities at the National Institutes of Health. This would fund research and infrastructure improvements necessary to develop countermeasures against smallpox, anthrax, and other deadly pathogens. Bioterrorism funding for NIH under a long-term continuing resolution would be limited to approximately $107 million.

The fiscal year 2003 Senate bill contains a large increase for hospital preparedness funding. Why worry about local hospitals? Again, just today news accounts detail a warning from the FBI to hospitals in Houston, San Francisco, Chicago, and Washington, DC, that they may be targets of a terrorist threat perhaps from anthrax. That is getting close to home, Washington, DC. The $593 million worth of grants in the Senate appropriations bill are necessary to make sure hospitals have the proper equipment, the staff, and the training to handle a bioterrorism attack. A long-term continuing resolution, however, would provide only $129 million in fiscal year 2003 for this activity. In total, a long-term continuing resolution for the Labor-HHS bill would provide only $1.8 billion for bioterrorism preparedness in fiscal year 2003. This is $2 billion less than the committee-reported appropriations bill. What a difference.

Under the continuing resolution, only $540 million would be available to local fire departments, from FEMA, for training and equipping firemen for weapons of mass destruction. For fiscal year 2003, the Senate committee VA-HUD appropriations bill provided a total of $900 million for the fire grant program.

On September 11, 2001, in New York City, we learned that fire and police could not communicate by radio, undermining the response to those vicious terrorist attacks. This is a nationwide problem. We found that out as we conducted testimony on our appropriations bills earlier this year in hearings conducted by the Senate Appropriations Committee. We included $180 million in the committee bill for grants for interoperable communications equipment for firefighters, none of which would be available under the continuing resolution. Under the continuing resolution, $180 million that the committee approved for grants to upgrade State and local emergency operation centers would not be funded and $75 million for grants to upgrade FEMA's 28 research and rescue teams would not be funded.

The Coast Guard is also one of the largest agencies to be included in the new Department of Homeland Security. The Coast Guard just signed the largest procurement contract in the history of the entire Department of Transportation, the so-called deep water capability replacement project. It is a comprehensive effort to modernize the Coast Guard's aging fleet of ships, planes, and helicopters so that the agency can better execute its homeland security and other missions.

Under the continuing resolution—that is what we will be operating under—the Coast Guard will have to start delaying the procurement of long-range aircraft as soon as December. In fact, due to the absence of adequate funding, the Coast Guard will have to start paying contract penalties totaling $500,000 per month.

So at the same time as the Coast Guard is being merged into the new homeland security agency, the inadequate funding provided under the continuing resolution will mean the Coast Guard will delay the procurement of critical homeland security aircraft while simultaneously wasting half a million of the taxpayers' dollars every month on contract penalties.

The Senate committee Treasury-general government bill added $18 million to the Customs Service for container security administration. This funding allows for inspection of shipping containers before they reach U.S. ports. Currently, only 2 percent of the containers that come into this country are inspected. Yet this funding will not be available under the continuing resolution.

The Senate committee energy and water bill includes $64 million to provide for the security guards at critical Corps of Engineer infrastructure sites. Under a long-term continuing resolution, this funding would not be available. Pass the appropriations bill. There is the money. It is available.

This Congress faces a choice. Despite its myriad problems, we will likely pass this legislation to create a Department of Homeland Security. The President will make his speeches to try to convince the American people to feel good. My, we can feel good about this new Department we will have created. What the President will not tell the American people is that the shiny new Department will not be effective until far into the future. What he will not tell the American people is that in the interim, they—the American people—may be less safe rather than more safe because of the chaos and confusion inherent in massive Government reorganizations. What he will not tell the American people is that he continues—he, the President—to block investments that would help to protect the American people from terrorist attacks today.

If we truly want to protect our constituents, if we truly want to make a difference in our constituents' lives, we will provide the funds that are so critically needed. We will support the FBI. We will support the police officers. The funds will support our firefighters in our hometown. We will strengthen our border patrols and our port security. We will take steps to fight terrorism today. We will not wait until the station is ready at the new Department of Homeland Security. The price of continued delay is simply too great to fathom.

Mr. President:

> The Moving Finger writes; and, having writ,
> Moves on; nor all your Piety nor Wit
> Shall lure it back to cancel half a Line,
> Nor all your Tears wash out a Word of it.

So, Mr. President, tonight I am writing the record. I will not have that opportunity tomorrow because on tomorrow the Senate will vote to invoke cloture. I urge Senators not to do that, not to vote to invoke cloture tomorrow. Senators should give themselves more time, give their staffs more time to study these 484 pages in this new bill, this bill that has not seen a committee witness, this bill that has not been in a committee room, this bill that was unknown to the Members of this Senate 48 hours ago—a massive bill providing for a massive shift of power to the President of the United States. And once that power is shifted, Senators, remember, it is going to be very difficult to retrieve that power. Yet the legislative branch is just about to do that.

The executive branch never hesitates to stand up in defense of its prerogatives. The judicial branch never hesitates to stand up in defense of its prerogatives. But the same cannot be said of the legislative branch. Nearly always in the legislative branch, half of the branch is made up of supporters of the administration. If it were a monarchy, these would be supporters of the king. If it were in the days of the Revolution, they would be Tories. Half the legislative branch stands up in the defense of the king, in the defense of the executive branch. Only half, if that many, stand up in defense of the legislative branch. Yet we all in this legislative branch, whether we are members of the party that controls the administration or not, we stand before that desk up there and we lift our hand to Almighty God and we put a hand upon the Holy Bible and we swear an oath to support and defend the Constitution of the United States against all enemies, foreign and domestic.

Are we doing that? Are we supporting and defending this Constitution which provides for a balance of powers, a separation of powers, three departments equally balanced? Is that what we are supporting? That is what we swore to support. That is what we swore we would support. But not all of us are going to vote that way.

There are half of us in the two bodies, roughly speaking, who are always ready to run to the executive branch and uphold the executive branch against our own nest, against the legislative branch. I hope it will not be that way tomorrow. I hope that Senators will say whoa, whoa, whoa, just hold on here; let's just wait a little bit. Let's don't vote for cloture today. Let's have a few more days to debate this legislation, see what's in it, offer amendments to it, clean it up, protect the American people, their liberties and their rights. I call upon Senators to do that.

I have watched the Senate floor today. I have heard the assertion made that the Senate has been considering the pending homeland security bill for 7 weeks now. Let's be clear about that.

The Senate just received this homeland security bill, not 7 weeks ago but just the night before yesterday. We have had access to it for 36 to 48 hours, perhaps. The Senate did spend 7 weeks debating another homeland security bill, but that bill is no longer before the Senate. That bill is no longer before the Senate. All of those weeks of debate and amendments have been thrown out the window. In its place we are now debating a new bill, crafted in secret, crafted behind the shades and curtains of darkness; a new bill which many of us have not had the time to read because we just received it. I haven't had time to read it. I have only read parts of it. I haven't had time to read this bill.

We were not involved in drafting this bill. I had nothing to do with the drafting of that bill. It did not go through the committee process. There were no hearings, no markups. It was drafted, not unlike the President's plan, behind closed doors and hidden away from the eyes of the American public. So I must say I am a little distressed when I hear Senators saying that the Congress should pass this bill quickly because we have exhausted debate on it.

I grow even more distressed when I read in this morning's papers that a number of controversial provisions had been quietly inserted into this new bill in the hopes that no one would notice them before the bill passed.

Congress Daily reported this morning that provisions have been inserted into this bill to eliminate or reduce a manufacturer's product liability. Sure enough, title VIII of the new bill would authorize the new Homeland Security Secretary to provide manufacturers with liability protections for a broad range of items, from drugs to life preservers, in case such equipment malfunctions or does not work. According to the Democratic staff of the Governmental Affairs Committee, even if manufacturers sold equipment, technology, or drugs that they knew would not work as intended, the manufacturer could not be held liable for punitive damages unless he knowingly participated in the terrorist act giving rise to the injuries.

Do Senators know that? Do Senators know that this bill does just that? Exactly. Do Senators know that?

Congress Daily reports that limited liability protections already in place for vaccines would be expanded in this bill to include vaccine components such as the preservative Thimerosal, manufactured by Eli Lilly and Company. These drugs, I am informed, are already the subject of class action lawsuits by parents who claim the product's high mercury levels have caused their children's autism.

I have heard other Senators expressing dismay about these provisions that have been slipped into this bill. I have heard other Senators expressing puzzlement, dismay, consternation, surprise—to find such provisions, to find this bill as it is. And yet we are being asked to invoke cloture tomorrow, invoke cloture so that we limit ourselves in future debate to 30 hours, a total of 30 hours on this bill.

The American people out there don't know this. The American people are being told that this is a great bill, this is a good bill, we are about to create a Department of Homeland Security and you will all be safer, ladies and gentlemen, out there in the hills and the prairies and the valleys and the mountains. You will all be safer.

The American people are being hoodwinked. We are complicitous in going along with the idea—going along with this sham. We are all guilty of going along with this. Yet we are going to invoke cloture on ourselves. We are going to invoke the gag rule.

We hear that this Senate is the greatest deliberative body in the world—greatest deliberative body in the world, the Senate of the United States. Yet we have been on this bill now parts of 2 days—just parts—and tomorrow morning we are going to put the gag rule on. We are going to invoke cloture so that we will deprive ourselves of the opportunity and we will deprive ourselves willingly of the opportunity to expose the weaknesses of this bill—to expose to the people who send us here, the judges of our political fortunes. We are going to say no to the people who send us here when we put this gag rule into effect and say to ourselves that we are not going to be interested in debating this longer than 30 hours, if that much time is used. We are saying to the American people who send us here we are putting the gag rule on you. We are putting the blindfolder on you.

How many of us would like to go to the American people in the next campaign for reelection and tell them that we believe in blindfolding them, and we don't believe they should know what is in this bill. It has some good provisions, I am sure, but we are willing to shut ourselves off here.

This is a bad bill—bad because there are some provisions in it that are bad—not all but some provisions in it are bad. Some provisions we don't even know about. We intend to vote on it—pig in a poke, blindfold ourselves, gag ourselves. We are willing to do that.

Are we willing to draw our moneys, our salaries? The American people pay us to represent them, to protect them, to protect their liberties, to protect their Constitution. If the American people knew that there were certain provisions in here of which some Senators were just becoming aware, the American people would say to all of us: Hold up. Take a look at that bill. Don't you vote for that homeland security bill until you fully know what you are doing. They would say: Hold up here. Don't you come back to me asking for my vote again if you are going to vote to hoodwink the American people by shutting off debate so you can get out of there, so you can go home. We ought to be right here. Here is where we ought to be until we know what is in this bill. We ought not pass this bill now. We ought to pass the appropriations bills that provide real homeland security for the American people.

So these drugs, as I say, are already the subject of class action lawsuits by parents who claim the products with high mercury levels have caused their children's autism. Is this what the President's homeland security proposal is really all about—exempting multibillion-dollar pharmaceutical companies from lawsuits when the products they sell to the American public do not function properly or, even worse, injure or kill somebody—multibillion-dollar companies from lawsuits when the technological products they sell to the American people do not function properly? What is this? Is this a payoff for those companies for their contributions in the past election?

Yet another provision in the bill would require liability claims against smallpox vaccine manufacturers to go through the Federal tort system.

Let me say that again.

Yet another provision in the bill would require liability claims against smallpox vaccine manufacturers to go through the Federal tort system. The Federal Government would pay the damages. And punitive damages would be banned.

The new bill also would limit liabilities for airport screening companies and high-tech firms that develop equipment for domestic security. It would aid the airline industry by extending aviation war-risk insurance for a year, and giving airports another year to install baggage screening equipment.

I wonder how many Senators know that provision is in this bill.

According to the New York Times, the bill would reverse an earlier measure and allow American companies that have moved offshore in order to evade taxes to contract with the Homeland Security Department.

How about that? How many Senators know that? Let me say that again.

The bill would reverse an earlier measure and allow American companies that have moved offshore in order to evade taxes to contract with the Homeland Security Department.

These kinds of provisions underscore just how ridiculous this homeland security debate has become. Anyone who opposes this legislation will be labeled unpatriotic. You can count on that. The sting of that political attack is enough to allow gobs of complete and utter junk to be shoved in this bill and shoved through the Congress with lightning speed. The fear of being subjected to utterly vile campaign political attacks is allowing a slew of dangerous provisions—provisions that would never ever get through on their own—to be pushed along with hardly a glance. Just hold your nose, pinch it, and vote for cloture and vote for this bill. Go home feeling good. Oh, we passed some feel-good legislation. Whoopee, great, hot diggedy dog. We passed a piece of feel-good legislation.

The American people should be afraid. The American people should be very afraid not only of Osama bin Laden and Saddam Hussein but of the monumental cynicism driven by this White House, and regrettably unopposed by this body.

Mr. President, I apologize to the Senate, to the staff, to the pages, all who work in this body—they work hard; they work long hours—for detaining you from going home early and getting an early supper. We call it supper down in West Virginia. Call it dinner, if you wish. We have kept you waiting, and I apologize for my part. Who else has done it? I am the one rascal here who has kept you waiting. I apologize for that.

Had we not been faced with a cloture vote tomorrow, I could have waited until tomorrow and said these things. But when else am I supposed to say it? If cloture is invoked tomorrow, I will have no opportunity to say it. Then we only have 30 hours—all of us, 100 Senators have 30 hours—and I suppose that is an hour each at most.

There is a record standing. There is a record that stands with him who holds the waters in his hands; there is a record that stands. That record will be written, and it will be there for the next thousand years for all who want to read it.

I believe the American people expect us to oppose this way of legislating. It is not as our children are being told the way to make laws.

Mr. President, I end my remarks, as I began them earlier today, by reading from 1st Corinthians, chapter 14, verse 8 and verse 9:

> For if the trumpet give an uncertain sound, who shall prepare himself to the battle?
>
> So likewise ye, except ye utter by the tongue words easy to be understood, how shall it be known what is spoken? For ye shall speak into the air.

Mr. President, that is the way I began my remarks. If we pass this bill, we are going to be the trumpet that gives forth an uncertain sound. The American people are going to be told, and they are going to believe, that they are made more safe, but we will have sent forth an uncertain sound. The people will not be made more safe by this piece of legislation.

The PRESIDING OFFICER. Senator from Alaska.

Mr. STEVENS. Mr. President, I have two short statements that I would like to make concerning this legislation. The first deals with the use of appropriated funds.

As my colleagues know, one of the major issues confronting Congress with respect to establishing the Department of Homeland Security was the extent to which the Homeland Secretary would be given the authority to transfer funds between appropriations accounts or among the organizations and programs within the new Department.

Underlying this issue are two critical questions—how best to give the Homeland Secretary the flexibility he or she needs to organize and operate the new Department, and how best to preserve the Congress's constitutional authority to appropriate funds and to oversee their use.

Previous versions of the Homeland Security Department legislation included extensive language governing how the Department would allocate and use appropriated funds and funds generated through property disposal or gifts from outside the Federal Government.

The compromise embodied in the final version of the Homeland Security Department legislation now before us takes a somewhat different approach, but the net effect is the same: Congress's appropriations authorities are maintained. Transferred funds must be used for the purposes for which they were appropriated, and Congress must approve, in advance, the reallocation of transferred funds away from their originally intended purposes.

Language added to the final bill reinforces the requirement that personnel, assets, and obligations transferred to the new Department shall be allocated in accordance with section 1531(a)(2) of title 31, United States Code. That section of permanent law requires that funds transferred within or between Executive branch agencies to finance transferred functions or activities must be used for a purpose for which the appropriation was originally available.

During the final negotiations on this bill, any language dealing directly with use of the general authority to transfer funds was dropped, since it is an authorization act. That authority will be included in the continuing resolution that I hope we will pass to keep the Federal Government functioning after we adjourn or recess this year. Since virtually every annual appropriations act includes general transfer authority language, the negotiators agreed that it was more consistent and effective to include the new Department's transfer authority in an appropriations act. The continuing resolution is our first appropriations opportunity to accomplish this objective. I intend to see to it that it will be in the resolution if at all possible, and I believe it is already agreed to.

The negotiators did retain in the authorization bill the language regarding property disposal and gifts. The language also requires that the new Department submit a detailed budget request annually beginning with fiscal year 2004. That will be the request we receive next year.

The continuing resolution language provides general transfer authority of $500 million for fiscal year 2003 and the same amount in fiscal year 2004. It stipulates that this authority may not be used unless for higher priority items, based on unforeseen homeland security requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress. The language provides an additional $140 million in transfer authority for fiscal year 2003 for the salaries and expenses associated with the initiation of the Department.

The appropriations language further requires that the Senate and House Committees on Appropriations receive 15 days' advance notice before any funding transfer is made, and it establishes that the new Department will submit formal reprogramming requests to these committees for any proposed funding transfer. The language further stipulates that, of the total amount of transfer authority provided, and except as otherwise specifically authorized by law, not to exceed two percent of any appropriations available to the Home Secretary may be transferred between appropriations. I am satisfied those meet our general requirements, although they are not in the original request I made in the Governmental Affairs Committee on which I serve.

In many respects, these provisions mirror language that is included annually in every Department of Defense Appropriations Act. In addition, use of transfer authority would be subject to approval or disapproval in writing by the Committees on Appropriations, which would review reprogramming requests submitted and considered under established procedures based on the reprogramming procedures used by the Defense Department and Congress for defense transfer authority actions. We intend to mirror the procedure that has been used so successfully with regard to defense matters when we are reviewing national security matters.

Finally, the authorization bill includes a provision intended to help Congress to assess the long-term funding requirements for the new Department. That provision requires annual submission of a Future Years Homeland Security Program that projects spending requirements for at least five fiscal years. This detailed, multi-year document is due beginning with the fiscal year 2005 budget request.

The final authorization language, and the language in the continuing resolution, preserve the statutory and administrative requirements needed to ensure that any funds made available to the new Department are used effectively and efficiently and according to the will of the people as reflected through their elected Senators and Representatives.

This language, and the annual appropriations process, ensure that the Homeland Security has the appropriate authorities to organize and operate the new Department, and that Congress will remain directly engaged in deciding how appropriated funds are used, or reallocated, by the Executive branch.

In so doing, I believe, and it has been my intent working with the distinguished chairman, that this language preserves Congress's Constitutional and rightful role in our government—a role that the Founding Fathers intended and that our constituents demand. Our constitutional oath requires Members to assure that our constituents' demand for our oversight will be fulfilled.

I have a second short statement. I have been very interested in preserving the Coast Guard's non-homeland security mission performance under this bill. I will discuss for the Senate today a vitally important section of the homeland security legislation that we consider here.

This section—Section 888—is entitled "Preserving Coast Guard Mission Importance," and its implementation is essential to maintaining without significant reduction the Coast Guard's non-homeland security capabilities and missions.

We all recognize the critical homeland security missions the Coast Guard performs. However, it is just as critical to the United States that the Coast guard effectively and successfully accomplish its non-homeland security missions. The criticality of these non-homeland security missions extends far beyond the 30 coastal and Great Lake states. These non-homeland security missions affect the maritime safety, law enforcement, environmental conditions, and economic security of our entire nation.

The Coast Guard's non-homeland security missions are marine safety, search and rescue, aids to navigation, living marine resources—including fisheries law enforcement, marine environmental protection, and ice operations.

All these missions are critical to the well-being of Alaskans, and we rely on the Coast Guard virtually every day for protection and assistance in these mission areas. I am confident that my colleagues who also will speak on this section of the bill will attest further to the importance to their states and to the rest of the nation of preserving the Coast Guard's vital non-homeland security capabilities and missions.

Preserving these missions and capabilities is the fundamental intent and purpose of Section 888.

The Coast Guard cannot accomplish its non-homeland security missions effectively and successfully unless its current capabilities in these areas are preserved intact and without significant reduction. Section 888 mandates the preservation of these capabilities, and of the Coast Guard's authorities and functions in these areas, unless Congress specifies otherwise in subsequent acts.

I would add at this point that, since September 11, 2001, the Coast Guard has assumed greatly expanded homeland security responsibilities without seeing a reduction in its non-homeland security requirements. This is a strong justification for allocating even more total resources to the Coast Guard on an annual and long-term basis.

Section 888 further reinforces and protects the Coast Guard's non-homeland security missions and capabilities by preventing the diversion of any mission, function, or asset—including ships, aircraft, and helicopters—to the principal and continuing use of any other organization, unit, or entity of the Homeland Security Department. This restriction is intended to minimize, if not eliminate, any prospect of the diversion from the Coast Guard of the personnel, equipment or other resources needed to perform its non-homeland security missions. Personnel details or assignments that do not reduce the Coast Guard's capability to perform these missions are permitted.

Section 888 further prohibits the Homeland Secretary from reducing the Coast Guard's non-homeland security missions and capabilities substantially or significantly unless Congress specifies otherwise in subsequent Acts.

The Homeland Security Secretary may waive this restriction for no more than 90 days, but he or she must first declare and certify to Congress that a clear, compelling, and immediate need exists for such a waiver.

If he or she exercises the waiver authority, the Homeland Secretary must submit to Congress a detailed justification. Thus, the elected Senators and Representatives of the American people will have an opportunity to determine whether they agree or disagree with the waiver. We will have the opportunity to assess the impact of such a waiver on the Coast Guard's non-homeland security missions and to make our views known should there be any cause for concerns.

The language in Section 888 does provide more flexibility than the Coast Guard-related language in the earlier versions of the Homeland Security Department bills that we have been debating since July. However, this latest language still will protect the Coast Guard from any major changes to its non-homeland security missions and capabilities because it clearly does not provide the authority to make wholesale and sweeping changes in these areas.

This final language also includes other important provisions that will contribute to the Coast Guard's overall well-being and effectiveness as part of the new Homeland Security Department, as well as help preserve its non-homeland security missions and capabilities. These provisions have been carried over from at least one of the previous versions of the legislation, or they have been crafted to further enhance the Coast Guard's position in the new Department.

These provisions include language transferring the Coast Guard to the new Department as a freestanding and distinct entity that is not under the jurisdiction of any of the Department's new directorates, and language ensuring that the Service's Commandant shall report directly to the Homeland Secretary without being required to report through any other departmental official.

Take separately and together, these subsections strengthen the institutional position of the Coast Guard and the Commandant within the Department, thus enhancing the Service's ability to compete for resources and to influence policy in both the non-homeland security and homeland security areas. They are an unambiguous statement by the Congress about the importance of the Coast Guard and all its missions within the Department.

Another subsection requires the new Department's Inspector General to report annually to Congress on the mission performance of the Coast Guard, with a particular emphasis on the non-homeland security missions. This information should help Congress identify whether additional actions are needed to preserve these non-homeland security missions and capabilities.

The Homeland Secretary also is required by another subsection to report to Congress not later than 90 days after enactment of the Act on whether the procurement rate in the Service's top-priority modernization program—the integrated deepwater system—can be accelerated by 10 years. Timely implementation of the Deepwater program is essential to maintaining and improving the Coast Guard's capabilities to accomplish all its missions. Congress should consider whether accelerating the program is an affordable and cost-effective way to accomplish these objectives, especially in the non-homeland security area.

A final subsection ensures that the conditions and restrictions in Section 888 shall not apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States code. It would be inappropriate to apply these conditions and restrictions under such circumstances. Under section 3 of title 14, the Coast Guard becomes part of the Navy in Wartime or as directed by the President.

In summary, Section 888 resulted from productive negotiations with the White House and our House colleagues during which all sides strived to make reasonable compromises that would enable Congress to pass a final version of the Homeland Security Department legislation during this post-election session. Refinements suggested by the Coast Guard also are included in the language.

The language maintains the structural and operational integrity of the Coast Guard, the authority of the Commandant, the non-homeland security missions of the Coast Guard, and the Service's capabilities to carry out these missions even as it is transferred to the new Department. The language is clearly intended to assure that the important homeland security priorities of the new Department will not eclipse the Coast Guard's crucial non-homeland security missions and capabilities.

Section 888 strikes the right balance at this time between maintaining the Coast Guard's vital non-homeland security missions and capabilities and permitting it to carry out important homeland security responsibilities.

Just as importantly, this language and the annual appropriations process, ensure that Congress will remain directly engaged in deciding the extent to which any significant changes occur in the future to the Coast Guard's non-homeland security missions and capabilities. Congress's continued and direct engagement in such matters is essential given the importance to the American people of these missions and capabilities.

And again, these missions and capabilities are vital to my State of Alaska.

I thank my distinguished friend for allowing me to make these two statements. I am late to a meeting. I wanted to make sure we explained to the Senate what we have done in modifying this bill.

I know it does not meet totally the requirements and approval of my friend from West Virginia. But I do think, under the circumstances, that we will have this continued role of supervision and we will retain the same type of control over reprogrammings of the new Homeland Security Department that we have over the Department of Defense. We should be able to continue in the future the same kind of Congressional connection to the changes in the use of funds—and there will be changes, based on changing priorities, changing circumstances—and we are part of that process. It will not be done without the prior approval of Congress.

I think I can assure my friend, in my judgment, we have preserved to the maximum extent possible our constitutional role in this process as it goes forward. There is no question every appropriations bill annually will address this issue and we will address it as we have in connection with defense matters in the past.

I thank my friend from West Virginia.

Mr. BYRD. Mr. President, the distinguished Senator is welcome. I appreciate what he has said. I hope the Senator's assurances—I know they are sincerely given—will prove to be direct and true. I must say I have great concerns about this legislation as it is written as to the verbiage that we find in this new package that is on our desks today. It made its appearance yesterday. I hope the distinguished Senator from Alaska is accurate and that he is correct, and that the assurances which he has been given and which he is giving will prove to be the case.

I have a great deal of confidence in my friend from Alaska. I have implicit confidence in him. I have never had that confidence shaken. But that confidence I have in him does not extend beyond him, I have to say truthfully, to the people in this administration. But I do trust my friend and I know he will try to his level best to see to it that the administration deals fairly and squarely with us in the appropriations process.

With that, I again thank him.

Mr. STEVENS. Mr. President, if the Senator will yield——

Mr. BYRD. Yes, I yield.

Mr. STEVENS. I give the Senator my assurance we will continue to work together to assure we maintain our constitutional role in the activities of this new Department. But I also feel it is absolutely necessary that this bill be passed this year because if it is not, regardless of the size of the bill, it will literally die at the end of December and we will have to start all over again. With the tensions facing the world and challenges our Government faces to maintain homeland security, it is absolutely essential we start forward. We have a slight disagreement on that. But I do believe this bill gives us a framework to work with this subject.

I think the ongoing responsibility to assure the new Department will continue to be effective will primarily rest with the appropriations process. This will be an enormous demand, a new demand on our Treasury, to fund a wholly new type of homeland security.

We are consolidating a whole series of agencies, hopefully bringing about some new efficiencies. But it will require increased money.

Senator BYRD and I have, will continue to have, the role of seeing to it the Senate's operations with regard to the appropriations process are fully understood by the new homeland security department and its personnel, and that we will work effectively to see to it we fulfill our constitutional responsibility with regard to control of the people's money.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I have never seen anything in the demeanor of the distinguished Senator from Alaska, anything in his words, anything in his daily activities, the record he has made here, that would create any doubt, as far as I am concerned, in him and his intention to carry this out. I have to say I don't have the same kind of confidence in the people at the other end of the avenue. I think we are making a huge mistake in passing this bill at this time.

I think the appropriations the distinguished Senator from Alaska and I have worked together in making possible, along with the other members of our committee—I think those appropriations, which have not been signed into law by the President, some of which have not passed the other body, and most of which have been held in check by the other body at the behest of the administration—those would have given to the American people far more security than would this bill. But as to the Senator, my trust in him—as I said it before and I will say it again—is implicit. I have no doubt he intends to do the best he can to see this appropriations process goes along as the Framers and as our predecessors have intended.

Mr. STEVENS. I thank the Senator.

Mr. AKAKA. Mr. President, I rise to discuss the critical distinctions between the legislation as reported out by the Governmental Affairs Committee and the House passed bill, creating a Department of Homeland Security.

I think it is wise to proceed cautiously when creating a mega-Department of Homeland Security which would encompass approximately 22 agencies and involve about 170,000 employees. We all recognize that we face new threats, and we all recognize the need to better coordinate efforts to protect Americans from these threats. However, it is also critically important, as the distinguished senior Senator from West Virginia has repeatedly noted, to consider carefully what is being proposed to ensure that any legislation enhances our security and does not detract from it.

William Safire describes in Thursday's New York Times how the House proposed Homeland Security Act will create a computerized dossier on the private life of every American citizen. I urge my colleagues to read Mr. Safire's prescient column entitled, "You Are a Suspect". His arguments are one reason why we should proceed cautiously to creating a Department of Homeland Security.

The President compares the reorganization of agencies within the federal government into a new Department of Homeland Security to the creation of the Department of Defense after World War II. But the two departments that were combined to create the Department of Defense, the Department of the Army and the Department of the Navy, had the same primary mission, to defend the United States. They had similar cultures and management priorities. This is not true of the proposed new Department of Homeland Security. Many of the agencies, such as the Coast Guard, the Immigration and Naturalization Service, and the Federal Emergency Management Agency, have varying missions, priorities and cultures.

Any far-reaching change to the structure of the federal government demands thorough and open discussion. Senator LIEBERMAN has done a great service to his country by holding hearings and debating extensively the structure of such a department. But there needs to be further debate and amendment to the proposal offered by the Republicans.

Let me make a dozen points as to why the legislation reported out by our Governmental Affairs Committee, which was subjected to numerous public hearings, represents an improvement over legislation passed by the House last night and why the House proposal, supported by the President, is seriously flawed.

First, the House proposal raises serious concerns about the collection, use, and dissemination of private information, the issue addressed by Mr. Safire. It gives the Secretary broad access to information relating to investigations and places restrictions on the authority of the inspector general to conduct inquiries into the new department's operations. Our committee substitute corrected this oversight by creating both a strong Civil Rights Officer and a strong Chief Privacy Officer.

The privacy officer would assist the Department with the development and implementation of policies and procedures to ensure that privacy considerations and safeguards are incorporated and implemented in programs and activities, and that information is handled in a manner that minimizes the risks of harm to individuals from inappropriate disclosure. Such officers are necessary to protect Americans from encroachments on their civil liberties.

The committee-reported legislation created a powerful civil rights officer, ensuring compliance with all civil rights laws, coordinating with the administration, assisting in the development and implementation of civil rights policies, and reporting to the Inspector General on matters warranting further investigation. In contrast, the new bill just passed by the House would only require the Civil Rights Officer to review and assess alleged abuses and report to Congress. In the House bill the Secretary appoints the officer and in the Governmental Affairs committee-reported bill the President appoints and the Senate confirms the officer, ensuring greater accountability. The Committee alternative worked to ensure that civil rights were not violated in the first instance.

The threat of a "Big Brother" new department cannot be overemphasized. With the President proposing programs like the Terrorism Information and Prevention System, Operation TIPS, a national program to encourage volunteers to report suspect activities to the Department of Justice, and the Department of Defense's new "Total Information Awareness," we need strong protections against violations of Americans' privacy and civil rights. The first defense of our freedom comes from a system with checks and balances. The House proposal, supported by the President, does not contain sufficient checks and balances.

Second, under the first House-passed bill and the President's original proposal, whistleblowers were not protected. Merit Systems Protection Board, MSPB, appeal rights as well as Office of Special Counsel, OSC, enforcement were not included. I am pleased to say that under the proposal before us today, whistleblowers retain most of their rights. However, the bill does not go far enough. Due to the waiver of collective bargaining rights, third-party arbitration may not be protected for those federal employees who are union members and blow the whistle. Third party arbitration is an effective way to resolve whistle blower cases due to the hostile decisions of the Federal Circuit.

Third, the administration proposal transfers the Transportation Security Agency, TSA, into the new department. Baggage screeners are our first line of defense against terrorism on our airlines, and they need to have the same protections as our border patrol agents, INS employees, and custom inspectors so that they can come forward to disclose risks to our public health and safety. The committee's bill, as a result of an amendment offered by Senator LEVIN and myself, gave full whistleblower rights to baggage screeners and their supervisors and to contract screeners. This is something that the House proposal fails to do.

Fourth, the new administration-supported bill gives minimal assurances that non-homeland security functions in the 22 agencies to be absorbed in the new Department will be preserved and not eliminated or diminished. The committee's amendment, which I offered with Senator CARPER, required that all non-homeland security functions of each agency be identified, along with the resources needed to preserve these functions, and the additional changes needed to ensure that non-homeland security functions would not be diminished. The new proposal drops this critical reporting requirement. In fact, the new bill removes all reports to Congress which would allow Congress to monitor closely the creation of the new department and to ensure vital non-homeland security functions are preserved.

Fifth, the committee-reported bill provided critical management guidance to the development of an effective homeland security mission. Agencies need specific guidance on how to achieve success. There are over 40 federal agencies with homeland security missions—some to be within the new department but others to remain outside. For many, homeland security is a new responsibility that must be added to existing missions. Agencies will need to rationalize their new homeland security missions with their existing responsibilities. The committee's amendment provided for a process for ensuring that this occurs. The House proposal does not.

Sixth, the House-passed bill creates a new Under Secretary for Information Analysis and Infrastructure Protection with two subordinate directorates, including one for intelligence which is given extraordinary access to sensitive information, both domestic and foreign. Under the House formulation as supported by the President, the new Secretary can trump the authority of the Director of Central Intelligence. The new directorate will duplicate work already being performed by the CIA's Counter Terrorism Center. Furthermore, Section 202 of the President's bill requires all agencies to provide all information to the new Department, including information which might pertain to intelligence sources and methods, without the Secretary even having to request that information. This gives this new office unprecedented access with few checks and balances, suggesting that the new office may have the capability to intrude to an extraordinary extent into the private lives of individual American citizens. These are very worrisome developments. The new formulation risks endangering our individual, as well as our national, security. Senator THOMPSON, Senator LIEBERMAN, Senator LEVIN and I had worked out an amendment which was contained in the committee bill. This amendment should have been accepted by the President. I am deeply troubled concerning the administration's new mission for the Department's intelligence directorate.

Seventh, the latest proposal does not address the serious shortcomings across the Federal Government in communicating security threats to the public. The American people are confused and frustrated by threat advisories without direction and repeated statements by the administration that future terrorist attacks are inevitable. The committee bill ensured that the Secretary of the new Department worked with state and local officials to develop more effective alert systems, more useful warnings, and improved communication with the public and private sector. In short, the Governmental Affairs Committee's legislation would have empowered the American people to play a role in the war on terrorism.

Eighth, this new proposal transfers the Plum Island Animal Disease Center from the Department of Agriculture to the Department of Homeland Security. However, many potential agriculture terrorism diseases, such as anthrax, are not studied at Plum Island. Rather than pulling off one piece of the Department of Agriculture's much needed and underappreciated laboratory network, the Governmental Affairs Committee alternative left Plum Island where it was and instead ensured coordination and consultation between the Department of Homeland Security and Agriculture on bioterrorism research priorities.

Ninth, the House proposal does not address serious shortfalls in emergency preparedness and response capabilities for agricultural terrorism. The Lieberman alternative acknowledged the importance of agriculture to our national economy and the dangers that an infectious animal or plant disease could pose to human health, rural America, and our Nation's economy. A large scale agricultural disease outbreak, whether of natural or deliberate origin, will require rapid and coordinated efforts by the Department of Agriculture, the Federal Emergency Management Agency, the Environmental Protection Agency, the Departments of Health and Human Services, Transportation, Defense, and Justice, and local and State emergency managers. The committee's amendment ensured that agricultural health diseases were considered in security assessments and that the animal health and agriculture communities would be included in planning, training, and response activities.

Tenth, in the name of flexibility, the President's initial proposal waived all of the provisions of title 5 leaving federal employees without protection from discrimination or whistleblower retaliations. The House proposal maintains most of title 5; however, it allows for the waiver of provisions affecting collective bargaining rights and appeal rights. One of the key factors to the so-called success of the Federal Aviation Administration, FAA, and the Internal Revenue Service, IRS, two agencies that have managerial flexibilities, is the strong role federal labor unions play in the shaping of the personnel system and in resolving employee disputes through third-party arbitration. This third-party arbitration is even more critical since cases involving coercion to participate in political activity, violations of veterans preference rights, giving unlawful preference or advantage to any employee, or other prohibited personnel practices can no longer be appealed to an independent body such as the Merit Systems Protection Board, MSPB. The personnel system at the FAA removed MSPB appeal rights in 1996 only to have them reinstated by Congress in 2000 at the urging of Federal employees and managers.

While the merit system principles are designed to ensure that Federal employment is efficient, fair, open to all, and free from political interference, the civil service rules of title 5, reinforced by collective bargaining rights, provide the framework for implementing and enforcing merit principles. Without such laws in place, the principles we all strive for cannot be reached. The Governmental Affairs Committee's reported bill preserved all of title 5, protected collective bargaining rights, and provided additional flexibilities governmentwide.

Some 25 years ago, the Civil Service Reform Act, CSRA, of 1978 responded to the same issues confronting our Government today. The act established the principles of openness and procedural justice that define the civil service today. It created the Merit Systems Protection Board and the Office of Special Counsel to protect the rights of Federal employees. The Federal Labor Relations Authority was created to oversee labor-management practices. The act provided a statutory basis for the collective bargaining rights of Federal workers. It prohibited reprisals against employees who expose government fraud, waste and abuse. Those in the Federal workforce demonstrate their loyalty and dedication not just to their employer but to their country every day. On September 11, the Federal workforce responded with courage, dedication, and sacrifice. Why is the President repaying their sacrifice by undermining their rights and our civil service by proposing these changes?

Eleventh, the House legislation fails to protect veterans by allowing the waiver of chapter 77 of title 5 relating to appeals. This would make veterans go to an agency management-operated process to challenge anti-veteran personnel actions by the same agency management. Under current law, veterans who believe that they have been denied a position or have been subject to a "designer" Reduction-In-Force, RIF, action in violation of veterans' preference requirements can challenge such wrongful actions through the Merit Systems Protection Board or through a union grievance procedure. This will no longer be possible under the House bill. The Committee's bill would have preserved MSPB review of veterans' preference complaints. Ironically, as we are in the midst of a war on terrorism and have authorized a war against Iraq, the Administration is weakening veterans' preference rights. This is fundamentally wrong.

Twelfth, the House proposal and the Governmental Affairs Committee-reported bill include provisions protecting the confidential sharing of critical infrastructure information. With cyber attacks on the rise, government and industry leaders have been seeking a way to facilitate the sharing of information related to cyber vulnerabilities and attacks. Sharing such information is important because 85 percent of the Nation's infrastructure is controlled by private utility, telecommunications, or other similar companies. Despite the need to facilitate information sharing, I question the extent to which such information will be protected and the impact of such protections on environmental and public health laws.

In general, the owners and operators of critical infrastructure are concerned about the type and scope of information they are being asked to submit to the government. This data deals with vulnerabilities, incidents, and remedies which, if made available to business competitors or to the general public, could compromise their competitive position, expose them to liability, disclose sensitive information to terrorists and others who might wish to disrupt the function of their infrastructure, or harm their public relations.

However, current law provides adequate protection to the private sector for disclosing this type of information to the Federal Government. Nonetheless, industry has expressed its concern over non-binding case law that could be overturned. As such, the Governmental Affairs Committee bill provided a narrow exception to the Freedom of Information Act which closely follows current law. This provision was designed to facilitate the sharing of information with the Federal Government, while at the same time providing citizens with necessary information on public health and environmental issues. The Committee bill was careful not to provide an inadvertent safe harbor for those who violate Federal health and safety statutes.

For these reasons, I believe that the Governmental Affairs Committee's legislation offered a more effective approach to guarding homeland security than the proposal advocated by the President who recently stated that "our job—our government's greatest responsibility is to protect the American people." I agree with the President, but I do not agree that by voting for the President's flawed proposal we will be adequately protecting the American people.

Mr. JEFFORDS. Mr. President, I would like to commend Senator CORZINE for his efforts to address the serious issue of chemical site security. The Chemical Security Act, S. 1602, which I cosponsored, would require "high priority" facilities to improve security and reduce hazards. The bipartisan and strong support for this issue was demonstrated last July when the bill unanimously passed the Senate Environment and Public Works Committee.

Across the country, thousands of industrial facilities use dangerous chemicals in amounts that could endanger nearby communities if the facilities were attacked by terrorists. According to the Environmental Protection Agency's Risk Management Planning program, there are 123 facilities where a release of chemicals could threaten more than 1 million people. There are also more than 700 facilities from which a chemical release could threaten more than 100,000 residential neighbors. Yet there is no Federal security standard for chemical facilities, no Federal guidelines on facility proximity to neighboring communities, and no Federal agency overseeing the operations and safety of these facilities.

This bill is not intended to address chemical accidents. The Clean Air Act already provides existing authority. However, a review of the chemical accident data provides clear insight into the dangers associated with chemical releases from these facilities. Federal data suggests that in 1998 there were almost 50,000 incidents—fires, spills and explosions—over 100 deaths, and nearly 5,000 injuries, related to chemical industrial accidents in the United States. Some analysts suggest that for each catastrophic chemical accident that causes a fatality, there are 300 recordable incidents and 30,000 near misses. One estimate suggests that U.S. chemical accidents cost about $15 billion a year.

In 1999, Congress required the Department of Justice to issue, within 3 years, a report to Congress on the vulnerability of chemical facilities to criminal and terrorist activity. For over a year, the Senate Environment and Public Works Committee has been asking for this report. Beyond a very thin and useless preliminary draft, the administration has not complied with this requirement of the Clean Air Act amendments. The Justice Department claims that funding constraints have impacted their work. This excuse is completely unacceptable, as is the administration's delay in addressing what may be this Nation's biggest terrorist vulnerability. Three years ago, Congress recognized the potential risks to our Nation's chemical security. Not 1 more year or month should pass with this issue unresolved.

Press reports highlight the public's frustration. In September, Newsweek reported a failing grade to the Federal Government in protecting chemical plants and other hazardous materials. I believe the article accurately described the forces blocking action: "industry lobbyists and infighting among a multitude of government agencies trying to defend their turf have combined to hold (Governor) Ridge's office and the Environmental Protection Agency at bay."

I ask my colleague to step beyond bureaucratic delays and special interest pressures to think of the families that could be impacted by our inaction here today. We must act on this issue as soon as possible.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SCHUMER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I extend my appreciation to the Senator from Iowa who has other things to do, but he has agreed to be here for a few minutes.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 788, 789, 851, 911, 922, 926, 1031, 1032, 1033, 1034, 1071 through 1135, 1147 through 1176; and all nominations placed on the Secretary's desk. I further ask that the nominations be confirmed en bloc, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and any statements be printed in the appropriate place in the RECORD, and the Senate then resume legislative session, with the preceding all occurring with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL LABOR RELATIONS BOARD

Rene Acosta, of Virginia, to be a Member of the National Labor Relations Board for the remainder of the term expiring August 27, 2003.

Dennis P. Walsh, of Maryland, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 2004.

DEPARTMENT OF ENERGY

Kyle E. McSlarrow, of Virginia, to be Deputy Secretary of Energy.

THE JUDICIARY

John M. Rogers, of Kentucky, to be United States Circuit Judge for the Sixth Circuit.

DEPARTMENT OF AGRICULTURE

Phyllis K. Fong, of Maryland, to be Inspector General, Department of Agriculture.

FEDERAL COMMUNICATIONS COMMISSION

Jonathan Steven Adelstein, of South Dakota, to be a Member of the Federal Communications Commission for the remainder of the term expiring June 30, 2003.

DEPARTMENT OF THE TREASURY

Wayne Abernathy, of Virginia, to be an Assistant Secretary of the Treasury.

FEDERAL MARITIME COMMISSION

Rebecca Dye, of North Carolina, to be a Federal Maritime Commissioner for the term expiring June 30, 2005

DEPARTMENT OF TRANSPORTATION

Roger P. Nober, of Maryland, to be a Member of the Surface Transportation Board for a term expiring December 31, 2005.

REFORM BOARD (AMTRAK)

David McQueen Laney, of Texas, to be a Member of the Reform Board (Amtrak) for a term of five years.

THE JUDICIARY

Stanley R. Chesler, of New Jersey, to be United States District Judge for the District of New Jersey.

Rosemary M. Collyer, of Maryland, to be United States District Judge for the District of Columbia.

Mark E. Fuller, of Alabama, to be United States District Judge for the Middle District of Alabama.

Daniel L. Hovland, of North Dakota, to be United States District Judge for the District of North Dakota.

Kent A. Jordan, of Delaware, to be United States District Judge for the District of Delaware.

James E. Kinkeade, of Texas, to be United States District Judge for the Northern District of Texas.

Robert G. Klausner, of California, to be United States District Judge for the Central District of California.

Robert B. Kugler, of New Jersey, to be United States District Judge for the District of New Jersey.

Ronald B. Leighton, of Washington, to be United States District Judge for the Western District of Washington.

Jose L. Linares, of New Jersey, to be United States District Judge for the District of New Jersey.

Alia M. Ludlum, of Texas, to be United States District Judge for the Western District of Texas.

William J. Martini, of New Jersey, to be United States District Judge for the District of New Jersey.

Thomas W. Phillips, of Tennessee, to be United States District Judge for the Eastern District of Tennessee.

Linda R. Reade, of Iowa, to be United States District Judge for the Northern District of Iowa.

William E. Smith, of Rhode Island, to be United States District Judge for District of Rhode Island.

Jeffrey S. White, of California, to be United States District Judge for the Northern District of California.

Freda L. Wolfson, of New Jersey, to be United States District Judge for District of New Jersey.

EXPORT-IMPORT BANK OF THE UNITED STATES

Philip Merrill, of Maryland, to be President of the Export-Import Bank of the United States for the remainder of the term expiring January 20, 2005.

DEPARTMENT OF STATE

Kim R. Holmes, of Maryland, to be an Assistant Secretary of State (International Organizations).

Maura Ann Harty, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State (Consular Affairs).

Ellen R. Sauerbrey, of Maryland, for the rank of Ambassador during her tenure of service as the Representative of the United States of America on the Commission on the Status of Women of the Economic and Social Council of the United Nations.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Quanah Crossland Stamps, of Virginia, to be Commissioner of the Administration for Native Americans, Department of Health and Human Services.

NATIONAL INDIAN GAMING COMMISSION

Philip N. Hogen, of South Dakota, to be Chairman of the National Indian Gaming Commission for the term of three years.

FARM CREDIT ADMINISTRATION

Nancy C. Pellett, of Iowa, to be a Member of the Farm Credit Administration Board, Farm Credit Administration for a term expiring May 31, 2008.

DEPARTMENT OF DEFENSE

Otis Webb Brawley, Jr., of Georgia, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 2003.

NATIONAL LABOR RELATIONS BOARD

Robert J. Battista, of Michigan, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 2007.

Wilma B. Liebman, of the District of Columbia, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2006.

Peter Schaumber, of the District of Columbia, to be a Member of the National Labor Relations Board for the term of five years expiring August 27, 2005.

NATIONAL COUNCIL ON DISABILITY

Joel Kahn, of Ohio, to be a Member of the National Council on Disability for a term expiring September 17, 2004.

Patricia Pound, of Texas, to be a Member of the National Council on Disability for a term expiring September 17, 2005.

Linda Wetters, of Ohio, to be a Member of the National Council on Disability for a term expiring September 17, 2003.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

David Gelernter, of Connecticut, to be a Member of the National Council on the Arts for a term expiring September 3, 2006.

NATIONAL MUSEUM SERVICES BOARD

A. Wilson Greene, of Virginia, to be a Member of the National Museum Services Board for a term expiring December 6, 2004.

Judith Ann Rapanos, of Michigan, to be a Member of the National Museum Services Board for a term expiring December 6, 2002.

Judith Ann Rapanos, of Michigan, to be a Member of the National Museum Services Board for a term expiring December 6, 2007.

Maria Mercedes Guillemard, of Puerto Rico, to be a Member of the National Museum Services Board for a term expiring December 6, 2005.

Nancy S. Dwight, of New Hampshire, to be a Member of the National Museum Services Board for a term expiring December 6, 2005.

Peter Hero, of California, to be a Member of the National Museum Services Board for a term expiring December 6, 2006.

Thomas E. Lorentzen, of California, to be a Member of the National Museum Services Board for a term expiring December 6, 2006.

NATIONAL INSTITUTE FOR LITERACY

Juan R. Olivarez, of Michigan, to be a Member of the National Institute for Literacy Advisory Board for a term of one year.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

James M. Stephens, of Virginia, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2005.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

Peggy Goldwater-Clay, of California, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term expiring June 5, 2006.

NATIONAL INSTITUTE FOR LITERACY

Carol C. Gambill, of Tennessee, to be a Member of the National Institute for Literacy Advisory Board for a term of three years.

NATIONAL MUSEUM SERVICES BOARD

Beth Walkup, of Arizona, to be a Member of the National Museum Services Board for a term expiring December 6, 2003.

DEPARTMENT OF EDUCATION

John Portman Higgins, of Virginia, to be Inspector General, Department of Education.

DEPARTMENT OF STATE

J. Cofer Black, of Virginia, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Irene B. Brooks, of Pennsylvania, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

BROADCASTING BOARD OF GOVERNORS

Blanquita Walsh Cullum, of Virginia, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2005.

DEPARTMENT OF STATE

Peter DeShazo, of Florida, a Careen Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during tenure of service as Deputy Permanent Representative of the United States of America to the Organization of American States.

David N. Greenlee, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bolivia.

John Randle Hamilton, of North Carolina, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guatemala.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Collister Johnson, Jr., of Virginia, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2004.

DEPARTMENT OF STATE

John F. Keane, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

OVERSEAS PRIVATE INVESTMENT CORPORATION

John L. Morrison, of Minnesota, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2004.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Allen I. Olson, of Minnesota, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

FOREIGN SERVICE

PN2230 Foreign Service nominations (152) beginning William Joseph Burns, and ending Michael L. Young, which nominations were received by the Senate and appeared in the Congressional Record of October 8, 2002

PN2231 Foreign Service nominations (144) beginning Jon Christopher Karber, and ending Peter Fernandez, which nominations were received by the Senate and appeared in the Congressional Record of October 8, 2002

NOMINATION OF JOHN M. ROGERS

Mr. LEAHY. Madam President, last night, the Senate voted to confirm the nomination of John Rogers who is nominated to the U.S. Court of Appeals for the Sixth Circuit. By confirming this nomination, we are trying to move forward in providing help to the Sixth Circuit. Earlier this year, we held a hearing for Judge Julia Gibbons to a seat on the Sixth Circuit, who was confirmed by the Senate on July 29, 2002 by a vote of 95 to 0. With last night's vote, the Democratic-led Senate confirmed the 15th judge to our Federal Courts of Appeal and our 98th judicial nominee since the change in Senate majority in July 2001. I have placed a separate statement in the RECORD on the occasion of confirming that many of this President's judicial nominees in just 16 months.

Republicans often say that almost half of the seats on the Sixth Circuit are vacant but what they fail to acknowledge is that most of those vacancies arose during the Clinton Administration and before the change in majority last summer. None, zero, not one of the Clinton nominees to those current vacancies on the Sixth Circuit received a hearing by the Judiciary Committee under Republican leadership. With the confirmation of Professor Rogers, we have reduced the number of vacancies on that court to six, but four of those remaining lack home-State consent due to the President's failure to address the legitimate concerns of Senators in that circuit whose nominees were blocked by Republicans during the period of Republican control of the Senate.

The Sixth Circuit vacancies are a prime and unfortunate legacy of the past partisan obstructionist practices under Republican leadership. Vacancies on the Sixth Circuit were perpetuated during the last several years of the Clinton administration when the Republican majority refused to hold hearings on the nominations of Judge Helene White, Kathleen McCree Lewis and Professor Kent Markus to vacancies in the Sixth Circuit.

One of those seats has been vacant since 1995, the first term of President Clinton. Judge Helene White of the Michigan Court of Appeals was nominated in January 1997 and did not receive a hearing on her nomination during the more than 1,500 days before her nomination was withdrawn by President Bush in March of last year. Judge White's nomination may have set an unfortunate record.

Her nomination was pending without a hearing for more over 4 years—51 months. She was first nominated in January 1997 and renominated and renominated through March of last year when President Bush chose to withdraw her nomination. Under Republican control, the committee averaged hearings on only about eight Courts of Appeals nominees a year and, in 2000, held only five hearings on Courts of Appeals nominees all year.

In contrast, Professor Rogers was the fifteenth Court of Appeals nominee of President Bush to receive a hearing by the committee in less than a year since the reorganization of the Senate Judiciary Committee. In 16 months we held hearings on 20 circuit court nominations. Professor Rogers was being treated much better than Kathleen McCree Lewis, a distinguished African American lawyer from a prestigious Michigan law firm. She never had a hearing on her 1999 nomination to the Sixth Circuit during the years it was pending before it was withdrawn by President Bush in March 2001.

Professor Kent Markus, another outstanding nominee to a vacancy on the Sixth Circuit that arose in 1999, never received a hearing on his nomination before his nomination was returned to President Clinton without action in December 2000. While Professor Markus' nomination was pending, his confirmation was supported by individuals of every political stripe, including 14 past presidents of the Ohio State Bar Association and more than 80 Ohio law school deans and professors.

Others who supported Professor Markus include prominent Ohio Republicans, including Ohio Supreme Court Chief Justice Thomas Moyer, Ohio Supreme Court Justice Evelyn Stratton, Congresswoman DEBORAH PRYCE, and Congressman DAVID HOBSON, the National District Attorneys Association, and virtually every major newspaper in the state.

In his testimony to the Senate in May, Professor Markus summarized his experience as a federal judicial nominee, demonstrating how the "history regarding the current vacancy backlog is being obscured by some." Here are some of things he said:

> On February 9, 2000, I was the President's first judicial nominee in that calendar year. And then the waiting began. . . .
>
> At the time my nomination was pending, despite lower vacancy rates than the 6th Circuit, in calendar year 2000, the Senate confirmed circuit nominees to the 3rd, 9th and Federal Circuits. . . . No 6th circuit nominee had been afforded a hearing in the prior two years. Of the nominees awaiting a Judiciary Committee hearing, there was no circuit with more nominees than the 6th Circuit.
>
> With high vacancies already impacting the 6th Circuit's performance, and more vacancies on the way, why, then, did my nomination expire without even a hearing? To their credit, Senator DEWINE and his staff and Senator HATCH's staff and others close to him were straight with me.
>
> Over and over again they told me two things: (1) There will be no more confirmations to the 6th Circuit during the Clinton Administration[.] (2) This has nothing to do with you; don't take it personally it doesn't matter who the nominee is, what credentials they may have or what support they may have—see item number 1. . . . The fact was, a decision had been made to hold the vacancies and see who won the presidential election. With a Bush win, all those seats could go to Bush rather than Clinton nominees.

As Professor Markus identified, some on the other side of the aisle held these seats open for years for another President to fill, instead of proceeding fairly on the consensus nominees pending before the Senate. Some were unwilling to move forward, knowing that retirements and attrition would create four additional seats that would arise naturally for the next President. That is why there are now so many vacancies on the Sixth Circuit.

Had Republicans not blocked President Clinton's nominees to this court, if the three Democratic nominees had been confirmed and President Bush appointed the judges to the other vacancies on the Sixth Circuit, that court would be almost evenly balanced between judges appointed by Republicans and Democrats. That is what Republican obstruction was designed to avoid, balance. The same is true of a number of other circuits, with Republicans benefitting from their obstructionist practices of the preceding six and a half years. This combined with President Bush's refusal to consult with Democratic Senators about these matters is particularly troubling.

Long before some of the recent voices of concern were raised about the vacancies on that court, Democratic Senators in 1997, 1998, 1999, and 2000 implored the Republican majority to give the Sixth Circuit nominees hearings. Those requests, made not just for the sake of the nominees but for the sake of the public's business before the court, were ignored. Numerous articles and editorials urged the Republican leadership to act on those nominations.

Fourteen former presidents of the Michigan State Bar pleaded for hearings on those nominations. The former Chief Judge of the Sixth Circuit, Judge Gilbert Merritt, wrote to the Judiciary Committee Chairman years ago to ask that the nominees get hearings and that the vacancies be filled. The Chief Judge noted that, with four vacancies—the four vacancies that arose in the Clinton administration the Sixth Circuit "is hurting badly and will not be able to keep up with its work load due to the fact that the Senate Judiciary Committee has acted on none of the nominations to our Court." He predicted: "By the time the next President is inaugurated, there will be six vacancies on the Court of Appeals. Almost half of the Court will be vacant and will remain so for most of 2001 due to the exigencies of the nomination process. Although the President has nominated candidates, the Senate has refused to take a vote on any of them."

However, no Sixth Circuit hearings were held in the last three full years of the Clinton administration—almost his entire second presidential term—despite these pleas. Not one. Since the shift in majority last summer, the situation has been exacerbated further as two additional vacancies have arisen.

The committee's April 25th hearing on the nomination of Judge Gibbons to the Sixth Circuit was the first hearing on a Sixth Circuit nomination in almost 5 years, even though three outstanding, fair-minded individuals were nominated to the Sixth Circuit by President Clinton and pending before the Committee for anywhere from one year to over four years. Judge Gibbons was confirmed by the Senate on July 29, 2002, by a vote of 95 to 0. We did not stop there, but proceeded to hold a hearing on a second Sixth Circuit nominee, Professor Rogers, just a few short months later in June.

Just as we held the first hearing on a Sixth Circuit nominee in many years, the hearing we held on the nomination of Judge Edith Clement to the Fifth Circuit last year was the first on a Fifth Circuit nominee in seven years and she was the first new appellate judge confirmed to that Court in six years.

When we held a hearing on the nomination of Judge Harris Hartz to the Tenth Circuit last year, it was the first hearing on a Tenth Circuit nominee in six years and he was the first new appellate judge confirmed to that Court in 6 years. When we held the hearing on the nomination of Judge Roger Gregory to the Fourth Circuit last year, it was the first hearing on a Fourth Circuit nominee in three years and he was the first appellate judge confirmed to that court in three years.

A number of vacancies continue to exist on many Courts of Appeals, in large measure because the recent Republican majority was not willing to hold hearings or vote on half—56 percent—of President Clinton's Courts of Appeals nominees in 1999 and 2000 and was not willing to confirm a single judge to the Courts of Appeals during the entire 1996 session.

From the time the Republicans took over the Senate in 1995 until the reorganization of the committee last July, circuit vacancies increased from 16 to 33, more than doubling. Democrats have broken with that recent history of inaction. In the last 16 months, we have held 26 judicial nominations hearing, including 20 hearings for circuit court nominees.

Professor Roger's nomination was also the fourth judicial nomination from Kentucky to be considered by the committee in its first year, and the eighth nomination from Kentucky overall. There are no judicial vacancies left in the State.

Professor Rogers of the University of Kentucky College of Law has experience as an appellate litigator and a teacher, and is a prolific author on a number of difficult legal topics. It is important to note that aspects of his record raise concerns. As a professor, he has been a strong proponent of judicial activism. No Clinton judicial nominee with such published views would ever have been confirmed during the period of Republican control. In his writings, Professor Rogers has called on lower court judges to reverse higher court precedents, if the lower court judge thinks the higher court will ultimate reverse its own precedent. Such an activist approach is inappropriate in the lower federal courts. The Supreme Court itself has noted that lower courts should follow Supreme Court precedent and not anticipate future decisions in which the Supreme Court may exercise its prerogative to overrule itself.

Prognostications about how the Supreme Court will rule often turns out to be wrong. For example, some predicted that the Supreme Court would overturn Miranda, but the Supreme Court, in an opinion by Chief Justice Rehnquist, declined to do so. Similarly, people like Professor Rogers have called on the Supreme Court to overturn Roe v. Wade, but thus far the Supreme Court has rejected calls to reverse itself in this important decision regarding the rights of women and has resisted calls to return this country to the awful period of dangerous back alley abortions.

Professor Rogers also suggested in his academic writings that lower court judges should consider the political views of Justices in making the determination of when lower courts should overrule Supreme Court precedent. In his answers to the committee, Professor Rogers acknowledged that he had taken that position but he now says that lower courts should not look to the views of Justices expressed in speeches or settings other than their opinions. Also, in his answers to the committee, Professor Rogers said he would give great weight to Supreme Court dicta, or arguments that are not part of the holding of the case. I would like to take this opportunity to urge him to take seriously the obligation of a judge to follow precedent and the holdings of the Supreme Court, rather than to look to dicta for views that may support his own personal views. I would also urge him resist acting on his academic notion that a judge should diverge from precedent when he anticipates that the Supreme Court may eventually do so.

Professor Rogers has assured us that he would follow precedent and not overrule higher courts, despite his clear advocacy of that position in his writings as a scholar. He has sworn under oath that he would not follow the approach that he long advocated. As with President Bush's Eighth Circuit nominee Lavenski Smith, who was confirmed earlier this summer, I am hopeful that Professor Rogers will be a person of his word: that he will follow the law and not seek out opportunities to overturn precedent or decide cases in accord with his private beliefs rather than his obligations as a judge.

I would also note that during his tenure at the Justice Department, Professor Rogers appeared to support an expansive view of the power of the executive branch vis-a-vis Congress. I am hopeful, however, that Professor Rogers will recognize the important difference between being a zealous advocate for such positions and being a fair and impartial judge sworn to follow precedents and the law.

When he was asked to describe any work he had handled which was not popular but was nevertheless important, he said that the case which came to mind was one in which he defended the CIA against a lawsuit seeking damages for the CIA's illegal opening of the private mail of tens of thousands of U.S. citizens during this 1970s or 1980s. Those were dark days of overreaching by the intelligence community against the rights of ordinary law-abiding American citizens. Although times have changed forever since the tragic events of September 11, I think it is important that the American people have access to judges who will uphold the Constitution against government excesses while also giving acts of Congress the presumption of constitutionality to which our laws are entitled by precedent.

Professor Rogers has repeatedly assured the committee, however, that he would follow precedent and not seek to overturn decisions affecting the privacy of women or any other decision of the Supreme Court. Senator McCONNELL has also personally assured me that Professor Rogers will not be an activist but is sincerely committed to following precedent if he is confirmed. I sincerely hope that his decisions on the Sixth Circuit do not prove us wrong.

Mr. HATCH. Madam President, I am particularly pleased today to speak in support of the confirmation of John M. Rogers to the U.S. Court of Appeals for the Sixth Circuit. As we know, there is a judicial vacancy crisis in the Sixth Circuit and the addition of Mr. ROGERS to the bench represents a positive step in alleviating that regrettable situation.

John M. Rogers is currently the Thomas P. Lewis Professor at the University of Kentucky College of Law, where he has taught since 1978. He is a Phi Beta Kappa graduate of Stanford University and an Order of the Coif graduate of the University of Michigan Law School, where he served on the Michigan Law Review. He is an expert in international, administrative, and constitutional law and a respected teacher and scholar.

Prior to teaching, Professor Rogers was an appellate attorney in the Civil Division of the United States Department of Justice. This work, and a later stint at DOJ, led to his being awarded a Special Commendation for Outstanding Service to the Civil Division of the U.S. Department of Justice. Rogers has twice been a Fulbright Senior Lecturer in the People's Republic of China, and is a member of the Council on Foreign Relations. He has also served this country for 28 years as a reserve officer in the U.S. Army Reserve and the Kentucky Army National Guard.

All of these accomplishments and contributions explain why the American Bar Association has rated Professor Rogers unanimously qualified. I agree with that judgment, I applaud President Bush for making this nomination, and I urge all of my colleagues to confirm Professor Rogers to the Sixth Circuit. I am confident he will serve with distinction as a Federal judge.

NOMINATIONS OF U.S. DISTRICT COURT NOMINEES

Mr. HATCH. Madam President, I rise in support of the fine group of district court nominees who are being confirmed tonight. I have reviewed their individual records and I find all of them to be excellent choices for the Federal bench. Permit me a moment to highlight the merits of each nominee.

U.S. Magistrate Judge Stanley R. Chesler, our nominee to the District Court for the District of New Jersey, received his undergraduate degree from Harpur College. He then went on to do graduate work at Brooklyn College where he accumulated 30 graduate credits in education. While working as teacher during the day, he graduated magna cum laude and first in his class from St. John's University School of Law, receiving no less than 12 American Jurisprudence Awards and consistently making the dean's list.

Upon graduation, Magistrate Judge Chesler joined the Bronx District Attorney's Office and specialized in prosecuting public corruption, organized crime, narcotics and fraud cases. In 1980 he became a Special Attorney for the U.S. Department of Justice's Newark Organized Crime Strike Force, before becoming an Assistant United States Attorney. During his career at the Department of Justice, he was awarded the Special Commendation Award and the Special Achievement Award. The nominee was then appointed by the New Jersey District Court judges to the office of Magistrate Judge in 1987. Magistrate Judge Chesler has also been recognized by his colleagues in receiving an ABA rating of Unanimously Well Qualified.

Rosemary Collyer, our nominee to the U.S. District Court for the District of Columbia, is a graduate of the University of Denver School of Law. She began her career at the Denver firm of Sherman & Howard as an associate in the labor and employment law group. Four years later she was nominated by President Reagan and confirmed by the Senate to be the Chairman of the Federal Mine Safety and Health Review Commission, which reviews decisions of specialized administrative law judges who adjudicate cases dealing with mine safety, health and discrimination claims under Federal law.

In 1984 Ms. Collyer was nominated by President Reagan and confirmed by the Senate to be General Counsel of the National Labor Relations Board. In this capacity, she served as the nationwide prosecutor of labor law violations, overseeing election processes, representing the NLRB before State and Federal courts, and overseeing agency personnel and budget matters. Since 1989, Ms. Collyer has been a partner at Crowell & Moring in Washington, D.C. Her specialization has been in labor law and employment law.

A July 22, 2002 Legal Times article reported that Ms. Collyer is "well-regarded by her fellow labor lawyers." One colleague asserted, "She cares about getting it right. She is definitely capable of navigating complex cases." Another stated that during her time of government service, "she was an oasis of perceived neutrality. She pandered to no one." These are traits that will undoubtedly serve Ms. Collyer well upon her confirmation to the Federal bench.

Mark E. Fuller, nominated to be a U.S. District Court Judge for the Middle District of Alabama, is an excellent choice for the federal bench. After graduating from the University of Alabama School of Law in 1985, Mr. Fuller joined the firm of Cassady, Fuller & Marsh, a small litigation firm specializing in all aspects of state and federal practice in rural southeast Alabama. He became a partner in 1986 and remained with the firm until 1996, handling insurance and corporate defense work, and domestic relations, real estate, and corporate law matters.

From 1987 to 1992 and from 1995 to 1996, Mr. Fuller worked as a part-time Assistant District Attorney. In 1996 Mr. Fuller accepted the position of Chief Assistant District Attorney for Alabama's Twelfth Judicial Circuit, serving there until 1997, when he was appointed District Attorney in the same office. While working in the District Attorney's office, Mr. Fuller has represented the people of Pike and Coffee counties in criminal cases, including capital murder trials and juvenile and district court matters. In 1998 Mr. Fuller was elected to a full six-year term as District Attorney. He oversees the operations of the office and continues to handle criminal jury trials.

Daniel Hovland, nominated to the District Court for the District of North Dakota, promises to be an excellent federal judge. Upon graduation from the University of North Dakota School of Law, he served as a law clerk to the Honorable Ralph J. Erickstad on the North Dakota Supreme Court. He then accepted a position with the Office of the Attorney General for North Dakota, working as an Assistant Attorney General and acting as Director of the Consumer Fraud Division from 1980 to 1983.

From there he moved into private practice, working with Fleck Mather & Strutz from 1983 to 1994 and Smith Bakke Hovland & Oppegard from 1994 to the present. As a trial lawyer, Mr. Hovland handles personal injury, wrongful death, medical malpractice, employment/labor, and product liability cases. While in private practice, Mr. Hovland has gained experience particularly helpful for the federal bench. Since 1994 he has served as an Administrative Law Judge for North Dakota's Office of Administrative Hearings, he currently serves on the North Dakota Parole Board, and he has experience with mediation and arbitration.

Kent A. Jordan, who has been nominated to the U.S. District Court for the District of Delaware, comes fully recommended by Senators BIDEN and CARPER, and I urge my colleagues to support him as well.

Mr. Jordan possesses the experience needed for handling the court's heavy caseload of intellectual property, government corruption, and corporate matters. Following graduation from Georgetown University Law Center in 1984, he served as a law clerk to the Honorable James L. Latchum, judge on the U.S. District Court for the District of Delaware. He then worked in private practice with a Wilmington, Delaware, firm, focusing on corporate and commercial litigation. From 1987 to 1992, Mr. Jordan worked in public service as an Assistant U.S. Attorney for the District of Delaware, advancing to become lead attorney on many civil and criminal issues.

Mr. Jordan currently works as a Vice President and General Counsel for the Corporation Service Company, which provides registered agent, public records filing and retrieval, corporate and intellectual property information management, and litigation information management services.

James E. Kinkeade, nominated to the U.S. District Court for the Northern District of Texas, is a graduate of Baylor University School of Law. Judge Kinkeade began work as a law clerk and then associate for Brewer & Price in Irving, Texas. One year later he became a partner at Power & Kinkeade Law Firm. He represented a large number of closely held businesses and acted as local counsel for several national corporations. In addition, he had an active domestic relations and criminal practice. Judge Kinkeade served as an Associate Municipal Judge for the City of Irving from 1976–1980.

Judge Kinkeade stopped practicing law in January of 1981 to become a judge for the County Criminal Court in Dallas, Texas. In fall of 1981, he became a judge for the 194th District Court of Texas. Since 1988, Judge Kinkeade has served on the State of Texas, 5th District Court of Appeals. In addition, Judge Kinkeade has served as an adjunct professor for over 10 years at the Texas Wesleyan School of Law. He received the Outstanding Adjunct Professor award four times while teaching Professional Responsibility.

Judge Robert Gary Klausner, who has been nominated to the District Court for the Central District of California, graduated from Loyola Law School (Los Angeles) in 1967. Though awarded a merit scholarship by Loyola he supported himself as a gas station attendant. Upon graduation, he commenced his service as an active duty officer in the U.S. Army, rising to the rank of Captain and receiving the Bronze Star.

After leaving the Army, Judge Klausner worked as a Deputy District Attorney for Los Angeles County. In 1974, he became Court Commissioner to the Pasadena Municipal Court for 6 years. In 1980, he became a Judge to that Court. Judge Klausner then left the Pasadena Municipal Court to become a Judge for the Los Angeles Superior Court. He has been with the Los Angeles Superior Court for the last 17 years. This nominee's life has been dedicated to the people of California and I cannot urge the Senate enough to confirm this well-qualified and well-deserving nominee.

Our nominee to the District of New Jersey, Judge Robert Byron Kugler, graduated from Rutgers, Camden Law School and then clerked for the Honorable John F. Gerry of the United States District Court in Camden, New Jersey. In 1979, he was appointed Assistant Camden County Prosecutor and then one year later he was appointed Deputy Attorney General for the New Jersey Department of Law and Public Safety. In these positions, he prosecuted criminal cases brought by county and/or State law enforcement agencies. As a prosecutor, Judge Kugler tried over 30 cases to jury verdict and over 100 cases to verdict in bench trials.

In 1982 Judge Kugler entered private practice and focused on matters of civil and criminal litigation. While in private practice, he tried as sole counsel to verdict over 50 cases. Before becoming a Magistrate Judge, Judge Kugler qualified for appointment by the New Jersey Supreme Court as a Certified Trial Attorney and Certified Civil Trial Attorney. Since 1992, Judge Kugler has been a United States Magistrate Judge in the District Court for the District of New Jersey. In January of 2002, the Camden County Bar Association presented its most prestigious award, the Peter J. Devine Award, to Judge Kugler and his wife for their service to the community and bar.

Ronald B. Leighton, who has been nominated to the U.S. District Court in the Western District of Washington, is a highly experienced and respected federal trial attorney. Upon graduation from UC—Hastings College of Law, Mr.

Leighton clerked for the Honorable Frank Richardson of the California Supreme Court. He then joined the Tacoma, WA, firm of Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim, becoming a partner in 1978. He has remained with the same firm to the present day, working as a trial attorney with emphasis on complex litigation in Federal court.

Mr. Leighton's excellence as a litigator has not gone unrecognized. Among other honors, he is a member of the American College of Trial Attorneys, the American Board of Trial Advocates, the International Association of Defense Counsel, and the International Society of Barristers. He has represented clients on both sides of the docket.

Mr. Leighton was nominated by President George H.W. Bush to the same position in the spring of 1992, but the Democrat-controlled Judiciary Committee did not grant him a hearing. I am pleased that we can finally vote Mr. Leighton to the federal court, and I urge my colleagues to join me in my support.

Nominated to the U.S. District Court for the District of New Jersey, Judge Jose Luis Linares immigrated to the United States from Cuba when he was 12 years old. He received his undergraduate degree from Jersey City State University in 1975, where he was a member of the National Honor Society. He then graduated from Temple Law School in 1978. During his studies at Temple, he was on the Dean's List for 2 years and was the recipient of the that law school's Barristers' Society Award for Excellence in Trial Advocacy.

Judge Linares started his career with the New York Department of Investigation, where he supervised white-collar crime and corruption investigations in the City of New York. Later, as an attorney at Horowitz, Bross, Sinnins & Imperial, P.A., he was responsible for the preparation and trial of both civil and criminal cases. In 1982, Judge Linares started his own law firm, litigating both civil and criminal cases with a focus on complex medical malpractice and product liability cases. After 18 years as a partner in his own firm, in its many incarnations, he was appointed as a Judge to the New Jersey Superior Court in Essex County. He currently oversees complex medical malpractice cases in the Civil Division of the court. His fellow attorney's are quite impressed with his record as well. He has received the highest rating by the ABA, unanimously Well Qualified. I am proud to say that I will vote for this nominee and I recommend him without reservation to the Senate.

Nominated to the U.S. District Court for the Western District of Texas, Judge Alia Moses Ludlum, graduated from the University of Texas School of Law in 1986. She continued her law school job as a law clerk in the Travis County Attorney's Office, where she eventually was promoted to Assistant County Attorney. She held a variety of positions in the office, first as Intake Attorney, then as Trial Attorney, and ultimately as Chief of the office's Appellate Division. Her primary responsibility as an Assistant County Attorney was the prosecution of criminal cases at the trial and appellate levels. She also handled all civil expunction suits and some mental health commitment cases, and represented battered spouses in protective order proceedings.

After 4 years at the County Attorney's Office, Judge Ludlum was hired to work as the sole resident AUSA in the Del Rio Division of the U.S. Attorney's Office for the Western District of Texas. She was eventually elevated to the position of Senior Litigation Attorney, then promoted to Chief of the Del Rio Division. As an AUSA, Judge Ludlum prosecuted an average of 125 felony criminal case per year. In 1997, Judge Ludlum became a part-time magistrate judge for the Western District of Texas, Del Rio Division. She assumed that position on a full-time basis in 2000.

William J. Martini, who has been nominated to the U.S. District Court for the District of New Jersey, has solid prosecutorial and private practice experience, as well as congressional service all of which will serve him well on the federal bench.

A graduate of Rutgers School of Law, Mr. Martini served as a law clerk for the Superior Court of New Jersey, before working as an assistant prosecutor in the Hudson County (New Jersey) Prosecutor's Office. He then took a position as an assistant U.S. Attorney in the U.S. Attorney's Office in Newark, NJ, where he tried a dozen criminal jury trials to completion. Beginning in 1977, Mr. Martini worked as a sole practitioner, initially representing criminal defendants and later branching out into civil litigation, including plaintiff's personal injury suits and commercial contract matters. Following a term serving the people of New Jersey in the House of Representatives, he joined Sills Cummis Radin Tischman Epstein and Gross as partner, focusing on governmental affairs/regulatory law and general litigation.

Magistrate Judge Thomas Wade Phillips, nominated to the District Court for the Eastern District of Tennessee, received his undergraduate degree from Berea College in 1965. After college, he attended Vanderbilt University School of Law on a full academic scholarship. In law school he was an assistant articles editor for the law review and was the recipient of the Dean's Award for Best Senior Dissertation. After graduation, he was commissioned into the United States Army, Judge Advocate General Corps, where he received a Appellate Advocacy Award, Government Appellate Division, in 1973. During that same year, he retired from the military and earned an LL.M. in Labor Law from George Washington University Law School.

Entering private practice, he was an associate at two firms, before becoming a partner at the firm of Baker, Worthington, Cossley, Stansberry & Woolf. During this period, he was elected to and served for nearly fifteen years as the county attorney for Scott County. From 1977 to 1986 he was a partner at two different firms. In 1986, Magistrate Judge Phillips became a Senior Partner in the firm of Phillips and Williams. He held this position until 1991 when he was appointed United States Magistrate Judge for the Eastern District of Tennessee. On October 17, 2000, he was appointed Chief United States Magistrate Judge for the Eastern District of Tennessee. He continues to serve in this capacity. The ABA has given him their highest rating of Unanimously Well Qualified.

Upon graduation from Drake University Law School, Judge Linda Reade, nominated to the U.S. District Court for the Northern District of Iowa, became an associate with a Des Moines area law firm where she worked on litigation involving federal and state civil law. In 1981, she moved to the Des Moines firm of Rosenberg and Margulies, where she worked for three years litigating federal and state, and civil and criminal law.

From 1984 to 1986, Judge Reade worked on both federal and state, and civil and criminal cases as a partner in that firm. In 1986, she became an Assistant United States Attorney for the Southern District of Iowa. In 1990, she was promoted to Chief of the General Criminal Division in the United States Attorney's Office for the Southern District of Iowa. Since 1993, Judge Reade has served as a general jurisdiction State District Court Judge in Des Moines, Iowa, where she has maintained a low reversal rate. She has also lectured on civil procedure and trial practice (1995–2000) and taught trial practice for two semesters at Drake University Law School (1988 and 1990). Judge Reade is well prepared to serve as a district court judge.

William E. Smith, who has been nominated to the U.S. District Court for the District of Rhode Island, joined Edwards & Angell, LLP, right after law school, and he is a member of the firm's labor, employment, and litigation departments. His practice has included representing management in union contract negotiations, union organizing drives, arbitration proceedings, employment discrimination matters, sexual harassment, wage and hour law, OSHA, OFCCP compliance and investigations, and other Department of Labor investigations.

While at his firm, in 1993, Mr. Smith successfully competed to become City

Solicitor of Warwick, Rhode Island (under Mayor Lincoln Chafee). As such, he led a team of lawyers who took over all of the city's legal work for a fixed fee. He was also retained that year to be legal counsel to the Rhode Island Secretary of State, performing labor, employment and other matters. In 1994, he was hired by the Rhode Island Department of Administration as outside labor-litigation counsel for a number of arbitration cases. He also worked for the Rhode Island courts during an organizing drive of clerical employees and a restructuring of the court system and as a judge on the municipal court for 4½ years. Mr. Smith has since returned to private practice with Edwards & Angell.

Jeffery Steven White, who has been nominated to the Northern District of California, is a prime example of the high quality attorneys that President Bush has nominated to the Federal bench. He received his undergraduate degree from Queens College of the City University of New York in 1977. He then graduated magna cum laude from the State University of New York, Buffalo's School of Law in 1980. During his studies at SUNY Buffalo, he was a Research Editor of the Law Review and graduated first in his class.

Upon graduation, Mr. White became a Trial Attorney for the U.S. Department of Justice, Criminal Division—Management/Labor Section. In 1971 he joined the U.S. Attorney Office for the District of Maryland as an Assistant U.S. Attorney. During his tenure at this position, he was designated as an outstanding Assistant United States Attorney in 1974 and 1976. He then returned to the Department of Justice in 1977 to work as a Senior Grade Trial Attorney in the Public Integrity Section of the Criminal Division. In 1978, Mr. White began a 24 year association with the law firm of Orrick, Herrington & Sutciffe. He quickly rose to become Chairman of the firm's Litigation Department, a position that he held from 1985 to 2000.

Freda L. Wolfson, who has been nominated to the District Court for the District of New Jersey, is a great choice for the federal court. Upon graduation from Rutgers University School of Law, Judge Wolfson was a litigation associate at Lowenstein, Sandler, Kohl, Fisher & Boylan. Her practice mostly involved commercial litigation and employment litigation. She also represented a habeas corpus petitioner in federal court and represented several criminal defendants as pro bono counsel.

From 1981–1986, she was a litigation associate at Clapp & Eisenberg where she focused on commercial litigation, employment litigation, and defense of ski areas. In addition, she frequently appeared before the New Jersey Casino Control Commission. In 1986, Judge Wolfson was appointed a United States Magistrate Judge, District of New Jersey. Since 1990, she has presided over 32 civil trials, 18 jury trials, and 14 bench trials. She has served on the Third Circuit's Task Force for Indigent Litigants in Civil Cases since 1998.

I am proud to support all of these nominees. They have excellent educational backgrounds, they have terrific legal experience, and they have the temperament to excel on the bench. I urge my colleagues to join me in my unqualified support.

NOMINATION OF JUDGE THOMAS PHILLIPS

Mr. THOMPSON. Madam President, I am very pleased that the Senate is taking up the nomination of judge Thomas Phillips, who is the President's nominee to fill a vacancy on the United States District Court for the Eastern District of Tennessee.

Judge Phillips was born and raised in Scott County, TN, the home county of our former colleague, Senator Howard Baker. His academic record is superb. A Phi Beta Kappa graduate of Berea College in Kentucky, he went on to attend Vanderbilt Law School, my own alma mater, on a full academic scholarship. While at Vanderbilt, he was an editor of the Law Review and received the Dean's Award for Best Senior Dissertation.

Upon finishing law school, Judge Phillips joined the Army Judge Advocate General's Corps, which awarded him its Outstanding Appellate Advocacy Award and the Army Commendation Medal in 1973. While serving in the Army, Judge Phillips also received a master of laws degree from George Washington University Law School here in Washington.

In 1973, Judge Phillips returned to Tennessee and entered the private practice of law. Public service called him back, however, and in 1976, Judge Phillips was elected as County Attorney for Scott County. Between 1976 and 1991, Judge Phillips continued to serve as Scott County Attorney, being reelected four times, while continuing to engage in private law practice with his own firm in his home town, Oneida. During this period, he tried hundreds of cases.

In 1991, Judge Phillips was appointed by the judges of the Eastern District of Tennessee to serve as a Magistrate Judge in Knoxville, the position he continues to hold. During the time he has served as Magistrate Judge, he has earned the respect of all who have appeared before him for his demeanor, courtesy, and intellect. During the rigorous screening process that Senator FRIST and I undertook to review the records of interested candidates for this judgeship, we heard uniformly and highly favorable comments about Judge Phillips.

I think the record before the committee demonstrates his outstanding qualifications. I cite just one example. In over 11 years on the bench, out of thousands of decisions and recommendations, Judge Phillips has been reversed on just two occasions, and on only one occasion has a District Judge rejected his recommendations.

Judge Phillips has excelled not only in his professional career, but in his commitment to his community as well. He has promoted legal education by serving as a member of the Inns of Court and by teaching at the University of Tennessee Law School. He is an Elder of the Huntsville Presbyterian Church, a member of the American Legion, and a leader of the American, Tennessee, Scott County, and Knoxville Bar Associations. In private practice, Judge Phillips provided extensive pro bono services and served on the boards of Scott County Hospital and Opportunities for the Handicapped.

I would be remiss if I failed to note the importance of moving forward with this nomination. Traditionally, two district judges sit in Knoxville, Tennessee's third largest city. Late last year and early this year, Judge Jordan and Judge Jarvis respectively assumed senior status, leaving the district court in Knoxville with no active judges. I want to express my thanks and appreciation to both senior judges for the service they rendered for many years on the Federal bench in Knoxville.

I am confident that there is no one better qualified to fill the large hold left by Judge Jordan and Judge Jarvis than Judge Phillips. I am pleased to endorse Judge Phillips and urge my colleagues to support his nomination.

NOMINATION OF EUGENE SCALIA—MOTION TO PROCEED

Mr. GRASSLEY. Mr. President, I move to proceed to consider the nomination of Eugene Scalia to be solicitor for the Department of Labor.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion is not agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

IDENTITY THEFT VICTIMS ASSISTANCE ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 382, S. 1742.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (S. 1742) to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part printed in black brackets and insert the part printed in italic.]

S. 1742

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Restore Your Identity Act of 2001".

[SEC. 2. FINDINGS.

[Congress finds that—

[(1) the crime of identity theft is the fastest growing crime in the United States;

[(2) the Federal Trade Commission reports that between March and June of 2001, the total number of identity theft victims in the Commission's Complaint Clearinghouse System, tallied from November 1999, increased from 45,593 to 69,370;

[(3) consumer inquiries and complaints to the Federal Trade Commission Identity Theft Hotline increased from 68,000 to over 97,000 over the same 3-month period, and consumer calls into the Hotline increased in the same period from 1,800 calls per week to over 2,000;

[(4) the Federal Trade Commission estimates that the call volume to the Identity Theft Hotline represents only 5 to 10 percent of the actual number of victims of identity theft;

[(5) victims of identity theft often have extraordinary difficulty restoring their credit and regaining control of their identity because of the viral nature of identity theft;

[(6) identity theft may be ruinous to the good name and credit of consumers whose identities are misappropriated, and victims of identity theft may be denied otherwise well-deserved credit, may have to spend enormous time, effort, and sums of money to remedy their circumstances, and may suffer extreme emotional distress including deep depression founded in profound frustration as they address the array of problems that may arise as a result of identity theft;

[(7) victims are often required to contact numerous Federal, State, and local law enforcement agencies, consumer credit reporting agencies, and creditors over many years, as each event of fraud arises;

[(8) the Government, business entities, and credit reporting agencies have a shared responsibility to assist identity theft victims, to mitigate the harm that results from fraud perpetrated in the victim's name;

[(9) victims of identity theft need a nationally standardized means of—

[(A) reporting identity theft to law enforcement, consumer credit reporting agencies, and business entities; and

[(B) evidencing their true identity to business entities and credit reporting agencies;

[(10) one of the greatest law enforcement challenges posed by identity theft is that stolen identities are often used to perpetrate crimes in many different localities in different States, and although identity theft is a Federal crime, most often, State and local law enforcement agencies are responsible for investigating and prosecuting the crimes; and

[(11) the Federal Government should assist State and local law enforcement agencies to effectively combat identity theft and the associated fraud.

[SEC. 3. DEFINITIONS.

[In this Act, the following definitions shall apply:

[(1) Business entity.—The term "business entity" means—

[(A) a creditor, as that term is defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602);

[(B) any financial information repository;

[(C) any financial service provider; and

[(D) any corporation, trust, partnership, sole proprietorship, or unincorporated association (including telecommunications, utilities, and other service providers).

[(2) Consumer.—The term "consumer" means an individual.

[(3) Financial information.—The term "financial information" means information identifiable as relating to an individual consumer that concerns the amount and conditions of the assets, liabilities, or credit of the consumer, including—

[(A) account numbers and balances;

[(B) nonpublic personal information, as that term is defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

[(C) codes, passwords, social security numbers, tax identification numbers, State identifier numbers issued by a State department of licensing, and other information used for the purpose of account access or transaction initiation.

[(4) Financial information repository.—The term "financial information repository" means a person engaged in the business of providing services to consumers who have a credit, deposit, trust, stock, or other financial services account or relationship with that person.

[(5) Identity theft.—The term "identity theft" means an actual or potential violation of section 1028 of title 28, United States Code, or any other similar provision of Federal or State law.

[(6) Means of identification.—The term "means of identification" has the meanings given the terms "identification document" and "means of identification" in section 1028 of title 18, United States Code.

[(7) Victim.—The term "victim" means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer with the intent to commit, or to aid or abet, identity theft or any other violation of law.

[SEC. 4. IDENTITY THEFT TREATED AS RACKETEERING ACTIVITY.

[Section 1961(1)(B) of title 18, United States Code, is amended by inserting ", or any similar offense chargeable under State law" after "identification documents)".

[SEC. 5. TREATMENT OF IDENTITY THEFT MITIGATION.

[(a) Information Available to Victims.—

[(1) In general.—A business entity possessing information relating to an identity theft, or who may have entered into a transaction, provided credit, products, goods, or services, accepted payment, or otherwise done business with a person that has made unauthorized use of the means of identification of the victim, shall, not later than 10 days after receipt of a written request by the victim, provide, without charge, to the victim or to any Federal, State, or local governing law enforcement agency or officer specified by the victim copies of all related application and transaction information and any information required pursuant to subsection (b).

[(2) Rule of construction.—Nothing in this section requires a business entity to disclose information that the business entity is otherwise prohibited from disclosing under any other provision of Federal or State law, except that any such provision of law that prohibits the disclosure of financial information to third parties shall not be used to deny disclosure of information to the victim under this section.

[(b) Verification of Identity.—

[(1) In general.—Unless a business entity is otherwise able to verify the identity of a victim making a request under subsection (a)(1), the victim shall provide to the business entity as proof of positive identification, at the election of the business entity—

[(A) a copy of a police report evidencing the claim of the victim of identity theft;

[(B) a copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

[(C) any affidavit of fact that is acceptable to the business entity for that purpose.

[(c) Limitation on Liability.—No business entity may be held liable for an action taken in good faith to provide information under this section with respect to an individual in connection with an identity theft to other financial information repositories, financial service providers, merchants, law enforcement authorities, victims, or any person alleging to be a victim, if—

[(1) the business entity complies with subsection (b); and

[(2) such action was taken—

[(A) for the purpose of identification and prosecution of identity theft; or

[(B) to assist a victim in recovery of fines, restitution, rehabilitation of the credit of the victim, or such other relief as may be appropriate.

[(d) Authority To Decline To Provide Information.—A business entity may decline to provide information pursuant to subsection (a) if, in the exercise of good faith and reasonable judgment, the business entity believes that—

[(1) this section does not require disclosure of the information; or

[(2) the request for the information is based on a misrepresentation of fact by the victim relevant to the request for information.

[(e) No New Recordkeeping Obligation.—Nothing in this section creates an obligation on the part of a business entity to retain or maintain information or records that are not otherwise required to be retained or maintained in the ordinary course of its business or under other applicable law.

[SEC. 6. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT.

[(a) Consumer Reporting Agency Blocking of Information Resulting From Identity Theft.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following:

["(e) Block of Information Resulting From Identity Theft.—

["(1) Block.—Not later than 30 days after the date of receipt of proof of the identity of a consumer and an official copy of a police report evidencing the claim of the consumer of identity theft, a consumer reporting agency shall permanently block the reporting of any information identified by the consumer in the file of the consumer resulting from the identity theft, so that the information cannot be reported, except as provided in paragraph (3).

["(2) Notification.—A consumer reporting agency shall promptly notify the furnisher of information identified by the consumer under paragraph (1) that the information may be a result of identity theft, that a police report has been filed, that a block has been requested under this subsection, and the effective date of the block.

[‘‘(3) AUTHORITY TO DECLINE OR RESCIND.—

[‘‘(A) IN GENERAL.—A consumer reporting agency may decline to block, or may rescind any block, of consumer information under this subsection if—

[‘‘(i) in the exercise of good faith and reasonable judgment, the consumer reporting agency believes that—

[‘‘(I) the information was blocked due to a misrepresentation of fact by the consumer relevant to the request to block; or

[‘‘(II) the consumer knowingly obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions, or the consumer should have known that the consumer obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions; or

[‘‘(ii) the consumer agrees that the blocked information or portions of the blocked information were blocked in error.

[‘‘(B) NOTIFICATION TO CONSUMER.—If the block of information is declined or rescinded under this paragraph, the affected consumer shall be notified promptly, in the same manner as consumers are notified of the reinsertion of information pursuant to subsection (a)(5)(B).

[‘‘(C) SIGNIFICANCE OF BLOCK.—For purposes of this paragraph, the prior presence of blocked information in the file of a consumer is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or monies as a result of the block.’’.

[(b) STATUTE OF LIMITATIONS.—Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended by striking ‘‘jurisdiction’’ and all that follows through ‘‘years after’’ and inserting ‘‘jurisdiction, not later than 2 years after’’.

[SEC. 7. COMMISSION STUDY OF COORDINATION BETWEEN FEDERAL, STATE, AND LOCAL AUTHORITIES IN ENFORCING IDENTITY THEFT LAWS.

[(a) MEMBERSHIP.—Section 2(b) of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended by inserting ‘‘the Postmaster General, the Commissioner of the United States Customs Service,’’ after ‘‘Trade Commissioner’’.

[(b) CONSULTATION.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

[(1) by redesignating subsection (d) as subsection (e); and

[(2) by inserting after subsection (c) the following:

[‘‘(d) CONSULTATION.—The coordinating committee shall consult with interested parties, including State and local law enforcement agencies, State attorneys general, representatives of business entities (as that term is defined in section 4 of the Restore Your Identity Act of 2001), including telecommunications and utility companies, and organizations representing consumers.’’.

[(c) REPORT CONTENTS.—Section 2(e) of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) (as redesignated by this section) is amended—

[(1) in subparagraph (E), by striking ‘‘and’’ at the end; and

[(2) by striking subparagraph (F) and inserting the following:

[‘‘(F) a comprehensive description of Federal assistance to address identity theft provided to State and local law enforcement agencies;

[‘‘(G) a comprehensive description of coordination activities between Federal, State, and local law enforcement agencies in regard to addressing identity theft and recommendations, if any, for legislative changes that could facilitate more effective investigation and prosecution of the creation and distribution of false identification documents;

[‘‘(H) a comprehensive description of how the Federal Government can best provide to State and local law enforcement agencies timely and current information regarding terrorists or terrorist activity where such information specifically relates to identity theft; and

[‘‘(I) recommendations, if any, for legislative or administrative changes that would—

[‘‘(i) facilitate more effective investigation and prosecution of cases involving identity theft;

[‘‘(ii) improve the effectiveness of Federal assistance to State and local law enforcement agencies and coordination between Federal, State, and local law enforcement agencies;

[‘‘(iii) simplify efforts by a person necessary to rectify the harm that results from the theft of the identity of the person; and

[‘‘(iv) if deemed appropriate, provide for the establishment of a Federal identity theft and false identification office or agency.’’.

[SEC. 8. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

[(a) IN GENERAL.—

[(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that is prohibited under this Act or under any amendment made by this Act, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

[(A) enjoin that practice;

[(B) enforce compliance with this Act or the amendments made by this Act;

[(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

[(D) obtain such other relief as the court may consider to be appropriate.

[(2) NOTICE.—

[(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General of the United States—

[(i) written notice of the action; and

[(ii) a copy of the complaint for the action.

[(B) EXEMPTION.—

[(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if that attorney general determines that it is not feasible to provide the notice described in subparagraph (A) before the filing of the action.

[(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General of the United States at the same time as the action is filed.

[(b) INTERVENTION.—

[(1) IN GENERAL.—On receiving notice of an action under subsection (a)(2), the Attorney General of the United States shall have the right to intervene in that action.

[(2) EFFECT OF INTERVENTION.—If the Attorney General of the United States intervenes in an action under subsection (a), the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

[(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act or the amendments made by this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State—

[(1) to conduct investigations;

[(2) to administer oaths or affirmations; or

[(3) to compel the attendance of witnesses or the production of documentary and other evidence.

[(d) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General of the United States for violation of a practice that is prohibited under this Act or under any amendment made by this Act, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that practice.

[(e) VENUE; SERVICE OF PROCESS.—

[(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

[(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

[(A) is an inhabitant; or

[(B) may be found.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Identity Theft Victims Assistance Act of 2002’’.

SEC. 2. FINDINGS.

Congress finds that—

(1) the crime of identity theft is the fastest growing crime in the United States;

(2) victims of identity theft often have extraordinary difficulty restoring their credit and regaining control of their identity because of the viral nature of identity theft;

(3) identity theft may be ruinous to the good name and credit of consumers whose identities are misappropriated, and victims of identity theft may be denied otherwise well-deserved credit, may have to spend enormous time, effort, and sums of money to remedy their circumstances, and may suffer extreme emotional distress including deep depression founded in profound frustration as they address the array of problems that may arise as a result of identity theft;

(4) victims are often required to contact numerous Federal, State, and local law enforcement agencies, consumer credit reporting agencies, and creditors over many years, as each event of fraud arises;

(5) the Government, business entities, and credit reporting agencies have a shared responsibility to assist identity theft victims, to mitigate the harm that results from fraud perpetrated in the victim's name;

(6) victims of identity theft need a nationally standardized means of—

(A) reporting identity theft to consumer credit reporting agencies and business entities; and

(B) evidencing their true identity and claim of identity theft to consumer credit reporting agencies and business entities;

(7) one of the greatest law enforcement challenges posed by identity theft is that stolen identities are often used to perpetrate crimes in many different localities in different States, and although identity theft is a Federal crime, most often, State and local law enforcement agencies are responsible for investigating and prosecuting the crimes; and

(8) the Federal Government should assist State and local law enforcement agencies to effectively combat identity theft and the associated fraud.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) BUSINESS ENTITY.—The term "business entity" means—

(A) a creditor, as that term is defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602);

(B) any financial information repository;

(C) any financial service provider; and

(D) any corporation, trust, partnership, sole proprietorship, or unincorporated association (including telecommunications, utilities, and other service providers).

(2) CONSUMER.—The term "consumer" means an individual.

(3) FINANCIAL INFORMATION.—The term "financial information" means information identifiable as relating to an individual consumer that concerns the amount and conditions of the assets, liabilities, or credit of the consumer, including—

(A) account numbers and balances;

(B) nonpublic personal information, as that term is defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

(C) codes, passwords, social security numbers, tax identification numbers, State identifier numbers issued by a State department of licensing, and other information used for the purpose of account access or transaction initiation.

(4) FINANCIAL INFORMATION REPOSITORY.—The term "financial information repository" means a person engaged in the business of providing services to consumers who have a credit, deposit, trust, stock, or other financial services account or relationship with that person.

(5) IDENTITY THEFT.—The term "identity theft" means an actual or potential violation of section 1028 of title 18, United States Code, or any other similar provision of Federal or State law.

(6) MEANS OF IDENTIFICATION.—The term "means of identification" has the meanings given the terms "identification document" and "means of identification" in section 1028 of title 18, United States Code.

(7) VICTIM.—The term "victim" means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer with the intent to commit, or to aid or abet, identity theft or any other violation of law.

SEC. 4. TREATMENT OF IDENTITY THEFT MITIGATION.

Section 1028 of title 18, United States Code, is amended by adding at the end the following:

"(i) TREATMENT OF IDENTITY THEFT MITIGATION.—

"(1) INFORMATION AVAILABLE TO VICTIMS.—

"(A) IN GENERAL.—A business entity that possesses information relating to an alleged identity theft, or that has entered into a transaction, provided credit, products, goods, or services, accepted payment, or otherwise done business with a person that has made unauthorized use of the means of identification of the victim, shall, not later than 20 days after the receipt of a written request by the victim under paragraph (2), provide, without charge, a copy of all application and transaction information related to the transaction being alleged as a potential or actual identity theft to—

"(i) the victim;

"(ii) any Federal, State, or local governing law enforcement agency or officer specified by the victim; or

"(iii) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this subsection.

"(B) RULE OF CONSTRUCTION.—

"(i) IN GENERAL.—No provision of Federal or State law prohibiting the disclosure of financial information to third parties shall be used to deny disclosure of information to the victim under this subsection.

"(ii) LIMITATION.—Except as provided in clause (i), nothing in this subsection requires a business entity to disclose information that the business entity is otherwise prohibited from disclosing under any other provision of Federal or State law.

"(2) VERIFICATION OF IDENTITY AND CLAIM.—Unless a business entity, at its discretion, is otherwise able to verify the identity of a victim making a request under subsection (a)(1), the victim shall provide to the business entity—

"(A) as proof of positive identification—

"(i) the presentation of a government-issued identification card;

"(ii) if providing proof by mail, a copy of a government-issued identification card; or

"(iii) upon the request of the person seeking business records, the business entity may inform the requesting person of the categories of identifying information that the unauthorized person provided the business entity as personally identifying information, and may require the requesting person to provide identifying information in those categories; and

"(B) as proof of a claim of identity theft, at the election of the business entity—

"(i) a copy of a police report evidencing the claim of the victim of identity theft;

"(ii) a copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

"(iii) any affidavit of fact that is acceptable to the business entity for that purpose.

"(3) LIMITATION ON LIABILITY.—No business entity may be held liable for a disclosure, made in good faith and reasonable judgment, to provide information under this section with respect to an individual in connection with an identity theft to other financial information repositories, financial service providers, merchants, law enforcement authorities, victims, or any person alleging to be a victim, if—

"(A) the business entity complies with paragraph (2); and

"(B) such disclosure was made—

"(i) for the purpose of detection, investigation, or prosecution of identity theft; or

"(ii) to assist a victim in recovery of fines, restitution, rehabilitation of the credit of the victim, or such other relief as may be appropriate.

"(4) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business entity may decline to provide information pursuant to paragraph (1) if, in the exercise of good faith and reasonable judgment, the business entity believes that—

"(A) this subsection does not require disclosure of the information; or

"(B) the request for the information is based on a misrepresentation of fact by the victim relevant to the request for information.

"(5) NO NEW RECORDKEEPING OBLIGATION.—Nothing in this subsection creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be retained or maintained in the ordinary course of its business or under other applicable law.

"(6) NOTIFICATION SYSTEM.—

"(A) IN GENERAL.—A business entity may establish and maintain a notification system for the business entity to comply with this subsection, including a toll-free telephone number and a mailing address.

"(B) REQUIREMENTS.—A notification system under subparagraph (A) shall permit any person to make a request to, or to correspond with, the business entity under this subsection, provided that—

"(i) the business entity informs the person—

"(I) that any person may request information under this subsection; and

"(II) of the address and toll-free telephone number established and maintained for this purpose; and

"(ii) a person representing the business entity—

"(I) responds to an information request through the toll-free number within 3 business days of receiving the request; and

"(II) facilitates the provision of such information to the person who initiated the request.".

SEC. 5. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT.

(a) CONSUMER REPORTING AGENCY BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following:

"(e) BLOCK OF INFORMATION RESULTING FROM IDENTITY THEFT.—

"(1) BLOCK.—Except as provided in paragraph (3) and not later than 30 days after the date of receipt of proof of the identity of a consumer and an official copy of a police report evidencing the claim of the consumer of identity theft, a consumer reporting agency shall permanently block the reporting of any information identified by the consumer in the file of the consumer resulting from the identity theft, so that the information cannot be reported, except as provided in paragraph (3).

"(2) NOTIFICATION.—A consumer reporting agency shall promptly notify the furnisher of information identified by the consumer under paragraph (1)—

"(A) that the information may be a result of identity theft;

"(B) that a police report has been filed;

"(C) that a block has been requested under this subsection; and

"(D) of the effective date of the block.

"(3) AUTHORITY TO DECLINE OR RESCIND.—

"(A) IN GENERAL.—A consumer reporting agency may decline to block, or may rescind any block, of consumer information under this subsection if—

"(i) in the exercise of good faith and reasonable judgment, the consumer reporting agency believes that—

"(I) the information was blocked due to a misrepresentation of fact by the consumer relevant to the request to block; or

"(II) the consumer knowingly obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions, or the consumer should have known that the consumer obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions; or

"(ii) the consumer agrees that the blocked information or portions of the blocked information were blocked in error.

"(B) NOTIFICATION TO CONSUMER.—If the block of information is declined or rescinded under this paragraph, the affected consumer shall be notified promptly, in the same manner as consumers are notified of the reinsertion of information under subsection (a)(5)(B).

"(C) SIGNIFICANCE OF BLOCK.—For purposes of this paragraph, the prior presence of blocked information in the file of a consumer is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or monies as a result of the block.

"(4) EXCEPTION.—A consumer reporting agency shall not be required to comply with this subsection when the agency is issuing information for authorizations, for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment, based solely on negative information, including—

"(A) dishonored checks;

"(B) accounts closed for cause;

"(C) substantial overdrafts;

"(D) abuse of automated teller machines; or

"(E) other information which indicates a risk of fraud occurring.".

(b) FALSE CLAIMS.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

"(j) Whoever knowingly falsely claims to be a victim of identity theft for the purpose of obtaining the blocking of information by a consumer reporting agency under section 611(e)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681i(e)(1)) shall be fined under this title, imprisoned not more than 3 years, or both.".

(c) STATUTE OF LIMITATIONS.—Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

"SEC. 618. JURISDICTION OF COURTS; LIMITATION ON ACTIONS.

"(a) IN GENERAL.—Except as provided in subsections (b) and (c), an action to enforce any liability created under this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than 2 years from the date of the defendant's violation of any requirement under this title.

"(b) WILLFUL MISREPRESENTATION.—In any case in which the defendant has materially and willfully misrepresented any information required to be disclosed to an individual under this title, and the information misrepresented is material to the establishment of the liability of the defendant to that individual under this title, an action to enforce a liability created under this title may be brought at any time within 2 years after the date of discovery by the individual of the misrepresentation.

"(c) IDENTITY THEFT.—An action to enforce a liability created under this title may be brought not later than 5 years from the date of the defendant's violation if—

"(1) the plaintiff is the victim of an identity theft; or

"(2) the plaintiff—

"(A) has reasonable grounds to believe that the plaintiff is the victim of an identity theft; and

"(B) has not materially and willfully misrepresented such a claim.".

SEC. 6. COMMISSION STUDY OF COORDINATION BETWEEN FEDERAL, STATE, AND LOCAL AUTHORITIES IN ENFORCING IDENTITY THEFT LAWS.

(a) MEMBERSHIP; TERM.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) in subsection (b), by striking "and the Commissioner of Immigration and Naturalization" and inserting "the Commissioner of Immigration and Naturalization, the Chairman of the Federal Trade Commission, the Postmaster General, and the Commissioner of the United States Customs Service,"; and

(2) in subsection (c), by striking "2 years" and inserting "6 years".

(b) CONSULTATION.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) CONSULTATION.—The coordinating committee shall consult with interested parties, including State and local law enforcement agencies, State attorneys general, representatives of business entities (as that term is defined in section 4 of the Identity Theft Victims Assistance Act of 2002), including telecommunications and utility companies, and organizations representing consumers.".

(c) REPORT CONTENTS.—Section 2(e) of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) (as redesignated by this section) is amended—

(1) in subparagraph (E), by striking "and" at the end; and

(2) by striking subparagraph (F) and inserting the following:

"(F) a comprehensive description of Federal assistance provided to State and local law enforcement agencies to address identity theft;

"(G) a comprehensive description of coordination activities between Federal, State, and local law enforcement agencies that address identity theft;

"(H) a comprehensive description of how the Federal Government can best provide State and local law enforcement agencies with timely and current information regarding terrorists or terrorist activity where such information specifically relates to identity theft; and

"(I) recommendations in the discretion of the President, if any, for legislative or administrative changes that would—

"(i) facilitate more effective investigation and prosecution of—

"(I) cases involving identity theft; and

"(II) the creation and distribution of false identification documents;

"(ii) improve the effectiveness of Federal assistance to State and local law enforcement agencies and coordination between Federal, State, and local law enforcement agencies;

"(iii) simplify efforts by a person necessary to rectify the harm that results from the theft of the identity of such person; and

"(iv) if deemed appropriate, provide for the establishment of a Federal identity theft and false identification office or agency.".

SEC. 7. ENFORCEMENT.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been, or is threatened to be, adversely affected by a violation of section 4 of this Act by any business entity, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with this Act or the amendments made by this Act;

(C) obtain damages—

(i) in the sum of actual damages, restitution, and other compensation on behalf of the residents of the State; and

(ii) punitive damages, if the violation is willful or intentional; and

(D) obtain such other equitable relief as the court may consider to be appropriate.

(2) NOTICE.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General of the United States—

(A) written notice of the action; and

(B) a copy of the complaint for the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice of an action under subsection (a)(2), the Attorney General of the United States shall have the right to intervene in that action.

(2) EFFECT OF INTERVENTION.—If the Attorney General of the United States intervenes in an action under subsection (a), the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

(3) SERVICE OF PROCESS.—Upon request of the Attorney General of the United States, the attorney general of a State that has filed an action under subsection (a) shall, pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure, serve the Government with—

(A) a copy of the complaint; and

(B) written disclosure of substantially all material evidence and information in the possession of the attorney general of the state.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act or the amendments made by this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State—

(1) to conduct investigations;

(2) to administer oaths or affirmations; or

(3) to compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General of the United States for a violation of section 4, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that practice.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States—

(A) where the defendant resides;

(B) where the defendant is doing business; or

(C) that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) resides;

(B) is doing business; or

(B) may be found.

Mr. GRAMM. Madam President, the Senate today is considering S. 1742, the Identity Theft Victims Assistance Act of 2002. This is an important issue, and it is proper for the Senate to be giving it consideration. While the text of this bill is seriously flawed and needs careful work and refinement in order for it to have a significantly positive effect in curbing identity theft, I believe that passage of this legislation by the Senate will be seen as an indication of the importance that the Senate attaches to relieving the disruption caused in the lives of victims of these crimes.

When the Senate returns to this issue in the next Congress, I hope that the problems with this bill can be resolved, that the complexity of the issues involved can be adequately considered so that the legislation focuses on the real culprits without penalizing law-abiding citizens and businesses, and without the substantial confusion to the enforcement responsibilities of federal financial regulators that the draft before us would cause. The text in its current form would also expand opportunities for predatory lawsuits, creating new victims, and we must avoid that. We do little good for the country that way.

Mr. REID. Mr. President, Senators CANTWELL and GRASSLEY and others have an amendment at the desk. I ask that that amendment be considered and agreed to; that the committee substitute, as amended, be agreed to; the bill, as amended, be read the third time and passed, and the motion to reconsider be laid upon the table; and that any statements be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4954) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1742), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mr. REID. Mr. President, let me say I have been working in recent hours with the Senator from Washington, Ms. CANTWELL. She has worked tirelessly on this piece of legislation. She has given a number of statements on the floor related to this issue, dealing with what has taken place and what she knows regarding identity theft. I commend and applaud her for her diligence and perseverance. The burden is now on the House of Representatives. They are still in session. There is no reason in the world that they cannot pass this most important piece of legislation.

EXECUTIVE SESSION

PROMOTIONS DISCHARGED

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to executive session and the list of Coast Guard promotions which are at the desk be discharged from the Commerce Committee, the Senate proceed to their consideration, that the nominations be confirmed, the motions to reconsider be laid on the table, and that any statements appear at the appropriate place in the RECORD as if read, that the President be immediately notified of the Senate's action, and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

U.S. COAST GUARD

To be lieutenant

Dana B. Reid, 9837

U.S. COAST GUARD RESERVE

To be captain

Douglas A. Ash, 9461
Salvatore Brillante, 9714
Timothy M. Butler, 8139
Jeanne Cassidy, 9266
Daniel R. Croce, 1488
Sidney J. Duck III, 0729
Wayne C. Dumas, 2968
Kendel D. Feilen, 0842
Doreen D. Fuller, 8883
Robert W. Grabb, 3388
William C. Hansen, 6687
Maureen B. Harkins, 0444
Stephen N. Jackson, 6687
Mark A. Jones, 2968
John W. Long, 7333
John J. Madeira, 4504
David A. Maes, 2808
David G. O'Brien, 4748
David W. Springer, 5912
Warren E. Soloduk, 3725

U.S. COAST GUARD

To be lieutenant commander

Anthony J. Alarid, 1412
Michael S. Antonellis, 5030
Michael A. Arguelles, 4343
Hector A. Avella, 8261
Paul E. Baker, 7988
Barbara J. Barata, 8450
Christopher M. Barrows, 8561
Edward K. Beale, 7399
Scott A. Beauregard, 6053
William D. Bellatty, 1168
Bryan R. Bender, 4002
Ralph L. Benhart, 0506
Benjamin A. Benson, 3424
David F. Berliner, 6106
Paul R. Bissillon, 4694
Ronald E. Brahm, 9793
John A. Brenner, 3111
Donald L. Brown, 7391
Timothy J. Buchanan, 2428
Russell S. Burnside, 9517
William Carter, 5270
Anthony J. Ceraolo, 2139
Patrick W. Clark, 4993
Leslie W. Clayborne, 8504
Rocky L. Cole, 3491
Richard W. Condit, 6705
Vernon E. Craig, 0980
Michael W. Cribbs, 3103
Christopher Curatilo, 4587
Gregory J. Czerwonka, 4516
Christel A. Dahl, 5351
Bryan E. Dailey, 2760
James W. Dalitsch, 0853
Timothy E. Darley, 3406
Joseph E. Deer, 4579
Ann B. Deyoung, 0150
Edwin Diazrosario, 7357
Timothy E. Dickerson, 7061
Douglas C. Dixon, 8495
Jean T. Donaldson, 8896
Charlene L. Downey, 1428
Patrick J. Dugan, 5898
Kathryn C. Dunbar, 0745
John C. Durbin, 5587
Bryan L. Durr, 0817
Brian E. Edmiston, 0038
David M. Ehlers, 8010
Thomas M. Emerick, 0148
Dennis C. Evans, 2583
Rendall B. Farley, 5226
Dale C. Folsom, 4148
Christopher W. Forando, 4062
Gregory T. Fuller, 3143
Eric J. Gandee, 6250
George D. Ganoung, 2083
Christian J. Glander, 3589
Michael W. Glander, 8276
Gene G. Gonzales, 1117
Jeffrey W. Good, 7748
Mark D. Gordon, 0616
Samuel J. Goswellen, 6588
Thomas A. Griffitts, 2199
Jason R. Hamilton, 9913
Kevin J. Hanson, 3914
James A. Healy, 7844
Joseph J. Healy, 3174
Michael L. Hershberger, 5328
Joseph P. Higgins, 4706
Daniel J. Higman, 6624
Russell E. Holmes, 0974
Katherine A. Howard, 5315
Jerry A. Hubbard, 8249
David A. Husted, 3248
Jeffrey A. Janszen, 4464
Terrence M. Johns, 9778
Eugene E. Johnson, 2742
Lamar V. Johnson, 7091
Richard L. Jung, 5143
Stephen D. Jutras, 5925
Robert M. Keith, 1055
Quentin C. Kent, 7468
Ian R. Kieman, 2030
Scott H. Kim, 9552
Erich F. Klein, 4294
Nicholas R. Koester, 0771
Joseph E. Kramek, 8464
Miriam L. Lafferty, 4744
Burt A. Lahn, 9390
Robert J. Landolfi, 7916
Steven A. Lang, 7316
James R. Langevin, 7045
Scott E. Langum, 2954
Keith H. Laplant, 5221
Scott X. Larson, 4589
Stephen G. Lefave, 1917
Michael R. Leonguerrero, 7974
Michael C. Long, 8213
Jess P. Lopez, 9464
Juan Lopez, 7254
Tung T. Ly, 3465
Lisa K. Mack, 9536
William J. Makell, 6745
Joseph P. Malinauskas, 1645
August T. Martin, 6627
Carol L. McCarther, 8206
Thomas W. McDevitt, 4910
Steven P. McGee, 9864
Patrick W. McMahon, 5758
Jason A. Merriweather, 1212
James F. Miller, 6437
James W. Mitchell, 1953
Kevin G. Morgan, 3889
Patrick J. Murphy, 4093
Nicole S. Nancarrow, 2108
Randall J. Navarro, 3988
Jack C. Neve, 2871
Anthony J. Nygra, 9006
Robert R. Oatman, 3261
Stephen H. Ober, 8546
Steven F. Osgood, 0310
Keith A. Overstreet, 4897
Geoffrey D. Owen, 3140
Kim J. Pacsai, 2821
John K. Park, 9448
Edwin W. Parkinson, 7735
Vincent E. Patterson, 8433
Kevin Y. Pekarek, 3307
Daryl R. Peloquin, 5796
Matthew F. Perciak, 6792
Cornell I. Perry, 7094
Mark G. Phipps, 8278
Zachary H. Pickett, 2955
Kenneth A. Pierro, 6696
Michael E. Platt, 3176
Nathan A. Podoll, 7508
Gary K. Polaski, 2160
Ronald P. Poole, 6332
Kenneth U. Potolicchio, 7762
Steven J. Pruyn, 5380
Lee S. Putnam, 9334
Gregory M. Rainey, 6693
Jeffrey K. Randall, 7612
Sean P. Regan, 7012
Francisco S. Rego, 9178
James M. Reilly, 9209
Joshua D. Reynolds, 0674
Rodd M. Ricklefs, 6519
Ronald L. Riedinger, 6390
James V. Rocco, 2868
Stanley T. Romanowicz, 5552
Shannon D. Rooney, 9051
Charles A. Roskam, 3977
Kiley R. Ross, 0559
Aaron E. Roth, 9026
Warren J. Russell, 5602
Matthew A. Rymer, 9954
Kristina E. Saliceti, 6117
Christopher S. Schubert, 2470
James W. Seeman, 7067
Edward B. Sheppard, 3579
John P. Sherlock, 6743
Arthur R. Shuman, 0528
Michael J. Simbulan, 6792
Darell Singleterry, 3552

Jerome F. Sinnaeve, 1503
Charles G. Smith, 9733
Matthew J. Smith, 9753
Robert L. Smith, 9066
Stuart M. Sockman, 9003
Gregory Stanclik, 0645
Bion B. Stewart, 4651
Anthony A. Stobbe, 0824
Paul M. Stocklin, 4098
Carrie M. Stoffel, 8350
Christopher A. Strong, 2306
Charles W. Tenney, 3941
Laura J. Thompson, 1781
Theresa L. Tierney, 6714
Shawn C. Tripp, 4929
Nancy J. Truax, 5567
Adam J. Tyndale, 0852
Daniel D. Unruh, 0015
Joseph G. Uzmann, 3423
Matthew R. Walker, 1683
Daniel P. Walsh, 5596
Thomas F. Walsh, 6807
Michelle R. Webber, 8933
Michael C. Wessel, 1833
Richard J. Wester, 0160
Sherman P. Whitmore, 2290
Gary S. Williams, 3943
Donald L. Winfield, 1051
Charles T. Wright, 2712
Jeffrey V. Yarosh, 7292
Michael E. Yensz, 1753
Cherian Zachariah, 6501
Michael B. Zamperini, 8558

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 107-19 AND TREATY DOCUMENT NO. 107-20

Mr. REID. I ask unanimous consent that the injunction of secrecy be removed from the following treaties transmitted to the Senate on November 14, 2002, by the President of the United States:

Convention with Great Britain and Northern Ireland regarding Double Taxation and Prevention of Fiscal Evasion (Treaty Doc. 107-19); and

Protocol Amending Convention with Australia regarding Double Taxation and Prevention of Fiscal Evasion (Treaty Doc. 107-20).

I further ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains, signed at London on July 24, 2001, together with an exchange of notes, as amended by the Protocol signed at Washington on July 19, 2002 (the "Convention"). I also transmit the report of the Department of State concerning the Convention.

The proposed Convention transmitted herewith would replace the Convention Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at London on December 31, 1975, as modified by a subsequent agreement and protocols.

This Convention, which is similar to tax treaties between the United States and other developed nations, provides for maximum rates of tax to be applied to various types of income, protection from double taxation of income, and for the exchange of information. The Convention also contains rules making its benefits unavailable to persons who are engaged in treaty shopping. The proposed Convention is the first U.S. income tax convention to provide a zero rate of withholding on certain direct investment dividends.

I recommend that the Senate give early and favorable consideration to this Convention, and that the Senate give its advice and consent to ratification.

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, a Protocol Amending the Convention Between the Government of the United States of America and the Government of Australia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Canberra on September 27, 2001 (the "Protocol"). I also transmit, for the information of the Senate, the report of the Department of State concerning the Protocol.

The Convention, as amended by the Protocol, would be similar to recent tax treaties between the United States and other developed nations. It provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention, as amended by the Protocol, also provides for resolution of disputes and sets forth rules making its benefits unavailable to residents that are engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Protocol, and that the Senate give its advice and consent to ratification.

TREATY WITH THE GOVERNMENT OF THE REPUBLIC OF HONDURAS FOR THE RETURN OF STOLEN, ROBBED, OR EMBEZZLED VEHICLES AND AIRCRAFT

Mr. REID. I ask unanimous consent the Senate proceed to consider Executive Calendar No. 12, the Treaty with Honduras, the treaty be advanced through its parliamentary stages up to and including the presentation of the resolution of the ratification, and the Senate now vote on the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution of ratification.

Senators in favor of the resolution, please stand. (After a pause.) All those opposed, please stand.

In the opinion of the Chair, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification is as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the Government of the United States of America and the Government of the Republic of Honduras for the Return of Stolen, Robbed, or Embezzled Vehicles and Aircraft, with Annexes and a related exchange of notes, signed at Tegucigalpa on November 23, 2001 (Treaty Doc. 107-15).

EXTRADITION TREATY WITH PERU

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to Executive Calendar No. 13, Extradition Treaty with Peru, the treaty be advanced through its parliamentary stages up through and including the presentation of the resolution of ratification, and that the understanding and the condition be agreed to, and the Senate vote on the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution of ratification. Senators in favor of the resolution, please stand. (After a pause.) All those opposed, please stand.

In the opinion of the Chair, two-thirds of those present and voting having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification and condition are as follows:

Resolved, (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Extradition Treaty with Peru, subject to an understanding and a condition.

The Senate advises and consents to the ratification of the Extradition Treaty Between the United States of America and the Republic of Peru, signed at Lima on July 26, 2001 (Treaty Doc. 107-6; in this resolution referred to as the "Treaty"), subject to the understanding in section 2 and the condition in section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

PROHIBITION OF EXTRADITION TO THE INTERNATIONAL CRIMINAL COURT.—The United States understands that the protections contained in Article XIII concerning the Rule of Speciality would preclude the resurrender of any person extradited to the Republic of

Peru from the United States to the International Criminal Court, unless the United States consents to such resurrender; and the United States shall not consent to any such resurrender unless the Statute establishing that Court has entered into force for the United States by and with the advice and consent of the Senate in accordance with Article II, section 2 of the United States Constitution.

Section 3. Condition.

The advice and consent of the Senate under section 1 is subject to the condition that nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States.

EXTRADITION TREATY WITH LITHUANIA

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to Executive Calendar No. 14, extradition treaty with Lithuania, that the treaty be advanced through its parliamentary stages, up to and including the presentation of the resolution of ratification; that the condition be agreed to and the Senate now vote on the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the resolution of ratification. Senators in favor of the resolution of ratification, please stand. (After a pause.) Senators opposed, please stand.

In the opinion of the Chair, two-thirds of those voting having voted in the affirmative, the resolution is agreed to.

The resolution of ratification and condition are as follows:

Resolved, (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Extradition Treaty with Lithuania, subject to a condition.

The Senate advises and consents to the ratification of the Extradition Treaty Between the Government of the United States of America and the Government of the Republic of Lithuania, signed at Vilnius on October 23, 2001 (Treaty Doc. 107–4; in this resolution referred to as the "Treaty"), subject to the condition in section 2.

Section 2. Condition.

The advice and consent of the Senate under section 1 is subject to the condition that nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States.

SECOND PROTOCOL AMENDING EXTRADITION TREATY WITH CANADA

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to Executive Calendar No. 15, the Second Protocol Amending Extradition Treaty with Canada; that the treaty be advanced through its parliamentary stages up to and including the presentation of the resolution of ratification; and that the Senate now vote on the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting and having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification is as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Second Protocol Amending the Treaty on Extradition Between the Government of the United States of America and the Government of Canada, signed at Ottawa on January 12, 2001 (Treaty Doc. 107–11).

TREATY WITH BELIZE ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to Executive Calendar No. 16, the treaty with Belize on mutual legal assistance in criminal matters; that the treaty be advanced through parliamentary stages up to and including the presentation of the resolution of ratification; that the understanding and conditions be agreed to; and that the Senate now vote on the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting, having voted in the affirmative, the resolution is agreed to.

The resolution of ratification and conditions are as follows:

Resolved, (two-thirds of the Senators present concurring therein,

Section 1. Advice and Consent to Ratification of the Treaty with Belize on Mutual Legal Assistance in Criminal Matters, subject to an understanding and conditions.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Government of Belize on Mutual Legal Assistance in Criminal Matters, signed at Belize, on September 19, 2000, and a related exchange of notes (Treaty Doc. 107–13; in this resolution referred to as the "Treaty"), subject to the understanding in section 2 and the conditions in section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

PROHIBITION ON ASSISTANCE TO THE INTERNATIONAL CRIMINAL COURT.—The United States shall exercise its rights to limit the use of assistance that it provides under the Treaty so that any assistance provided by the Government of the United States shall not be transferred to our otherwise used to assist the International Criminal Court unless the treaty establishing the Court has entered into force for the United States by and with the advice of the Senate in accordance with Article II, Section 2 of the United States Constitution, or unless the President has waived any applicable prohibition on provision of such assistance in accordance with applicable United States law.

Section 3. Conditions.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) LIMITATION ON ASSISTANCE.—Pursuant to the right of the United States under the Treaty to deny legal assistance that would prejudice the essential public policy or interests of the United States, the United States shall deny any request for such assistance if the Central Authority of the United States (as designated in Article 2(2) of the Treaty), after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior Government official of the requesting party who will have access to information to be provided as part of such assistance is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

(2) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States.

TREATY WITH INDIA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to Executive Calendar No. 17, the treaty with India on mutual legal assistance in criminal matters; that treaty be advanced through its parliamentary stages up to and including the presentation of the resolution of ratification; that the understanding and conditions be agreed to; and that the Senate now vote on the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting, having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification and understanding and conditions are as follows:

Resolved, (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Treaty with India on Mutual Legal Assistance in Criminal Matters, subject to an understanding and conditions.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Government of the Republic of India on Mutual Legal Assistance in Criminal Matters, signed at New Delhi on October 17, 2001 (Treaty Doc. 107–3; in this resolution referred to as the "Treaty"), subject to the understanding in section 2 and the conditions in section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

PROHIBITION ON ASSISTANCE TO THE INTERNATIONAL CRIMINAL COURT.—The United States shall exercise its rights to limit the use of assistance that it provides under the Treaty so that any assistance provided by the Government of the United States shall not be transferred to or otherwise used to assist the International Criminal Court unless the treaty establishing the Court has entered into force for the United States by and with the advice of the Senate in accordance with Article II, Section 2 of the United States Constitution, or unless the President has waived any applicable prohibition on provision of such assistance in accordance with applicable United States law.

Section 3. Conditions.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) LIMITATIONS ON ASSISTANCE.—Pursuant to the right of the United States under the Treaty to deny assistance that would prejudice the essential public policy or interests of the United States, the United States shall deny any request for such assistance if the Central Authority of the United States (as designated in Article 2(2) of the Treaty), after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior Government official of the requesting party who will have access to information to be provided as part of such assistance is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

(2) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States.

TREATY WITH IRELAND ON MUTUAL LEGAL ASSISTANCE MATTERS IN CRIMINAL MATTERS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Executive Calendar No. 18, the treaty with Ireland on mutual legal assistance matters; that the treaty be advanced through its parliamentary stages up to and including the presentation of the resolution of ratification; that the understanding and conditions be agreed to; and that the Senate now vote on the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting, having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification and understanding and conditions are as follows:

Resolved, (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Treaty with Ireland on Mutual Legal Assistance in Criminal Matters, subject to an understanding and conditions.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Government of Ireland on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 18, 2001 (Treaty Doc. 107-9; in this resolution referred to as the "Treaty"), subject to the understanding in section 2 and the conditions in section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

PROHIBITION ON ASSISTANCE TO THE INTERNATIONAL CRIMINAL COURT.—The United States shall exercise its rights to limit the use of assistance that it provided under the Treaty so that any assistance provided by the Government of the United States shall not be transferred to or otherwise used to assist the International Criminal Court unless the treaty establishing the Court has entered into force for the United States by and with the advice of the Senate in accordance with Article II, Section 2 of the United States Constitution, or unless the President has waived any applicable prohibition on provision of such assistance in accordance with applicable United States law.

Section 3. Conditions.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) LIMITATION ON ASSISTANCE.—Pursuant to the right of the United States under the Treaty to deny legal assistance that would prejudice the essential public policy or interests of the United States, the United States shall deny any request for such assistance if the Central Authority of the United States (as designated in Article 2(2) of the Treaty), after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior Government official of the requesting party who will have access to information to be provided as part of such assistance is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

(2) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constitution of the United States as interpreted by the United States.

TREATY WITH LIECHTENSTEIN ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to Executive Calendar No. 19, the treaty with Liechtenstein on mutual legal assistance in criminal matters; that treaty be advanced through its parliamentary stages, up to and including the presentation of the resolution of ratification; that the understanding and conditions be agreed to; and that the Senate now vote on the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

Senators in favor of the resolution of ratification will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting, having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification and understanding and conditions are as follows:

Resolved, (two-thirds of the Senators present concurring therein),

Section 1. Advice and Consent to Ratification of the Treaty with Liechtenstein on Mutual Legal Assistance in Criminal Matters, subject to an understanding and conditions.

The Senate advises and consents to the ratification of the Treaty Between the Government of the United States of America and the Principality of Liechtenstein on Mutual Legal Assistance in Criminal Matters, and a related exchange of notes, signed at Vaduz on July 8, 2002 (Treaty Doc. 107-16; in this resolution referred to as the "Treaty"), subject to the understanding in section 2 and the conditions in section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

PROHIBITION ON ASSISTANCE TO THE INTERNATIONAL CRIMINAL COURT.—The United States shall exercise its rights to limit the use of assistance that it provides under the Treaty so that any assistance provided by the Government of the United States shall not be transferred to or otherwise used to assist the International Criminal Court unless the treaty establishing the Court has entered into force for the United States by and with the advice of the Senate in accordance with Article II, Section 2 of the United States Constitution, or unless the President has waived any applicable prohibition on provision of such assistance in accordance with applicable United States law.

Section 3. Conditions.

The advice and consent of the Senate under section 1 is subject to the following conditions:

(1) LIMITATION ON ASSISTANCE.—Pursuant to the right of the United States under the Treaty to deny legal assistance that would prejudice the essential public policy or interests of the United States, the United States shall deny any request for such assistance if the Central Authority of the United States (as designated in Article 2(2) of the Treaty), after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior Government official of the requesting party who will have access to information to be provided as part of such assistance is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.

(2) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States that is prohibited by the Constutitition of the United States as interpreted by the United States.

LEGISLATIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. In my capacity as a Senator from the State of New York, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

In my capacity as a Senator from the State of New York, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 9:36 p.m., recessed subject to the call of the Chair and reassembled at 10:15 p.m., when called to order by the Presiding Officer (Ms. CANTWELL).

The PRESIDING OFFICER. The Senator from New York.

ECONOMIC SECURITY AND WORKER ASSISTANCE ACT OF 2001

Mrs. CLINTON. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 308, H.R. 3529.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3529) to provide tax incentives for economic recovery and assistance to displaced workers.

There being no objection, the Senate proceeded to the consideration of the bill.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, before formally making the unanimous consent request, I wish to thank Senator NICKLES for his understanding and cooperation in reaching this point this evening. I very much appreciate his willingness, and that of his staff, to work with us throughout today. And I am very personally grateful for his leadership and good advice and counsel.

This unemployment insurance extension is being sponsored, in addition to myself, by the Presiding Officer, the Senator from Washington, who has been a tremendous advocate, by Senator FITZGERALD of Illinois, and Senator SPECTER of Pennsylvania.

The commitment of all of the sponsors, and others, have made it possible for us to agree this evening to pass a bill that will be extremely welcomed by about 2.1 million Americans who will be able to take advantage of this extension that runs through the end of March. This will also specifically help approximately 177,000 New Yorkers as they enter the holiday season.

Obviously, this is not all that the Presiding Officer and I would have wanted. Perhaps it is more than some would have thought we should do. But I think it works out to be an acceptable compromise in bringing this about at this time.

Again, I personally thank Senator NICKLES for his extraordinary assistance.

So, Madam President, I ask unanimous consent that the substitute amendment at the desk be agreed to, the act, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4960) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. Section 114 of Public Law 107–229 is amended by striking "the date specified in section 107(c) of this joint resolution" and inserting "March 31, 2003".

SEC. 2. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

"SEC. 208. APPLICABILITY.

"(a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

"(1) beginning after the date on which such agreement is entered into; and

"(2) ending before April 1, 2003.

"(b) TRANSITION FOR AMOUNT REMAINING IN ACCOUNT.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), in the case of an individual who has amounts remaining in an account established under section 203 as of March 29, 2003, temporary extended unemployment compensation shall continue to be payable to such individual from such amounts for any week beginning after such date for which the individual meets the eligibility requirements of this title.

"(2) NO AUGMENTATION AFTER MARCH 26, 2003.—If the account of an individual is exhausted after March 29, 2003, then section 203(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual's State is in an extended benefit period (as determined under paragraph (2) of such section).

"(3) LIMITATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after June 28, 2003.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

The bill (H.R. 3529), as amended, was read a third time and passed.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I thank my colleague and friend from New York for working with us. I think we have worked out an acceptable compromise. Senator FITZGERALD and Senator SPECTER were very much interested in passing this bill so we were happy to accommodate them.

In contrast to the previous legislation, which was a significant expansion over current law, of which efforts had been made to pass by unanimous consent earlier today, this is an extension of current law. It is a lot less expensive. This is an extension for 3 months.

We also did something else I think is important. We eliminated the cliff. In other words, current law would say by January 1 the 13-week Federal program would be terminated. This says, no, there is a phaseout. So there is not a cliff. At the end of March, if people are already into the system, they can complete their 13-week program. So I think it is responsible.

Also, for the benefit of my colleagues—and some have reservations about this program because, legitimately, they are wondering whether, if you continue to pay out unemployment benefits, they will stay unemployed. And I happen to appreciate many of those concerns.

Now we will not be wrapped up with this beginning in January. So this will give Congress a chance and hopefully offer some assistance to those people who really need it and also offer Congress a chance to get off to a good start without wrestling and debating this issue.

I have debated this issue more than I want to debate it. And I appreciate our colleagues on both sides willing to compromise.

The House passed a 1-month extension. This is a 3-month extension eliminating the cliff. I think it is a more orderly and more well-thought-out program that makes sense.

So I will not object to its passage and appreciate our colleagues from New York and Washington, as well as Illinois and Pennsylvania, for their cooperation in making this happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. As I was listening to the Senator from Oklahoma explain why this makes sense, and particularly to eliminate the cliff that, frankly, people would have fallen off at the end of the year, right at the beginning of a new year—and hopefully providing new hope for people—I could not help but think of our colleague, Paul Wellstone. I think he is smiling down on us. I think he is up there waving his arms, pacing around, and saying, good work, and thanks for doing that.

To me, this is tremendous evidence of the kind of cooperation that can come about to bring us together to help people.

Again, I thank my friend from Oklahoma.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I have been on this floor many, many times when there have been speeches on both sides on extending unemployment insurance going back several months. This is what legislating is all about, the art of compromise. Not everyone got what they wanted. But we got something, and it is very important and very positive.

I extend my appreciation to the Presiding Officer, the Senator from Washington, who worked on this diligently, and, of course, the Senator from New York, who has worked on this very hard.

No one has been on the floor more than the Senator from Oklahoma, and he needs to be complimented because he certainly could have stopped this in the last few hours of the session. He chose not to do that. He chose to move forward on a positive note.

I, not only for the Senate, but for the respective States and the whole country, extend my appreciation to the three of you, all fine legislators.

Mr. NICKLES. Thank you.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. CANTWELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

Ms. CANTWELL. Madam President, I would like to take the opportunity to congratulate my colleagues on the passage of the unemployment extension bill which we just did by unanimous consent.

This really was a bipartisan effort by the Senator from Oklahoma and from two of our colleagues, the Senator from Illinois, Mr. FITZGERALD, and the Senator from Pennsylvania, Mr. SPECTER, who played a very important role in communicating the needs of unemployment benefit extensions in their States.

I thank the Chair, the Senator from New York, Mrs. CLINTON, who has since July advocated passage of this legislation, talked about the importance of making sure that as our economy has faced a downturn, we continued to make sure the opportunities for income and stimulus in our economy were there.

As she fought for the State of New York, which has been gravely impacted by the events of 9/11 and the downturn in the economy where jobs are just not being created, the Senator got all of us in the country to realize how critical the issue was for us moving forward at a time when the economy has not returned to positive growth.

Obviously the State of Washington has been greatly impacted by that same downturn, in the aerospace industry, in high tech. This legislation will actually help over 75,000 Washingtonians who will get the benefit of having an extension of a program and, being a high unemployment State, will qualify for the benefits of that program. This is actually something I think a few Washingtonians tonight, maybe a few Seattlites, will be sleeping a little bit better from, knowing that in the impending months, as we struggle to get the economy going again, they will actually be able to meet those mortgage payments, pay those health care bills, and continue to move forward.

Economists have said this kind of stimulus has a two-to-one effect; that for every dollar spent on unemployment benefits, it generates about $2.15 into the local economy. We have done a good service for my State's economy and for New York's and Pennsylvania and Illinois, for the whole country, because we will be stimulating those individuals' disposable income.

Again, I thank the Senator from New York for her hard work and vision, pointing out last summer the need to do it, being diligent in this process. And tonight, because of this bipartisan support, there will be more Americans sleeping better as we approach the tough challenges ahead in getting our economy moving but knowing that we have not left workers behind, workers who would rather have a paycheck than an unemployment check, but at least now they will be continuing to add to the economy.

I yield the floor and suggest the absence of a quorum

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN REMEMBRANCE OF PAUL WELLSTONE

Mr. CHAFEE. Madam President, today I offer my condolences to all the friends, family members and admirers of Paul Wellstone. As has been said many times, Paul Wellstone was fiercely proud of the causes with which he associated himself. Certainly, to have Paul Wellstone articulately and strongly arguing on one's behalf was a great asset. His many friends are forever grateful for his wrestler's tenacity as he advocated for those issues in which he so emotionally believed.

Several years ago a candidate for Congress in Rhode Island retired from the campaign because of a shortage of funds, declaring that no longer could "Mr. Smith go to Washington." Paul Wellstone proved that yes, indeed, Mr. Smith could go to Washington. In 1990 he challenged an incumbent who possessed a huge financial advantage in what many assumed to be a quixotic and hopeless campaign. In November of that year Paul Wellstone was the only challenger to beat an incumbent, providing inspiration forever to long shots.

Three cheers for the people of Minnesota who have shown a propensity for embracing people of divergent philosophies. In the last few years Minnesota has elected Rod Grams, Jesse Ventura and Paul Wellstone; public servants with very different approaches to the issues of the day. I join Minnesotans and Americans in mourning the death of the passionate and good-natured Paul Wellstone.

TRIBUTE TO SENATOR MAX CLELAND

Mr. CONRAD. Madam President, I am honored to pay tribute and recognize the leadership, dedication to public service and hard work of my colleague from Georgia, Senator MAX CLELAND. Few Members of the Senate have sacrificed so much for their country.

Senator CLELAND has had a remarkable 30-year career in public service including a tour of duty in Vietnam in 1967 in which he was awarded the Bronze and Silver Stars for meritorious service. MAX started his career in the military soon after graduating from Stetson University, where he was a member of the Army ROTC. In 1967, he volunteered for duty in Vietnam. He quickly worked his way up the ranks, earning a promotion to Captain in 1968. In April of the same year, he was seriously wounded in a grenade explosion, which cost him both of his legs and his right arm. One month before his tour was up, he was sent home to recover from his injuries.

His dedication to public service continued when he won a seat in the Georgia State Senate. As the youngest state senator, he pushed for a State law making public facilities accessible to the disabled. In 1975, Senator CLELAND began his lifelong mission of improving the lives of the men and women in the military. MAX was asked to work for the Senate Veterans Affairs Committee, and 2 years later he accepted the position to head up the U.S. Veterans Administration. He was the youngest administrator and only Vietnam veteran to ever head up the agency. During his time with the Veterans Administration, MAX instituted the "Vets Center Program," which for the first time provided psychological counseling to combat veterans. This program has now led to over 200 Vet Centers around the country.

Senator CLELAND continued his public service for the people of Georgia in 1982, when he was elected Secretary of State. During his time in this position, he fought relentlessly for campaign finance reform and to reduce telemarking fraud. Senator CLELAND also played a key role in the implementation of the National Voter Registration Act, or Motor Voter, in the State of Georgia. This in turn allowed an increase in access to government by getting nearly 1 million citizens of Georgia registered to vote.

MAX was elected to the U.S. Senate in 1996; he filled the spot that was vacated by the retiring Sam Nunn. The 6 years that he spent in the Senate were marked by his passion and drive to accomplish what was of importance to the people he served. He was a proponent for the Patients' Bill of Rights and doggedly battled for the improvement of education by way of increased resources for teacher training and certification.

As a former military man who served his country in Vietnam, Senator CLELAND brought an understanding to the Senate Chamber, of the sacrifices made by individuals in the armed forces. This understanding led him to champion military causes. As chairman of the Personnel Subcommittee of the Armed Services Committee, he fought for improvements in the quality of life of our active-duty, reserve, and retired military personnel through enhancement of the Montgomery G.I. Bill and improvement of retirement benefits. All his hard work has not gone unnoticed, Senator CLELAND has been recognized nationally as the "Minute Man of the Year," an award given by the Reserve Officers Association of America to two individuals annually for their tremendous leadership in the areas of military and national security. There is no doubt that on and off the battlefield, MAX was a leader for the Armed Forces.

Senator CLELAND also provided support to military personnel stationed at the Grand Forks Air Force Base in North Dakota. In 1997, during the devastating floods in North Dakota, several hundred active duty personnel from the Grand Forks base were unable to access disaster relief because Federal law limited assistance to personnel living on the base. Senator CLELAND, as a member of the Senate Armed Services Committee, was instrumental in amending the law to enable those servicemen living off base to be eligible for this critical disaster assistance.

MAX's bravery, courage, and passion for these issues and many others will be missed. It has been an honor to serve with somebody who represents his constituents with such energy, drive and passion. I would like to join my colleagues in wishing the Senator and his family the best in the future and paying tribute to his outstanding public service. I wish him well.

TRIBUTE TO REPRESENTATIVE JAMES V. HANSEN

Mr. HATCH. Madam President, I rise to pay tribute to my long-time friend and colleague, Representative JAMES V. HANSEN. After 22 years of dedicated service to his country and to the State of Utah, Jim has chosen to end his career as a Member of Congress and return home to Utah and to his grandchildren.

I am pleased that Mr. HANSEN will be able to enjoy his retirement, but we will miss him. Utah has never been better served by a Member of Congress. Just this year he was described by a national media source as one of the 10 most powerful Members of the House of Representatives. Considering the number of Members of that body, that is really saying something. Representative HANSEN has had a very positive impact on our Nation, but his impact on Utah and Utahns is truly incalculable.

Mr. HANSEN was the first Representative from Utah to chair a full committee. Due in large part to the respect he earned among his colleagues on both sides of the aisle, he was appointed to chair the high-profile Committee on Standards of Official Conduct.

As some of my colleagues may know, Utah is made up of about 70 percent public lands which includes national parks, Bureau of Land Management lands, national forests, national monuments, national wildlife refuges, and vast military holdings. As a very senior member of the House Armed Services Committee and the Chairman of the Committee on Natural Resources, Representative HANSEN has the protector and promoter of so many of Utah's interests.

Mr. HANSEN's service to the public has spanned more that four decades. He spent the first 12 years of his public service career on the City Council of Farmington, UT. Following that, he served for four terms as a member of the Utah House of Representatives, including one term as the Speaker of the House. In 1980, Mr. HANSEN was elected to Congress where he has served diligently until today.

Mr. HANSEN's honesty, hard work, and strong character have made him a lawmaker that we will never forget. I am one of many who will sorely miss his plain talking leadership and his wisdom on matters of public policy. On behalf of my colleagues in the Senate and the people of Utah, I would like to publicly thank JIM and his wonderful wife Ann for giving so much of themselves to their State and to their Nation.

GRATITUDE FOR NEW ZEALAND'S FIREFIGHTERS

Mr. SMITH of Oregon. Madam President, I rise today, on behalf of my State of Oregon, to express our deepest gratitude for the New Zealanders who put their lives on the line this last summer in fighting the ravenous wildfires experienced in the West.

Even as the rains of fall settle into the forests of the Pacific Northwest, it is not difficult to remember the fiery infernos that engulfed the West only a few months ago. The year 2002 was the second worst fire season in 50 years. Nationwide 21 lives were lost and 6.7 million acres were burned.

It was one of the Nation's largest fires, called the Biscuit Fire, that drew a cadre of international firefighters to Oregon, the world's best sent to join the fight against our worst disaster. The Biscuit Fire, the largest wildfire in Oregon in over a century, eventually burned 500,000 acres in southwestern Oregon. At times, firefighters put the chances of losing one or all of the Illinois Valley's four towns at 75 percent. However, 7,000 of the world's best firefighters beat the odds and staved off an exploding fire that threatened hundreds of square miles and thousands of homes. As a result of their relentless work, no lives were lost and structural loss was virtually nonexistent.

On behalf of my State of Oregon, I want to thank and commend the brave New Zealand firefighters who helped win that battle against wildfire. They are John Barnes, Darryl Robson, John Sutton, Richard McNamara, Paul Tolladay, Phil Wishnowsky, Robin Thompson, Trevor Tiday, Jock Darragh, and Ross Hamilton.

While I hope that such perilous circumstances will never call these firefighters back to Oregon or elsewhere, I know that forest fires will continue to burn and brave firefighters will continue to put their lives between the fire and ours. We will never forget that.

TRIBUTE TO SENATOR BOB SMITH

Mr. CONRAD. Madam President, I take this opportunity to pay tribute to and recognize the hard work of my colleague from New Hampshire, Senator BOB SMITH. Since joining the Senate in 1990, he has fought with honesty and commitment for the issues that he believed to be most important.

As the ranking member and former chairman of the Environment and Public Works Committee, he focused great attention on reforms of the Corps of Engineers and funding to expand and improve transportation infrastructure. Also, as a senior member of the Armed Services Committee, Senator SMITH fought passionately for a strong military, and always made national security a top priority.

I had the pleasure of working with BOB SMITH in his efforts to establish accountability measures for missing MIAs and POWs. In his capacity as a member of the Senate Select Committee on POW/MIA Affairs, Senator SMITH was very helpful in answering and addressing questions about Vietnam POWs from North Dakota. He also helped North Dakotans on POW issues from the cold war era.

I also had the privilege of serving with Senator SMITH on the Ethics Committee, which he chaired. I found him to be completely fair and non-partisan in his conduct of his duties.

He also was one of the first of my colleagues to console me on the untimely death of my chief of staff, Kent Hall.

Mr. President, it has been an honor to serve in the Senate with BOB SMITH. I have the utmost respect for his service to the people of New Hampshire. While sitting in the historic desk of Daniel Webster, he has made contributions not only to the Senate but also to our Nation. I would like to join my colleagues in wishing Senator SMITH and his family the best in the future.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred December 28, 2001 in Marshfield, MA. According to police, a teenage assailant beat a man because the assailant thought the victim was gay. The victim was standing outside a local store when a car containing three men pulled into the parking lot. One of the men in the car yelled anti-gay obscenities at the victim. The victim entered the store with two friends, and upon exiting, was beaten by the assailant. The assailant yelled anti-gay epithets while punching and kicking the victim, continuing the beating even after the victim fell to the ground.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

FY 2003 DEFENSE AUTHORIZATION CONFERENCE REPORT

Ms. SNOWE. Madam President, I rise today to speak briefly about my support for the fiscal year 2003 National Defense Authorization Conference Report and would like to particularly endorse its name as the Bob Stump National Defense Authorization Act for Fiscal Year 2003 in recognition of the chairman of the House Armed Services Committee's 25 years of distinguished service to that Committee.

I also acknowledge the senior Senator from Michigan, Mr. CARL LEVIN, the chairman of the Armed Services Committee, for the leadership he provided in support of the authorization bill, and, of course, the ranking member, Senator JOHN WARNER of Virginia, whose tireless efforts on behalf of veterans led to the final agreements that brought this bill to the floor.

Let me recognize the efforts of every Senator on the Committee. As a former member of that committee, I well understand the long hours and persistent effort needed to move this vital bipartisan legislation.

The conference report takes great strides toward improving the quality of service for our dedicated men and women of the military, modernizing our armed services, and making our homeland safe.

Because we recognize that our service members are our most valuable asset, this legislation makes a solid investment in their quality of life by increasing pay and enhancing educational and health care opportunities for our active duty military members and their family members. And that is only right, for today we are asking a great deal of our gallant young men and women as they guard our Nation at home and abroad in this dangerous and deadly post-September 11 world.

This legislation recognizes that we also owe a continuing debt to those who have served honorably by finally granting combat-wounded military retirees the same benefit available to every other retired Federal employee—the ability to collect full retirement pay and disability entitlements without offsets. There is much work to be done before we achieve the full equity of concurrent receipt for all disabled military retirees, but as Senator WARNER has appropriately noted, we have established a "beachhead" for this issue.

I do find it regrettable, however, that the conference report does not complete the job of overturning the ban on privately funded abortion services in overseas military hospitals for military women and dependents based overseas, which was reinstated in the Fiscal Year 1996 authorization bill.

This is a ban that, without merit or reason, puts the reproductive health of these women at risk . . . a ban that the Senate voted to overturn in June by a vote of 52–40. Sadly, this is the second time that this policy change, which has been supported by the majority of the Senate, has fallen victim to the conference committee process.

This ban continues to be a threat to more than just the freedoms of American military women overseas, it's also a threat to their health because it places them at the mercy of the local health care infrastructure in whatever country that they are based. While I support this conference report, I remain deeply disappointed that the conference did not include this critical change of policy regarding this arbitrary ban.

As for modernizing our forces, let me speak on an area that is critical to the security of the Nation—shipbuilding. We are learning that in order to effectively engage the forces of terror wherever they hide, we must have the ability to project our power immediately to any part of the globe. Today, we can do that by dispatching our forces in carrier battle groups or amphibious ready groups. However, as a former chair of the Seapower Subcommittee, I remained concerned, as I know the committee is, about the continuing decline in shipbuilding investments made by the Navy.

I note the conferees included detailed language about the Navy's ship acquisition program and completely agree with their conclusion that, without a fully vetted long range ship-building program, we will be faced with a Navy that is unable to carry out the missions assigned to them in both the short-term and the long-term.

To quote the report, "Absent more immediate investment, DOD will have to reduce the number or scope of missions assigned to Navy ships. Witnesses have testified that, if neither course is incorporated in future Navy budget programs, the men and women of the Navy and the Marine Corps will bear the burden of these decisions through some combination of longer deployments and less time at home between deployments."

I find that very troubling indeed in these dangerous times.

Therefore, I am encouraged this legislation mandates stronger shipbuilding funding and construction in the future years. Provisions such as section 1022 that requires the Navy to submit an annual 30 year shipbuilding plan with their budget request will not only assist us in understanding the Navy's ship recapitalization plan but will ensure that the Department of Defense and Navy are committed to buying the number and type of ships necessary to fulfill all of their missions.

I am also pleased that this authorization provides $2.4 billion for the construction of two DDG–51 *Arleigh-Burke* class destroyers and extends through fiscal year 2007 the multi-year procurement authority for that class. For it is these ships, along with cruisers and frigates, that provide protection to the carriers and amphibious ships we are deploying to the Persian Gulf to prosecute the war on terrorism. Surface combatants are the backbone of our Navy and I support section 1021 that requires the Secretary of the Navy to notify Congress should the number of active and reserve surface combatant ships drop below 116.

The legislation also looks to the future by authorizing almost $970 million for the development of technologies to be incorporated into the next generation of surface combatant, the DD(X) land attack destroyer. Moreover, it adds $5 million for the DDG Destroyer Optimized Manning Initiative, a Navy effort to enhance the operational effectiveness of Aegis destroyers with new technologies, policies and procedures to significantly reduce crew workload and improve readiness.

The legislation authorizes $10.4 billion, $376 million more than requested, for science and technology programs including many that will be performed in Maine to protect our troops and our homeland such as the project designed to help identify and address the needs of military personnel in the event of a biowarfare attack.

Of potentially significant value to the Navy, it authorizes $1 million for research at the University of Maine aimed at developing a specialized structural reliability analysis process to optimize the use of polymers in future ship construction, and provides $5 million in funding for development of a Small Kill Vehicle Technology, aimed at improving the accuracy of missile and anti-missile technology.

Furthermore, among the more critical provisions of this legislation are those aimed at protecting our homeland. It provides the President with $10 billion for the war against terrorism including $4.3 billion for military operations and $1 billion for equipment replacement and upgrades to military capabilities.

And finally, the legislation includes almost $1 billion for Chem-Bio programs designed to provide advanced individual protection and equipment to detect and decontaminate chemical and biological agents, as well as an additional $480 million for DoD homeland security and consequence management.

This authorization provides the men and women of our armed forces with the equipment they need to accomplish their mission, the quality of life they have earned and security for their families. I have been proud to support this legislation because in a year when our Nation is facing unprecedented security challenges and dangers, we can do no less.

THE PIPELINE SAFETY IMPROVEMENT ACT OF 2002

Mr. HOLLINGS. Madam President, I am pleased that last night the Senate unanimously passed pipeline safety legislation in the form of H.R. 3609, the Pipeline Safety Improvement Act of 2002. This bill is the product of over three years of bipartisan work and compromise, and I thank my colleague, Senator MCCAIN, for his leadership on this important issue.

Mr. MCCAIN. I would like to thank my many colleagues for joining us in supporting this important legislation. This bill will result in improvements in the safety regulatory program at the Department of Transportation, increased levels of safety throughout our national pipeline system, and in the communities through which pipelines run. This bill contains several important improvements, including: requirements for minimum standards for pipeline integrity management programs, requirements for public education programs, and requirements that the Office of Pipeline Safety and the Research and Special Programs Administration comply with safety recommendations made by the National Transportation Safety Board and the Department of Transportation Inspector General, many of which have already been started.

Mr. HOLLINGS. To expedite enactment of the significant pipeline safety reforms included in this bill, the leadership of the Senate Committee on Commerce, Science, and Transportation has worked with the House Committees on Transportation and Infrastructure and Energy and Commerce in developing the compromise agreement. This Joint Explanatory Statement therefore represents the views of the Chairman and Ranking Member of the Senate Commerce Committee, along with the Chairmen and Ranking Members of the Transportation and Infrastructure Committee and the Energy and Commerce Committee. This Joint Explanatory Statement will provide legislative history for interpreting this important pipeline safety legislation.

I ask unanimous consent that this statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; amendment of title 49, United States Code

This section designates the act as the "Pipeline Safety Improvement Act of 2002."

Section 2. One-call notification programs

This section requires that state one-call notification programs provide for the participation of government operators and contract excavators. Section 2 also requires that state one-call notification programs document enumerated items set forth in the statute. Additionally, the requirement that the Secretary of Transportation include certain information in reports submitted under section 60124 of Title 49 is made permanent. Authorizations for appropriations for grants to states for fiscal years 2003 through 2006 are provided at $1,000,000 per year, and grants for administration in section 6107(b) are updated for fiscal years 2003 through 2006. This section also amends section 6105 of Title 49 by requiring the Secretary of Transportation to encourage the states, operators of one-call notification programs, operators of underground facilities, and excavators (including government and contract excavators) to use the practices set forth in the best practices report entitled "Common Ground," as periodically updated, and requires the Secretary of Transportation to provide technical assistance to a non-profit organization specifically established for the purpose of reducing construction-related damage to underground facilities. Authorizations for appropriations for fiscal years 2003 through 2006 are provided at $500,000 per year, but would not be derived from user fees collected under section 60301 of title 49.

Section 3. One-call notification of pipeline operators

This section provides for the enforcement of one-call notification programs by a state authority if the state's program meets the requirements set forth in the statute. The application of the term "person" who intends to engage in an activity necessitating the use of the one-call system is expanded to include government employees or contractors.

This section amends section 60123(d) of Title 49 by rearranging the phrase "knowingly and willfully" to address the problem raised when a court interpreted existing law to require a knowing and willful standard to, not only engaging in an excavation activity, but also to subsequently damaging a pipeline facility. The consequence of the court's interpretation makes prosecutions more difficult by requiring the government to show the defendant knew subsequent damages would result from excavation activity and that the defendant's conduct was willful. This section of the bill corrects the court's interpretation by now requiring that the "knowingly and willfully" standard apply only to engaging in an excavation activity.

This section also provides that penalties under the criminal penalties section can be reduced if the violator promptly reports a violation.

Section 4. State oversight role

This section amends section 60106 of Title 49 to allow the Secretary of Transportation to make an agreement with a state authority authorizing the state authority to participate in the oversight of interstate pipeline transportation including incident investigation, new construction, and other inspection and investigatory duties. However the Secretary shall not delegate the enforcement of safety standards for interstate pipeline facilities to a state authority. This section further provides that the Secretary may terminate agreements with the State authorities if a gap results in the State authority's oversight responsibilities of intrastate pipeline transportation, the State authority fails to meet requirements set forth in this section, or continued participation in the oversight of interstate pipeline transportation would not promote pipeline safety. Existing state agreements shall continue until a new agreement between the state and the DOT is executed or December 31, 2003, whichever is sooner.

Section 5. Public education programs

Section 5 amends section 60116 of Title 49 to include hazardous liquid pipeline facilities in this section requiring a continuing program to educate the public on the use of one-call notification systems, the possible hazards associated with unintended releases, and how to tell if an unintended release occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event. This section also requires owners and operators to review existing public education programs for effectiveness and to modify their programs as necessary. In addition, the section allows the Secretary to issue standards prescribing the elements of public education programs and develop materials for use in such programs.

Previous versions of Senate-passed pipeline safety legislation also included a provision calling for the coordination of emergency preparedness between operators of pipeline facilities and state and local officials, as well as to provide for public access to certain safety information. Agreement was not reached on how safety information could be accessed by the public in a manner that would protect security-sensitive information from distribution. The managers agreed that this issue would be better dealt with in the context of the pending homeland security legislation.

Section 6. Protection of employees providing pipeline safety information

This section adds provisions for the protection of employees who are discharged or otherwise discriminated against with respect to compensation, terms, conditions, or privileges of employment for (1) providing information to the federal government about alleged violations of Federal law relating to pipeline safety; (2) refusing to participate in any practice made illegal by Federal law relating to pipeline safety; or (3) assisting or participating in any proceeding to carry out the purposes of pipeline safety legislation. This section establishes the procedural framework in which complaints are handled by the Secretary of Labor and the remedies available to the prevailing party.

This section contains a provision that essentially says if a preliminary order provides that an employee must be allowed to return to work, the filing of an objection by the employer "shall not operate to stay any reinstatement remedy contained in the preliminary order." The intention of this language is to assure that the mere filing of an objection would not work as an automatic stay, thus precluding an employee from returning to work pending the outcome of the matter. However, this language would not preclude an employer from filing an independent motion for a stay if sufficient grounds exist for the filing of such a motion.

Section 7. Safety orders

Section 7 adds a paragraph to section 60117 of Title 49 to give the Secretary of Transportation authority to order an operator of a facility to take corrective action if the Secretary decides that a potential safety-related condition exists. The Office of Pipeline Safety (OPS) requested this provision so that corrective action could be taken immediately rather than waiting until a facility is classified as "hazardous" prior to requiring corrective action.

Section 8. Penalties

This section modifies the existing penalties provision set forth in section 60112 of Title 49 to allow the Secretary of Transportation to decide if the operation of a pipeline facility, is "or would be" hazardous to life, property, or the environment. The purpose of the modification is to give the Secretary authority to take action prior to the facility, the construction of the facility, or any component of the facility actually becoming hazardous, thereby establishing a framework of preventative actions, rather than actions only in response to an imminent hazard.

In subsection (a)(1) of section 60122, the amounts of the penalties have been increased. The per day, per incident, amount has been increased from $25,000 to $100,000. The maximum civil penalty for a related series of violations has been increased from $500,000 to $1,000,000. This section of the bill also provides that, in determining the amount of a civil penalty, the Secretary of Transportation shall consider as an additional consideration in section 60122(b) of Title 49, the adverse impact on the environment. The Secretary of Transportation may consider the economic benefit gained from the violation without reduction because of subsequent damages.

This section also modifies the enforcement section of the statute (section 60120(a)(1) of Title 49) by specifically providing that the court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and the assessment of civil penalties. The current statutory language specifying that the Attorney General may proceed only at the request of the Secretary of Transportation remains in effect.

Section 8 also requires that the Comptroller General conduct a study of the actions, policies, and procedures of the Secretary of Transportation for assessing and collecting fines and penalties.

Section 9. Pipeline safety information grants to communities

Section 9 requires the Secretary of Transportation to make grants for technical assistance to local communities and groups of individuals (not including for-profit entities) relating to the safety of pipelines in local communities. The purpose of this provision is to provide grants to communities for technical assistance such as engineering or scientific analysis of pipeline safety issues. Applicants must compete for the grants in a procedure established by the Secretary of Transportation, who shall also establish the criteria for the recipients. Additionally, the Secretary must establish procedures to ensure that the funds have been properly accounted for and spent in a manner consistent with the purpose of the grants. Any one-grant recipient may not receive more than $50,000. The grant funds cannot be used for lobbying or in direct support of litigation. This section authorizes the appropriation of $1,000,000 for each of the fiscal years 2003 through 2006.

Section 10. Operator assistance in investigations

This section requires the operator of a pipeline facility to make available information and records to the Secretary of Transportation or the National Safety Transportation Board (NTSB) in the event of an accident, subject to constitutional protections for operators and employees. Actions taken by an operator pursuant to this section shall be in accordance with the terms and conditions of any applicable collective bargaining agreement.

Section 11. Population encroachment and rights-of-way

This section requires the Secretary of Transportation, along with the Federal Energy Regulatory Commission (FERC) and other federal agencies and state and local governments, to study land use practices and zoning ordinances, as well as the preservation of environmental resources, with regard to pipeline rights-of-way. Based upon the purposes set forth in this section, a report is to be written that identifies successful practices, ordinances, and laws addressing population encroachment on pipeline rights-of-way, being mindful of protecting the public safety, pipeline workers, and the environment. The report must be completed within one year from the date of enactment and provided to Congress, appropriate federal agencies, and the States for further distribution to the appropriate local authorities.

Section 12. Pipeline integrity, safety, and reliability research and development

This section requires the heads of the participating agencies to carry out a program of research, development, demonstration, and standardization to ensure the integrity of pipelines. The Secretary of Energy, Secretary of Transportation, and the Director of the National Institute of Standards and Technology (NIST) each have defined roles. The Secretary of Transportation, in coordination with the Secretary of Energy and the Director of the National Institute of Standards and Technology, shall prepare and submit to Congress a 5-year plan to guide the activities under this section. The plan shall also be submitted to the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee for review. The section authorizes appropriations for the fiscal years 2003 through 2006 in the following amounts: Secretary of Energy: $10,000,000; the Secretary of Transportation: $10,000,000; and the National Institute of Standards and Technology: $5,000,000. Any sums authorized pursuant to this section shall not be derived from user fees. In addition $3,000,000 from the Oil Spill Liability Trust Fund shall be transferred to the Secretary of Transportation, as provided in appropriations Acts, to carry out programs for detection, prevention, and mitigation of oil spills for each of the fiscal years 2003 through 2006.

Even though the Secretary of Transportation does not regulate gathering lines, the participating agencies are encouraged to include such lines in their research, development, demonstration, and standardization efforts on the integrity of gathering lines.

Section 13. Pipeline qualification programs

This section requires the Secretary of Transportation to require operators of pipeline facilities to develop qualification programs for their personnel who perform covered tasks (as defined in the Code of Federal Regulations). This section also requires the Secretary to have in place standards and criteria for such qualification programs, including a method for examining or testing the qualifications of individuals who perform covered tasks. Such method may include written examination, oral examination, on-the-job training, simulations, observation during on-the-job performance, and other forms of assessment. The method may not be limited to observation of on-the-job performance, except with respect to tasks where the Secretary has determined specifically that such observation is the best method of examining or testing qualifications. Further, the Secretary must ensure that the results of any such on-the-job performance observations are documented in writing. The Secretary may waive or modify requirements if not inconsistent with pipeline safety. The Secretary is required to verify each operator's qualification program, including modifications to previously verified programs. In the event the Secretary fails to establish standards and criteria as set forth in this section, pipeline facility operators are required to develop and implement qualification programs based on the requirements of this section. The Secretary is required to report to Congress within 5 years on the status and results of personnel qualification regulations. A pilot program is established for the certification of individuals who operate computer-based systems for controlling the operations of pipelines. The pilot program seeks the participation of 3 pipeline facilities.

Section 14. Risk analysis and integrity management programs for gas pipelines

This section requires operators of pipeline facilities subject to section 60109 of Title 49 to adopt and implement a written integrity management program to reduce risks to each facility. Within 12 months of the enactment of the bill, this section requires the Secretary of Transportation to prescribe standards to direct each operator's conduct of a risk analysis and adoption and implementation of an integrity management program, which must occur within 24 months from the enactment of the section. Minimum requirements are set forth in this section for integrity management programs and for the rule regulating the same, which include a baseline integrity assessment of each of an operator's facilities which must be completed within 10 years after the enactment of the section (at least 50 percent of such facilities shall be assessed no later than 5 years after the date of enactment of this section), and a reassessment of each facility at a minimum of once every 7 years, with prioritization being based on all relevant risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures.

The Secretary of Transportation is required to issue a rule on integrity management programs, and each operator of a pipeline facility subject to section 60109 of Title 49 is required to adopt and implement an integrity management program, even if the Secretary does not issue a rule. This section does not apply to natural gas distribution lines because section 60109 of Title 49 does not, nor was it intended to, apply to natural gas distribution lines.

Section 14 authorizes the Secretary of Transportation to grant waivers and modifications pursuant to section 60118(c) of Title 49 for any requirement for reassessment of a facility for reasons that may include the need to maintain local product supply or the lack of internal inspection devices. The waivers or modifications shall not be inconsistent with pipeline safety.

This section also requires that the Comptroller General conduct a study to evaluate the 7-year reassessment interval required by this section. The study is to be completed and transmitted to Congress no later than 4 years from the date of enactment.

In this section, each operator of a gas pipeline facility is required to conduct a risk analysis for facilities located in high consequence areas and to adopt and implement an integrity management program for each such facility to reduce associated risks. This section requires each operator to prioritize facilities for integrity assessment based on all risk factors, including any history of leaks, repairs, or failures, and directs the operator to give priority to facilities with the highest risks.

The Department of Transportation's Research and Special Programs Administration (RSPA) issued a final rule defining "high consequence areas" on August 6, 2002. The managers strongly support RSPA's regulation defining high consequence areas, although recognize that the definition could be subject to alteration by future regulatory action by RSPA.

Pipeline safety regulations have long required gas operators to survey and patrol along their pipeline rights-of-way to classify areas of population. The new definition of high consequence areas builds on the existing classification of areas where the potential consequences of a gas pipeline accident may be significant or may do considerable harm to people and their property, and includes current class 3 and 4 locations, facilities with persons who are mobility impaired, confined, or hard to evacuate, and places where people gather for recreational and other purposes.

In the July 2002 Technical Pipeline Safety Standards Committee meeting to consider the proposed definition, RSPA made clear its intent to include in its definition known areas where people gather, such as the Pecos River pipeline crossing near Carlsbad, New Mexico, which was commonly used by campers and fishermen and was the location of a pipeline rupture in August 2000 that resulted in 12 fatalities. The managers support is expressed for this new definition of high consequence areas and expect RSPA to further clarify the application of the definition in the substantive rule to be issued on integrity management programs.

Section 15. National Pipeline Mapping System

Section 15 requires operators of pipeline facilities, except distribution lines and gathering lines, to provide to the Secretary of Transportation geospatial data appropriate for use in the National Mapping System, the name and address of the person with primary operational control, and a means for a member of the public to contact the operator for additional information about the facilities. There is a requirement to update the information as necessary.

Section 16. Coordination of environmental reviews

Section 16 requires the President to establish an interagency committee for the purpose of developing and ensuring the implementation of a coordinated environmental review and permitting process in order for pipeline operators to complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary of Transportation.

The chairman of the Council on Environmental Quality shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects. The Interagency Committee shall evaluate Federal permitting requirements and shall examine the access, excavation, and restoration practices of the pipeline industry for the purpose of developing a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair. Based upon the evaluation conducted, the members of the Interagency Committee shall enter into, by unanimous consent, a memorandum of understanding to provide for the coordinated and expedited pipeline repair permit review process so that pipeline operators may commence and complete pipeline repairs within any time periods imposed on the repair projects by rules promulgated by the Secretary of Transportation. Each agency represented on the Interagency Committee is required to revise its regulations to implement the provisions of the memorandum of understanding.

This section also provides for the implementation of alternative mitigation measures to be used by operators of pipeline facilities until all applicable permits have been granted. To the extent necessary, the Secretary of Transportation is required to revise the regulations of the Department to accommodate such implementation. However, such revisions shall not allow an operator of a pipeline facility to implement alternate mitigation measures unless to do so would be consistent with the protection of human health, public safety, and the environment; the operator has applied for and is diligently and in good faith pursuing all required Federal, state, and local permits necessary to carry out the repair project; and is compatible with pipeline safety.

The Secretary of Transportation is required to designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, state, and local permitting agencies and the operator of a pipeline facility. The actions of the ombudsman must be consistent with the protection of human health, public safety, and the environment.

The Secretary of Transportation is required to encourage states and local governments to consolidate their respective permitting processes for pipeline repair projects that are subject to any time periods for repairs specified by rule by the Secretary of Transportation.

Section 17. Nationwide toll-free number system

Section 17 requires the Secretary of Transportation to work in conjunction with the Federal Communications Commission (FCC), facility operators, excavators, and one-call notification system operators for the establishment of a nationwide toll-free 3-digit telephone number system to be used by state one-call notification systems.

Section 18. Implementation of Inspector General recommendations

Section 18 requires the Secretary of Transportation to respond to each of the recommendations of the Department of Transportation Inspector General contained in RT–2000–069 every 90 days and to submit the responses to the appropriate committees of Congress.

Section 19. NTSB safety recommendations

Section 19 requires RSPA and OPS to respond to recommendations received from the NTSB within 90 days from receipt of such recommendations. Such responses shall state the intentions of the OPS with respect to the recommendations and shall state the timetable for completing the procedures and reasons for refusals to do so. The responses shall be made available to the public. The OPS is required to submit an annual report describing each recommendation received and the OPS response to each recommendation for the previous year.

Section 20. Miscellaneous amendments

Section 20 amends section 60102(a) of Title 49 by adding language expressing that the purpose of the chapter is to provide adequate protection against risks to life and property posed by pipeline transportation pipeline facilities by improving the regulatory and enforcement authority of the Secretary of Transportation.

This section also modifies the qualifications of the individuals selected to serve on the Technical Safety Standards Committees pursuant to section 60115 of Title 49 so that none of the individuals selected for committee membership from the general public "may have a significant financial interest in the pipeline, petroleum, or gas industry." The intent of this provision is to prevent industry employees and individuals with a sizable stake in the pipeline industry from serving as representatives from the general public, not prevent service from individuals who have pipeline, petroleum, or gas industry stock interests in their retirement plans.

Section 21. Technical amendments

Section 21 makes technical amendments to correct previous drafting errors in the existing legislation.

Section 22. Authorization of appropriations

Section 22 authorizes appropriations for the Department of Transportation and state grants for safety programs for the fiscal years 2003 through 2006.

Section 23. Inspections by direct assessment

Section 23 requires the Secretary of Transportation to issue regulations prescribing standards for inspections of a pipeline facility by direct assessment.

Section 24. State pipeline safety advisory committees

Section 24 requires the Secretary of Transportation to respond within 90 days after receiving recommendations from advisory committees appointed by the Governor of any state.

Section 25. Pipeline bridge risk study

Section 25 requires the Secretary of Transportation to conduct a study to determine whether cable-suspension pipeline bridges pose structural or other risks. The Secretary may only use funds specifically appropriated to carry this section.

Section 26. Study and Report on Natural Gas Pipeline and Storage Facilities in New England

Section 26 requires the Federal Energy Regulatory Commission, in consultation with the Department of Energy, to conduct a study on the natural gas pipeline transmission network in New England and natural gas storage facilities associated with that network and report back to the relevant House and Senate Committees within a year of the date of enactment.

AVERTING A BREAKDOWN IN FEDERAL TAX ENFORCEMENT

Mr. LEVIN. Madam President, many have said they want the next Congress to work on tax reform. Any tax reform effort we undertake, however, needs to address the grave warning recently provided by IRS Commissioner Charles O. Rossotti about the need for immediate steps to avert a breakdown in federal tax enforcement.

Mr. Rossotti has just completed 5 years of work to restore confidence in the effectiveness and fairness of the IRS. He left the administration last week after submitting a report to the IRS Oversight Board summarizing his efforts and the current state of the IRS. His overall conclusion was that, while the IRS made significant progress over the last 5 years in revamping its procedures and improving interactions with average taxpayers, the IRS is "losing the war" on stopping tax cheats.

Mr. Rossotti wrote that while the size and the complexity of the Tax Code have continued to increase, IRS enforcement resources have continue to diminish. He described the IRS as "outnumbered" and facing a huge and growing gap "between the number of taxpayers whom the IRS knows are not filing, not reporting or not paying what they owe, and our capacity to require them to comply." Using specific facts and figures, he provides data supporting the shocking statistic that four out of five U.S. tax cheats will likely escape detection and correction action due to the IRS' limited resources to enforce the tax laws.

Mr. Rossotti also summarized what is happening among tax professionals to enable so-called sophisticated taxpayers to escape paying their fair share, and what the likely consequence is for honest taxpayers left footing the bill. Here is what he said:

> Recognizing the IRS' diminished capacity, promoters and some tax professionals are selling a wide range of tax schemes and devices designed to improperly reduce taxes to taxpayers based on the simple premise that they can get away with it. When this perception becomes increasingly widespread, the essential pillar or our tax system is lost—namely, the belief of honest taxpayers that if someone does not pay what he or she owes, then the IRS will do something about it.

Mr. Rossotti's full analysis appears in the report he filed with the IRS Oversight Board, and I ask unanimous consent for the complete text of that report to appear in the record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. This report not only sets out the scope and causes of the growing enforcement problems at the IRS, it also identifies practical and immediate steps that can be taken by Congress to avert an enforcement breakdown. Essentially, it comes down to Congress' providing the IRS with a steady increase of 2 percent per year over the next 5 years in resources for audits, investigators, and enforcement actions. This increase is not only modest, the numbers show that it will more than pay for itself through the collection of taxes that have improperly been withheld.

Federal tax reform is an important goal, but any reform effort must include a clear-eyed recognition of the growing problem of tax compliance and the need to revitalize the agency charged with ensuring all Americans pay their fair share. Mr. Rossotti was scheduled to bring the enforcement problem to the attention of Congress at a hearing in October, but that hearing was cancelled after, according to press reports, he was asked by the administration not to disclose his report or recommendation for increased enforcement resources.

To further contribute to an understanding of the scope and nature of tax noncompliance, my staff on the Permanent Subcommittee on Investigations has been digging into the problems of offshore tax evasion and tax promoters shopping improper tax shelters. I hope to have more to report on these issues early next year.

In the meantime, I urge all my colleagues to read Mr. Rossotti's report in full and take its warnings and advice to heart as we approach tax reform issues in the coming year.

EXHIBIT 1

REPORT TO THE IRS OVERSIGHT BOARD—ASSESSMENT OF THE IRS AND THE TAX SYSTEM

As the Board requested, and as my term of office draws to a close, I want to share with you my thoughts on the current state of the IRS, our tax administration system, as well as the opportunities and challenges that the agency and new commissioner will face.

The IRS is today capable of executing its mission with increasing effectiveness and efficiency. We made measurable progress on a number of high priority areas, such as e-filing, telephone and in-person taxpayer service, protection of taxpayer rights and burden reduction. We stabilized and refocused our key compliance activities to make the best use of our limited resources and are identifying and attacking systematic areas of noncompliance, such as the promotion and use of abusive tax devices. Financial management improved, as evidenced by unqualified audit opinions. Internal morale, which was heavily affected by criticism and internal and external change, turned around. Perhaps most importantly, we regained the confidence of the public and other stakeholders.

For the longer term, the IRS created a firm foundation upon which to make further progress. It includes: a modern organization structure with clear accountability for meeting the widely varying needs of specific taxpayer segments; information systems and support organizations capable of supporting operations efficiently while managing modernization; and a planning and management process for allocating resources, assigning goals to managers and measuring progress.

Our Business System Modernization Plan is beginning to deliver tangible benefits to taxpayers and practitioners. Equally important, we have a complete vision and architecture to guide the continuing modernization of every IRS business process and supporting technology.

The plans in place for FY 2003 and FY 2004 reflect aggressive but achievable productivity gains, exceeding those that were historically achieved in the private financial sector.

Taken together, these achievements demonstrate the progress we made over the past five years in the entire way we serve taxpayers, although finishing the job will still take the full decade I originally projected.

However, amidst what I believe is justified optimism for continued improvements in the performance of the IRS lies a critical problem. We are winning the battle, but losing the war. Over the last ten years, the size and complexity of the tax system increased enormously. Beyond the simple increase in number of taxpayers and revenue dollars, the majority of tax revenues now come from sources that are more subject to manipulation by those who wish to pay less than the law requires and much more difficult and time consuming for our agents to uncover. Meanwhile, the size of the IRS declined, not just relatively but in absolute terms, because of budget constraints.

The cumulative effect of these conflicting trends over a 10-year period has been to create a huge gap between the number of taxpayers whom the IRS knows are not filing, not reporting or not paying what they owe, and our capacity to require them to comply.

Recognizing the IRS' diminished capacity, promoters and some tax professionals are selling a wide range of tax schemes and devices designed to improperly reduce taxes to taxpayers based on the simple premise they can get away with it. When this perception becomes increasingly widespread, the essential pillar of our tax system is lost—namely, the belief of honest taxpayers that if someone does not pay what he or she owes, then the IRS will do something about it.

If the trend of the last ten years is allowed to continue, it is only a matter of time until this problem will emerge into the forefront of public consciousness, likely leading to an eruption of criticism such as has occurred periodically in the last 50-year history of the IRS.

Fortunately, it is not too late to solve this problem, nor is it an open-ended problem. In fact, in the past year we succeeded in quantifying better than ever the resources we need. Modernization and internal productivity improvements will provide a major part of the needed gains. However, these alone will not be sufficient to close the gap, even if we assume greater productivity gains than the private sector was able to achieve over a decade.

To succeed, we need more trained personnel to close the known compliance gap while continuing to protect taxpayer rights and provide essential services. Specifically, we must add approximately 2 percent annual net increase in staffing over five years. Even with this increase, the size of the IRS by 2010 would be smaller than it was 20 years earlier in 1990 while the economy will have increased 86 percent.

Over the same period, we must also fund adequate increases for computer modernization programs to accelerate the delivery of key projects and benefits that will provide for greater service, efficiency and productivity.

Together with effective management of the IRS, this modest level of resources can reverse the dangerous trend the tax system is currently taking—but only if it is consistently provided. If, on the other hand, the trend of the past ten years is maintained, in which the demands on tax administration increase and the capacity of the IRS declines, the eventual cost for our nation is certain to be enormous.

STARTING POINT

Before I discuss the opportunities and challenges that lie ahead, it is helpful to place them in their proper historical context.

By the mid-1990s, the public, Congress and most key stakeholders had lost confidence in the IRS. According to the Roper Starch surveys, favorable public opinion of the IRS steadily declined since the early 1980s, reaching an all-time low of 32 percent in 1998. The results of the American Customer Satisfaction Index of key federal agencies were similarly alarming. The IRS measured the lowest of any agency or institution in both surveys.

Taxpayers were not alone in their negative perceptions. Congress and many of our stakeholders also lost confidence in the agency's ability to do its job at an acceptable level. In 1995, the Tax Systems Modernization program was terminated after several billion dollars were spent. Handling complaints about IRS treatment of constituents became a time-consuming duty in many congressional offices, and many stakeholders, especially those representing small business, had an adversarial relationship with the agency.

Poor quality service to taxpayers over the telephone or in person contributed to the public's low perceptions. At the nadir in the mid-1990s, the IRS registered 400 million busy signals a year on its toll-free lines, and when taxpayers did reach the IRS, the likelihood of getting an accurate answer or resolution to a problem was low.

A number of external factors also buffeted the IRS. Budget and staff cuts, rapid economic growth and the shift in the tax base from middle-income wage earners and domestic corporations to upper-income entrepreneurs, passthrough entities and global corporations, all contributed to a diminished capacity to cope with service and compliance demands.

The IRS responded to this pressure by emphasizing enforcement revenue and statistics as a way of justifying its budget. The IRS measured the success of its compliance activities by direct enforcement revenues. This is like a police department assessing its success by the number of traffic tickets written rather than by the safety and security of the community it serves. As we well know from the ensuing fallout, this grave mistake further alienated the public, yet failed to address the systematic, emerging compliance and budget problems.

While emphasizing enforcement statistics, the IRS was also slow to update its compliance practices, such as models used to select returns for audits and the management of the exam and collection processes. Until we changed it recently, $100,000 was the highest income class used by the IRS in assigning exam cases, although people with incomes over $100,000 pay more than 60 percent of the income tax.

Moreover, although exam coverage was declining, many of these examinations concentrated on relatively straightforward issues of deductions or timing differences, such as the use of cash versus accrual accounting by small businesses. Very little emphasis was placed on partnerships and trusts, high-income individuals or offshore accounts, although vast sums of income flow through these entities. There was no specific program to identify and combat promoters of abusive tax devices. The IRS succeeded in winning some tax shelter court cases, but there was no overall strategy for dealing with corporate tax shelters.

ACHIEVING A TURNAROUND

The IRS addressed, although certainly not completely solved, the major problems and internal constraints it faced five years ago. Some are resolved; clear plans are in place to correct the remaining ones over the next five years. This work provided the foundation for steady improvement in the effectiveness and efficiency with which the IRS carries out its mission.

Public confidence in the IRS rebounded. The Roper Starch surveys found our rating increased each of the past three years after 1998's historic low. The University of Michigan's American Customer Satisfaction Index survey released in December 2001 showed greatly improved customer satisfaction among individual taxpayers—the largest favorable gain of the 30 federal agencies surveyed.

In May 2002, the Federal Performance Project, a collaboration of Government Executive Magazine and George Washington University's Department of Public Administration, released its scorecard on federal agencies. The IRS earned a "B-", as compared to a "C" three years ago. While the trend is good, much more remains to be done. The IRS can be and should be managed at the "A" level and is on its way to achieving this.

This turnaround in public confidence reflects the clear progress in five distinct areas: (1) customer service, (2) stakeholder relations, (3) compliance, (4) internal management, and (5) technology and modernization.

Customer service

The customer service improvements were the most visible to individual taxpayers. The upward trend in telephone service was particularly important given how far we had to climb. By the end of the 2002 filing season, taxpayers were receiving correct responses to 83.6 percent of tax law questions and 89.9 of account questions. Access to service and time spent waiting, while still below private sector standards, improved substantially. Average wait time is down 26 percent from the previous year. Assistor access rose from 56 percent only two years ago to nearly 70 percent this year.

Last year, Web site usage smashed all records with 2.7 billion hits and 336 million files downloaded. We are well on our way to a new record this year. Also, in January 2002, we introduced a newly designed and more accessible Web site.

E-filing tripled over the past five years, and this filing season, was up 16 percent over the previous one. We are systematically removing the remaining barriers to e-filing. For example, this year, virtually all 1040 forms and schedules could be filed electronically, and no paper signature document was required. Improved electronic tax administration is also critical to better serving business taxpayers, especially given the number of forms and payments they must file and make. In September 2001, we launched Electronic Federal Tax Payment System On-Line that allows businesses large and small to save precious time by making their federal payments on-line.

We are also building a new e-file system that will grow and serve taxpayers for years to come. Scheduled to start in 2004, it will address the current system's problems. For example, it will accept complex business returns, such as 1120s, eliminate software barriers and resolve standardization issues, such as reject codes and validations.

Service in local taxpayer assistance centers, which was extremely poor in many places, improved in both quality and consistency. However, it will still take several more years to reach fully acceptable standards. Taxpayers can now schedule appointments in more than 400 locations for face-to-face meetings with IRS employees to resolve account or case problems. This helps make the well-received idea of "Problem Solving Days" a regular part of IRS everyday operations. While making these improvements, we are also requiring fewer personnel details from the compliance functions to filing season duty—an expensive and very unpopular practice.

Within the limits of a complex and changing Tax Code, the IRS acted to reduce taxpayer burden. For example, we simplified forms, such as the Schedule D for reporting capital gains. We also rewrote and simplified procedures, such as those for distributions from qualified retirement plans. We removed 2.6 million small business taxpayers from the time-consuming reporting and record-keeping requirements of reconciling tax returns with balance sheets. We eliminated the need for most small businesses to use the more burdensome accrual method of accounting for tax purposes. We implemented a new and much more reliable way of measuring taxpayer burden. In the newly created Office of Taxpayer Burden Reduction, we also have an organization dedicated to continuously measuring and reducing burden.

The IRS implemented 71 taxpayer rights provisions of RRA 98, including such major provisions as collection due process, expanded innocent spouse relief, third party notification and expanded opportunities for offers in compromise. The Taxpayer Advocate Service was established as an effective independent entity within the IRS. It assists taxpayers with hardship cases and makes recommendations to improve the way IRS works for them. Because of these efforts, the number of taxpayers with serious unresolved cases, such as those that generate a need for intervention by a congressional office, declined. More generally, our improved service helped to reduce the numbers of cases needing TAS intervention. In 2002, case receipts fell from 194,790 to 169,390 compared with the same 9-month period in 2001.

Stakeholder relations

In the past, relations with IRS stakeholders were often strained and adversarial. Through improved communications and frequent, substantive meetings, our relationship with Congress, oversight bodies and business groups—especially small businesses—greatly improved. Congressional hearings, once contentious, have been almost universally positive and constructive—although not without tough questioning. Much closer relationships were formed with organizations representing practitioners and small businesses. A consortium was forged with the software industry on the thorny issue of no-cost e-filing.

One of our basic strategies is to develop the kind of stakeholder relationships that can improve the efficiency and effectiveness of our services. Over the past few years, we developed a method of engaging stakeholders as part of our decision-making process. We call the new approach, "Engage and Then Decide" as contrasted with "Decide and Then Explain." Seriously engaging key stakeholders as a regular part of the decision-making process has shown that it improves the final product, shortens the time for decisions and implementation, and strengthens relationships.

Although we successfully used this engagement approach, and have much experience with the hazards and costs of the opposite approach, IRS top management must continue to work hard to ensure that it is employed in all decision-making processes because it is so different from traditional practice in the federal government.

Compliance

As the Board is well aware, we do not have the resources to attack every case of non-compliance. Therefore, we must apply our resources to where non-compliance is greatest while still maintaining adequate coverage in other areas. We must also use carefully, but effectively, the enforcement tools available to us.

After careful study, we identified some of the most serious and current compliance problem areas. These include: (1) promoters of tax schemes of all varieties, (2) the misuse of devices such as trusts and offshore accounts to hide or improperly reduce income, (3) abusive corporate tax shelters, (4) under-reporting of tax by higher-income individuals, and (5) accumulation and the failure to file and pay large amounts of employment taxes by some employers.

To address these problems, we revamped our compliance programs to refocus our resources and to use a full scope of tools and techniques. They range from educating the public, to systematically identifying promoters and participants, to reinvigorating enforcement actions such as summons enforcement, injunctions and criminal investigation of promoters.

If we can eliminate confusion and errors before a return or form is ever filed, America's taxpayers will be spared countless numbers of notices and communications with the IRS. If we can warn taxpayers not to participate in "too good to be true" tax schemes, we can save taxpayers from penalties and more. Moreover, the agency will be in a better position to use its limited compliance resources on the most serious cases of non-compliance.

To achieve these purposes, we created dedicated taxpayer education and pre-filing organizations in our operating divisions, e.g., TEC and SPEC in SB/SE and W&I respectively, and pre-filing technical staffs in LMSB and TEGE. We also created new pre-filing tools, such as pre-filing agreements and industry issue resolution published guidance. We greatly stepped up our output of traditional forms of published guidance, including revenue rulings and notices, by increasing their emphasis in Chief Counsel and forging an effective working relationship with Treasury's Office of Tax Policy.

For example, this past year, both the TEC and SPEC organizations worked to raise public awareness about the slavery reparation schemes. Materials were distributed nationally and locally to African-American churches and religious coalitions, fraternities, sororities and associations, including the NAACP and the Urban League. As a result, the average weekly number of incoming slavery reparation claims declined from 1,538 in CY 2001 to 63 this year.

Although these preventive measures hold great promise, we must still detect, correct and deter non-compliance. We must focus resources, improve efficiency and use our enforcement powers appropriately, all of which we are doing.

As identified through our research and strategic planning, both SB/SE and LMSB are directing their examination resources at the most important cases and issues. Exam and collection reengineering are focused on improving the efficiency with which these cases are carried out. For example, SB/SE is tackling business tax cases, such as unpaid, in-trust taxes, including employment and withholding taxes, much earlier than in the past.

Within two years, our new Filing and Payment compliance modernization program will begin to reduce from several years to six months or less the time required to resolve most collection cases.

Other initiatives, first outlined in our Strategic Plan, are taking effect. Earlier this year, we began matching information reported on Schedule K–1 with income or losses reported on Form 1040 and other schedules. We also reinvigorated the use of long dormant enforcement tools that are needed to deal with serious cases of non-compliance, and especially, promoted tax schemes. For example, we are aggressively identifying promoters and schemes through summonses of records, including John Doe summonses on credit card accounts in offshore tax havens and vendor summonses to refine that data.

Multiple approaches were taken to aggressively attack the use of abusive tax shelters. The LMSB organization initiated 43 contacts of promoters to uncover lists of taxpayers participating in their shelters. In addition, a tax shelter disclosure initiative was launched earlier this year. As of August 1, 2002, the IRS processed 1,664 disclosures from 1,206 taxpayers who came forward. These disclosures cover 2,264 tax returns and involved more than $30 billion in claimed losses or deductions. Moreover, we announced a new policy in June 2002 to request tax accrual work papers when we audit returns that claim a tax benefit from certain tax avoidance transactions that we identified as abusive.

Civil and Criminal Lead Development Centers (LDC) were also established to identify cases of abusive tax promoters. For example, the Civil LDC works leads received from within the IRS, or from external sources, and conducts Internet searches looking for abusive tax promoters and promotional materials.

Also, the Webster Report gave a detailed blueprint for making Criminal Investigation a more effective component of tax administration. The need to refocus CI's resources on tax cases was the centerpiece of this report. CI's top priority is now investigating promoters and participants in illegal tax schemes. We also established a closer working relationship between field counsel and the operating divisions on compliance work.

This new emphasis on action against promoters has already shown results. The numbers of actions related to promoters went from "none" to a vigorous program. As of July 8, 2002, we had nine promoter injunctions granted, 11 promoter injunctions pending in District Court and three pending at the Department of Justice, 150 promoter exams and information requests underway, and 51 ongoing criminal investigations (numbers are for FY 01 through 02).

Also, key to successfully executing our compliance program is better data. As I discussed, the IRS failed to detect new areas of non-compliance in part because of a reliance on increasingly obsolete data from the old Taxpayer Compliance Measurement Program. (TCMP was last conducted in 1988.) In addition, we designed and are now implementing a National Research Program that will obtain the essential information with far less burden on the taxpayer. New scoring models are being developed using 21st century techniques, with interim models already deployed.

Obviously, our success in compliance also depends on a cadre of highly qualified trained individuals to perform tasks that require a high level of judgment. After a freeze of nearly six years, recruitment for professional occupations, such as revenue agent and revenue officer, restarted; training was completely revamped and improved; and employee engagement became part of balanced measures and everyday management.

Internal management

The IRS successfully made the transition to a modern customer-focused organization in which a management team has clear responsibility for meeting the needs of a specific set of taxpayers. The service needs and compliance issues of the 90 million taxpayers with wage and investment income are vastly different from those of large and mid-sized businesses, which in turn are different from those of small businesses and tax-exempt organizations. One team now works full time to understand and meet the needs of each set of taxpayers and has nationwide authority to execute its plans, eliminating the historically deep and counterproductive organizational separation between the "field" and the "national office."

Supporting these operating divisions are specialized functional units and shared services organizations to provide information technology and common support services throughout the organization.

As part of the reorganization, the number of management layers was reduced and the role of executives and senior managers is being redirected towards substantive engagement in tax administration, rather than predominantly administrative duties. A new model of executive recruitment was successfully established, which includes a recruitment of a limited number of highly experienced top executives from private industry and other government agencies to complement our internally-developed executives.

Many specialized programs, ranging from processing business returns to handling innocent spouse claims to answering tax law calls, are being consolidated into fewer locations with fewer management layers. This enables greater standardization and faster implementation of improvements.

An entirely new system of balanced measures has been designed and implemented, aligning goals throughout the organization down to the territory and site level.

The gains in service and the widespread redirection of compliance programs over the last two years reflect the benefits of a more customer-focused and accountable organization. The major benefits are still to come, in the form of continuous improvements in productivity and quality in every major program.

The improvements in customer service and other programs can also be linked to increased employee engagement in our mission and goals, increased and improved training and heightened focus on employee concerns. Among the most important of these concerns was the fair and careful administration of Section 1203—the so called ten deadly sins—so that no employee was wrongly disciplined under this section. In addition, legislative proposals were formulated and are under consideration by Congress to alleviate employee anxiety over Section 1203.

Because of these actions and focus, and according to a recent Gallup survey of IRS employees, the level of engagement within the Service increased from 49th to the 56th percentile of all public sector organizations tracked by the organization.

The IRS is also the steward of massive taxpayer revenue and budget and financial resources, and we are expected to properly account for the government's money and property. To this end, internal accounting standards were raised to a higher level. For the past two fiscal years, we received unqualified GAO opinions on our financial statements for both the Revenue and Administrative accounts. This year, we have plans in place to close the books months earlier than in prior years and to address remaining material weaknesses over the next two years.

As our FY 2003 and 2004 budget requests demonstrate, strategic planning, budgeting, resource allocation and performance goals were aligned. For the first time, we fully integrated development of our budget with the establishment of performance measures.

Technology and modernization

Critical to our success was better managing our massive technology and Business Systems Modernization program. From 15 separate information systems operations, we created one MITS organization that has the job of serving all of our operating units and managing our modernization program.

As part of this major transition, standards were established and largely implemented for hardware and software. We consolidated mainframes from 12 centers to three and established one standard for desktop and laptop hardware and software. We implemented a nationwide e-mail and voice messaging systems, standard office automation software, and security certifications and standards. We deployed important interim applications systems, including Intelligent Call Routing, Integrated Case Processing and the Integrated Collection System.

Business Systems Modernization laid the foundation for success of this massive program. Both the long-term vision and enterprise architecture were established and embedded as a living blueprint for all business and technology improvement programs.

BSM began delivering projects with tangible and meaningful benefits to taxpayers, such as moving the first set of taxpayers to a modern, reliable database early next year. Over the next five years, all individual taxpayers will be moved to it, cutting times for refunds on e-filed returns to less than a week and allowing us to provide taxpayer and employees with up-to-the-minute accuracy on their accounts. Of paramount importance, we implemented the first project on our new security system, which provides one standard for ensuring the security of all future IRS data and systems.

All major management processes, which are needed to manage this program on a continuing basis, were improved. Our goal is to obtain certification in the near future as only the second agency in the federal government to reach Level Two in the Software Engineering Institutions Capability Maturity Model.

STEADY PROGRESS CAN CONTINUE YEAR AFTER YEAR

The aforementioned progress and achievements do not mean that the IRS solved all of its problems, or that there are no more opportunities to improve. Rather, it means that the IRS addressed the major impediments and obstacles that previously stood in the way of progress and has a clear committed plan to continually reach even higher levels of performance. There should be no doubt that the IRS can be raised to a level of quality and efficiency comparable to the best managed financial services organizations.

WINNING THE BATTLE BUT LOSING THE WAR

Despite significant improvements in the management of the IRS, the health of the federal tax administration system is on a serious long-term downtrend. This is systematically undermining one of the most important foundations of the American economy.

The source of this problem is two conflicting long-term trends: one, ever increasing demands on the tax administration system due to rapid growth in the size and complexity of the economy; and two, a steady decline in IRS resources due to budget constraints. The cumulative effect of these conflicting trends over a 10-year period has been to create a huge gap between the number of taxpayers who are not filing, not reporting or not paying what they owe, and the IRS' capacity to require them to comply.

As seen in the next chart, "Trends in Indicators of IRS Workload and Resources," from 1992 to 2001, weighted average returns filed, a measure of overall IRS workload, increased by 16 percent because of the economy's growth. However, during this same period, FTEs dropped 16 percent from 115,205 in FY 1992 to 95,511 in FY 2001. Since more and more of the IRS' declining resources are required to perform essential operational functions—such as processing returns, issuing refunds and answering taxpayer mail—a disproportionate reduction occurred in Field Compliance personnel, falling 28 percent from 29,730 in FY 1992 to 21,421 in FY 2002.

In assessing these trends, it is extremely important to recognize a critical fact: tax administration workload increases every year because of increased filings by taxpayers related to the long-term growth of the economy. These workload increases affect every facet of tax administration, from processing returns to answering correspondence to collecting delinquent returns to accounting for payments and refunds. In addition to this growth related to the economy, tax legislation often adds additional workload.

Looking more closely at the most recent five years (see chart), we see that the number of income tax returns increased by 12 million, while 19 tax bills were passed that changed 292 tax code sections and required 515 changes to forms and instructions. On the average, IRS workload grows at a compounded rate of 1.8 percent per year. Therefore, just to handle this increased workload, the IRS would either have to add staff—which is what occurred fairly consistently for the 45-year period from 1950 through 1995—or would have to increase productivity by 1.8 percent per year just to stay even.

FEDERAL TAX SYSTEM HAS BEEN GROWING AND CHANGING RAPIDLY FROM 1997 THROUGH 2002

Volume of activity has been growing rapidly

Income Tax Returns: 12 Million Increase—9.4%.

IRS Gross Collections: $527 Billion Increase—32.5%.

IRS Refunds Issued: $121 Billion Increase—61.3%.

Tax Code has been changing rapidly

19 Public Laws passed.

293 Tax Code provisions changed.

171 (58%) of provisions with concurrent or retroactive effective dates.

515 completed changes to forms and/or instructions.

Restructuring and Reform Act added many taxpayer rights

71 taxpayer rights.

1,900 implementing actions.

Hundreds of thousands of new transactions per year.

Innocent spouse.

Collection due process.

Offers in compromise.

Third party notification.

Section 1203 allegations.

Special events created additional activity and change

Century date change required massive three year project.

Advance rate reduction credit—126 million notices, 91 million taxpayers, $39 billion.

Returns of political organizations (section 527)—new reporting to IRS.

September 11th terrorist attack—victims relief, IRS security response, money laundering task forces.

Anthrax threat—rapid response required prior to 2002 Filing Season.

Globalization is increasing international tax activity

U.S. controlled foreign corporations up 25%.

Foreign controlled corporations up 31%.

Resources have been shrinking

IRS full-time equivalent personnel: −2,952.

This is no different from a car company producing 1.8 percent more cars or a hospital servicing 1.8 percent more patients. But, rather than increasing staff, IRS staff decreased during this period, creating a major gap in IRS capacity to administer the tax system.

In addition to growth in raw numbers, the tax revenue stream is now dominated by sources that provide greater opportunities for manipulation by those who wish to take advantage of the decline in IRS compliance resources. For example, returns for taxpayers with incomes exceeding $100,000 grew by 342 percent over 1991 levels. The enormous amounts of money that flow through "pass-through" entities—such as partnerships, trusts and S-corporations—also adds to the complexity of tax administration and increases the opportunities for underreporting of income. In Tax Year 2000, these "pass-through" entities filed 4.78 million returns with gross revenue of $6 trillion and income to partners/shareholders of more than $660 billion.

The IRS Restructuring and Reform Act of 1998 added major new or expanded taxpayer rights programs, such as innocent spouse relief, third party notification and collection due process. The rights are very important to taxpayers but created very substantial additional resource demands on the IRS to process hundreds of thousands of new transactions and additional steps in existing audits and collection actions.

Business globalization creates another administration complexity and more opportunities for reducing U.S.-reported income. From 1997–2002, U.S.-controlled foreign corporations and foreign-controlled corporations grew respectively by 25 and 31 percent.

Looking at this imbalance, one fact emerges. The IRS is simply out-numbered when it comes to dealing with the compliance risks. As noted, IRS employment (FTEs), and in particular, Field Compliance FTE steadily declined. With the decline in personnel came a decline in the coverage of all types of returns (see chart). Even after we refocus on the most egregious non-compliance cases, we can only handle a small fraction of them.

COVERAGE OF ALL TYPES PLUMMETED 60–70%

[Number of cases per thousand returns]

Fiscal year	Document matching	Correspondence exam (non-EITC)	In person exam of individuals	Exam of pass-through entities*
1992	33.1	4.0	5.8	5.1
1993	23.7	2.6	6.3	5.5
1994	23.3	2.0	6.8	5.0
1995	23.6	3.5	6.0	4.6
1996	16.6	2.6	5.6	4.7
1997	7.9	3.5	5.8	5.5
1998	14.3	2.8	4.7	5.7
1999	14.4	1.1	3.1	4.5
2000	10.8	0.9	2.0	3.6
2001	9.1	1.2	1.5	2.9

*Primarily Partnerships, S-Corporations and Fiduciaries.

The effect of these trends was to create a gap in what work the IRS should be doing and what it had the capacity to do. In the last two years, the IRS made progress in quantifying this gap, which is summarized below. As noted, the majority of the workload gap is in compliance.

SELECTED TAX ADMINISTRATION PROGRAMS WORK DONE AND NOT DONE

[Dollars in millions]

	Known workload in contacts or cases/yr				Direct revenue loss per year	Direct cost to fill gap	
	Required	Done	Gap	%Gap		FTEs	Dollars
Service To Compliant Taxpayers:							
Phone Service Level of Service	87.5	71.5	16.0	18	NA	$2,274	$114.8
In-Person Service	NA	NA	NA	NA	NA	3,084	196.7
Total	NA	NA	NA	NA	NA	5,358	311.5
Collection of Known Tax Debts:							
Field and Phone Accounts Receivable (TDA)	4,506,060	1,816,713	2,689,347	60	9,470	5,450	296.4
Identification and Collection of Taxes from Non-Filers:							
Non-Filer Cases (TDI)	2,490,749	625,025	1,865,724	75	1,693	2,016	101.5
Collection of Underreported Tax:							
Document Matching	13,300,000	2,926,980	10,373,020	78	6,960	4,740	229.2
Identification and Collection of Underreported Tax:							
Cases of Abusive Devices to Hide Income	82,100	17,000	65,100	79	447	3,418	272.1
Individuals Over 100,000 Income	123,006	54,468	68,538	56	266	2,603	207.2
Individuals Under 100,000 Income	843,380	296,986	546,394	65	4,492	7,435	430.1
Small Corporations	39,659	29,721	9,938	25	54	640	50.9
Mid and Large Corporations	24,523	17,684	6,839	28	6,526	1,812	180.0
Total	1,112,668	415,859	696,809	63	11,786	15,908	1,140.3
Tax Exempt:							
Reporting Compliance	20,690	6,780	13,910	67	NA	1,192	101.6
Grand Total	NA	NA	NA	NA	29,909	34,664	2,180

For each category of compliance, the IRS computed the number of known cases of taxpayers who did not file or pay, or who substantially underreported their taxes. These numbers, therefore, represent not general estimates or assumptions, but specific taxpayer cases. Based on the information available to the IRS, they should and could be treated as cases of non-compliance through collection, audit or other actions.

However, as can be seen from the chart, only a fraction of each category of case, even the most serious, can be worked with available resources. The "gap" represents the number of cases that should be, but cannot be worked because of resource limitations. These cases represent tens of billions of dollars per year that could be, but are not collected. More importantly, they represent a failure of fairness to the millions of honest taxpayers whose commitment to paying their taxes is based on the assumption that the IRS will act if they or their neighbors do not pay their fair share.

Tax professionals, promoters, sophisticated taxpayers and even some ordinary taxpayers are becoming more aware of our deteriorating ability to deal with compliance. Increasingly, this issue is being reported by publications ranging from The Wall Street Journal, the New York Times, Fortune and Forbes, and even on national television.

Recognizing the IRS' diminished capacity, promoters and some tax professionals are selling a wide range of schemes and devices to taxpayers based on the simple premise they can probably get away with it. When this perception becomes increasingly widespread, the essential pillar of the fairness of our tax system is lost.

Our John Doe summonses of records for credit cards issued by offshore banks in tax haven countries revealed one facet of the problem. Just one of these summons, issued in 2000 to MasterCard, yielded a large database of transactions by those using cards issued by banks in Antigua, Barbuda, the Bahamas and the Cayman Islands. Many of these taxpayers were solicited through various channels by a variety of promoters.

Indeed, some sophisticated tax professionals, including those in accounting and law firms and investment banks, are aggressively marketing tax shelters to their clients. Some of these turn out to be abusive tax avoidance transactions prohibited by the Treasury Department.

Demand is also driving up supply. There is widespread anecdotal evidence from honest practitioners about clients demanding that their return preparer find a way to reduce reported income, to the point of refusing advice from honest professionals to comply with required reporting and disclosure. In effect, they are saying, "Get me one of these deals or I will take my business elsewhere." This has reached the point where recently a former IRS Commissioner was faxed a solicitation from a "Senior Investment Manager" that began, "As we approach December 31st, you may have a large income tax liability for the year 2002. The amount you pay could be up to you."

Although it is impossible to prove conclusively that attitudes towards tax compliance shifted, we must make informed judgments about behavior and trends. The only responsible conclusion I can draw is that the trend in attitudes of taxpayers and tax professionals poses a real threat to the health of the tax system and ultimately to the American economy.

If these problems and conditions are left unaddressed, we could face an enormous crisis in confidence in the tax administration system. It would not be surprising if this problem emerged into the forefront of public concern, causing an eruption about the IRS similar to those that occurred periodically over the last 50 years. The long-term impact on the economy and our nation of not reversing this trend will be extremely high.

WHAT IS NEEDED

What is the answer? Fortunately, the problem is not open-ended and can be solved with a reasonable amount of resources. We need what the National Commission on Restructuring the IRS argued for five years ago: a steady and consistent budget. It must consist of two items over the next five years. The first is a steady growth in staff in the range of 2 percent per year. The second is steadily increased funding for modernization until this program levels off several years from now.

Together with aggressive increases in productivity, as called for by the IRS Strategic Plan, this combination can solve the problem by the end of this decade. In fact, as shown in the "Closing the Gap" chart below, a combination of 2 percent per year staff growth with 3 percent per year productivity growth will keep up with increasing demand and close the gap by 2010. But without both elements—modest but steady staff growth and aggressive productivity increases—the trend will not be reversed.

Computer systems alone, even with the most aggressive reasonable assumptions about the productivity gains from modernization, cannot solve the problem. Trained and effective staff is also required. However, modernization will allow the IRS to perform the tax administration function with proportionately fewer staff than in the past. If the IRS staff grew by 2 percent per year through 2010, the total staff would still be smaller than it was 20 years earlier (1990), while the economy is projected to be 86 percent larger in real GDP and the tax system far more complex.

There is another critical point. Sufficient funding must be provided to fund the actual projected staffing. There is no "extra" funding lying around to "absorb" items that are mandated, but not paid for. As shown below, the IRS dollar budget consistently underfunded advertised staffing levels. The actual number of FTEs is lower every year than proposed in the budget. This is the effect of making unrealistically optimistic assumptions about such items as pay raises, inflation and other mandates, including specific mailing and notification requirements.

IRS DOLLAR BUDGET HAS CONSISTENTLY UNDER-FUNDED ADVERTISED STAFFING LEVEL

[Full Time Equivalent (FTE) Personnel without EITC]

	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
FY 2000 President's Budget	96,767				
FY 2001 President's Budget	95,523	98,051	*99,873		
FY 2002 President's Budget	95,155	97,273	99,116		
FY 2003 President's Budget		95,511	97,548	98,727	
FY 2004 Treasury Submission			97,423	96,182	98,182

* Includes 1,822 FTE for STABLE Annualization.

Our plan already requires very rapid and sustained productivity growth of over 3 percent per year—in excess of the 2 to 2.4 percent achieved in the private sector. It supposes complete success of BSM, aggressive reallocation of internal resources, such as eliminating some submissions processing centers, rapid growth of e-filing, and use of productivity enhancing techniques, such as competitive sourcing for some activities. These items make it possible to cope with growth in filings and filling the gap in required workload with very limited staff growth, but do not make it possible in addition to "absorb" unfunded but required line items.

SIMPLIFYING THE TAX CODE

Most informed observers are justifiably horrified at the complexity of the Tax Code. The cost of taxpayer compliance with this code is over $80 billion per year, more than eight times the cost of the IRS budget. The sheer size and complexity in itself can be a source of disrespect for the law. Therefore, it is a worthy, though difficult and uncertain, challenge to pursue simplification to the maximum extent possible.

However, there is no proposal that has been seriously advanced for simplification that would have any significant effect in the foreseeable future on the problem of IRS resources.

Apart from the fact that even simplifying changes take time and effort to develop, pass in Congress and to implement, the reality is that the gap in IRS resources is so large that nearly all of our resources are required to perform the basic operations of the tax system and to pursue the clearest and most important cases of non-compliance.

With the exception of some resources in the large corporate sector, the IRS redirected nearly all compliance resources away from less significant technical tax issues to cope with current operational requirements and the most serious cases of non-filing, nonpayment or underreporting of income. Even then, resources are far below what is required.

The only reasonable course is to pursue parallel paths: to address the practical problem the tax administration system faces by gradually closing the gap in the capacity of the IRS to perform its essential tasks, while pursuing a parallel path attempting tax simplification.

CONCLUSION

Five years ago, the IRS embarked on a new direction. Following it, we achieved much progress for America's taxpayers, although we have much more left to do to improve the entire way the IRS works. Today, we are faced with a growing crisis—in our ability to do our job and the fairness of our tax system. We cannot turn our back on this crisis or believe that it will go away, because it will not. But like five years ago, I believe the problem is solvable. We know the right course of action and we should have the courage and resolve to take it.

ADDITIONAL STATEMENTS

TRIBUTE TO GUIDE DOGS

• Mrs. CLINTON. Madam President, after reading an article in The Saturday Evening Post about the Germans training dogs to aid veterans blinded during World War I, a blind man living in Tennessee named Morris Frank wrote to the author, "Thousands of blind like me abhor being dependent on others. Help me and I will help them. Train me and I will bring back my dog and show people here how a blind man can be absolutely on his own." The author, Dorothy Harrison Eustis agreed to Mr. Frank's request, and Mr. Frank's dog Buddy became the first guide dog in America.

That was 1929 and today, there are more than 7,000 guide dogs serving in America, and two performed miracles in New York on September 11.

That morning, Roselle, a yellow Labrador Retriever and her owner, Michael Hingson, went to the office on the 78th floor of the World Trade Center. While Mr. Hingson worked, Roselle slept underneath his desk. Then the plane hit the South Tower, and what she did next was nothing short of heroic. She guided Mr. Hingson through the smoke and to the stairwell. Not only did Roselle help Mr. Hingson down 78 flights of stairs, but another woman who had been blinded by debris clutched Roselle's harness until they reached safety.

There was another yellow lab in the World Trade Center named Salty. His owner, Omar Rivera, worked on the 71st floor of the Port Authority. After the planes hit, Salty refused to leave Omar's side and walked through the smoke-filled stairway, broken glass and debris to get Mr. Rivera and a coworker to safety. Even as the North Tower collapsed and the debris cloud filled the streets, Salty remained calm, loyal, and focused on guiding Mr. Rivera to a place free from danger.

These two guide dogs performed their jobs under the most extreme circumstances. But what they did that day reinforced what guide dogs do every day—they provide independence to individuals who are blind and visually impaired so that they can live their life free from constraints. To serve as another's set of eyes, to navigate busy city streets, and to keep their owners from harm's way is a responsibility that only a loyal dog would welcome with no questions asked.

Throughout the United States and around the world, Guide Dog Schools have given more than one hundred thousand people the chance to move about the world with freedom and dignity. Each school offers their guide dogs at no cost to the owners. All they have to do is apply, attend training, and promise to care for their dog for the rest of his or her life. The success of each school is dependent upon thousands of staff, volunteers, and generous supporters. Many people volunteer to raise puppies, socialize them and then give them up at the end of the year. And we see these dogs every day sitting patiently on the subway, stopping at walk lights, and maneuvering people around hazards that prevent a safe, straight path. They wear bright colored vests that read "Guide Dog in Training."

Not only did Morris Frank bring the first guide dog to America, he opened the first school in 1929, The Seeing Eye. Now in every State, guide dog schools provide an invaluable service. In California, The Guide Dog School just celebrated its 60th Anniversary, and in New York, The Guide Dog Foundation in Smithtown, has assisted New Yorkers and others from around the world since 1946. And Guiding Eyes for the Blind in Yorktown Heights has graduated more than 5,000 dogs and owners since 1954.

Each success story is testament that one good idea can transform the lives of many. But the success of the guide dog schools would not have occurred without two key components: those who believed that the blind and visually impaired could lead more independent lives with the right kind of help, and the dogs, the Labrador Retrievers, the Golden Retrievers, the German Shepherds, and other breeds that are ready, willing, and able to guide their owners through the world.

Every day, thousands of people grab on to the harness and place their trust in their companion. Some have acted with remarkable heroism like those on September 11, and we have all heard the stories about guide dogs waking their owners in the event of a fire and blocking them from the path of a speeding car. But most go through their days with quiet dignity and they deserve our utmost respect. Whether they are named Roselle or Salty or Buddy, they all respond in the same way. That harness goes on, their eyes open, and they show us that it is possible to walk through this world with a profound desire to help another so that life is limitless.●

RECOGNIZING MOTT CHILDREN'S HEALTH CENTER

● Mr. LEVIN. Madam President, I wish to express my heartfelt congratulations to the Mott Children's Health Center (MCHC), in Flint, MI, which has been selected by the American Lung Association of Michigan-Genesee Valley Region as the 2002 Corporate Health Advocate of the Year.

The American Health and Lung Association of Michigan-Genesee Valley Region grants this prestigious award to an organization that aspires to restrict or ban smoking, offers employee programs for smoking cessation, or exhibits respect and sensitivity to those suffering with lung disease. Winners must demonstrate financial support to local non-profit agencies as well as encourage employees to sit on local boards of directors for community based non-profit organizations. Recipients also need to display a commitment to improving the quality of life of Genesee Valley's residents. MCHC has not only met but far surpassed the American Health and Lung Association's criteria, and is a worthy recipient of this award.

Founded in 1939 by Charles Stuart Mott, MCHC's mission is to better the lives of Genesee County's at-risk youth through health services and community advocacy. As a health service provider, MCHC offers the Genesee County community both emotional and physical pediatric health services, educates families on health-related issues, and supports local schools and neighborhoods with on-site health care. In order to inform community decision makers on issues related to Genesee County's children's health needs, MCHC sponsors events on matters affecting children's health, supports various state and local children's advocacy organizations, and develops educational materials on children's issues. In its 63-year history, MCHC has expanded to become a principal in child health advocacy in the Genesee Valley community and throughout Michigan.

MCHC is a recognized leader in the battle against childhood asthma, an illness that affects 15 percent of Genesee County's children. As part of the Childhood Asthma Task Force, (CATF), MCHC provides staff and other resources, including a home to CATF's three Mini Asthma Resource Centers. MCHC nurses, who dedicate themselves to educating families about asthma and available treatments, staff these CATF centers. Additionally, in its continuing effort to highlight children's respiratory health issues, last year MCHC sponsored the 29th Annual Tuuri Day Conference, which addressed topics such as "New Approaches to Pediatric Asthma" and "Smoking Among Children and Families."

MCHC has a long and impressive history of advocacy for the children of Genesee Valley. I know my colleagues join me in congratulating Mott Children's Health Center for being named the 2002 Corporate Health Advocate of the Year and wishing them continued success.●

RECOGNIZING GLORIA R. BOURDON

● Mr. LEVIN. Madam President, I wish to express my sincerest congratulations to Gloria R. Bourdon of Michigan who has recently been recognized by the American Lung Association of Michigan-Genessee Valley Region as the 2002 Individual Health Advocate of the Year.

The American Lung Association of Michigan-Genesee Valley Region awards this honor to an individual who has served as board member on a health association or participated in a health related activity for at least 5 years. Recipients must contribute to the community's health, education, and general well-being. The individual must have been involved in promoting health care research, contributing to articles on health care, and involved in lung health care advocacy. Gloria Bourdon has not only met these criteria but has far exceeded them; for this she is a worthy recipient of this prestigious award.

Gloria Bourdon's promotion of children's health issues began in 1970 as a teacher in Pinconning and Linden Areas Schools, where she taught students to lead healthy lifestyles. As the Director of Health, Safety and Nutrition Services for the Genesee Intermediate School District, Gloria is now responsible for the health and safety of the children in 55 public schools, public academies, and private schools. She is also an active member of the community. She supports many coalitions including Priority Children, Childhood Asthma Task Force, and the Genesee County Curriculum Council. Her outstanding work and dedication have been recognized by various organizations. Most recently, Gloria received the Genesee County Child Advocacy Award, the Michigan Association of School Board's Health and Safety Award, and the Rainmaker Award from HealthPlus.

Gloria's dedication to children's health is evident in her writing and fundraising efforts. In 1998, she authored a Health Action Team Manual for Substance Abuse Education, Physical Activity, Nutrition Education, and Safe and Drug Free School Zones. She has assisted the American Lung Association in efforts regarding asthma, tobacco and air-quality awareness. Gloria also encourages her nursing and teaching staff to support the Association's goals.

I join the American Lung Association of Michigan-Genesee Valley Region in congratulating Gloria on her great accomplishments in promoting the health and safety of the children in Genesee County and surrounding areas. I know that my colleagues in the Senate will support me in thanking Gloria Bourdon for her efforts and wishing her well in her future endeavors.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:36 a.m., a message from the House of Representatives, delivered by

Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5710. An act to establish the Department of Homeland Security, and for other purposes:

At 4:08 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3758. An act for the relief of So Hyun Jun.

At 8:46 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5708. An act to reduce preexisting PAYGO balances, and for other purposes.

At 9:19 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 5063) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, with amendments.

At 9:52 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

At 10:25 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (S. 1214) to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 124. Joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–9469. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the Fiscal Year 2001 operations of the Office of Workers' Compensation Programs; to the Committee on Health, Education, Labor, and Pensions.

EC–9470. A communication from the Administrator, General Services Administration, transmitting the report of lease prospectuses that support the General Services Administration's Fiscal Year 2003 Capital Investment and Leasing Program; to the Committee on Environment and Public Works.

EC–9471. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's monthly report on the status of licensing and regulatory duties for July 2002; to the Committee on Environment and Public Works.

EC–9472. A communication from the Deputy Administrator, General Services Administration, transmitting, pursuant to law, a Report of Building Project Survey, Charlotte, NC; to the Committee on Environment and Public Works.

EC–9473. A communication from the Deputy Administrator, General Services Administration, transmitting, pursuant to law, a Report of Building Project Survey, U.S. Court of Appeals, Atlanta, GA; to the Committee on Environment and Public Works.

EC–9474. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Partial Withdrawal of Approval of 34 Clean Air Act Part 70 Operating Permits Programs in California; Announcement of a Federal Operating Permits Program" received on October 16, 2002; to the Committee on Environment and Public Works.

EC–9475. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollution for Friction Materials Manufacturing Facilities" received on October 16, 2002; to the Committee on Environment and Public Works.

EC–9476. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on Local Officials' Participation in Transportation Planning and Programming; to the Committee on Environment and Public Works.

EC–9477. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Bureau of Justice Assistance's annual report for fiscal year 2001; to the Committee on the Judiciary.

EC–9478. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Refugee Resettlement Program for the period from October 1, 1999 through September 30, 2000; to the Committee on the Judiciary.

EC–9479. A communication from the Chief, Regulation Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Tax Shelter Disclosure Statements" (RIN 1545–BB32) received on October 28, 2002; to the Committee on Finance.

EC–9480. A communication from the Chief, Regulation Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Requirement to Maintain List of Investors in Potentially Abusive Tax Shelters" (RIN 1545–BB33) received on October 28, 2002; to the Committee on Finance.

EC–9481. A communication from the Chief, Regulation Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Bureau of Labor Statistics Price Indexes for Department Stores—August 2002" (Rev. Rul. 2002–64) received on October 7, 2002; to the Committee on Finance.

EC–9482. A communication from the Chief, Regulation Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—November 2002" (Rev. Rul. 2002–74) received on October 21, 2002; to the Committee on Finance.

EC–9483. A communication from the Chief, Regulation Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 1.446–4(e)(4) hedges of Debt Instruments" ((Rev. Rul. 2002–71) (Rev. Rul. 2002–71)) received on October 28, 2002; to the Committee on Finance.

EC–9484. A communication from the Chief, Regulation Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Modification of Rev. Rul. 2002–46" (Rev. Rul. 2002–73) received on October 21, 2002; to the Committee on Finance.

EC–9485. A communication from the Chief, Regulation Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Certain Reinsurance Arrangements" (Rev. Rul. 2002–70) received on October 28, 2002; to the Committee on Finance.

EC–9486. A communication from the Chief, Regulation Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Lease-in/Lease-out (LILO) transactions" received on October 21, 2002; to the Committee on Finance.

EC–9487. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Presentation of Vessel Cargo Declaration to Customs Before Cargo Is Laden Aboard Vessel at Foreign Port for Transport to the United States" received on October 28, 2002; to the Committee on Finance.

EC–9488. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 2003" received on October 21, 2002; to the Committee on Finance.

EC–9489. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on Waiver Exception for Medicare+Choice Provider Sponsored Organizations; to the Committee on Finance.

EC–9490. A communication from the Chairman, Office of the General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Electioneering Communications" received on October 16, 2002; to the Committee on Rules and Administration.

EC–9491. A communication from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "31 CFR Parts 351, 357, 359, 360, 363, Regulations Governing Treasury Securities" received on October 9, 2002; to the Committee on Finance.

EC–9492. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Interest Rates and Appropriate Foreign Loss Payment Patterns for Determining the Qualified Insurance Income of Certain Controlled Corporations under Section 954(i)" received on October 9, 2002; to the Committee on Finance.

EC–9493. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice 2002–63; Sales of Frequent Flyer Miles" received on October 9, 2002; to the Committee on Finance.

EC–9494. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Ruling 2002–60 ; Application of Section 426(e)(3)" received on October 9, 2002; to the Committee on Finance.

EC–9495. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rev. Proc. 2002–16, Revision of" (Rev. Proc. 2002–68) received on October 9, 2002; to the Committee on Finance.

EC–9496. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Announcement 2002–96; Termination of Appeals Settlement Initiative for Corporate Owned Life Insurance (COLI)" received on October 9, 2002; to the Committee on Finance.

EC–9497. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Settlement of Section 351 Contingent Liability Tax Shelter Cases" received on October 9, 2002; to the Committee on Finance.

EC–9498. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Settlement Initiative for Settlement 302/318 Basis-Shifting Transactions" received on October 9, 2002; to the Committee on Finance.

EC–9499. A communication from the Chairman, Office of the General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Electioneering Communications" received October 16, 2002; to the Committee on Rules and Administration.

EC–9500. A communication from the Assistant General Counsel for Regulations, Office of the Secretary, Department of Housing and Urban Affairs, transmitting, pursuant to law, the report of a rule entitled "HOME Investment Partnerships Program" received on October 28, 2002; to the Committee on Banking, Housing, and Urban Affairs.

EC–9501. A communication from the Assistant Secretary for Administration and Management, Department of Health and Human Services, transmitting, pursuant to law, a report on the Department's commercial activities inventor; to the Committee on Governmental Affairs.

EC–9502. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Executive Branch Fails to Implement The Telephone Fraud Amendment Act"; to the Committee on Governmental Affairs.

EC–9503. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Certification Review of the Sufficiency of the Washington Convention Center Authority's Projected Revenue and Excess Reserve to Meet Projected Operating and Debt Service Expenditures and Reserve Requirements for Fiscal Year 2003"; to the Committee on Governmental Affairs.

EC–9504. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Audit of Advisory Neighborhood Commission 6B for Fiscal Years 1999 Through 2002, as of June 30th"; to the Committee on Governmental Affairs.

EC–9505. A communication from the Director, Office of Compensation Administration, Office of Personnel Management, transmitting pursuant to law, the report of a rule entitled "Basic Pay for Employees Temporary Organizations" received October 28, 2002; to the Committee on Governmental Affairs.

EC–9506. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Statistical Programs of the United States Government: Fiscal Year 2003"; to the Committee on Governmental Affairs.

EC–9507. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–462, "General Obligation Bonds and Bond Anticipation Notes for Fiscal Years 2002–2007 Authorization Act of 2002"; to the Committee on Governmental Affairs.

EC–9508. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–463, "Mobile Telecommunications Sourcing Conformity Act of 2002"; to the Committee on Governmental Affairs.

EC–9509. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–465, "Department of Insurance and Securities Regulation Merger Review Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC–9510. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–466, "Ward Redistricting Residential Permit Parking Extension Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC–9511. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–464, "Religious Organization Exemption Amendment Temporary Act 2002"; to the Committee on Governmental Affairs.

EC–9512. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–468, "Washington Metropolitan Area Transit Authority Property Dedication Transfer Tax Exemption Temporary Act 2002"; to the Committee on Governmental Affairs.

EC–9513. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–467, "Other-Type Funds Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC–9514. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–469, "Motor Vehicle Registration and Operator's Permit Issuance Enhancement Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC–9515. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–471, "Transfer of Jurisdiction of Reservation 19 and 124 Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC–9516. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–470, "Freedom Forum Real Property Tax Exemption and Equitable Real Property Tax Relief Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC–9517. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–486, "Solid Waste Transfer Station Service and Settlement Agreements Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC–9518. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–487, "Solid Waste Facility Permit Phase-Out Extension Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC–9519. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–483, "Tax Clarity and Related Amendments Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC–9520. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–474, "Automated Traffic Enforcement Fund Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC–9521. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–482, "Inheritance and Estate Tax Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC–9522. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–472, "Council Review of Existing Convention Center Site Redevelopment Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC–9523. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–473, "Capitol Hill Business Improvement District Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC–9524. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "Debt Collection" (RIN3095–AA77) received on October 16, 2002; to the Committee on Governmental Affairs.

EC–9525. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "Researcher Identification Cards" (RIN3095–AB14); to the Committee on Governmental Affairs.

EC–9526. A communication from the Acting Director, Office of Regulatory Law, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled

“Prohibition of Interment or Memorialization in National Cemeteries and Certain State Cemeteries Due to Commission of Capitol Crimes” received on October 28, 2002; to the Committee on Veterans' Affairs.

EC-9527. A communication from the Acting Director, Office of Regulatory Law, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled “Loan Guaranty: Net Value and Pre-Foreclosure Debt Waivers” received on October 28, 2002; to the Committee on Veterans' Affairs.

EC-9528. A communication from the Acting Director, Office of Regulatory Law, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled “Recoupment of Severance Pay from VA Compensation” received on October 15, 2002; to the Committee on Governmental Affairs.

EC-9529. A communication from the Acting Director, Office of Regulatory Law, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled “Enrollment-Provision of Hospital and Outpatient Care to Veterans” received on October 15, 2002; to the Committee on Governmental Affairs.

EC-9530. A communication from the Director of the Office of Insular Affairs, Department of the Interior, transmitting, pursuant to law, the report entitled “Financial and Social Impacts of the Compacts of Free Association on the United States Insular Areas and the State of Hawaii”; to the Committee on Energy and Natural Resources.

EC-9531. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Food Labeling: Health Claims; Soluble Dietary Fiber From Certain Foods and Coronary Heart Disease” (Doc No. 01Q–0313) received on October 28, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-9532. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Secondary Direct Food Additives Permitted in Food for Human Consumption” (Doc. No. 02F–0042) received on October 28, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-9533. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “White Chocolate; Establishment of a Standard of Identity” (Doc. No. 86P–0297 and 93P–0091) received on October 28, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-9534. A communication from the Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled “Interim Final Rule Relating to Civil Penalties Under ERISA Section 502(2)(7) and Conforming Technical Changes On Civil Penalties Under ERISA Sections 502(c)(2), 502(c)(5), and 502(c)(6)” ((RIN1210–AA91)(1210–AA93)) received on October 21, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-9535. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled “Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits” received on October 15 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-9536. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the implementation of the Age Discrimination Act during fiscal year 2001; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

H.R. 3180: A bill to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact.

H.R. 3988: A bill to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion..

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1655: A bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

By Mr. LEAHY, from the Committee on the Judiciary, with amendments:

S. 2480: A bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns.

From the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2520: A bill to amend title 18, United States Code, with respect to the sexual exploitation of children.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 2541: A bill to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes.

S. 2934: A bill to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Con. Res. 94: A concurrent resolution expressing the sense of Congress that public awareness and education about the importance of health care coverage is of the utmost priority and that a National Importance of Health Care Coverage Month should be established to promote that awareness and education.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Michael W. McConnell, of Utah, to be United States Circuit Judge for the Tenth Circuit.

Dennis W. Shedd, of South Carolina, to be United States Circuit Judge for the Fourth Circuit.

Kevin J. O'Connor, of Connecticut, to be United States Attorney for the District of Connecticut for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

NOMINATIONS DISCHARGED

The following nominations were discharged from the Committee on Commerce, Science, and Transportation pursuant to the order of November 14, 2002:

Coast Guard nomination of Dana B. Reid.

Coast Guard nominations beginning Douglas A. Ash and ending Warren E. Soloduk, which nominations were received by the Senate and appeared in the Congressional Record on October 17, 2002.

Coast Guard nominations beginning Anthony J. Alarid an ending Michael B. Zamperini, which nominations were received by the Senate and appeared in the Congressional Record on November 12, 2002.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BARKLEY (for himself, Mr. DAYTON, Mr. DASCHLE, Mr. LOTT, Mr. AKAKA, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Ms. CANTWELL, Mrs. CARNAHAN, Mr. CARPER, Mr. CHAFEE, Mr. CLELAND, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. FRIST, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MILLER, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. REED, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. TORRICELLI, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN):

S. 3156. A bill to provide a grant for the construction of a new community center in St. Paul, Minnesota, in honor of the late Senator Paul Wellstone and his beloved wife, Sheila; considered and passed.

By Mr. BUNNING:

S. 3157. A bill to expand the boundaries of the Fort Donelson National Battlefield, to authorize the acquisition of land associated with the campaign that resulted in the capture of Fort Donelson in 1862, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. REED (for himself and Mr. DEWINE):

S. 3158. A bill to establish a grant program to provide comprehensive eye examinations to children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. LINCOLN:

S. 3159. A bill to amend the Immigration and Nationality Act to render inadmissible to the United States the extended family of international child abductors, and for other purposes; to the Committee on the Judiciary.

By Mr. NELSON of Nebraska:

S. 3160. A bill to provide emergency disaster assistance to agricultural producers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD (for himself, Mr. KENNEDY, and Mr. JEFFORDS):

S. 3161. A bill to provide a definition of a prevailing party for Federal fee-shifting statutes; to the Committee on the Judiciary.

By Mr. DURBIN (for himself, Mr. NELSON of Florida, Mr. CLELAND, and Mr. EDWARDS):

S. 3162. A bill to amend title 49, United States Code, to enhance the security of transporting high-level nuclear waste and spent nuclear fuel, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DEWINE:

S. 3163. A bill to establish a grant program to enable institutions of higher education to improve schools of education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE:

S. 3164. A bill to amend the Higher Education Act of 1965 to improve the loan forgiveness program for child care providers, including preschool teachers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 3165. A bill to provide loan forgiveness to social workers who work for child protective agencies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 3166. A bill to amend the Higher Education Act of 1965 to provide loan forgiveness for attorneys who represent low-income families or individuals involved in the family or domestic relations court systems; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. LIEBERMAN):

S. 3167. A bill to provide grants to States and outlying areas to encourage the States and outlying areas to enhance existing or establish new statewide coalitions among institutions of higher education, communities around the institutions, and other relevant organization or groups, including anti-drug or anti-alcohol coalitions, to reduce underage drinking and illicit drug-use by students, both on and off campus; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD:

S. 3168. A bill to improve funeral home, cemetery, and crematory inspections systems, to establish consumer protections relating to funeral service contracts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. LANDRIEU:

S. 3169. A bill to provide for military charters between military installations and local school districts, to provide credit enhancement initiatives to promote military charter school facility acquisition, construction, and renovation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for himself and Mr. LOTT):

S.J. Res. 53. A joint resolution relative to the convening of the first session of the One Hundred Eighth Congress; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DAYTON:

S. Res. 356. A resolution paying a gratuity to Trudy Lapic; considered and agreed to.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. Res. 357. A resolution commending and congratulating the Anaheim Angels for their remarkable spirit, resilience, and athletic discipline in winning the 2002 World Series; considered and agreed to.

ADDITIONAL COSPONSORS

S. 486

At the request of Mr. LEAHY, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 486, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

S. 650

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 650, a bill to amend the Mineral Leasing Act to prohibit the exportation of Alaska North Slope crude oil.

S. 987

At the request of Mr. TORRICELLI, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 987, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low-income individuals infected with HIV.

S. 1304

At the request of Mr. KERRY, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 1304, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of oral drugs to reduce serum phosphate levels in dialysis patients with end-stage renal disease.

S. 2035

At the request of Mr. JEFFORDS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2035, a bill to provide for the establishment of health plan purchasing alliances.

S. 2445

At the request of Mrs. HUTCHISON, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 2445, a bill to establish a program to promote child literacy by making books available through early learning, child care, literacy, and nutrition programs, and for other purposes.

S. 2577

At the request of Mr. FITZGERALD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2577, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the exclusion from Federal income tax for restitution received by victims of the Nazi Regime.

S. 2752

At the request of Mr. JEFFORDS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2752, a bill to amend title XVIII of the Social Security Act to provide for the establishment of medicare demonstration programs to improve health care quality.

S. 2903

At the request of Mr. JOHNSON, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 2903, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care.

S. 2922

At the request of Ms. LANDRIEU, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2922, a bill to facilitate the deployment of wireless telecommunications networks in order to further the availability of the Emergency Alert System, and for other purposes.

S. 3081

At the request of Mr. JOHNSON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 3081, a bill to amend the Internal Revenue Code of 1986 to suspend the tax-exempt status of designated terrorist organizations, and for other purposes.

S.J. RES. 50

At the request of Mr. MCCAIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S.J. Res. 50, a joint resolution expressing the sense of the Senate with respect to human rights in Central Asia.

S. RES. 339

At the request of Mrs. MURRAY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Res. 339, a resolution designating November 2002, as "National Runaway Prevention Month".

S. CON. RES. 52

At the request of Mr. CORZINE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Con. Res. 52, a concurrent resolution expressing the sense of Congress that reducing crime in public housing should be a priority, and that the successful Public Housing Drug Elimination Program should be fully funded.

S. CON. RES. 155

At the request of Mr. SANTORUM, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. Con. Res. 155, a concurrent resolution affirming the importance of a national day of prayer and fasting, and expressing the sense of Congress that November 27, 2002, should be designated as a national day of prayer and fasting.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REED (for himself and Mr. DEWINE):

S. 3158. A bill to establish a grant program to provide comprehensive eye examinations to children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I rise today to introduce the "Children's Vision Improvement and Learning Readiness Act." I am pleased to be joined by my colleague from Ohio, Senator DEWINE, in this effort. Vision disorders are the fourth most common disability in the United States and the most prevalent handicapping condition among children. This is a startling fact when one considers that eighty percent of what children learn is acquired through vision processing information and the quality of children's eye health has a direct impact on their learning and achievement.

It is estimated that almost ten percent of children have clinically significant vision impairments, which are associated with developmental delays and the need for special education, vocational, and social services. Specifically, studies have found that among the twenty percent of school age children who have a learning disability in reading, seventy percent have some form of visual impairment, such as ocular motor, perceptual or binocular dysfunction, that could interfere with their reading skills. The "Children's Vision Improvement and Learning Readiness Act" recognizes the importance of diagnosing vision disorders in children at an early age so as to allow intervention at a time when these disorders are highly responsive to treatment.

Unfortunately, too many children in school today live with an undiagnosed vision impairment and too many times these same children have not had a comprehensive eye examination prior to entering school. In fact, only one-third of all children have had an eye examination or vision screening prior to entering school despite evidence that the earlier a vision problem is diagnosed and corrected, the less the potential negative impact it may have on a child's development.

In addition, undiagnosed visual problems impose economic costs on our Nation. In 1995, the economic impact of visual disorders and disabilities was approximately $38.4 billion. Yet, early, comprehensive eye exams in children can help reduce the economic and social costs associated with undiagnosed eye disorders. Providing comprehensive eye examinations to children before they enter school helps to decrease long-term medical expenditures, prevent inappropriate placement of children in special education programs, and avoid social welfare spending by improving children's ability to learn and achieve a greater degree of educational and economic attainment.

The "Children's Vision Improvement and Learning Readiness Act" gives the Secretary of Health and Human Services the authority to provide grants to States for a variety of educational and outreach activities related to improving and safeguarding the eye health and academic success of our nation's children. Grants may be used for the development of a voluntary statewide school-based comprehensive eye examination program for elementary school age children; the development of State-based education programs to increase public awareness of the benefits of comprehensive eye examinations; and the flexibility of providing comprehensive eye examinations through other related federal programs, such as Head Start, the Individuals with Disabilities Education Act, the Child Care Block Grant, and the Consolidated Health Centers programs.

This important measure will help ensure that our nation's children have access to comprehensive eye examinations from qualified health professionals so they can start school prepared for a lifetime of learning and achievement. I urge my colleagues to join me and Senator DEWINE in supporting this legislation that will help to boost the well-being and academic achievement of our nation's school children.

By Mr. FEINGOLD (for himself, Mr. KENNEDY, and Mr. JEFFORDS):

S. 3161. A bill to provide a definition of a prevailing party for Federal fee-shifting statutes; to the Committee on the Judiciary.

Mr. FEINGOLD. Madam President, I am pleased today to introduce the Settlement Encouragement and Fairness Act of 2002. This bill provides that when plaintiffs bring a lawsuit that acts as a catalyst for a change in position by the opposing party, they will be considered the "prevailing party" for purposes of recovering attorneys' fees under Federal law. The bill will help ensure that people who are the victims of civil rights, environmental, and worker rights' abuses can obtain legal representation to enforce their rights.

Over the course of our history, Congress has often enacted laws encouraging private litigants to implement public policy through our court system. An integral part of many such laws are provisions that help individuals obtain adequate legal representation by providing that the defendants will pay the plaintiffs' attorneys' fees in cases where the plaintiff prevails. In laws involving public accommodations, housing, labor, disabilities, age discrimination, violence against women, voting rights, pollution, and other areas, Congress has acted over and over again to empower private litigants in their pursuit of justice. Currently, there are over two hundred statutory fee-shifting provisions that allow for some sort of payment of attorneys' fees to a prevailing plaintiff.

Until last year, in interpreting these fee-shifting statutes in cases where a settlement was reached before trial, nine circuit courts of appeals embraced the "catalyst theory" to determine whether attorneys' fees could be obtained. The catalyst theory required the payment of fees where the lawsuit caused a change in the position or conduct of the defendant. Only one circuit court, the Fourth Circuit, applied a more narrow definition of prevailing party, requiring a judgment or a court approved settlement in order for a plaintiff to obtain attorneys' fees.

In Buckhannon Board of Care & Home Inc. v. West Virginia Department of Health and Human Services, 2001, a case arising out of the Fourth Circuit, the U.S. Supreme Court ruled, in a 5–4 decision, that plaintiffs may recover attorneys' fees from defendants only if they have been awarded relief by a court, not if they prevailed through a voluntary change in the defendant's behavior or a private settlement. The Buckhannon ruling eliminated the catalyst theory for all fee shifting statutes in federal law.

The bill I introduce today restores the catalyst theory that the vast majority of courts had approved prior to the Buckhannon decision as a basis for seeking attorneys fees under Federal fee shifting statutes. It provides a new definition of "prevailing party" for all such statutes to encompass the common situation where defendants alter their conduct after a lawsuit has commenced but without waiting for a court order requiring them to do so. This critical change in the definition of "prevailing party" will allow attorneys representing clients who cannot otherwise afford to hire a lawyer to recover their costs and to be paid a reasonable rate for their work.

The Buckhannon case itself illustrates the need for this legislation. Buckhannon Board and Care Home in West Virginia, an operator of assisted living residences, failed a state inspection because some residents were incapable of "self-preservation" as defined by State law. After receiving orders to close its facilities, Buckhannon sued the State seeking declaratory and injunctive relief that the "self-preservation" requirement violated the Fair Housing Amendments Act and the Americans with Disabilities Act. While the lawsuit was pending but before the court ruled, the state legislature eliminated the "self-preservation" requirement.

Imagine how the plaintiffs felt when they learned that their lawsuit had forced a change in the law not only for their own case but also for all of the other individuals who had been subject to the improper self-preservation doctrine. If ever there was a complete and total victory caused by litigation, this was it. But, as Casey Stengel once said, "It ain't over 'till it's over." Once the State legislature changed the law, the District Court granted defendant's motion to dismiss the case as moot and denied Buckhannon's request for attorneys' fees. The court ruled that the legislative action did not amount to a judicially required change in position that would permit Buckhannon to be considered a "prevailing party" in the case. On appeal, the Court of Appeals for the Fourth Circuit and then the U.S. Supreme Court denied attorneys' fees for the plaintiffs, ruling that because the change in the defendants' conduct was voluntary rather than ordered by the court, Buckhannon was not a prevailing party.

I believe the narrow definition of "prevailing party" endorsed by the Buckhannon decision will result in many injustices going unchallenged. Indeed, in calculating whether to take a case, an attorney for a plaintiff will have to consider not only the chances of losing, but the chances of winning too easily. If businesses or individuals are able to engage in egregious conduct, refuse to change their behavior without a lawsuit being filed against them, and then avoid paying attorneys' fees by changing their conduct on the eve of trial, the effect will be that some lawyers will decide that they cannot afford to take a case even if the claims are very strong.

Imagine a case involving a legitimate claim of housing discrimination where, after many months, perhaps even years of work, as the attorney for the plaintiff prepares into the evening for opening statements, the attorney learns that the defendant has admitted its wrongful conduct and offered substantial compensation and a promise to change its practices. This offer came about only because of the spotlight the lawsuit put on the defendant and the possibility of a large jury verdict. This would be a complete victory for the plaintiff, but under Buckhannon, the attorney who labored for years to bring about this result may not be paid. Later, if the same defendant returns to discriminatory practices, the next plaintiff might very well not be able to find competent counsel who will take the case.

Ironically, the failure to correct the Buckhannon decision could lead to plaintiffs' attorneys dragging out law suits, out far beyond a point in time where the parties could reach a fair settlement, in order to insure that they meet the Buckhannon definition of "prevailing party." This will increase the costs of litigation and discourage settlement. Simply put, Buckhannon creates unnatural tensions between attorneys and clients and may even push attorneys to not act in the best interest of their clients.

Certainly we can do better. Congress has passed important laws to protect the public in the work place and in our communities; we must ensure that these laws can be enforced, when necessary, in court. The Settlement Encouragement and Fairness Act of 2002 will help insure that all our citizens have the ability to meaningfully challenge injustice.

By Mr. DURBIN (for himself, Mr. NELSON of Florida, Mr. CLELAND, and Mr. EDWARDS):

S. 3162. A bill to amend title 49, United States Code, to enhance the security of transporting high-level nuclear waste and spend nuclear fuel, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, I rise today to introduce legislation to improve the safety of nuclear waste transportation across our Nation. This bill, the Nuclear Waste Transportation Security Act of 2002, seeks to address the concerns raised by the Congress' decision earlier this year to transport spent nuclear fuel to Yucca Mountain, NV, for underground storage. Joining me in its introduction are Senators CLELAND, EDWARDS, and NELSON.

I voted in favor of moving nuclear waste to Yucca Mountain. My decision was not a simple one; rather its ramifications required serious consideration. At that time, I predicated my "yes" vote on the waste being transported safely and securely through my home State of Illinois and across our Nation, and I indicated that I would introduce legislation to improve that safety and security. This is that legislation.

The Nuclear Waste Transportation Security Act directs the Secretary of Transportation to establish a comprehensive transportation safety program that considers terrorist threats and other potential dangers to the safe transportation of this spent fuel. The Department of Transportation, the regulator of these shipments, will consult with numerous cabinet and sub-cabinet offices, including the soon to be created Department of Homeland Security, to develop this program. After one year, the Secretary will deliver a progress report to Congress on the program's development and implementation.

To better assist State, local, and tribal governments in implementing this program, our bill establishes a grant program at DOT related to the transportation of nuclear spent fuel. First responders will be eligible for these grants, which will emphasize frequently used routes. The grants will be used for infrastructure improvements, drills and training, and other activities as determined by the Secretary. DOE and the Federal Radiological Preparedness Coordinating Committee, FRPCC, of FEMA will consult on the grant program. For this purpose, the bill authorizes $3,000,000 for fiscal year 2003 and additional funds as necessary for fiscal years 2004 through 2012.

A key component of spent nuclear fuel transportation is ensuring the safety and security of routes nationwide. Much of this fuel is likely to be transported through my own State of Illinois, right through the center of Chicago and Springfield, our State capitol. I want to be certain that its transport does not endanger my constituents in any way. The Department of Energy ranks Illinois seventh in truck shipments under what is called the "mostly truck scenario," and sixth in rail shipments in the "mostly rail scenario." Nearly half of Illinois' electricity is generated from nuclear power. With seven nuclear power plants and two nuclear research reactors Illinois produces more nuclear waste than any other State and is home to some of the busiest transportation corridors in the Nation. The safety of Illinoisans is at stake. These stakes are too high for us to gamble. Safety must be a top priority.

To ensure this safety, my bill requires that the DOT consult with State governments in establishing routes and provide 14-days' notice to governors of shipments through their States. The bill requires dedicated trains for the waste with trained guards stationed at the front and rear ends of each train. The bill provides the Secretary of Transportation and the Director of Homeland Security with waiver authority for national or homeland security. Under my legislation, trains must be equipped with communication systems providing continuous access to first responders and must be equipped with the best available technology, including appropriate health monitoring systems. Finally, to ensure the safe transportation of passengers and shippers on our nation's waterways, nuclear waste shipments may not be made via the inland waterways or on the Great Lakes unless waived for national or homeland security purposes.

This is critical to adequately protect these important natural resources.

Once the infrastructure is established and the routing determined, employees must be certified to handle any such emergencies that may result from this transportation and to mitigate their impact on local populations. My bill amends certification requirements for hazmat employees, requiring that certification be renewed every three years. Currently, this certification, without renewals, is required by regulation but not codified in statute.

The bill directs hazmat employers to submit training programs to DOT for review and approval and expands the definition of covered employees to include those who may be among the first responders to an accident but who do not receive training under current regulations. To provide funding for this additional training, the bill reauthorizes the training grant program for hazmat instructors who train hazmat employees, and enables it to cover hazmat employee training as well. Appropriations are authorized at $3,000,000 for fiscal year 2003 and for such sums as necessary for fiscal years 2004–2012.

The maximum civil penalties for violating hazmat laws regarding radioactive materials are increased from $25,000 to $100,000.

As a means of involving the public in these decisions affecting safety and security, the bill establishes a public outreach program to protect public health and safety. The program will be developed by FEMA in coordination with other agencies. In addition, the bill requires the EPA and the Centers for Disease Control and Prevention to conduct a study and report to Congress regarding the effects on public health of routine transportation of nuclear waste and accidents involving its transportation. The report is due one year after the date of enactment.

Especially important to my legislation is the establishment of requirements for casks. Also known as packages, these casks contain the spent nuclear fuel that is being shipped. The bill requires the Nuclear Regulatory Commission, which has authority over the casks, to execute a comprehensive testing program in conjunction with DOT and DHS, and requires them to conduct a survey of potential terrorist and other threats that may be posed to casks. The NRC and DOT must jointly certify the safety of the casks, which must be designed to handle head-on collisions at any speed at which they will be transported, attempted puncture by armor-piercing ammunition, falls of the maximum distance to which the package could fall on likely routes, submersion in water to the maximum depth to which the package could be submerged, continuous exposure to the maximum temperature to which the package is likely to be subjected in an event involving fire, and other threats that may be identified. The agencies involved in this effort must report to Congress every two years on these activities.

Finally, the bill amends current statute to exclude DOT and NRC contractors from participating on the Nuclear Waste Technical Review Board and enables the Board to review the activities of the DOT and NRC and to obtain documents from them as part of its existing investigative powers. This provision will prevent any conflicts of interest between the reviewers and implementers of this law. The Board's termination date is extended from one year after nuclear waste begins to be deposited at a national repository to 10 years after such waste begins to be deposited.

I believe that our legislation alleviates many of the concerns of shippers, hazmat employees, the federal government, and affected citizens regarding the transportation of nuclear spent fuel across our Nation. In the course of its development, we consulted with shippers, railroads, labor unions, the nuclear industry, federal regulators, the environmental community, and our colleagues in the Senate. The bill seeks to address the real threats we face and to take economic and safety concerns into account, with the primary goal of increasing the safety and security of these materials during their transportation to Yucca Mountain. I appreciate the assistance that these groups have provided. I remain open to their further input and look forward to working with them to enact this critical legislation.

Mr. NELSON. Mr. President, I am pleased to join my colleagues, Senator DURBIN, Senator EDWARDS and Senator CLELAND in introducing the Nuclear Waste Transportation Security Act.

Ensuring the safe and secure transportation of our high-level nuclear waste across this country is of paramount importance. The greatest concern I had voting for the Yucca Mountain Resolution was the safe transportation of our waste to Yucca.

This piece of legislation is the first step in what I see as Congress' ongoing duty to oversee and evaluate our Nation's transport of nuclear waste.

Specifically, this bill directs the Department of Transportation to develop and carry out a comprehensive safety program that considers, among other things, terrorist threats.

State and Federal cooperation is required. States must be consulted by DOT in making routing decisions and notified when shipments are traveling through their State.

Dedicated trains, armed escorts and state of the art communication systems must be employed.

Full-scale testing of casks to withstand the maximum temperature, water depth and piercing likely to be encountered must also be carried out.

The EPA and CDC must conduct a study and report to Congress on the effects, if any, on public health of routine transportation of nuclear waste and accidents involving the transportation of nuclear waste.

And, the Federal Emergency Management Agency must administer a public outreach program on nuclear waste to educate the public on appropriate means of responding to an accident or attack involving high-level nuclear waste.

Employing the expertise of the DOT, NRC, FEMA, EPA and CDC to protect the American people from any potential danger posed by nuclear waste transport is the aim and goal of this legislation and I hope my colleagues will support it.

The first shipments of nuclear waste to Yucca Mountain will not take place until 2010. We need to use the time between now and then to ensure that the transportation system that will carry this waste is a safe as it can possibly be.

By Mr. DEWINE:

S. 3163. A bill to establish a grant program to enable institutions of higher education to improve schools of education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE:

S. 3164. A bill to amend the Higher Education Act of 1965 to improve the loan forgiveness program for child care providers, including preschool teachers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 3165. A bill to provide loan forgiveness to social workers who work for child protective agencies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. ROCKEFELLER):

S. 3166. A bill to amend the Higher Education Act of 1965 to provide loan forgiveness for attorneys who represent low-income families or individuals involved in the family or domestic relations court systems; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself and Mr. LIEBERMAN):

S. 3167. A bill to provide grants to States and outlying areas to encourage the States and outlying areas to enhance existing or establish new statewide coalitions among institutions of higher education, communities around the institutions, and other relevant organization or groups, including antidrug or anti-alcohol coalitions, to reduce underage drinking and illicit drug-use by students, both on and off campus; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Mr. President, I join several of my colleagues today to introduce a series of bills related to the reauthorization of the Higher Education Act, HEA. These five bills emphasize a number of issues that are vital to higher education, including teacher quality; loan forgiveness for social workers, family lawyers, and early childhood teachers; and the reduction of drug use and underage drinking at our colleges and universities.

The quality of a student's education is the direct result of the quality of that student's teachers. If we don't have well trained teachers, then future generations of our children will not be well educated. That is why I am introducing a bill that would provide $200 million in grants to our schools of education to partner with local schools to ensure that our teachers are receiving the best, most, extensive training available before they enter the classroom.

The Secretary of Education's annual report on teacher quality reported that a majority of graduates of schools of education believe that the traditional teacher preparation program left them ill prepared for the challenges and rigors of the classroom. Part of the responsibility for this lies in the hands of our schools of education. However, Congress also has a responsibility to give our schools of education the tools they need to make necessary improvements. This new bill would create a competitive grant program for schools of education, which partner with low income schools to create clinical programs to train teachers. Additionally, it would require schools of education to make internal changes by working with other departments at the university to ensure that teachers are receiving the highest quality education in core academic subjects. Finally, it would require the college or university to demonstrate a commitment to improving their schools of education by providing matching funds.

Another complex issue affecting the teaching force is the high percentage of disillusioned beginning teachers who leave the field. Our bill would help combat this issue, as well. Schools of education receiving these grants would be responsible for following their graduates and continuing to provide assistance after they enter the classroom. The more we invest in the education of teachcers especially once they have entered the profession the more likely they will remain in the classroom.

Today, I also would like to reintroduce the Early Care and Education Loan Forgiveness Act that Senator Wellstone and I had included in the last higher education reauthorization bill. We had been working on this legislation together before Paul's tragic death. I know he cared deeply about this issue and about making sure that all children receive a quality education. He was passionate about that. And, in his memory, I would like to rename our bill the "Paul Wellstone Early Educator Loan Forgiveness Act."

This bill would expand the loan forgiveness program so that it benefits not just childcare workers, but also early childhood educators. This loan forgiveness program would serve as an incentive to keep those educators in the field for longer periods of time.

Paul Wellstone knew how important early learning programs are in preparing our children for kindergarten and beyond. Research shows that children who attend quality early childcare programs when they were three or four years old scored better on math, language arts, and social skills in early elementary school than children who attended poor quality childcare programs. In short, children in early learning programs with high quality teachers, teachers with a bachelor's degree or an associate's degree or higher, do substantially better.

When we examine the number and recent growth of pre-primary education programs, it becomes difficult to differentiate between early education and childcare settings because they are so often intertwined, especially considering that 11.9 million children younger than age five spend part of their time with a care provider other than a parent and demand for quality childcare and education is growing as more mothers enter the workforce.

Because the bill targets loan forgiveness to those educators working in low-income schools or childcare settings, we can make significant strides toward providing high quality education for all of our young children, regardless of socioeconomic status. The bill would serve a two-fold function. First, it would reward professionals for their training. Second, it would encourage professionals to remain in the profession over longer periods of time, since more time in the profession leads to higher percentages of loans forgiveness. The bill would result in more educated individuals with more teaching experience and lower turnover rates, each of which enhances student performance.

I encourage my colleagues to join me in this effort to ensure that truly no children, especially our youngest children, are left behind.

I also am working on two bills with my friend and colleagues from West Virginia, Senator JAY ROCKEFELLER. These bills would provide loan forgiveness to students who dedicate their careers to working in the realm of child welfare, including social workers, who work for child protective services, and family law experts.

Currently, there aren't enough social workers to fill available jobs in child welfare today. Furthermore, the number of social work job openings is expected to increase faster than the average for all occupations through 2010. The need for highly qualified social workers in the child protective services is reaching crisis level.

We also need more qualified individuals focusing on family law. The wonderful thing about family law is its focus on rehabilitation, that is the rehabilitation of families by helping them through life's transitions, whether it is a family going through a divorce, a family dealing with their troubled teenager in the juvenile system, or a child getting adopted and becoming a member of a new family.

Across the United States, family, juvenile, and domestic relations courts are experiencing a shortage of qualified attorneys. As many of my colleagues and I know, law school is an expensive investment. In the last 20 years, tuition has increased more than 200 percent. Currently, the average rate of law school debt is about $80,000 per graduate. To be sure, few law school graduates can afford to work in the public sector because debts prevent even the most dedicated public service lawyer from being able to take these low-paying jobs. This results in a shortage of family lawyers.

The shortage of family law attorneys also disproportionately impacts juveniles. The lack of available representation causes children to spend more time in foster care because cases are adjourned or postponed when they simply cannot find an attorney to represent their rights or those of the parent or guardian. Furthermore, the number of children involved in the court system is sharply increasing. We need to make sure the interests of these children are taken care of by making sure they have an advocate, someone working solely on their behalf.

By offering loan forgiveness to those willing to purpose careers in the child welfare field, we can increase the number of highly qualified and dedicate individuals who work in the realm of child welfare and family law.

Finally, I am introducing a bill today with my friend and colleague from Connecticut, Senator LIEBERMAN, that would help address an epidemic, the epidemic of underage drinking, binge drinking, and drug-related problems on college and university campuses across the United States. Our bill would provide grants to states to establish statewide partnerships among colleges and universities and the surrounding communities to work together to reduce underage and binge drinking and illicit drug use by students.

According to a study by Boston University, over 1,400 students aged 18–24 died in 1998 from alcohol-related injuries, more than 600,000 students were assaulted by another student, and another 500,000 were unintentionally injured while under the influence of alcohol. According to a 1999 Harvard University study, 40 percent of college students are binge drinkers and according to the Department of Health and Human Services, nearly 10.5 million current drinkers were under the legal age of 21, and of these, over 5 million were binge drinkers.

Currently, 28 States, including my home State of Ohio, have coalitions that deal specifically with the culture of alcohol and drug abuse on our Nation's college campuses. They work with the surrounding communities, including local residents, bar, restaurant and shop owners, and law enforcement officials, toward a goal of changing the pervasive culture of drug and alcohol abuse. They provide alternative alcohol-free events, as well as support groups for those who choose not to drink. They also educate students about the dangers of alcohol and drug-use.

Furthermore, the coalitions recognize that while it is important to promote an alcohol aware and drug-free campus community, if the community surrounding the campus does not promote these initiatives, there will be no long-term solutions. Therefore, these coalitions also have worked to establish regulations both on and off campus, which will help our nation's youth to stay healthy, alive, and get the most out of their time at college. Some of these regulations include the registration of kegs. This provides accountability for both the store and the student. This is just an example of one step that colleges, local communities, and organizations can take.

To help start the expansion of these coalitions, our bill would provide $50 million dollars in grants. This is an important demonstration project that would help lead to positive effects for our young people. It is up to us to change the culture, which has been perpetuated by years of complacency and a dismissal tone of "that's just the way it is in college." We must protect the health and education of our young people by changing this culture of abuse—and that is exactly what this bill would do.

Next year when we consider the reauthorization of the Higher Education Act, I encourage my colleagues to join in support of these initiatives.

By Mr. DODD:

S. 3168. A bill to improve funeral home, cemetery, and crematory inspections systems to establish consumer protections relating to funeral service contracts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DODD. Mr. President, I rise today to introduce the Federal Death Care Inspection and Disclosure Act of 2002, a bill which I believe will go a long way in restoring the trust that Americans place in the funeral and death care industries.

None of us like to think about death and dying. It is a painful and uncomfortable subject, and most Americans, understandably, choose not to confront matters related to the death of a loved one until the death actually occurs. And when a loved one does pass on, we turn to our friends and family to grieve. Certainly, the last thing anyone wants to do at such a painful time is to spend hours or days negotiating or shopping for a funeral, casket, or other goods and services. Instead, we leave most of these arrangements in the hands of funeral service providers, turning to them to ensure that our loved ones are cared for and treated with respect and dignity after their passing.

We place a great deal of trust in funeral service providers. A funeral, after all, represents one of the largest purchases many consumers will ever make, just behind a home, college education, and a car. However, unlike these transactions, the purchase of funeral services is most often done under intense emotional duress, with very little time to spare, and without the benefit of the type of consumer information generally available when making such a large purchase. As a result, we trust funeral service providers to give us fair prices, to represent goods and services accurately, and to not take advantage of us during our moments of greatest grief and vulnerability.

For the most part, this trust is well deserved. I have no doubt, that the majority of individuals working in the funeral industry are good men and women who practice their profession with the honor and gravity it demands. However, recent revelations of abuses in the industry have shown us that not all members of the death care industry are honest and upstanding. We all remember hearing, earlier this year of the discovery of over 200 bodies strewn in the woods near a crematorium in Noble, GA. There is also recent evidence of desecration of graves and remains at cemeteries in Florida, California, Hawaii, and my own State of Connecticut. These incidents, as well as developments in the funeral industry as a whole, compel us to reexamine the regulatory structure we currently have in place for this industry.

Currently, the death care industry is regulated by a patchwork of State and local laws. These regulations may have been sufficient years ago, but the character of the industry has changed substantially since many of these laws were passed. The industry has become surprisingly large and diverse. Today, the death care industry generates annual revenues of over $15 billion and employ over 104,000 Americans. The 1990s saw the rise of multi-state "consolidators" who purchased local funeral homes across the country. Even for small local firms, the business has become increasingly complex. As more and more Americans travel and live in places far from where they were born, the industry has become one that frequently does business across State and county lines.

There have also been changes in Americans' cultural expectations of funeral services. For example, the percentage of cremations has risen from 5 percent in the 1970s to 25 percent today. However, only 12 States have substantive laws which cover cremation. In fact, in the case in Georgia I mentioned earlier, the crematorium in question was statutorily exempt from inspection, allowing the abuses to continue undiscovered.

The only significant Federal regulation of the industry exists in the Federal Trade Commission's Funeral Rule, promulgated nearly 20 years ago. Again, this rule has not kept up with the nature of the industry. Perhaps most importantly, the rule does not cover numerous sectors of the industry such as cemeteries, crematories, and casket makers. It also does not effectively regulate prepaid funeral contracts, which have become an increasingly popular option in recent years.

Earlier this year, I chaired a hearing of the Subcommittee on Children and Families in which we examined developments in the industry and how they have impacted American families. Since that hearing, I have worked with both consumer and industry groups to craft legislation to protect Americans from potential abuse by funeral service providers. The Federal Death Care Inspection and Disclosure Act of 2002 would provide Federal funding to allow States to hire and train inspectors and give consumers the right to legal action against those who violate regulatory standards. In order to be eligible for funding, states would have to adhere to standards which are outlined in the legislation. The act would also codify and strengthen the existing FTC regulations governing licensing and registration, recordkeeping, inspection, resolution of consumer complaints, and enforcement of State laws in the industry. It would clarify regulations to prevent deceptive trade practices in the industry and ensure that consumers can make informed decisions as they make funeral arrangements. Finally, the FTC rules would be expanded to cover all segments of the death care industry.

I am aware that as we are in the closing days of this Congress, the Senate will not have the opportunity to consider this legislation this year. However, I would like to take this opportunity to raise this issue with colleagues today in the hope that we will be able to move on this issue when we reconvene for the 108th Congress. This legislation is bipartisan. A House companion bill is being sponsored by Representative FOLEY of Florida. He has been a leader in the effort to ensure that dignity and respect prevail in all aspects of death care services. I look forward to working with him and all of our colleagues in the 108th Congress to advance this same worthy objective.

By Ms. LANDRIEU:

S. 3169. A bill to provide for military charters between military installations and local school districts, to provide credit enhancement initiatives to promote military charter school facility acquisition, construction, and renovation, and for other purposed; to the committee on Health, Education, Labor, and Pensions.

Ms. LANDRIEU. Mr. President, I rise to offer a bill which addresses a growing population who seek a distinct supportive voice: our military dependent children.

Education is an issue which many Senators on both sides of the aisle have worked very hard to improve in every State in our union. This bill, however, is unique in that it strives to increase the quality of education for hundreds of thousands of our children of members of the Armed Services by catering to their specific needs and frequent moves.

Let me begin by expressing my thanks to most members of this body for always working diligently to introduce and pass great initiatives for education. I firmly believe that we, at this juncture in our Nation's great history, have continued to bring family issues, such as education and the economy to the forefront of our discussion. Further, amid our continued discussion of the possibility of sending our military men and women into harm's way in Iraq, there is no better time to concentrate on their children, children who have the added burden of worrying about a deployed parent, or who must move to a new school many times as their parent or parents move to new assignments around the country.

This bill, I am proposing, will provide Stable Transitions I Education for our Active Duty Youth. It is called the STEADY Act and is the first step to a smoother educational career for military dependent children.

When I last spoke of this bill, I said that we in "Congress are becoming wiser and wiser on the issue of education" by recognizing that our future and our economy depend on the education of our children.

It truly is an issue of strengthening our Nation. We cannot have an economically strong and militarily secure Nation moving in a progressive way without an excellent school system. No matter where a child is born, rural or urban, on the east coast or west coast, if we do not do a better job as a Nation of giving our children a quality education, the future of our Nation will not be as bright, and it could put us in jeopardy.

I also make the argument that for our military, the same holds true. It is not just about providing our military with the most extraordinary weapons. It is not just about training our military men and women tot he highest levels. It is not just providing them the basics.

We have an obligation to recognize that when our men and women sign up to be in our military, they have willingly made sacrifices, but their families' quality of life should not be one of those sacrifices. We need to provide them, between the Department of Defense and the Department of Education, a quality education for their children.

When we send our soldiers into battle, we want them focused on the battle and mission at hand. We do not want them worried, as they naturally would be, about spouses and dependents at home, about their happiness, about their comfort, about their security. It makes our military stronger when we provide good, quality-of-life initiatives for their families at home. One of the ways we can do that is by improving the schools for military dependents. There are over 800,000 children who are military dependents out of an overall force strength of 1.4 million adults connected to the military. Many of them are school-age children. Because of the specific demands of our military, which are very unlike the civilian sector, many move every 2 years. Some military members move from the east coast to the west coast, moving families with them. It is very difficult providing an excellent education generally, and yet the military has even more challenges.

What is the solution? I offer this bill to strengthen our military schools in the United States in a creative way. This bill will set up the a pilot program to help create military charter schools around the Nation in partnership with local public school systems to provide an opportunity not only for our military dependents, but this framework will also help communities who have a large military presence. The benefit overall is that the community gets a better school, a school that has the opportunity to provide an excellent education, while being extremely flexible to accommodate the unique needs of a military dependent student.

The second benefit is that it gives children whose families might not have any connection to the military, an introduction into who military people and what military life can be like.

This is a partnership. It is a pilot program that will help establish charter schools, will give important consideration to military children as they move from community to community, and will create for the first time what we call an academic passport.

An academic passport will help to stabilize and standardize the curriculum without micromanaging, without dictating what the curriculum should be. It sets up a new approach or a new framework for our local elementary and secondary schools throughout the country to set up a standardized curriculum to address the vast peaks and valleys encountered by military dependent students as they move from one district to another. To illustrate: one school district might require 3 years of a foreign language or 2 years of algebra or 1 year of algebra, or a whole different curriculum. That is part of this bill. It is something about which military families feel very strongly. I hope that with this new pilot program to help create charter schools with a new academic passport, we can begin to focus some of our resources, again, not all within the Department of Defense; some of this is within the jurisdiction of the Department of Education, to create something exciting and wonderful for these 800,000 children.

Madam President, 600,000 of these children are in public schools today, at great stress to those public districts; 100,000 of these children are either in private schools or are home schooled; and only 32,000 of the 800,000 are in Department of Defense schools. These schools are concentrated in a few States. There are only 32,000 children, as I said, of 800,000 dependents in DDESS schools in New York, Kentucky, Virginia, North Carolina, South Carolina, Georgia, and Alabama.

As my colleagues can see, dependent children of military personnel are in public schools throughout the country. Sometimes they are good public schools; sometimes they are not so good. We are working hard to make every public school excellent, but I think we have a special obligation to our military families to make sure that those children, with the added burdens they face, are getting an excellent education.

If you look at the general population, non-officers in our military, 91.5 percent have a high school degree or GED, 91 percent. In our general population, it is about 80 percent. This is a very upwardly mobile group of Americans. Theses are men and women with great discipline, great patriotism, great commitment to the Nation. Obviously, they are serving their country, but they are committed to their families, their communities, and their education.

As one can see, the officers exceed the general population at large. Almost 40 percent have advanced degrees; 99 percent or more have bachelor degrees. This is also a very upwardly mobile population. If we can provide excellent schools and opportunities for the children of this 91 percent, I think we will be doing a very good job in helping to strengthen our military but also helping our country be a better place. It is truly something on which we should focus more.

In conclusion, let me tell you of a school of which I am very proud. It might be one of the first military charters, if not the first, in the Nation. This is a school which opened in September and is an even larger success than we anticipated. This is a state-of-the-art, brand new charter school in Plaquemines Parish, which serves the military and civilian community there. It has alleviated a huge burden on the local school district, and is ready for its first expansion.

I think we can work all day long on pay raises, on building more ships, on buying more tanks, and on building a stronger Air Force, but truly I think focusing on educational opportunities for military dependent children, will help us build morale, help us improve retention, will help us strengthen our military in the intermediate and the long term, and it is something that, with a little creativity, a little bit of thinking outside of the box, I am convinced we could finance the construction of these schools through means laid out in the bill, and end up coming out with some excellent facilities around this Nation to serve both our military and our nonmilitary families and do a great job for our Defense Department and a great job for our country. That is what this bill would accomplish: again, it sets up a pilot program to establish military charter schools in the neediest areas of the Nation. I would hope that it would be met with enthusiasm from my colleagues who consistently support good education initiatives, and from all of us who know the value of military service to our great Nation.

"Every few years you make new friends, Then you're gone. You do it all the time. I keep in touch. My best friend and I email, and write back and forth."—Military dependent student.

By Mr. DASCHLE (for himself and Mr. Lott):

S.J. Res. 53. A joint resolution relative to the convening of the first session of the One Hundred Eighth Congress; considered and passed.

S.J. Res. 53

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the One Hundred Eighth Congress shall begin at noon on Tuesday, January 7, 2003.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 357—COMMENDING AND CONGRATULATING THE ANAHEIM ANGELS FOR THEIR REMARKABLE SPIRIT, RESILIENCE, AND ATHLETIC DISCIPLINE IN WINNING THE 2002 WORLD SERIES

Mrs. FEINSTEIN (for herself and Mrs. Boxer) submitted the following resolution; which was considered and agreed to:

S. Res. 357

Whereas the Anaheim Angels have won the first World Championship in the 42 year history of the franchise;

Whereas the Anaheim Angels completed their best season in franchise history with 99 wins, staging one of the most significant team improvements in Major League Baseball since the 2001 season;

Whereas the 2002 World Series was the Anaheim Angels' first appearance in the Fall Classic;

Whereas the Anaheim Angels have fielded such superstars as Nolan Ryan, Rod Carew, Bobby Grich, Reggie Jackson, Jim Abbott, Wally Joyner, Brian Downing, Jim Edmonds, Gary DiSarcina, and now Troy Percival, Jarrod Washburn, Garret Anderson, Troy Glaus, and Tim Salmon;

Whereas third baseman Troy Glaus received the World Series Most Valuable Player Award for his stellar defensive plays, .385 batting average, and 3 home runs during the series;

Whereas pitcher Francisco Rodriguez became the youngest pitcher to win a World Series game and tied the postseason record for games won with 5 outstanding wins;

Whereas Manager Mike Scioscia won his first World Series title as a manager;

Whereas Tim Salmon made his first playoff appearance in 10 seasons as a major league baseball player, the only current player to have played that long without having reached the postseason;

Whereas the spirit of Gene Autry, the "Singing Cowboy" and former owner of the Angels, was undoubtedly ever-present with the Anaheim players throughout the series as he was an inspirational force to all who played for him and knew of his legacy;

Whereas the Anaheim Angels battled another California team deserving of acknowledgement: the San Francisco Giants;

Whereas the San Francisco Giants were a worthy rival for the Anaheim Angels and set the stage for an exciting and suspenseful World Series that was watched with great interest by many Californians;

Whereas the Anaheim Angels epitomize California pride with their incredible focus, dedication to winning, team cohesiveness, and devotion to playing America's pastime with class, athleticism, and enthusiasm; and

Whereas the Anaheim Angels demonstrate the rewards of perseverance, discipline, teamwork, and championship as they prepare to defend their title of World Champions: Now, therefore, be it

Resolved, That the Senate congratulates the Anaheim Angels on winning the 2002 Major League Baseball World Series title.

SENATE RESOLUTION 356—PAYING A GRATUITY TO TRUDY LAPIC

Mr. DAYTON submitted the following resolution; which was considered and agreed to:

S. Res. 356

Resolved, That the Secretary of the Senate is authorized and directed to pay, from appropriations under the subheading "Miscellaneous Items" under the heading "Contingent Expenses of the Senate", to Trudy Lapic, widow of Thomas Lapic, a loyal employee of the Senate for 9 years, a sum equal to 8 months of compensation at the rate Thomas Lapic was receiving by law during the last month of his Senate service, that sum to be considered inclusive of funeral expenses and all other allowances.

AMENDMENTS SUBMITTED & PROPOSED

SA 4906. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 4902 proposed by Mr. Lieberman (for himself, Mr. McCain, and Mr. Nelson of Nebraska) to the amendment SA 4901 proposed by Mr. Thompson (for Mr. Gramm (for himself, Mr. Miller, Mr. Thompson, Mr. Barkley, and Mr. Voinovich)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes.

SA 4907. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. Thompson (for Mr. Gramm (for himself, Mr. Miller, Mr. Thompson, Mr. Barkley, and Mr. Voinovich)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4908. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. Thompson (for Mr. Gramm (for himself, Mr. Miller, Mr. Thompson, Mr. Barkley, and Mr. Voinovich)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4909. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. Thompson (for Mr. Gramm (for himself, Mr. Miller, Mr. Thompson, Mr. Barkley, and Mr. Voinovich)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4910. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. Thompson (for Mr. Gramm (for himself, Mr. Miller, Mr. Thompson, Mr. Barkley, and Mr. Voinovich)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4911. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. Thompson (for Mr. Gramm (for himself, Mr. Miller, Mr. Thompson, Mr. Barkley, and Mr. Voinovich)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4912. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. Thompson (for Mr. Gramm (for himself, Mr. Miller, Mr. Thompson, Mr. Barkley, and Mr. Voinovich)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4913. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. Thompson (for Mr. Gramm (for himself, Mr. Miller, Mr. Thompson, Mr. Barkley, and Mr. Voinovich)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4914. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. Thompson (for Mr. Gramm (for himself, Mr. Miller, Mr. Thompson, Mr. Barkley, and Mr. Voinovich)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4915. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. Thompson (for Mr. Gramm (for himself, Mr. Miller, Mr. Thompson, Mr. Barkley, and Mr. Voinovich)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4916. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. Thompson (for Mr. Gramm (for himself, Mr. Miller, Mr. Thompson, Mr. Barkley, and Mr. Voinovich)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4917. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4918. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4919. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4920. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4921. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4922. Mr. JEFFORDS (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4923. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. THOMPSON, Mr. BARKLEY, AND MR. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4924. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4925. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4926. Mr. CORZINE (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4927. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4928. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4929. Mr. REID submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4930. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4931. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4932. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4933. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4934. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4935. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4936. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4937. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4938. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4939. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4940. Mr. DODD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4941. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4942. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4943. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4944. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4945. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4946. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4947. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4948. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4949. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4950. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4951. Mr. DODD proposed an amendment to amendment SA 4902 proposed by Mr. LIEBERMAN (for himself, Mr. MCCAIN, and Mr. NELSON of Nebraska) to the amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, supra.

SA 4952. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4953. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 5005, supra; which was ordered to lie on the table.

SA 4954. Mr. REID (for Ms. CANTWELL (for herself, Mr. GRASSLEY, Mr. ENZI, and Mr. KOHL)) proposed an amendment to the bill S. 1742, to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes.

SA 4955. Mr. REID (for Mr. HELMS (for himself and Mr. LEAHY)) proposed an amendment to the bill H.R. 5469, To amend title 17, United States Code, with respect to the statutory license for webcasting.

SA 4956. Mr. REID (for Mr. HAGEL (for himself, Mr. BIDEN, and Mr. HELMS)) proposed an amendment to the bill S. 2712, to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

SA 4957. Mr. REID (for Mr. KERRY (for himself, Mr. BROWNBACK, and Mr. HOLLINGS)) proposed an amendment to the bill S. 2869, to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

SA 4958. Mr. REID (for Mr. KENNEDY (for himself, Mr. GREGG, Mr. HOLLINGS, and Mr. FRIST)) proposed an amendment to the bill H.R. 4664, An act to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and for other purposes.

SA 4959. Mr. REID (for Mr. KENNEDY (for himself, Mr. GREGG, and Mr. HOLLINGS)) proposed an amendment to the bill H.R. 4664, supra.

SA 4960. Mrs. CLINTON (for herself, Mr. FITZGERALD, Ms. CANTWELL, and Mr. SPECTER) proposed an amendment to the bill H.R. 3529, to provide tax incentives for economic recovery and assistance to displaced workers.

SA 4961. Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill H.R. 5557, to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

TEXT OF AMENDMENTS

SA 4906. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 4902 proposed by Mr. LIEBERMAN (for himself, Mr. MCCAIN, and Mr. NELSON of Nebraska) to the amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. INTEROPERABILITY OF INFORMATION SYSTEMS.

(a) DEFINITION.—In this section, the term "enterprise architecture"—

(1) means—

(A) a strategic information asset base, which defines the mission;

(B) the information necessary to perform the mission;

(C) the technologies necessary to perform the mission; and

(D) the transitional processes for implementing new technologies in response to changing mission needs; and

(2) includes—

(A) a baseline architecture;

(B) a target architecture; and

(C) a sequencing plan.

(b) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall—

(1) endeavor to make the information technology systems of the Department, including communications systems, effective, efficient, secure, and appropriately interoperable;

(2) in furtherance of paragraph (1), oversee and ensure the development and implementation of an enterprise architecture for Department-wide information technology, with timetables for implementation;

(3) as the Secretary considers necessary, to oversee and ensure the development and implementation of updated versions of the enterprise architecture under paragraph (2); and

(4) report to Congress on the development and implementation of the enterprise architecture under paragraph (2) in—

(A) each implementation progress report required under this Act; and

(B) each biennial report required under this Act.

(c) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall develop—

(A) a comprehensive enterprise architecture for information systems, including communications systems, to achieve interoperability between and among information systems of agencies with responsibility for homeland security; and

(B) a plan to achieve interoperability between and among information systems, including communications systems, of agencies with responsibility for homeland security and those of State and local agencies with responsibility for homeland security.

(2) TIMETABLES.—The Director of the Office of Management and Budget, in consultation with the Secretary and affected entities, shall establish timetables for development and implementation of the enterprise architecture and plan under paragraph (1).

(3) IMPLEMENTATION.—The Director of the Office of Management and Budget, in consultation with the Secretary and acting under the responsibilities of the Director under law (including the Clinger-Cohen Act of 1996), shall—

(A) ensure the implementation of the enterprise architecture developed under paragraph (1)(A); and

(B) coordinate, oversee, and evaluate the management and acquisition of information technology by agencies with responsibility for homeland security to ensure interoperability consistent with the enterprise architecture developed under subsection (1)(A).

(4) UPDATED VERSIONS.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall oversee and ensure the development of updated versions of the enterprise architecture and plan developed under paragraph (1), as necessary.

(5) REPORT.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall annually report to Congress on the development and implementation of the enterprise architecture and plan under paragraph (1).

(6) CONSULTATION.—The Director of the Office of Management and Budget shall consult with information systems management experts in the public and private sectors, in the development and implementation of the enterprise architecture and plan under paragraph (1).

(7) PRINCIPAL OFFICER.—The Director of the Office of Management and Budget shall designate, with the approval of the President, a principal officer in the Office of Management and Budget, whose primary responsibility shall be to carry out the duties of the Director under this subsection.

(d) AGENCY COOPERATION.—The head of each agency with responsibility for homeland security shall fully cooperate with the Director of the Office of Management and Budget in the development of a comprehensive enterprise architecture for information systems and in the management and acquisition of information technology consistent with the comprehensive enterprise architecture developed under subsection (c).

(e) CONTENT.—The enterprise architecture developed under subsection (c), and the information systems managed and acquired under the enterprise architecture, shall possess the characteristics of—

(1) rapid deployment;

(2) a highly secure environment, providing data access only to authorized users; and

(3) the capability for continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

SA 4907. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, line 13, insert "and in accordance with an information systems interoperability architecture or other requirements developed by the Office of Management and Budget," after "Department,".

SA 4908. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REQUIREMENT TO BUY CERTAIN ARTICLES FROM AMERICAN SOURCES.

(a) REQUIREMENT.—Except as provided in subsections (c) through (g), funds appropriated or otherwise available to the Department of Homeland Security may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

(b) COVERED ITEMS.—An item referred to in subsection (a) is any of the following:

(1) An article or item of—

(A) food;

(B) clothing;

(C) tents, tarpaulins, or covers;

(D) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); or

(E) any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials.

(2) Specialty metals, including stainless steel flatware.

(3) Hand or measuring tools.

(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary of Homeland Security determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b)(1) or specialty metals (including stainless steel flatware) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed at United States market prices.

(d) EXCEPTION FOR CERTAIN PROCUREMENTS OUTSIDE THE UNITED STATES.—Subsection (a) does not apply to the following:

(1) Procurements outside the United States in support of combat operations.

(2) Procurements by vessels in foreign waters.

(3) Emergency procurements or procurements of perishable foods by an establishment located outside the United States for the personnel attached to such establishment.

(e) EXCEPTION FOR SPECIALTY METALS AND CHEMICAL WARFARE PROTECTIVE CLOTHING.—Subsection (a) does not preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States if—

(1) such procurement is necessary—

(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country; and

(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of title 10, United States Code.

(f) EXCEPTION FOR CERTAIN FOODS.—Subsection (a) does not preclude the procurement of foods manufactured or processed in the United States.

(g) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

(h) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

(i) GEOGRAPHIC COVERAGE.—In this section, the term "United States" includes the possessions of the United States.

SA 4909. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 260, line 1, strike all through line 23 and insert the following:

(c) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

SA 4910. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 90, line 5, strike all through page 91, line 10.

SA 4911. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE XVIII—NONEFFECTIVE PROVISIONS

SEC. 1801. NONEFFECTIVE PROVISIONS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, (including any effective date provision of this Act) the following provisions of this Act shall not take effect:

(1) Section 308(b)(2)(B) (i) through (xiv).

(2) Section 311(i).

(3) Subtitle G of title VIII.

(4) Section 871.

(5) Section 890.

(6) Section 1707.

(7) Sections 1714, 1715, 1716, and 1717.

(b) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—Notwithstanding paragraph (2) of subsection (b) of section 232, any advisory group described under that paragraph shall not be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(c) WAIVER.—Notwithstanding section 835(d), the Secretary shall waive subsection (a) of that section, only if the Secretary determines that the waiver is required in the interest of homeland security.

SA 4912. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security and for other purposes; which was ordered to lie on the table; as follows:

On page 244, line 14, beginning with the comma strike all through "occur" on line 16.

SA 4913. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 302, line 21, strike all through page 303, line 19.

SA 4914. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was orderd to lie on the table; as follows:

On page 280, line 8, strike all through page 281, line 8.

SA 4915. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 268, line 19, strike all through page 280, line 5.

SA 4916. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 477, line 11, strike all through line 16.

SA 4917. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 103, line 12, strike all through line 14.

SA 4918. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 482, line 22, strike all through page 484, line 12.

SA 4919. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM) for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, line 8, strike all through "(5 U.S.C. App.))" on line 9.

SA 4920. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 29, strike line 13 and insert the following:

(19) On behalf of the Secretary, subject to disapproval by the President, to direct the agencies described under subsection (f)(2) to provide intelligence information, analyses of intelligence information, and such other intelligence-related information as the Assistant Secretary for Information Analysis determines necessary.

(20) To perform such other duties relating to

SA 4921. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 841. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) AUTHORITY.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

"Sec.
"9701. Establishment of human resources management system by the Secretary.
"9702. Establishment of human resources management system by the President.

"§9701. Establishment of human resources management system by tne Secretary

"(a) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security.

"(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

"(D) any other provision of this part (as described in subsection (c)); or

"(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

"(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

"(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

"(c) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part, as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, and 79, and this chapter.

"(d) LIMITATIONS RELATING TO PAY.—Nothing in this section shall constitute authority—

"(1) to modify the pay of any employee who serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

"(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

"(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

"(3) to exempt any employee from the application of such section 5307.

"(e) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—

"(1) IN GENERAL.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the direct participation of employee representatives in the planning development, and implementation of any human resources management system or adjustments under this section, the Secretary and the Director of the Office of Personnel Management shall provide for the following:

"(A) NOTICE OF PROPOSAL.— The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give each representative at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) PREIMPLEMENTATION REQUIREMENTS.—If the Secretary and the Director decide to implement a proposal described in subparagraph (A), they shall before implementation—

"(i) give each representative details of the decision to implement the proposal, together with the information upon which the decision is based;

"(ii) give each representative an opportunity to make recommendations with respect to the proposal; and

"(iii) give such recommendation full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

"(C) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

"(ii) give each employee representative adequate access to information to make that participation productive.

"(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure—

"(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

"(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection; and

"(C) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

"(1) SENSE OF CONGRESS.—It is the sense of Congress that—

"(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

"(i) should ensure that employees of the Department are afforded the protections of due process; and

"(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

"(A) shall be issued only after consultation with the Merit Systems Protection Board;

"(B) shall ensure the availability of procedures which shall—

"(i) be fully consistent with requirements of due process; and

"(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 801 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section and section 9702) shall cease to be available.

"§9702. Establishment of human resources management system by the President

The authority under section 9701 to establish a human resources management system shall be exercised only when the President issues an order determining that—

"(1) the affected agency or subdivision has, as a primary function, intelligence, counterintelligence, investigative, or national security work;

"(2) the provisions of chapter 43, 51, 53, 71, 75, or 77 cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations;

"(3) the mission and responsibilities of the affected agency or subdivision have materially changed; and

"(4) a majority of the employees within that agency or subdivision have, as their primary duty, intelligence, counterintelligence, or investigative work directly related to terrorism investigation.".

(3) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) EFFECT ON PERSONNEL.—

(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS.—Except as otherwise provided in this Act, the transfer pursuant to this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(2) POSITIONS COMPENSATED IN ACCORDANCE WITH EXECUTIVE SCHEDULE.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 842. LABOR-MANAGEMENT RELATIONS.

(a) EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the President may issue an order excluding any executive agency, or subdivision thereof, from coverage under chapter 71 of title 5, United States Code, if the President determines that—

(A) the agency or subdivision has, as a primary function, intelligence, counterintelligence, investigative, or national security work; and

(B) the provisions of such chapter 71 cannot be applied to that agency or subdivision in a matter consistent with national security requirements and considerations.

(2) ADDITIONAL DETERMINATION.—In addition to the requirements under paragraph (1), the President may issue an order excluding any executive agency, or subdivision thereof, transferred to the Department under this Act, from coverage under chapter 71 of title 5, United States Code, only if the President determines that—

(A) the mission and responsibilities of the agency or subdivision materially change; and

(B) a majority of the employees within such agency or subdivision have, as their primary duty, intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(3) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) or (2) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of title 5, United States Code; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—Each unit, which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department under this Act, continue to be so recognized for such purposes, unless—

(1) the mission and responsibilities of the personnel in such unit (or subdivision), or the threats of domestic terrorism being addressed by the personnel in such unit (or subdivision), materially change; and

(2) a substantial number of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(c) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

SA 4922. Mr. JEFFORDS (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM, (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 36, strike line 5 and all that follows through page 48, line 16, and insert the following:

Subtitle B—Protection of Voluntarily Furnished Confidential Information

SEC. 211. PROTECTION OF VOLUNTARILY FURNISHED CONFIDENTIAL INFORMATION.

(a) DEFINITIONS.—In this section:

(1) CRITICAL INFRASTRUCTURE.—The term "critical infrastructure" has the meaning given that term in section 1016(e) of the USA PATRIOT ACT of 2001 (42 U.S.C. 5195(e)).

(2) FURNISHED VOLUNTARILY.—

(A) DEFINITION.—The term "furnished voluntarily" means a submission of a record that—

(i) is made to the Department in the absence of authority of the Department requiring that record to be submitted; and

(ii) is not submitted or used to satisfy any legal requirement or obligation or to obtain any grant, permit, benefit (such as agency forbearance, loans, or reduction or modifications of agency penalties or rulings), or other approval from the Government.

(B) BENEFIT.—In this paragraph, the term "benefit" does not include any warning, alert, or other risk-analysis by the Department.

(b) IN GENERAL.—Notwithstanding any other provision of law, a record pertaining to the vulnerability of and threats to critical infrastructure (such as attacks, response, and recovery efforts) that is furnished voluntarily to the Department shall not be made available under section 552 of title 5, United States Code, if—

(1) the provider would not customarily make the record available to the public; and

(2) the record is designated and certified by the provider, in a manner specified by the Department, as confidential and not customarily made available to the public.

(c) RECORDS SHARED WITH OTHER AGENCIES.—

(1) IN GENERAL.—

(A) RESPONSE TO REQUEST.—An agency in receipt of a record that was furnished voluntarily to the Department and subsequently shared with the agency shall, upon receipt of a request under section 552 of title 5, United States Code, for the record—

(i) not make the record available; and

(ii) refer the request to the Department for processing and response in accordance with this section.

(B) SEGREGABLE PORTION OF RECORD.—Any reasonably segregable portion of a record shall be provided to the person requesting the record after deletion of any portion which is exempt under this section.

(2) DISCLOSURE OF INDEPENDENTLY FURNISHED RECORDS.—Notwithstanding paragraph (1), nothing in this section shall prohibit an agency from making available under section 552 of title 5, United States Code, any record that the agency receives independently of the Department, regardless of whether or not the Department has a similar or identical record.

(d) WITHDRAWAL OF CONFIDENTIAL DESIGNATION.—The provider of a record that is furnished voluntarily to the Department under subsection (b) may at any time withdraw, in a manner specified by the Department, the confidential designation.

(e) PROCEDURES.—The Secretary shall prescribe procedures for—

(1) the acknowledgement of receipt of records furnished voluntarily;

(2) the designation, certification, and marking of records furnished voluntarily as confidential and not customarily made available to the public;

(3) the care and storage of records furnished voluntarily;

(4) the protection and maintenance of the confidentiality of records furnished voluntarily; and

(5) the withdrawal of the confidential designation of records under subsection (d).

(f) EFFECT ON STATE AND LOCAL LAW.—Nothing in this section shall be construed as preempting or otherwise modifying State or local law concerning the disclosure of any information that a State or local government receives independently of the Department.

(g) REPORT.—

(1) REQUIREMENT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the committees of Congress specified in paragraph (2) a report on the implementation and use of this section, including—

(A) the number of persons in the private sector, and the number of State and local agencies, that furnished voluntarily records to the Department under this section;

(B) the number of requests for access to records granted or denied under this section; and

(C) such recommendations as the Comptroller General considers appropriate regarding improvements in the collection and analysis of sensitive information held by persons in the private sector, or by State and local agencies, relating to vulnerabilities of and threats to critical infrastructure, including the response to such vulnerabilities and threats.

(2) COMMITTEES OF CONGRESS.—The committees of Congress specified in this paragraph are—

(A) the Committees on the Judiciary and Governmental Affairs of the Senate; and

(B) the Committees on the Judiciary and Government Reform and Oversight of the House of Representatives.

(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

SA 4923. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 145, strike line 16 and all that follows through page 148, line 5.

SA 4924. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 200, strike line 3 and all that follows through page 208, line 7, and insert the following:

SEC. 501. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

(a) IN GENERAL.—With respect to all public health-related activities to improve State, local, and hospital preparedness and response to chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities and preparedness goals and further develop a coordinated strategy for such activities in collaboration with the Secretary.

(b) EVALUATION OF PROGRESS.—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

SEC. 502. ROLE OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) IN GENERAL.—The functions of the Federal Emergency Management Agency include the following:

(1) All functions and authorities prescribed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Carrying out its mission to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a comprehensive, risk-based emergency management program—

(A) of mitigation, by taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects;

(B) of planning for building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) of response, by conducting emergency operations to save lives and property through positioning emergency equipment and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services;

(D) of recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards; and

(E) of increased efficiencies, by coordinating efforts relating to mitigation, planning, response, and recovery.

(b) FEDERAL RESPONSE PLAN.—

(1) ROLE OF FEMA.—Notwithstanding any other provision of this Act, the Federal Emergency Management Agency shall remain the lead agency for the Federal Response Plan established under Executive Order 12148 (44 Fed. Reg. 43239) and Executive Order 12656 (53 Fed. Reg. 47491).

(2) REVISION OF RESPONSE PLAN.—Not later than 60 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall revise the Federal Response Plan to reflect the establishment of and incorporate the Department.

SEC. 503. USE OF COMMERCIALLY AVAILABLE TECHNOLOGY, GOODS, AND SERVICES.

It is the sense of Congress that—

(1) the Secretary should, to the maximum extent possible, use off-the-shelf commercially developed technologies to ensure that the Department's information technology systems allow the Department to collect, manage, share, analyze, and disseminate information securely over multiple channels of communication; and

(2) in order to further the policy of the United States to avoid competing commercially with the private sector, the Secretary should rely on commercial sources to supply the goods and services needed by the Department.

SA 4925. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 208, between lines 7 and 8, insert the following:

Subtitle B—First Responder Terrorism Preparedness

SEC. 5 1. SHORT TITLE.

This subtitle may be cited as the "First Responder Terrorism Preparedness Act of 2002".

SEC. 5 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Federal Government must enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(2) as a result of the events of September 11, 2001, it is necessary to clarify and consolidate the authority of the Federal Emergency Management Agency to support first responders.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish within the Federal Emergency Management Agency the Office of National Preparedness;

(2) to establish a program to provide assistance to enhance the ability of first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

(3) to address issues relating to urban search and rescue task forces.

SEC. 5 3. DEFINITIONS.

(a) MAJOR DISASTER.—Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended by inserting "incident of terrorism," after "drought),".

(b) WEAPON OF MASS DESTRUCTION.—Section 602(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(a)) is amended by adding at the end the following:

"(11) WEAPON OF MASS DESTRUCTION.—The term 'weapon of mass destruction' has the meaning given the term in section 2302 of title 50, United States Code.".

SEC. 5 4. ESTABLISHMENT OF OFFICE OF NATIONAL PREPAREDNESS.

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196 et seq.) is amended by adding at the end the following:

"SEC. 616. OFFICE OF NATIONAL PREPAREDNESS.

"(a) IN GENERAL.—There is established in the Federal Emergency Management Agency an office to be known as the 'Office of National Preparedness' (referred to in this section as the 'Office').

"(b) APPOINTMENT OF ASSOCIATE DIRECTOR.—

"(1) IN GENERAL.—The Office shall be headed by an Associate Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) COMPENSATION.—The Associate Director shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(c) Duties.—The Office shall—

"(1) lead a coordinated and integrated overall effort to build, exercise, and ensure viable terrorism preparedness and response capability at all levels of government;

"(2) establish clearly defined standards and guidelines for Federal, State, tribal, and local government terrorism preparedness and response;

"(3) establish and coordinate an integrated capability for Federal, State, tribal, and local governments and emergency responders to plan for and address potential consequences of terrorism;

"(4) coordinate provision of Federal terrorism preparedness assistance to State, tribal, and local governments;

"(5) establish standards for a national, interoperable emergency communications and warning system;

"(6) establish standards for training of first responders (as defined in section 630(a)), and for equipment to be used by first responders, to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

"(7) carry out such other related activities as are approved by the Director.

"(d) Designation of Regional Contacts.—The Associate Director shall designate an officer or employee of the Federal Emergency Management Agency in each of the 10 regions of the Agency to serve as the Office contact for the States in that region.

"(e) Use of Existing Resources.—In carrying out this section, the Associate Director shall—

"(1) to the maximum extent practicable, use existing resources, including planning documents, equipment lists, and program inventories; and

"(2) consult with and use—

"(A) existing Federal interagency boards and committees;

"(B) existing government agencies; and

"(C) nongovernmental organizations.".

SEC. 5 5. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

(a) In General.—Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) is amended by adding at the end the following:

"SEC. 630. PREPAREDNESS ASSISTANCE FOR FIRST RESPONDERS.

"(a) Definitions.—In this section:

"(1) First responder.—The term 'first responder' means—

"(A) fire, emergency medical service, and law enforcement personnel; and

"(B) such other personnel as are identified by the Director.

"(2) Local entity.—The term 'local entity' has the meaning given the term by regulation promulgated by the Director.

"(3) Program.—The term 'program' means the program established under subsection (b).

"(b) Program To Provide Assistance.—

"(1) In general.—The Director shall establish a program to provide assistance to States to enhance the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction.

"(2) Federal share.—The Federal share of the costs eligible to be paid using assistance provided under the program shall be not less than 75 percent, as determined by the Director.

"(3) Forms of assistance.—Assistance provided under paragraph (1) may consist of—

"(A) grants; and

"(B) such other forms of assistance as the Director determines to be appropriate.

"(c) Uses of Assistance.—Assistance provided under subsection (b)—

"(1) shall be used—

"(A) to purchase, to the maximum extent practicable, interoperable equipment that is necessary to respond to incidents of terrorism, including incidents involving weapons of mass destruction;

"(B) to train first responders, consistent with guidelines and standards developed by the Director;

"(C) in consultation with the Director, to develop, construct, or upgrade terrorism preparedness training facilities;

"(D) to develop, construct, or upgrade emergency operating centers;

"(E) to develop preparedness and response plans consistent with Federal, State, and local strategies, as determined by the Director;

"(F) to provide systems and equipment to meet communication needs, such as emergency notification systems, interoperable equipment, and secure communication equipment;

"(G) to conduct exercises; and

"(H) to carry out such other related activities as are approved by the Director; and

"(2) shall not be used to provide compensation to first responders (including payment for overtime).

"(d) Allocation of Funds.—For each fiscal year, in providing assistance under subsection (b), the Director shall make available—

"(1) to each of the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, $3,000,000; and

"(2) to each State (other than a State specified in paragraph (1))—

"(A) a base amount of $15,000,000; and

"(B) a percentage of the total remaining funds made available for the fiscal year based on criteria established by the Director, such as—

"(i) population;

"(ii) location of vital infrastructure, including—

"(I) military installations;

"(II) public buildings (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612));

"(III) nuclear power plants;

"(IV) chemical plants; and

"(V) national landmarks; and

"(iii) proximity to international borders.

"(e) Provision of Funds to Local Governments and Local Entities.—

"(1) In general.—For each fiscal year, not less than 75 percent of the assistance provided to each State under this section shall be provided to local governments and local entities within the State.

"(2) Allocation of funds.—Under paragraph (1), a State shall allocate assistance to local governments and local entities within the State in accordance with criteria established by the Director, such as the criteria specified in subsection (d)(2)(B).

"(3) Deadline for provision of funds.—Under paragraph (1), a State shall provide all assistance to local government and local entities not later than 45 days after the date on which the State receives the assistance.

"(4) Coordination.—Each State shall coordinate with local governments and local entities concerning the use of assistance provided to local governments and local entities under paragraph (1).

"(f) Administrative Expenses.—

"(1) Director.—For each fiscal year, the Director may use to pay salaries and other administrative expenses incurred in administering the program not more than the lesser of—

"(A) 5 percent of the funds made available to carry out this section for the fiscal year; or

"(B)(i) for fiscal year 2003, $75,000,000; and

"(ii) for each of fiscal years 2004 through 2006, $50,000,000.

"(2) Recipients of assistance.—For each fiscal year, not more than 10 percent of the funds retained by a State after application of subsection (e) may be used to pay salaries and other administrative expenses incurred in administering the program.

"(g) Maintenance of Expenditures.—The Director may provide assistance to a State under this section only if the State agrees to maintain, and to ensure that each local government that receives funds from the State in accordance with subsection (e) maintains, for the fiscal year for which the assistance is provided, the aggregate expenditures by the State or the local government, respectively, for the uses described in subsection (c)(1) at a level that is at or above the average annual level of those expenditures by the State or local government, respectively, for the 2 fiscal years preceding the fiscal year for which the assistance is provided.

"(h) Reports.—

"(1) Annual report to the director.—As a condition of receipt of assistance under this section for a fiscal year, a State shall submit to the Director, not later than 60 days after the end of the fiscal year, a report on the use of the assistance in the fiscal year.

"(2) Exercise and report to congress.—As a condition of receipt of assistance under this section, not later than 3 years after the date of enactment of this section, a State shall—

"(A) conduct an exercise, or participate in a regional exercise, approved by the Director, to measure the progress of the State in enhancing the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction; and

"(B) submit a report on the results of the exercise to—

"(i) the Committee on Environment and Public Works and the Committee on Appropriations of the Senate; and

"(ii) the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

"(i) Coordination.—

"(1) With federal agencies.—The Director shall, as necessary, coordinate the provision of assistance under this section with activities carried out by—

"(A) the Administrator of the United States Fire Administration in connection with the implementation by the Administrator of the assistance to firefighters grant program established under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) (as added by section 1701(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (114 Stat. 1654, 1654A-360));

"(B) the Attorney General, in connection with the implementation of the Community Oriented Policing Services (COPS) Program established under section 1701(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(a)); and

"(C) other appropriate Federal agencies.

"(2) With indian tribes.—In providing and using assistance under this section, the Director and the States shall, as appropriate, coordinate with—

"(A) Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) and other tribal organizations; and

"(B) Native villages (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) and other Alaska Native organizations.".

(b) Cost Sharing for Emergency Operating Centers.—Section 614 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196c) is amended—

(1) by inserting "(other than section 630)" after "carry out this title"; and

(2) by inserting "(other than section 630)" after "under this title".

SEC. 5___6. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 5___5(a)) is amended by adding at the end the following:

"SEC. 631. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

"(a) Definitions.—In this section:

"(1) First responder.—The term 'first responder' has the meaning given the term in section 630(a).

"(2) Harmful substance.—The term 'harmful substance' means a substance that the President determines may be harmful to human health.

"(3) Program.—The term 'program' means a program described in subsection (b)(1).

"(b) Program.—

"(1) In general.—If the President determines that 1 or more harmful substances are being, or have been, released in an area that the President has declared to be a major disaster area under this Act, the President shall carry out a program with respect to the area for the protection, assessment, monitoring, and study of the health and safety of first responders.

"(2) Activities.—A program shall include—

"(A) collection and analysis of environmental and exposure data;

"(B) development and dissemination of educational materials;

"(C) provision of information on releases of a harmful substance;

"(D) identification of, performance of baseline health assessments on, taking biological samples from, and establishment of an exposure registry of first responders exposed to a harmful substance;

"(E) study of the long-term health impacts of any exposures of first responders to a harmful substance through epidemiological studies; and

"(F) provision of assistance to participants in registries and studies under subparagraphs (D) and (E) in determining eligibility for health coverage and identifying appropriate health services.

"(3) Participation in registries and studies.—

"(A) In general.—Participation in any registry or study under subparagraph (D) or (E) of paragraph (2) shall be voluntary.

"(B) Protection of privacy.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

"(4) Cooperative agreements.—The President may carry out a program through a cooperative agreement with a medical or academic institution, or a consortium of such institutions, that is—

"(A) located in close proximity to the major disaster area with respect to which the program is carried out; and

"(B) experienced in the area of environmental or occupational health and safety, including experience in—

"(i) conducting long-term epidemiological studies;

"(ii) conducting long-term mental health studies; and

"(iii) establishing and maintaining environmental exposure or disease registries.

"(c) Reports and Responses to Studies.—

"(1) Reports.—Not later than 1 year after the date of completion of a study under subsection (b)(2)(E), the President, or the medical or academic institution or consortium of such institutions that entered into the cooperative agreement under subsection (b)(4), shall submit to the Director, the Secretary of Health and Human Services, the Secretary of Labor, and the Administrator of the Environmental Protection Agency a report on the study.

"(2) Changes in procedures.—To protect the health and safety of first responders, the President shall make such changes in procedures as the President determines to be necessary based on the findings of a report submitted under paragraph (1).".

SEC. 5___7. URBAN SEARCH AND RESCUE TASK FORCES.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 5___6) is amended by adding at the end the following:

"SEC. 632. URBAN SEARCH AND RESCUE TASK FORCES.

"(a) Definitions.—In this section:

"(1) Urban search and rescue equipment.—The term 'urban search and rescue equipment' means any equipment that the Director determines to be necessary to respond to a major disaster or emergency declared by the President under this Act.

"(2) Urban search and rescue task force.—The term 'urban search and rescue task force' means any of the 28 urban search and rescue task forces designated by the Director as of the date of enactment of this section.

"(b) Assistance.—

"(1) Mandatory grants for costs of operations.—For each fiscal year, of the amounts made available to carry out this section, the Director shall provide to each urban search and rescue task force a grant of not less than $1,500,000 to pay the costs of operations of the urban search and rescue task force (including costs of basic urban search and rescue equipment).

"(2) Discretionary grants.—The Director may provide to any urban search and rescue task force a grant, in such amount as the Director determines to be appropriate, to pay the costs of—

"(A) operations in excess of the funds provided under paragraph (1);

"(B) urban search and rescue equipment;

"(C) equipment necessary for an urban search and rescue task force to operate in an environment contaminated or otherwise affected by a weapon of mass destruction;

"(D) training, including training for operating in an environment described in subparagraph (C);

"(E) transportation;

"(F) expansion of the urban search and rescue task force; and

"(G) incident support teams, including costs of conducting appropriate evaluations of the readiness of the urban search and rescue task force.

"(3) Priority for funding.—The Director shall distribute funding under this subsection so as to ensure that each urban search and rescue task force has the capacity to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.

"(c) Grant Requirements.—The Director shall establish such requirements as are necessary to provide grants under this section.

"(d) Establishment of Additional Urban Search and Rescue Task Forces.—

"(1) In general.—Subject to paragraph (2), the Director may establish urban search and rescue task forces in addition to the 28 urban search and rescue task forces in existence on the date of enactment of this section.

"(2) Requirement of full funding of existing urban search and rescue task forces.—Except in the case of an urban search and rescue task force designated to replace any urban search and rescue task force that withdraws or is otherwise no longer considered to be an urban search and rescue task force designated by the Director, no additional urban search and rescue task forces may be designated or funded until the 28 urban search and rescue task forces are able to deploy simultaneously at least 2 teams with all necessary equipment, training, and transportation.".

SEC. 5___8. AUTHORIZATION OF APPROPRIATIONS.

Section 626 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197e) is amended by striking subsection (a) and inserting the following:

"(a) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated such sums as are necessary to carry out this title (other than sections 630 and 632).

"(2) Preparedness assistance for first responders.—There are authorized to be appropriated to carry out section 630—

"(A) $3,340,000,000 for fiscal year 2003; and

"(B) $3,458,000,000 for each of fiscal years 2004 through 2006.

"(3) Urban search and rescue task forces.—

"(A) In general.—There are authorized to be appropriated to carry out section 632—

"(i) $160,000,000 for fiscal year 2003; and

"(ii) $42,000,000 for each of fiscal years 2004 through 2006.

"(B) Availability of amounts.—Amounts made available under subparagraph (A) shall remain available until expended.".

SA 4926. Mr. CORZINE (for himself and Mr. Jeffords) submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. Thompson (for Mr. Gramm (for himself, Mr. Miller, Mr. Thompson, Mr. Barkley, and Mr. Voinovich)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

Subtitle E—Chemical Security

SEC. 241. SHORT TITLE.

This subtitle may be cited as the "Chemical Security Act of 2002".

SEC. 242. FINDINGS.

Congress finds that—

(1) the chemical industry is a crucial part of the critical infrastructure of the United States—

(A) in its own right; and

(B) because that industry supplies resources essential to the functioning of other critical infrastructures;

(2) the possibility of terrorist and criminal attacks on chemical sources (such as industrial facilities) poses a serious threat to public health, safety, and welfare, critical infrastructure, national security, and the environment;

(3) the possibility of theft of dangerous chemicals from chemical sources for use in terrorist attacks poses a further threat to public health, safety, and welfare, critical infrastructure, national security, and the environment; and

(4) there are significant opportunities to prevent theft from, and criminal attack on, chemical sources and reduce the harm that such acts would produce by—

(A)(i) reducing usage and storage of chemicals by changing production methods and processes; and

(ii) employing inherently safer technologies in the manufacture, transport, and use of chemicals;

(B) enhancing secondary containment and other existing mitigation measures; and

(C) improving security.

SEC. 243. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) CHEMICAL SOURCE.—The term "chemical source" means a stationary source (as defined in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2))) that contains a substance of concern.

(3) COVERED SUBSTANCE OF CONCERN.—The term "covered substance of concern" means a substance of concern that, in combination with a chemical source and other factors, is designated as a high priority category by the Administrator under section 244(a)(1).

(4) EMPLOYEE.—The term "employee" means—

(A) a duly recognized collective bargaining representative at a chemical source; or

(B) in the absence of such a representative, other appropriate personnel.

(5) SAFER DESIGN AND MAINTENANCE.—The term "safer design and maintenance" includes, with respect to a chemical source that is within a high priority category designated under section 244(a)(1), implementation, to the extent practicable, of the practices of—

(A) preventing or reducing the vulnerability of the chemical source to an unauthorized release of a covered substance of concern through use of inherently safer technology;

(B) reducing the vulnerability of the chemical source to an unauthorized release of a covered substance of concern through use of well-maintained secondary containment, control, or mitigation equipment;

(C) reducing the vulnerability of the chemical source to an unauthorized release of a covered substance of concern by implementing security measures; and

(D) reducing the potential consequences of any vulnerability of the chemical source to an unauthorized release of a covered substance of concern through the use of buffer zones between the chemical source and surrounding populations (including buffer zones between the chemical source and residences, schools, hospitals, senior centers, shopping centers and malls, sports and entertainment arenas, public roads and transportation routes, and other population centers).

(6) SECURITY MEASURE.—

(A) IN GENERAL.—The term "security measure" means an action carried out to increase the security of a chemical source.

(B) INCLUSIONS.—The term "security measure", with respect to a chemical source, includes—

(i) employee training and background checks;

(ii) the limitation and prevention of access to controls of the chemical source;

(iii) protection of the perimeter of the chemical source;

(iv) the installation and operation of an intrusion detection sensor; and

(v) a measure to increase computer or computer network security.

(7) SUBSTANCE OF CONCERN.—

(A) IN GENERAL.—The term "substance of concern" means—

(i) any regulated substance (as defined in section 112(r) of the Clean Air Act (42 U.S.C. 7412(r))); and

(ii) any substance designated by the Administrator under section 244(a).

(B) EXCLUSION.—The term "substance of concern" does not include liquefied petroleum gas that is used as fuel or held for sale as fuel at a retail facility as described in section 112(r)(4)(B) of the Clean Air Act (42 U.S.C. 7412(r)(4)(B)).

(8) UNAUTHORIZED RELEASE.—The term "unauthorized release" means—

(A) a release from a chemical source into the environment of a covered substance of concern that is caused, in whole or in part, by a criminal act;

(B) a release into the environment of a covered substance of concern that has been removed from a chemical source, in whole or in part, by a criminal act; and

(C) a release or removal from a chemical source of a covered substance of concern that is unauthorized by the owner or operator of the chemical source.

(9) USE OF INHERENTLY SAFER TECHNOLOGY.—

(A) IN GENERAL.—The term "use of inherently safer technology", with respect to a chemical source, means use of a technology, product, raw material, or practice that, as compared with the technologies, products, raw materials, or practices currently in use—

(i) reduces or eliminates the possibility of a release of a substance of concern from the chemical source prior to secondary containment, control, or mitigation; and

(ii) reduces or eliminates the threats to public health and the environment associated with a release or potential release of a substance of concern from the chemical source.

(B) INCLUSIONS.—The term "use of inherently safer technology" includes input substitution, catalyst or carrier substitution, process redesign (including reuse or recycling of a substance of concern), product reformulation, procedure simplification, and technology modification so as to—

(i) use less hazardous substances or benign substances;

(ii) use a smaller quantity of covered substances of concern;

(iii) reduce hazardous pressures or temperatures;

(iv) reduce the possibility and potential consequences of equipment failure and human error;

(v) improve inventory control and chemical use efficiency; and

(vi) reduce or eliminate storage, transportation, handling, disposal, and discharge of substances of concern.

SEC. 244. DESIGNATION OF AND REQUIREMENTS FOR HIGH PRIORITY CATEGORIES.

(a) DESIGNATION AND REGULATION OF HIGH PRIORITY CATEGORIES BY THE ADMINISTRATOR.—

(1) IN GENERAL.—Not later than December 31, 2002, the Administrator, in consultation with the Secretary and State and local agencies responsible for planning for and responding to unauthorized releases and providing emergency health care, shall promulgate regulations to designate certain combinations of chemical sources and substances of concern as high priority categories based on the severity of the threat posed by an unauthorized release from the chemical sources.

(2) FACTORS TO BE CONSIDERED.—In designating high priority categories under paragraph (1), the Administrator, in consultation with the Secretary, shall consider—

(A) the severity of the harm that could be caused by an unauthorized release;

(B) the proximity to population centers;

(C) the threats to national security;

(D) the threats to critical infrastructure;

(E) threshold quantities of substances of concern that pose a serious threat; and

(F) such other safety or security factors as the Administrator, in consultation with the Secretary, determines to be appropriate.

(3) REQUIREMENTS FOR HIGH PRIORITY CATEGORIES.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Secretary, the United States Chemical Safety and Hazard Investigation Board, and State and local agencies described in paragraph (1), shall promulgate regulations to require each owner and each operator of a chemical source that is within a high priority category designated under paragraph (1), in consultation with local law enforcement, first responders, and employees, to—

(i) conduct an assessment of the vulnerability of the chemical source to a terrorist attack or other unauthorized release;

(ii) using appropriate hazard assessment techniques, identify hazards that may result from an unauthorized release of a covered substance of concern; and

(iii) prepare a prevention, preparedness, and response plan that incorporates the results of those vulnerability and hazard assessments.

(B) ACTIONS AND PROCEDURES.—A prevention, preparedness, and response plan required under subparagraph (A)(iii) shall include actions and procedures, including safer design and maintenance of the chemical source, to eliminate or significantly lessen the potential consequences of an unauthorized release of a covered substance of concern.

(C) THREAT INFORMATION.—To the maximum extent permitted by applicable authorities and the interests of national security, the Secretary, in consultation with the Administrator, shall provide owners and operators of chemical sources with threat information relevant to the assessments and plans required under subsection (b).

(4) REVIEW AND REVISIONS.—Not later than 5 years after the date of promulgation of regulations under each of paragraphs (1) and (3), the Administrator, in consultation with the Secretary, shall review the regulations and make any necessary revisions.

(5) ADDITION OF SUBSTANCES OF CONCERN.—For the purpose of designating high priority categories under paragraph (1) or any subsequent revision of the regulations promulgated under paragraph (1), the Administrator, in consultation with the Secretary, may designate additional substances that pose a serious threat as substances of concern.

(b) CERTIFICATION.—

(1) VULNERABILITY AND HAZARD ASSESSMENTS.—Not later than 1 year after the date

of promulgation of regulations under subsection (a)(3), each owner and each operator of a chemical source that is within a high priority category designated under subsection (a)(1) shall—

(A) certify to the Administrator that the chemical source has conducted assessments in accordance with the regulations; and

(B) submit to the Administrator written copies of the assessments.

(2) PREVENTION, PREPAREDNESS, AND RESPONSE PLANS.—Not later than 18 months after the date of promulgation of regulations under subsection (a)(3), the owner or operator shall—

(A) certify to the Administrator that the chemical source has completed a prevention, preparedness, and response plan that incorporates the results of the assessments and complies with the regulations; and

(B) submit to the Administrator a written copy of the plan.

(3) 5-YEAR REVIEW.—Not later than 5 years after each of the date of submission of a copy of an assessment under paragraph (1) and a plan under paragraph (2), and not less often than every 3 years thereafter, the owner or operator of the chemical source covered by the assessment or plan, in coordination with local law enforcement and first responders, shall—

(A) review the adequacy of the assessment or plan, as the case may be; and

(B)(i) certify to the Administrator that the chemical source has completed the review; and

(ii) as appropriate, submit to the Administrator any changes to the assessment or plan.

(4) PROTECTION OF INFORMATION.—

(A) DISCLOSURE EXEMPTION.—Except with respect to certifications specified in paragraphs (1) through (3) of this subsection and section 245(a), all information provided to the Administrator under this subsection, and all information derived from that information, shall be exempt from disclosure under section 552 of title 5, United States Code.

(B) DEVELOPMENT OF PROTOCOLS.—

(i) IN GENERAL.—The Administrator, in consultation with the Secretary, shall develop such protocols as are necessary to protect the copies of the assessments and plans required to be submitted under this subsection (including the information contained in those assessments and plans) from unauthorized disclosure.

(ii) REQUIREMENTS.—The protocols developed under clause (i) shall ensure that—

(I) each copy of an assessment or plan, and all information contained in or derived from the assessment or plan, is maintained in a secure location;

(II) except as provided in subparagraph (C), only individuals designated by the Administrator may have access to the copies of the assessments and plans; and

(III) no copy of an assessment or plan or any portion of an assessment or plan, and no information contained in or derived from an assessment or plan, shall be available to any person other than an individual designated by the Administrator.

(iii) DEADLINE.—As soon as practicable, but not later than 1 year after the date of enactment of this Act, the Administrator shall complete the development of protocols under clause (i).

(C) FEDERAL OFFICERS AND EMPLOYEES.—An individual referred to in subparagraph (B)(ii) who is an officer or employee of the United States may discuss with a State or local official the contents of an assessment or plan described in that subparagraph.

SEC. 245. ENFORCEMENT.

(a) REVIEW OF PLANS.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary, shall review each assessment and plan submitted under section 244(b) to determine the compliance of the chemical source covered by the assessment or plan with regulations promulgated under paragraphs (1) and (3) of section 244(a).

(2) CERTIFICATION OF COMPLIANCE.—

(A) IN GENERAL.—The Administrator shall certify in writing each determination of the Administrator under paragraph (1).

(B) INCLUSIONS.—A certification of the Administrator shall include a checklist indicating consideration by a chemical source of the use of 4 elements of safer design and maintenance described in subparagraphs (A) through (D) of section 243(6).

(C) EARLY COMPLIANCE.—

(i) IN GENERAL.—The Administrator, in consultation with the head of the Office, shall—

(I) before the date of publication of proposed regulations under section 244(a)(3), review each assessment or plan submitted to the Administrator under section 244(b); and

(II) before the date of promulgation of final regulations under section 244(a)(3), determine whether each such assessment or plan meets the consultation, planning, and assessment requirements applicable to high priority categories under section 244(a)(3).

(ii) AFFIRMATIVE DETERMINATION.—If the Administrator, in consultation with the head of the Office, makes an affirmative determination under clause (i)(II), the Administrator shall certify compliance of an assessment or plan described in that clause without requiring any revision of the assessment or plan.

(D) SCHEDULE FOR REVIEW AND CERTIFICATION.—

(i) IN GENERAL.—The Administrator, after taking into consideration the factors described in section 244(a)(2), shall establish a schedule for the review and certification of assessments and plans submitted under section 244(b).

(ii) DEADLINE FOR COMPLETION.—Not later than 3 years after the deadlines for the submission of assessments and plans under paragraph (1) or (2), respectively, of section 244(b), the Administrator shall complete the review and certification of all assessments and plans submitted under those sections.

(b) COMPLIANCE ASSISTANCE.—

(1) DEFINITION OF DETERMINATION.—In this subsection, the term "determination" means a determination by the Administrator that, with respect to an assessment or plan described in section 244(b)—

(A) the assessment or plan does not comply with regulations promulgated under paragraphs (1) and (3) of section 244(a); or

(B)(i) a threat exists beyond the scope of the submitted plan; or

(ii) current implementation of the plan is insufficient to address—

(I) the results of an assessment of a source; or

(II) a threat described in clause (i).

(2) DETERMINATION BY ADMINISTRATOR.—If the Administrator, after consultation with the Secretary, makes a determination, the Administrator shall—

(A) notify the chemical source of the determination; and

(B) provide such advice and technical assistance, in coordination with the Secretary and the United States Chemical Safety and Hazard Investigation Board, as is appropriate—

(i) to bring the assessment or plan of a chemical source described in section 244(b) into compliance; or

(ii) to address any threat described in clause (i) or (ii) of paragraph (1)(B).

(c) COMPLIANCE ORDERS.—

(1) IN GENERAL.—If, after the date that is 30 days after the later of the date on which the Administrator first provides assistance, or a chemical source receives notice, under subsection (b)(2)(B), a chemical source has not brought an assessment or plan for which the assistance is provided into compliance with regulations promulgated under paragraphs (1) and (3) of section 244(a), or the chemical source has not complied with an entry or information request under section 246, the Administrator may issue an order directing compliance by the chemical source.

(2) NOTICE AND OPPORTUNITY FOR HEARING.—An order under paragraph (1) may be issued only after notice and opportunity for a hearing.

(d) ABATEMENT ACTION.—

(1) IN GENERAL.—Notwithstanding a certification under section 245(a)(2), if the Secretary, in consultation with local law enforcement officials and first responders, determines that a threat of a terrorist attack exists that is beyond the scope of a submitted prevention, preparedness, and response plan of 1 or more chemical sources, or current implementation of the plan is insufficient to address the results of an assessment of a source or a threat described in subsection (b)(1)(B)(i), the Secretary shall notify each chemical source of the elevated threat.

(2) INSUFFICIENT RESPONSE.—If the Secretary determines that a chemical source has not taken appropriate action in response to a notification under paragraph (1), the Secretary shall notify the chemical source, the Administrator, and the Attorney General that actions taken by the chemical source in response to the notification are insufficient.

(3) RELIEF.—

(A) IN GENERAL.—On receipt of a notification under paragraph (2), the Administrator or the Attorney General may secure such relief as is necessary to abate a threat described in paragraph (1), including such orders as are necessary to protect public health or welfare.

(B) JURISDICTION.—The district court of the United States for the district in which a threat described in paragraph (1) occurs shall have jurisdiction to grant such relief as the Administrator or Attorney General requests under subparagraph (A).

SEC. 246. RECORDKEEPING AND ENTRY.

(a) RECORDS MAINTENANCE.—A chemical source that is required to certify to the Administrator assessments and plans under section 244 shall maintain on the premises of the chemical source a current copy of those assessments and plans.

(b) RIGHT OF ENTRY.—In carrying out this subtitle, the Administrator (or an authorized representative of the Administrator), on presentation of credentials—

(1) shall have a right of entry to, on, or through any premises of an owner or operator of a chemical source described in subsection (a) or any premises in which any records required to be maintained under subsection (a) are located; and

(2) may at reasonable times have access to, and may copy, any records, reports, or other information described in subsection (a).

(c) INFORMATION REQUESTS.—In carrying out this subtitle, the Administrator may require any chemical source to provide such information as is necessary to—

(1) enforce this subtitle; and

(2) promulgate or enforce regulations under this subtitle.

SEC. 247. PENALTIES.

(a) Civil Penalties.—Any owner or operator of a chemical source that violates, or fails to comply with, any order issued may, in an action brought in United States district court, be subject to a civil penalty of not more than $25,000 for each day in which such violation occurs or such failure to comply continues.

(b) Criminal Penalties.—Any owner or operator of a chemical source that knowingly violates, or fails to comply with, any order issued shall—

(1) in the case of a first violation or failure to comply, be fined not less than $2,500 nor more than $25,000 per day of violation, imprisoned not more than 1 year, or both; and

(2) in the case of a subsequent violation or failure to comply, be fined not more than $50,000 per day of violation, imprisoned not more than 2 years, or both.

(c) Administrative Penalties.—

(1) Penalty orders.—If the amount of a civil penalty determined under subsection (a) does not exceed $125,000, the penalty may be assessed in an order issued by the Administrator.

(2) Notice and hearing.—Before issuing an order described in paragraph (1), the Administrator shall provide to the person against which the penalty is to be assessed—

(A) written notice of the proposed order; and

(B) the opportunity to request, not later than 30 days after the date on which the notice is received by the person, a hearing on the proposed order.

SEC. 248. NO EFFECT ON REQUIREMENTS UNDER OTHER LAW.

Nothing in this subtitle affects any duty or other requirement imposed under any other Federal or State law.

SEC. 249. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

SA 4927. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 86, strike lines 18 through 23, and insert the following:

(B) advance the development, testing and evaluation, and deployment of critical homeland security technologies;

(C) accelerate the prototyping and deployment of technologies that would address homeland security vulnerabilities; and

(D) to support the development of—

(i) methods to increase the ability of the Customs Service to inspect, or target for inspection, merchandise carried on any vessel that will arrive or has arrived at any port or place in the United States;

(ii) equipment to accurately detect explosives, or chemical and biological agents that could be used to commit terrorist acts against the United States;

(iii) equipment to accurately detect nuclear materials, including scintillation-based detection equipment capable of attachment to spreaders to signal the presence of nuclear materials during the unloading of containers;

(iv) improved tags and seals designed for use on shipping containers to track the transportation of the merchandise in such containers, including "smart sensors" that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit such information to the appropriate authorities at a remote location;

(v) tools to mitigate the consequences of a terrorist act at a port of the United States, including a network of sensors to predict the dispersion of radiological, chemical, or biological agents that might be intentionally or accidentally released; and

(vi) applications to apply existing technologies from other industries to increase overall port security.

SA 4928. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 246, line 21, strike "and" and insert "or".

On page 246, line 24, strike "and" and insert "or".

SA 4929. Mr. REID submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 208, insert between lines 7 and 8 the following:

SEC. 510. JOINT SPONSORSHIP ARRANGEMENTS.

The Secretary may enter into joint sponsorship arrangements under section 309(b) for sites used for emergency preparedness and response training.

SA 4930. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes, which was ordered to lie on the table; as follows:

On page 248, line 1, between "59," and "72," add "71,".

SA 4931. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

In the amendment strike from page 248 through page 260 and insert the following:

(b) Table of Contents.—The table of contents for this Act is as follows:

"(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, and 79, and this chapter.

"(d) Limitations Relating to Pay.—Nothing in this section shall constitute authority—

"(1) to modify the pay of any employee who serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

"(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

"(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

"(3) to exempt any employee from the application of such section 5307.

"(e) Provisions to Ensure Collaboration With Employee Representatives.—

"(1) In general.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the participation of employee representatives in the planning, development, and implementation of any human resources management system or adjustments to such system under this section, the Secretary of Homeland Security and the Director of the Office of Personnel Management shall provide for the following:

"(A) Notice of proposal.—The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give each representative 30 calendar days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) Pre-implementation congressional notification, consultation, and mediation.—Following receipt of recommendations, if any, from employee representatives with respect to a proposal described in subparagraph (A), the Secretary and the Director shall accept such modifications to the proposal in response to the recommendations as they determine advisable and shall, with respect to any parts of the proposal as to which they have not accepted the recommendations—

"(i) notify Congress of those parts of the proposal, together with the recommendations of employee representatives;

"(ii) meet and confer for not less than 30 calendar days with any representatives who have made recommendations, in order to attempt to reach agreement on whether or how to proceed with those parts of the proposal; and

"(iii) at the Secretary's option, or if requested by a majority of the employee representatives who have made recommendations, use the services of the Federal Mediation and Conciliation Service during such meet and confer period to facilitate the process of attempting to reach agreement.

"(C) Implementation.—

"(i) Any part of the proposal as to which the representatives do not make a recommendation, or as to which their recommendations are accepted by the Secretary and the Director, may be implemented immediately.

"(ii) With respect to any parts of the proposal as to which recommendations have been made but not accepted by the Secretary and the Director, at any time after 30 calendar days have elapsed since the initiation of the congressional notification, consultation, and mediation procedures set forth in subparagraph (B), if the Secretary determines, in the Secretary's sole and unreviewable discretion, that further consultation and mediation is unlikely to produce agreement, the Secretary may implement any or all of such parts, including any modifications made in response to the recommendations as the Secretary determines advisable.

"(iii) The Secretary shall promptly notify Congress of the implementation of any part of the proposal and shall furnish with such notice an explanation of the proposal, any changes made to the proposal as a result of recommendations from employee representatives, and of the reasons why implementation is appropriate under this subparagraph.

"(D) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

"(ii) give each employee representative adequate access to information to make that participation productive.

"(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly as internal rules of departmental procedure which shall not be subject to review. Such procedures shall include measures to ensure—

"(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

"(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection;

"(C) the fair and expeditious handling of the consultation and mediation process described in subparagraph (B) of paragraph (1), including procedures by which, if the number of employee representatives providing recommendations exceeds 5, such representatives select a committee or other unified representative with which the Secretary and Director may meet and confer; and

"(D) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

"(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

"(i) should ensure that employees of the Department are afforded the protections of due process; and

"(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

"(A) shall be issued only after consultation with the Merit Systems Protection Board;

"(B) shall ensure the availability of procedures which shall—

"(i) be consistent with requirements of due process; and

"(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) PROVISIONS RELATING TO LABOR-MANAGEMENT RELATIONS.—Nothing in this section shall be construed as conferring authority on the Secretary of Homeland Security to modify any of the provisions of section 842 of the Homeland Security Act of 2002.

"(h) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 1501 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.".

(3) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) EFFECT ON PERSONNEL.—

(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS.—Except as otherwise provided in this Act, the transfer under this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Department.

(2) POSITIONS COMPENSATED IN ACCORDANCE WITH EXECUTIVE SCHEDULE.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SA 4932. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 268, strike line 19 and all that follows through page 280, line 5.

SA 4933. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 302, strike line 21 and all that follows through page 303, line 19.

SA 4934. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, line 8, strike all through "(5 U.S.C. 2 App.))" on line 9.

SA 4935. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 280, beginning on line 11, strike "An advisory committee established under this section" and all that follows through line 24.

SA 4936. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, strike line 19 and all that follows through page 260, line 23, and insert the following:

SEC. 841. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM.

(a) AUTHORITY.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) In general.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

"Sec.

"9701. Establishment of human resources management system by the Secretary.

"9702. Establishment of human resources management system by the President.

"§9701. Establishment of human resources management system by the Secretary

"(a) In General.—Notwithstanding any other provision of this part, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security.

"(b) System Requirements.—Any system established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

"(D) any other provision of this part (as described in subsection (c)); or

"(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

"(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

"(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

"(c) Other Nonwaivable Provisions.—The other provisions of this part, as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, and 79, and this chapter.

"(d) Limitations Relating to Pay.—Nothing in this section shall constitute authority—

"(1) to modify the pay of any employee who serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

"(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

"(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

"(3) to exempt any employee from the application of such section 5307.

"(e) Provisions To Ensure Collaboration With Employee Representatives.—

"(1) In general.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the direct participation of employee representatives in the planning development, and implementation of any human resources management system or adjustments under this section, the Secretary and the Director of the Office of Personnel Management shall provide for the following:

"(A) Notice of proposal.— The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give each representative at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) Preimplementation requirements.—If the Secretary and the Director decide to implement a proposal described in subparagraph (A), they shall before implementation—

"(i) give each representative details of the decision to implement the proposal, together with the information upon which the decision is based;

"(ii) give each representative an opportunity to make recommendations with respect to the proposal; and

"(iii) give such recommendation full and fair consideration, including the providing of reasons to an employee representative if any of its recommendations are rejected.

"(C) Continuing collaboration.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

"(ii) give each employee representative adequate access to information to make that participation productive.

"(2) Procedures.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly. Such procedures shall include measures to ensure—

"(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

"(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection; and

"(C) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

"(3) Written agreement.—Notwithstanding any other provision of this part, employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any system provided under this section unless the exclusive representative and the Secretary have entered into a written agreement, which specifically provides for the inclusion of such employees within such system. Such written agreement may be imposed by the Federal Service Impasses Panel under section 7119, after negotiations consistent with section 7117.

"(f) Provisions Relating to Appellate Procedures.—

"(1) Sense of congress.—It is the sense of Congress that—

"(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

"(i) should ensure that employees of the Department are afforded the protections of due process; and

"(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) Requirements.—Any regulations under this section which relate to any matters within the purview of chapter 77—

"(A) shall be issued only after consultation with the Merit Systems Protection Board;

"(B) shall ensure the availability of procedures which shall—

"(i) be fully consistent with requirements of due process; and

"(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

"(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

"(g) Sunset Provision.—Effective 5 years after the conclusion of the transition period defined under section 1501 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section and section 9702) shall cease to be available.

"§9702. Determination by the President

"The authority under section 9701 to establish or impose a human resources management system shall be exercised only when the President issues an order determining that—

"(1) the affected agency or subdivision has, as a primary function, intelligence, counterintelligence, investigative, or national security work;

"(2) the provisions of chapter 43, 51, 53, 71, 75, or 77 or of the imposed agreement cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations;

"(3) the mission and responsibilities of the affected agency or subdivision have materially changed; and

"(4) a majority of the employees within that agency or subdivision have, as their primary duty, intelligence, counterintelligence, or investigative work directly related to terrorism investigation.".

(3) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

"97. Department of Homeland Security .... 9701".

(b) EFFECT ON PERSONNEL.—

(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS.—Except as otherwise provided in this Act, the transfer pursuant to this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(2) POSITIONS COMPENSATED IN ACCORDANCE WITH EXECUTIVE SCHEDULE.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

SEC. 842. LABOR-MANAGEMENT RELATIONS.

(a) EXCLUSIONARY AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), the President may issue an order excluding any executive agency, or subdivision thereof, from coverage under chapter 71 of title 5, United States Code, if the President determines that—

(A) the agency or subdivision has, as a primary function, intelligence, counterintelligence, investigative, or national security work; and

(B) the provisions of such chapter 71 cannot be applied to that agency or subdivision in a matter consistent with national security requirements and considerations.

(2) ADDITIONAL DETERMINATION.—In addition to the requirements under paragraph (1), the President may issue an order excluding any executive agency, or subdivision thereof, transferred to the Department under this Act, from coverage under chapter 71 of title 5, United States Code, only if the President determines that—

(A) the mission and responsibilities of the agency or subdivision materially change; and

(B) a majority of the employees within such agency or subdivision have, as their primary duty, intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(3) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) or (2) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of title 5, United States Code; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—Each unit, which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department under this Act, continue to be so recognized for such purposes, unless—

(1) the mission and responsibilities of the personnel in such unit (or subdivision), or the threats of domestic terrorism being addressed by the personnel in such unit (or subdivision), materially change; and

(2) a substantial number of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(c) WAIVER.—If the President determines that the application of subsections (a) and (b), would have a substantial adverse impact on the ability of the Department to protect homeland security, the President may waive the application of such subsections 10 days after the President has submitted to Congress a written explanation of the reasons for such determination.

(d) COORDINATION RULE.—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

SA 4937. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 451, strike line 17 and all that follows through page 452, line 12, and insert the following:

(d) EFFECTIVE DATE AND PUBLICATION OF REORGANIZATION PLANS.—

(1) EFFECTIVE DATE.—Except as provided under paragraph (3), a reorganization plan shall be effective upon approval by the President of a resolution (as defined in subsection (g)) with respect to such plan, only if such resolution is passed by the House of Representatives and the Senate, within the first period of 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress.

(2) SESSION OF CONGRESS.—For the purpose of this section—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(3) LATER EFFECTIVE DATE.—Under provisions contained in a reorganization plan, any provision thereof may be effective at a time later than the date on which the plan otherwise is effective.

(4) PUBLICATION OF PLAN.—A reorganization plan which is effective shall be printed—

(A) in the Statutes at Large in the same volume as the public laws; and

(B) in the Federal Register.

(e) EFFECT ON OTHER LAWS; PENDING LEGAL PROCEEDINGS.—

(1) EFFECT ON LAWS.—

(A) DEFINITION.—In this paragraph, the term "regulation or other action" means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(B) EFFECT.—A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this section, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed in the plan.

(2) PENDING LEGAL PROCEEDINGS.—A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in the officer's official capacity or in relation to the discharge of the officer's official duties, does not abate by reason of the taking effect of a reorganization plan under this section. On motion or supplemental petition filed at any time within 12 months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(f) RULES OF SENATE AND HOUSE OF REPRESENTATIVES ON REORGANIZATION PLANS.—Subsections (g) through (j) are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions with respect to any reorganization plans transmitted to Congress (in accordance with subsection (a)); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(g) TERMS OF RESOLUTION.—For the purposes of subsections (f) through (j), "resolution" means only a joint resolution of Congress, the matter after the resolving clause of which is as follows: "That Congress approves the reorganization plan transmitted to Congress by the President on ____________, 20___.", and includes such modifications and revisions as are submitted by the President under subsection (c). The blank spaces therein are to be filled appropriately. The term does not include a resolution which specifies more than 1 reorganization plan.

(h) INTRODUCTION AND REFERENCE OF RESOLUTION.—

(1) INTRODUCTION.—No later than the first day of session following the day on which a reorganization plan is transmitted to the House of Representatives and the Senate under subsection (a), a resolution, as defined in subsection (g), shall be—

(A) introduced (by request) in the House by the chairman of the Government Reform Committee of the House, or by a Member or Members of the House designated by such chairman; and

(B) introduced (by request) in the Senate by the chairman of the Governmental Affairs Committee of the Senate, or by a Member or Members of the Senate designated by such chairman.

(2) REFERRAL.—A resolution with respect to a reorganization plan shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within 75 calendar days of continuous session of Congress following the date of such resolution's introduction.

(i) DISCHARGE OF COMMITTEE CONSIDERING RESOLUTION.—If the committee to which is referred a resolution introduced pursuant to subsection (h)(1) has not reported such a resolution or identical resolution at the end of 75 calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(j) PROCEDURE AFTER REPORT OR DISCHARGE OF COMMITTEES; DEBATE; VOTE ON FINAL PASSAGE.—

(1) PROCEDURE.—When the committee has reported, or has been deemed to be discharged (under subsection (i)) from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to any motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(2) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is passed or rejected shall not be in order.

(3) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on the resolution with respect to a reorganization plan, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

(5) PRIOR PASSAGE.—If, prior to the passage by 1 House of a resolution of that House, that House receives a resolution with respect to the same reorganization plan from the other House, then—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

SA 4938. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 222, strike line 18 and all that follows through page 225, line 12, and insert the following:

SEC. 811. INSPECTOR GENERAL.

(a) IN GENERAL.—There shall be in the Department an Inspector General. The Inspector General and the Office of Inspector General shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by inserting "Homeland Security," after "Health and Human Services,"; and

(2) in paragraph (2), by inserting "Homeland Security," after "Health and Human Services,".

(c) ASSISTANT INSPECTOR GENERAL FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—

(1) IN GENERAL.—There shall be in the Office of Inspector General an Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the "Assistant Inspector General"), who shall be appointed without regard to political affiliation and solely on the basis of demonstrated ability in civil rights and civil liberties, law, management analysis, investigations, and public relations.

(2) RESPONSIBILITIES OF THE ASSISTANT INSPECTOR GENERAL.—The Assistant Inspector General shall—

(A) review information and receive complaints from any source alleging abuses of civil rights and civil liberties by—

(i) employees and officials of the Department;

(ii) independent contractors retained by the Department; or

(iii) grantees of the Department;

(B) conduct such investigations as the Assistant Inspector General considers necessary, either self-initiated or in response to complaints, to determine the policies and practices to protect civil rights and civil liberties of—

(i) the Department;

(ii) any unit of the Department;

(iii) independent contractors employed by the Department; or

(iv) grantees of the Department;

(C) conduct investigations of the programs and operations of the Department to determine whether the Department's civil rights and civil liberties policies are being effectively implemented, except that the Assistant Inspector General shall not have any responsibility for the enforcement of the Equal Employment Opportunities Act;

(D) inform the Secretary and Congress of weaknesses, problems, and deficiencies within the Department relating to civil rights and civil liberties;

(E) provide prompt notification to the Officer for Civil Rights and Civil Liberties of any complaints of violations of civil rights or civil liberties, and consult with the Officer for Civil Rights and Civil Liberties regarding the investigation of such complaints, upon request or as appropriate;

(F) publicize, in multiple languages, through the Internet, radio, television, and newspaper advertisements—

(i) information on the responsibilities and functions of the Assistant Inspector General; and

(ii) instructions on how to contact the Assistant Inspector General; and

(G) on a semi-annual basis, submit to Congress, for referral to the appropriate committee or committees, a report—

(i) describing the implementation of this subsection, including the number of complaints received and a general description of any complaints received and investigations undertaken either in response to a complaint or on the initiative of the Assistant Inspector General;

(ii) detailing any civil rights abuses under subparagraph (A); and

(iii) accounting for the expenditure of funds to carry out this subsection.

(d) ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8I as section 8J; and

(2) by inserting after section 8H the following:

SPECIAL PROVISIONS CONCERNING THE
DEPARTMENT OF HOMELAND SECURITY

"SEC. 8I. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Department of Homeland Security (in this section referred to as the "Inspector General") shall be under the authority, direction, and control of the Secretary of Homeland Security (in this section referred to as the "Secretary") with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

"(A) intelligence or counterintelligence matters;

"(B) ongoing criminal investigations or proceedings;

"(C) undercover operations;

"(D) the identity of confidential sources, including protected witnesses;

"(E) other matters the disclosure of which would constitute a serious threat to the protection of any person or property authorized protection by—

"(i) section 3056 of title 18, United States Code;

"(ii) section 202 of title 3, United States Code; or

"(iii) any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note); or

"(F) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to—

"(A) prevent the disclosure of any information described under paragraph (1);

"(B) preserve vital national security interests; or

"(C) prevent significant impairment to the national interests of the United States.

"(3)(A) If the Secretary exercises any power under paragraph (1) or (2), the Secretary shall notify the Inspector General and the appropriate committees or subcommittees of Congress, or, with respect to investigations relating to civil rights or civil liberties, the Assistant Inspector General for Civil Rights and Civil Liberties (in this section referred to as the 'Assistant Inspector General'), in writing (appropriately classified, if necessary) within 7 calendar days stating the reasons for such exercise.

"(B) Within 30 days after receipt of any notice under subparagraph (A), the Inspector General or Assistant Inspector General, as appropriate, shall prepare a copy of such notice and a written response that states whether the Inspector General or Assistant Inspector General, as appropriate, agrees or disagrees with the Secretary's exercise of a power under paragraph (1) and describes the reasons for any disagreement, to—

"(i) the President of the Senate;

"(ii) the Speaker of the House of Representatives;

"(iii) the Committee on Governmental Affairs of the Senate;

"(iv) the Committee on Government Reform of the House of Representatives; and

"(v) other appropriate committees or subcommittees of Congress.

"(b)(1) In carrying out the duties and responsibilities under this Act, the Inspector General shall have oversight responsibility for the internal investigations and audits performed by any other office performing internal investigatory or audit functions in any subdivision of the Department of Homeland Security. With respect to investigations relating to civil rights or civil liberties, the Inspector General's responsibilities under this section shall be exercised by the Assistant Inspector General.

"(2) The head of each other office described under paragraph (1) shall promptly report to the Inspector General the significant activities being carried out by such office.

"(3)(A) Notwithstanding paragraphs (1) and (2), the Inspector General may initiate, conduct, and supervise such audits and investigations in the Department (including in any subdivision referred to in paragraph (1)) as the Inspector General considers appropriate.

"(B) If the Inspector General initiates an audit or investigation under subparagraph (A) concerning a subdivision referred to in paragraph (1), the Inspector General may provide the head of the other office performing internal investigatory or audit functions in the subdivision with written notice that the Inspector General has initiated such an audit or investigation.

"(C) If the Inspector General issues a notice under subparagraph (B), no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General, and any other audit or investigation of such matter shall cease.

"(c) Any report required to be transmitted by the Secretary to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under that subsection, to—

"(1) the President of the Senate;

"(2) the Speaker of the House of Representatives;

"(3) the Committee on Governmental Affairs of the Senate; and

"(4) the Committee on Government Reform of the House of Representatives.

"(d)(1) The Assistant Inspector General shall inform the complainant regarding what actions were taken in response to a complaint.

"(2) With respect to any complaints received or investigations undertaken by the Assistant Inspector General, any person employed by an independent contractor, or grantee, of the Department shall be entitled to the same protections as are provided to employees of the Department under section 7.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The Inspector General Act of 1978 (5 U.S.C. appendix) is amended—

(1) in section 4(b), by striking "8F" each place it appears and inserting "8G"; and

(2) in section 8J (as redesignated by subsection (d)(1)), by striking "or 8H" and inserting ", 8H, or 8I".

(f) DEFINITION.—In this Act, the term "civil rights and civil liberties" means rights and liberties, which—

(1) are or may be protected by the Constitution or implementing legislation; or

(2) are analogous to the rights and liberties under paragraph (1), whether or not secured by treaty, statute, regulation or executive order.

SA 4939. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, strike lines 8 and 9, and insert the following: This Act shall not take effect until the Congress provides for an effective date for this Act in subsequent legislation.

SA 4940. Mr. DODD submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 208, between lines 7 and 8, insert the following:

SEC. 510. GRANTS FOR FIREFIGHTING PERSONNEL.

Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

"(c) PERSONNEL GRANTS.—

"(1) DURATION.—In awarding grants for hiring firefighting personnel in accordance with subsection (b)(3)(A), the Director shall award grants extending over a 3-year period.

"(2) MAXIMUM AMOUNT.—The total amount of grants awarded under this subsection shall not exceed $100,000 per firefighter, indexed for inflation, over the 3-year grant period.

"(3) FEDERAL SHARE.—

"(A) IN GENERAL.—A grant under this subsection shall not exceed 75 percent of the total salary and benefits cost for additional firefighters hired.

"(B) WAIVER.—The Director may waive the 25 percent non-Federal match under subparagraph (A) for a jurisdiction of 50,000 or fewer residents or in cases of extreme hardship.

"(4) APPLICATION.—An application for a grant under this subsection, shall—

"(A) meet the requirements under subsection (b)(5);

"(B) include an explanation for the applicant's need for Federal assistance; and

"(C) contain specific plans for obtaining necessary support to retain the position following the conclusion of Federal support.

"(5) MAINTENANCE OF EFFORT.—Grants awarded under this subsection shall only be used to pay the salaries and benefits of additional firefighting personnel, and shall not be used to supplant funding allocated for personnel from State and local sources."; and

(3) in subsection (f) (as redesignated by paragraph (1)), by adding at the end the following:

"(3) SUPPLEMENTAL APPROPRIATION.—In addition to the authorization provided in paragraph (1), there are authorized to be appropriated $1,000,000,000 for each of fiscal years 2003 and 2004 for the purpose of providing personnel grants described in subsection (c). Such sums may be provided solely for the purpose of hiring employees engaged in fire protection (as defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203)), and shall not be subject to the provisions of paragraphs (10) or (11) of subsection (b).".

SA 4941. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 255 after line 17, insert the following:

"(f) NONAPPLICATION OF CERTAIN AUTHORITIES TO CHAPTER 71.—No authority under this chapter to waive, modify, or otherwise affect law shall apply to chapter 71.

SA 4942. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike Section 303(1)(D).

SA 4943. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike Section 308(c)(2) through 308(c)(4).

SA 4944. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike Section 309(a)(1)(B).

SA 4945. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike Section 309(c).

SA 4946. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKELY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike Section 309(f) and insert the following:

(f) LABORATORY DIRECTED RESEARCH AND DEVELOPMENT BY THE DEPARTMENT OF ENERGY.—Funds authorized to be appropriated or otherwise made available to the Department in any fiscal year may be obligated or expended for laboratory directed research and development activities carried out by the Department of Energy.

SA 4947. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKELY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

In Section 303, paragraph 1, after the word "thereto", insert the following: "That as directly related to homeland security"

SA 4948. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike title XI and insert the following:

TITLE XI—AGENCY FOR IMMIGRATION HEARINGS AND APPEALS

Subtitle A—Structure and Function

SEC. 1301. ESTABLISHMENT.

(a) IN GENERAL.—There is established within the Department of Justice the Agency for Immigration Hearings and Appeals (in this title referred to as the "Agency").

(b) INDEPENDENT REGULATORY AGENCY.—The Agency shall be an independent regulatory agency with the Department of Justice.

(c) ABOLITION OF EOIR.—The Executive Office for Immigration Review of the Department of Justice is hereby abolished.

(d) STATUTORY CONSTRUCTION.—Nothing in title XI, or any amendment made by that title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by, the Executive Office for Immigration Review of the Department of Justice (or its successor entity), or any officer, employee, or component thereof, immediately prior to the effective date of title XI.

SEC. 1302. DIRECTOR OF THE AGENCY.

(a) APPOINTMENT.—There shall be at the head of the Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) OFFICES.—The Director shall appoint a Deputy Director, General Counsel, Pro Bono Coordinator, and other offices as may be necessary to carry out this title.

(c) RESPONSIBILITIES.—The Director shall—

(1) administer the Agency and be responsible for the promulgation of rules and regulations affecting the Agency; and

(2) appoint and fix the compensation of attorneys, clerks, administrative assistants, and other personnel as may be necessary.

SEC. 1303. BOARD OF IMMIGRATION APPEALS.

(a) IN GENERAL.—The Board of Immigration Appeals (in this title referred to as the "Board") shall perform the appellate functions of the Agency. The Board shall consist of a Chair and not less than 14 other immigration appeals judges.

(b) APPOINTMENT.—Members of the Board shall be appointed by the Attorney General, in consultation with the Director and the Chair of the Board of Immigration Appeals.

(c) QUALIFICATIONS.—The Chair and each other Member of the Board shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

(d) CHAIR.—The Chair shall direct, supervise, and establish the procedures and policies of the Board.

(e) JURISDICTION.—

(1) IN GENERAL.—The Board shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the Board of Immigration Appeals (as in effect under the Executive Office of Immigration Review).

(2) DE NOVO REVIEW.—The Board shall have de novo review of any decision by an immigration judge, including any final order of removal.

(f) DECISIONS OF THE BOARD.—The decisions of the Board shall constitute final agency action, subject to review only as provided by the Immigration and Nationality Act and other applicable law.

(g) INDEPENDENCE OF BOARD MEMBERS.—The Members of the Board shall exercise their independent judgment and discretion in the cases coming before the Board.

(h) REFERRAL OF CASE TO THE DIRECTOR OF THE AGENCY FOR IMMIGRATION HEARINGS AND APPEALS.—

(1) IN GENERAL.—The Board shall refer to the Director of the Agency for Immigration Hearings and Appeals for review of its decision all cases which—

(A) the Director, in consultation with the Attorney General, directs the Board to refer to him;

(B) the Chairman or a majority of the Board believes should be referred to the Director of the Agency for Immigration Hearings and Appeals for review; and

(C) the Under Secretary of Homeland Security for Immigration Affairs or the Attorney General requests be referred to the Director for review.

(2) DECISION OF THE DIRECTOR.—In any case in which the Director of the Agency for Immigration Hearings and Appeals reviews the decision of the Board, the decision of the Director of the Agency for Immigration Hearings and Appeals shall be stated in writing and shall be transmitted to the Board for transmittal and service as provided by regulations.

SEC. 1304. CHIEF IMMIGRATION JUDGE.

(a) ESTABLISHMENT OF OFFICE.—There shall be within the Agency the position of Chief Immigration Judge, who shall administer the immigration courts.

(b) DUTIES OF THE CHIEF IMMIGRATION JUDGE.—The Chief Immigration Judge shall be responsible for the general supervision, direction, and procurement of resources and facilities and for the general management of immigration court dockets.

(c) APPOINTMENT OF IMMIGRATION JUDGES.—Immigration judges shall be appointed by the Attorney General, in consultation with the Director and the Chief Immigration Judge.

(d) QUALIFICATIONS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

(e) JURISDICTION AND AUTHORITY OF IMMIGRATION COURTS.—The immigration courts shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the immigration courts within the Executive Office for Immigration Review of the Department of Justice.

(f) INDEPENDENCE OF IMMIGRATION JUDGES.—The immigration judges shall exercise their independent judgment and discretion in the cases coming before the Immigration Court.

SEC. 1305. CHIEF ADMINISTRATIVE HEARING OFFICER.

(a) ESTABLISHMENT OF POSITION.—There shall be within the Agency the position of Chief Administrative Hearing Officer.

(b) DUTIES OF THE CHIEF ADMINISTRATIVE HEARING OFFICER.—The Chief Administrative Hearing Officer shall hear cases brought under sections 274A, 274B, and 274C of the Immigration and Nationality Act.

SEC. 1306. REMOVAL OF JUDGES.

Immigration judges and Members of the Board may be removed from office only for good cause, including neglect of duty or malfeasance, by the Director, in consultation with the Chair of the Board, in the case of the removal of a Member of the Board, or in Consultation with the Chief Immigration Judge, in the case of the removal of an immigration judge.

SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Agency such sums as may be necessary to carry out this title.

Subtitle B—Transfer of Functions and Savings Provisions

SEC. 1311. TRANSITION PROVISIONS.

(a) TRANSFER OF FUNCTIONS.—All functions under the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by section 1101(a)(2) of this Act) vested by statute in, or exercised by, the Executive Office of Immigration Review of the Department of Justice (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Agency.

(b) Transfer and Allocations of Appropriations and Personnel.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Agency. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) Legal Documents.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the Attorney General or the Executive Office of Immigration Review of the Department of Justice, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred under this section; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Agency, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) Proceedings.—

(1) Pending.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred pursuant to this section, but such proceedings and applications shall be continued.

(2) Orders.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) Discontinuance or modification.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) Suits.—This section shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) Nonabatement of Actions.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Executive Office of Immigration Review, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred under this section, shall abate by reason of the enactment of this Act.

(g) Continuance of Suit With Substitution of Parties.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) Administrative Procedure and Judicial Review.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

Subtitle C—Effective Date

SEC. 1321. EFFECTIVE DATE.

This title shall take effect one year after the effective date of division A of this Act.

SA 4949. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. Thompson (for Mr. Gramm (for himself, Mr. Miller, Mr. Thompson, Mr. Barkley, and Mr. Voinovich)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike Title IV, subtitles D, E, and F and insert the following:

—IMMIGRATION REFORM, ACCOUNTABILITY, AND SECURITY ENHANCEMENT ACT OF 2002

SEC. 1001. SHORT TITLE.

This division may be cited as the "Immigration Reform, Accountability, and Security Enhancement Act of 2002".

SEC. 1002. DEFINITIONS.

In this division:

(1) Enforcement bureau.—The term "Enforcement Bureau" means the Bureau of Enforcement and Border Affairs established in section 114 of the Immigration and Nationality Act, as added by section 1105 of this Act.

(2) Function.—The term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(3) Immigration enforcement functions.—The term "immigration enforcement functions" has the meaning given the term in section 114(b)(2) of the Immigration and Nationality Act, as added by section 1105 of this Act.

(4) Immigration laws of the united states.—The term "immigration laws of the United States" has the meaning given the term in section 111(e) of the Immigration and Nationality Act, as added by section 1102 of this Act.

(5) Immigration policy, administration, and inspection functions.—The term "immigration policy, administration, and inspection functions" has the meaning given the term in section 112(b)(3) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(6) Immigration service functions.—The term "immigration service functions" has the meaning given the term in section 113(b)(2) of the Immigration and Nationality Act, as added by section 1104 of this Act.

(7) Office.—The term "office" includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

(8) Secretary.—The term "Secretary" means the Secretary of Homeland Security.

(9) Service bureau.—The term "Service Bureau" means the Bureau of Immigration Services established in section 113 of the Immigration and Nationality Act, as added by section 1104 of this Act.

(10) Under secretary.—The term "Under Secretary" means the Under Secretary of Homeland Security for Immigration Affairs appointed under section 112 of the Immigration and Nationality Act, as added by section 1103 of this Act.

TITLE XI—DIRECTORATE OF IMMIGRATION AFFAIRS

Subtitle A—Organization

SEC. 1101. ABOLITION OF INS.

(a) In General.—The Immigration and Naturalization Service is abolished.

(b) Repeal.—Section 4 of the Act of February 14, 1903, as amended (32 Stat. 826; relating to the establishment of the Immigration and Naturalization Service), is repealed.

SEC. 1102. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

(a) Establishment.—Title I of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) by inserting "**CHAPTER 1—DEFINITIONS AND GENERAL AUTHORITIES**" after "**TITLE I—GENERAL**"; and

(2) by adding at the end the following:

"CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS

"SEC. 111. ESTABLISHMENT OF DIRECTORATE OF IMMIGRATION AFFAIRS.

"(a) Establishment.—There is established within the Department of Homeland Security the Directorate of Immigration Affairs.

"(b) Principal Officers.—The principal officers of the Directorate are the following:

"(1) The Under Secretary of Homeland Security for Immigration Affairs appointed under section 112.

"(2) The Assistant Secretary of Homeland Security for Immigration Services appointed under section 113.

"(3) The Assistant Secretary of Homeland Security for Enforcement and Border Affairs appointed under section 114.

"(c) Functions.—Under the authority of the Secretary of Homeland Security, the Directorate shall perform the following functions:

"(1) Immigration policy, administration, and inspection functions, as defined in section 112(b).

"(2) Immigration service and adjudication functions, as defined in section 113(b).

"(3) Immigration enforcement functions, as defined in section 114(b).

"(d) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary to carry out the functions of the Directorate.

"(2) Availability of funds.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

"(e) Immigration Laws of the United States Defined.—In this chapter, the term 'immigration laws of the United States' means the following:

"(1) This Act.

"(2) Such other statutes, Executive orders, regulations, or directives, treaties, or other international agreements to which the United States is a party, insofar as they relate to the admission to, detention in, or removal from the United States of aliens, insofar as they relate to the naturalization of aliens, or insofar as they otherwise relate to the status of aliens.".

(b) Conforming Amendments.—(1) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(A) by striking section 101(a)(34) (8 U.S.C. 1101(a)(34)) and inserting the following:

"(34) The term 'Directorate' means the Directorate of Immigration Affairs established by section 111.";

(B) by adding at the end of section 101(a) the following new paragraphs:

"(51) The term 'Secretary' means the Secretary of Homeland Security.

"(52) The term 'Department' means the Department of Homeland Security.";

(C) by striking "Attorney General" and "Department of Justice" each place it appears and inserting "Secretary" and "Department", respectively;

(D) in section 101(a)(17) (8 U.S.C. 1101(a)(17)), by striking "The" and inserting "Except as otherwise provided in section 111(e), the"; and

(E) by striking "Immigration and Naturalization Service", "Service", and "Service's" each place they appear and inserting "Directorate of Immigration Affairs", "Directorate", and "Directorate's", respectively.

(2) Section 6 of the Act entitled "An Act to authorize certain administrative expenses for the Department of Justice, and for other purposes", approved July 28, 1950 (64 Stat. 380), is amended—

(A) by striking "Immigration and Naturalization Service" and inserting "Directorate of Immigration Affairs";

(B) by striking clause (a); and

(C) by redesignating clauses (b), (c), (d), and (e) as clauses (a), (b), (c), and (d), respectively.

(c) References.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Immigration and Naturalization Service shall be deemed to refer to the Directorate of Immigration Affairs of the Department of Homeland Security, and any reference in the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by this section) to the Attorney General shall be deemed to refer to the Secretary of Homeland Security, acting through the Under Secretary of Homeland Security for Immigration Affairs.

SEC. 1103. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

(a) In General.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 of this Act, is amended by adding at the end the following:

"SEC. 112. UNDER SECRETARY OF HOMELAND SECURITY FOR IMMIGRATION AFFAIRS.

"(a) Under Secretary of Immigration Affairs.—The Directorate shall be headed by an Under Secretary of Homeland Security for Immigration Affairs who shall be appointed in accordance with section 103(c) of the Immigration and Nationality Act.

"(b) Responsibilities of the Under Secretary.—

"(1) In general.—The Under Secretary shall be charged with any and all responsibilities and authority in the administration of the Directorate and of this Act which are conferred upon the Secretary as may be delegated to the Under Secretary by the Secretary or which may be prescribed by the Secretary.

"(2) Duties.—Subject to the authority of the Secretary under paragraph (1), the Under Secretary shall have the following duties:

"(A) Immigration policy.—The Under Secretary shall develop and implement policy under the immigration laws of the United States. The Under Secretary shall propose, promulgate, and issue rules, regulations, and statements of policy with respect to any function within the jurisdiction of the Directorate.

"(B) Administration.—The Under Secretary shall have responsibility for—

"(i) the administration and enforcement of the functions conferred upon the Directorate under section 1111(c) of this Act; and

"(ii) the administration of the Directorate, including the direction, supervision, and coordination of the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs.

"(C) Inspections.—The Under Secretary shall be directly responsible for the administration and enforcement of the functions of the Directorate under the immigration laws of the United States with respect to the inspection of aliens arriving at ports of entry of the United States.

"(3) Activities.—As part of the duties described in paragraph (2), the Under Secretary shall do the following:

"(A) Resources and personnel management.—The Under Secretary shall manage the resources, personnel, and other support requirements of the Directorate.

"(B) Information resources management.—Under the direction of the Secretary, the Under Secretary shall manage the information resources of the Directorate, including the maintenance of records and databases and the coordination of records and other information within the Directorate, and shall ensure that the Directorate obtains and maintains adequate information technology systems to carry out its functions.

"(C) Coordination of response to civil rights violations.—The Under Secretary shall coordinate, with the Civil Rights Officer of the Department of Homeland Security or other officials, as appropriate, the resolution of immigration issues that involve civil rights violations.

"(D) Risk analysis and risk management.—Assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities consistent with the mission and functions of the Directorate.

"(3) Definition.—In this chapter, the term "immigration policy, administration, and inspection functions" means the duties, activities, and powers described in this subsection.

"(c) General Counsel.—

"(1) In general.—There shall be within the Directorate a General Counsel, who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary.

"(2) Function.—The General Counsel shall—

"(A) serve as the chief legal officer for the Directorate; and

"(B) be responsible for providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Under Secretary with respect to legal matters affecting the Directorate, and any of its components.

"(d) Financial Officers for the Directorate of Immigration Affairs.—

"(1) Chief financial officer.—

"(A) In general.—There shall be within the Directorate a Chief Financial Officer. The position of Chief Financial Officer shall be a career reserved position in the Senior Executive Service and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of the Directorate. For purposes of section 902(a)(1) of such title, the Under Secretary shall be deemed to be an agency head.

"(B) Functions.—The Chief Financial Officer shall be responsible for directing, supervising, and coordinating all budget formulas and execution for the Directorate.

"(2) Deputy chief financial officer.—The Directorate shall be deemed to be an agency for purposes of section 903 of such title (relating to Deputy Chief Financial Officers).

"(e) Chief of Policy.—

"(1) In general.—There shall be within the Directorate a Chief of Policy. Under the authority of the Under Secretary, the Chief of Policy shall be responsible for—

"(A) establishing national immigration policy and priorities;

"(B) performing policy research and analysis on issues arising under the immigration laws of the United States; and

"(C) coordinating immigration policy between the Directorate, the Service Bureau, and the Enforcement Bureau.

"(2) Within the senior executive service.—The position of Chief of Policy shall be a Senior Executive Service position under section 5382 of title 5, United States Code.

"(f) Chief of Congressional, Intergovernmental, and Public Affairs.—

"(1) In general.—There shall be within the Directorate a Chief of Congressional, Intergovernmental, and Public Affairs. Under the authority of the Under Secretary, the Chief of Congressional, Intergovernmental, and Public Affairs shall be responsible for—

"(A) providing to Congress information relating to issues arising under the immigration laws of the United States, including information on specific cases;

"(B) serving as a liaison with other Federal agencies on immigration issues; and

"(C) responding to inquiries from, and providing information to, the media on immigration issues.

"(2) Within the senior executive service.—The position of Chief of Congressional, Intergovernmental, and Public Affairs shall be a Senior Executive Service position under section 5382 of title 5, United States Code.".

(b) Compensation of the Under Secretary.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary of Immigration Affairs, Department of Justice.".

(c) Compensation of General Counsel and Chief Financial Officer.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"General Counsel, Directorate of Immigration Affairs, Department of Homeland Security.

"Chief Financial Officer, Directorate of Immigration Affairs, Department of Homeland Security.".

(d) Repeals.—The following provisions of law are repealed:

(1) Section 7 of the Act of March 3, 1891, as amended (26 Stat. 1085; relating to the establishment of the office of the Commissioner of Immigration and Naturalization).

(2) Section 201 of the Act of June 20, 1956 (70 Stat. 307; relating to the compensation of

assistant commissioners and district directors).

(3) Section 1 of the Act of March 2, 1895 (28 Stat. 780; relating to special immigrant inspectors).

(e) CONFORMING AMENDMENTS.—(1)(A) Section 101(a)(8) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(8)) is amended to read as follows:

"(8) The term 'Under Secretary' means the Under Secretary of Homeland Security for Immigration Affairs who is appointed under section 103(c).".

(B) Except as provided in subparagraph (C), the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking "Commissioner of Immigration and Naturalization" and "Commissioner" each place they appear and inserting "Under Secretary of Homeland Security for Immigration Affairs" and "Under Secretary", respectively.

(C) The amendments made by subparagraph (B) do not apply to references to the "Commissioner of Social Security" in section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)).

(2) Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended—

(A) in subsection (c), by striking "Commissioner" and inserting "Under Secretary";

(B) in the section heading, by striking "COMMISSIONER" and inserting "UNDER SECRETARY";

(C) in subsection (d), by striking "Commissioner" and inserting "Under Secretary"; and

(D) in subsection (e), by striking "Commissioner" and inserting "Under Secretary".

(3) Sections 104 and 105 of the Immigration and Nationality Act (8 U.S.C. 1104, 1105) are amended by striking "Director" each place it appears and inserting "Assistant Secretary of State for Consular Affairs".

(4) Section 104(c) of the Immigration and Nationality Act (8 U.S.C. 1104(c)) is amended—

(A) in the first sentence, by striking "Passport Office, a Visa Office," and inserting "a Passport Services office, a Visa Services office, an Overseas Citizen Services office,"; and

(B) in the second sentence, by striking "the Passport Office and the Visa Office" and inserting "the Passport Services office and the Visa Services office".

(5) Section 5315 of title 5, United States Code, is amended by striking the following:

"Commissioner of Immigration and Naturalization, Department of Justice.".

(f) REFERENCES.—Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Commissioner of Immigration and Naturalization shall be deemed to refer to the Under Secretary of Homeland Security for Immigration Affairs.

SEC. 1104. BUREAU OF IMMIGRATION SERVICES.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by section 1103, is further amended by adding at the end the following:

"SEC. 113. BUREAU OF IMMIGRATION SERVICES.

"(a) ESTABLISHMENT OF BUREAU.—

"(1) IN GENERAL.—There is established within the Directorate a bureau to be known as the Bureau of Immigration Services (in this chapter referred to as the 'Service Bureau').

"(2) ASSISTANT SECRETARY.—The head of the Service Bureau shall be the Assistant Secretary of Homeland Security for Immigration Services (in this chapter referred to as the 'Assistant Secretary for Immigration Services'), who—

"(A) shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary; and

"(B) shall report directly to the Under Secretary.

"(b) RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—

"(1) IN GENERAL.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Services shall administer the immigration service functions of the Directorate.

"(2) IMMIGRATION SERVICE FUNCTIONS DEFINED.—In this chapter, the term 'immigration service functions' means the following functions under the immigration laws of the United States:

"(A) Adjudications of petitions for classification of nonimmigrant and immigrant status.

"(B) Adjudications of applications for adjustment of status and change of status.

"(C) Adjudications of naturalization applications.

"(D) Adjudications of asylum and refugee applications.

"(E) Adjudications performed at Service centers.

"(F) Determinations concerning custody and parole of asylum seekers who do not have prior nonpolitical criminal records and who have been found to have a credible fear of persecution, including determinations under section 236B.

"(G) All other adjudications under the immigration laws of the United States.

"(c) CHIEF BUDGET OFFICER OF THE SERVICE BUREAU.—There shall be within the Service Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Service Bureau shall be responsible for monitoring and supervising all financial activities of the Service Bureau.

"(d) QUALITY ASSURANCE.—There shall be within the Service Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

"(1) ensure that the Directorate's policies with respect to the immigration service functions of the Directorate are properly implemented; and

"(2) ensure that Service Bureau policies or practices result in sound records management and efficient and accurate service.

"(e) OFFICE OF PROFESSIONAL RESPONSIBILITY.—There shall be within the Service Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Service Bureau and for receiving and investigating charges of misconduct or ill treatment made by the public.

"(f) TRAINING OF PERSONNEL.—The Assistant Secretary for Immigration Services, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Service Bureau.".

(b) COMPENSATION OF ASSISTANT SECRETARY OF SERVICE BUREAU.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Secretary of Homeland Security for Immigration Services, Directorate of Immigration Affairs, Department of Homeland Security.".

(c) SERVICE BUREAU OFFICES.—

(1) IN GENERAL.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Services, shall establish Service Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Service Bureau offices, the Under Secretary shall consider the location's proximity and accessibility to the community served, the workload for which that office shall be responsible, whether the location would significantly reduce the backlog of cases in that given geographic area, whether the location will improve customer service, and whether the location is in a geographic area with an increase in the population to be served. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Service Bureau offices adequately serve customer service needs.

(2) TRANSITION PROVISION.—In determining the location of Service Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Service Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1105. BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.

(a) IN GENERAL.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103 and 1104, is further amended by adding at the end the following:

"SEC. 114. BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.

"(a) ESTABLISHMENT OF BUREAU.—

"(1) IN GENERAL.—There is established within the Directorate a bureau to be known as the Bureau of Enforcement and Border Affairs (in this chapter referred to as the 'Enforcement Bureau').

"(2) ASSISTANT SECRETARY.—The head of the Enforcement Bureau shall be the Assistant Secretary of Homeland Security for Enforcement and Border Affairs (in this chapter referred to as the 'Assistant Secretary for Immigration Enforcement'), who—

"(A) shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary; and

"(B) shall report directly to the Under Secretary.

"(b) RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—

"(1) IN GENERAL.—Subject to the authority of the Secretary and the Under Secretary, the Assistant Secretary for Immigration Enforcement shall administer the immigration enforcement functions of the Directorate.

"(2) IMMIGRATION ENFORCEMENT FUNCTIONS DEFINED.—In this chapter, the term 'immigration enforcement functions' means the following functions under the immigration laws of the United States:

"(A) The border patrol function.

"(B) The detention function, except as specified in section 113(b)(2)(F).

"(C) The removal function.

"(D) The intelligence function.

"(E) The investigations function.

"(c) CHIEF BUDGET OFFICER OF THE ENFORCEMENT BUREAU.—There shall be within the Enforcement Bureau a Chief Budget Officer. Under the authority of the Chief Financial Officer of the Directorate, the Chief Budget Officer of the Enforcement Bureau shall be responsible for monitoring and supervising all financial activities of the Enforcement Bureau.

"(d) Office of Professional Responsibility.—There shall be within the Enforcement Bureau an Office of Professional Responsibility that shall have the responsibility for ensuring the professionalism of the Enforcement Bureau and receiving charges of misconduct or ill treatment made by the public and investigating the charges.

"(e) Office of Quality Assurance.—There shall be within the Enforcement Bureau an Office of Quality Assurance that shall develop procedures and conduct audits to—

"(1) ensure that the Directorate's policies with respect to immigration enforcement functions are properly implemented; and

"(2) ensure that Enforcement Bureau policies or practices result in sound record management and efficient and accurate recordkeeping.

"(f) Training of Personnel.—The Assistant Secretary for Immigration Enforcement, in consultation with the Under Secretary, shall have responsibility for determining the training for all personnel of the Enforcement Bureau.".

(b) Compensation of Assistant Secretary of Enforcement Bureau.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Security of Homeland Security for Enforcement and Border Affairs, Directorate of Immigration Affairs, Department of Homeland Security.".

(c) Enforcement Bureau Offices.—

(1) In general.—Under the direction of the Secretary, the Under Secretary, acting through the Assistant Secretary for Immigration Enforcement, shall establish Enforcement Bureau offices, including suboffices and satellite offices, in appropriate municipalities and locations in the United States. In the selection of sites for the Enforcement Bureau offices, the Under Secretary shall make selections according to trends in unlawful entry and unlawful presence, alien smuggling, national security concerns, the number of Federal prosecutions of immigration-related offenses in a given geographic area, and other enforcement considerations. The Under Secretary shall conduct periodic reviews to assess whether the location and size of the respective Enforcement Bureau offices adequately serve enforcement needs.

(2) Transition provision.—In determining the location of Enforcement Bureau offices, including suboffices and satellite offices, the Under Secretary shall first consider maintaining and upgrading offices in existing geographic locations that satisfy the provisions of paragraph (1). The Under Secretary shall also explore the feasibility and desirability of establishing new Enforcement Bureau offices, including suboffices and satellite offices, in new geographic locations where there is a demonstrated need.

SEC. 1106. OFFICE OF THE OMBUDSMAN WITHIN THE DIRECTORATE.

(a) In General.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

"SEC. 115. OFFICE OF THE OMBUDSMAN FOR IMMIGRATION AFFAIRS.

"(a) In General.—There is established within the Directorate the Office of the Ombudsman for Immigration Affairs, which shall be headed by the Ombudsman.

"(b) Ombudsman.—

"(1) Appointment.—The Ombudsman shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Ombudsman shall report directly to the Under Secretary.

"(2) Compensation.—The Ombudsman shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Secretary of Homeland Security so determines, at a rate fixed under section 9503 of such title.

"(c) Functions of Office.—The functions of the Office of the Ombudsman for Immigration Affairs shall include—

"(1) to assist individuals in resolving problems with the Directorate or any component thereof;

"(2) to identify systemic problems encountered by the public in dealings with the Directorate or any component thereof;

"(3) to propose changes in the administrative practices or regulations of the Directorate, or any component thereof, to mitigate problems identified under paragraph (2);

"(4) to identify potential changes in statutory law that may be required to mitigate such problems; and

"(5) to monitor the coverage and geographic distribution of local offices of the Directorate.

"(d) Personnel Actions.—The Ombudsman shall have the responsibility and authority to appoint local or regional representatives of the Ombudsman's Office as in the Ombudsman's judgment may be necessary to address and rectify problems.

"(e) Annual Report.—Not later than December 31 of each year, the Ombudsman shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the activities of the Ombudsman during the fiscal year ending in that calendar year. Each report shall contain a full and substantive analysis, in addition to statistical information, and shall contain—

"(1) a description of the initiatives that the Office of the Ombudsman has taken on improving the responsiveness of the Directorate;

"(2) a summary of serious or systemic problems encountered by the public, including a description of the nature of such problems;

"(3) an accounting of the items described in paragraphs (1) and (2) for which action has been taken, and the result of such action;

"(4) an accounting of the items described in paragraphs (1) and (2) for which action remains to be completed;

"(5) an accounting of the items described in paragraphs (1) and (2) for which no action has been taken, the reasons for the inaction, and identify any Agency official who is responsible for such inaction;

"(6) recommendations as may be appropriate to resolve problems encountered by the public;

"(7) recommendations as may be appropriate to resolve problems encountered by the public, including problems created by backlogs in the adjudication and processing of petitions and applications;

"(8) recommendations to resolve problems caused by inadequate funding or staffing; and

"(9) such other information as the Ombudsman may deem advisable.

"(f) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated to the Office of the Ombudsman such sums as may be necessary to carry out its functions.

"(2) Availability of funds.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.".

SEC. 1107. OFFICE OF IMMIGRATION STATISTICS WITHIN THE DIRECTORATE.

(a) In General.—Chapter 2 of title I of the Immigration and Nationality Act, as added by section 1102 and amended by sections 1103, 1104, and 1105, is further amended by adding at the end the following:

"SEC. 116. OFFICE OF IMMIGRATION STATISTICS.

"(a) Establishment.—There is established within the Directorate an Office of Immigration Statistics (in this section referred to as the 'Office'), which shall be headed by a Director who shall be appointed by the Secretary of Homeland Security, in consultation with the Under Secretary. The Office shall collect, maintain, compile, analyze, publish, and disseminate information and statistics about immigration in the United States, including information and statistics involving the functions of the Directorate and the Executive Office for Immigration Review (or its successor entity).

"(b) Responsibilities of Director.—The Director of the Office shall be responsible for the following:

"(1) Statistical information.—Maintenance of all immigration statistical information of the Directorate of Immigration Affairs.

"(2) Standards of reliability and validity.—Establishment of standards of reliability and validity for immigration statistics collected by the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review (or its successor entity).

"(c) Relation to the Directorate of Immigration Affairs and the Executive Office for Immigration Review.—

"(1) Other authorities.—The Directorate and the Executive Office for Immigration Review (or its successor entity) shall provide statistical information to the Office from the operational data systems controlled by the Directorate and the Executive Office for Immigration Review (or its successor entity), respectively, as requested by the Office, for the purpose of meeting the responsibilities of the Director of the Office.

"(2) Databases.—The Director of the Office, under the direction of the Secretary, shall ensure the interoperability of the databases of the Directorate, the Bureau of Immigration Services, the Bureau of Enforcement, and the Executive Office for Immigration Review (or its successor entity) to permit the Director of the Office to perform the duties of such office.".

(b) Transfer of Functions.—There are transferred to the Directorate of Immigration Affairs for exercise by the Under Secretary through the Office of Immigration Statistics established by section 116 of the Immigration and Nationality Act, as added by subsection (a), the functions performed by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service, and the statistical functions performed by the Executive Office for Immigration Review (or its successor entity), on the day before the effective date of this title.

SEC. 1108. CLERICAL AMENDMENTS.

The table of contents of the Immigration and Nationality Act is amended—

(1) by inserting after the item relating to the heading for title I the following:

"Chapter 1—Definitions and General Authorities";

(2) by striking the item relating to section 103 and inserting the following:

"Sec. 103. Powers and duties of the Secretary of Homeland Security and the Under Secretary of Homeland Security for Immigration Affairs.";

and

(3) by inserting after the item relating to section 106 the following:

"CHAPTER 2—DIRECTORATE OF IMMIGRATION AFFAIRS
"Sec. 111. Establishment of Directorate of Immigration Affairs.
"Sec. 112. Under Secretary of Homeland Security for Immigration Affairs.
"Sec. 113. Bureau of Immigration Services.
"Sec. 114. Bureau of Enforcement and Border Affairs.
"Sec. 115. Office of the Ombudsman for Immigration Affairs.
"Sec. 116. Office of Immigration Statistics.".

Subtitle B—Transition Provisions

SEC. 1111. TRANSFER OF FUNCTIONS.

(a) In General.—

(1) Functions of the Attorney General.—All functions under the immigration laws of the United States vested by statute in, or exercised by, the Attorney General, immediately prior to the effective date of this title, are transferred to the Secretary on such effective date for exercise by the Secretary through the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(2) Functions of the Commissioner or the INS.—All functions under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization or the Immigration and Naturalization Service (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Directorate of Immigration Affairs on such effective date for exercise by the Under Secretary in accordance with section 112(b) of the Immigration and Nationality Act, as added by section 1103 of this Act.

(b) Exercise of Authorities.—Except as otherwise provided by law, the Under Secretary may, for purposes of performing any function transferred to the Directorate of Immigration Affairs under subsection (a), exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

SEC. 1112. TRANSFER OF PERSONNEL AND OTHER RESOURCES.

Subject to section 1531 of title 31, United States Code, upon the effective date of this title, there are transferred to the Under Secretary for appropriate allocation in accordance with section 1115—

(1) the personnel of the Department of Justice employed in connection with the functions transferred under this title; and

(2) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service in connection with the functions transferred pursuant to this title.

SEC. 1113. DETERMINATIONS WITH RESPECT TO FUNCTIONS AND RESOURCES.

Under the direction of the Secretary, the Under Secretary shall determine, in accordance with the corresponding criteria set forth in sections 1112(b), 1113(b), and 1114(b) of the Immigration and Nationality Act (as added by this title)—

(1) which of the functions transferred under section 1111 are—

(A) immigration policy, administration, and inspection functions;

(B) immigration service functions; and

(C) immigration enforcement functions; and

(2) which of the personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds transferred under section 1112 were held or used, arose from, were available to, or were made available, in connection with the performance of the respective functions specified in paragraph (1) immediately prior to the effective date of this title.

SEC. 1114. DELEGATION AND RESERVATION OF FUNCTIONS.

(a) In General.—

(1) Delegation to the bureaus.—Under the direction of the Secretary, and subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103), the Under Secretary shall delegate—

(A) immigration service functions to the Assistant Secretary for Immigration Services; and

(B) immigration enforcement functions to the Assistant Secretary for Immigration Enforcement.

(2) Reservation of functions.—Subject to section 112(b)(1) of the Immigration and Nationality Act (as added by section 1103), immigration policy, administration, and inspection functions shall be reserved for exercise by the Under Secretary.

(b) Nonexclusive Delegations Authorized.—Delegations made under subsection (a) may be on a nonexclusive basis as the Under Secretary may determine may be necessary to ensure the faithful execution of the Under Secretary's responsibilities and duties under law.

(c) Effect of Delegations.—Except as otherwise expressly prohibited by law or otherwise provided in this title, the Under Secretary may make delegations under this subsection to such officers and employees of the office of the Under Secretary, the Service Bureau, and the Enforcement Bureau, respectively, as the Under Secretary may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this subsection or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

(d) Statutory Construction.—Nothing in this division may be construed to limit the authority of the Under Secretary, acting directly or by delegation under the Secretary, to establish such offices or positions within the Directorate of Immigration Affairs, in addition to those specified by this division, as the Under Secretary may determine to be necessary to carry out the functions of the Directorate.

SEC. 1115. ALLOCATION OF PERSONNEL AND OTHER RESOURCES.

(a) Authority of the Under Secretary.—

(1) In general.—Subject to paragraph (2) and section 1114(b), the Under Secretary shall make allocations of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the performance of the respective functions, as determined under section 1113, in accordance with the delegation of functions and the reservation of functions made under section 1114.

(2) Limitation.—Unexpended funds transferred pursuant to section 1112 shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Authority To Terminate Affairs of INS.—The Attorney General in consultation with the Secretary, shall provide for the termination of the affairs of the Immigration and Naturalization Service and such further measures and dispositions as may be necessary to effectuate the purposes of this division.

(c) Treatment of Shared Resources.—The Under Secretary is authorized to provide for an appropriate allocation, or coordination, or both, of resources involved in supporting shared support functions for the office of the Under Secretary, the Service Bureau, and the Enforcement Bureau. The Under Secretary shall maintain oversight and control over the shared computer databases and systems and records management.

SEC. 1116. SAVINGS PROVISIONS.

(a) Legal Documents.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred under this title; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(b) Proceedings.—

(1) Pending.—Sections 111 through 116 of the Immigration and Nationality Act, as added by subtitle A of this title, shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred under this title, but such proceedings and applications shall be continued.

(2) Orders.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) Discontinuance or modification.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(c) SUITS.—This title, and the amendments made by this title, shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title, and the amendments made by this title, had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred pursuant to this section, shall abate by reason of the enactment of this Act.

(e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and such function is transferred under this title to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred under this title shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred.

SEC. 1117. INTERIM SERVICE OF THE COMMISSIONER OF IMMIGRATION AND NATURALIZATION.

The individual serving as the Commissioner of Immigration and Naturalization on the day before the effective date of this title may serve as Under Secretary until the date on which an Under Secretary is appointed under section 112 of the Immigration and Nationality Act, as added by section 1103.

SEC. 1118. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW AUTHORITIES NOT AFFECTED.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by the Executive Office for Immigration Review of the Department of Justice (or its successor entity), or any officer, employee, or component thereof immediately prior to the effective date of this title.

SEC. 1119. OTHER AUTHORITIES NOT AFFECTED.

Nothing in this title, or any amendment made by this title, may be construed to authorize or require the transfer or delegation of any function vested in, or exercised by—

(1) the Secretary of State under the State Department Basic Authorities Act of 1956, or under the immigration laws of the United States, immediately prior to the effective date of this title, with respect to the issuance and use of passports and visas;

(2) the Secretary of Labor or any official of the Department of Labor immediately prior to the effective date of this title, with respect to labor certifications or any other authority under the immigration laws of the United States; or

(3) except as otherwise specifically provided in this division, any other official of the Federal Government under the immigration laws of the United States immediately prior to the effective date of this title.

SEC. 1120. TRANSITION FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS FOR TRANSITION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary—

(A) to effect—

(i) the abolition of the Immigration and Naturalization Service;

(ii) the establishment of the Directorate of Immigration Affairs and its components, the Bureau of Immigration Services, and the Bureau of Enforcement and Border Affairs; and

(iii) the transfer of functions required to be made under this division; and

(B) to carry out any other duty that is made necessary by this division, or any amendment made by this division.

(2) ACTIVITIES SUPPORTED.—Activities supported under paragraph (1) include—

(A) planning for the transfer of functions from the Immigration and Naturalization Service to the Directorate of Immigration Affairs, including the preparation of any reports and implementation plans necessary for such transfer;

(B) the division, acquisition, and disposition of—

(i) buildings and facilities;

(ii) support and infrastructure resources; and

(iii) computer hardware, software, and related documentation;

(C) other capital expenditures necessary to effect the transfer of functions described in this paragraph;

(D) revision of forms, stationery, logos, and signage;

(E) expenses incurred in connection with the transfer and training of existing personnel and hiring of new personnel; and

(F) such other expenses necessary to effect the transfers, as determined by the Secretary.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(c) TRANSITION ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the general fund of the Treasury of the United States a separate account, which shall be known as the "Directorate of Immigration Affairs Transition Account" (in this section referred to as the "Account").

(2) USE OF ACCOUNT.—There shall be deposited into the Account all amounts appropriated under subsection (a) and amounts reprogrammed for the purposes described in subsection (a).

(d) REPORT TO CONGRESS ON TRANSITION.—Beginning not later than 90 days after the effective date of division A of this Act, and at the end of each fiscal year in which appropriations are made pursuant to subsection (c), the Secretary of Homeland Security shall submit a report to Congress concerning the availability of funds to cover transition costs, including—

(1) any unobligated balances available for such purposes; and

(2) a calculation of the amount of appropriations that would be necessary to fully fund the activities described in subsection (a).

(e) EFFECTIVE DATE.—This section shall take effect 1 year after the effective date of division A of this Act.

Subtitle C—Miscellaneous Provisions

SEC. 1121. FUNDING ADJUDICATION AND NATURALIZATION SERVICES.

(a) LEVEL OF FEES.—Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking "services, including the costs of similar services provided without charge to asylum applicants or other immigrants" and inserting "services".

(b) USE OF FEES.—

(1) IN GENERAL.—Each fee collected for the provision of an adjudication or naturalization service shall be used only to fund adjudication or naturalization services or, subject to the availability of funds provided pursuant to subsection (c), costs of similar services provided without charge to asylum and refugee applicants.

(2) PROHIBITION.—No fee may be used to fund adjudication- or naturalization-related audits that are not regularly conducted in the normal course of operation.

(c) REFUGEE AND ASYLUM ADJUDICATION SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to such sums as may be otherwise available for such purposes, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 207 through 209 of the Immigration and Nationality Act.

(2) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(d) SEPARATION OF FUNDING.—

(1) IN GENERAL.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other collections available for the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs.

(2) FEES.—Fees imposed for a particular service, application, or benefit shall be deposited into the account established under paragraph (1) that is for the bureau with jurisdiction over the function to which the fee relates.

(3) FEES NOT TRANSFERABLE.—No fee may be transferred between the Bureau of Immigration Services and the Bureau of Enforcement and Border Affairs for purposes not authorized by section 286 of the Immigration and Nationality Act, as amended by subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS FOR BACKLOG REDUCTION.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2003 through 2006 to carry out the Immigration Services and Infrastructure Improvement Act of 2000 (title II of Public Law 106-313).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated under paragraph (1) are authorized to remain available until expended.

(3) INFRASTRUCTURE IMPROVEMENT ACCOUNT.—Amounts appropriated under paragraph (1) shall be deposited into the Immigration Services and Infrastructure Improvements Account established by section 204(a)(2) of title II of Public Law 106-313.

SEC. 1122. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) ESTABLISHMENT OF ON-LINE DATABASE.—

(1) IN GENERAL.—Not later than 2 years after the effective date of division A, the Secretary, in consultation with the Under Secretary and the Technology Advisory Committee, shall establish an Internet-based system that will permit an immigrant, nonimmigrant, employer, or other person who files any application, petition, or other request for any benefit under the immigration laws of the United States access to on-line information about the processing status of the application, petition, or other request.

(2) PRIVACY CONSIDERATIONS.—The Under Secretary shall consider all applicable privacy issues in the establishment of the Internet system described in paragraph (1). No personally identifying information shall be accessible to unauthorized persons.

(3) MEANS OF ACCESS.—The on-line information under the Internet system described in

paragraph (1) shall be accessible to the persons described in paragraph (1) through a personal identification number (PIN) or other personalized password.

(4) PROHIBITION ON FEES.—The Under Secretary shall not charge any immigrant, nonimmigrant, employer, or other person described in paragraph (1) a fee for access to the information in the database that pertains to that person.

(b) FEASIBILITY STUDY FOR ON-LINE FILING AND IMPROVED PROCESSING.—

(1) ON-LINE FILING.—

(A) IN GENERAL.—The Under Secretary, in consultation with the Technology Advisory Committee, shall conduct a study to determine the feasibility of on-line filing of the documents described in subsection (a).

(B) STUDY ELEMENTS.—The study shall—

(i) include a review of computerization and technology of the Immigration and Naturalization Service (or successor agency) relating to immigration services and the processing of such documents;

(ii) include an estimate of the time-frame and costs of implementing on-line filing of such documents; and

(iii) consider other factors in implementing such a filing system, including the feasibility of the payment of fees on-line.

(2) REPORT.—Not later than 2 years after the effective date of division A, the Under Secretary shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the findings of the study conducted under this subsection.

(c) TECHNOLOGY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 1 year after the effective date of division A, the Under Secretary shall establish, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, an advisory committee (in this section referred to as the "Technology Advisory Committee") to assist the Under Secretary in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

(2) COMPOSITION.—The Technology Advisory Committee shall be composed of—

(A) experts from the public and private sector capable of establishing and implementing the system in an expeditious manner; and

(B) representatives of persons or entities who may use the tracking system described in subsection (a) and the on-line filing system described in subsection (b)(1).

SEC. 1123. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

(a) ASSIGNMENTS OF ASYLUM OFFICERS.—The Under Secretary shall assign asylum officers to major ports of entry in the United States to assist in the inspection of asylum seekers. For other ports of entry, the Under Secretary shall take steps to ensure that asylum officers participate in the inspections process.

(b) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.) is amended by inserting after section 236A the following new section:

"SEC. 236B. ALTERNATIVES TO DETENTION OF ASYLUM SEEKERS.

"(a) DEVELOPMENT OF ALTERNATIVES TO DETENTION.—The Under Secretary shall—

"(1) authorize and promote the utilization of alternatives to the detention of asylum seekers who do not have nonpolitical criminal records; and

"(2) establish conditions for the detention of asylum seekers that ensure a safe and humane environment.

"(b) SPECIFIC ALTERNATIVES FOR CONSIDERATION.—The Under Secretary shall consider the following specific alternatives to the detention of asylum seekers described in subsection (a):

"(1) Parole from detention.

"(2) For individuals not otherwise qualified for parole under paragraph (1), parole with appearance assistance provided by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(3) For individuals not otherwise qualified for parole under paragraph (1) or (2), non-secure shelter care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(4) Noninstitutional settings for minors such as foster care or group homes operated by private nonprofit voluntary agencies with expertise in the legal and social needs of asylum seekers.

"(c) REGULATIONS.—The Under Secretary shall promulgate such regulations as may be necessary to carry out this section.

"(d) DEFINITION.—In this section, the term 'asylum seeker' means any applicant for asylum under section 208 or any alien who indicates an intention to apply for asylum under that section.".

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 236A the following new item:

"Sec. 236B. Alternatives to detention of asylum seekers.".

Subtitle D—Effective Date

SEC. 1131. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect one year after the effective date of division A of this Act.

TITLE XII—UNACCOMPANIED ALIEN CHILD PROTECTION

SEC. 1201. SHORT TITLE.

This title may be cited as the "Unaccompanied Alien Child Protection Act of 2002".

SEC. 1202. DEFINITIONS.

(a) IN GENERAL.—In this title:

(1) DIRECTOR.—The term "Director" means the Director of the Office.

(2) OFFICE.—The term "Office" means the Office of Refugee Resettlement as established by section 411 of the Immigration and Nationality Act.

(3) SERVICE.—The term "Service" means the Immigration and Naturalization Service (or, upon the effective date of title XI, the Directorate of Immigration Affairs).

(4) UNACCOMPANIED ALIEN CHILD.—The term "unaccompanied alien child" means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained the age of 18; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

(5) VOLUNTARY AGENCY.—The term "voluntary agency" means a private, nonprofit voluntary agency with expertise in meeting the cultural, developmental, or psychological needs of unaccompanied alien children as licensed by the appropriate State and certified by the Director of the Office of Refugee Resettlement.

(b) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

"(53) The term 'unaccompanied alien child' means a child who—

"(A) has no lawful immigration status in the United States;

"(B) has not attained the age of 18; and

"(C) with respect to whom—

"(i) there is no parent or legal guardian in the United States; or

"(ii) no parent or legal guardian in the United States is able to provide care and physical custody.

"(54) The term 'unaccompanied refugee children' means persons described in paragraph (42) who—

"(A) have not attained the age of 18; and

"(B) with respect to whom there are no parents or legal guardians available to provide care and physical custody.".

Subtitle A—Structural Changes

SEC. 1211. RESPONSIBILITIES OF THE OFFICE OF REFUGEE RESETTLEMENT WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.

(a) IN GENERAL.—

(1) RESPONSIBILITIES OF THE OFFICE.—The Office shall be responsible for—

(A) coordinating and implementing the care and placement for unaccompanied alien children who are in Federal custody by reason of their immigration status; and

(B) ensuring minimum standards of detention for all unaccompanied alien children.

(2) DUTIES OF THE DIRECTOR WITH RESPECT TO UNACCOMPANIED ALIEN CHILDREN.—The Director shall be responsible under this title for—

(A) ensuring that the best interests of the child are considered in decisions and actions relating to the care and placement of an unaccompanied alien child;

(B) making placement, release, and detention determinations for all unaccompanied alien children in the custody of the Office;

(C) implementing the placement, release, and detention determinations made by the Office;

(D) convening, in the absence of the Assistant Secretary, Administration for Children and Families of the Department of Health and Human Services, the Interagency Task Force on Unaccompanied Alien Children established in section 1212;

(E) identifying a sufficient number of qualified persons, entities, and facilities to house unaccompanied alien children in accordance with sections 1222 and 1223;

(F) overseeing the persons, entities, and facilities described in sections 1222 and 1223 to ensure their compliance with such provisions;

(G) compiling, updating, and publishing at least annually a State-by-State list of professionals or other entities qualified to contract with the Office to provide the services described in sections 1231 and 1232;

(H) maintaining statistical information and other data on unaccompanied alien children in the Office's custody and care, which shall include—

(i) biographical information such as the child's name, gender, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the child came into Federal custody, including each instance in which such child came into the custody of—

(I) the Service; or

(II) the Office;

(iii) information relating to the custody, detention, release, and repatriation of unaccompanied alien children who have been in the custody of the Office;

(iv) in any case in which the child is placed in detention, an explanation relating to the detention; and

(v) the disposition of any actions in which the child is the subject;

(I) collecting and compiling statistical information from the Service, including Border Patrol and inspections officers, on the unaccompanied alien children with whom they come into contact; and

(J) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(3) Duties with respect to foster care.—In carrying out the duties described in paragraph (3)(F), the Director is encouraged to utilize the refugee children foster care system established under section 412(d)(2) of the Immigration and Nationality Act for the placement of unaccompanied alien children.

(4) Powers.—In carrying out the duties under paragraph (3), the Director shall have the power to—

(A) contract with service providers to perform the services described in sections 1222, 1223, 1231, and 1232; and

(B) compel compliance with the terms and conditions set forth in section 1223, including the power to terminate the contracts of providers that are not in compliance with such conditions and reassign any unaccompanied alien child to a similar facility that is in compliance with such section.

(b) No Effect on Service, EOIR, and Department of State Adjudicatory Responsibilities.—Nothing in this title may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act from the authority of any official of the Service, the Executive Office of Immigration Review (or successor entity), or the Department of State.

SEC. 1212. ESTABLISHMENT OF INTERAGENCY TASK FORCE ON UNACCOMPANIED ALIEN CHILDREN.

(a) Establishment.—There is established an Interagency Task Force on Unaccompanied Alien Children.

(b) Composition.—The Task Force shall consist of the following members:

(1) The Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(2) The Under Secretary of Homeland Security for Immigration Affairs.

(3) The Assistant Secretary of State for Population, Refugees, and Migration.

(4) The Director.

(5) Such other officials in the executive branch of Government as may be designated by the President.

(c) Chairman.—The Task Force shall be chaired by the Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

(d) Activities of the Task Force.—In consultation with nongovernmental organizations, the Task Force shall—

(1) measure and evaluate the progress of the United States in treating unaccompanied alien children in United States custody; and

(2) expand interagency procedures to collect and organize data, including significant research and resource information on the needs and treatment of unaccompanied alien children in the custody of the United States Government.

SEC. 1213. TRANSITION PROVISIONS.

(a) Transfer of Functions.—All functions with respect to the care and custody of unaccompanied alien children under the immigration laws of the United States vested by statute in, or exercised by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component thereof), immediately prior to the effective date of this subtitle, are transferred to the Office.

(b) Transfer and Allocations of Appropriations and Personnel.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) Legal Documents.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this section; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) Proceedings.—

(1) Pending.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this subtitle before an office whose functions are transferred pursuant to this section, but such proceedings and applications shall be continued.

(2) Orders.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) Discontinuance or modification.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) Suits.—This section shall not affect suits commenced before the effective date of this subtitle, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) Nonabatement of Actions.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred under this section, shall abate by reason of the enactment of this Act.

(g) Continuance of Suit With Substitution of Parties.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) Administrative Procedure and Judicial Review.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

SEC. 1214. EFFECTIVE DATE.

This subtitle shall take effect one year after the effective date of division A of this Act.

Subtitle B—Custody, Release, Family Reunification, and Detention

SEC. 1221. PROCEDURES WHEN ENCOUNTERING UNACCOMPANIED ALIEN CHILDREN.

(a) Unaccompanied Children Found Along the United States Border or at United States Ports of Entry.—

(1) In general.—Subject to paragraph (2), if an immigration officer finds an unaccompanied alien child who is described in paragraph (2) at a land border or port of entry of the United States and determines that such child is inadmissible under the Immigration and Nationality Act, the officer shall—

(A) permit such child to withdraw the child's application for admission pursuant to section 235(a)(4) of the Immigration and Nationality Act; and

(B) remove such child from the United States.

(2) Special rule for contiguous countries.—

(A) In general.—Any child who is a national or habitual resident of a country that is contiguous with the United States and that has an agreement in writing with the United States providing for the safe return and orderly repatriation of unaccompanied alien children who are nationals or habitual residents of such country shall be treated in accordance with paragraph (1), unless a determination is made on a case-by-case basis that—

(i) such child has a fear of returning to the child's country of nationality or country of last habitual residence owing to a fear of persecution;

(ii) the return of such child to the child's country of nationality or country of last habitual residence would endanger the life or safety of such child; or

(iii) the child cannot make an independent decision to withdraw the child's application for admission due to age or other lack of capacity.

(B) Right of consultation.—Any child described in subparagraph (A) shall have the right to consult with a consular officer from the child's country of nationality or country of last habitual residence prior to repatriation, as well as consult with the Office, telephonically, and such child shall be informed of that right.

(3) Rule for apprehensions at the border.—The custody of unaccompanied alien children not described in paragraph (2) who are apprehended at the border of the United

an unaccompanied alien child, including adjudications, proceedings, and processing, before such actions are taken.

(2) OPPORTUNITY TO CONSULT WITH COUNSEL.—An unaccompanied alien child in the custody of the Office may not give consent to any immigration action, including consenting to voluntary departure, unless first afforded an opportunity to consult with counsel.

(g) ACCESS TO RECOMMENDATIONS OF GUARDIAN AD LITEM.—Counsel shall be afforded an opportunity to review the recommendation by the guardian ad litem affecting or involving a client who is an unaccompanied alien child.

SEC. 1233. EFFECTIVE DATE; APPLICABILITY.

(a) EFFECTIVE DATE.—This subtitle shall take effect one year after the effective date of division A of this Act.

(b) APPLICABILITY.—The provisions of this subtitle shall apply to all unaccompanied alien children in Federal custody on, before, or after the effective date of this subtitle.

Subtitle D—Strengthening Policies for Permanent Protection of Alien Children

SEC. 1241. SPECIAL IMMIGRANT JUVENILE VISA.

(a) J VISA.—Section 101(a)(27)(J) (8 U.S.C. 1101(a)(27)(J)) is amended to read as follows:

"(J) an immigrant under the age of 18 on the date of application who is present in the United States—

"(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, a department or agency of a State, or an individual or entity appointed by a State, and who has been deemed eligible by that court for long-term foster care due to abuse, neglect, or abandonment, or a similar basis found under State law;

"(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; and

"(iii) for whom the Office of Refugee Resettlement of the Department of Health and Human Services has certified to the Under Secretary of Homeland Security for Immigration Affairs that the classification of an alien as a special immigrant under this subparagraph has not been made solely to provide an immigration benefit to that alien;

except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act;".

(b) ADJUSTMENT OF STATUS.—Section 245(h)(2) (8 U.S.C. 1255(h)(2)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) paragraphs (1), (4), (5), (6), and (7)(A) of section 212(a) shall not apply,";

(2) in subparagraph (B), by striking the period and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) the Secretary of Homeland Security may waive paragraph (2) (A) and (B) in the case of an offense which arose as a consequence of the child being unaccompanied.".

(c) ELIGIBILITY FOR ASSISTANCE.—A child who has been granted relief under section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)), as amended by subsection (a), and who is in the custody of a State shall be eligible for all funds made available under section 412(d) of such Act.

SEC. 1242. TRAINING FOR OFFICIALS AND CERTAIN PRIVATE PARTIES WHO COME INTO CONTACT WITH UNACCOMPANIED ALIEN CHILDREN.

(a) TRAINING OF STATE AND LOCAL OFFICIALS AND CERTAIN PRIVATE PARTIES.—The Secretary of Health and Human Services, acting jointly with the Secretary, shall provide appropriate training to be available to State and county officials, child welfare specialists, teachers, public counsel, and juvenile judges who come into contact with unaccompanied alien children. The training shall provide education on the processes pertaining to unaccompanied alien children with pending immigration status and on the forms of relief potentially available. The Director shall be responsible for establishing a core curriculum that can be incorporated into currently existing education, training, or orientation modules or formats that are currently used by these professionals.

(b) TRAINING OF SERVICE PERSONNEL.—The Secretary, acting jointly with the Secretary of Health and Human Services, shall provide specialized training to all personnel of the Service who come into contact with unaccompanied alien children. In the case of Border Patrol agents and immigration inspectors, such training shall include specific training on identifying children at the United States border or at United States ports of entry who have been victimized by smugglers or traffickers, and children for whom asylum or special immigrant relief may be appropriate, including children described in section 1221(a)(2).

SEC. 1243. EFFECTIVE DATE.

The amendment made by section 1241 shall apply to all eligible children who were in the United States before, on, or after the date of enactment of this Act.

Subtitle E—Children Refugee and Asylum Seekers

SEC. 1251. GUIDELINES FOR CHILDREN'S ASYLUM CLAIMS.

(a) SENSE OF CONGRESS.—Congress commends the Service for its issuance of its "Guidelines for Children's Asylum Claims", dated December 1998, and encourages and supports the Service's implementation of such guidelines in an effort to facilitate the handling of children's asylum claims. Congress calls upon the Executive Office for Immigration Review of the Department of Justice (or successor entity) to adopt the "Guidelines for Children's Asylum Claims" in its handling of children's asylum claims before immigration judges and the Board of Immigration Appeals.

(b) TRAINING.—The Secretary of Homeland Security shall provide periodic comprehensive training under the "Guidelines for Children's Asylum Claims" to asylum officers, immigration judges, members of the Board of Immigration Appeals, and immigration officers who have contact with children in order to familiarize and sensitize such officers to the needs of children asylum seekers. Voluntary agencies shall be allowed to assist in such training.

SEC. 1252. UNACCOMPANIED REFUGEE CHILDREN.

(a) IDENTIFYING UNACCOMPANIED REFUGEE CHILDREN.—Section 207(e) (8 U.S.C. 1157(e)) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) An analysis of the worldwide situation faced by unaccompanied refugee children, by region. Such analysis shall include an assessment of—

"(A) the number of unaccompanied refugee children, by region;

"(B) the capacity of the Department of State to identify such refugees;

"(C) the capacity of the international community to care for and protect such refugees;

"(D) the capacity of the voluntary agency community to resettle such refugees in the United States;

"(E) the degree to which the United States plans to resettle such refugees in the United States in the coming fiscal year; and

"(F) the fate that will befall such unaccompanied refugee children for whom resettlement in the United States is not possible.".

(b) TRAINING ON THE NEEDS OF UNACCOMPANIED REFUGEE CHILDREN.—Section 207(f)(2) (8 U.S.C. 1157(f)(2)) is amended by—

(1) striking "and" after "countries,"; and

(2) inserting before the period at the end the following: ", and instruction on the needs of unaccompanied refugee children".

Subtitle F—Authorization of Appropriations

SEC. 1261. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

TITLE XIII—AGENCY FOR IMMIGRATION HEARINGS AND APPEALS

Subtitle A—Structure and Function

SEC. 1301. ESTABLISHMENT.

(a) IN GENERAL.—There is established within the Department of Justice the Agency for Immigration Hearings and Appeals (in this title referred to as the "Agency").

(b) ABOLITION OF EOIR.—The Executive Office for Immigration Review of the Department of Justice is hereby abolished.

SEC. 1302. DIRECTOR OF THE AGENCY.

(a) APPOINTMENT.—There shall be at the head of the Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) OFFICES.—The Director shall appoint a Deputy Director, General Counsel, Pro Bono Coordinator, and other offices as may be necessary to carry out this title.

(c) RESPONSIBILITIES.—The Director shall—

(1) administer the Agency and be responsible for the promulgation of rules and regulations affecting the Agency;

(2) appoint each Member of the Board of Immigration Appeals, including a Chair;

(3) appoint the Chief Immigration Judge; and

(4) appoint and fix the compensation of attorneys, clerks, administrative assistants, and other personnel as may be necessary.

SEC. 1303. BOARD OF IMMIGRATION APPEALS.

(a) IN GENERAL.—The Board of Immigration Appeals (in this title referred to as the "Board") shall perform the appellate functions of the Agency. The Board shall consist of a Chair and not less than 14 other immigration appeals judges.

(b) APPOINTMENT.—Members of the Board shall be appointed by the Director, in consultation with the Chair of the Board of Immigration Appeals.

(c) QUALIFICATIONS.—The Chair and each other Member of the Board shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

(d) CHAIR.—The Chair shall direct, supervise, and establish the procedures and policies of the Board.

(e) Jurisdiction.—

(1) In general.—The Board shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the Board of Immigration Appeals (as in effect under the Executive Office of Immigration Review).

(2) De novo review.—The Board shall have de novo review of any decision by an immigration judge, including any final order of removal.

(f) Decisions of the Board.—The decisions of the Board shall constitute final agency action, subject to review only as provided by the Immigration and Nationality Act and other applicable law.

(g) Independence of Board Members.—The Members of the Board shall exercise their independent judgment and discretion in the cases coming before the Board.

SEC. 1304. CHIEF IMMIGRATION JUDGE.

(a) Establishment of Office.—There shall be within the Agency the position of Chief Immigration Judge, who shall administer the immigration courts.

(b) Duties of the Chief Immigration Judge.—The Chief Immigration Judge shall be responsible for the general supervision, direction, and procurement of resource and facilities and for the general management of immigration court dockets.

(c) Appointment of Immigration Judges.—Immigration judges shall be appointed by the Director, in consultation with the Chief Immigration Judge.

(d) Qualifications.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 7 years of professional legal expertise in immigration and nationality law.

(e) Jurisdiction and Authority of Immigration Courts.—The immigration courts shall have such jurisdiction as was, prior to the date of enactment of this Act, provided by statute or regulation to the immigration courts within the Executive Office for Immigration Review of the Department of Justice.

(f) Independence of Immigration Judges.—The immigration judges shall exercise their independent judgment and discretion in the cases coming before the Immigration Court.

SEC. 1305. CHIEF ADMINISTRATIVE HEARING OFFICER.

(a) Establishment of Position.—There shall be within the Agency the position of Chief Administrative Hearing Officer.

(b) Duties of the Chief Administrative Hearing Officer.—The Chief Administrative Hearing Officer shall hear cases brought under sections 274A, 274B, and 274C of the Immigration and Nationality Act.

SEC. 1306. REMOVAL OF JUDGES.

Immigration judges and Members of the Board may be removed from office only for good cause, including neglect of duty or malfeasance, by the Director, in consultation with the Chair of the Board, in the case of the removal of a Member of the Board, or in consultation with the Chief Immigration Judge, in the case of the removal of an immigration judge.

SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Agency such sums as may be necessary to carry out this title.

Subtitle B—Transfer of Functions and Savings Provisions

SEC. 1311. TRANSITION PROVISIONS.

(a) Transfer of Functions.—All functions under the immigration laws of the United States (as defined in section 111(e) of the Immigration and Nationality Act, as added by section 1101(a)(2) of this Act) vested by statute in, or exercised by, the Executive Office of Immigration Review of the Department of Justice (or any officer, employee, or component thereof), immediately prior to the effective date of this title, are transferred to the Agency.

(b) Transfer and Allocations of Appropriations and Personnel.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Agency. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) Legal Documents.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, recognition of labor organizations, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the Attorney General or the Executive Office of Immigration Review of the Department of Justice, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred under this section; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Agency, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(d) Proceedings.—

(1) Pending.—The transfer of functions under subsection (a) shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this title before an office whose functions are transferred pursuant to this section, but such proceedings and applications shall be continued.

(2) Orders.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) Discontinuance or modification.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(e) Suits.—This section shall not affect suits commenced before the effective date of this title, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(f) Nonabatement of Actions.—No suit, action, or other proceeding commenced by or against the Department of Justice or the Executive Office of Immigration Review, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred under this section, shall abate by reason of the enactment of this Act.

(g) Continuance of Suit With Substitution of Parties.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(h) Administrative Procedure and Judicial Review.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

Subtitle C—Effective Date

SEC. 1321. EFFECTIVE DATE.

This title shall take effect one year after the effective date of division A of this Act.

DIVISION C—FEDERAL WORKFORCE IMPROVEMENT

TITLE XXI—CHIEF HUMAN CAPITAL OFFICERS

SEC. 2101. SHORT TITLE.

This title may be cited as the "Chief Human Capital Officers Act of 2002".

SEC. 2102. AGENCY CHIEF HUMAN CAPITAL OFFICERS.

(a) In General.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

"CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

"Sec.
"1401. Establishment of agency Chief Human Capital Officers.
"1402. Authority and functions of agency Chief Human Capital Officers.

"§ 1401. Establishment of agency Chief Human Capital Officers

"The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

"(1) advise and assist the head of the agency and other agency officials in carrying out the agency's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

"(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and

"(3) carry out such functions as the primary duty of the Chief Human Capital Officer.

"§ 1402. Authority and functions of agency Chief Human Capital Officers

"(a) The functions of each Chief Human Capital Officer shall include—

"(1) setting the workforce development strategy of the agency;

"(2) assessing workforce characteristics and future needs based on the agency's mission and strategic plan;

"(3) aligning the agency's human resources policies and programs with organization mission, strategic goals, and performance outcomes;

"(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

"(5) identifying best practices and benchmarking studies; and

"(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

"(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—

"(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

"(A) are the property of the agency or are available to the agency; and

"(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

"(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.".

(b) Technical and Conforming Amendment.—The table of chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"14. Chief Human Capital Officers ..... 1401".

SEC. 2103. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) Establishment.—There is established a Chief Human Capital Officers Council, consisting of—

(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) Functions.—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

(c) Employee Labor Organizations at Meetings.—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

(d) Annual Report.—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

SEC. 2104. STRATEGIC HUMAN CAPITAL MANAGEMENT.

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

"(c)(1) The Office of Personnel Management shall design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies.

"(2) The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for—

"(A)(i) aligning human capital strategies of agencies with the missions, goals, and organizational objectives of those agencies; and

"(ii) integrating those strategies into the budget and strategic plans of those agencies;

"(B) closing skill gaps in mission critical occupations;

"(C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;

"(D) sustaining a culture that cultivates and develops a high performing workforce;

"(E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and

"(F) holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.".

SEC. 2105. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this division.

TITLE XXII—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 2201. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAM PERFORMANCE REPORTS.

(a) Performance Plans.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

"(3) provide a description of how the performance goals and objectives are to be achieved, including the operational processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

"(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).".

(b) Program Performance Reports.—Section 1116(d) of title 31, United States Code, is amended—

(1) in paragraph (4), by striking "and" after the semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

"(5) include a review of the performance goals and evaluation of the performance plan relative to the agency's strategic human capital management; and".

SEC. 2202. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) In General.—Chapter 33 of title 5, United States Code, is amended—

(1) in section 3304(a)—

(A) in paragraph (1), by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(3) authority for agencies to appoint, without regard to the provisions of sections 3309 through 3318, candidates directly to positions for which—

"(A) public notice has been given; and

"(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria."; and

(2) by inserting after section 3318 the following:

"§ 3319. Alternative ranking and selection procedures

"(a)(1) the Office, in exercising its authority under section 3304; or

"(2) an agency to which the Office has delegated examining authority under section 1104(a)(2);

may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

"(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS–9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

"(c)(1) An appointing official may select any applicant in the highest quality category or if fewer than 3 candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

"(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

"(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on—

"(1) the number of employees hired under that system;

"(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islander; and

"(3) the way in which managers were trained in the administration of that system.

"(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisions of this section.".

(b) Technical and Conforming Amendment.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3319 and inserting the following:

"3319. Alternative ranking and selection procedures.".

SEC. 2203. PERMANENT EXTENSION, REVISION, AND EXPANSION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) Voluntary Separation Incentive Payments.—

(1) In general.—

(A) Amendment to title 5, United States Code.—Chapter 35 of title 5, United States Code, is amended by inserting after subchapter I the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"§ 3521. Definitions

"In this subchapter, the term—

"(1) 'agency' means an Executive agency as defined under section 105; and

"(2) 'employee'—

"(A) means an employee as defined under section 2105 employed by an agency and an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) who—

"(i) is serving under an appointment without time limitation; and

"(ii) has been currently employed for a continuous period of at least 3 years; and

"(B) shall not include—

"(i) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

"(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

"(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

"(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this subchapter or any other authority;

"(v) an employee covered by statutory reemployment rights who is on transfer employment with another organization; or

"(vi) any employee who—

"(I) during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379;

"(II) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or relocation bonus was or is to be paid under section 5753; or

"(III) during the 12-month period preceding the date of separation of that employee, performed service for which a retention bonus was or is to be paid under section 5754.

"§ 3522. Agency plans; approval

"(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

"(b) The plan of an agency under subsection (a) shall include—

"(1) the specific positions and functions to be reduced or eliminated;

"(2) a description of which categories of employees will be offered incentives;

"(3) the time period during which incentives may be paid;

"(4) the number and amounts of voluntary separation incentive payments to be offered; and

"(5) a description of how the agency will operate without the eliminated positions and functions.

"(c) The Director of the Office of Personnel Management shall review each agency's plan and may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Director of the Office of Personnel Management.

"§ 3523. Authority to provide voluntary separation incentive payments

"(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

"(b) A voluntary incentive payment—

"(1) shall be offered to agency employees on the basis of—

"(A) 1 or more organizational units;

"(B) 1 or more occupational series or levels;

"(C) 1 or more geographical locations;

"(D) skills, knowledge, or other factors related to a position;

"(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

"(F) any appropriate combination of such factors;

"(2) shall be paid in a lump sum after the employee's separation;

"(3) shall be equal to the lesser of—

"(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

"(B) an amount determined by the agency head, not to exceed $25,000;

"(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

"(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

"(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on any other separation; and

"(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

"§ 3524. Effect of subsequent employment with the Government

"(a) The term 'employment'—

"(1) in subsection (b) includes employment under a personal services contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

"(2) in subsection (c) does not include employment under such a contract.

"(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States within 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

"(c)(1) If the employment under this section is with an agency, other than the General Accounting Office, the United States Postal Service, or the Postal Rate Commission, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if—

"(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

"(B) in the case of an emergency involving a direct threat to life or property, the individual—

"(i) has skills directly related to resolving the emergency; and

"(ii) will serve on a temporary basis only so long as that individual's services are made necessary by the emergency.

"(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"§ 3525. Regulations

"The Office of Personnel Management may prescribe regulations to carry out this subchapter.".

(B) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 35 of title 5, United States Code, is amended—

(i) by striking the chapter heading and inserting the following:

"CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT"; and

(ii) in the table of sections by inserting after the item relating to section 3504 the following:

"SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

"3521. Definitions.
"3522. Agency plans; approval.
"3523. Authority to provide voluntary separation incentive payments.
"3524. Effect of subsequent employment with the Government.
"3525. Regulations.".

(2) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

(3) CONTINUATION OF OTHER AUTHORITY.—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.

(4) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this Act.

(b) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

"(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

"(B) is serving under an appointment that is not time limited;

"(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(D) is separated from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(ii) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(iii) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(i) 1 or more organizational units;

"(ii) 1 or more occupational series or levels;

"(iii) 1 or more geographical locations;

"(iv) specific periods;

"(v) skills, knowledge, or other factors related to a position; or

"(vi) any appropriate combination of such factors;".

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8414(b)(1) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

"(ii) is serving under an appointment that is not time limited;

"(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

"(iv) is separated from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

"(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

"(II) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

"(III) identified as being in positions which are becoming surplus or excess to the agency's future ability to carry out its mission effectively; and

"(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

"(I) 1 or more organizational units;

"(II) 1 or more occupational series or levels;

"(III) 1 or more geographical locations;

"(IV) specific periods;

"(V) skills, knowledge, or other factors related to a position; or

"(VI) any appropriate combination of such factors;".

(3) GENERAL ACCOUNTING OFFICE AUTHORITY.—The amendments made by this subsection shall not be construed to affect the authority under section 1 of Public Law 106–303 (5 U.S.C. 8336 note; 114 Stat. 1063).

(4) TECHNICAL AND CONFORMING AMENDMENT.—Section 7001 of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 91) is repealed.

(5) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this subsection.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 2204. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL.—Section 7905(a)(1) of title 5, United States Code, is amended by striking "and a member of a uniformed service" and inserting ", a member of a uniformed service, and a student who provides voluntary services under section 3111".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3111(c)(1) of title 5, United States Code, is amended by striking "chapter 81 of this title" and inserting "section 7905 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81".

TITLE XXIII—REFORMS RELATING TO THE SENIOR EXECUTIVE SERVICE

SEC. 2301. REPEAL OF RECERTIFICATION REQUIREMENTS OF SENIOR EXECUTIVES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in chapter 33—

(A) in section 3393(g) by striking "3393a,";

(B) by repealing section 3393a; and

(C) in the table of sections by striking the item relating to section 3393a;

(2) in chapter 35—

(A) in section 3592(a)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end;

(iii) by striking paragraph (3); and

(iv) by striking the last sentence;

(B) in section 3593(a), by striking paragraph (2) and inserting the following:

"(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43."; and

(C) in section 3594(b)—

(i) in paragraph (1), by inserting "or" at the end;

(ii) in paragraph (2), by striking "or" at the end; and

(iii) by striking paragraph (3);

(3) in section 7701(c)(1)(A), by striking "or removal from the Senior Executive Service for failure to be recertified under section 3393a";

(4) in chapter 83—

(A) in section 8336(h)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8339(h), in the first sentence, by striking ", except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive"; and

(5) in chapter 84—

(A) in section 8414(a)(1), by striking "for failure to be recertified as a senior executive under section 3393a or"; and

(B) in section 8421(a)(2), by striking ", except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable minimum retirement age".

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a)(2)(A), an appeal under the final sentence of section 3592(a) of title 5, United States Code, that is pending on the day before the effective date of this section—

(1) shall not abate by reason of the enactment of the amendments made by subsection (a)(2)(A); and

(2) shall continue as if such amendments had not been enacted.

(c) APPLICATION.—The amendment made by subsection (a)(2)(B) shall not apply with respect to an individual who, before the effective date of this section, leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.

SEC. 2302. ADJUSTMENT OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

Section 5307(a) of title 5, United States Code, is amended by adding at the end the following:

"(3) Notwithstanding paragraph (1), the total payment referred to under such paragraph with respect to an employee paid under section 5372, 5376, or 5383 of title 5 or section 332(f), 603, or 604 of title 28 shall not exceed the total annual compensation payable to the Vice President under section 104 of title 3. Regulations prescribed under subsection (c) may extend the application of this paragraph to other equivalent categories of employees.".

TITLE XXIV—ACADEMIC TRAINING

SEC. 2401. ACADEMIC TRAINING.

(a) ACADEMIC DEGREE TRAINING.—Section 4107 of title 5, United States Code, is amended to read as follows:

"§4107. Academic degree training

"(a) Subject to subsection (b), an agency may select and assign an employee to academic degree training and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training—

"(1) contributes significantly to—

"(A) meeting an identified agency training need;

"(B) resolving an identified agency staffing problem; or

"(C) accomplishing goals in the strategic plan of the agency;

"(2) is part of a planned, systematic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

"(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

"(b) In exercising authority under subsection (a), an agency shall—

"(1) consistent with the merit system principles set forth in paragraphs (2) and (7) of section 2301(b), take into consideration the need to—

"(A) maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are appropriately represented in Government service; and

"(B) provide employees effective education and training to improve organizational and individual performance;

"(2) assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or to qualify for appointment to a particular position for which the academic degree is a basic requirement;

"(3) assure that no authority under this subsection is exercised on behalf of any employee occupying or seeking to qualify for—

"(A) a noncareer appointment in the Senior Executive Service; or

"(B) appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policymaking, or policy-advocating character; and

"(4) to the greatest extent practicable, facilitate the use of online degree training.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by striking the item relating to section 4107 and inserting the following:

"4107. Academic degree training.".

SEC. 2402. MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM.

(a) FINDINGS AND POLICIES.—

(1) FINDINGS.—Congress finds that—

(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

(2) POLICY.—It shall be the policy of the United States Government to—

(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving financial support for education and training from the United States Government.

(b) FULFILLMENT OF SERVICE REQUIREMENT IF NATIONAL SECURITY POSITIONS ARE UNAVAILABLE.— Section 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or"; and

(2) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be established in accordance with clause (i); and".

SEC. 2403. COMPENSATORY TIME OFF FOR TRAVEL.

Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at end the following:

"§ 5550b. Compensatory time off for travel

"(a) An employee shall receive 1 hour of compensatory time off for each hour spent by the employee in travel status away from the official duty station of the employee, to the extent that the time spent in travel status is not otherwise compensable.

"(b) Not later than 30 days after the date of enactment of this section, the Office of Personnel Management shall prescribe regulations to implement this section.".

SA 4950. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 4901 proposed by Mr. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 5, in the item relating to section 801, insert ", Tribal," after "State".

On page 9, line 21, insert "tribal," after "State,".

On page 10, between lines 9 and 10, insert the following:

(9) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as being eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

On page 10, line 10, strike "(9)" and insert "(10)".

On page 10, strike lines 22 through 24 and insert the following:

(B) an Alaska Native village or organization; and

On page 11, line 3, strike "(11)" and insert "(12)".

On page 11, line 7, strike "(12)" and insert "(13)".

On page 11, line 9, strike "(13)" and insert "(14)".

On page 11, line 11, strike "(14)" and insert "(15)".

On page 11, line 17, strike "(15)" and insert "(16)".

On page 12, strike line 9 and insert the following;

(17) TRIBAL COLLEGE OR UNIVERSITY.—The term "tribal college or university" has the meaning given the term "tribally controlled college or university" in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)).

(18) TRIBAL GOVERNMENT.—The term "tribal government" means the governing body of an Indian tribe that is recognized by the Secretary of the Interior.

(19)(A) UNITED STATES.—The term "United States, when used

On page 15, line 3, insert "tribal," after "States,".

On page 16, line 9, insert ", Tribal," after "State".

On page 16, line 11, insert ", tribal," after "State".

On page 17, line 14, insert ", tribal," after "State".

On page 17, line 21, insert ", tribal," after "State".

On page 17, line 1, insert ", tribal," after "State".

On page 23, line 10, insert ", tribal," after "State".

On page 24, line 11, insert ", tribal," after "State".

On page 25, line 9, insert ", tribal," after "State".

On page 25, line 20, insert ", tribal," after "State".

On page 26, line 4, insert ", tribal," after "State".

On page 26, line 10, insert ", tribal," after "State".

On page 27, line 1, insert ", tribal," after "State".

On page 27, line 21, insert "tribal," after "State,".

On page 28, line 24, insert ", tribal," after "State".

On page 29, line 7, insert "tribal," after "State,".

On page 36, line 3, insert ", tribal," after "State".

On page 37, line 5, insert "tribal," after "State,".

On page 38, line 22, insert "tribal," after "State,".

On page 42, line 9, insert "tribal," after "State,".

On page 42, line 11, strike "or State" and insert ", State, or tribal".

On page 43, line 9, insert ", tribal," after "State".

On page 43, line 12, insert ", tribal," after "State".

On page 43, line 15, insert ", tribal," after "State".

On page 45, line 1, insert "tribal," after "State,".

On page 46, line 17, insert ", tribal," after "State".

On page 50, line 13, insert ", tribal," after "State".

On page 54, line 22, insert "tribal," after "State,".

On page 60, line 1, insert "tribal," after "State,".

On page 60, line 11, insert "tribal," after "State,".

On page 60, line 17, insert "tribal," after "State,".

On page 61, line 12, insert "tribal," after "State,".

On page 62, line 7, insert ", tribal," after "State".

On page 62, line 19, insert ", tribal," after "State".

On page 63, line 6, insert ", tribal," after "State".

On page 63, line 12, insert ", tribal," after "State".

On page 65, line 2, insert "tribal," after "State,".

On page 71, line 10, strike "state," and insert "State, tribal,".

On page 97, line 3, insert ", tribal," after "State".

On page 105, line 11, insert "tribal colleges and universities," after "education,".

On page 106, line 16, insert "tribal," after "State,".

On page 107, line 3, insert "tribal," after "State,".

On page 107, line 17, insert ", tribal," after "State".

On page 147, line 1, insert ", tribal," after "State".

On page 154, line 7, insert ", tribal," after "State".

On page 201, line 22, insert "tribal," after "State,".

On page 204, line 8, insert "tribal," after "State,".

On page 214, line 7, insert "tribal," after "State,".

On page 221, line 21, insert ", TRIBAL," after "STATE".

On page 221, line 24, insert ", Tribal," after "State".

On page 222, line 1, insert ", tribal," after "State".

On page 222, line 6, insert ", tribal," after "State".

On page 222, line 8, insert ", tribal," after "State".

On page 222, line 10, insert ", tribal," after "State".

On page 222, line 14, insert ", tribal," after "State".

On page 280, line 4, insert ", tribal," after "State".

On page 285, line 9, insert ", TRIBAL," after "STATE".

On page 285, line 11, insert ", tribal," after "State".

On page 285, line 12, insert ", tribal," after "State".

On page 289, line 10, insert ", Tribal," after "State".

On page 289, line 13, insert "tribal," after "State,".

On page 289, line 16, insert "tribal," after "State,".

On page 289, line 19, insert "tribal," after "State,".

On page 289, line 22, insert "tribal," after "State,".

On page 290, line 6, insert "tribal," after "State,".

On page 290, line 13, insert "tribal," after "State,".

On page 291, line 6, insert ", tribal," after "State".

On page 301, line 21, insert ", tribal," after "State".

On page 304, line 4, insert ", tribal," after "State".

On page 304, line 12, insert ", tribal," after "State".

On page 304, line 14, insert ", tribal," after "State".

On page 304, line 21, insert ", tribal," after "State".

On page 304, line 23, insert "tribal," after "State,".

On page 305, line 3, insert ", tribal," after "State".

On page 305, line 5, insert ", tribal," after "State".

On page 305, line 9, insert ", tribal," after "State".

On page 305, line 12, insert "tribal," after "State,".

On page 305, line 23, insert "tribal," after "State,".

On page 306, line 5, insert "tribal," after "State,".

On page 306, line 19, insert ", tribal," after "State".

On page 307, line 19, insert ", tribal," after "State".

On page 308, line 15, insert ", tribal," after "State".

On page 309, line 23, insert ", tribal," after "State".

On page 310, line 20, insert ", tribal," after "State".

On page 311, line 2, insert ", tribal," after "State".

On page 311, line 6, insert ", tribal," after "State".

On page 311, line 9, insert ", tribal," after "State".

On page 311, line 21, insert ", tribal," after "State".

On page 311, line 23, insert ", tribal," after "State".

On page 312, line 4, insert "tribal," after "State,".

On page 312, line 3, insert ", tribal," after "State".

On page 312, line 17, insert ", tribal," after "State".

On page 312, line 20, insert "tribally or" after "other".

On page 312, line 22, insert , tribal," after "State".

On page 313, line 1, insert "tribal," after "State,".

On page 313, line 18, insert ", tribal," after "State".

On page 316, line 15, strike "federal, state," and insert "Federal, State, tribal,".

On page 316, line 24, strike "state," and insert "State, tribal,".

On page 318, line 4, insert "tribal," after "State,".

On page 318, line 18, insert "tribal," after "State,".

On page 319, line 17, insert "tribal," after "State,".

On page 319, line 23, insert "tribal," after "State,".

On page 320, line 19, insert "or Indian tribe" after "subdivision)".

On page 321, line 4, insert "or Indian tribe" after "subdivision)".

On page 376, line 22, insert "tribal," after "State,".

On page 476, line 2, insert "tribal," after "State,".

On page 476, line 8, insert ", tribal," after "State".

On page 476, line 10, insert ", tribal," after "State".

On page 476, line 12, insert ", tribal," after "State".

SA 4951. Mr. DODD proposed an amendment to amendment SA 4902 proposed by Mr. LIEBERMAN (for himself, Mr. MCCAIN OF NEBRASKA) TO THE AMENDMENT SA 4901 PROPOSED BY MR. THOMPSON (for Mr. GRAMM (for himself, Mr. MILLER, Mr. THOMPSON, Mr. BARKLEY, and Mr. VOINOVICH)) to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; as follows:

At the end insert the following:

SEC. 510. GRANTS FOR FIREFIGHTING PERSONNEL.

Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

"(c) PERSONNEL GRANTS.—

"(1) DURATION.—In awarding grants for hiring firefighting personnel in accordance with subsection (b)(3)(A), the Director shall award grants extending over a 3-year period.

"(2) MAXIMUM AMOUNT.—The total amount of grants awarded under this subsection shall not exceed $100,000 per firefighter, indexed for inflation, over the 3-year grant period.

"(3) FEDERAL SHARE.—

"(A) IN GENERAL.—A grant under this subsection shall not exceed 75 percent of the total salary and benefits cost for additional firefighters hired.

"(B) WAIVER.—The Director may waive the 25 percent non-Federal match under subparagraph (A) for a jurisdiction of 50,000 or fewer residents or in cases of extreme hardship.

"(4) APPLICATION.—An application for a grant under this subsection, shall—

"(A) meet the requirements under subsection (b)(5);

"(B) include an explanation for the applicant's need for Federal assistance; and

"(C) contain specific plans for obtaining necessary support to retain the position following the conclusion of Federal support.

"(5) MAINTENANCE OF EFFORT.—Grants awarded under this subsection shall only be used to pay the salaries and benefits of additional firefighting personnel, and shall not be used to supplant funding allocated for personnel from State and local sources."; and

(3) in subsection (f) (as redesignated by paragraph (1)), by adding at the end the following:

"(3) SUPPLEMENTAL APPROPRIATION.—In addition to the authorization provided in paragraph (1), there are authorized to be appropriated $1,000,000,000 for each of fiscal years 2003 and 2004 for the purpose of providing personnel grants described in subsection (c). Such sums may be provided solely for the purpose of hiring employees engaged in fire protection (as defined in section 3 of the Fair Labor Standards Act (29 U.S.C. 203)), and shall not be subject to the provisions of paragraphs (10) or (11) of subsection (b).".

SA 4952. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

On page 5, in the item relating to section 801, insert ", Tribal," after "State".

On page 9, line 21, insert "tribal," after "State,".

On page 10, between lines 9 and 10, insert the following:

(9) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as being eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

On page 10, line 10, strike "(9)" and insert "(10)".

On page 10, strike lines 22 through 24 and insert the following:

(B) an Alaska Native village or organization; and

On page 11, line 3, strike "(11)" and insert "(12)".

On page 11, line 7, strike "(12)" and insert "(13)".

On page 11, line 9, strike "(13)" and insert "(14)".

On page 11, line 11, strike "(14)" and insert "(15)".

On page 11, line 17, strike "(15)" and insert "(16)".

On page 12, strike line 9 and insert the following:

(17) TRIBAL COLLEGE OR UNIVERSITY.—The term "tribal college or university" has the meaning given the term "tribally controlled college or university" in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)).

(18) TRIBAL GOVERNMENT.—The term "tribal government" means the governing body of an Indian tribe that is recognized by the Secretary of the Interior.

(19)(A) UNITED STATES.—The term "United States, when used

On page 15, line 3, insert "tribal," after "States,".

On page 16, line 9, insert ", Tribal," after "State".

On page 16, line 11, insert ", tribal," after "State".

On page 16, line 14, insert ", tribal," after "State".

On page 16, line 21, insert ", tribal," after "State".

On page 17, line 1, insert ", tribal," after "State".

On page 23, line 10, insert ", tribal," after "State".

On page 24, line 11, insert “, tribal,” after “State”.

On page 25, line 9, insert “, tribal,” after “State”.

On page 25, line 20, insert “, tribal,” after “State”.

On page 26, line 4, insert “, tribal,” after “State”.

On page 26, line 10, insert “, tribal,” after “State”.

On page 27, line 1, insert “, tribal,” after “State”.

On page 27, line 21, insert “tribal,” after “State,”.

On page 28, line 24, insert “, tribal,” after “State”.

On page 29, line 7, insert “tribal,” after “State,”.

On page 36, line 3, insert “, tribal,” after “State”.

On page 37, line 5, insert “tribal,” after “State,”.

On page 38, line 22, insert “tribal,” after “State,”.

On page 42, line 9, insert “tribal,” after “State,”.

On page 42, line 11, strike “or State” and insert “, State, or tribal”.

On page 43, line 9, insert “, tribal,” after “State”.

On page 43, line 12, insert “, tribal,” after “State”.

On page 43, line 15, insert “, tribal,” after “State”.

On page 45, line 1, insert “tribal,” after “State,”.

On page 46, line 17, insert “, tribal,” after “State”.

On page 50, line 13, insert “, tribal,” after “State”.

On page 54, line 22, insert “tribal,” after “State,”.

On page 60, line 1, insert “tribal,” after “State,”.

On page 60, line 11, insert “tribal,” after “State,”.

On page 60, line 17, insert “tribal,” after “State,”.

On page 61, line 12, insert “tribal,” after “State,”.

On page 62, line 7, insert “, tribal,” after “State”.

On page 62, line 19, insert “, tribal,” after “State”.

On page 63, line 6, insert “, tribal,” after “State”.

On page 63, line 12, insert “, tribal,” after “State”.

On page 65, line 2, insert “tribal,” after “State,”.

On page 71, line 10, strike “state,” and insert “State, tribal,”.

On page 97, line 3, insert “, tribal,” after “State”.

On page 105, line 11, insert “tribal colleges and universities,” after “education,”.

On page 106, line 16, insert “tribal,” after “State,”.

On page 107, line 3, insert “tribal,” after “State,”.

On page 107, line 17, insert “, tribal,” after “State”.

On page 147, line 1, insert “, tribal,” after “State”.

On page 154, line 7, insert “, tribal,” after “State”.

On page 201, line 22, insert “tribal,” after “State,”.

On page 204, line 8, insert “tribal,” after “State,”.

On page 204, line 12, insert “and Indian Health Service” after “Health Service”.

On page 214, line 7, insert “tribal,” after “State,”.

On page 221, line 21, insert “**, tribal,**” after “**state**”.

On page 221, line 24, insert “, Tribal,” after “State”.

On page 222, line 1, insert “, tribal,” after “State”.

On page 222, line 6, insert “, tribal,” after “State”.

On page 222, line 8, insert “, tribal,” after “State”.

On page 222, line 10, insert “, tribal,” after “State”.

On page 222, line 14, insert “, tribal,” after “State”.

On page 280, line 4, insert “, tribal,” after “State”.

On page 285, line 9, insert “, TRIBAL,” after “STATE”.

On page 285, line 11, insert “, tribal,” after “State”.

On page 285, line 12, insert “, tribal,” after “State”.

On page 289, line 10, insert “, Tribal,” after “State”.

On page 289, line 13, insert “tribal,” after “State,”.

On page 289, line 16, insert “tribal,” after “State,”.

On page 289, line 19, insert “tribal,” after “State,”.

On page 289, line 22, insert “tribal,” after “State,”.

On page 290, line 6, insert “tribal,” after “State,”.

On page 290, line 13, insert “tribal,” after “State,”.

On page 291, line 6, insert “, tribal,” after “State”.

On page 301, line 21, insert “, tribal,” after “State”.

On page 304, line 4, insert “, tribal,” after “State”.

On page 304, line 12, insert “, tribal,” after “State”.

On page 304, line 14, insert “, tribal,” after “State”.

On page 304, line 21, insert “, tribal,” after “State”.

On page 304, line 23, insert “tribal,” after “State,”.

On page 305, line 3, insert “, tribal,” after “State”.

On page 305, line 5, insert “, tribal,” after “State”.

On page 305, line 9, insert “, tribal,” after “State”.

On page 305, line 12, insert “tribal,” after “State,”.

On page 305, line 23, insert “tribal,” after “State,”.

On page 306, line 5, insert “tribal,” after “State,”.

On page 306, line 19, insert “, tribal,” after “State”.

On page 307, line 19, insert “, tribal,” after “State”.

On page 308, line 15, insert “, tribal,” after “State”.

On page 309, line 23, insert “, tribal,” after “State”.

On page 310, line 20, insert “, tribal,” after “State”.

On page 311, line 2, insert “, tribal,” after “State”.

On page 311, line 6, insert “, tribal,” after “State”.

On page 311, line 9, insert “, tribal,” after “State”.

On page 311, line 21, insert “, tribal,” after “State”.

On page 311, line 23, insert “, tribal,” after “State”.

On page 312, line 4, insert “tribal,” after “State,”.

On page 312, line 17, insert “, tribal,” after “State”.

On page 312, line 20, insert “tribally or” after “other”.

On page 312, line 22, insert “, tribal,” after “State”.

On page 313, line 1, insert “tribal,” after “State,”.

On page 313, line 18, insert “, tribal,” after “State”.

On page 316, line 15, strike “federal, state,” and insert “Federal, State, tribal,”.

On page 316, line 24, strike “state,” and insert “State, tribal,”.

On page 318, line 4, insert “tribal,” after “State,”.

On page 318, line 18, insert “tribal,” after “State,”.

On page 319, line 17, insert “tribal,” after “State,”.

On page 319, line 23, insert “tribal,” after “State,”.

On page 320, line 19, insert “or Indian tribe” after “subdivision)”.

On page 321, line 4, insert “or Indian tribe” after “subdivision)”.

On page 376, line 22, insert “tribal,” after “State,”.

On page 476, line 2, insert “tribal,” after “State,”.

On page 476, line 8, insert “, tribal,” after “State”.

On page 476, line 10, insert “, tribal,” after “State”.

On page 476, line 12, insert “, tribal,” after “State”.

SA 4953. Mr. LIBERMAN submitted an amendment intended to be proposed by him to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

TITLE XVIII—NONEFFECTIVE PROVISIONS

SEC. 1801. NONEFFECTIVE PROVISIONS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, (including any effective date provision of this Act) the following provisions of this Act shall not take effect:

(1) Section 308(b)(2)(B) (i) through (xiv),

(2) Section 311(i).

(3) Subtitle G of title VIII.

(4) Section 871.

(5) Section 890.

(6) Section 1707.

(7) Sections 1714, 1715, 1716, and 1717.

(b) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—Notwithstanding paragraph (2) of subsection (b) of section 232, any advisory group described under that paragraph shall not be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(c) WAIVER.—Notwithstanding section 835(d), the Secretary shall waive subsection (a) of that section, only if the Secretary determines that the waiver is required in the interest of homeland security.

(d) The amendment made by subsection (a)(1) of this section shall be effective one day after enactment.

SA 4954. Mr. REID (for Ms. CANTWELL (for herself, Mr. GRASSLEY, Mr. ENZI, and Mr. KOHL)) proposed an amendment to the bill S. 1742, to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Identity Theft Victims Assistance Act of 2002".

SEC. 2. FINDINGS.

Congress finds that—

(1) the crime of identity theft is the fastest growing crime in the United States;

(2) victims of identity theft often have extraordinary difficulty restoring their credit and regaining control of their identity because of the viral nature of identity theft;

(3) identity theft may be ruinous to the good name and credit of consumers whose identities are misappropriated, and victims of identity theft may be denied otherwise well-deserved credit, may have to spend enormous time, effort, and sums of money to remedy their circumstances, and may suffer extreme emotional distress including deep depression founded in profound frustration as they address the array of problems that may arise as a result of identity theft;

(4) victims are often required to contact numerous Federal, State, and local law enforcement agencies, consumer credit reporting agencies, and creditors over many years, as each event of fraud arises;

(5) the Government, business entities, and credit reporting agencies have a shared responsibility to assist identity theft victims, to mitigate the harm that results from fraud perpetrated in the victim's name;

(6) victims of identity theft need a nationally standardized means of—

(A) reporting identity theft to consumer credit reporting agencies and business entities; and

(B) evidencing their true identity and claim of identity theft to consumer credit reporting agencies and business entities;

(7) one of the greatest law enforcement challenges posed by identity theft is that stolen identities are often used to perpetrate crimes in many different localities in different States, and although identity theft is a Federal crime, most often, State and local law enforcement agencies are responsible for investigating and prosecuting the crimes; and

(8) the Federal Government should assist State and local law enforcement agencies to effectively combat identity theft and the associated fraud.

SEC. 3. TREATMENT OF IDENTITY THEFT MITIGATION.

(a) IN GENERAL.—Chapter 47 title 18, United States Code, is amended by adding after section 1028 the following:

"§ 1028A. Treatment of identity theft mitigation

"(a) DEFINITIONS.—As used in this section—

"(1) the term 'business entity' means any corporation, trust, partnership, sole proprietorship, or unincorporated association, including any financial service provider, financial information repository, creditor (as that term is defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), telecommunications, utilities, or other service provider;

"(2) the term 'consumer' means an individual;

"(3) the term 'financial information' means information identifiable as relating to an individual consumer that concerns the amount and conditions of the assets, liabilities, or credit of the consumer, including—

"(A) account numbers and balances;

"(B) nonpublic personal information, as that term is defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

"(C) codes, passwords, social security numbers, tax identification numbers, State identifier numbers issued by a State department of licensing, and other information used for the purpose of account access or transaction initiation;

"(4) the term 'financial information repository' means a person engaged in the business of providing services to consumers who have a credit, deposit, trust, stock, or other financial services account or relationship with that person;

"(5) the term 'identity theft' means an actual or potential violation of section 1028 or any other similar provision of Federal or State law;

"(6) the term 'means of identification' has the same meaning given the term in section 1028; and

"(7) the term 'victim' means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer with the intent to commit, or to aid or abet, identity theft or any other violation of law.

"(b) INFORMATION AVAILABLE TO VICTIMS.—

"(1) IN GENERAL.—A business entity that possesses information relating to an alleged identity theft, or that has entered into a transaction, provided credit, products, goods, or services, accepted payment, or otherwise done business with a person that has made unauthorized use of the means of identification of the victim, shall, not later than 20 days after the receipt of a written request by the victim, meeting the requirements of subsection (c), provide, without charge, a copy of all application and transaction information related to the transaction being alleged as an identity theft to—

"(A) the victim;

"(B) any Federal, State, or local governing law enforcement agency or officer specified by the victim; or

"(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this section.

"(2) RULE OF CONSTRUCTION.—

"(A) IN GENERAL.—No provision of Federal or State law prohibiting the disclosure of financial information by a business entity to third parties shall be used to deny disclosure of information to the victim under this section.

"(B) LIMITATION.—Except as provided in subparagraph (A), nothing in this section requires a business entity to disclose information that the business entity is otherwise prohibited from disclosing under any other provision of Federal or State law.

"(c) VERIFICATION OF IDENTITY AND CLAIM.—Unless a business entity, at its discretion, is otherwise able to verify the identity of a victim making a request under subsection (b)(1), the victim shall provide to the business entity—

"(1) as proof of positive identification—

"(A) the presentation of a government-issued identification card;

"(B) if providing proof by mail, a copy of a government-issued identification card; or

"(C) upon the request of the person seeking business records, the business entity may inform the requesting person of the categories of identifying information that the unauthorized person provided the business entity as personally identifying information, and may require the requesting person to provide identifying information in those categories; and

"(2) as proof of a claim of identity theft, at the election of the business entity—

"(A) a copy of a police report evidencing the claim of the victim of identity theft;

"(B) a copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

"(C) any affidavit of fact that is acceptable to the business entity for that purpose.

"(d) LIMITATION ON LIABILITY.—No business entity may be held liable for a disclosure, made in good faith and reasonable judgment, to provide information under this section with respect to an individual in connection with an identity theft to other business entities, law enforcement authorities, victims, or any person alleging to be a victim, if—

"(1) the business entity complies with subsection (c); and

"(2) such disclosure was made—

"(A) for the purpose of detection, investigation, or prosecution of identity theft; or

"(B) to assist a victim in recovery of fines, restitution, rehabilitation of the credit of the victim, or such other relief as may be appropriate.

"(e) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business entity may decline to provide information under subsection (b) if, in the exercise of good faith and reasonable judgment, the business entity believes that—

"(1) this section does not require disclosure of the information; or

"(2) the request for the information is based on a misrepresentation of fact by the victim relevant to the request for information.

"(f) NO NEW RECORDKEEPING OBLIGATION.—Nothing in this section creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained in the ordinary course of its business or under other applicable law.

"(g) AFFIRMATIVE DEFENSE.—In any civil action brought to enforce this section, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating that—

"(1) the business entity has made a reasonably diligent search of its available business records; and

"(2) the records requested under this section do not exist or are not available.

"(h) NO PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to provide a private right of action or claim for relief.

"(i) ENFORCEMENT.—

"(1) CIVIL ACTIONS.—

"(A) IN GENERAL.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been, or is threatened to be, adversely affected by a violation of this section by any business entity, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

"(i) enjoin that practice;

"(ii) enforce compliance of this section;

"(iii) obtain damages—

"(I) in the sum of actual damages, restitution, and other compensation on behalf of the residents of the State; and

"(II) punitive damages, if the violation is willful or intentional; and

"(iv) obtain such other equitable relief as the court may consider to be appropriate.

"(B) NOTICE.—Before bringing an action under subparagraph (A), the attorney general of the State involved shall provide to the Attorney General of the United States—

"(i) written notice of the action; and

"(ii) a copy of the complaint for the action.

"(2) INTERVENTION.—

"(A) IN GENERAL.—On receiving notice of an action under paragraph (1)(B), the Attorney General of the United States shall have the right to intervene in that action.

"(B) EFFECT OF INTERVENTION.—If the Attorney General of the United States intervenes in an action under this subsection, the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

"(C) SERVICE OF PROCESS.—Upon request of the Attorney General of the United States, the attorney general of a State that has filed an action under this subsection shall, pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure, serve the Government with—

"(i) a copy of the complaint; and

"(ii) written disclosure of substantially all material evidence and information in the possession of the attorney general of the State.

"(3) CONSTRUCTION.—For purposes of bringing any civil action under this subsection, nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State—

"(A) to conduct investigations;

"(B) to administer oaths or affirmations; or

"(C) to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General of the United States for a violation of this section, no State may, during the pendency of that action, institute an action under this subsection against any defendant named in the complaint in that action for violation of that practice.

"(5) VENUE; SERVICE OF PROCESS.—

"(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States—

"(i) where the defendant resides;

"(ii) where the defendant is doing business; or

"(iii) that meets applicable requirements relating to venue under section 1391 of title 28.

"(B) SERVICE OF PROCESS.—In an action brought under this subsection, process may be served in any district in which the defendant—

"(i) resides;

"(ii) is doing business; or

"(iii) may be found.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following new item:

"1028A. Treatment of identity theft mitigation.".

SEC. 4. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT.

(a) CONSUMER REPORTING AGENCY BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following:

"(e) BLOCK OF INFORMATION RESULTING FROM IDENTITY THEFT.—

"(1) BLOCK.—Except as provided in paragraph (3) and not later than 30 days after the date of receipt of proof of the identity of a consumer and an official copy of a police report evidencing the claim of the consumer of identity theft, a consumer reporting agency shall block the reporting of any information identified by the consumer in the file of the consumer resulting from the identity theft, so that the information cannot be reported.

"(2) NOTIFICATION.—A consumer reporting agency shall promptly notify the furnisher of information identified by the consumer under paragraph (1)—

"(A) that the information may be a result of identity theft;

"(B) that a police report has been filed;

"(C) that a block has been requested under this subsection; and

"(D) of the effective date of the block.

"(3) AUTHORITY TO DECLINE OR RESCIND.—

"(A) IN GENERAL.—A consumer reporting agency may decline to block, or may rescind any block, of consumer information under this subsection if—

"(i) in the exercise of good faith and reasonable judgment, the consumer reporting agency finds that—

"(I) the information was blocked due to a misrepresentation of fact by the consumer relevant to the request to block; or

"(II) the consumer knowingly obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions, or the consumer should have known that the consumer obtained possession of goods, services, or moneys as a result of the blocked transaction or transactions; or

"(ii) the consumer agrees that the blocked information or portions of the blocked information were blocked in error.

"(B) NOTIFICATION TO CONSUMER.—If the block of information is declined or rescinded under this paragraph, the affected consumer shall be notified promptly, in the same manner as consumers are notified of the reinsertion of information under subsection (a)(5)(B).

"(C) SIGNIFICANCE OF BLOCK.—For purposes of this paragraph, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or monies as a result of the block.

"(4) EXCEPTIONS.—

"(A) NEGATIVE INFORMATION DATA.—A consumer reporting agency shall not be required to comply with this subsection when such agency is issuing information for authorizations, for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment, based solely on negative information, including—

"(i) dishonored checks;

"(ii) accounts closed for cause;

"(iii) substantial overdrafts;

"(iv) abuse of automated teller machines; or

"(v) other information which indicates a risk of fraud occurring.

"(B) RESELLERS.—

"(i) NO RESELLER FILE.—The provisions of this subsection do not apply to a consumer reporting agency if the consumer reporting agency—

"(I) does not maintain a file on the consumer from which consumer reports are produced;

"(II) is not, at the time of the request of the consumer under paragraph (1), otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and

"(III) informs the consumer, by any means, that the consumer may report the identity theft to the Federal Trade Commission to obtain consumer information regarding identity theft.

"(ii) RESELLER WITH FILE.—The sole obligation of the consumer reporting agency under this subsection, with regard to any request of a consumer under this subsection, shall be to block the consumer report maintained by the consumer reporting agency from any subsequent use if—

"(I) the consumer, in accordance with the provisions of paragraph (1), identifies, to a consumer reporting agency, information in the file of the consumer that resulted from identity theft;

"(II) the consumer reporting agency is acting as a reseller of the identified information by assembling or merging information about that consumer which is contained in the database of not less than 1 other consumer reporting agency; and

"(III) the consumer reporting agency does not store or maintain a database of information obtained for resale from which new consumer reports are produced.

"(iii) NOTICE.—In carrying out its obligation under clause (ii), the consumer reporting agency shall provide a notice to the consumer of the decision to block the file. Such notice shall contain the name, address, and telephone number of each consumer reporting agency from which the consumer information was obtained for resale.".

(b) FALSE CLAIMS.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

"(j) Any person who knowingly falsely claims to be a victim of identity theft for the purpose of obtaining the blocking of information by a consumer reporting agency under section 611(e)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681i(e)(1)) shall be fined under this title, imprisoned not more than 3 years, or both.".

(c) STATUTE OF LIMITATIONS.—Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

"SEC. 618. JURISDICTION OF COURTS; LIMITATION ON ACTIONS.

"(a) IN GENERAL.—Except as provided in subsections (b) and (c), an action to enforce any liability created under this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than 2 years from the date of the defendant's violation of any requirement under this title.

"(b) WILLFUL MISREPRESENTATION.—In any case in which the defendant has materially and willfully misrepresented any information required to be disclosed to an individual under this title, and the information misrepresented is material to the establishment of the liability of the defendant to that individual under this title, an action to enforce a liability created under this title may be brought at any time within 2 years after the date of discovery by the individual of the misrepresentation.

"(c) IDENTITY THEFT.—An action to enforce a liability created under this title may be brought not later than 4 years from the date of the defendant's violation if—

"(1) the plaintiff is the victim of an identity theft; or

"(2) the plaintiff—

"(A) has reasonable grounds to believe that the plaintiff is the victim of an identity theft; and

"(B) has not materially and willfully misrepresented such a claim.".

SEC. 5. COORDINATING COMMITTEE STUDY OF COORDINATION BETWEEN FEDERAL, STATE, AND LOCAL AUTHORITIES IN ENFORCING IDENTITY THEFT LAWS.

(a) MEMBERSHIP; TERM.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) in subsection (b), by striking "and the Commissioner of Immigration and Naturalization" and inserting "the Commissioner of Immigration and Naturalization, the Chairman of the Federal Trade Commission, the Postmaster General, and the Commissioner of the United States Customs Service,"; and

(2) in subsection (c), by striking "2 years after the effective date of this Act." and inserting "on December 28, 2004.".

(b) CONSULTATION.—Section 2 of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) CONSULTATION.—In discharging its duties, the coordinating committee shall consult with interested parties, including State and local law enforcement agencies, State attorneys general, representatives of business entities (as that term is defined in section 4 of the Identity Theft Victims Assistance Act of 2002), including telecommunications and utility companies, and organizations representing consumers.".

(c) REPORT DISTRIBUTION AND CONTENTS.—Section 2(e) of the Internet False Identification Prevention Act of 2000 (18 U.S.C. 1028 note) (as redesignated by subsection (b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—The Attorney General and the Secretary of the Treasury, at the end of each year of the existence of the coordinating committee, shall report on the activities of the coordinating committee to—

"(A) the Committee on the Judiciary of the Senate;

"(B) the Committee on the Judiciary of the House of Representatives;

"(C) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(D) the Committee on Financial Services of the House of Representatives.";

(2) in subparagraph (E), by striking "and" at the end; and

(3) by striking subparagraph (F) and inserting the following:

"(F) a comprehensive description of Federal assistance provided to State and local law enforcement agencies to address identity theft;

"(G) a comprehensive description of coordination activities between Federal, State, and local law enforcement agencies that address identity theft; and

"(H) recommendations in the discretion of the President, if any, for legislative or administrative changes that would—

"(i) facilitate more effective investigation and prosecution of cases involving—

"(I) identity theft; and

"(II) the creation and distribution of false identification documents;

"(ii) improve the effectiveness of Federal assistance to State and local law enforcement agencies and coordination between Federal, State, and local law enforcement agencies; and

"(iii) simplify efforts by a person necessary to rectify the harm that results from the theft of the identity of such person.".

SA 4955. Mr. REID (for Mr. HELMS (for himself and Mr. LEAHY)) proposed an amendment to the bill H.R. 5469, To amend title 17, United States Code, with respect to the statutory license for webcasting; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Webcaster Settlement Act of 2002".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Some small webcasters who did not participate in the copyright arbitration royalty panel proceeding leading to the July 8, 2002 order of the Librarian of Congress establishing rates and terms for certain digital performances and ephemeral reproductions of sound recordings, as provided in part 261 of the Code of Federal Regulations (published in the Federal Register on July 8, 2002) (referred to in this section as "small webcasters"), have expressed reservations about the fee structure set forth in such order, and have expressed their desire for a fee based on a percentage of revenue.

(2) Congress has strongly encouraged representatives of copyright owners of sound recordings and representatives of the small webcasters to engage in negotiations to arrive at an agreement that would include a fee based on a percentage of revenue.

(3) The representatives have arrived at an agreement that they can accept in the extraordinary and unique circumstances here presented, specifically as to the small webcasters, their belief in their inability to pay the fees due pursuant to the July 8 order, and as to the copyright owners of sound recordings and performers, the strong encouragement of Congress to reach an accommodation with the small webcasters on an expedited basis.

(4) The representatives have indicated that they do not believe the agreement provides for or in any way approximates fair or reasonable royalty rates and terms, or rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller.

(5) Congress has made no determination as to whether the agreement provides for or in any way approximates fair or reasonable fees and terms, or rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller.

(6) Congress likewise has made no determination as to whether the July 8 order is reasonable or arbitrary, and nothing in this Act shall be taken into account by the United States Court of Appeals for the District of Columbia Circuit in its review of such order.

(7) It is, nevertheless, in the public interest for the parties to be able to enter into such an agreement without fear of liability for deviating from the fees and terms of the July 8 order, if it is clear that the agreement will not be admissible as evidence or otherwise taken into account in any government proceeding involving the setting or adjustment of the royalties payable to copyright owners of sound recordings for the public performance or reproduction in ephemeral phonorecords or copies of such works, the determination of terms or conditions related thereto, or the establishment of notice or recordkeeping requirements.

SEC. 3. SUSPENSION OF CERTAIN PAYMENTS.

(a) NONCOMMERCIAL WEBCASTERS.—

(1) IN GENERAL.—The payments to be made by noncommercial webcasters for the digital performance of sound recordings under section 114 of title 17, United States Code, and the making of ephemeral phonorecords under section 112 of title 17, United States Code, during the period beginning on October 28, 1998, and ending on May 31, 2003, which have not already been paid, shall not be due until June 20, 2003.

(2) DEFINITION.—In this subsection, the term "noncommercial webcaster" has the meaning given that term in section 114(f)(5)(E)(i) of title 17, United States Code, as added by section 4 of this Act.

(b) SMALL COMMERCIAL WEBCASTERS.—

(1) IN GENERAL.—The receiving agent may, in a writing signed by an authorized representative thereof, delay the obligation of any 1 or more small commercial webcasters to make payments pursuant to sections 112 and 114 of title 17, United States Code, for a period determined by such entity to allow negotiations as permitted in section 4 of this Act, except that any such period shall end no later than December 15, 2002. The duration and terms of any such delay shall be as set forth in such writing.

(2) DEFINITIONS.—In this subsection—

(A) the term "webcaster" has the meaning given that term in section 114(f)(5)(E)(iii) of title 17, United States Code, as added by section 4 of this Act; and

(B) the term "receiving agent" shall have the meaning given that term in section 261.2 of title 37, Code of Federal Regulations, as published in the Federal Register on July 8, 2002.

SEC. 4. AUTHORIZATION FOR SETTLEMENTS.

Section 114(f) of title 17, United States Code, is amended by adding after paragraph (4) the following:

"(5)(A) Notwithstanding section 112(e) and the other provisions of this subsection, the receiving agent may enter into agreements for the reproduction and performance of sound recordings under section 112(e) and this section by any 1 or more small commercial webcasters or noncommercial webcasters during the period beginning on October 28, 1998, and ending on December 31, 2004, that, once published in the Federal Register pursuant to subparagraph (B), shall be binding on all copyright owners of sound recordings and other persons entitled to payment under this section, in lieu of any determination by a copyright arbitration royalty panel or decision by the Librarian of Congress. Any such agreement for small commercial webcasters shall include provisions for payment of royalties on the basis of a percentage of revenue or expenses, or both, and include a minimum fee. Any such agreement may include other terms and conditions, including requirements by which copyright owners may receive notice of the use of their sound recordings and under which records of such use shall be kept and made available by small commercial webcasters or noncommercial webcasters. The receiving agent shall be under no obligation to negotiate any such agreement. The receiving agent shall have no obligation to any copyright owner of sound recordings or any other person entitled to payment under this section in negotiating any such agreement, and no liability to any copyright owner of sound recordings or any other person entitled to payment under this section for having entered into such agreement.

"(B) The Copyright Office shall cause to be published in the Federal Register any agreement entered into pursuant to subparagraph (A). Such publication shall include a statement containing the substance of subparagraph (C). Such agreements shall not be included in the Code of Federal Regulations. Thereafter, the terms of such agreement shall be available, as an option, to any small commercial webcaster or noncommercial webcaster meeting the eligibility conditions of such agreement.

"(C) Neither subparagraph (A) nor any provisions of any agreement entered into pursuant to subparagraph (A), including any rate structure, fees, terms, conditions, or notice and recordkeeping requirements set forth therein, shall be admissible as evidence or otherwise taken into account in any administrative, judicial, or other government proceeding involving the setting or adjustment of the royalties payable for the public performance or reproduction in ephemeral phonorecords or copies of sound recordings, the determination of terms or conditions related thereto, or the establishment of notice or recordkeeping requirements by the Librarian of Congress under paragraph (4) or section 112(e)(4). It is the intent of Congress that any royalty rates, rate structure, definitions, terms, conditions, or notice and recordkeeping requirements, included in such agreements shall be considered as a compromise motivated by the unique business, economic and political circumstances of small webcasters, copyright owners, and performers rather than as matters that would have been negotiated in the marketplace between a willing buyer and a willing seller, or otherwise meet the objectives set forth in section 801(b).

"(D) Nothing in the Small Webcaster Settlement Act of 2002 or any agreement entered into pursuant to subparagraph (A) shall be taken into account by the United States Court of Appeals for the District of Columbia Circuit in its review of the determination by the Librarian of Congress of July 8, 2002, of rates and terms for the digital performance of sound recordings and ephemeral recordings, pursuant to sections 112 and 114.

"(E) As used in this paragraph—

"(i) the term 'noncommercial webcaster' means a webcaster that—

"(I) is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501);

"(II) has applied in good faith to the Internal Revenue Service for exemption from taxation under section 501 of the Internal Revenue Code and has a commercially reasonable expectation that such exemption shall be granted; or

"(III) is operated by a State or possession or any governmental entity or subordinate thereof, or by the United States or District of Columbia, for exclusively public purposes;

"(ii) the term 'receiving agent' shall have the meaning given that term in section 261.2 of title 37, Code of Federal Regulations, as published in the Federal Register on July 8, 2002; and

"(iii) the term 'webcaster' means a person or entity that has obtained a compulsory license under section 112 or 114 and the implementing regulations therefor to make eligible nonsubscription transmissions and ephemeral recordings.

"(F) The authority to make settlements pursuant to subparagraph (A) shall expire December 15, 2002, except with respect to noncommercial webcasters for whom the authority shall expire May 31, 2003.".

SEC. 5. DEDUCTIBILITY OF COSTS AND EXPENSES OF AGENTS AND DIRECT PAYMENT TO ARTISTS OF ROYALTIES FOR DIGITAL PERFORMANCES OF SOUND RECORDINGS.

(a) Findings.—Congress finds that—

(1) in the case of royalty payments from the licensing of digital transmissions of sound recordings under subsection (f) of section 114 of title 17, United States Code, the parties have voluntarily negotiated arrangements under which payments shall be made directly to featured recording artists and the administrators of the accounts provided in subsection (g)(2) of that section;

(2) such voluntarily negotiated payment arrangements have been codified in regulations issued by the Librarian of Congress, currently found in section 261.4 of title 37, Code of Federal Regulations, as published in the Federal Register on July 8, 2002;

(3) other regulations issued by the Librarian of Congress were inconsistent with the voluntarily negotiated arrangements by such parties concerning the deductibility of certain costs incurred for licensing and arbitration, and Congress is therefore restoring those terms as originally negotiated among the parties; and

(4) in light of the special circumstances described in this subsection, the uncertainty created by the regulations issued by the Librarian of Congress, and the fact that all of the interested parties have reached agreement, the voluntarily negotiated arrangements agreed to among the parties are being codified.

(b) Deductibility.—Section 114(g) of title 17, United States Code, is amended by adding after paragraph (2) the following:

"(3) A nonprofit agent designated to distribute receipts from the licensing of transmissions in accordance with subsection (f) may deduct from any of its receipts, prior to the distribution of such receipts to any person or entity entitled thereto other than copyright owners and performers who have elected to receive royalties from another designated agent and have notified such nonprofit agent in writing of such election, the reasonable costs of such agent incurred after November 1, 1995, in—

"(A) the administration of the collection, distribution, and calculation of the royalties;

"(B) the settlement of disputes relating to the collection and calculation of the royalties; and

"(C) the licensing and enforcement of rights with respect to the making of ephemeral recordings and performances subject to licensing under section 112 and this section, including those incurred in participating in negotiations or arbitration proceedings under section 112 and this section, except that all costs incurred relating to the section 112 ephemeral recordings right may only be deducted from the royalties received pursuant to section 112.

"(4) Notwithstanding paragraph (3), any designated agent designated to distribute receipts from the licensing of transmissions in accordance with subsection (f) may deduct from any of its receipts, prior to the distribution of such receipts, the reasonable costs identified in paragraph (3) of such agent incurred after November 1, 1995, with respect to such copyright owners and performers who have entered with such agent a contractual relationship that specifies that such costs may be deducted from such royalty receipts.".

(c) Direct Payment to Artists.—Section 114(g)(2) of title 17, United States Code, is amended to read as follows:

"(2) An agent designated to distribute receipts from the licensing of transmissions in accordance with subsection (f) shall distribute such receipts as follows:

"(A) 50 percent of the receipts shall be paid to the copyright owner of the exclusive right under section 106(6) of this title to publicly perform a sound recording by means of a digital audio transmission.

"(B) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians) who have performed on sound recordings.

"(C) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the American Federation of Television and Radio Artists) who have performed on sound recordings.

"(D) 45 percent of the receipts shall be paid, on a per sound recording basis, to the recording artist or artists featured on such sound recording (or the persons conveying rights in the artists' performance in the sound recordings).".

SEC. 6. REPORT TO CONGRESS.

By not later than June 1, 2004, the Comptroller General of the United States, in consultation with the Register of Copyrights, shall conduct and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a study concerning the economic arrangements among small commercial webcasters covered by agreements entered into pursuant to section 114(f)(5)(A) of title 17, United States Code, as added by section 4 of this Act, and third parties, and the effect of those arrangements on royalty fees payable on a percentage of revenue or expense basis.

SA 4956. Mr. REID (for Mr. HAGEL (for himself, Mr. BIDEN, and Mr. HELMS)) proposed an amendment to the bill S. 2712, to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries; as follows:

On page 39, line 20, strike "and".

On page 39, line 24, strike the period and insert "; and".

On page 39, after line 24, insert the following:

(9) Foster the growth of a pluralistic society that promotes and respects religious freedom.

Beginning on page 40, strike line 1 and all that follows through line 15 on page 41.

On page 41, line 16, strike "sec. 104." and insert "sec. 1035.". Starting on line 17, strike "any other provision of law," and insert "section 512 of P.L. 107–115 or any other similar provision of law."

On page 42, line 7, insert "and other unexploded ordinance" after "landmines".

On page 44, lines 24 and 25, strike "2002 through 2005" and insert "2003 through 2006".

Beginning on page 44, line 25, strike "of the amount" and all that follows through "authorized" on line 1 of page 45 and insert "is authorized to be appropriated to the President".

On page 47, line 6, insert "(including repairing homes damaged during military operations)" after "housing".

On page 48, line 11, insert "including religious freedom," after "awareness,".

On page 48, line 16, insert ", including the recognition of religious freedom in the constitution and other legal frameworks," after "Afghanistan".

On page 49, line 4, insert ", including religious freedom, freedom of expression, and freedom of association," after "rights".

On page 49, between lines 5 and 6, insert:

(x) support for Afghan and international efforts to investigate human rights atrocities committed in Afghanistan by the Taliban regime, opponents of such regime, and terrorist groups operating in Afghanistan, including the collection of forensic evidence relating to such atrocities;

On page 49, line 6, strike "(x)" and insert "(xi)".

On page 49, line 8, strike "(xi)" and insert "(xii)".

On page 49, line 12, strike "(xii)" and insert "(xiii)".

On page 49, line 14, strike "(xiii)" and insert "(xiv)".

On page 49, line 21, strike "not less than".

On page 49, beginning on line 21, strike "of the" and all that follows through "should" on line 22 and insert "is authorized to be appropriated to the President to".

On page 50, line 23, strike "and".

On page 50, after line 23, insert the following:

(E) develop handicraft and other small-scale industries; and

On page 51, line 1, strike "(E)" and insert "(F)".

On page 53, line 2, insert ", including the rights of religious freedom, freedom of expression, and freedom of association," after "rights".

On page 53, line 8, insert ", including the rights of religious freedom, freedom of expression, and freedom of association," after "human rights".

On page 53, line 12, strike "2002 through 2005" and insert "2003 through 2006".

On page 53, beginning on line 13, strike "of" and all that follows through "authorized" on line 15 and insert "is authorized to be appropriated to the President".

On page 53, beginning on line 18, strike "of" and all that follows through "authorized" on line 20 and insert "is authorized to be appropriated to the President".

On page 54, line 12, insert "that respects human rights" after "Afghanistan".

On page 55, beginning on line 5, strike "for fiscal year" and all that follows through "2005" on lines 7.

On page 55, line 17, strike "sec. 105." and insert "sec. 104.".

On page 56, between lines 14 and 15, insert the following:

SEC. 105. SENSE OF CONGRESS REGARDING PROMOTING COOPERATION IN OPIUM PRODUCING AREAS.

It is the sense of Congress that the President should—

(1) to the extent practicable, under such procedures as the President may prescribe, withhold United States bilateral assistance from, and oppose multilateral assistance to, opium-producing areas of Afghanistan if, within such areas, appropriate cooperation is not provided to the United States, the Government of Afghanistan, and international organizations with respect to the suppression of narcotics cultivation and trafficking, and if withholding such assistance would promote such cooperation;

(2) redistribute any United States bilateral assistance (and to promote the redistribution of any multilateral assistance) withheld from an opium-producing area to other areas with respect to which assistance has not been withheld as a consequence of this section; and

(3) define or redefine the boundaries of opium producing areas of Afghanistan for the purposes of this section.

On page 57, line 14, strike 'Land Grant".

On page 57, line 22, strike "land grant".

On page 58, beginning with line 1, strike "Amounts" and all that follows through the period on line 5 and insert the following: "Of the funds made available to carry out the purposes of assistance authorized by this title in any fiscal year, up to 7 percent may be used for administrative expenses of Federal departments and agencies in connection with the provision of such assistance.".

On page 58, line 11, strike "(A) In general.—".

On page 58, strike lines 17 through 20.

On page 59, line 8, strike "$500,000,000" and insert "$425,000,000".

On page 59, line 9, strike "2002 through 2005" and insert "2003 through 2006".

On page 61, line 20, insert "and shall not count toward any limitation contained in section 506 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318)" after section 204(b)(1)".

On page 61, strike line 23.

On page 61, line 24, strike "(1) In general.—" and insert "(a) In General.—".

On page 61, lines 24 and 25, strike "paragraph (2)" and insert "subsection (b)".

On page 62, line 3, strike "(A)" and insert "(1)".

On page 62, line 8, strike "(B)" and insert "(2)".

On page 62, line 10, strike "(2)" and insert "(b)".

On page 62, line 12, after "repeatedly," insert "engaged in gross violations of human rights, or"

On page 62, strike lines 19 through 22.

On page 63, lines 15 and 16, strike "are authorized to remain available until expended, and".

Beginning on page 64, strike line 9 and all that follows through line 22 on page 68 and insert the following:

SEC. 206. PROMOTING SECURE DELIVERY OF HUMANITARIAN AND OTHER ASSISTANCE IN AFGHANISTAN AND EXPANSION OF THE INTERNATIONAL SECURITY ASSISTANCE FORCE.

(a) Findings.—Congress finds the following:

(1) The President has declared his view that the United States should provide significant assistance to Afghanistan so that it is no longer a haven for terrorism.

(2) The delivery of humanitarian and reconstruction assistance from the international community is necessary for the safe return of refugees and is critical to the future stability of Afghanistan.

(3) Enhanced stability in Afghanistan through an improved security environment is critical to the functioning of the Government of Afghanistan and the traditional Afghan assembly or "Loya Jirga" process, which is intended to lead to a permanent national government in Afghanistan, and also is essential for the participation of women in Afghan society.

(4) Incidents of violence between armed factions and local and regional commanders, and serious abuses of human rights, including attacks on women and ethnic minorities throughout Afghanistan, create an insecure, volatile, and unsafe environment in parts of Afghanistan, displacing thousands of Afghan civilians from their local communities.

(5)(A) On July 6, Vice President Haji Abdul Qadir was assassinated in Kabul by unknown assailants.

(B) On September 5, 2002, a car bomb exploded in Kabul killing 32 and injuring 150 and on the same day a member of Kandahar Governor Sherzai's security team attempted to assassinate President Karzai.

(6) The violence and lawlessness may jeopardize the "Loya Jirga" process, undermine efforts to build a strong central government, severely impede reconstruction and the delivery of humanitarian assistance, and increase the likelihood that parts of Afghanistan will once again become safe havens for al-Qaida, Taliban forces, and drug traffickers.

(7) The lack of security and lawlessness may also perpetuate the need for United States Armed Forces in Afghanistan and threaten the ability of the United States to meet its military objectives.

(8) The International Security Assistance Force in Afghanistan, currently led by Turkey, and composed of forces from other willing countries without the participation of United States Armed Forces, is deployed only in Kabul and currently does not have the mandate or the capacity to provide security to other parts of Afghanistan.

(9) Due to the ongoing military campaign in Afghanistan, the United States does not contribute troops to the International Security Assistance Force but has provided support to other countries that are doing so.

(10) The United States is providing political, financial, training, and other assistance to the Afghan Interim Authority as it begins to build a national army and police force to help provide security throughout Afghanistan, but this effort is not meeting the immediate security needs of Afghanistan.

(11) Because of these immediate security needs, the Government of Afghanistan, its President, Hamid Karzai, and many Afghan regional leaders have called for the International Security Assistance Force, which has successfully brought stability to Kabul, to be expanded and deployed throughout the country, and this request has been strongly supported by a wide range of international humanitarian organizations, including the International Committee of the Red Cross, Catholic Relief Services, and Refugees International.

(b) Statement of Policy.—It should be the policy of the United States to support measures to help meet the immediate security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

(c) Implementation of Strategy.—

(1) Initial report.—Not later than 60 days after the date of the enactment of this Act, the President shall provide the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate with—

(A) a strategy for meeting the immediate and long-term security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government, including an update to the strategies submitted pursuant to Public Law 107–206; and

(B) a description of the progress of the Government of Afghanistan toward the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan in accordance with the provisions of this Act.

(2) Implementation of strategy.—Every 6 months after the enactment of this Act through January 1, 2007, the President shall submit to the congressional committees

specified in paragraph (1) a report on the implementation of the strategies for meeting the immediate and long-term security needs of Afghanistan, which shall include the following elements—

(A) since the previous report, the progress in recruiting, training, and deploying an Afghan National Army and police force, including the numbers and ethnic composition of recruits; the number of graduates from military and police training; the numbers of graduates retained by the Afghan National Army and police forces since the previous report; the numbers of graduates operationally deployed and to which areas of the country; the degree to which these graduates are assuming security responsibilities; whether Afghan army and police units are establishing effective central governmental authority over areas of the country, and which areas; and the numbers of instances of armed attacks against Afghan central governmental officials, United States or international officials, troops or aid workers, or between the armed forces of regional leaders;

(B) the degree to which armed regional leaders are cooperating and integrating with the central government, providing security and order within their regions of influence, engaging in armed conflict or other forms of competition that are deleterious to peace, security, and the integration of a unified Afghanistan under the central government;

(C) the amount of humanitarian relief provided since the previous report to returnees, isolated populations and other vulnerable groups, as well as demining assistance and landmine survivors rehabilitation; and the numbers of such persons not assisted since the previous report;

(D) the steps taken since the previous report toward national reconstruction, including establishment of the ministries and other institutions of the Government of Afghanistan;

(E) the numbers of Civil Affairs Teams working with regional leaders, as well as the quick impact infrastructure projects undertaken by such teams since the previous report;

(F) efforts undertaken since the previous report to rebuild the justice sector, including the establishment of a functioning judiciary, a competent bar, reintegration of women legal professionals and a reliable penal system, and the respect for human rights; and

(G) a description of the progress of the Government of Afghanistan with respect to the matters described in paragraph (1)(B).

(d) EXPANSION OF THE INTERNATIONAL SECURITY ASSISTANCE FORCE.—

(1) SENSE OF CONGRESS.—Congress urges the President, in order to fulfill the objective of establishing security in Afghanistan, to take all appropriate measures to assist Afghanistan establish a secure environment throughout the country, including by—

(A) sponsoring in the United Nations Security Council a resolution authorizing an expansion of the International Security Assistance Force, or the establishment of a similar security force; and

(B) enlisting the European and other allies of the United States to provide forces for an expansion of the International Security Assistance Force in Afghanistan, or the establishment of a similar security force.

(2) AUTHORIZATION OF APPROPRIATIONS.—(A) There is authorized to be appropriated to the President $500,000,000 for each of fiscal years 2003 and 2004 to support the International Security Assistance Force or the establishment of a similar security force.

(B) Amounts made available under subparagraph (A) may be appropriated pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961, section 551 of such Act, or section 23 of the Arms Export Control Act.

(C) Funds appropriated pursuant to subparagraph (A) shall be subject to the notification requirements under section 634A of the Foreign Assistance Act of 1961.

On page 63, line 24, insert "and the Committee on Appropriations" after "Relations".

On page 63, line 25, insert "and the Committee on Appropriations" after "Relations".

On page 69, line 5, strike "any other provision of law" and insert "section 512 of Public Law 107–115 or any similar provision of law".

Beginning on page 69, strike line 6 and all that follows through line 4 on page 70.

On page 70, line 5, strike "sec. 209." and insert " sec. 208."

On page 70, line 7, strike "2005" and insert "2006".

On page 70, after line 7, add the following:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. REQUIREMENT TO COMPLY WITH PROCEDURES RELATING TO THE PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.

Assistance provided under this Act shall be subject to the same provisions as are applicable to assistance under the Foreign Assistance Act of 1961 and the Arms Export Control Act under section 487 of the Foreign Assistance Act of 1961 (relating to the prohibition on assistance to drug traffickers; 22 U.S.C. 2291f), and the applicable regulations issued under that section.

SEC. 302. SENSE OF CONGRESS REGARDING PROTECTING AFGHANISTAN'S PRESIDENT.

It is the sense of Congress that—

(1) any United States physical protection force provided for the personal security of the President of Afghanistan should be composed of United States diplomatic security, law-enforcement, or military personnel, and should not utilize private contracted personnel to provide actual physical protection services;

(2) United States allies should be invited to volunteer active-duty military or law enforcement personnel to participate in such a protection force; and

(3) such a protection force should be limited in duration and should be succeeded by qualified Afghan security forces as soon as practicable.

SEC. 303. DONOR CONTRIBUTIONS TO AFGHANISTAN AND REPORTS.

(a) FINDINGS.—The Congress finds that inadequate amounts of international assistance promised by donor states at the Tokyo donors conference and elsewhere have been delivered to Afghanistan, imperiling the rebuilding and development of civil society and infrastructure, and endangering peace and security in that war-torn country.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should use all appropriate diplomatic means to encourage all states that have pledged assistance to Afghanistan to deliver as soon as possible the total amount of assistance pledged.

(c) REPORTS.—

(1) IN GENERAL.—The Secretary of State shall submit reports to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives, in accordance with this paragraph, on the status of contributions of assistance from donor states to Afghanistan. The first report shall be submitted not later than 60 days after the date of enactment of this Act, the second report shall be submitted 90 days thereafter, and subsequent reports shall be submitted every 180 days thereafter through December 31, 2004.

(2) FURTHER REQUIREMENTS.—Each report, which shall be unclassified and posted upon the Department of State's Internet website, shall include, by donor country, the total amount pledged, the amount delivered within the previous 60 days, the total amount of assistance delivered, the type of assistance and type of projects supported by the assistance.

SA 4957. Mr. REID (for Mr. KERRY (for himself, Mr. BROWNBACK, and Mr. HOLLINGS)) proposed an amendment to the bill S. 2869, to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers; as follows:

SECTION 1. RELIEF FROM CONTINUING OBLIGATIONS.

A winning bidder to which the Commission has not granted an Auction 35 license may irrevocably elect to relinquish any right, title, or interest in that license and the associated license application by formal written notice to the Commission. Such an election may only be made within 30 days after the date of enactment of this Act. A winning bidder that makes such an election shall be free of any obligation the winning bidder would otherwise have with respect to that license, the associated license application, and the associated winning bid, including the obligation to pay the amount of its winning bid that would be otherwise due for such license.

SEC. 2. RETURN OF DEPOSITS AND DOWNPAYMENTS.

Within 37 days after receiving an election that meets the requirements of section 3 from an Auction 35 winning bidder that has made the election described in section 1, the Commission shall refund any deposit or down-payment made with respect to a winning bidder for the license that is the subject of the election.

SEC. 3. COMMISSION TO ISSUE PUBLIC NOTICE.

(a) PUBLIC NOTICE.—Within 5 days after the date of enactment of this Act, the Commission shall issue a public notice specifying the form and the process for the return of deposits and downpayments under section 2.

(b) TIME FOR ELECTION.—An election under this section is not valid unless it is made within 30 days after the date of enactment of this Act.

SEC. 4. WAIVER OF PAPERWORK REDUCTION ACT REQUIREMENTS.

Section 3507 of title 44, United States Code, shall not apply to the Commission's implementation of this Act.

SEC. 5. NO INFERENCE WITH RESPECT TO NEXTWAVE CASE.

It is the sense of the Congress that no inference with respect to any issue of law or fact in Federal Communications Commission v. NextWAVE Personal Communications, Inc., et al. (Supreme Court Docket No. 01–653) should be drawn from the introduction, amendment, defeat, or enactment of this Act.

SEC. 6. DEFINITIONS.

In this Act:

(1) AUCTION 35.—The term "Auction 35" means the C and F block broadband personal communications service spectrum auction of the Commission that began on December 1,

2000, and ended on January 6, 2001, insofar as that auction related to spectrum previously licensed to NextWave Personal Communications, Inc., NextWave Power Partners, Inc., or Urban Comm North Carolina, Inc.

(2) COMMISSION.—The term "Commission" means the Federal Communications Commission or a bureau or division thereof acting on delegated authority.

(3) WINNING BIDDER.—The term "winning bidder" means any person who is entitled under Commission order FCC 02-99 (released March 27, 2002), to a refund of a substantial portion of monies on deposit for spectrum formerly licensed to NextWave and Urban Comm as defined in that order.

SA 4958. Mr. REID (for Mr. KENNEDY (for himself, Mr. GREGG, Mr. HOLLINGS, and Mr. FRIST)) proposed an amendment to the bill H.R. 4664, An act to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Science Foundation Authorization Act of 2002".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The National Science Foundation has made major contributions for more than 50 years to strengthen and sustain the Nation's academic research enterprise that is the envy of the world.

(2) The economic strength and national security of the United States and the quality of life of all Americans are grounded in the Nation's scientific and technological capabilities.

(3) The National Science Foundation carries out important functions in supporting basic research in all science and engineering disciplines and in supporting science, mathematics, engineering, and technology education at all levels.

(4) The research and education activities of the National Science Foundation promote the discovery, integration, dissemination, and application of new knowledge in service to society and prepare future generations of scientists, mathematicians, and engineers who will be necessary to ensure America's leadership in the global marketplace.

(5) The National Science Foundation must be provided with sufficient resources to enable it to carry out its responsibilities to develop intellectual capital, strengthen the scientific infrastructure, integrate research and education, enhance the delivery of mathematics and science education in the United States, and improve the technological literacy of all people in the United States.

(6) The emerging global economic, scientific, and technical environment challenges long-standing assumptions about domestic and international policy, requiring the National Science Foundation to play a more proactive role in sustaining the competitive advantage of the United States through superior research capabilities.

(7) Commercial application of the results of Federal investment in basic and computing science is consistent with long-standing United States technology transfer policy and is a critical national priority, particularly with regard to cybersecurity and other homeland security applications, because of the urgent needs of commercial, academic, and individual users as well as the Federal and State Governments.

SEC. 3. POLICY OBJECTIVES.

In allocating resources made available under section 5, the Foundation shall have the following policy objectives:

(1) To strengthen the Nation's lead in science and technology by—

(A) increasing the national investment in general scientific research and increasing investment in strategic areas;

(B) balancing the Nation's research portfolio among the life sciences, mathematics, the physical sciences, computer and information science, geoscience, engineering, and social, behavioral, and economic sciences, all of which are important for the continued development of enabling technologies necessary for sustained international competitiveness;

(C) expanding the pool of scientists and engineers in the United States;

(D) modernizing the Nation's research infrastructure; and

(E) establishing and maintaining cooperative international relationships with premier research institutions, with the goal of such relationships being the exchange of personnel, data, and information in an effort to alleviate problems common to the global community.

(2) To increase overall workforce skills by—

(A) improving the quality of mathematics and science education, particularly in kindergarten through grade 12;

(B) promoting access to information technology for all students;

(C) raising postsecondary enrollment rates in science, mathematics, engineering, and technology disciplines for individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b);

(D) increasing access to higher education in science, mathematics, engineering, and technology fields for students from low-income households; and

(E) expanding science, mathematics, engineering, and technology training opportunities at institutions of higher education.

(3) To strengthen innovation by expanding the focus of competitiveness and innovation policy at the regional and local level.

SEC. 4. DEFINITIONS.

In this Act:

(1) ACADEMIC UNIT.—The term "academic unit" means a department, division, institute, school, college, or other subcomponent of an institution of higher education.

(2) BOARD.—The term "Board" means the National Science Board established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(3) COMMUNITY COLLEGE.—The term "community college" has the meaning given such term in section 3301(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7011(3)).

(4) DIRECTOR.—The term "Director" means the Director of the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(5) ELEMENTARY SCHOOL.—The term "elementary school" has the meaning given that term by section 9101(18) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(18)).

(6) ELIGIBLE NONPROFIT ORGANIZATION.—The term "eligible nonprofit organization" means a nonprofit research institute, or a nonprofit professional association, with demonstrated experience and effectiveness in mathematics or science education as determined by the Director.

(7) FOUNDATION.—The term "Foundation" means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(8) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term "high-need local educational agency" means a local educational agency that meets one or more of the following criteria:

(A) It has at least one school in which 50 percent or more of the enrolled students are eligible for participation in the free and reduced price lunch program established by the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(B) It has at least one school in which—

(i) more than 34 percent of the academic classroom teachers at the secondary level (across all academic subjects) do not have an undergraduate degree with a major or minor in, or a graduate degree in, the academic field in which they teach the largest percentage of their classes; or

(ii) more than 34 percent of the teachers in two of the academic departments do not have an undergraduate degree with a major or minor in, or a graduate degree in, the academic field in which they teach the largest percentage of their classes.

(C) It has at least one school whose teacher attrition rate has been 15 percent or more over the last three school years.

(9) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(10) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given such term by section 9101(26) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(26)).

(11) MASTER TEACHER.—The term "master teacher" means a mathematics or science teacher who works to improve the instruction of mathematics or science in kindergarten through grade 12 through—

(A) participating in the development or revision of science, mathematics, engineering, or technology curricula;

(B) serving as a mentor to mathematics or science teachers;

(C) coordinating and assisting teachers in the use of hands-on inquiry materials, equipment, and supplies, and when appropriate, supervising acquisition and repair of such materials;

(D) providing in-classroom teaching assistance to mathematics or science teachers; and

(E) providing professional development, including for the purposes of training other master teachers, to mathematics and science teachers.

(12) NATIONAL RESEARCH FACILITY.—The term "national research facility" means a research facility funded by the Foundation which is available, subject to appropriate policies allocating access, for use by all scientists and engineers affiliated with research institutions located in the United States.

(13) SECONDARY SCHOOL.—The term "secondary school" has the meaning given that term by section 9101(38) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(38)).

(14) STATE.—Except with respect to the Experimental Program to Stimulate Competitive Research, the term "State" means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the

Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

(15) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the meaning given such term by section 9101(41) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(41)).

(16) UNITED STATES.—The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2003.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $5,536,390,000 for fiscal year 2003.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $4,155,690,000 shall be made available to carry out research and related activities, of which $704,000,000 shall be for information technology research described in paragraph (1) of section 8 and $301,000,000 shall be for nanoscale science and engineering described in paragraph (2) of section 8;

(B) $1,006,250,000 shall be made available for education and human resources, of which—

(i) $200,000,000 shall be for mathematics and science education partnerships described in section 9;

(ii) $20,000,000 shall be for the Robert Noyce Scholarship Program described in section 10; and

(iii) $25,000,000 shall be for the science, mathematics, engineering, and technology talent expansion program described in paragraph (7) of section 8;

(C) $172,050,000 shall be made available for major research equipment and facilities construction;

(D) $191,200,000 shall be made available for salaries and expenses;

(E) $3,500,000 shall be made available for the Office of the National Science Board, including salaries and compensation for members of the Board and staff appointed under section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863), travel and training costs for members of the Board and such staff, general and Board operating expenses, representational expenses for the Board, honorary awards made by the Board, Board reports (other than the report entitled "Science and Engineering Indicators"), and contracts; and

(F) $7,700,000 shall be made available for the Office of Inspector General.

(b) FISCAL YEAR 2004.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $6,390,832,000 for fiscal year 2004.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $4,799,822,000 shall be made available to carry out research and related activities, of which $774,000,000 shall be for information technology research described in paragraph (1) of section 8 and $350,000,000 shall be for nanoscale science and engineering described in paragraph (2) of section 8;

(B) $1,157,188,000 shall be made available for education and human resources, of which—

(i) $300,000,000 shall be for mathematics and science education partnerships described in section 9;

(ii) $20,000,000 shall be for the Robert Noyce Scholarship Program described in section 10; and

(iii) $30,000,000 shall be for the science, mathematics, engineering, and technology talent expansion program described in paragraph (7) of section 8;

(C) $211,182,000 shall be made available for major research equipment and facilities construction;

(D) $210,320,000 shall be made available for salaries and expenses;

(E) $3,850,000 shall be made available for the Office of the National Science Board for the purposes described in subsection (a)(2)(E); and

(F) $8,470,000 shall be made available for the Office of Inspector General.

(c) FISCAL YEAR 2005.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $7,378,343,000 for fiscal year 2005.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $5,543,794,000 shall be made available to carry out research and related activities;

(B) $1,330,766,000 shall be made available to carry out education and human resources, of which—

(i) $400,000,000 shall be for mathematics and science education partnerships described in section 9;

(ii) $20,000,000 shall be for the Robert Noyce Scholarship Program described in section 10; and

(iii) $35,000,000 shall be for the science, mathematics, engineering, and technology talent expansion program described in paragraph (7) of section 8;

(C) $258,879,000 shall be made available for major research equipment and facilities construction;

(D) $231,337,000 shall be made available for salaries and expenses;

(E) $4,250,000 shall be made available for the Office of the National Science Board for the purposes described in subsection (a)(2)(E); and

(F) $9,317,000 shall be made available for the Office of Inspector General.

(d) FISCAL YEAR 2006.—There are authorized to be appropriated to the Foundation $8,519,776,000 for fiscal year 2006.

(e) FISCAL YEAR 2007.—There are authorized to be appropriated to the Foundation $9,839,262,000 for fiscal year 2007.

(f) CONTINGENT AUTHORIZATION.—

(1) IN GENERAL.—Funds are authorized to be appropriated under subsections (d) and (e), contingent on a determination by Congress that the Foundation has made successful progress toward meeting management goals consisting of—

(A) strategic management of human capital;

(B) competitive sourcing;

(C) improved financial performance;

(D) expanded electronic government; and

(E) budget and performance integration.

(2) CONSIDERATION.—In making that determination, Congress shall take into consideration whether or not the Director of the Office of Management and Budget has certified that the Foundation has, overall, made successful progress toward meeting those goals.

SEC. 6. OBLIGATION OF MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION FUNDS.

(a) FISCAL YEAR 2003.—None of the funds authorized under section 5(a)(2)(C) may be obligated until 30 days after the first report required under section 14(a)(2) is transmitted to the Congress.

(b) FISCAL YEAR 2004.—None of the funds authorized under section 5(b)(2)(C) may be obligated until 30 days after the report required by June 15, 2003, under section 14(a)(2) is transmitted to the Congress.

(c) FISCAL YEAR 2005.—None of the funds authorized under section 5(c)(2)(C) may be obligated until 30 days after the report required by June 15, 2004, under section 14(a)(2) is transmitted to the Congress.

(d) FISCAL YEAR 2006.—None of the funds authorized under section 5(d) may be obligated for major research equipment and facilities construction until 30 days after the report required by June 15, 2005, under section 14(a)(2) is transmitted to the Congress.

(e) FISCAL YEAR 2007.—None of the funds authorized under section 5(e) may be obligated for major research equipment and facilities construction until 30 days after the report required by June 15, 2006, under section 14(a)(2) is transmitted to the Congress.

SEC. 7. ANNUAL PLAN FOR ALLOCATION OF FUNDING.

Not later than 60 days after the date of enactment of legislation providing for the annual appropriation of funds for the Foundation, the Director shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate, a plan for the allocation of funds authorized by this Act for the corresponding fiscal year. The portion of the plan pertaining to Research and Related Activities shall include a description of how the allocation of funding—

(1) will affect the average size and duration of research grants supported by the Foundation by field of science, mathematics, and engineering;

(2) will affect trends in research support for major fields and subfields of science, mathematics, and engineering, including for emerging multidisciplinary research areas; and

(3) is designed to achieve an appropriate balance among major fields and subfields of science, mathematics, and engineering.

SEC. 8. SPECIFIC PROGRAM AUTHORIZATIONS.

From amounts authorized to be appropriated under section 5, the Director shall carry out the Foundation's research and education programs, including the following initiatives in accordance with this section:

(1) INFORMATION TECHNOLOGY.—An information technology research program to support competitive, merit-reviewed proposals for research, education, and infrastructure support in areas related to cybersecurity, terascale computing systems, software, networking, scalability, communications, data management, and remote sensing and geospatial information technologies.

(2) NANOSCALE SCIENCE AND ENGINEERING.—A nanoscale science and engineering research and education program to support competitive, merit-reviewed proposals that emphasize—

(A) research aimed at discovering novel phenomena, processes, materials, and tools that address grand challenges in materials, electronics, optoelectronics and magnetics, manufacturing, the environment, and health care; and

(B) supporting new research and interdisciplinary centers and networks of excellence, including shared national user facilities, infrastructure, research, and education activities on the societal implications of advances in nanoscale science and engineering.

(3) PLANT GENOME RESEARCH.—(A) A plant genome research program to support competitive, merit-reviewed proposals—

(i) that advance the understanding of the structure, organization, and function of plant genomes; and

(ii) that accelerate the use of new knowledge and innovative technologies toward a more complete understanding of basic biological processes in plants, especially in economically important plants such as corn and soybeans.

(B) Regional plant genome and gene expression research centers to conduct research and dissemination activities that may include—

(i) basic plant genomics research and genomics applications, including those related to cultivation of crops in extreme environments and to cultivation of crops with reduced reliance on fertilizer, herbicides, and pesticides;

(ii) basic research that will contribute to the development or use of innovative plant-derived products;

(iii) basic research on alternative uses for plants and plant materials, including the use of plants as renewable feedstock for alternative energy production and nonpetroleum-based industrial chemicals and precursors; and

(iv) basic research and dissemination of information on the ecological and other consequences of genetically engineered plants.

Competitive, merit-based awards for centers under this subparagraph shall be to consortia of institutions of higher education or nonprofit organizations. The Director shall, to the extent practicable, ensure that research centers established under this subparagraph collectively examine as many different agricultural environments as possible, enhance the excellence of existing Foundation programs, and focus on plants of economic importance.

(C) Research partnerships to focus on—

(i) basic genomic research on crops grown in the developing world;

(ii) basic plant genome research that will advance and expedite the development of improved cultivars, including those that are pest-resistant, produce increased yield, reduce the need for fertilizers, herbicides, or pesticides, or have increased tolerance to stress;

(iii) basic research that could lead to the development of technologies to produce pharmaceutical compounds such as vaccines and medications in plants that can be grown in the developing world; and

(iv) research on the impact of plant biotechnology on the social, political, economic, health, and environmental conditions in countries in the developing world.

Competitive, merit-based awards for partnerships under this subparagraph shall be to institutions of higher education, nonprofit organizations, or consortia of such entities that enter into a partnership that shall include one or more research institutions in one or more developing nations, and that may also include for-profit companies involved in plant biotechnology. The Director, by means of outreach, shall encourage inclusion of historically Black colleges and universities, Hispanic-serving institutions, tribally controlled colleges and universities, Alaska Native-serving institutions, and Native Hawaiian-serving institutions in consortia that enter into such partnerships.

(4) INNOVATION PARTNERSHIPS.—An innovation partnerships program to support competitive, merit-reviewed proposals that seek to stimulate innovation at the regional level through new partnerships involving States, regional governmental entities, local governmental entities, industry, academic institutions, and other related organizations in strategically important fields of science and technology.

(5) MATHEMATICS AND SCIENCE EDUCATION PARTNERSHIPS.—The mathematics and science education partnerships program described in section 9.

(6) ROBERT NOYCE SCHOLARSHIP PROGRAM.—The Robert Noyce Scholarship Program described in section 10.

(7) SCIENCE, MATHEMATICS, ENGINEERING, AND TECHNOLOGY TALENT EXPANSION PROGRAM.—(A) A program of competitive, merit-based, multi-year grants for eligible applicants to increase the number of students studying toward and completing associate's or bachelor's degrees in science, mathematics, engineering, and technology, particularly in fields that have faced declining enrollment in recent years.

(B) In selecting projects under this paragraph, the Director shall strive to increase the number of students studying toward and completing baccalaureate degrees, concentrations, or certificates in science, mathematics, engineering, or technology who are individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(C) The types of projects the Foundation may support under this paragraph include those that promote high quality—

(i) interdisciplinary teaching;

(ii) undergraduate-conducted research;

(iii) mentor relationships for students;

(iv) bridge programs that enable students at community colleges to matriculate directly into baccalaureate science, mathematics, engineering, or technology programs;

(v) internships carried out in partnership with industry; and

(vi) innovative uses of digital technologies, particularly at institutions of higher education that serve high numbers or percentages of economically disadvantaged students.

(D)(i) In order to receive a grant under this paragraph, an eligible applicant shall establish targets to increase the number of students studying toward and completing associate's or bachelor's degrees in science, mathematics, engineering, or technology.

(ii) A grant under this paragraph shall be awarded for a period of 5 years, with the final 2 years of funding contingent on the Director's determination that satisfactory progress has been made by the grantee toward meeting the targets established under clause (i).

(iii) In the case of community colleges, a student who transfers to a baccalaureate program, or receives a certificate under an established certificate program, in science, mathematics, engineering, or technology shall be counted toward meeting a target established under clause (i).

(E) For each grant awarded under this paragraph to an institution of higher education, at least 1 principal investigator shall be in a position of administrative leadership at the institution of higher education, and at least 1 principal investigator shall be a faculty member from an academic department included in the work of the project. For each grant awarded to a consortium or partnership, at each institution of higher education participating in the consortium or partnership, at least 1 of the individuals responsible for carrying out activities authorized under this paragraph at that institution shall be in a position of administrative leadership at the institution, and at least 1 shall be a faculty member from an academic department included in the work of the project at that institution.

(F) In this paragraph, the term "eligible applicant" means—

(i) an institution of higher education;

(ii) a consortium of institutions of higher education; or

(iii) a partnership between—

(I) an institution of higher education or a consortium of such institutions; and

(II) a nonprofit organization, a State or local government, or a private company, with demonstrated experience and effectiveness in science, mathematics, engineering, or technology education.

(8) SECONDARY SCHOOL SYSTEMIC INITIATIVE.—A program of competitive, merit-based grants for State educational agencies or local educational agencies that supports the planning and implementation of agency-wide secondary school reform initiatives designed to promote scientific and technological literacy, meet the mathematics and science education needs of students at risk of not achieving State student academic achievement standards, reduce the need for basic skill training by employers, and heighten college completion rates through activities, such as—

(A) systemic alignment of secondary school curricula and higher education freshman placement requirements;

(B) development of materials and curricula that support small, theme-oriented schools and learning communities;

(C) implementation of enriched mathematics and science curricula for all secondary school students;

(D) strengthened teacher training in mathematics, science, and reading as it relates to technical and specialized texts;

(E) laboratory improvement and provision of instrumentation as part of a comprehensive program to enhance the quality of mathematics, science, engineering, and technology instruction; or

(F) other secondary school systemic initiatives that enable grantees to leverage private sector funding for mathematics, science, engineering, and technology scholarships.

In awarding grants under this paragraph, the Director shall give priority to agencies that serve high poverty communities.

(9) EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.—The Experimental Program to Stimulate Competitive Research, established under section 113 of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1862g), that is designed to enhance—

(A) research in mathematics, science, and engineering throughout the States eligible to participate in the program and the Commonwealth of Puerto Rico;

(B) research infrastructure in the States eligible to participate in the program and the Commonwealth of Puerto Rico; and

(C) the geographic distribution of Federal research and development support.

(10) THE SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT.—A comprehensive program designed to advance the goals of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885 et seq.), including programs to—

(A) provide support to minority-serving institutions; and

(B) ensure that reports required under sections 36 and 37 of such Act are submitted to the—

(i) Committee on Science of the House of Representatives;

(ii) Committee on Health, Education, Labor, and Pensions of the Senate; and

(iii) Committee on Commerce, Science, and Transportation of the Senate.

(11) ASTRONOMICAL RESEARCH AND INSTRUMENTATION.—An astronomical research program to support competitive, merit-reviewed proposals that—

(A) will advance understanding of—

(i) the origins and characteristics of planets, the Sun, other stars, the Milky Way Galaxy, and extragalactic objects (such as clusters of galaxies and quasars); and

(ii) the structure and origin of the universe; and

(B) support related activities such as developing advanced technologies and instrumentation, funding undergraduate and graduate students, and satisfying other instrumentation and research needs.

SEC. 9. MATHEMATICS AND SCIENCE EDUCATION PARTNERSHIPS.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—(A) The Director shall carry out a program to award grants to institutions of higher education or eligible nonprofit organizations (or consortia of such institutions or organizations) to establish mathematics and science education partnership programs to improve elementary and secondary mathematics and science instruction.

(B) Grants shall be awarded under this subsection on a competitive, merit-reviewed basis.

(2) PARTNERSHIPS.—(A) In order to be eligible to receive a grant under this subsection, an institution of higher education or eligible nonprofit organization (or consortium of such institutions or organizations) shall enter into a partnership with one or more local educational agencies that may also include a State educational agency or one or more businesses.

(B) A participating institution of higher education shall include mathematics, science, or engineering departments in the programs carried out through a partnership under this paragraph.

(3) USES OF FUNDS.—Grants awarded under this subsection shall be used for activities that draw upon the expertise of the partners to improve elementary or secondary education in mathematics or science and that are consistent with State mathematics and science student academic achievement standards, including—

(A) recruiting and preparing students for careers in elementary or secondary mathematics or science education;

(B) offering professional development programs, including summer or academic year institutes or workshops, designed to strengthen the capabilities of mathematics and science teachers;

(C) offering innovative preservice and inservice programs that instruct teachers on using technology more effectively in teaching mathematics and science, including programs that recruit and train undergraduate and graduate students to provide technical support to teachers;

(D) developing distance learning programs for teachers or students, including developing courses, curricular materials, and other resources for the in-service professional development of teachers that are made available to teachers through the Internet;

(E) developing a cadre of master teachers who will promote reform and improvement in schools;

(F) offering teacher preparation and certification programs for professional mathematicians, scientists, and engineers who wish to begin a career in teaching;

(G) developing tools to evaluate activities conducted under this subsection;

(H) developing or adapting elementary school and secondary school mathematics and science curricular materials that incorporate contemporary research on the science of learning;

(I) developing initiatives to increase and sustain the number, quality, and diversity of prekindergarten through grade 12 teachers of mathematics and science, especially in underserved areas;

(J) using mathematicians, scientists, and engineers employed by private businesses to help recruit and train mathematics and science teachers;

(K) developing and offering mathematics or science enrichment programs for students, including after-school and summer programs;

(L) providing research opportunities in business or academia for students and teachers;

(M) bringing mathematicians, scientists, and engineers from business and academia into elementary school and secondary school classrooms; and

(N) any other activities the Director determines will accomplish the goals of this subsection.

(4) MASTER TEACHERS.—Activities carried out in accordance with paragraph (3)(E) shall—

(A) emphasize the training of master teachers who will improve the instruction of mathematics or science in kindergarten through grade 12;

(B) include training in both content and pedagogy; and

(C) provide training only to teachers who will be granted sufficient nonclassroom time to serve as master teachers, as demonstrated by assurances their employing school has provided to the Director, in such time and such manner as the Director may require.

(5) SCIENCE ENRICHMENT PROGRAMS FOR GIRLS.—Activities carried out in accordance with paragraph (3)(K) and (L) shall include elementary school and secondary school programs to encourage the ongoing interest of girls in science, mathematics, engineering, and technology and to prepare girls to pursue undergraduate and graduate degrees and careers in science, mathematics, engineering, or technology. Funds made available through awards to partnerships for the purposes of this paragraph may support programs for—

(A) encouraging girls to pursue studies in science, mathematics, engineering, and technology and to major in such fields in postsecondary education;

(B) tutoring girls in science, mathematics, engineering, and technology;

(C) providing mentors for girls in person and through the Internet to support such girls in pursuing studies in science, mathematics, engineering, and technology;

(D) educating the parents of girls about the difficulties faced by girls to maintain an interest and desire to achieve in science, mathematics, engineering, and technology, and enlisting the help of parents in overcoming these difficulties; and

(E) acquainting girls with careers in science, mathematics, engineering, and technology and encouraging girls to plan for careers in such fields.

(6) RESEARCH IN SECONDARY SCHOOLS.—Activities carried out in accordance with paragraph (3)(K) may include support for research projects performed by students at secondary schools. Uses of funds made available through awards to partnerships for purposes of this paragraph may include—

(A) training secondary school mathematics and science teachers in the design of research projects for students;

(B) establishing a system for students and teachers involved in research projects funded under this subsection to exchange information about their projects and research results; and

(C) assessing the educational value of the student research projects by such means as tracking the academic performance and choice of academic majors of students conducting research.

(7) STIPENDS.—Grants awarded under this subsection may be used to provide stipends for teachers or students participating in training or research activities that would not be part of their typical classroom activities.

(b) SELECTION PROCESS.—

(1) APPLICATION.—An institution of higher education or an eligible nonprofit organization (or a consortium of such institutions or organizations) seeking funding under subsection (a) shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the partnership and the role that each member will play in implementing the proposal;

(B) a description of each of the activities to be carried out, including—

(i) how such activities will be aligned with State mathematics and science student academic achievement standards and with other activities that promote student achievement in mathematics and science;

(ii) how such activities will be based on a review of relevant research;

(iii) why such activities are expected to improve student performance and strengthen the quality of mathematics and science instruction; and

(iv) any activities that will encourage the interest of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in mathematics, science, engineering, and technology and will help prepare such individuals to pursue postsecondary studies in these fields;

(C) a description of the number, size, and nature of any stipends that will be provided to students or teachers and the reasons such stipends are needed;

(D) a description of how the partnership will serve as a catalyst for reform of mathematics and science education programs;

(E) a description of how the partnership will assess its success;

(F) a description of how the partnership will collaborate with the State educational agency to ensure that successful partnership activities may be replicated throughout the State; and

(G) a description of the manner in which the partnership will be continued after assistance under this section ends.

(2) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the partnership to carry out effectively the proposed programs;

(B) the extent to which the members of the partnership are committed to making the partnership a central organizational focus;

(C) the degree to which activities carried out by the partnership are based on relevant research and are likely to result in increased student achievement;

(D) the degree to which such activities are aligned with State mathematics and science student academic achievement standards;

(E) the likelihood that the partnership will demonstrate activities that can be widely implemented as part of larger scale reform efforts; and

(F) the extent to which the activities will encourage the interest of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in mathematics, science, engineering, and technology and will help prepare such individuals to pursue postsecondary studies in these fields.

(3) AWARDS.—In awarding grants under this section, the Director shall—

(A) give priority to applications in which the partnership includes a high-need local educational agency or a high-need local educational agency in which at least one school does not make adequate yearly progress, as determined pursuant to part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.); and

(B) ensure that, to the extent practicable, a substantial number of the partnerships funded under this section include businesses.

(c) ACCOUNTABILITY AND DISSEMINATION.—

(1) ASSESSMENT REQUIRED.—The Director shall evaluate the program established under subsection (a). At a minimum, such evaluation shall—

(A) use a common set of benchmarks and assessment tools to identify best practices and materials developed and demonstrated by the partnerships; and

(B) to the extent practicable, compare the effectiveness of practices and materials developed and demonstrated by the partnerships authorized under this section with those of partnerships funded by other State or Federal agencies.

(2) DISSEMINATION OF RESULTS.—(A) The results of the evaluation required under paragraph (1) shall be made available to the public and shall be provided to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(B) Materials developed under the program established under subsection (a) that are demonstrated to be effective shall be made widely available to the public.

(3) ANNUAL MEETING.—The Director, in consultation with the Secretary of Education, shall convene an annual meeting of the partnerships participating under this section to foster greater national collaboration.

(4) REPORT ON COORDINATION.—The Director, in consultation with the Secretary of Education, shall provide an annual report to the Committee on Science of the House of Representatives, the Committee on Education and the Workforce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate describing how the program authorized under this section has been and will be coordinated with the program authorized under part B of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.). The report under this paragraph shall be submitted along with the President's annual budget request.

(5) TECHNICAL ASSISTANCE.—At the request of an eligible partnership or a State educational agency, the Director shall provide the partnership or agency with technical assistance.in meeting any requirements of this section, including providing advice from experts on how to develop—

(A) a quality application for a grant; and

(B) quality activities from funds received from a grant under this section.

SEC. 10. ROBERT NOYCE SCHOLARSHIP PROGRAM.

(a) SCHOLARSHIP PROGRAM.—

(1) IN GENERAL.—The Director shall carry out a program to award grants to institutions of higher education (or consortia of such institutions) to provide scholarships, stipends, and programming designed to recruit and train mathematics and science teachers. Such program shall be known as the "Robert Noyce Scholarship Program".

(2) MERIT REVIEW.—Grants shall be provided under this subsection on a competitive, merit-reviewed basis.

(3) USE OF GRANTS.—Grants provided under this section shall be used by institutions of higher education or consortia—

(A) to develop and implement a program to encourage top college juniors and seniors majoring in mathematics, science, and engineering at the grantee's institution to become mathematics and science teachers, through—

(i) administering scholarships in accordance with subsection (c);

(ii) offering programs to help scholarship recipients to teach in elementary schools and secondary schools, including programs that will result in teacher certification or licensing; and

(iii) offering programs to scholarship recipients, both before and after they receive their baccalaureate degree, to enable the recipients to become better mathematics and science teachers, to fulfill the service requirements of this section, and to exchange ideas with others in their fields; or

(B) to develop and implement a program to encourage science, mathematics, or engineering professionals to become mathematics and science teachers, through—

(i) administering stipends in accordance with subsection (d);

(ii) offering programs to help stipend recipients obtain teacher certification or licensing; and

(iii) offering programs to stipend recipients, both during and after matriculation in the program for which the stipend is received, to enable recipients to become better mathematics and science teachers, to fulfill the service requirements of this section, and to exchange ideas with others in their fields.

(b) SELECTION PROCESS.—

(1) APPLICATION.—An institution of higher education or consortium seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the scholarship or stipend program that the applicant intends to operate, including the number of scholarships or the size and number of stipends the applicant intends to award, and the selection process that will be used in awarding the scholarships or stipends;

(B) evidence that the applicant has the capability to administer the scholarship or stipend program in accordance with the provisions of this section; and

(C) a description of the programming that will be offered to scholarship or stipend recipients during and after their matriculation in the program for which the scholarship or stipend is received.

(2) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the applicant to effectively carry out the program;

(B) the extent to which the applicant is committed to making the program a central organizational focus;

(C) the degree to which the proposed programming will enable scholarship or stipend recipients to become successful mathematics and science teachers;

(D) the number and quality of the students that will be served by the program; and

(E) the ability of the applicant to recruit students who would otherwise not pursue a career in teaching.

(c) SCHOLARSHIP REQUIREMENTS.—

(1) IN GENERAL.—Scholarships under this section shall be available only to students who are—

(A) majoring in science, mathematics, or engineering; and

(B) in the last 2 years of a baccalaureate degree program.

(2) SELECTION.—Individuals shall be selected to receive scholarships primarily on the basis of academic merit, with consideration given to financial need and to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(3) AMOUNT.—The Director shall establish for each year the amount to be awarded for scholarships under this section for that year, which shall be not less than $7,500 per year, except that no individual shall receive for any year more than the cost of attendance at that individual's institution. Individuals may receive a maximum of 2 years of scholarship support.

(4) SERVICE OBLIGATION.—If an individual receives a scholarship, that individual shall be required to complete, within 6 years after graduation from the baccalaureate degree program for which the scholarship was awarded, 2 years of service as a mathematics or science teacher for each year a scholarship was received. Service required under this paragraph shall be performed in a high-need local educational agency.

(d) STIPENDS.—

(1) IN GENERAL.—Stipends under this section shall be available only to mathematics, science, and engineering professionals who, while receiving the stipend, are enrolled in a program to receive certification or licensing to teach.

(2) SELECTION.—Individuals shall be selected to receive stipends under this section primarily on the basis of academic merit, with consideration given to financial need and to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(3) DURATION.—Individuals may receive a maximum of 1 year of stipend support.

(4) SERVICE OBLIGATION.—If an individual receives a stipend under this section, that individual shall be required to complete, within 6 years after graduation from the program for which the stipend was awarded, 2 years of service as a mathematics or science teacher for each year a stipend was received. Service required under this paragraph shall be performed in a high-need local educational agency.

(e) CONDITIONS OF SUPPORT.—As a condition of acceptance of a scholarship or stipend under this section, a recipient shall enter into an agreement with the institution of higher education—

(1) accepting the terms of the scholarship or stipend pursuant to subsections (c) and (g), or subsection (d);

(2) agreeing to provide the awarding institution of higher education with annual certification of employment and up-to-date contact information and to participate in surveys provided by the institution of higher education as part of an ongoing assessment program; and

(3) establishing that any scholarship recipient shall be liable to the United States for any amount that is required to be repaid in accordance with the provisions of subsection (g).

(f) Collection for Noncompliance.—

(1) Monitoring compliance.—An institution of higher education (or consortium thereof) receiving a grant under this section shall, as a condition of participating in the program, enter into an agreement with the Director to monitor the compliance of scholarship and stipend recipients with their respective service requirements.

(2) Collection of repayment.—(A) In the event that a scholarship recipient is required to repay the scholarship under subsection (g), the institution shall be responsible for collecting the repayment amounts.

(B) Except as provided in subparagraph (C), any such repayment shall be returned to the Treasury of the United States.

(C) A grantee may retain a percentage of any repayment it collects to defray administrative costs associated with the collection. The Director shall establish a single, fixed percentage that will apply to all grantees.

(g) Failure to Complete Service Obligation.—

(1) General rule.—If an individual who has received a scholarship under this section—

(A) fails to maintain an acceptable level of academic standing in the educational institution in which the individual is enrolled, as determined by the Director;

(B) is dismissed from such educational institution for disciplinary reasons;

(C) withdraws from the baccalaureate degree program for which the award was made before the completion of such program;

(D) declares that the individual does not intend to fulfill the service obligation under this section; or

(E) fails to fulfill the service obligation of the individual under this section,

such individual shall be liable to the United States as provided in paragraph (2).

(2) Amount of repayment.—(A) If a circumstance described in paragraph (1) occurs before the completion of one year of a service obligation under this section, the United States shall be entitled to recover from the individual, within one year after the date of the occurrence of such circumstance, an amount equal to—

(i) the total amount of awards received by such individual under this section; plus

(ii) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 2.

(B) If a circumstance described in paragraph (1)(D) or (E) occurs after the completion of one year of a service obligation under this section, the United States shall be entitled to recover from the individual, within one year after the date of the occurrence of such circumstance, an amount equal to the total amount of awards received by such individual under this section minus ½ of the amount of the award received per year for each full year of service completed, plus the interest on such amounts which would be payable if at the time the amounts were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

(3) Exceptions.—The Director may provide for the partial or total waiver or suspension of any service or payment obligation by an individual under this section whenever compliance by the individual with the obligation is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be unconscionable.

(h) Data Collection.—Institutions or consortia receiving grants under this section shall supply to the Director any relevant statistical and demographic data on scholarship recipients and stipend recipients the Director may request, including information on employment required by subsection (e).

(i) Definitions.—In this section—

(1) the term "cost of attendance" has the meaning given such term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll);

(2) the term "mathematics and science teacher" means a mathematics, science, or technology teacher at the elementary school or secondary school level;

(3) the term "mathematics, science, or engineering professional" means a person who holds a baccalaureate, masters, or doctoral degree in science, mathematics, or engineering and is working in that field or a related area;

(4) the term "scholarship" means an award under subsection (c); and

(5) the term "stipend" means an award under subsection (d).

SEC. 11. ESTABLISHMENT OF CENTERS FOR RESEARCH ON MATHEMATICS AND SCIENCE LEARNING AND EDUCATION IMPROVEMENT.

(a) Establishment.—

(1) In general.—(A) The Director shall award grants to institutions of higher education (or consortia thereof) to establish multidisciplinary Centers for Research on Learning and Education Improvement.

(B) Grants shall be awarded under this paragraph on a competitive, merit-reviewed basis.

(2) Purpose.—The purpose of the Centers shall be to conduct and evaluate research in cognitive science, education, and related fields and to develop ways in which the results of such research can be applied in elementary school and secondary school classrooms to improve the teaching of mathematics and science.

(3) Focus.—(A) Each Center shall be focused on a different challenge faced by elementary school or secondary school teachers of mathematics and science. In determining the research focus of the Centers, the Director shall consult with the National Academy of Sciences and the Secretary of Education and take into account the extent to which other Federal programs support research on similar questions.

(B) The proposal solicitation issued by the Director shall state the focus of each Center and applicants shall apply for designation as a specific Center.

(C) At least one Center shall focus on developing ways in which the results of research described in paragraph (2) can be applied, duplicated, and scaled up for use in low-performing elementary schools and secondary schools to improve the teaching and student achievement levels in mathematics and science.

(D) To the extent practicable and relevant to its focus, every Center shall include, as part of its research, work designed to quantitatively assess and improve the ways that information technology is used in the teaching of mathematics and science.

(b) Selection Process.—

(1) Application.—An institution of higher education (or a consortium of such institutions) seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the initial research projects that will be undertaken by the Center and the process by which new projects will be identified;

(B) how the Center will work with other research institutions and schools to broaden the national research agenda on learning and teaching;

(C) how the Center will promote active collaboration among physical, biological, and social science researchers;

(D) how the Center will promote active participation by elementary and secondary mathematics and science teachers and administrators; and

(E) how the results of the Center's research can be incorporated into educational practices, and how the Center will assess the success of those practices.

(2) Review of applications.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the applicant to effectively carry out the research program, including the activities described in paragraph (1)(E);

(B) the experience of the applicant in conducting research on the science of teaching and learning and the capacity of the applicant to foster new multidisciplinary collaborations;

(C) the capacity of the applicant to attract elementary school and secondary school teachers from a diverse array of schools, and with diverse professional experiences, for participation in Center activities; and

(D) the capacity of the applicant to attract and provide adequate support for graduate students to pursue research at the intersection of educational practice and basic research on human cognition and learning.

(3) Awards.—The Director shall ensure, to the extent practicable, that the Centers funded under this section conduct research and develop educational practices designed to improve the educational performance of a broad range of students, including individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(c) Annual Conference.—The Director shall convene an annual meeting of the Centers to foster collaboration among the Centers and to further disseminate the results of the Centers' activities.

(d) Coordination.—The Director shall coordinate with the Secretary of Education in—

(1) disseminating the results of the research conducted pursuant to grants awarded under this section to elementary school teachers and secondary school teachers; and

(2) providing programming, guidance, and support to ensure that such teachers—

(A) understand the implications of the research disseminated under paragraph (1) for classroom practice; and

(B) can use the research to improve such teachers' performance in the classroom.

SEC. 12. DUPLICATION OF PROGRAMS.

(a) In General.—The Director shall review the education programs of the Foundation that are in operation as of the date of enactment of this Act to determine whether any of such programs duplicate the programs authorized under this Act.

(b) Implementation.—As programs authorized under this Act are implemented, the Director shall—

(1) terminate any duplicative program being carried out by the Foundation or merge the duplicative program into a program authorized under this Act; and

(2) not establish any new program that duplicates a program that has been implemented pursuant to this Act.

(c) Report.—

(1) Review.—The Director of the Office of Science and Technology Policy shall review the education programs of the Foundation to ensure compliance with the provisions of this section.

(2) Submission.—Not later than 1 year after the date of enactment of this Act, and annually thereafter as part of the annual Office of Science and Technology Policy's budget submission to Congress, the Director of the Office of Science and Technology Policy shall complete a report on the review carried out under this subsection and shall submit the report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate.

SEC. 13. MAJOR RESEARCH INSTRUMENTATION.

(a) Review and Assessment.—The Director shall conduct a review and assessment of the major research instrumentation program and, not later than 1 year after the date of enactment of this Act, submit a report of findings and recommendations to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate. The report shall include—

(1) estimates of the needs, by major field of science and engineering and by types of institutions of higher education, for the types of research instrumentation that are eligible for acquisition under the guidelines of the major research instrumentation program;

(2) a description of the distribution of awards and funding levels by year, by major field of science and engineering, and by type of institution of higher education for the program, since the inception of the major research instrumentation program; and

(3) an analysis of the impact of the major research instrumentation program on the research instrumentation needs that were documented in the Foundation's 1994 survey of academic research instrumentation needs.

(b) National Academy of Sciences Assessment on Interdisciplinary Research and Advanced Instrumentation Centers.—

(1) Assessment.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an arrangement with the National Academy of Sciences to assess the need for an interagency program to establish and support fully equipped, state-of-the-art university-based centers for interdisciplinary research and advanced instrumentation development.

(2) Transmittal to congress.—Not later than 15 months after the date of the enactment of this Act, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate the assessment conducted by the National Academy of Sciences together with the Foundation's reaction to the assessment authorized under paragraph (1).

SEC. 14. MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION PLAN.

(a) Prioritization of Proposed Major Research Equipment and Facilities Construction.—

(1) Development of priorities.—(A) The Director shall—

(i) develop a list indicating by number the relative priority for funding under the major research equipment and facilities construction account that the Director assigns to each project the Board has approved for inclusion in a future budget request; and

(ii) submit the list described in clause (i) to the Board for approval.

(B) The Director shall update the list prepared under subparagraph (A) each time the Board approves a new project that would receive funding under the major research equipment and facilities construction account, as necessary to prepare reports under paragraph (2), and, from time to time, submit any updated list to the Board for approval.

(2) Annual report.—Not later than 90 days after the date of enactment of this Act, and not later than each June 15 thereafter, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing—

(A) the most recent Board-approved priority list developed under paragraph (1)(A);

(B) a description of the criteria used to develop such list; and

(C) a description of the major factors for each project that determined the ranking of such project on the list, based on the application of the criteria described pursuant to subparagraph (B).

(3) Criteria.—The criteria described pursuant to paragraph (2)(B) shall include, at a minimum—

(A) scientific merit;

(B) broad societal need and probable impact;

(C) consideration of the results of formal prioritization efforts by the scientific community;

(D) readiness of plans for construction and operation;

(E) the applicant's management and administrative capacity of large research facilities;

(F) international and interagency commitments; and

(G) the order in which projects were approved by the Board for inclusion in a future budget request.

(b) Facilities Plan.—

(1) In general.—Section 201(a)(1) of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862*l*(a)(1)) is amended to read as follows:

"(1) In general.—The Director shall prepare, and include as part of the Foundation's annual budget request to Congress, a plan for the proposed construction of, and repair and upgrades to, national research facilities, including full life-cycle cost information.".

(2) Contents of plan.—Section 201(a)(2) of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862*l*(a)(2)) is amended—

(A) in subparagraph (A), by striking "(1);" and inserting "(1), including costs for instrumentation development;";

(B) in subparagraph (B), by striking "and" after the semicolon;

(C) in subparagraph (C), by striking "construction." and inserting "construction;"; and

(D) by adding at the end the following:

"(D) for each project funded under the major research equipment and facilities construction account—

"(i) estimates of the total project cost (from planning to commissioning); and

"(ii) the source of funds, including Federal funding identified by appropriations category and non-Federal funding;

"(E) estimates of the full life-cycle cost of each national research facility;

"(F) information on any plans to retire national research facilities; and

"(G) estimates of funding levels for grants supporting research that will be conducted using each national research facility.".

(3) Definition.—Section 2 of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862k note) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively; and

(B) by inserting after paragraph (2) the following:

"(3) Full life-cycle cost.—The term 'full life-cycle cost' means all costs of planning, development, procurement, construction, operations and support, and shut-down costs, without regard to funding source and without regard to what entity manages the project or facility involved.".

(c) Project Management.—No national research facility project funded under the major research equipment and facilities construction account shall be managed by an individual whose appointment to the Foundation is temporary.

(d) Board Approval of Major Research Equipment and Facilities Projects.—

(1) In general.—The Board shall explicitly approve any project to be funded out of the major research equipment and facilities construction account before any funds may be obligated from such account for such project.

(2) Report.—Not later than September 15 of each fiscal year, the Board shall report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Science of the House of Representatives on the conditions of any delegation of authority under section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) that relates to funds appropriated for any project in the major research equipment and facilities construction account.

(e) National Academy of Sciences Study on Major Research Equipment and Facilities Construction.—

(1) Study.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an arrangement with the National Academy of Sciences to perform a study on setting priorities for a diverse array of disciplinary and interdisciplinary Foundation-sponsored large research facility projects.

(2) Transmittal to congress.—Not later than 15 months after the date of the enactment of this Act, the Director shall transmit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and

Pensions, and the Committee on Appropriations of the Senate, the study conducted by the National Academy of Sciences together with the Foundation's reaction to the study authorized under paragraph (1).

SEC. 15. ADMINISTRATIVE AMENDMENTS.

(a) BOARD MEETINGS.—

(1) IN GENERAL.—Section 4(e) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(e)) is amended by striking the second and third sentences and inserting "The Board shall adopt procedures governing the conduct of its meetings, including delivery of notice and a definition of a quorum, which in no case shall be less than one-half plus one of the confirmed members of the Board.".

(2) OPEN MEETINGS.—The Board and all of its committees, subcommittees, and task forces (and any other entity consisting of members of the Board and reporting to the Board) shall be subject to section 552b of title 5, United States Code.

(3) COMPLIANCE AUDIT.—The Inspector General of the Foundation shall conduct an annual audit of the compliance by the Board with the requirements described in paragraph (2). The audit shall examine the proposed and actual content of closed meetings and determine whether the closure of the meetings was consistent with section 552b of title 5, United States Code.

(4) REPORT.—Not later than February 15 of each year, the Inspector General of the Foundation shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate the audit required under paragraph (3) along with recommendations for corrective actions that need to be taken to achieve fuller compliance with the requirements described in paragraph (2), and recommendations on how to ensure public access to the Board's deliberations.

(b) CONFIDENTIALITY OF CERTAIN INFORMATION.—Section 14(i) of the National Science Foundation Act of 1950 (42 U.S.C. 1873(i)) is amended to read as follows:

"(i)(1)(A) Information supplied to the Foundation or a contractor of the Foundation in survey forms, questionnaires, or similar instruments for purposes of section 3(a)(5) or (6) by an individual, an industrial or commercial organization, or an educational, academic, or other nonprofit institution when the institution has received a pledge of confidentiality from the Foundation, shall not be disclosed to the public unless the information has been transformed into statistical or abstract formats that do not allow for the identification of the supplier.

"(B) Information that has not been transformed into formats described in subparagraph (A) may be used only for statistical or research purposes.

"(C) The identities of individuals, organizations, and institutions supplying information described in subparagraph (A) may not be disclosed to the public.

"(2) In support of functions authorized by section 3(a)(5) or (6), the Foundation may designate, at its discretion, authorized persons, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies) and employees of private organizations, to have access, for statistical or research purposes only, to information collected pursuant to section 3(a)(5) or (6) that allows for the identification of the supplier. No such person may—

"(A) publish information collected pursuant to section 3(a)(5) or (6) in such a manner that either an individual, an industrial or commercial organization, or an educational, academic, or other nonprofit institution that has received a pledge of confidentiality from the Foundation can be specifically identified;

"(B) permit anyone other than individuals authorized by the Foundation to examine data that allows for such identification relating to an individual, an industrial or commercial organization, or an academic, educational, or other nonprofit institution that has received a pledge of confidentiality from the Foundation; or

"(C) knowingly and willfully request or obtain any nondisclosable information described in paragraph (1) from the Foundation under false pretenses.

"(3) Violation of this subsection is punishable by a fine of not more than $10,000, imprisonment for not more than 5 years, or both.".

(c) APPOINTMENT.—Section 4(g) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(g)) is amended by striking the second sentence and inserting "Such staff shall be appointed by the Chairman and assigned at the direction of the Board.".

(d) SCHOLARSHIP ELIGIBILITY.—The Director shall not exclude part-time students from eligibility for scholarships under the Computer Science, Engineering, and Mathematics Scholarship program.

SEC. 16. SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT AMENDMENTS.

Section 32 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885) is amended—

(1) in subsection (a), by striking "backgrounds." and inserting "backgrounds, including persons with disabilities."; and

(2) in subsection (b)—

(A) by inserting ", including persons with disabilities," after "backgrounds"; and

(B) by striking "and minorities" each place the term appears and inserting ", minorities, and persons with disabilities".

SEC. 17. UNDERGRADUATE EDUCATION REFORM.

(a) IN GENERAL.—The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education to expand previously implemented reforms of undergraduate science, mathematics, engineering, or technology education that have been demonstrated to have been successful in increasing the number and quality of students studying toward and completing associate's or baccalaureate degrees in science, mathematics, engineering, or technology.

(b) USES OF FUNDS.—Activities supported by grants under this section may include—

(1) expansion of successful reform efforts beyond a single course or group of courses to achieve reform within an entire academic unit;

(2) expansion of successful reform efforts beyond a single academic unit to other science, mathematics, engineering, or technology academic units within an institution;

(3) creation of multidisciplinary courses or programs that formalize collaborations for the purpose of improved student instruction and research in science, mathematics, engineering, and technology;

(4) expansion of undergraduate research opportunities beyond a particular laboratory, course, or academic unit to engage multiple academic units in providing multidisciplinary research opportunities for undergraduate students;

(5) expansion of innovative tutoring or mentoring programs proven to enhance student recruitment or persistence to degree completion in science, mathematics, engineering, or technology;

(6) improvement of undergraduate science, mathematics, engineering, and technology education for nonmajors, including education majors; and

(7) implementation of technology-driven reform efforts, including the installation of technology to facilitate such reform, that directly impact undergraduate science, mathematics, engineering, or technology instruction or research experiences.

(c) SELECTION PROCESS.—

(1) APPLICATIONS.—An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the proposed reform effort;

(B) a description of the previously implemented reform effort that will serve as the basis for the proposed reform effort and evidence of success of that previous effort, including data on student recruitment, persistence to degree completion, and academic achievement;

(C) evidence of active participation in the proposed project by individuals who were central to the success of the previously implemented reform effort; and

(D) evidence of institutional support for, and commitment to, the proposed reform effort, including a description of existing or planned institutional policies and practices regarding faculty hiring, promotion, tenure, and teaching assignment that reward faculty contributions to undergraduate education equal to, or greater than, scholarly scientific research.

(2) REVIEW OF APPLICATIONS.—In evaluating applications submitted under paragraph (1), the Director shall consider at a minimum—

(A) the evidence of past success in implementing undergraduate education reform and the likelihood of success in undertaking the proposed expanded effort;

(B) the extent to which the faculty, staff, and administrators of the institution are committed to making the proposed institutional reform a priority of the participating academic unit;

(C) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on faculty engagement in undergraduate education, as evidenced through promotion and tenure policies; and

(D) the likelihood that the institution will sustain or expand the reform beyond the period of the grant.

(3) GRANT DISTRIBUTION.—The Director shall ensure, to the extent practicable, that grants awarded under this section are made to a variety of types of institutions of higher education.

SEC. 18. REPORTS.

(a) GRANT SIZE AND DURATION.—Not later than 6 months after the date of enactment of this Act, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report describing the impact that increasing the average grant size and duration would have on minority-serving institutions and on institutions located in States where the Foundation's Experimental Program to Stimulate Competitive Research (established under section 113 of the National Science Foundation

Authorization Act of 1988 (42 U.S.C. 1862g)) is carrying out activities.

(b) Faculty.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an arrangement with the National Academy of Sciences to assess gender differences in the careers of science and engineering faculty. This study shall build on the Academy's work on gender differences in the carriers of doctoral scientists and engineers and examine issues such as faculty hiring, promotion, tenure, and allocation of resources including laboratory space. Upon completion, the results of this study shall be transmitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(c) Grant Funding.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an agreement with an appropriate party to assess gender differences in the distribution of external Federal research and development funding. This study shall examine differences in amounts requested and awarded, by gender, in major Federal external grant programs. Upon completion, the results of this study shall be transmitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(d) Study of Broadband Network Access for Schools and Libraries.—

(1) Report to congress.—The Director shall conduct a study of the issues described in paragraph (3), and not later than 1 year after the date of the enactment of this Act, transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report including recommendations to address those issues. Such report shall be updated annually for 4 additional years.

(2) Consultation.—In preparing the reports under paragraph (1), the Director shall consult with Federal agencies and educational entities as the Director considers appropriate.

(3) Issues to be addressed.—The reports shall—

(A) identify the availability of high-speed, large bandwidth capacity access to different demographic groups served by elementary schools, secondary schools, and libraries in the United States;

(B) identify how the provision of high-speed, large bandwidth capacity access to the Internet to such schools and libraries can be effectively utilized within each school and library;

(C) consider the effect that specific or regional circumstances may have on the ability of such institutions to acquire high-speed, large bandwidth capacity access to achieve universal connectivity as an effective tool in the education process; and

(D) include options and recommendations to address the challenges and issues identified in the reports.

(e) Minority-Serving Institution Funding.—

(1) Annual reporting required.—The Director shall submit an annual report, along with the President's annual budget request, to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on the amount of funding awarded by the Foundation to minority-serving institutions, including funding received as members of consortia. The report shall include information on such funding to minority-serving institutions—

(A) expressed as a percentage of funding to all institutions of higher education for each appropriations account within the Foundation's budget; and

(B) for the preceding 10 years.

(2) Report on ways to improve funding.—Within one year after the date of enactment of this Act, the Director shall submit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report on recommendations on how the Foundation can improve funding to minority-serving institutions.

SEC. 19. EVALUATIONS.

(a) Education.—

(1) In general.—The Director, through the Research, Evaluation and Communication Division of the Education and Human Resources Directorate of the Foundation, shall evaluate the effectiveness of all undergraduate science, mathematics, engineering, or technology education activities supported by the Foundation in increasing the number and quality of students, including individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) studying toward and completing associate's or baccalaureate degrees in science, mathematics, engineering, and technology. In conducting the evaluation, the Director shall consider information on—

(A) the number of students enrolled in undergraduate science, mathematics, engineering, and technology programs;

(B) student academic achievement, including quantifiable measurements of students' mastery of content and skills;

(C) persistence to degree completion, including students who transfer from science, mathematics, engineering, and technology programs to programs in other academic disciplines; and

(D) placement during the first year after degree completion in post-graduate education or career pathways.

(2) Assessment benchmarks and tools.—The Director, through the Research, Evaluation and Communication Division of the Education and Human Resources Directorate of the Foundation, shall establish a common set of assessment benchmarks and tools, and shall enable every Foundation-sponsored project to incorporate the use of these benchmarks and tools in their project-based assessment activities.

(3) Reports to congress.—Not later than 3 years after the date of the enactment of this Act, and once every 3 years thereafter, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing the results of evaluations under paragraph (1).

(b) Awards.—Notwithstanding any other provision of this Act, the Director shall annually evaluate a random sample of grants, contracts, or other awards made pursuant to this Act.

(c) Dissemination.—The Director shall—

(1) provide for the dissemination of the results of the evaluations conducted pursuant to this section to the public; and

(2) provide notice to the public that such evaluations are available.

SEC. 20. REPORT BY COMMITTEE ON EQUAL OPPORTUNITIES IN SCIENCE AND ENGINEERING.

As part of the first report required by section 36(e) of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885c(e)) transmitted to Congress after the date of enactment of this Act, the Committee on Equal Opportunities in Science and Engineering shall include—

(1) a summary of its findings over the previous 10 years;

(2) a description of past and present policies and activities of the Foundation to encourage full participation of women, minorities, and persons with disabilities in science, mathematics, and engineering fields, including activities in support of minority-serving institutions; and

(3) an assessment of the trends in participation in Foundation activities, and an assessment of the success of Foundation policies and activities, along with proposals for new strategies or the broadening of existing successful strategies toward facilitating the goals of that Act.

SEC. 21. ADVANCED TECHNOLOGICAL EDUCATION PROGRAM.

(a) Core Science and Mathematics Courses.—Section 3(a) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(a)) is amended—

(1) by inserting ", and to improve the quality of their core education courses in science and mathematics" after "education in advanced-technology fields";

(2) in paragraph (1) by inserting "and in core science and mathematics courses" after "advanced-technology fields"; and

(3) in paragraph (2) by striking "in advanced-technology fields" and inserting "who provide instruction in science, mathematics, and advanced-technology fields".

(b) Articulation Partnerships.—Section 3(c)(1)(B) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(c)(1)(B)) is amended—

(1) by striking "and" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting a semicolon; and

(3) by adding after clause (ii) the following new clauses:

"(iii) provide students with research experiences at bachelor's-degree-granting institutions participating in the partnership, including stipend support for students participating in summer programs; and

"(iv) provide faculty mentors for students participating in activities under clause (iii), including summer salary support for faculty mentors.".

(c) National Science Foundation Report.—Within 6 months after the date of the enactment of this Act, the Director shall transmit a report to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on—

(1) efforts by the Foundation and awardees under the program carried out under section 3 of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i) to disseminate information about the results of projects;

(2) the effectiveness of national centers of scientific and technical education established under section 3(b) of the Scientific and

Advanced-Technology Act of 1992 (42 U.S.C. 1862i(b)) in serving as national and regional clearinghouses of information and models for best practices in undergraduate science, mathematics, and technology education; and

(3) efforts to satisfy the requirement of section 3(f)(4) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(f)(4)).

SEC. 22. REPORT ON FOUNDATION BUDGETARY AND PROGRAMMATIC EXPANSION.

The Board shall prepare a report to address and examine the Foundation's budgetary and programmatic growth provided for by this Act. The report shall be submitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate within one year after the date of the enactment of this Act and shall include—

(1) recommendations on how the increased funding should be utilized;

(2) an examination of the projected impact that the budgetary increases will have on the Nation's scientific and technological workforce;

(3) a description of new or expanded programs that will enable institutions of higher education to expand their participation in Foundation-funded activities;

(4) an estimate of the national scientific and technological research infrastructure needed to adequately support the Foundation's increased funding and additional programs; and

(5) a description of the impact the budgetary increases provided under this Act will have on the size and duration of grants awarded by the Foundation.

SEC. 23. ASTRONOMY AND ASTROPHYSICS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Foundation and the National Aeronautics and Space Administration shall jointly establish an Astronomy and Astrophysics Advisory Committee (in this section referred to as the "Advisory Committee").

(b) DUTIES.—The Advisory Committee shall—

(1) assess, and make recommendations regarding, the coordination of astronomy and astrophysics programs of the Foundation and the National Aeronautics and Space Administration;

(2) assess, and make recommendations regarding, the status of the activities of the Foundation and the National Aeronautics and Space Administration as they relate to the recommendations contained in the National Research Council's 2001 report entitled "Astronomy and Astrophysics in the New Millennium", and the recommendations contained in subsequent National Research Council reports of a similar nature; and

(3) not later than March 15 of each year, transmit a report to the Director, the Administrator of the National Aeronautics and Space Administration, and the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on the Advisory Committee's findings and recommendations under paragraphs (1) and (2).

(c) MEMBERSHIP.—The Advisory Committee shall consist of 13 members, none of whom shall be a Federal employee, including—

(1) 5 members selected by the Director;

(2) 5 members selected by the Administrator of the National Aeronautics and Space Administration; and

(3) 3 members selected by the Director of the Office of Science and Technology Policy.

(d) SELECTION PROCESS.—Initial selections under subsection (c) shall be made within 3 months after the date of the enactment of this Act. Vacancies shall be filled in the same manner as provided in subsection (c).

(e) CHAIRPERSON.—The Advisory Committee shall select a chairperson from among its members.

(f) COORDINATION.—The Advisory Committee shall coordinate with the advisory bodies of other Federal agencies, such as the Department of Energy, which may engage in related research activities.

(g) COMPENSATION.—The members of the Advisory Committee shall serve without compensation, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) MEETINGS.—The Advisory Committee shall convene, in person or by electronic means, at least 4 times a year.

(i) QUORUM.—A majority of the members serving on the Advisory Committee shall constitute a quorum for purposes of conducting the business of the Advisory Committee.

(j) DURATION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee.

SEC. 24. MINORITY-SERVING INSTITUTIONS UNDERGRADUATE PROGRAM.

(a) IN GENERAL.—The Director is authorized to establish a new program to award grants on a competitive, merit-reviewed basis to Hispanic-serving institutions, Alaska Native-serving institutions, Native Hawaiian-serving institutions, and other institutions of higher education serving a substantial number of minority students to enhance the quality of undergraduate science, mathematics, and engineering education at such institutions and to increase the retention and graduation rates of students pursuing associate's or baccalaureate degrees in science, mathematics, engineering, or technology.

(b) PROGRAM COMPONENTS.—Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in science, mathematics, and engineering;

(2) faculty development;

(3) stipends for undergraduate students participating in research; and

(4) other activities consistent with subsection (a), as determined by the Director.

(c) PROGRAM COORDINATION.—This program shall be coordinated with and in addition to the ongoing Historically Black Colleges and Universities Undergraduate Program and the Tribal Colleges and Universities Program.

(d) INSTRUMENTATION.—Funding for instrumentation is an allowed use of grants awarded under this section and under the ongoing Historically Black Colleges and Universities Undergraduate Program and the Tribal Colleges and Universities Program.

SEC. 25. STUDY ON RESEARCH AND DEVELOPMENT FUNDING DATA DISCREPANCIES.

(a) STUDY.—The Director, in consultation with the Director of the Office of Management and Budget and the heads of other Federal agencies, shall enter into agreement with the National Academy of Sciences to conduct a comprehensive study to determine the source of discrepancies in Federal reports on obligations and actual expenditures of Federal research and development funding.

(b) CONTENTS.—The study shall—

(1) examine the relevance and accuracy of reporting classifications and definitions used in the reports described in subsection (a);

(2) examine whether the classifications and definitions are used consistently across Federal agencies for data gathering;

(3) examine whether and how Federal agencies use reports described in subsection (a), and describe any other sources of similar data used by those agencies;

(4) recommend alternatives for modifications to the current reporting process and system that would—

(A) accommodate emerging fields of science and changing practices in the conduct of research and development;

(B) minimize, to the extent possible, the burden imposed on the reporters of these data;

(C) increase the consistency of application of the system across the Federal agencies including the Office of Management and Budget and the Foundation;

(D) encourage the use of new technologies to increase accuracy, timeliness, and consistency of the reported data between the agencies and the research performers; and

(E) overcome systemic shortfalls; and

(5) recommend an implementation timeline for the modifications recommended under paragraph (4), and recommend specific responsibilities for the program and budget offices in the agencies, taking into consideration required changes to the current computer systems and processes used by the agencies.

(c) SUBMISSION.—The Director shall submit a report on the results of the study to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate within one year after the date of enactment of this Act.

(d) IMPLEMENTATION.—Within 6 months after the completion of the study required by subsection (a), the Director of the Office of Science and Technology Policy shall submit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a plan for implementation of the recommendations of the study.

SEC. 26. PLANNING GRANTS.

The Director is authorized to accept planning proposals from applicants who are within .075 percentage points of the current eligibility level for the Experimental Program to Stimulate Competitive Research. Such proposals shall be reviewed by the Foundation to determine their merit for support under the Experimental Program to Stimulate Competitive Research or any other appropriate program.

SA 4959. Mr. REID (for Mr. KENNEDY (for himself, Mr. GREGG, and Mr. HOLLINGS)) proposed an amendment to the bill H.R. 4664, An act to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and for other purposes; as follows:

Amend the title so as to read: "An Act to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation and for other purposes.".

SA 4960. Mrs. CLINTON (for herself, Mr. FITZGERALD, Ms. CANTWELL, and

Mr. SPECTER) proposed an amendment to the bill H.R. 3529, to provide tax incentives for economic recovery and assistance to displaced workers; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. Section 114 of Public Law 107–229 is amended by striking "the date specified in section 107(c) of this joint resolution" and inserting "March 31, 2003".

Section. 2. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) In general.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

"SEC. 208. APPLICABILITY.

"(a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

"(1) beginning after the date on which such agreement is entered into; and

"(2) ending before April 1, 2003.

"(b) TRANSITION FOR AMOUNT REMAINING IN ACCOUNT.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), in the case of an individual who has amounts remaining in an account established under section 203 as of March 29, 2003, temporary extended unemployment compensation shall continue to be payable to such individual from such amounts for any week beginning after such date for which the individual meets the eligibility requirements of this title.

"(2) NO AUGMENTATION AFTER MARCH 29, 2003.—If the account of an individual is exhausted after March 29, 2003, then section 203(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual's State is in an extended benefit period (as determined under paragraph (2) of such section).

"(3) LIMITATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after June 28, 2003.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

SA 4961. Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill H.R. 5557, to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes; as follows:

On page 10, strike line 10, and insert the following:

SEC. 8. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC. ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) IN GENERAL.—Subparagraph (B) of section 530(d)(4) of the Internal Revenue Code of 1986 (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking "or" at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

"(iv) made on account of the attendance of the account holder at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect for taxable years beginning after December 31, 2002.

SEC. 9. SUSPENSION OF TAX-EXEMPT STATUS OF DESIGNATED TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) SUSPENSION OF TAX-EXEMPT STATUS OF DESIGNATED TERRORIST ORGANIZATIONS.—

"(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization shall be suspended during any period in which the organization is a designated terrorist organization.

"(2) DESIGNATED TERRORIST ORGANIZATION.—For purposes of this subsection, the term 'designated terrorist organization' means an organization which—

"(A) is designated as a terrorist organization in or pursuant to an Executive order, or otherwise designated, under the authority of—

"(i) section 212(a)(3) or 219 of the Immigration and Nationality Act,

"(ii) the International Emergency Economic Powers Act, or

"(iii) section 5 of the United Nations Participation Act, or

"(B) is designated in or pursuant to an Executive order as supporting terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

"(3) DENIAL OF DEDUCTION.—No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization during the period such organization is a designated terrorist organization.

"(4) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation described in paragraph (2), or a denial of a deduction under paragraph (3) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

"(5) CREDIT OR REFUND IN CASE OF ERRONEOUS DESIGNATION.—

"(A) IN GENERAL.—If a designation of an organization pursuant to 1 or more of the provisions of law described in paragraph (2) is determined to be erroneous pursuant to such law and the erroneous designation results in an overpayment of income tax for any taxable year with respect to such organization, credit or refund (with interest) with respect to such overpayment shall be made.

"(B) WAIVER OF LIMITATIONS.—If credit or refund of any overpayment of tax described in subparagraph (A) is prevented at any time before the close of the 1-year period beginning on the date of the determination of such credit or refund by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.".

(b) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under section 501(p) of the Internal Revenue Code of 1986 (as added by subsection (a)), the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 10. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED.—Section 162 of the Internal Revenue Code of 1986 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

"(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such services.".

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

"(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, not in excess of $1,500, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 11. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.

"(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

"(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

"(2) other similar requests.

"(b) PROGRAM CRITERIA.—

"(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

"(A) shall vary according to categories (or subcategories) established by the Secretary,

"(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

"(C) shall be payable in advance.

"(2) EXEMPTIONS, ETC.—

"(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

"(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

"(i) made after the later of—

"(I) the fifth plan year the pension benefit plan is in existence, or

"(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

"(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

"(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

"(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

"(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

"(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

"(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

"Category	Average Fee
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

"(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2012.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 7527. Internal Revenue Service user fees.".

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7527 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 12. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) of the Internal Revenue Code of 1986 (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) of such Code (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 of the Internal Revenue Code of 1986 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

"(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 13. PROTECTION OF SOCIAL SECURITY.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 14, 2002 at 1 p.m. to hold a Members' Briefing.

Agenda

Briefers:

The Honorable Christina Rocca, Assistant Secretary for South Asian Affairs, Department of State.

The Hon. John S. Wolf, Assistant Secretary for Nonproliferation, Department of State.

Representative from the Central Intelligence Agency to be announced.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 14, 2002 at 2:30 to hold a nomination hearing.

Agenda

Nominee:

Mrs. Mary Carlin Yates, of Oregon, to be Ambassador to the Republic of Ghana.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, November 14, 2002 at 10:00 a.m. in Dirksen Room 226.

Tentative Agenda

I. Nomination:

Dennis Shedd to be a U.S. Circuit Court Judge for the Fourth Circuit.

Michael McConnell to be a U.S. Circuit Court Judge for the Tenth Circuit.

To be a U.S. Attorney: Kevin J. O'Connor for the District of Connecticut.

II. Bills:

S. 2480, Law Enforcement Officers Safety Act of 2002 [Leahy/Hatch/Thurmond/Grassley/McConnell/Feinstein/DeWine/Kyl/Sessions/Brownback/Edwards/Cantwell].

S. 1655, Captive Exotic Animal Protection Act of 2001 [Biden/Kennedy/Kohl/Feinstein/Feingold/Schumer/Durbin/Cantwell].

S. 2934, To Amend the charter of the American Legion [Johnson].

H.R. 3988, To Amend the charter of the American Legion [Gekas].

S. 2541, Identity Theft Penalty Enhancement Act of 2002 [Feinstein/Kyl/Sessions/Grassley].

H.R. 3180, To consent to certain amendments to the New Hampshire-Vermont Interstate School Compact [Bass].

S. 2520, Prosecutorial Remedies and Tools Against the Exploitation of Children Today Act of 2002 [Hatch/Leahy/Sessions/Brownback/Edwards/DeWine/Grassley].

S. 3114, Hometown Heroes Survivors Benefits Act of 2002 [Leahy/Collins].

S. Con. Res. 94, A Sense of Congress that a National Importance of Health Coverage Month should be established [Wyden/Hatch/Grassley].

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM AND GOVERNMENT INFORMATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Technology, Terrorism and Government Information be authorized to meet to conduct a hearing on "America Still Unprepared—America Still in Danger" on Thursday, November 14, 2002, at 2 p.m. in room 226 of the Dirksen Senate Office Building.

Witness List

Senator Warren B. Rudman, Co-Chair, Independent Terrorism Task Force Washington, DC.

Stephen E. Flynn, Member, Independent Terrorism Task Force, Senior Fellow, National Security Studies, Council on Foreign Relations, New York, NY.

Philip A. Odeen, Member, Independent Terrorism Task Force, Chairman, TRW Inc., Arlington, VA.

Col. Randy Larsen, Ret., Director, ANSER Institute for Homeland Security, Arlington, VA.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. McCAIN. Madam President, I ask unanimous consent that Joe Raymond, a Coast Guard fellow on the Senate Commerce Committee, be granted the privilege of the floor during consideration of the conference report to accompany S. 1214, the Port and Maritime Security Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. CLINTON. Madam President, I ask unanimous consent that a fellow in my office, Dr. Leo Tressande, be given floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

SMALL WEBCASTER AMENDMENTS ACT OF 2002

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to the consideration of H.R. 5469.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

> A bill (H.R. 5469) to amend title 17, United States Code, with respect to the statutory license for webcasting.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Madam President, I am pleased that the Senate is taking the important step of passing H.R. 5469, the "Small Webcaster Amendments Act of 2002." This legislation reflects hard choices made in hard negotiations under hard circumstances. I commend House Judiciary Chairman SENSENBRENNER and Representative CONYERS for bringing this legislation to a successful conclusion and passage in the House of Representatives in a timely fashion to make a difference in the prospects of many small webcasters. I also thank Senator HELMS and his staff for working in the lame duck session of this Congress to get the bill done.

The Internet is an American invention that has become the emblem of the Information Age and an engine for bringing American content into homes and businesses around the globe. I have long been an enthusiast and champion of the Internet and of the creative spirits who are the source of the music, films, books, news, and entertainment content that enrich our lives, energize our economy and influence our culture. As a citizen, I am impressed by the innovation of new online entrepreneurs, and as a Senator, I want to do everything possible to promote the full realization of the Internet's potential. A flourishing Internet with clear, fair and enforceable rules governing how content may be used will benefit *all* of us, including the entrepreneurs who want us to become new customers and the artists who create the content we value.

The advent of webcasting, streaming music online rather than broadcasting it over the air as traditional radio stations do, has marked one of the more exciting and quickly growing of the new industries that have sprung up on the Web. Many of the new webcasters, unconstrained by the technological limitations of traditional radio transmission, can and do serve listeners across the country and around the world. They provide music in specialized niches not available over the air. They feature new and fringe artists who do not enjoy the few spots in the Top 40. And they can bring music of all types to listeners who, for whatever reason, are not being catered to by traditional broadcasters.

We have been mindful on this Committee that as the Internet is a boon to consumers, we must not neglect the artists who create and the businesses which produce the digital works that make the online world so fascinating and worth visiting. With each legislative effort to provide clear, fair and enforceable intellectual property rules for the Internet, a fundamental principle to which we have adhered is that artists and producers of digital works merit compensation for the value derived from the use of their work.

In 1995, we enacted the Digital Performance Right in Sound Recordings Act, which created an intellectual property right in digital sound recordings, giving copyright owners the right to receive royalties when their copyrighted sound recordings were digitally transmitted by others. Therefore when their copyrighted sound recordings are digitally transmitted, royalties are due. In the 1998 Digital Millennium Copyright Act, DMCA, we made clear that this law applied to webcasters and that they would have to pay these royalties. At the same time, we created a compulsory license so that webcasters could be sure of the use of these digital works. We directed that the appropriate royalty rate could be negotiated by the parties or determined by a Copyright Arbitration Royalty Panel, or CARP, at the Library of Congress.

Despite some privately negotiated agreements, no industry-wide agreement on royalty rates was reached and therefore a CARP proceeding was instituted that concluded on February 20, 2002. The CARP decision set the royalty rate to be paid by commercial webcasters, no matter their size, at .14 cents per song per listener, with royalty payments retroactive to October 1998, when the DMCA was passed.

At a Judiciary Committee hearing I convened on this issue on May 15, 2002, nobody seemed happy with the outcome of the arbitration and, in fact, all the parties appealed. The recording industry and artist representatives feel that the royalty rate, which was based on the number of performances and listeners, rather than on a percentage-of-revenue model, was too low to adequately compensate the creative efforts of the artists and the financial investments of the labels. Many webcasters declared that the per-performance approach, and the rate attached to it, would bankrupt small operations and drain the large ones. I said then that such an outcome would be highly unfortunate not only for the webcasters but also for the artists, the labels and the consumers, who all would lose important legitimate channels to connect music and music lovers online.

On appeal, the Librarian in June, 2002, cut the rate in half, to .07 cents per song per listener for commercial webcasters. Nevertheless, many webcasters, who had been operating during the four-year period between 1998 and 2002, were taken by surprise at the amount of their royalty liability. The retroactive fees were to be paid in full by October 20th and would have resulted in many small webcasters in particular, going out of business.

In order to avoid many webcasting streams going silent on October 20, when retroactive royalty payments are due, I urged all sides to avoid more expense and time and reach a negotiated outcome more satisfactory to all participants than the Librarian's decision. I also monitored closely the progress of negotiations between the RIAA and webcasters. On July 31, I sent a letter with Senator HATCH to Sound Exchange, which was created by the RIAA to act as the agent for copyright holders in negotiating the voluntary licenses with webcasters under the DMCA and to serve as the receiving agent for royalties under the CARP process. The letter posed questions on the status of the reported on-going negotiations between RIAA/Sound Exchange and the smaller webcasters, the terms being proposed and considered, and how likely the outcome of those negotiations would be to produce viable deals for smaller webcasters, while still satisfying the copyright community.

Reports on the progress of these negotiations were disappointing, which makes this legislation all the more important. As a general principle, marketplace negotiations are the appropriate mechanism for determining the allocation of compensation among interested parties under copyright law. Yet, we have made exceptions to this general principle, as reflected in this legislation and the very compulsory license provisions it amends.

The legislation reflects a compromise for all the parties directly affected by this legislation—small webcasters, noncommercial webcasters, and hobbyists that could not survive with the rates set by the Librarian, and copyright owners and performers who under this bill will give certain eligible webcasters an alternative royalty payment scheme. This legislation does not represent a complete victory for any of these stakeholders. Artists and music labels may believe that they are forgoing significant royalties under this legislation and I appreciate that they are those in the webcasting business, who are either not covered or not sufficiently helped by the bill, who believe that this legislation should do more. As one analyst at the Radio and Internet Newsletter stated, in the October 11, 2002 issue, "Clearly, the 'Small Webcaster Amendments Act of 2002' (a/k/a H.R. 5469) is an imperfect bill that doesn't fix everything for everybody; Still, overall, does it do more good than harm for more people? My belief is that many are helped one way or the other and virtually no one is assured of being hurt. Thus, the answer, on the whole, would be yes."

I know that most webcasters share my belief that artists and labels should be fairly compensated for use of their creative works. This legislation provides both compensation to the copyright owners and helps to support the webcasting industry by offering more variable payment options to small webcasters than the one-size-fits all per performance rate set out in the original CARP and Librarian decisions. The rates, terms and record-keeping provisions are applicable only to the parties that qualify for and elect to be governed by this alternative royalty structure and no broad principles should be extrapolated from the rates, terms and record-keeping provisions contained in the bill. The Copyright Office is presently engaged in a rule-making on record-keeping and this bill does not supplant that ongoing process.

After the House passed H.R. 5469 on October 7, 2002, I have worked with Senator HATCH to clear the bill for passage through the Senate and address concerns raised on both sides of the aisle. While the bill was finally cleared for passage by all the Democratic Senators on October 17, passage of the legislation was blocked before the lame-duck session. I am pleased to have worked with Senator HELMS on a substitute that resolves some of the concerns raised about the original House-passed bill.

The Helms-Leahy substitute makes the following changes in H.R. 5469:

First, it authorizes SoundExchange to enter into agreements with groups representing small webcasters and noncommercial webcasters. Such agreements will be available generally to any party which qualifies under their terms as an option to the rates adopted by the Copyright Office. The rates and terms of such agreements will be binding on all copyright holders once the agreement has been published in the Federal Register by the Copyright Office. Such deals are authorized to cover the retroactive fees, as well as those going forward.

Second, the substitute amendment imposes a 6 month moratorium on fee collections from noncommercial entities, to allow for negotiations with such entities. This provision is particularly important for noncommercial webcasters, such as those operating at colleges and universities. The Librarian's decision contained an anomaly under which nonprofit entities that held FCC licenses were given a lower per performance rate than were commercial entities, but no such provision was made for noncommercial entities that were not FCC licensees. The bill provides a moratorium on the collection of royalties in order for an alternative agreement to be reached.

It also authorizes Sound Exchange to postpone retroactive royalty collections from small webcasters with whom it is negotiating deals. The original House-passed bill recognized the retroactive burden on many of the small commercial webcasters by allowing them to make their payments based on a percentage of revenue or percentage of expense, but also allows both small commercial and noncommercial webcasters to pay these retroactive fees in three payments over he span of a year.

Third, the substitute amendment adopts language making clear that such deals are not precedent in any judicial proceeding or in future CARPs.

Fourth, the substitute amendment provides for direct payment to artists and deductibility of expenses from the proceeds of the royalties.

Finally, the substitute amendment authorizes a GAO/Copyright Office study on the impact of agreements between third parties and webcasters and the effect that such agreements should have on percentage of expense royalty rates. This authorization does not contain any preliminary findings or sense of the Congress language as to how such study should be resolved.

The agreement to be negotiated between Sound Exchange and small webcasters will likely reflect the rates and terms set forth in the original House-passed bill. These terms provide an option of paying a percentage of revenue and stay in business. As one Vermont webcaster told me, "Although the percentage of revenue is too high, at least we have the option. A percentage of revenue deal with enable [us] to stay in business moving forward, grow our audience, and compete."

The Librarian of Congress royalty rate is based on a per performance formula, which has the unfortunate effect of requiring webcasters to pay high fees for their use of music, even before the audience of the webcaster has grown to a sufficient size to attract any appreciable advertising revenues. Without any percentage of revenue option (as the legislation allows), the webcasting industry would be closed to all but those with the substantial resources necessary to subsidize the business until the advertising revenues caught up to the per performance royalty rate.

A number of concerns have been raised that the rate and terms of the agreements authorized under the substitute amendment do not constitute evidence of any rates, rate structure, fees, definitions, conditions or terms that would have been negotiated in the marketplace between a willing buyer and willing seller. The concern stems from the DMCA's statutory license fee standard directing the CARP to establish rates and terms "that most clearly represent the rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller," rather than a determination of "reasonable copyright royalty rates" according to a set of balancing factors. This new webcasting standard may be having the unfortunate and unintended result that webcasters and copyright owners are concerned that the rates and terms of any voluntary licensing agreements will be applied industry-wide. The new webcasting standard appears to be making all sides cautious and reluctant to enter into, rather than facilitating, voluntary licensing agreements.

Passage of this legislation does not mean that our work is done. As this webcasting issue has unfolded, I have heard complaints from all sides about the fairness and completeness of procedures employed in the arbitration. Indeed, the concerns of many small webcasters were never heard, since the cost of participating in the proceedings was prohibitively expensive and their ability to participate for free was barred by procedural rules. One thing is clear: Compulsory licenses are no panacea and their implementation may only invite more congressional intervention. To avoid repeated requests for the Congress or the courts to intercede, we must make sure the procedures and standards used to establish the royalty rates for the webcasting and other compulsory licenses produce fair, workable results. Next year, we should focus attention on reforming the CARP process.

Mr. REID. Madam President, I ask unanimous consent that the Helms amendment at the desk be agreed to; the bill, as amended, be read a third time, passed, and the motion to reconsider be laid on the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4955) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (H.R. 5469), as amended, was read the third time and passed.

MEASURE PLACED ON THE CALENDAR—H.J. RES. 124

Mr. REID. Madam President, I ask unanimous consent that H.J. Res. 124, the continuing resolution just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

AFGHANISTAN FREEDOM SUPPORT ACT OF 2002

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 597, S. 2712.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2712) to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part printed in Italic.]

S. 2712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINITION.

[(a) SHORT TITLE.—This Act may be cited as the "Afghanistan Freedom Support Act of 2002".

[(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

[Sec. 1. Short title; table of contents; definition.

[TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

[Sec. 101. Declaration of policy.
[Sec. 102. Purposes of assistance.
[Sec. 103. Principles of assistance.
[Sec. 104. Authorization of assistance.
[Sec. 105. Coordination of assistance.
[Sec. 106. Administrative provisions.
[Sec. 107. Authorization of appropriations.

[TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

[Sec. 201. Support for security during transition in Afghanistan.
[Sec. 202. Authorization of assistance.
[Sec. 203. Eligible foreign countries and eligible international organizations.
[Sec. 204. Reimbursement for assistance.
[Sec. 205. Authority to provide assistance.
[Sec. 206. Promoting secure delivery of humanitarian and other assistance in Afghanistan.
[Sec. 207. Sunset.

[TITLE III—ADDITIONAL REQUIREMENTS WITH RESPECT TO ASSISTANCE FOR AFGHANISTAN

[Sec. 301. Prohibition on United States involvement in poppy cultivation or illicit narcotics growth, production, or trafficking.
[Sec. 302. Requirement to report by certain United States officials.
[Sec. 303. Report by the President.

[(c) DEFINITION.—In this Act, the term "Government of Afghanistan" includes—

[(1) the government of any political subdivision of Afghanistan; and

[(2) any agency or instrumentality of the Government of Afghanistan.

[TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

[SEC. 101. DECLARATION OF POLICY.

[Congress makes the following declarations:

[(1) The United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan.

[(2) The United States, in particular, should provide its expertise to meet immediate humanitarian and refugee needs, fight the production and flow of illicit narcotics, and aid in the reconstruction of Afghanistan's agriculture, health care, civil service, financial, and educational systems.

[(3) By promoting peace and security in Afghanistan and preventing a return to conflict, the United States and the international community can help ensure that Afghanistan does not again become a source for international terrorism.

[(4) The United States should support the objectives agreed to on December 5, 2001, in Bonn, Germany, regarding the provisional arrangement for Afghanistan as it moves toward the establishment of permanent institutions and, in particular, should work intensively toward ensuring the future neutrality of Afghanistan, establishing the principle that neighboring countries and other countries in the region do not threaten or interfere in one another's sovereignty, territorial integrity, or political independence, including supporting diplomatic initiatives to support this goal.

[(5) The special emergency situation in Afghanistan, which from the perspective of the American people combines security, humanitarian, political, law enforcement, and development imperatives, requires that the President should receive maximum flexibility in designing, coordinating, and administering efforts with respect to assistance for Afghanistan and that a temporary special program of such assistance should be established for this purpose.

[(6) To foster stability and democratization and to effectively eliminate the causes of terrorism, the United States and the international community should also support efforts that advance the development of democratic civil authorities and institutions in the broader Central Asia region.

[SEC. 102. PURPOSES OF ASSISTANCE.

[The purposes of assistance authorized by this title are—

[(1) to help assure the security of the United States and the world by reducing or eliminating the likelihood of violence against United States or allied forces in Afghanistan and to reduce the chance that [Afghanistan will again be a source of international terrorism;

[(2) to support the continued efforts of the United States and the international community to address the humanitarian crisis in Afghanistan and among Afghan refugees in neighboring countries;

[(3) to fight the production and flow of illicit narcotics, to control the flow of precursor chemicals used in the production of heroin, and to enhance and bolster the capacities of Afghan governmental authorities to control poppy cultivation and related activities;

[(4) to help achieve a broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan that is freely chosen by the people of Afghanistan and that respects the human rights of all Afghans, particularly women, including authorizing assistance for the rehabilitation and reconstruction of Afghanistan with a particular emphasis on meeting the educational, health, and sustenance needs of women and children to better enable their full participation in Afghan society;

[(5) to support the Government of Afghanistan in its development of the capacity to facilitate, organize, develop, and implement projects and activities that meet the needs of the Afghan people;

[(6) to foster the participation of civil society in the establishment of the new Afghan government in order to achieve a broad-based, multiethnic, gender-sensitive, fully representative government freely chosen by the Afghan people, without prejudice to any decisions which may be freely taken by the Afghan people about the precise form in which their government is to be organized in the future;

[(7) to support the reconstruction of Afghanistan through, among other things, programs that create jobs, facilitate clearance of landmines, and rebuild the agriculture sector, the health care system, and the educational system of Afghanistan; and

[(8) to include specific resources to the Ministry for Women's Affairs of Afghanistan to carry out its responsibilities for legal advocacy, education, vocational training, and women's health programs.

[SEC. 103. PRINCIPLES OF ASSISTANCE.

[The following principles should guide the provision of assistance authorized by this title:

[(1) TERRORISM AND NARCOTICS CONTROL.—Assistance should be designed to reduce the likelihood of harm to United States and other allied forces in Afghanistan and the region, the likelihood of additional acts of international terrorism emanating from Afghanistan, and the cultivation, production, trafficking, and use of illicit narcotics in Afghanistan.

[(2) ROLE OF WOMEN.—Assistance should increase the participation of women at the national, regional, and local levels in Afghanistan, wherever feasible, by enhancing the role of women in decisionmaking processes, as well as by providing support for programs that aim to expand economic and educational opportunities and health programs for women and educational and health programs for girls.

[(3) AFGHAN OWNERSHIP.—Assistance should build upon Afghan traditions and practices. The strong tradition of community responsibility and self-reliance in Afghanistan should be built upon to increase the capacity of the Afghan people and institutions to participate in the reconstruction of Afghanistan.

[(4) STABILITY.—Assistance should encourage the restoration of security in Afghanistan, including, among other things, the disarmament, demobilization, and reintegration of combatants, and the establishment of the rule of law, including the establishment of a police force and an effective, independent judiciary.

[(5) COORDINATION.—Assistance should be part of a larger donor effort for Afghanistan. The magnitude of the devastation—natural and man-made—to institutions and infrastructure make it imperative that there be close coordination and collaboration among donors. The United States should endeavor to assert its leadership to have the efforts of international donors help achieve the purposes established by this title.

[SEC. 104. AUTHORIZATION OF ASSISTANCE.

[(a) IN GENERAL.—The President is authorized to provide assistance for Afghanistan for the following activities:

[(1) URGENT HUMANITARIAN NEEDS.—To assist in meeting the urgent humanitarian needs of the people of Afghanistan, including assistance such as—

[(A) emergency food, shelter, and medical assistance;

[(B) clean drinking water and sanitation;

[(C) preventative health care, including childhood vaccination, therapeutic feeding, maternal child health services, and infectious diseases surveillance and treatment;

[(D) family tracing and reunification services; and

[(E) clearance of landmines.

[(2) REPATRIATION AND RESETTLEMENT OF REFUGEES AND INTERNALLY DISPLACED PERSONS.—To assist refugees and internally displaced persons as they return to their home communities in Afghanistan and to support their reintegration into those communities, including assistance such as—

[(A) assistance identified in paragraph (1);

[(B) assistance to communities, including those in neighboring countries, that have taken in large numbers of refugees in order to rehabilitate or expand social, health, and educational services that may have suffered as a result of the influx of large numbers of refugees;

[(C) assistance to international organizations and host governments in maintaining security by screening refugees to ensure the exclusion of armed combatants, members of foreign terrorist organizations, and other individuals not eligible for economic assistance from the United States; and

[(D) assistance for voluntary refugee repatriation and reintegration inside Afghanistan and continued assistance to those refugees who are unable or unwilling to return, and humanitarian assistance to internally displaced persons, including those persons who need assistance to return to their homes, through the United Nations High Commissioner for Refugees and other organizations charged with providing such assistance.

[(3) COUNTERNARCOTICS EFFORTS.—(A) To assist in the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan and the region, with particular emphasis on assistance to—

[(i) eradicate opium poppy, establish crop substitution programs, purchase nonopium products from farmers in opium-growing areas, quick-impact public works programs to divert labor from narcotics production, develop projects directed specifically at narcotics production, processing, or trafficking areas to provide incentives to cooperation in narcotics suppression activities, and related programs;

[(ii) establish or provide assistance to one or more entities within the Government of Afghanistan, including the Afghan State High Commission for Drug Control, and to provide training and equipment for the entities, to help enforce counternarcotics laws in Afghanistan and limit illicit narcotics growth, production, and trafficking in Afghanistan;

[(iii) train and provide equipment for customs, police, and other border control entities in Afghanistan and the region relating to illicit narcotics interdiction and relating to precursor chemical controls and interdiction to help disrupt heroin production in Afghanistan and the region;

[(iv) continue the annual opium crop survey and strategic studies on opium crop planting and farming in Afghanistan; and

[(v) reduce demand for illicit narcotics among the people of Afghanistan, including refugees returning to Afghanistan.

[(B) For each of the fiscal years 2002 through 2005, $15,000,000 of the amount made available to carry out this title is authorized to be made available for a contribution to the United Nations Drug Control Program for the purpose of carrying out activities described in clauses (i) through (v) of subparagraph (A). Amounts made available under the preceding sentence are in addition to amounts otherwise available for such purposes.

[(4) REESTABLISHMENT OF FOOD SECURITY, REHABILITATION OF THE AGRICULTURE SECTOR, IMPROVEMENT IN HEALTH CONDITIONS, AND THE RECONSTRUCTION OF BASIC INFRASTRUCTURE.—To assist in expanding access to markets in Afghanistan, to increase the availability of food in markets in Afghanistan, to rehabilitate the agriculture sector in Afghanistan by creating jobs for former combatants, returning refugees, and internally displaced persons, to improve health conditions, and assist in the rebuilding of basic infrastructure in Afghanistan, including assistance such as—

[(A) rehabilitation of the agricultural infrastructure, including irrigation systems and rural roads;

[(B) extension of credit;

[(C) provision of critical agricultural inputs, such as seeds, tools, and fertilizer, and strengthening of seed multiplication, certification, and distribution systems;

[(D) improvement in the quantity and quality of water available through, among other things, rehabilitation of existing irrigation systems and the development of local capacity to manage irrigation systems;

[(E) livestock rehabilitation through market development and other mechanisms to distribute stocks to replace those stocks lost as a result of conflict or drought;

[(F) mine awareness and demining programs and programs to assist mine victims, war orphans, and widows;

[(G) programs relating to infant and young child feeding, immunizations, vitamin A supplementation, and prevention and treatment of diarrheal diseases and respiratory infections;

[(H) programs to improve maternal and child health and reduce maternal and child mortality;

[(I) programs to improve hygienic and sanitation practices and for the prevention and treatment of infectious diseases, such as tuberculosis and malaria;

[(J) programs to reconstitute the delivery of health care, including the reconstruction of health clinics or other basic health infrastructure, with particular emphasis on health care for children who are orphans;

[(K) programs for housing, rebuilding urban infrastructure, and supporting basic urban services; and

[(L) disarmament, demobilization, and reintegration of armed combatants into society, particularly child soldiers.

[(5) REESTABLISHMENT OF AFGHANISTAN AS A VIABLE NATION-STATE.—(A) To assist in the development of the capacity of the Government of Afghanistan to meet the needs of the people of Afghanistan through, among other things, support for the development and expansion of democratic and market-based institutions, including assistance such as—

[(i) support for international organizations that provide civil advisers to the Government of Afghanistan;

[(ii) support for an educated citizenry through improved access to basic education, with particular emphasis on basic education for children who are orphans, with particular emphasis on basic education for children;

[(iii) programs to enable the Government of Afghanistan to recruit and train teachers, with special focus on the recruitment and training of female teachers;

[(iv) programs to enable the Government of Afghanistan to develop school curriculum that incorporates relevant information such as landmine awareness, food security and agricultural education, human rights awareness, and civic education;

[(v) support for the activities of the Government of Afghanistan to draft a new constitution, other legal frameworks, and other initiatives to promote the rule of law in Afghanistan;

[(vi) support to increase the transparency, accountability, and participatory nature of governmental institutions, including programs designed to combat corruption and other programs for the promotion of good governance;

[(vii) support for an independent media;

[(viii) programs that support the expanded participation of women and members of all ethnic groups in government at national, regional, and local levels;

[(ix) programs to strengthen civil society organizations that promote human rights and support human rights monitoring;

[(x) support for national, regional, and local elections and political party development;

[(xi) support for the effective administration of justice at the national, regional, and local levels, including the establishment of a responsible and community-based police force; and

[(xii) support for establishment of a central bank and central budgeting authority.

[(B) For each of the fiscal years 2003 through 2005, not less than $10,000,000 of the amount made available to carry out this title should be made available for the purposes of carrying out a traditional Afghan assembly or "Loya Jirga" and for support for national, regional, and local elections and political party development under subparagraph (A)(x).

[(6) MARKET ECONOMY.—To support the establishment of a market economy, the establishment of private financial institutions, the adoption of policies to promote foreign direct investment, the development of a basic telecommunication infrastructure, and the development of trade and other commercial links with countries in the region and with the United States, including policies to—

[(A) encourage the return of Afghanistan citizens or nationals living abroad who have marketable and business-related skills;

[(B) establish financial institutions, including credit unions, cooperatives, and other entities providing microenterprise credits and other income-generation programs for the poor, with particular emphasis on women;

[(C) facilitate expanded trade with countries in the region;

[(D) promote and foster respect for basic workers' rights and protections against exploitation of child labor; and

[(E) provide financing programs for the reconstruction of Kabul and other major cities in Afghanistan.

[(b) LIMITATION.—

[(1) IN GENERAL.—Amounts made available to carry out this title (except amounts made available for assistance under paragraphs (1) through (3) and subparagraphs (F) through (I) of paragraph (4) of subsection (a)) may be provided only if the President first determines and certifies to Congress with respect to the fiscal year involved that substantial progress has been made toward adopting a constitution and establishing a democratically elected government for Afghanistan.

[(2) WAIVER.—

[(A) IN GENERAL.—The President may waive the application of paragraph (1) if the President first determines and certifies to Congress that it is important to the national interest of the United States to do so.

[(B) CONTENTS OF CERTIFICATION.—A certification transmitted to Congress under subparagraph (A) shall include a written explanation of the basis for the determination of the President to waive the application of paragraph (1).

[SEC. 105. COORDINATION OF ASSISTANCE.

[(a) IN GENERAL.—The President is strongly urged to designate, within the Department of State, a coordinator who shall be responsible for—

[(1) designing an overall strategy to advance United States interests in Afghanistan;

[(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this title;

[(3) pursuing coordination with other countries and international organizations with respect to assistance to Afghanistan;

[(4) ensuring that United States assistance programs for Afghanistan are consistent with this title;

[(5) ensuring proper management, implementation, and oversight by agencies responsible for assistance programs for Afghanistan; and

[(6) resolving policy and program disputes among United States Government agencies with respect to United States assistance for Afghanistan.

[(b) RANK AND STATUS OF THE COORDINATOR.—The coordinator designated under subsection (a) shall have the rank and status of ambassador.

[SEC. 106. ADMINISTRATIVE PROVISIONS.

[(a) APPLICABLE ADMINISTRATIVE AUTHORITIES.—Except to the extent inconsistent with the provisions of this title, the administrative authorities under chapters 1 and 2 of part III of the Foreign Assistance Act of 1961 shall apply to the provision of assistance under this title to the same extent and in the same manner as such authorities apply to the provision of economic assistance under part I of such Act.

[(b) USE OF THE EXPERTISE OF AFGHAN-AMERICANS.—In providing assistance authorized by this title, the President should—

[(1) maximize the use, to the extent feasible, of the services of Afghan-Americans who have expertise in the areas for which assistance is authorized by this title; and

[(2) in the awarding of contracts and grants to implement activities authorized under this title, encourage the participation of such Afghan-Americans (including organizations employing a significant number of such Afghan-Americans).

[(c) DONATIONS OF MANUFACTURING EQUIPMENT; USE OF LAND GRANT COLLEGES AND UNIVERSITIES.—In providing assistance authorized by this title, the President, to the maximum extent practicable, should—

[(1) encourage the donation of appropriate excess or obsolete manufacturing and related equipment by United States businesses (including small businesses) for the reconstruction of Afghanistan; and

[(2) utilize research conducted by United States land grant colleges and universities and the technical expertise of professionals within those institutions, particularly in the areas of agriculture and rural development.

[(d) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available to a Federal department or agency to carry out this title for a fiscal year may be used by the department or agency for administrative expenses in connection with such assistance.

[(e) MONITORING.—

[(1) COMPTROLLER GENERAL.—The Comptroller General shall monitor the provision of assistance under this title.

[(2) INSPECTOR GENERAL OF USAID.—

[(A) IN GENERAL.—The Inspector General of the United States Agency for International Development shall conduct audits, inspections, and other activities, as appropriate, associated with the expenditure of the funds to carry out this title.

[(B) FUNDING.—Not more than $1,500,000 of the amount made available to carry out this title for a fiscal year shall be made available to carry out subparagraph (A).

[(f) CONGRESSIONAL NOTIFICATION PROCEDURES.—Funds made available to carry out this title may not be obligated until 15 days after notification of the proposed obligation of the funds has been provided to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section.

[SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—There are authorized to be appropriated to the President to carry out this title $300,000,000 for each of the fiscal years 2002 through 2004, and $250,000,000 for fiscal year 2005. Amounts authorized to be appropriated pursuant to the preceding sentence for fiscal year 2002 are in addition to amounts otherwise available for assistance for Afghanistan.

[(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—

[(1) authorized to remain available until expended; and

[(2) in addition to funds otherwise available for such purposes, including, with respect to food assistance under section 104(a)(1), funds available under title II of the Agricultural Trade Development and Assistance Act of 1954, the Food for Progress Act of 1985, and section 416(b) of the Agricultural Act of 1949.

[TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

[SEC. 201. SUPPORT FOR SECURITY DURING TRANSITION IN AFGHANISTAN.

[It is the sense of Congress that, during the transition to a broad-based, multi-ethnic, gender-sensitive, fully representative government in Afghanistan, the United States should support—

[(1) the development of a civilian-controlled and centrally-governed standing Afghanistan army that respects human rights and prohibits the use of children as soldiers or combatants;

[(2) the creation and training of a professional civilian police force that respects human rights; and

[(3) a multinational security force in Afghanistan.

[SEC. 202. AUTHORIZATION OF ASSISTANCE.

[(a) TYPES OF ASSISTANCE.—

[(1) IN GENERAL.—(A) To the extent that funds are appropriated in any fiscal year for the purposes of this Act, the President may provide, consistent with existing United States statutes, defense articles, defense services, counter-narcotics, crime control and police training services, and other support (including training) to the Government of Afghanistan.

[(B) To the extent that funds are appropriated in any fiscal year for these purposes, the President may provide, consistent with existing United States statutes, defense articles, defense services, and other support (including training) to eligible foreign countries and eligible international organizations.

[(C) The assistance authorized under subparagraph (B) shall be used for directly supporting the activities described in section 203.

[(2) DRAWDOWN AUTHORITY.—The President is authorized to direct the drawdown of defense articles, defense services, and military education and training for the Government of Afghanistan, eligible foreign countries, and eligible international organizations.

[(3) AUTHORITY TO ACQUIRE BY CONTRACT OR OTHERWISE.—The assistance authorized under paragraphs (1) and (2) and under Public Law 105–338 may include the supply of defense articles, defense services, counter-narcotics, crime control and police training services, other support, and military education and training that are acquired by contract or otherwise.

[(b) AMOUNT OF ASSISTANCE.—The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under subsection (a)(2) may not exceed $300,000,000, provided that such limitation shall be increased by any amounts appropriated pursuant to the authorization of appropriations in section 204(b)(1).

[SEC. 203. ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

[(a) ELIGIBILITY FOR ASSISTANCE.—

[(1) IN GENERAL.—Except as provided in paragraph (2), a foreign country or international organization shall be eligible to receive assistance under section 202 if such foreign country or international organization is participating in or directly supporting United States military activities authorized under Public Law 107–40 or is participating in military, peacekeeping, or policing operations in Afghanistan aimed at restoring or maintaining peace and security in that country.

[(2) EXCEPTION.—No country the government of which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 6(j)(1) of the Export Administration Act of 1979 (50 U:S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C.

2780(d)) shall be eligible to receive assistance under section 202.

[(b) WAIVER.—The President may waive the application of subsection (a)(2) if the President determines that it is important to the national security interest of the United States to do so.

[SEC. 204. REIMBURSEMENT FOR ASSISTANCE.

[(a) IN GENERAL.—Defense articles, defense services, and military education and training provided under section 202(a)(2) shall be made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to the authorization of appropriations in subsection (b)(1).

[(b) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, or military education and training provided under section 202(a)(2).

[(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended, and are in addition to amounts otherwise available for the purposes described in this title.

[SEC. 205. ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

[(a) AUTHORITY.—The President may provide assistance under this title to any eligible foreign country or eligible international organization if the President determines that such assistance is important to the national security interest of the United States and notifies the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination at least 15 days in advance of providing such assistance.

[(b) NOTIFICATION.—The report described in subsection (a) shall be submitted in classified and unclassified form and shall include information relating to the type and amount of assistance proposed to be provided and the actions that the proposed recipient of such assistance has taken or has committed to take.

[SEC. 206. PROMOTING SECURE DELIVERY OF HUMANITARIAN AND OTHER ASSISTANCE IN AFGHANISTAN.

[(a) FINDINGS.—Congress finds the following:

[(1) The President has declared his view that the United States should provide significant assistance to Afghanistan so that it never again becomes a haven for terrorism.

[(2) The delivery of humanitarian and reconstruction assistance from the international community is necessary for the safe return of refugees and is critical to the future stability of Afghanistan.

[(3) Enhanced stability in Afghanistan through an improved security environment is critical to the fostering of the Afghan Interim Authority and the traditional Afghan assembly or "Loya Jirga" process, which is intended to lead to a permanent national government in Afghanistan, and also is essential for the participation of women in Afghan society.

[(4) Incidents of violence between armed factions and local and regional commanders, and serious abuses of human rights, including attacks on women and ethnic minorities throughout Afghanistan, create an insecure, volatile, and unsafe environment in parts of Afghanistan, displacing thousands of Afghan civilians from their local communities.

[(5) The violence and lawlessness may jeopardize the "Loya Jirga" process, undermine efforts to build a strong central government, severely impede reconstruction and the delivery of humanitarian assistance, and increase the likelihood that parts of Afghanistan will once again become safe havens for al-Qaida, Taliban forces, and drug traffickers.

[(6) The lack of security and lawlessness may also perpetuate the need for United States Armed Forces in Afghanistan and threaten the ability of the United States to meet its military objectives.

[(7) The International Security Assistance Force in Afghanistan, currently led by Turkey, and composed of forces from other willing countries without the participation of United States Armed Forces, is deployed only in Kabul and currently does not have the mandate or the capacity to provide security to other parts of Afghanistan.

[(8) Due to the ongoing military campaign in Afghanistan, the United States does not contribute troops to the International Security Assistance Force but has provided support to other countries that are doing so.

[(9) The United States is providing political, financial, training, and other assistance to the Afghan Interim Authority as it begins to build a national army and police force to help provide security throughout Afghanistan, but this effort is not meeting the immediate security needs of Afghanistan.

[(10) Because of these immediate security needs, the Afghan Interim Authority, its Chairman, Hamid Karzai, and many Afghan regional leaders have called for the International Security Assistance Force, which has successfully brought stability to Kabul, to be expanded and deployed throughout the country, and this request has been strongly supported by a wide range of international humanitarian organizations, including the International Committee of the Red Cross, Catholic Relief Services, and Refugees International.

[(11)(A) On January 29, 2002, the President stated that "[w]e will help the new Afghan government provide the security that is the foundation of peace".

[(B) On March 25, 2002, the Secretary of Defense stated, with respect to the reconstruction of Afghanistan, that "the first thing . . . you need for anything else to happen, for hospitals to happen, for roads to happen, for refugees to come back, for people to be fed and humanitarian workers to move on the country . . . [y]ou've got to have security".

[(b) STATEMENT OF POLICY.—It should be the policy of the United States to support measures to help meet the immediate security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

[(c) PREPARATION OF STRATEGY.—Not later than 45 days after the date of the enactment of this Act, and every six months thereafter, the President shall transmit to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a strategy for meeting the immediate and long-term security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

[SEC. 207. SUNSET.

[The authority of this title shall expire after December 31, 2004.

[TITLE III—ADDITIONAL REQUIREMENTS WITH RESPECT TO ASSISTANCE FOR AFGHANISTAN

[SEC. 301. PROHIBITION ON UNITED STATES INVOLVEMENT IN POPPY CULTIVATION OR ILLICIT NARCOTICS GROWTH, PRODUCTION, OR TRAFFICKING.

[No officer or employee of any Federal department or agency who is involved in the provision of assistance under this Act may knowingly encourage or participate in poppy cultivation or illicit narcotics growth, production, or trafficking in Afghanistan. No United States military or civilian aircraft or other United States vehicle that is used with respect to the provision of assistance under this Act may be used to facilitate the distribution of poppies or illicit narcotics in Afghanistan.

[SEC. 302. REQUIREMENT TO REPORT BY CERTAIN UNITED STATES OFFICIALS.

[(a) REQUIREMENT.—An officer or employee of any Federal department or agency involved in the provision of assistance under this Act and having knowledge of facts or circumstances that reasonably indicate that any agency or instrumentality of the Government of Afghanistan, or any other individual (including an individual who exercises civil power by force over a limited region) or organization in Afghanistan, that receives assistance under this Act is involved in poppy cultivation or illicit narcotics growth, production, or trafficking shall, notwithstanding any memorandum of understanding or other agreement to the contrary, report such knowledge or facts to the appropriate official.

[(b) DEFINITION.—In this section, the term "appropriate official" means the Attorney General, the Inspector General of the Federal department or agency involved, or the head of such department or agency.

[SEC. 303. REPORT BY THE PRESIDENT.

[Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the President shall transmit to Congress a written report on the progress of the Government of Afghanistan toward the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan in accordance with the provisions of this Act.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINITION.

(a) SHORT TITLE.—This Act may be cited as the "Afghanistan Freedom Support Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents; definition.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

Sec. 101. Declaration of policy.
Sec. 102. Purposes of assistance.
Sec. 103. Principles of assistance.
Sec. 104. Authorization of assistance.
Sec. 105. Coordination of assistance.
Sec. 106. Administrative provisions.
Sec. 107. Relationship to other authority.
Sec. 108. Authorization of appropriations.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

Sec. 201. Support for security during transition in Afghanistan.
Sec. 202. Authorization of assistance.
Sec. 203. Eligible foreign countries and eligible international organizations.
Sec. 204. Reimbursement for assistance.
Sec. 205. Congressional notification requirements.
Sec. 206. Promoting secure delivery of humanitarian and other assistance in Afghanistan.
Sec. 207. Relationship to other authority.
Sec. 208. Sense of Congress regarding expansion of the International Security Assistance Force; authorization of appropriations.
Sec. 209. Sunset.

(c) DEFINITION.—In this Act, the term "Government of Afghanistan" includes—

(1) the government of any political subdivision of Afghanistan; and

(2) any agency or instrumentality of the Government of Afghanistan.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

SEC. 101. DECLARATION OF POLICY.

Congress makes the following declarations:

(1) The United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan.

(2) The United States, in particular, should provide its expertise to meet immediate humanitarian and refugee needs, fight the production and flow of illicit narcotics, and aid in the reconstruction of Afghanistan.

(3) By promoting peace and security in Afghanistan and preventing a return to conflict, the United States and the international community can help ensure that Afghanistan does not again become a source for international terrorism.

(4) The United States should support the objectives agreed to on December 5, 2001, in Bonn, Germany, regarding the provisional arrangement for Afghanistan as it moves toward the establishment of permanent institutions and, in particular, should work intensively toward ensuring the future neutrality of Afghanistan, establishing the principle that neighboring countries and other countries in the region do not threaten or interfere in one another's sovereignty, territorial integrity, or political independence, including supporting diplomatic initiatives to support this goal.

(5) The special emergency situation in Afghanistan, which from the perspective of the American people combines security, humanitarian, political, law enforcement, and development imperatives, requires that the President should receive maximum flexibility in designing, coordinating, and administering efforts with respect to assistance for Afghanistan and that a temporary special program of such assistance should be established for this purpose.

(6) To foster stability and democratization and to effectively eliminate the causes of terrorism, the United States and the international community should also support efforts that advance the development of democratic civil authorities and institutions in the broader Central Asia region.

SEC. 102. PURPOSES OF ASSISTANCE.

The purposes of assistance authorized by this title are—

(1) to help assure the security of the United States and the world by reducing or eliminating the likelihood of violence against United States or allied forces in Afghanistan and to reduce the chance that Afghanistan will again be a source of international terrorism;

(2) to support the continued efforts of the United States and the international community to address the humanitarian crisis in Afghanistan and among Afghan refugees in neighboring countries;

(3) to fight the production and flow of illicit narcotics, to control the flow of precursor chemicals used in the production of heroin, and to enhance and bolster the capacities of Afghan governmental authorities to control poppy cultivation and related activities;

(4) to help achieve a broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan that is freely chosen by the people of Afghanistan and that respects the human rights of all Afghans, particularly women, including authorizing assistance for the rehabilitation and reconstruction of Afghanistan with a particular emphasis on meeting the educational, health, and sustenance needs of women and children to better enable their full participation in Afghan society;

(5) to support the Government of Afghanistan in its development of the capacity to facilitate, organize, develop, and implement projects and activities that meet the needs of the Afghan people;

(6) to foster the participation of civil society in the establishment of the new Afghan government in order to achieve a broad-based, multi-ethnic, gender-sensitive, fully representative government freely chosen by the Afghan people, without prejudice to any decisions which may be freely taken by the Afghan people about the precise form in which their government is to be organized in the future;

(7) to support the reconstruction of Afghanistan through, among other things, programs that create jobs, facilitate clearance of landmines, and rebuild the agriculture sector, the health care system, and the educational system of Afghanistan; and

(8) to provide resources to the Ministry for Women's Affairs of Afghanistan to carry out its responsibilities for legal advocacy, education, vocational training, and women's health programs.

SEC. 103. PRINCIPLES OF ASSISTANCE.

The following principles should guide the provision of assistance authorized by this title:

(1) TERRORISM AND NARCOTICS CONTROL.—Assistance should be designed to reduce the likelihood of harm to United States and other allied forces in Afghanistan and the region, the likelihood of additional acts of international terrorism emanating from Afghanistan, and the cultivation, production, trafficking, and use of illicit narcotics in Afghanistan.

(2) ROLE OF WOMEN.—Assistance should increase the participation of women at the national, regional, and local levels in Afghanistan, wherever feasible, by enhancing the role of women in decisionmaking processes, as well as by providing support for programs that aim to expand economic and educational opportunities and health programs for women and educational and health programs for girls.

(3) AFGHAN OWNERSHIP.—Assistance should build upon Afghan traditions and practices. The strong tradition of community responsibility and self-reliance in Afghanistan should be built upon to increase the capacity of the Afghan people and institutions to participate in the reconstruction of Afghanistan.

(4) STABILITY.—Assistance should encourage the restoration of security in Afghanistan, including, among other things, the disarmament, demobilization, and reintegration of combatants, and the establishment of the rule of law, including the establishment of a police force and an effective, independent judiciary.

(5) COORDINATION.—Assistance should be part of a larger donor effort for Afghanistan. The magnitude of the devastation—natural and man-made—to institutions and infrastructure make it imperative that there be close coordination and collaboration among donors. The United States should endeavor to assert its leadership to have the efforts of international donors help achieve the purposes established by this title.

SEC. 104. AUTHORIZATION OF ASSISTANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to provide assistance for Afghanistan for the following activities:

(1) URGENT HUMANITARIAN NEEDS.—To assist in meeting the urgent humanitarian needs of the people of Afghanistan, including assistance such as—

(A) emergency food, shelter, and medical assistance;

(B) clean drinking water and sanitation;

(C) preventative health care, including childhood vaccination, therapeutic feeding, maternal child health services, and infectious diseases surveillance and treatment;

(D) family tracing and reunification services; and

(E) clearance of landmines.

(2) REPATRIATION AND RESETTLEMENT OF REFUGEES AND INTERNALLY DISPLACED PERSONS.—To assist refugees and internally displaced persons as they return to their home communities in Afghanistan and to support their reintegration into those communities, including assistance such as—

(A) assistance identified in paragraph (1);

(B) assistance to communities, including those in neighboring countries, that have taken in large numbers of refugees in order to rehabilitate or expand social, health, and educational services that may have suffered as a result of the influx of large numbers of refugees;

(C) assistance to international organizations and host governments in maintaining security by screening refugees to ensure the exclusion of armed combatants, members of foreign terrorist organizations, and other individuals not eligible for economic assistance from the United States; and

(D) assistance for voluntary refugee repatriation and reintegration inside Afghanistan and continued assistance to those refugees who are unable or unwilling to return, and humanitarian assistance to internally displaced persons, including those persons who need assistance to return to their homes, through the United Nations High Commissioner for Refugees and other organizations charged with providing such assistance.

(3) COUNTERNARCOTICS EFFORTS.—(A) To assist in the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan and the region, with particular emphasis on assistance to—

(i) eradicate opium poppy, establish crop substitution programs, purchase nonopium products from farmers in opium-growing areas, quick-impact public works programs to divert labor from narcotics production, develop projects directed specifically at narcotics production, processing, or trafficking areas to provide incentives to cooperation in narcotics suppression activities, and related programs;

(ii) establish or provide assistance to one or more entities within the Government of Afghanistan, including the Afghan State High Commission for Drug Control, and to provide training and equipment for the entities, to help enforce counternarcotics laws in Afghanistan and limit

illicit narcotics growth, production, and trafficking in Afghanistan;

(iii) train and provide equipment for customs, police, and other border control entities in Afghanistan and the region relating to illicit narcotics interdiction and relating to precursor chemical controls and interdiction to help disrupt heroin production in Afghanistan and the region;

(iv) continue the annual opium crop survey and strategic studies on opium crop planting and farming in Afghanistan; and

(v) reduce demand for illicit narcotics among the people of Afghanistan, including refugees returning to Afghanistan.

(B) For each of the fiscal years 2002 through 2005, $15,000,000 of the amount made available to carry out this title is authorized to be made available for a contribution to the United Nations Drug Control Program for the purpose of carrying out activities described in clauses (i) through (v) of subparagraph (A). Amounts made available under the preceding sentence are in addition to amounts otherwise available for such purposes.

(4) REESTABLISHMENT OF FOOD SECURITY, REHABILITATION OF THE AGRICULTURE SECTOR, IMPROVEMENT IN HEALTH CONDITIONS, AND THE RECONSTRUCTION OF BASIC INFRASTRUCTURE.—To assist in expanding access to markets in Afghanistan, to increase the availability of food in markets in Afghanistan, to rehabilitate the agriculture sector in Afghanistan by creating jobs for former combatants, returning refugees, and internally displaced persons, to improve health conditions, and assist in the rebuilding of basic infrastructure in Afghanistan, including assistance such as—

(A) rehabilitation of the agricultural infrastructure, including irrigation systems and rural roads;

(B) extension of credit;

(C) provision of critical agricultural inputs, such as seeds, tools, and fertilizer, and strengthening of seed multiplication, certification, and distribution systems;

(D) improvement in the quantity and quality of water available through, among other things, rehabilitation of existing irrigation systems and the development of local capacity to manage irrigation systems;

(E) livestock rehabilitation through market development and other mechanisms to distribute stocks to replace those stocks lost as a result of conflict or drought;

(F) mine awareness and demining programs and programs to assist mine victims, war orphans, and widows;

(G) programs relating to infant and young child feeding, immunizations, vitamin A supplementation, and prevention and treatment of diarrheal diseases and respiratory infections;

(H) programs to improve maternal and child health and reduce maternal and child mortality;

(I) programs to improve hygienic and sanitation practices and for the prevention and treatment of infectious diseases, such as tuberculosis and malaria;

(J) programs to reconstitute the delivery of health care, including the reconstruction of health clinics or other basic health infrastructure, with particular emphasis on health care for children who are orphans;

(K) programs for housing, rebuilding urban infrastructure, and supporting basic urban services; and

(L) disarmament, demobilization, and reintegration of armed combatants into society, particularly child soldiers.

(5) REESTABLISHMENT OF AFGHANISTAN AS A VIABLE NATION-STATE.—(A) To assist in the development of the capacity of the Government of Afghanistan to meet the needs of the people of Afghanistan through, among other things, support for the development and expansion of democratic and market-based institutions, including assistance such as—

(i) support for international organizations that provide civil advisers to the Government of Afghanistan;

(ii) support for an educated citizenry through improved access to basic education, with particular emphasis on basic education for children who are orphans, with particular emphasis on basic education for children;

(iii) programs to enable the Government of Afghanistan to recruit and train teachers, with special focus on the recruitment and training of female teachers;

(iv) programs to enable the Government of Afghanistan to develop school curriculum that incorporates relevant information such as landmine awareness, food security and agricultural education, human rights awareness, and civic education;

(v) support for the activities of the Government of Afghanistan to draft a new constitution, other legal frameworks, and other initiatives to promote the rule of law in Afghanistan;

(vi) support to increase the transparency, accountability, and participatory nature of governmental institutions, including programs designed to combat corruption and other programs for the promotion of good governance;

(vii) support for an independent media;

(viii) programs that support the expanded participation of women and members of all ethnic groups in government at national, regional, and local levels;

(ix) programs to strengthen civil society organizations that promote human rights and support human rights monitoring;

(x) support for national, regional, and local elections and political party development;

(xi) support for the effective administration of justice at the national, regional, and local levels, including the establishment of a responsible and community-based police force;

(xii) support for establishment of a central bank and central budgeting authority; and

(xiii) assistance in identifying and surveying key road and rail routes essential for economic renewal in Afghanistan and the region, support in reconstructing those routes, and support for the establishment of a customs service and training for customs officers.

(B) For each of the fiscal years 2003 through 2005, not less than $10,000,000 of the amount made available to carry out this title should be made available for the purposes of carrying out a traditional Afghan assembly or "Loya Jirga" and for support for national, regional, and local elections and political party development under subparagraph (A)(x).

(6) MARKET ECONOMY.—To support the establishment of a market economy, the establishment of private financial institutions, the adoption of policies to promote foreign direct investment, the development of a basic telecommunication infrastructure, and the development of trade and other commercial links with countries in the region and with the United States, including policies to—

(A) encourage the return of Afghanistan citizens or nationals living abroad who have marketable and business-related skills;

(B) establish financial institutions, including credit unions, cooperatives, and other entities providing microenterprise credits and other income-generation programs for the poor, with particular emphasis on women;

(C) facilitate expanded trade with countries in the region;

(D) promote and foster respect for basic workers' rights and protections against exploitation of child labor; and

(E) provide financing programs for the reconstruction of Kabul and other major cities in Afghanistan.

(7) ASSISTANCE TO WOMEN AND GIRLS.—

(A) ASSISTANCE OBJECTIVES.—To assist women and girls in Afghanistan in the areas of political and human rights, health care, education, training, security, and shelter, with particular emphasis on assistance—

(i) to support construction of, provide equipment and medical supplies to, and otherwise facilitate the establishment and rehabilitation of, health care facilities in order to improve the health care of women, children, and infants;

(ii) to expand immunization programs for women and children;

(iii) to establish, maintain, and expand primary and secondary schools for girls that include mathematics, science, and languages in their primary curriculum;

(iv) to develop and expand technical and vocational training programs and income-generation projects for women;

(v) to provide special educational opportunities for girls whose schooling was ended by the Taliban, and to support the ability of women to have access to higher education;

(vi) to develop and implement programs to protect women and girls against sexual and physical abuse, abduction, trafficking, exploitation, and sex discrimination in the delivery of humanitarian supplies and services;

(vii) to provide emergency shelters for women and girls who face danger from violence;

(viii) to direct humanitarian assistance to widows, who make up a very large and needy population in war-torn Afghanistan;

(ix) to support the work of women-led and local nongovernmental organizations with demonstrated experience in delivering services to Afghan women and children;

(x) to disseminate information throughout Afghanistan on the rights of women and on international standards of human rights;

(xi) to provide women's rights and human rights training for military, police, and legal personnel; and

(xii) to support the National Human Rights Commission in programs to promote women's rights and human rights and in the investigation and monitoring of women's rights and human rights abuses.

(B) AVAILABILITY OF FUNDS.—For each of the fiscal years 2002 through 2005—

(i) $15,000,000 of the total amount made available for such fiscal year to carry out this title is authorized to be made available to the Afghan Ministry of Women's Affairs; and

(ii) $5,000,000 of the total amount made available for such fiscal year to carry out this title is authorized to be made available to the National Human Rights Commission of Afghanistan.

(C) RELATION TO OTHER AVAILABLE FUNDS.—Amounts made available under subparagraph (B) are in addition to amounts otherwise available for such purposes.

(b) LIMITATION.—

(1) IN GENERAL.—Amounts made available to carry out this title (except amounts made available for assistance under paragraphs (1) through (3) and subparagraphs (F) through (I) of paragraph (4) of subsection (a)) may be provided only if the President first determines and certifies to Congress with respect to the fiscal year involved that progress is being made toward adopting a constitution and establishing a democratically elected government for Afghanistan.

(2) WAIVER.—

(A) IN GENERAL.—The President may waive the application of paragraph (1) if the President first determines and certifies to Congress that it is important to the national interest of the United States to do so.

(B) CONTENTS OF CERTIFICATION.—A certification transmitted to Congress under subparagraph (A) shall include a written explanation of

the basis for the determination of the President to waive the application of paragraph (1).

(c) ENTERPRISE FUND.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purpose, there are authorized to be appropriated to the President for an enterprise fund for Afghanistan $300,000,000 for fiscal year 2003, $100,000,000 for fiscal year 2004, and $100,000,000 for fiscal year 2005. The provisions contained in section 201 of the Support for East European Democracy (SEED) Act of 1989 (excluding the authorizations of appropriations provided in subsection (b) of that section) shall apply with respect to such enterprise fund and to funds made available to such enterprise fund under this subsection.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 105. COORDINATION OF ASSISTANCE.

(a) IN GENERAL.—The President is strongly urged to designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall strategy to advance United States interests in Afghanistan;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this title;

(3) pursuing coordination with other countries and international organizations with respect to assistance to Afghanistan;

(4) ensuring that United States assistance programs for Afghanistan are consistent with this title;

(5) ensuring proper management, implementation, and oversight by agencies responsible for assistance programs for Afghanistan; and

(6) resolving policy and program disputes among United States Government agencies with respect to United States assistance for Afghanistan.

(b) RANK AND STATUS OF THE COORDINATOR.—The coordinator designated under subsection (a) shall have the rank and status of ambassador.

SEC. 106. ADMINISTRATIVE PROVISIONS.

(a) APPLICABLE ADMINISTRATIVE AUTHORITIES.—Except to the extent inconsistent with the provisions of this title, the administrative authorities under chapters 1 and 2 of part III of the Foreign Assistance Act of 1961 shall apply to the provision of assistance under this title to the same extent and in the same manner as such authorities apply to the provision of economic assistance under part I of such Act.

(b) USE OF THE EXPERTISE OF AFGHAN-AMERICANS.—In providing assistance authorized by this title, the President should—

(1) maximize the use, to the extent feasible, of the services of Afghan-Americans who have expertise in the areas for which assistance is authorized by this title; and

(2) in the awarding of contracts and grants to implement activities authorized under this title, encourage the participation of such Afghan-Americans (including organizations employing a significant number of such Afghan-Americans).

(c) DONATIONS OF MANUFACTURING EQUIPMENT; USE OF LAND GRANT COLLEGES AND UNIVERSITIES.—In providing assistance authorized by this title, the President, to the maximum extent practicable, should—

(1) encourage the donation of appropriate excess or obsolete manufacturing and related equipment by United States businesses (including small businesses) for the reconstruction of Afghanistan; and

(2) utilize research conducted by United States land grant colleges and universities and the technical expertise of professionals within those institutions, particularly in the areas of agriculture and rural development.

(d) ADMINISTRATIVE EXPENSES.—Amounts made available to carry out this title may be made available to a Federal department or agency for administrative expenses incurred by the department or agency in connection with the providing of assistance under this title.

(e) MONITORING.—

(1) COMPTROLLER GENERAL.—The Comptroller General shall monitor the provision of assistance under this title.

(2) INSPECTOR GENERAL OF USAID.—

(A) IN GENERAL.—The Inspector General of the United States Agency for International Development shall conduct audits, inspections, and other activities, as appropriate, associated with the expenditure of the funds to carry out this title.

(B) FUNDING.—Not more than $1,500,000 of the amount made available to carry out this title for a fiscal year shall be made available to carry out subparagraph (A).

(f) PRIORITY FOR DIRECT ASSISTANCE TO THE GOVERNMENT OF AFGHANISTAN.—To the maximum extent practicable, assistance authorized under this title should be provided directly to the Government of Afghanistan (including any appropriate ministry thereof).

SEC. 107. RELATIONSHIP TO OTHER AUTHORITY.

The authority to provide assistance under this title is in addition to any other authority to provide assistance to the Government of Afghanistan.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the President to carry out this title (other than section 104(c)) $500,000,000 for each of the fiscal years 2002 through 2005.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—

(1) authorized to remain available until expended; and

(2) in addition to funds otherwise available for such purposes, including, with respect to food assistance under section 104(a)(1), funds available under title II of the Agricultural Trade Development and Assistance Act of 1954, the Food for Progress Act of 1985, and section 416(b) of the Agricultural Act of 1949.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

SEC. 201. SUPPORT FOR SECURITY DURING TRANSITION IN AFGHANISTAN.

It is the sense of Congress that, during the transition to a broad-based, multi-ethnic, gender-sensitive, fully representative government in Afghanistan, the United States should support—

(1) the development of a civilian-controlled and centrally-governed standing Afghanistan army that respects human rights and prohibits the use of children as soldiers or combatants;

(2) the creation and training of a professional civilian police force that respects human rights; and

(3) a multinational security force in Afghanistan.

SEC. 202. AUTHORIZATION OF ASSISTANCE.

(a) DRAWDOWN AUTHORITY.—

(1) IN GENERAL.—The President is authorized to exercise his authorities under section 506 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318) to direct the drawdown of defense articles, defense services, and military education and training—

(A) for the Government of Afghanistan, in accordance with this section; and

(B) for eligible foreign countries, and eligible international organizations, in accordance with this section and sections 203 and 205.

(2) AUTHORITY TO ACQUIRE BY CONTRACT OR OTHERWISE.—The assistance authorized under paragraph (1) may include the supply of defense articles, defense services, counter-narcotics, crime control and police training services, other support, and military education and training that are acquired by contract or otherwise.

(b) AMOUNT OF ASSISTANCE.—The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under subsection (a) may not exceed $300,000,000, except that such limitation shall be increased by any amounts appropriated pursuant to the authorization of appropriations in section 204(b)(1).

SEC. 203. ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

(a) ELIGIBILITY FOR ASSISTANCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a foreign country or international organization shall be eligible to receive assistance under section 202 if—

(A) such country or organization is participating in military, peacekeeping, or policing operations in Afghanistan aimed at restoring or maintaining peace and security in that country; and

(B) such assistance is provided specifically for such operations in Afghanistan.

(2) EXCEPTION.—No country the government of which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) shall be eligible to receive assistance under section 202.

(b) WAIVER.—The President may waive the application of subsection (a)(2) if the President determines that it is important to the national security interest of the United States to do so.

SEC. 204. REIMBURSEMENT FOR ASSISTANCE.

(a) IN GENERAL.—Defense articles, defense services, and military education and training provided under section 202(a)(2) shall be made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to the authorization of appropriations in subsection (b)(1).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, or military education and training provided under section 202(a)(2).

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended, and are in addition to amounts otherwise available for the purposes described in this title.

SEC. 205. CONGRESSIONAL NOTIFICATION REQUIREMENTS.

(a) AUTHORITY.—The President may provide assistance under this title to any eligible foreign country or eligible international organization if the President determines that such assistance is important to the national security interest of the United States and notifies the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination at least 15 days in advance of providing such assistance.

(b) NOTIFICATION.—The report described in subsection (a) shall be submitted in classified and unclassified form and shall include information relating to the type and amount of assistance proposed to be provided and the actions that the proposed recipient of such assistance has taken or has committed to take.

SEC. 206. PROMOTING SECURE DELIVERY OF HUMANITARIAN AND OTHER ASSISTANCE IN AFGHANISTAN.

(a) FINDINGS.—Congress finds the following:

(1) The President has declared his view that the United States should provide significant assistance to Afghanistan so that it never again becomes a haven for terrorism.

(2) The delivery of humanitarian and reconstruction assistance from the international community is necessary for the safe return of refugees and is critical to the future stability of Afghanistan.

(3) Enhanced stability in Afghanistan through an improved security environment is critical to the fostering of the Afghan Interim Authority and the traditional Afghan assembly or "Loya Jirga" process, which is intended to lead to a permanent national government in Afghanistan, and also is essential for the participation of women in Afghan society.

(4) Incidents of violence between armed factions and local and regional commanders, and serious abuses of human rights, including attacks on women and ethnic minorities throughout Afghanistan, create an insecure, volatile, and unsafe environment in parts of Afghanistan, displacing thousands of Afghan civilians from their local communities.

(5) The violence and lawlessness may jeopardize the "Loya Jirga" process, undermine efforts to build a strong central government, severely impede reconstruction and the delivery of humanitarian assistance, and increase the likelihood that parts of Afghanistan will once again become safe havens for al-Qaida, Taliban forces, and drug traffickers.

(6) The lack of security and lawlessness may also perpetuate the need for United States Armed Forces in Afghanistan and threaten the ability of the United States to meet its military objectives.

(7) The International Security Assistance Force in Afghanistan, currently led by Turkey, and composed of forces from other willing countries without the participation of United States Armed Forces, is deployed only in Kabul and currently does not have the mandate or the capacity to provide security to other parts of Afghanistan.

(8) Due to the ongoing military campaign in Afghanistan, the United States does not contribute troops to the International Security Assistance Force but has provided support to other countries that are doing so.

(9) The United States is providing political, financial, training, and other assistance to the Afghan Interim Authority as it begins to build a national army and police force to help provide security throughout Afghanistan, but this effort is not meeting the immediate security needs of Afghanistan.

(10) Because of these immediate security needs, the Afghan Interim Authority, its Chairman, Hamid Karzai, and many Afghan regional leaders have called for the International Security Assistance Force, which has successfully brought stability to Kabul, to be expanded and deployed throughout the country, and this request has been strongly supported by a wide range of international humanitarian organizations, including the International Committee of the Red Cross, Catholic Relief Services, and Refugees International.

(11)(A) On January 29, 2002, the President stated that "[w]e will help the new Afghan government provide the security that is the foundation of peace".

(B) On March 25, 2002, the Secretary of Defense stated, with respect to the reconstruction of Afghanistan, that "the first thing . . . you need for anything else to happen, for hospitals to happen, for roads to happen, for refugees to come back, for people to be fed and humanitarian workers to move on the country . . . [y]ou've got to have security".

(b) STATEMENT OF POLICY.—It should be the policy of the United States to support measures to help meet the immediate security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

(c) PREPARATION OF STRATEGY.—

(1) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, and every six months thereafter through January 1, 2006, the President shall provide the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate with—

(A) a strategy for meeting the immediate and long-term security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government; and

(B) a description of the progress of the Government of Afghanistan toward the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan in accordance with the provisions of this Act.

(2) FORM OF INFORMATION.—The initial provision of information under paragraph (1) shall be made by transmittal of a written report. Thereafter, the information required under paragraph (1) may be provided in a written report or in an oral briefing.

SEC. 207. RELATIONSHIP TO OTHER AUTHORITY.

(a) ADDITIONAL AUTHORITY.—The authority to provide assistance under this title is in addition to any other authority to provide assistance to the Government of Afghanistan.

(b) LAWS RESTRICTING AUTHORITY.—Assistance under this title to the Government of Afghanistan may be provided notwithstanding any other provision of law.

SEC. 208. SENSE OF CONGRESS REGARDING EXPANSION OF THE INTERNATIONAL SECURITY ASSISTANCE FORCE; AUTHORIZATION OF APPROPRIATIONS.

(a) SENSE OF CONGRESS.—Congress urges the President, in order to fulfill the objective of establishing security in Afghanistan, to use the full diplomatic influence of the United States to expand the International Security Assistance Force (ISAF) beyond Kabul, Afghanistan by—

(1) sponsoring in the United Nations Security Council a resolution authorizing such an expansion of that force;

(2) enlisting the European and other allies of the United States to provide forces for an expanded International Security Assistance Force in Afghanistan; and

(3) providing such financial and military assistance, including personnel, as the President considers necessary to achieve the expansion of the International Security Assistance Force.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the President $500,000,000 for each of fiscal years 2003 and 2004 to provide the assistance described in subsection (a)(3).

SEC. 209. SUNSET.

The authority of this title shall expire after September 30, 2005.

Mr. REID. I ask unanimous consent that the Hagel-Biden-Helms amendment at the desk be agreed to; the committee substitute amendment, as amended, be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid on the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4956) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2712), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

NATIONAL DAY OF PRAYER AND FASTING

Mr. REID. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 155, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 155) affirming the importance of a national day of prayer and fasting, and expressing the sense of Congress that November 27, 2002, should be designated as a national day of prayer and fasting.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution and the preamble be agreed to; the motion to reconsider be laid on the table; and any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 155) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 155

Whereas the President has sought the support of the international community in responding to the threat of terrorism, violent extremist organizations, and states that permit or host organizations that are opposed to democratic ideals;

Whereas a united stance against terrorism and terrorist regimes will likely lead to an increased threat to the armed forces and law enforcement personnel of those states that oppose these regimes of terror and that take an active role in rooting out these enemy forces;

Whereas Congress has aided and supported a united response to acts of terrorism and violence inflicted upon the United States, our allies, and peaceful individuals all over the world;

Whereas President Abraham Lincoln, at the outbreak of the Civil War, proclaimed that the last Thursday in September 1861 should be designated as a day of humility, prayer, and fasting for all people of the Nation;

Whereas it is appropriate and fitting to seek guidance, direction, and focus from God in times of conflict and in periods of turmoil;

Whereas it is through prayer, self-reflection, and fasting that we can better examine those elements of our lives that can benefit from God's wisdom and love;

Whereas prayer to God and the admission of human limitations and frailties begins the process of becoming both stronger and closer to God;

Whereas becoming closer to God helps provide direction, purpose, and conviction in those daily actions and decisions we must take;

Whereas our Nation, tested by civil war, military conflicts, and world wars, has always benefited from the grace and benevolence bestowed by God; and

Whereas dangers and threats to our Nation persist and in this time of peril, it is appropriate that the people of the United States, leaders and citizens alike, seek guidance, strength, and resolve through prayer and fasting: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) November 27, 2002, should be designated as a day for humility, prayer, and fasting for all people of the United States; and

(2) all people of the United States should—

(A) observe this day as a day of prayer and fasting;

(B) seek guidance from God to achieve greater understanding of our own failings;

(C) learn how we can do better in our everyday activities; and

(D) gain resolve in how to confront those challenges which we must confront.

CLARIFYING THE REQUIREMENTS FOR ELIGIBILITY IN THE AMERICAN LEGION

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 756, S. 2934.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2934) to amend title 36, United States Code, to clarify the requirements for the eligibility in the American Legion.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related thereto be printed in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2934) was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

AMENDING TITLE 36 U.S. CODE TO CLARIFY THE REQUIREMENT FOR ELIGIBILITY IN THE AMERICAN LEGION

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 758, H.R. 3988.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3988) to amend title 36, United States Code, to clarify the requirement for eligibility in the American Legion.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3988) was read the third time and passed.

AUTHORIZING PAYMENT OF A GRATUITY TO TRUDY LAPIC

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 356, submitted earlier today by Mr. DAYTON.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 356) to authorize the payment of a gratuity to Trudy Lapic, the widow of Thomas Lapic, who perished in the plane crash which took the life of Senator Wellstone and others.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table en bloc, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 356) was agreed to, as follows:

S. RES. 356

Resolved, That the Secretary of the Senate is authorized and directed to pay, from appropriations under the subheading "MISCELLANEOUS ITEMS" under the heading "CONTINGENT EXPENSES OF THE SENATE", to Trudy Lapic, widow of Thomas Lapic, a loyal employee of the Senate for 9 years, a sum equal to 8 months of compensation at the rate Thomas Lapic was receiving by law during the last month of his Senate service, that sum to be considered inclusive of funeral expenses and all other allowances.

AMENDING TITLE 10, U.S. CODE, TO PROVIDE FOR ORDERS OF PROTECTION OF CIVILIANS ON MILITARY INSTALLATIONS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5590.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5590) to amend title 10, United States Code, to provide for the enforcement and effectiveness of civilian orders of protection on military installations.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5590) was read the third time and passed.

RELATIVE TO THE CONVENING OF THE FIRST SESSION OF THE 108TH CONGRESS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. J. Res. 53, introduced earlier today by the Senator from South Dakota, Mr. DASCHLE, and the Senator from Mississippi, Mr. LOTT.

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

A joint resolution (S. J. Res. 53) relative to the convening of the first session of the 108th Congress.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. Madam President, I ask unanimous consent that the joint resolution be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (S. J. Res. 53) was read the third time and passed, as follows:

S.J. RES. 53

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the One Hundred Eighth Congress shall begin at noon on Tuesday, January 7, 2003.

AUTHORIZING APPOINTMENTS

Mr. REID. Madam President, I ask unanimous consent that notwithstanding the sine die adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING PRINTING OF HOUSE DOCUMENT

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 487 received from the House and which is now at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 47) authorizing the printing as a House document of a volume consisting of the transcripts of the ceremonial meeting of the House of Representatives and Senate in New York City on September 6, 2002, and a collection of statements by Members of the House of Representatives and Senate from the CONGRESSIONAL RECORD on the terrorist attacks of September 11, 2001.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 487) was agreed to.

COMMENDING AND CONGRATULATING THE ANAHEIM ANGELS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 357, submitted earlier today by Senators FEINSTEIN and BOXER.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 357) commending and congratulating the Anaheim Angels for their remarkable spirit, resilience, and athletic discipline in winning the 2002 World Series.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. FEINSTEIN. Madam President, I rise today with my friend and colleague from California, Senator BARBARA BOXER, to commend and congratulate the Anaheim Angels for winning the 2002 World Series 3 weeks ago.

The Angels are world champions for the first time in their 42-year history. After defeating the New York Yankees in the first round of the playoffs and then going on to beat the Minnesota Twins for the American League Championship, the Angels battled my hometown team, the San Francisco Giants, in an exciting all-California World Series. The Angels have proven to the world their outstanding ability to win and work as a team.

Led by manager Mike Scioscia and players Scott Spezio, Garret Anderson, and Darin Erstad the Angels offense destroyed even the mightiest pitchers through October. Most Valuable Player Troy Glaus batted an astounding .385 average with three homeruns in the seven-game series.

Another key player in the Angels' march to glory is Troy Percival. The veteran closing pitcher stifled the Giants' hitters in pivotal game 7 and throughout the playoffs. Furthermore, Troy Percival would not have been able to perform his masterful pitching had it not been for starting pitcher John Lackey who pitched five strong innings in game 7.

Manager Mike Scioscia's leadership proved to be invaluable to the team. His experience as a catcher with Southern California's other major league franchise, the Los Angeles Dodgers, helped the Angels through what started as Anaheim's worst season ever and turned it into a glorious year.

The Anaheim Angels truly epitomize the importance of teamwork, as nearly every member of the roster contributed to their phenomenal season. It should be noted that the championship could not have been won without the dedication of the entire team: David Eckstein, Tim Salmon, Adam Kennedy, Bengie Molina, Brad Fullmer, Jarrod Washburn, Kevin Appier, Brendan Donnelly, Ben Weber, Ramon Ortiz, and Francisco Rodriguez.

I also would like to congratulate chairman and CEO of the Walt Disney Company Michael Eisner, General Manager Bill Stoneman and all of the Angels' staff on their hard work assembling Anaheim's first championship team. I should also congratulate Jackie Autry, widow of former Angels owner Gene Autry. One of her husband's greatest dreams was to see the Angels win a World Series.

And, most importantly, I would like to thank the Angels fans in Southern California who have earned national recognition for their enthusiasm and unbridled support of their team.

Finally, it is nearly impossible to congratulate the Angels or their fans without mentioning the "Rally Monkey," the adorable mascot that has become Anaheim's symbol of resilience and refusal to give up hope in the most difficult situations.

The Angels have begun a new era of baseball in Southern California and will certainly defend their title with the same heart and determination that brought them to the World Series this year. The Anaheim Angels are a team with an unquenchable desire to win.

They have made the city of Anaheim, the county of Orange, and all of California proud.

Mr. REID. Madam President, I ask unanimous consent that the resolution and preamble be agreed to en bloc; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 357) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 357

Whereas the Anaheim Angels have won the first World Championship in the 42 year history of the franchise;

Whereas the Anaheim Angels completed their best season in franchise history with 99 wins, staging one of the most significant team improvements in Major League Baseball since the 2001 season;

Whereas the 2002 World Series was the Anaheim Angels' first appearance in the Fall Classic;

Whereas the Anaheim Angels have fielded such superstars as Nolan Ryan, Rod Carew, Bobby Grich, Reggie Jackson, Jim Abbott, Wally Joyner, Brian Downing, Jim Edmonds, Gary DiSarcina, and now Troy Percival, Jarrod Washburn, Garret Anderson, Troy Glaus, and Tim Salmon;

Whereas third baseman Troy Glaus received the World Series Most Valuable Player Award for his stellar defensive plays, .385 batting average, and 3 home runs during the series;

Whereas pitcher Francisco Rodriguez became the youngest pitcher to win a World Series game and tied the postseason record for games won with 5 outstanding wins;

Whereas Manager Mike Scioscia won his first World Series title as a manager;

Whereas Tim Salmon made his first playoff appearance in 10 seasons as a major league baseball player, the only current player to have played that long without having reached the postseason;

Whereas the spirit of Gene Autry, the "Singing Cowboy" and former owner of the Angels, was undoubtedly ever-present with the Anaheim players throughout the series as he was an inspirational force to all who played for him and knew of his legacy;

Whereas the Anaheim Angels battled another California team deserving of acknowledgement: the San Francisco Giants;

Whereas the San Francisco Giants were a worthy rival for the Anaheim Angels and set the stage for an exciting and suspenseful World Series that was watched with great interest by many Californians;

Whereas the Anaheim Angels epitomize California pride with their incredible focus, dedication to winning, team cohesiveness, and devotion to playing America's pastime with class, athleticism, and enthusiasm; and

Whereas the Anaheim Angels demonstrate the rewards of perseverance, discipline, teamwork, and championship as they prepare to defend their title of World Champions: Now, therefore, be it

Resolved, That the Senate congratulates the Anaheim Angels on winning the 2002 Major League Baseball World Series title.

EXPRESSING SENSE OF CONGRESS ABOUT PUBLIC AWARENESS AND EDUCATION ABOUT IMPORTANCE OF HEALTH CARE COVERAGE

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 757, S. Con. Res. 94.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 94) expressing the sense of Congress that public awareness and education about the importance of health care coverage is of the utmost priority and that a National Importance of Health Care Coverage Month should be established to promote that awareness and education.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 94) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 94

Whereas census estimates indicate that some 42,000,000 people in the United States are without health insurance coverage, many of whom are among the most vulnerable and can be financially devastated by serious illness, disease, or accident;

Whereas studies have shown that people with health insurance are healthier than those who are uninsured and receive care through emergency rooms or safety net health care services, because the insured are entitled to, and receive, more preventive care, follow-up care, and care for chronic conditions such as diabetes and high blood pressure;

Whereas over 17,300,000 of the uninsured are employed but are not offered health insurance through their employers;

Whereas such employers are small business owners who are often unaware of the benefits of offering health insurance, including that such benefits are tax deductible, reduce employee turnover, and reduce employee sick days;

Whereas over 16,000,000 people in the United States, more than ⅓ of the uninsured, are in families where at least 1 member of the family has been offered employer based health care coverage but has declined coverage;

Whereas many individuals are eligible for public assistance programs such as the State Children's Health Insurance Program, known as SCHIP, and the medicaid program, but are not currently enrolled due primarily to lack of outreach, education, and accessible enrollment processes;

Whereas studies have shown that many individuals and small businesses are unaware of the various options they have for obtaining affordable health care coverage;

Whereas surveys have shown that many individuals who cite expense as the reason for not purchasing insurance find insurance affordable once they are informed of the true cost of various options; and

Whereas education about health care coverage helps uninsured individuals and employers understand the critical value of health insurance as a preventive measure and the ways to keep their health insurance premiums manageable once they have health care coverage: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) a National Importance of Health Care Coverage Month be established to—

(A) promote a multifaceted educational effort about the importance of health care coverage;

(B) increase awareness of the many available health care coverage options; and

(C) inform those eligible for public insurance programs on ways to access those programs; and

(2) the President issue a proclamation calling on the Federal Government, States, localities, citizens, and businesses of the United States to conduct appropriate programs, fairs, ceremonies, and activities to promote this educational effort.

RELIEF OF SO HYUN JUN

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3758 now at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3758) for the relief of So Hyun Jun.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read a third time and passed; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3758) was read the third time and passed.

PROSECUTORIAL REMEDIES AND TOOLS AGAINST THE EXPLOITATION OF CHILDREN TODAY ACT OF 2002

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 759, S. 2520.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2520) to amend title 18, United States Code, with respect to the sexual exploitation of children.

There being no objection, the Senate proceeded to consider the bill which was reported by the Committee on the Judiciary with an amendment to strike all after the enacting clause, and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part printed in italic.]

S. 2520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prosecutorial Remedies and Tools Against the Exploitation of Children Today Act of 2002".

SEC. 2. CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.

Section 2252A of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (3) and inserting the following:

"(3) knowingly—

"(A) reproduces any child pornography for distribution through the mails, or in interstate or foreign commerce by any means, including by computer; or

"(B) advertises, promotes, presents, describes, distributes, or solicits through the mails, or in interstate or foreign commerce by any means, including by computer, any material in a manner that conveys the impression that the material is, or contains, an obscene visual depiction of a minor engaging in sexually explicit conduct;";

(B) in paragraph (4), by striking "or" at the end;

(C) in paragraph (5), by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following:

"(6) knowingly distributes, offers, sends, or provides to a minor any visual depiction, including any photograph, film, video, picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct where such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct—

"(A) that has been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer;

"(B) that was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer; or

"(C) which distribution, offer, sending, or provision is accomplished using the mails or by transmitting or causing to be transmitted any wire communication in interstate or foreign commerce, including by computer,

for purposes of inducing or persuading such minor to participate in any activity that is illegal.";

(2) in subsection (b)(1), by striking "(1), (2), (3), or (4)" and inserting "(1), (2), (3), (4), or (6)"; and

(3) by striking subsection (c) and inserting the following:

"(c) It shall be an affirmative defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) that—

"(1)(A) the alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct; and

"(B) each such person was an adult at the time the material was produced; or

"(2) the alleged child pornography was not produced using any actual minor or minors.

No affirmative defense shall be available in any prosecution that involves obscene child pornography or child pornography as described in section 2256(8)(D). A defendant may not assert an affirmative defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) unless, within the time provided for filing pretrial motions or at such time prior to trial as the judge may direct, but in no event later than 10 days before the commencement of the trial, the defendant provides the court and the United States with notice of the intent to assert such defense and the substance of any expert or other specialized testimony or evidence upon which the defendant intends to rely. If the defendant fails to comply with this subsection, the court shall, absent a finding of extraordinary circumstances that prevented timely compliance, prohibit the defendant from asserting a defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) or presenting any evidence for which the defendant has failed to provide proper and timely notice.".

SEC. 3. ADMISSIBILITY OF EVIDENCE.

Section 2252A of title 18, United States Code, is amended by adding at the end the following:

"(e) ADMISSIBILITY OF EVIDENCE.—In any prosecution under this chapter, the name, address, or other identifying information, other than the age or approximate age, of any minor who is depicted in any child pornography shall not be admissible and the jury shall be instructed, upon request of the United States, that it can draw no inference from the absence of such evidence in deciding whether the child pornography depicts an actual minor.".

SEC. 4. DEFINITIONS.

Section 2256 of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting before the semicolon the following: "and shall not be construed to require proof of the actual identity of the person";

(2) in paragraph (8)—

(A) in subparagraph (B), by inserting "is obscene and" before "is";

(B) in subparagraph (C), by striking "or" at the end; and

(C) by striking subparagraph (D) and inserting the following:

"(D) such visual depiction—

"(i) is of a minor, or an individual who appears to be a minor, actually engaging in bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

"(ii) lacks serious literary, artistic, political, or scientific value; or

"(E) the production of such visual depiction involves the use of an identifiable minor engaging in sexually explicit conduct; and"; and

(3) in paragraph (9)(A)(ii)—

(A) by striking "(ii) who is" and inserting the following:

"(ii)(I) who is"; and

(B) by striking "and" at the end and inserting the following: "or

"(II) who is virtually indistinguishable from an actual minor; and".

SEC. 5. RECORDKEEPING REQUIREMENTS.

Section 2257 of title 18, United States Code, is amended—

(1) in subsection (d)(2), by striking "of this section" and inserting "of this chapter or chapter 71,";

(2) in subsection (h)(3), by inserting ", computer generated image or picture," after "video tape"; and

(3) in subsection (i)—

(A) by striking "not more than 2 years" and inserting "not more than 5 years"; and

(B) by striking "5 years" and inserting "10 years".

SEC. 6. FEDERAL VICTIMS' PROTECTIONS AND RIGHTS.

Section 227(f)(1)(D) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032(f)(1)(D)) is amended to read as follows:

"(D) where the report discloses a violation of State criminal law to an appropriate official of that State or subdivision of that State for the purpose of enforcing such State law.".

SEC. 7. CONTENTS DISCLOSURE OF STORED COMMUNICATIONS.

Section 2702 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking "or" at the end;

(B) in paragraph (6)—

(i) in subparagraph (A)(ii), by inserting "or" at the end;

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraph (C) as subparagraph (B);

(C) by redesignating paragraph (6) as paragraph (7); and

(D) by inserting after paragraph (5) the following:

"(6) to the National Center for Missing and Exploited Children, in connection with a report submitted under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or"; and

(2) in subsection (c)—

(A) in paragraph (4), by striking "or" at the end;

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

"(5) to the National Center for Missing and Exploited Children, in connection with a report submitted under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or".

SEC. 8. EXTRATERRITORIAL PRODUCTION OF CHILD PORNOGRAPHY FOR DISTRIBUTION IN THE UNITED STATES.

Section 2251 of title 18, United States Code, is amended—

(1) by striking "subsection (d)" each place that term appears and inserting "subsection (e)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following:

"(c)(1) Any person who, in a circumstance described in paragraph (2), employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct outside of the United States, its territories or possessions, for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (e).

"(2) The circumstance referred to in paragraph (1) is that—

"(A) the person intends such visual depiction to be transported to the United States, its territories or possessions, by any means, including by computer or mail; or

"(B) the person transports such visual depiction to the United States, its territories or possessions, by any means, including by computer or mail.".

SEC. 9. CIVIL REMEDIES.

Section 2252A of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

"(f) CIVIL REMEDIES.—

"(1) IN GENERAL.—Any person aggrieved by reason of the conduct prohibited under subsection (a) or (b) may commence a civil action for the relief set forth in paragraph (2).

"(2) RELIEF.—In any action commenced in accordance with paragraph (1), the court may award appropriate relief, including—

"(A) temporary, preliminary, or permanent injunctive relief;

"(B) compensatory and punitive damages; and

"(C) the costs of the civil action and reasonable fees for attorneys and expert witnesses.".

SEC. 10. ENHANCED PENALTIES FOR RECIDIVISTS.

Sections 2251(d), 2252(b), and 2252A(b) of title 18, United States Code, are amended by inserting "chapter 71," before "chapter 109A," each place it appears.

SEC. 11. SENTENCING ENHANCEMENTS FOR INTERSTATE TRAVEL TO ENGAGE IN SEXUAL ACT WITH A JUVENILE.

Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and policy statements to ensure that guideline penalties are adequate in cases that involve interstate travel with the intent to engage in a sexual act with a juvenile in violation of section 2423 of title 18, United States Code, to deter and punish such conduct.

SEC. 12. MISCELLANEOUS PROVISIONS.

(a) APPOINTMENT OF TRIAL ATTORNEYS.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall appoint 25 additional trial attorneys to the Child Exploitation and Obscenity Section of the Criminal Division of the Department of Justice or to appropriate U.S. Attorney's Offices, and those trial attorneys shall have as their primary focus, the investigation and prosecution of Federal child pornography laws.

(b) REPORT TO CONGRESSIONAL COMMITTEES.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, and every 2 years thereafter, the Attorney General shall report to the Chairpersons and Ranking Members of the Committees on the Judiciary of the Senate and the House of Representatives on the Federal enforcement actions under chapter 110 of title 18, United States Code.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) an evaluation of the prosecutions brought under chapter 110 of title 18, United States Code;

(B) an outcome-based measurement of performance; and

(C) an analysis of the technology being used by the child pornography industry.

(c) SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines are adequate to deter and punish conduct that involves a violation of paragraph (3)(B) or (6) of section 2252A(a) of title 18, United States Code, as created by this Act. With respect to the guidelines for section 2252A(a)(3)(B), the Commission shall consider the relative culpability of promoting, presenting, describing, or distributing material in violation of that section as compared with solicitation of such material.

SEC. 13. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prosecutorial Remedies and Tools Against the Exploitation of Children Today Act of 2002" or "PROTECT Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Obscenity and child pornography are not entitled to protection under the First Amendment under Miller v. California, 413 U.S. 15 (1973) (obscenity), or New York v. Ferber, 458 U.S. 747 (1982) (child pornography) and thus may be prohibited.

(2) The Government has a compelling state interest in protecting children from those who sexually exploit them, including both child molesters and child pornographers. "The prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance," New York v. Ferber, 458 U.S. 747, 757 (1982) (emphasis added), and this interest extends to stamping out the vice of child pornography at all levels in the distribution chain. Osborne v. Ohio, 495 U.S. 103, 110 (1990).

(3) The Government thus has a compelling interest in ensuring that the criminal prohibitions against child pornography remain enforceable and effective. "[T]he most expeditious if not the only practical method of law enforcement may be to dry up the market for this material by imposing severe criminal penalties on persons selling, advertising, or otherwise promoting the product." Ferber, 458 U.S. at 760.

(4) In 1982, when the Supreme Court decided Ferber, the technology did not exist to: (A) create depictions of virtual children that are indistinguishable from depictions of real children; (B) create depictions of virtual children using compositions of real children to create an unidentifiable child; or (C) disguise pictures of real children being abused by making the image look computer generated.

(5) Evidence submitted to the Congress, including from the National Center for Missing and Exploited Children, demonstrates that technology already exists to disguise depictions of real children to make them unidentifiable and to make depictions of real children appear computer generated. The technology will soon exist, if it does not already, to make depictions of virtual children look real.

(6) The vast majority of child pornography prosecutions today involve images contained on computer hard drives, computer disks, and/or related media.

(7) There is no substantial evidence that any of the child pornography images being trafficked today were made other than by the abuse of real children. Nevertheless, technological advances since Ferber have led many criminal defendants to suggest that the images of child pornography they possess are not those of real children, insisting that the government prove beyond a reasonable doubt that the images are not computer-generated. Such challenges will likely increase after the Ashcroft v. Free Speech Coalition decision.

(8) Child pornography circulating on the Internet has, by definition, been digitally uploaded or scanned into computers and has been transferred over the Internet, often in different file formats, from trafficker to trafficker. An image seized from a collector of child pornography is rarely a first-generation product, and the retransmission of images can alter the image so as to make it difficult for even an expert conclusively to opine that a particular image depicts a real child. If the original image has been scanned from a paper version into a digital format, this task can be even harder since proper forensic delineation may depend on the quality of the image scanned and the tools used to scan it.

(9) The impact on the government's ability to prosecute child pornography offenders is already evident. The Ninth Circuit has seen a significant adverse effect on prosecutions since the 1999 Ninth Circuit Court of Appeals decision in Free Speech Coalition. After that decision, prosecutions generally have been brought in the Ninth Circuit only in the most clear-cut cases in which the government can specifically identify the child in the depiction or otherwise identify the origin of the image. This is a fraction of meritorious child pornography cases. The National Center for Missing and Exploited Children testified that, in light of the Supreme Court's affirmation of the Ninth Circuit decision, prosecutors in various parts of the country have expressed concern about the continued viability of previously indicted cases as well as declined potentially meritorious prosecutions.

(10) In the absence of congressional action, this problem will continue to grow increasingly worse. The mere prospect that the technology exists to create computer or computer-generated depictions that are indistinguishable from depictions of real children will allow defendants who possess images of real children to escape prosecution, for it threatens to create a reasonable doubt in every case of computer images even when a real child was abused. This threatens to render child pornography laws that protect real children unenforceable.

(11) To avoid this grave threat to the Government's unquestioned compelling interest in effective enforcement of the child pornography laws that protect real children, a statute must be adopted that prohibits a narrowly-defined subcategory of images.

(12) The Supreme Court's 1982 Ferber v. New York decision holding that child pornography was not protected drove child pornography off the shelves of adult bookstores. Congressional action is necessary to ensure that open and notorious trafficking in such materials does not reappear.

SEC. 3. CERTAIN ACTIVITIES RELATING TO MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.

Section 2252A of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (3) and inserting the following:

"(3) knowingly—

"(A) reproduces any child pornography for distribution through the mails, or in interstate or foreign commerce by any means, including by computer; or

"(B) advertises, promotes, presents, distributes, or solicits through the mails, or in interstate or foreign commerce by any means, including by computer, any material or purported material in a manner that conveys the impression that the material or purported material is, or contains, an obscene visual depiction of a minor engaging in sexually explicit conduct;";

(B) in paragraph (4), by striking "or" at the end;

(C) in paragraph (5), by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following:

"(6) knowingly distributes, offers, sends, or provides to a minor any visual depiction, including any photograph, film, video, picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct where such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct—

"(A) that has been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer;

"(B) that was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer; or

"(C) which distribution, offer, sending, or provision is accomplished using the mails or by transmitting or causing to be transmitted any wire communication in interstate or foreign commerce, including by computer,

for purposes of inducing or persuading a minor to participate in any activity that is illegal.";

(2) in subsection (b)(1), by striking "(1), (2), (3), or (4)" and inserting "(1), (2), (3), (4), or (6)"; and

(3) by striking subsection (c) and inserting the following:

"(c) It shall be an affirmative defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) that—

"(1)(A) the alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct; and

"(B) each such person was an adult at the time the material was produced; or

"(2) the alleged child pornography was not produced using any actual minor or minors.

No affirmative defense shall be available in any prosecution that involves obscene child pornography or child pornography as described in section 2256(8)(D). A defendant may not assert an affirmative defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) unless, within the time provided for filing pretrial motions or at such time prior to trial as the judge may direct, but in no event later than 10 days before the commencement of the trial, the defendant provides the court and the United States with notice of the intent to assert such defense and the substance of any expert or other specialized testimony or evidence upon which the defendant intends to rely. If the defendant fails to comply with this subsection, the court shall, absent a finding of extraordinary circumstances that prevented timely compliance, prohibit the defendant from asserting such defense to a charge of violating paragraph (1), (2), (3), (4), or (5) of subsection (a) or presenting any evidence for which the defendant has failed to provide proper and timely notice.".

SEC. 4. ADMISSIBILITY OF EVIDENCE.

Section 2252A of title 18, United States Code, is amended by adding at the end the following:

"(e) ADMISSIBILITY OF EVIDENCE.—On motion of the government, in any prosecution under this chapter, except for good cause shown, the name, address, social security number, or other nonphysical identifying information, other than the age or approximate age, of any minor who is depicted in any child pornography shall not be admissible and may be redacted from any otherwise admissible evidence, and the jury shall be instructed, upon request of the United States, that it can draw no inference from the absence of such evidence in deciding whether the child pornography depicts an actual minor.".

SEC. 5. DEFINITIONS.

Section 2256 of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting before the semicolon the following: "and shall not be construed to require proof of the actual identity of the person";

(2) in paragraph (8)—

(A) in subparagraph (B), by inserting "is obscene and" before "is";

(B) in subparagraph (C), by striking "or" at the end; and

(C) by striking subparagraph (D) and inserting the following:

"(D) such visual depiction—

"(i) is, or appears to be, of a minor actually engaging in bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

"(ii) lacks serious literary, artistic, political, or scientific value; or

"(E) the production of such visual depiction involves the use of an identifiable minor engaging in sexually explicit conduct;"; and

(3) by striking paragraph (9), and inserting the following:

"(9) 'identifiable minor'—

"(A)(i) means a person—

"(I)(aa) who was a minor at the time the visual depiction was created, adapted, or modified; or

"(bb) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

"(II) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

"(ii) shall not be construed to require proof of the actual identity of the identifiable minor; or

"(B) means a computer or computer generated image that is virtually indistinguishable from an actual minor; and

"(10) 'virtually indistinguishable' means that the depiction is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor.".

SEC. 6. RECORDKEEPING REQUIREMENTS.

Section 2257 of title 18, United States Code, is amended—

(1) in subsection (d)(2), by striking "of this section" and inserting "of this chapter or chapter 71,";

(2) in subsection (h)(3), by inserting ", computer generated image or picture," after "video tape"; and

(3) in subsection (i)—

(A) by striking "not more than 2 years" and inserting "not more than 5 years"; and

(B) by striking "5 years" and inserting "10 years".

SEC. 7. SERVICE PROVIDER REPORTING OF CHILD PORNOGRAPHY AND RELATED INFORMATION.

Section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032) is amended—

(1) in subsection (c), by inserting "or pursuant to" after "to comply with";

(2) by amending subsection (f)(1)(D) to read as follows:

"(D) where the report discloses a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law.";

(3) by redesignating paragraph (3) of subsection (b) as paragraph (4); and

(4) by inserting after paragraph (2) of subsection (b) the following new paragraph:

"(3) In addition to forwarding such reports to those agencies designated in subsection (b)(2), the National Center for Missing and Exploited Children is authorized to forward any such report to an appropriate official of a state or subdivision of a state for the purpose of enforcing state criminal law.".

SEC. 8. CONTENTS DISCLOSURE OF STORED COMMUNICATIONS.

Section 2702 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking "or" at the end;

(B) in paragraph (6)—

(i) in subparagraph (A)(ii), by inserting "or" at the end;

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraph (C) as subparagraph (B);

(C) by redesignating paragraph (6) as paragraph (7); and

(D) by inserting after paragraph (5) the following:

"(6) to the National Center for Missing and Exploited Children, in connection with a report submitted under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or"; and

(2) in subsection (c)—

(A) in paragraph (4), by striking "or" at the end;

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

"(5) to the National Center for Missing and Exploited Children, in connection with a report submitted under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or".

SEC. 9. EXTRATERRITORIAL PRODUCTION OF CHILD PORNOGRAPHY FOR DISTRIBUTION IN THE UNITED STATES.

Section 2251 of title 18, United States Code, is amended—

(1) by striking "subsection (d)" each place that term appears and inserting "subsection (e)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following:

"(c)(1) Any person who, in a circumstance described in paragraph (2), employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct outside of the United States, its territories or possessions, for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (e).

"(2) The circumstance referred to in paragraph (1) is that—

"(A) the person intends such visual depiction to be transported to the United States, its territories or possessions, by any means, including by computer or mail; or

"(B) the person transports such visual depiction to the United States, its territories or possessions, by any means, including by computer or mail.".

SEC. 10. CIVIL REMEDIES.

Section 2252A of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

"(f) CIVIL REMEDIES.—

"(1) IN GENERAL.—Any person aggrieved by reason of the conduct prohibited under subsection (a) or (b) may commence a civil action for the relief set forth in paragraph (2).

"(2) RELIEF.—In any action commenced in accordance with paragraph (1), the court may award appropriate relief, including—

"(A) temporary, preliminary, or permanent injunctive relief;

"(B) compensatory and punitive damages; and

"(C) the costs of the civil action and reasonable fees for attorneys and expert witnesses.".

SEC. 11. ENHANCED PENALTIES FOR RECIDIVISTS.

Sections 2251(d), 2252(b), and 2252A(b) of title 18, United States Code, are amended by inserting "chapter 71," before "chapter 109A," each place it appears.

SEC. 12. SENTENCING ENHANCEMENTS FOR INTERSTATE TRAVEL TO ENGAGE IN SEXUAL ACT WITH A JUVENILE.

Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and policy statements to ensure that guideline penalties are adequate in cases that involve interstate travel with the intent to engage in a sexual act with a juvenile in violation of section 2423 of title 18, United States Code, to deter and punish such conduct.

SEC. 13. MISCELLANEOUS PROVISIONS.

(a) APPOINTMENT OF TRIAL ATTORNEYS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall appoint 25 additional trial attorneys to the Child Exploitation and Obscenity Section of the Criminal Division of the Department of Justice or to appropriate U.S. Attorney's Offices, and those trial attorneys shall have as their primary focus, the investigation and prosecution of Federal child pornography laws.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out this subsection.

(b) REPORT TO CONGRESSIONAL COMMITTEES.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, and every 2 years thereafter, the Attorney General shall report to the Chairpersons and Ranking Members of the Committees on the Judiciary of the Senate and the House of Representatives on the Federal enforcement actions under chapter 110 of title 18, United States Code.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) an evaluation of the prosecutions brought under chapter 110 of title 18, United States Code;

(B) an outcome-based measurement of performance; and

(C) an analysis of the technology being used by the child pornography industry.

(c) SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines are adequate to deter and punish conduct that involves a violation of paragraph (3)(B) or (6) of section 2252A(a) of title 18, United States Code, as created by this Act. With respect to the guidelines for section 2252A(a)(3)(B), the Commission shall consider the relative culpability of promoting, presenting, describing, or distributing material in violation of that section as compared with solicitation of such material.

SEC. 14. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Mr. REID. I ask unanimous consent that the committee substitute be agreed to, the bill, as amended, be read a third time, passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2520), as amended, was read the third time and passed.

COMMENDING SAIL BOSTON FOR ITS CONTINUING ADVANCEMENT OF THE MARITIME HERITAGE OF NATIONS

Mr. REID. Madam President, I ask unanimous consent that the Committee on Commerce be discharged from further consideration of S.J. Res.

42 and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 42) commending Sail Boston for its continuing advancement of the maritime heritage of nations, its commemoration of the nautical history of the United States, and its promotion, encouragement, and support of young cadets through training.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. I ask unanimous consent that the joint resolution be read three times, passed, the motion to reconsider laid upon the table, the preamble be agreed to, and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (S.J. Res. 42) was read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S. J. RES. 42

Whereas Sail Boston is a nonprofit corporation dedicated to the promotion of sail training and sail training events in an effort to build goodwill among the nations of the world by encouraging international sailing competition and gathering of tall ships in the United States;

Whereas Sail Boston has successfully promoted the United States in the international tall ship community since 1992 with its organization of numerous tall ship events in Boston and in the Great Lakes;

Whereas Sail Boston has worked for more than a decade in partnership with the American Sail Training Association in organizing and implementing tall ship gatherings in the United States to emphasize and promote the values of learning and education at sea;

Whereas Sail Boston has successfully established a unique reputation in the celebration of major sailing events and milestones in the maritime history of the United States;

Whereas Sail Boston served as an organizer for the bicentennial celebration of our country's oldest commissioned warship, the U.S.S. Constitution, in 1997 and was selected by the International Sail Training Association of London as Port Organizer for the gathering of the world's tall ships in Boston in 1992 and again in 2000 as part of our country's millennium celebration;

Whereas Sail Boston promoted and implemented 1 of the world's largest tall ship events in the history of sail training in the year 2000, when over 7,500,000 people welcomed a gathering of 145 international and domestic tall ships, representing 34 countries, to the port of Boston; and

Whereas Sail Boston will continue its international goodwill promotions with a gathering of tall ships in Boston in 2004: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Sail Boston is commended for—

(A) its excellence in the promotion of tall ships and maritime events in Boston and in ports throughout the United States; and

(B) for its work with the American Sail Training Association in the promotion and encouragement of young cadets through training programs, seamanship, and education at sea;

(2) all Americans and citizens of nations throughout the world are encouraged to join in the international friendship and support that Sail Boston and the American Sail Training Association will provide during Sail Boston 2004; and

(3) Sail Boston is encouraged to continue to represent and promote the ports of the United States in the international tall ship community, and to continue to organize and participate in tall ship events in the United States and around the world.

FACILITATING ABILITY OF CERTAIN SPECTRUM AUCTION WINNERS TO PURSUE ALTERNATIVE MEASURES

Mr. REID. I ask unanimous consent that the Commerce Committee be discharged from consideration of S. 2869 and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2869) to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I understand that Senators KERRY, BROWNBACK, and HOLLINGS have an amendment at the desk. I ask unanimous consent that it be considered and agreed to; the motion to reconsider be laid upon the table; that the bill, as amended, be read three times, passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4957) was agreed to as follows:

(Purpose: To authorize the Federal Communications Commission to refund deposits and downpayments made by Auction 35 winning bidders who elect to withdraw their bids)

Strike out all after the enacting clause and insert the following:

SECTION 1. RELIEF FROM CONTINUING OBLIGATIONS.

A winning bidder to which the Commission has not granted an Auction 35 license may irrevocably elect to relinquish any right, title, or interest in that license and the associated license application by formal written notice to the Commission. Such an election may only be made within 30 days after the date of enactment of this Act. A winning bidder that makes such an election shall be free of any obligation the winning bidder would otherwise have with respect to that license, the associated license application, and the associated winning bid, including the obligation to pay the amount of its winning bid that would be otherwise due for such license.

SEC. 2. RETURN OF DEPOSITS AND DOWNPAYMENTS.

Within 37 days after receiving an election that meets the requirements of section 3 from an Auction 35 winning bidder that has made the election described in section 1, the Commission shall refund deposit or downpayment made with respect to a winning bidder for the license that is the subject of the election.

SEC. 3. COMMISSION TO ISSUE PUBLIC NOTICE.

(a) PUBLIC NOTICE.—Within 5 days after the date of enactment of this Act, the Commission shall issue a public notice specifying the form and the process for the return of deposits and downpayments under section 2.

(b) TIME FOR ELECTION.—An election under this section is not valid unless it is made within 30 days after the date of enactment of this Act.

SEC. 4. WAIVER OF PAPERWORK REDUCTION ACT REQUIREMENTS.

Section 3507 of title 44, United States Code, shall not apply to the Commission's implementation of this Act.

SEC. 5. NO INFERENCE WITH RESPECT TO NEXTWAVE CASE.

It is the sense of the Congress that no inference with respect to any issue of law or fact in Federal Communications Commission v. NextWAVE Personal Communications, Inc., et al. (Supreme Court Docket No. 01-653) should be drawn from the introduction, amendment, defeat, or enactment of this Act.

SEC. 6. DEFINITIONS.

In this Act:

(1) AUCTION 35.—The term "Auction 35" means the C and F block broadband personal communications service spectrum auction of the Commission that began on December 1, 2000, and ended on January 6, 2001, insofar as that auction related to spectrum previously licensed to NextWave Personal Communications, Inc., NextWave Power Partners, Inc., or Urban Comm North Carolina, Inc.

(2) COMMISSION.—The term "Commission" means the Federal Communications Commission or a bureau or division thereof action on delegated authority.

(3) WINNING BIDDER.—The term "winning bidder" means any person who is entitled under Commission order FCC 02–99 (released March 27, 2002), to a refund of a substantial portion of monies on deposit for spectrum formerly licensed to Nextwave and Urban Comm as defined in that order.

The bill (S. 2869), as amended, was read the third time and passed.

DAM SAFETY AND SECURITY ACT OF 2002

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to Calendar No. 617, H.R. 4727.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4727) to reauthorize the national dam safety program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the bill be read three times, passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4727) was read the third time and passed.

NORTH AMERICAN WETLANDS CONSERVATION REAUTHORIZATION ACT

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to Calendar No. 692, H.R. 3908.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3908) to reauthorize the North American Wetlands Conservation Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works with amendments, as follows:

[Strike the parts shown in boldface brackets and insert the parts shown in italic.]

H.R. 3908

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "North American Wetlands Conservation Reauthorization Act".

SEC. 2. AMENDMENT OF NORTH AMERICAN WETLANDS CONSERVATION ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.).

SEC. 3. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDING.—Section 2(a)(1) (16 U.S.C. 4401(a)(1)) is amended by striking "and other habitats" and inserting "and associated habitats".

(b) PURPOSES.—Section 2(b) (16 U.S.C. 4401(b)) is amended—

(1) in paragraph (1) by striking "and other habitats for migratory birds" and inserting "[and associated habitats for wetland dependent migratory birds] *and habitats associated with wetland ecosystems*";

(2) in paragraph (2) by inserting "wetland [dependent *associated*]" before "migratory bird"; and

(3) in paragraph (3)—

(A) by inserting "wetland [dependent] *associated*" before "migratory birds"; and

(B) by inserting ", the United States Shorebird Conservation Plan, the North American Waterbird Conservation Plan, the Partners In Flight Conservation Plans," after "North American Waterfowl Management Plan".

SEC. 4. DEFINITION OF WETLANDS CONSERVATION PROJECT.

Section 3(9) (16 U.S.C. 4402(9)) is amended—

(1) in subparagraph (A) by inserting "of a wetland ecosystem and associated habitat" after "including water rights,"; and

(2) in subparagraph (B) by striking "and other habitat" and inserting "and associated habitat".

SEC. 5. REAUTHORIZATION.

Section 7(c) (16 U.S.C. 4406(c)) is amended by striking "not to exceed" and all that follows and inserting "nct to exceed—

"(1) $55,000,000 for fiscal year 2003;

"(2) $60,000,000 for fiscal year 2004;

"(3) $65,000,000 for fiscal year 2005;

"(4) $70,000,000 for fiscal year 2006; and

"(5) $75,000,000 for fiscal year 2007.".

SEC. 6. ALLOCATION.

Section 8(a) (16 U.S.C. 4407(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(but at least 50 per centum and not more than 70 per centum thereof)" and inserting "[(but at least 25 percent and not more than 50 percent thereof)] *(but at least 30 percent and not more than 60 percent)*"; and

(B) by striking "4 per centum" and inserting "4 percent"; and

(2) in paragraph (2) by striking "(but at least 30 per centum and not more than 50 per centum thereof)" and inserting "[(but at least 50 percent and not more than 75 percent thereof)] *(but at least 40 percent and not more than 70 percent)*".

SEC. 7. CLARIFICATION OF NON-FEDERAL SHARE OF THE COST OF APPROVED WETLANDS CONSERVATION PROJECTS.

Section 8(b) (16 U.S.C. 4407(b)) is amended by striking so much as precedes the second sentence and inserting the following:

"(b) COST SHARING.—(1) Except as provided in paragraph (2), as a condition of providing assistance under this Act for any approved wetlands conservation project, the Secretary shall require that the portion of the costs of the project paid with amounts provided by non-Federal United States sources is equal to at least the amount allocated under subsection (a) that is used for the project.

"(2) Federal moneys allocated under subsection (a) may be used to pay 100 percent of the costs of such projects located on Federal lands and waters, including the acquisition of inholdings within such lands and waters.

"(3)".

SEC. 8. TECHNICAL CORRECTIONS.

(a) The North American Wetlands Conservation Act is amended as follows:

(1) In section 2(a)(10) (16 U.S.C. 4401(a)(10)), by inserting "of 1973" after "Species Act".

(2) In section 2(a)(12) (16 U.S.C. 4401(a)(12)), by inserting "and in 1994 by the Secretary of Sedesol for Mexico" after "United States".

[(2)] *(3)* In section 3(2) (16 U.S.C. 4402(2)), by striking "Committee on Merchant Marine and Fisheries of the United States House of Representatives" and inserting "Committee on Resources of the House of Representatives".

[(3)] *(4)* In section 3(5) (16 U.S.C. 4402(5)), by inserting "of 1973" after "Species Act".

(5) In section 3(6) (16 U.S.C. 4402(6)), by inserting after "1986" the following: ", and by the Secretary of Sedesol for Mexico in 1994, and subsequent dates".

[(4)] *(6)* In section 4(a)(1)(B) (16 U.S.C. 4403(a)(1)(B)), by striking "section 3(2)(B)" and inserting "section 3(g)(2)(B)".

[(5)] *(7)* In section 4(c) (16 U.S.C. 4403(c)), in the matter preceding paragraph (1), by striking "Commission" and inserting "Council".

[(6)] *(8)* In section 5(a)(5) (16 U.S.C. 4404(a)(5)), by inserting "of 1973" after "Species Act".

(9) In section 5(b) (16 U.S.C. 4404(b)), by striking "by January 1 of each year," and inserting "each year".

(10) In section 5(d) (16 U.S.C. 4404(d)), by striking "one Council member" and inserting "2 Council members".

[(7)] *(11)* In section 5(f) (16 U.S.C. 4404(f)), by striking "subsection (d)" and inserting "subsection (e)".

[(8)] *(12)* In section 10(1)(C) (16 U.S.C. 4409(1)(C)), by striking "western hemisphere pursuant to section 17 of this Act" and inserting "Western Hemisphere pursuant to section 16".

[(9)] *(13)* In section 10(1)(D) (16 U.S.C. 4409(1)(D)), by striking the period and inserting "; and".

[(10)] *(14)* In section 16(a) (16 U.S.C. 4413), by striking "western hemisphere" and inserting "Western Hemisphere".

(b)(1) Section 112(1) of Public Law 101–593 (104 Stat. 2962) is amended by striking "and before the period".

(2) Paragraph (1) of this subsection shall be effective on and after the effective date of section 112(1) of Public Law 101–593 (104 Stat. 2962).

SEC. 9. CHESAPEAKE BAY INITIATIVE.

Section 502(c) of the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; Public Law 105–312) is amended by striking "2003" and inserting "2008".

Mr. REID. I ask unanimous consent that the committee reported amendments be agreed to; the bill, as amended, be read three times and passed; the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The bill (H.R. 3908), as amended, was read the third time and passed.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 2002

Mr. REID. I ask unanimous consent the HELP Committee be discharged from further consideration of H.R. 4664 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4664) to authorize appropriations for fiscal years 2003, 2004, and 2005 for the National Science Foundation, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Madam President, I am pleased the Senate will consider and pass today, the National Science Foundation Doubling Act. This bill is the product of extensive biparptisan, bicameral negotiations among the House of Representatives Committee on Science, the Senate Committee on Health, Education, Labor, and Pensions, and the Senate Committee on Commerce, Science, and Transportation. It is based on S. 2817, which I introduced with Senator HOLLINGS, Senator MIKULSKI, and Senator BOND. I commend them, together with Senator GREGG, Senator MCCAIN, House Science Committee Chairman BOEHLERT, Congressman NICK SMITH, and Congressman RALPH HALL for their leadership in crafting this important legislation.

NSF performs two key functions for the federal governmnet and the broader research community. It supports basic research and development in math, science, engineering, and technology, and it promotes math and science learning at every level, from K–12 through post-graduate education.

Few people realize how influential NSF has been to their daily lives. NSF has funded basic research leading to the creation of doppler weather radar, retail bar codes, speech recognition software, magnetic resonance imaging machines, and even World Wide Web browsers, such as Netscape and Microsoft's Internet Explorer. NSF education initiatives of the late 1980s were the forerunners of the standards-based school reform movement embraced throughout the Nation today and most recently in the new No Child Left Behind Act governing nearly all federal elementary and secondary education programs.

We can and should build on NSF's record in improving the lives of millions of Americans. The 20th Century was the era of the industrial age, and the 21st Century will be the era of information technology and the life sciences.

The bill before us doubles NSF's budget authority over the next five years. It matches the growth of the National Institutes of Health over the last five years. We double budget authority for research and development in the physical sciences and theoretical mathematics, because they support advances in the health sciences and because they are valuable in their own right.

I am particularly proud that the legislation before us authorizes a new secondary school systemic initiative at NSF that will develop model school reforms to improve high school student math and science performance and better prepare all students for college-level and technical work. For too long, federal policy has paid scant attention to the needs of secondary school students. Senator JEFFORDS and I have been working extensively in this area. I commend him for his leadership and look forward to continued work with him on the needs of secondary students.

The bill before us supports model math and science partnerships between institutions of higher education and local school districts to improve the knowledge and teaching techniques of current and future math and science teachers. The math and science partnership provisions are based on proposals offered by the Administration, Senator FRIST, Senator ROBERTS, Senator ROCKEFELLER, and Senator BINGAMAN. They track a strong body of educational research that emphasizes the importance of training math and science teachers to improve student performance in those important subject areas.

This legislation supports institutions of higher education in increasing the number of students, particularly women and minorities, who study toward and obtain degrees in science, math, engineering, and technology. Senator LIEBERMAN, Senator MIKULSKI, and Senator BOND are leaders on this issue, and I commend them as well. We have an economic need and a national security imperative to increase the number and quality of students studying science, math, engineering, and technology at the post-secondary level.

Finally, the bill before us reforms NSF's program on major research and facilities equipment, to help prioritize projects and guard against cost overruns and approval of proposals that have not received adequate analysis. This is an area of concern for Senator CLINTON, Senator BOND, and Senator MIKULSKI, and I commend them for this initiative. Quality and merit should be the touchstones of our Nation's investment in the sciences.

The National Science Foundation Doubling Act is a thoughtful piece of bipartisan legislation that prepares us for the future. I urge my colleagues to support it.

Mr. HOLLINGS. Madam President, today, the Senate will pass legislation that authorizes the doubling of the National Science Foundation budget by fiscal year 2007. As you all know, NSF is the nation's premier federal science agency that invests in basic research across all disciplines. We rely on NSF research to open new frontiers of science, and I am proud that we can pass this important legislation today.

We have approached this legislation in concert with our friends on the Health, Labor, Education, and Pensions Committee, Senators KENNEDY and GREGG. Once again, it has been a pleasure to work with Chairman BOEHLERT and ranking member RALPH HALL of the House Science Committee. Obviously, we could not have produced this product without Senator MCCAIN, Senator ROCKEFELLER, and the other members of the Commerce Committee. We were also pleased to work with our friends, Senators BOND and MIKULSKI, who have been leaders on the NSF.

This doubling bill is vital. The Hart-Rudman Commission on National Security, and former speaker Newt Gingrich, warned that our failure to invest in science and to reform math and science education was the second biggest threat to our national security. NSF is well positioned to address this threat. After all, NSF invests in math and science education from kindergarten all the way through to the post-doctoral level and beyond. This bill allows the Foundation to increase that investment, while reaffirming our commitment to women, minorities, and people with disabilities. These under-represented groups, together, make up more than half of our nation's work force and are only increasing. Letting these groups fall by the wayside would not only threaten our economic competiveness, but also our national security.

It is often said that more than one-half of our nation's economic growth since World War I has stemmed from technology driven by science. Let me give just one example of how NSF's investments can spur our economy. NSF is the leading agency in the National Nanotechnology Initiative. Nanotechnology—which is the science of manipulating matter at the atomic and molecular level—will cut across every scientific discipline, including materials and manufacturing, healthcare and medicine, energy and the environment, agriculture, biotechnology, information technology, and national security. Worldwide, the market for nanotechnology is expected to be $1 trillion annually within 10 to 15 years. NSF's cross-disciplinary approach, which includes groundbreaking research into the way society and this new technology will interact, will help this nation take advantage of Nanotechnology sooner, better, and with greater confidence.

Finally, I want to note that NSF is responsible for the overall health and well-being of the research enterprise in this country. Congress is now completing its 5-year commitment to double funding for the National Institutes of Health. We made that investment because we want to cure and prevent disease. But increasingly, it's not just the biomedical research that NIH supports that brings us breakthroughs. Recent advances in biomedical science have relied on advances in fields such as computer science, physics, and chemistry. For example, the sequencing of the human genome was enabled by powerful computers networked in innovative ways. The commitment that we are making today to science at NSF will build our base knowledge in non-medical fields to complement the research done at NIH.

NSF research is not just for large universities. The Foundation's continued support for the EPSCoR program supports the development of the science and technology resources of individual states like South Carolina, through partnerships that involve the state's universities, industry, government, and the Federal research and development enterprise. These partnerships put researchers in these states in a better position to compete and win NSF grants.

Mr. President, I think these arguments are solid, simple, and straightforward. We can talk about NSF's past outstanding contributions to science. We can talk about the future and the importance of science and technology to our economy. But, Mr. President, where the rubber meets the road, we have to stop talking and invest, with real money, in the science and engineering enterprise that will guaranty the health, economic viability, and security of our future. I, for one, appreciate the hard work that NSF has done over the past 52 years promoting the progress of science, and I thank my Senate colleagues for supporting me in providing this agency the resources needed to conquer tomorrow.

Mr. LIEBERMAN. Madam President, I am proud with my Senate colleagues, particularly Senators KENNEDY, GREGG, and HOLLINGS, in expressing support for this historic legislation, which will help ensure that our country continues to be a leader in scientific and technological innovation. I also want to extend my appreciation to Chairman BOEHLERT of the House Science Committee for his leadership in moving this strongly bipartisan legislation.

The reality is that technological and scientific innovation is now widely understood to be the major driver of economic growth, not to mention a critical factor in our military superiority. Education is essential to ensuring that the American workforce possesses the skills necessary to meet these innovation needs. The provisions included in this legislation will help give universities and colleges in Connecticut and nationwide the tools they need to boost our domestic pool of brainpower—the next generation of people who will incubate and implement the next generation of ideas to expand our economy.

I am extremely pleased that the bill passed today includes all of the key elements of the Technology Talent Act of 2001 S. 1549, legislation that I and my colleagues, most notably Senators MIKULSKI, BOND, FRIST and DOMENICI, first proposed a year ago today. The Technology Talent Act of 2001, "Tech Talent Act", sought to stimulate economic growth by boosting the number of math, science, technology and engineering graduates from U.S. institutions of higher learning. House Science Committee Chairman BOEHLERT introduced similar legislation in the House , H.R. 3130, on October 16, 2001.

In keeping with the Tech Talent Act, the National Science Foundation Act of 2002 "NSF Authorization Act approved today establishes a framework for a multi-year competitive grant program that would award performance-based grants to institutions of higher learning to increase the number of math, science, technology and engineering graduates. The legislation will formally authorize an existing program at NSF that was inspired by and modeled after Tech Talent Act—the Science, Mathematics, Engineering,and Technology talent Expansion Program, STEP. STEP, has already received Federal appropriations for fiscal year 2002 and elicited more than 170 applications from interested colleges and universities, of which 16 were awarded grants. I am pleased that Naugatuck Valley Community College in my home state was selected to be one of the first grantees under the program and have every confidence that it will lead the Nation in developing creative and effective ways to build a 21st century workforce.

The provisions in the NSP Authorization Act before us today achieves the same goals as were proposed in my Tech Talent Act. The following analysis describes the growing talent gap that threatens America's leadership in science and technology and clarifies the goals, concepts, and themes underpinning both my original legislation and the STEP, or Tech Talent, provisions of the NSF Authorization Act.

America's technological prowess is unequaled in the world today—which is why, despite our economic slowdown and the financial burdens of prosecuting the war against terror and ensuring our collective defense, we still have the strongest, most vibrant economy on the planet. However, our long-term competitive standing and economic security could well be at risk if we do not address a troubling trend line in our workforce, the mismatch between the demand and supply of workers with science and engineering training.

Studies show that the number of jobs requiring significant technical skills is projected to grow by more than 50 percent in the United States over the next ten years. But outside of the life sciences, the number of degrees awarded in science and engineering has been flat or declining. This has helped fuel a well-chronicled shortage of qualified New Economy workers.

We have tried to temporarily plug this human capital hole with a stopgap of foreign workers. Unfortunately, there is a broad consensus among high-tech leaders and policymakers that it would be a serious mistake to prolong this dependence and essentially render our GDP contingent on the supply of H–1 B visa holders.

That may sound like a bit of an overstatement to some. But the reality is that technological innovation has been a key enabler of our economic and military dominance over the last half century. It is widely acknowledged, moreover, that we cannot continue to expand our economy in the future if we don't take steps now to expand our domestic pool of human intellectual capital.

Now, most answers to serious economic challenges flow from the private sector, which is where growth must occur. But there are things that the Federal Government can do to help, particularly when it comes to educating and training our workforce. We can provide leadership, focus, and not least of all resources, and that was the purpose of the Tech Talent Act as introduced, and STEP as is included in this NSF legislation.

Specifically, the Tech Talent program aims to fix a critical link in this "tech talent" gap—undergraduate education in science, math, engineering, and technology. As established in our bill, it would provide competitive grants to institutions of higher learning, from universities to community colleges, to encourage them to find creative methods for increasing the number of graduates in these disciplines.

This is not another scholarship program, but a targeted, results-driven initiative that goes straight to the gatekeepers. We're not asking them to change their admissions policies, but, in effect, to design new missions. Come up with effective ideas, and we will provide the dollars to make them work.

For example, institutions could propose to add or strengthen the interdisciplinary components of undergraduate science education. Or they could establish targeted support programs for women and minorities, who are 54 percent of our total workforce, but only 22 percent of scientists and engineers, to increase enrollment and graduation numbers in these fields. Or they could partner with local technology companies to provide summer industry internships for ongoing research experience.

This initiative was conceived with strong bipartisan, bicameral support. The Tech Talent Act, as noted, was introduced last year by Senators MIKULSKI, BOND, FRIST, DOMENICI, and myself; the House companion bill, H.R. 3130, was introduced by House Science Committee Chairman BOEHLERT and Representative LARSON. By the end of the year, Congress had agreed to appropriate $5 million for this fiscal year to jumpstart the program in the form of NSF's STEP, even though our authorizing legislation had not yet been passed. Most recently, the Senate VA–HUD Committee Appropriations bill for fiscal year 2003 included $20 million for the program.

The program also has extremely broad support outside the Congress. The Administration has supported Tech Talent as a priority, including funding for it in its budget request for FY 2003. In addition, the response from leaders in industry, academia, and educational communities, also has been tremendous, we have received letters of support from TechNet, Semiconductor Industry Association, National Alliance of Business, K–12 Science, Mathematics, Engineering & Technology Coalition, American Association of State Colleges and Universities, Texas Instruments, and the American Society for Engineering Education, to name but a few.

Even more encouraging are the preliminary data obtained from NSF's STEP. NSF received 177 applications requesting a total of $59.7 million in aid, clear evidence of the vast interest in, and need for, the Tech Talent program among undergraduate institutions seeking to implement reforms in science and math education. In its first year, the program has awarded 16 grants to colleges and universities.

The NSF Authorization Act passed today will do much to enhance the efforts already underway at NSF in this area and to permanently establish "Tech Talent" as a national priority. I want to make clear the intent of a few provisions in this legislation as their implementation will be critical to the success of the program.

The intent of H.R. 4664, expressed in section (8)(a)(7)(A), is to prioritize funding for programs in fields of science, mathematics, engineering, and technology that have witnessed a period of stagnant of declining enrollment and degree conferrals, especially where such declines have resulted, or are likely to result, in adverse social, economic, technological, or military costs. It deserves clarification that a declining trend can be indicated not only through an absolute decrease in the number of students enrolling or graduating in a particular field, but through a relative decrease in the proportion that students of a particular field constitute relative to the total number of students enrolled or graduating across all fields.

For example, statistics from the National Science Foundation, NSF, demonstrate that between 1985 and 2000, the number of bachelor's degrees awarded declined from 77,572 to 59,536 in engineering, and from 16,270 to 14,580 in the physical sciences. Furthermore, the NSF predicts that the number of jobs requiring skills and backgrounds in information technology will vastly outstrip the number of people capable of filling such positions over the next decade. The negative consequences of such trends with respect to economic growth, technological innovation, and gainful employment have been widely documented and should represent near to medium-term priorities for Tech talent funding.

In emphasizing the need to remediate stagnant or declining trends, we recognize and appreciate previous criticisms regarding the difficulty of accurately modeling future employment scenarios and of forecasting areas of societal need. Nevertheless, we believe that investments must bear a relationship to desired outcomes if limited funds are to be allocated intelligently. The NSF is therefore expected to undertake efforts to the best extent it can to identify and account for broader social considerations, including generally anticipated industry requirements or imbalances between the number of students graduating across different fields, in determining fields appropriate for prioritization. To this end, the NSF may require applicants to specify the specific societal needs being addressed by their proposals and to articulate how such proposals would further the remediation of targeted needs.

The fundamental goal of the Technology Talent Act as introduced was to increase the number of graduates with expertise in math, science, technology and engineering to meet the critical needs of our U.S. businesses, industries, research community and military. As such, the intention of sections (8)(a)(7)(B) and (8)(a)(7)(D)(i) of H.R. 4664 is to require applicants to clearly establish measurable targets to both increase the number of students studying toward degrees in science, mathematics, technology and engineering, and to increase the number of students who have completed degrees, concentrations, or certificates in these fields. Therefore, it is intended that applicants that fail to establish goals for both enrollment and completion shall be considered inadequate.

Likewise under section (8)(a)(7)(D)(ii), it is intended that the Director shall terminate funding in the case of a grantee that has failed to make substantial progress toward meeting the targets established in section (8)(a)(7)(D)(i) for increasing the number of students completing degrees, concentrations or certificates in science, mathematics, technology and engineering. However, I would encourage the Director to work with grantees and provide technical assistance to help ensure that grantees make substantial progress during the first three years of the grant toward meeting the targets established in (8)(a)(7)(D)(i) and to achieve such targets by the end of the grant period. I further believe that it is inherent in this legislation that grantees that successfully meet their targets established in (8)(a)(7)(D)(i) shall be eligible to compete for subsequent grants.

I believe that this NSF bill provides a real boost to efforts that are being undertaken in parts of the country to address our technical workforce challenge. As such, it is the intention that innovative consortias between institutions of higher education and non-profits, industry or state or local governments are eligible to compete for grants under the STEP program per section (8)(a)(7)(F). In particular, I believe that legislation under (8)(a)(7)(F)(iii) allows for non-profits established on behalf of such high-quality and proven consortias to apply directly for grants.

For example, the State of Texas passed legislation last year that created a consortium—the Texas Engineering and Technical Consortium, TETC, among private industry and 32 colleges and universities to increase the number of students graduating from Texas schools with degrees in electrical engineering and computer science. Grants are awarded to universities and colleges to support curriculum changes, bridge programs, and various forms of student and faculty support to help increase the retention rate of students pursuing degrees in these areas and to attract and retain more underrepresented groups. This collaborative effort has received funding from Advance Micro Devices, Texas Instruments, Hewlett Packard, Motorola, Intel, Applied Materials and Sabre, with in-kind support from AeA and TechNet. The state matches private and other contributions up to $5 million per year.

In April, grants worth $5.3 million were awarded to fund 33 projects as 23 institutions. The appeal of this program is that industry, academia and the state are working cooperatively and collaboratively to address a pressing workforce need, rather than on a school-by-school or company-by-company basis. While it is still too early to determine the success of these projects, which were funded at 64 percent of the potential grant amount, the institutions are projecting a 13 percent increase in total student numbers in these programs for fall 2003. If fully funded, that increase could go as high as 23 percent. This is just the type of innovation that the Tech Talent is meant to encourage.

Finally, the real success the version of the "Tech Talent" program encompassed in this legislation will be based on the successful replication and expansion of model programs supported through this grant program at all of our higher education institutions. Therefore, I believe it is critical that the Director follow the intent of the original language as introduced in S. 1549, section (5)(a), and H.R. 3130, section (4)(d), and select an independent evaluative organization to develop metrics for measuring the impact of the program, particularly on the number of students enrolled, academic performance of students, persistence to degree completion, and placement in post-graduate education or career pathways, and to identify the program approaches assisted under this program that are the most effective in increasing the number of students obtaining degrees in science, mathematics, technology and engineering.

In addition, both S. 1549 and H.R. 3130 intend for the Director to regularly disseminate information on the activities conducted by grantees and the results of programs assisted under this grant program, including best practices, to participating institutions of higher education and other interested institutions of higher education. Similarly, I believe it is imperative to share the findings of programs assisted under STEP grants with Congress through interim and final reports so that we may make better policy decisions to enhance our nation's standing as a scientific and technological leader.

We all realize that solving the undergraduate problem is not going to single handedly close our talent gap. At the same time, we should also realize that the talent gap cannot be closed without first solving the problem at the undergraduate level. Therefore, I am pleased by the Senate's unanimous support today for the NSF Authorization Act of 2002, and the STEP, or Tech Talent, provisions encompassed therein. In doing so, we will be helping to ensure that the young minds of today will be capable of mastering and fueling the high-tech economies of tomorrow.

Ms. MIKULSKI. Madam President, I rise today to join with Senator KENNEDY, Senator HOLLINGS, Senator GREGG, Senator MCCAIN, and Senator BOND to urge passage of the National Science Foundation Doubling Act.

On July 12, 2002, Senator KIT BOND and I joined together and called on our Senate colleagues to join us in an effort to double the budget of the National Science Foundation over five years. We said at that time, that just as we worked collectively to double the NIH budget, now was the time for a parallel effort on behalf of the fundamental research supported by the NSF.

NSF's impact over the past half century has been monumental—especially in the field of medical technologies and research. The investments have also spawned not only new products, but entire new industries, such as biotechnology, the internet, and e-commerce. Medical technologies such as biotechnology, the internet, and e-commerce. Medical technologies such as magnetic resonance imaging, ultrasound, digital mammography and genomic mapping could not have occurred, and cannot now improve to the next level of proficiency, without underlying knowledge from NSF-supported work in biology, physics, chemistry, mathematics, engineering, and computer sciences.

Today, with this bill, we take an important step to ensure the well-being of this Nation and its citizens with passage of this bill to double the funding for the basic research and science education activities of the National Science Foundation over the next five years.

Some might ask, "Why should we do this now?" Let me try and answer that question.

We have seen some dramatic increases in research and development investments during the past decade, largely from industry. These investments have contributed to this country's standing as a global economic powerhouse.

However, according to the National Science Board—in its latest report on science indicators—developments abroad could affect U.S. preeminence in the years to come. The Board says that the United States finances 44 percent of the total worldwide investment in R&D—equal to the combined total of Japan, the United Kingdom, Canada, France, Germany and Italy.

But other nations are increasing their R&D investments and focusing on areas such as physical sciences and engineering, which receive comparably less funding in the United States. Those changes could lead to the creation of new centers for research excellence abroad, which will encourage many of those who have come here from other countries and have become a part of our science enterprise to return home.

The fact is that this country's future competitiveness rests on our ability to develop a U.S. work force that has the skills necessary to meet the increased competition coming from abroad.

In this country, R&D investments by U.S. industry have contributed to a steady stream of innovations and economic growth. We are seeing new partnerships develop that connect firms and universities, nonprofit organizations and government.

Meanwhile, the balance of R&D investments continues to shift. As industry R&D grew to nearly 75 percent of the national total by 2000, Federal expenditures remained essentially flat over the past decade.

At the same time federal research expenditures in life sciences have grown, from 41 to 47 percent of the federal total between 1990 and 2000. However, the combined share of physical sciences and engineering in federal research total dropped from 37 to 29 percent in the same period.

Changes in the U.S. economy have spilled into the workforce. Information- and technology-based changes in the economy have created new opportunities for highly trained workers.

Science and engineering occupational fields are growing faster than the overall growth of the American work force. the Bureau of Labor Statistics predicts that during this decade, hi-tech occupations will grow by 47 percent, compared to 15 percent for the labor force as a whole.

Despite many state and national reforms initiated during the last decade, the quality of mathematics and science education at the precollege level is not where it should be. America's high school students continue to lag behind in international achievement measures in science and mathematics. U.S. high school students taking physics lag behind students in Norway, Sweden, the Russian Federation, Denmark, Germany, Australia and seven other countries.

A persistent issue in science and mathematics education remains the size and adequacy of the teaching force. According to the National Commission on Mathematics and Science Teaching for the 21st Century, the nation's schools will need to hire 2.2 million teachers, including 240,000 middle and high school mathematics and science teachers, in the next decade.

The need for teachers is most pronounced in urban and rural areas and within specific disciplines and grade levels of mathematics and science. A survey of urban school districts, by the Council of the Great City Schools and Recruiting New Teachers, Inc., in 1998–99, indicated that up to 95 percent of our urban school districts had an immediate demand for high school science and mathematics teachers.

A high percentage of science and mathematics teachers lack even a minor in their teaching field, with 56 percent of public secondary students receiving instruction in the physical sciences from teachers without a major or minor in the physical sciences. And as many as 50 percent of new teachers in urban school districts leave the teaching profession within their first three years, further exacerbating shortages.

Solving the problem of producing more high-quality, homegrown scientists and engineers—and a well educated workforce—depends upon solving the math and science education problems we have at the elementary and secondary levels of our school system.

The bill before us today authorizes substantial growth in all areas of basic research—including the physical, engineering, biological, and computer sciences—fields vital for progress in just about every other area of science including biomedical research. The bill also puts a high priority on cutting edge programs such as information technology, nanotechnology and plant genome research.

Under this bill, the NSF budget would grow from today's level of $5 billion to nearly $10 billion by fiscal year 2007 which should allow for substantial growth in both the size of the average award as well increase the number of awards NSF is able to make. Increasing the size of the grants will benefit those currently conducting research. Increasing the number of awards should help those individuals who are just starting their careers in science as well as attract more women and minorities into our science and technology enterprise.

In the area of math and science education, the bill firmly establishes the President's Math and Science Partnership program at the National Science Foundation. This is a new effort designed to create strong connections between state and local school districts with our institutions of higher education.

This bill also includes a provision for a new undergraduate "tech talent" program. The "tech talent" program is designed to provide financial support to undergraduate students to pursue bachelor degrees in science and engineering—all in an effort to help meet today's and tomorrow's workforce needs.

The funding in this bill will also help increase the graduate student stipends in both the NSF fellowship programs as well as in the support graduate students receive as research assistants on the NSF research grants. Under this bill, NSF's entire education and human resources program would grow from $875 million in fiscal year 2002 to almost $1.8 billion by fiscal year 2007.

Finally, this bill includes two provisions that relate to the National Science Board. These are "good government" provisions that give the National Science Board, the policy making body of the Foundation, the authority and funding to hire its own staff. Our rationale is to ensure that the Board remains independent with respect to its policy making and oversight responsibilities. This is particularly important as Congress attempts to double the NSF over the next five years. Finally, it is equally important to know that these provisions do not preclude the Board and the NSF from continuing to work closely together as they have over the years such as in the staffing of NSB committees, subcommittees, and task forces and the development of the biennial Science and Engineering Indicators report.

As a Nation, we have a big challenge ahead of us as we enter the new millennium. Our world has changed and we must do what is necessary to meet the new challenges that will surely come our way. The sustained and effective investment in our Nation's research and education enterprise is one of the keys to meeting those challenges. I urge all my colleagues to join us in enacting this important investment in the future of our country.

NSF REAUTHORIZATION: NSF DOUBLING ACT

Mr. HARKIN. Will the Senator yield for a question?

Mr. KENNEDY. I would be happy to yield to the Senator from Iowa.

Mr. HARKIN. I see that in this legislation, there is an authorization for the Plant Genome Project, a program that had previously been authorized only in appropriations acts.

Mr. KENNEDY. That is correct.

Mr. HARKIN. Is the intent of the mangers in including this provision merely to provide a permanent authorization for the Plant Genome Project, and not to state a preference by the Senate for plant genomics over other agricultural genomics programs when it comes to additional funding provided through appropriations?

Mr. KENNEDY. The Senator is correct. That plant genomics language included in the NSF doubling legislations is only to establish an authorization, it does not state a preference for plant genomics over other agricultural genomics programs that might be provided through later appropriations acts.

Mr. HARKIN. I thank the Senator. I think that is an important point because Senator LUGAR and I worked hard in the Agricultural Research, Extension, and Education Reform Act of 1998 to authorize an agricultural genomics program administered by the National Science Foundation because we felt a balanced genomics program was essential to keeping U.S. agriculture productive and competitive.

While I think the plant genomics program is an excellent one, I sincerely hope that any further increases provided for agricultural genomics be open to animal and microbiological research as will, not just plants. We need a balanced portfolio of agricultural research to best capitalize on the resources devoted to agriculture-related genomics research. I would not want anyone to think that the Senate was now backtracking on the progress we made with the passage of the 1998 agricultural research legislation.

Mr. KENNEDY. It is certainly not the manager's intent to limit the Agricultural, Research, Extension, and Education Reform Act of 1998.

Mr. HARKIN. I thank the Senator for that. I thank the Senator for yielding.

Mr. REID. I understand Senators KENNEDY, GREGG, and HOLLINGS have a substitute amendment at the desk; I ask that that amendment be considered and agreed to, the motion to reconsider be laid upon the table; the bill, as amended, be read three times and passed; the motion to reconsider be laid upon the table; the title amendment be agreed to; and any statements be printed in the RECORD with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4958) was agreed to.

(The amendment is printed in today's RECORD under "Text of the Amendments.")

The bill (H.R. 4664), as amended, was read the third time and passed.

The amendment (No. 4959) was agreed to, as follows:

> Amend the title so as to read: "An Act to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and for other purposes.".

ORDERS FOR FRIDAY, NOVEMBER 15, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business tonight, it stand in adjournment until tomorrow at 9:45 a.m. I further ask that on Friday, immediately following the prayer, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 10 a.m. with the time equally divided between the two leaders or their designee; and that at 10 a.m. the majority leader, Senator DASCHLE, or his designee be recognized.

Further, that the live quorum with respect to cloture motions filed with respect to the Homeland Security Act be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARMED FORCES TAX FAIRNESS ACT OF 2002

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5557, which is now at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

> A bill (H.R. 5557) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

TAX STATUS OF SERVICE PERSONNEL ON DIEGO GARCIA

Mr. BAUCUS. The distinguished Senator from Louisiana, Ms. LANDRIEU has raised an issue with respect to the legislation before us. That legislation, H.R. 5557, deals with tax benefits for military service personnel. Senator LANDRIEU would like clarification from the Administration on the status of service men and women on the Island of Diego Garcia. These service personnel have participated in military operations as part of Operation Enduring Freedom and will participate in future military operations from that location. There is a question whether these members of the armed forces are entitled to be treated in the same manner as if such services were in a combat zone.

Mr. GRASSLEY. Let me respond to the distinguished chairman on this point. At the request of the Senator from Louisiana, our staffs made inquiries of the administration on this question this evening. In discussion with Treasury officials, our staffs have been assured that the Treasury Department will look into this matter and work with the Senator from Louisiana to address the questions raised by the Senator. We look forward to an expeditious response from the Administration.

Mr. BAUCUS. I thank my good friend from Iowa.

Mr. HARKIN. Madam President, I am pleased that we are passing the Armed Services Tax Fairness Act that will make a number of useful tax changes benefitting our military personnel including the National Guard and Reserve. It includes a provision that I introduced that broadens the allowable membership of veterans organizations so ancestors and descendants can be members. This will allow veterans organizations, particularly at the local chapter level to preserve as tax exempt a variety of their activities which otherwise would be subject to tax as the number of veterans who are members decline.

Unfortunately, because of opposition from the House, this measure does not include a provision passed by the Senate on an earlier version of the Armed Services Tax Fairness Act that I feel very strongly about. I introduced it earlier this year. It was companion to a measure introduced by Congressman RANGEL.

My bill blocks the ability of the very rich to reduce their taxes by renouncing their U.S. citizenship. The Joint Tax Committee has estimated that it will raise $656 million from a very few people who I call Benedict Arnolds. These are people who turn their back on their country which provided so well for them so they can avoid paying their fair share of U.S. taxes.

Under current law, there are special rules that apply to these former citizens that appear to recover funds lost to the Treasury. But, they are full of holes. Under the current regime, for 10 years after a U.S. citizen renounces his or her citizenship with a principal purpose of avoiding U.S. taxes, the person is taxed at the rates that would have applied had he or she remained a citizen. Actually the tax is nominally on a broader base of income and on more types of transactions. In addition, if the expatriate dies within 10 years of the expatriation, more types of assets are included in his or her estate. But, the reality is that taxes are very often not paid.

The reality is that once a person has expatriated and removed U.S. assets from U.S. jurisdiction, it is extremely difficult to enforce the current rules, particularly for an entire decade after the citizenship is renounced. The measure I introduced simply provides that the very act of renouncing ones citizenship triggers the recognition of tax. So, rather than collecting tax every time an asset is sold over the next decade, my bill treats all of the assets of an expatriate as having been sold the day prior to when the person renounces their citizenship. The taxes are due up front rather than over time. In regard to estate taxes, rather than attempting to collect the tax from the estate of an expatriate not in U.S. jurisdiction, my measure taxes the inheritance of an heir remaining in the U.S. in such a way as to remove any tax benefit from the renouncement of citizenship.

Madam President, $656 million in revenue from these very few former citizens is a lot of revenue that must be made up by loyal Americans or in higher debt that Americans will face. I intend to reintroduce my measure at the beginning of the next Congress and will be working hard for its passage at the earliest possible point.

Mr. REID. I ask unanimous consent that the Baucus amendment at the desk be agreed to, the bill be read three times and passed, the motion to reconsider be laid on the table, and any statements be printed in the RECORD, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4961) was agreed to.

(The amendment is printed in today's RECORD under "Text of the Amendments.")

The bill (H.R. 5557), as amended, was read the third time and passed.

PROGRAM

Mr. REID. Madam President, I announce that a motion to proceed to the terrorism insurance conference report is possible at about 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:46 p.m., adjourned until Friday, November 15, 2002, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate November 14, 2002:

DEPARTMENT OF JUSTICE

HARLON EUGENE COSTNER, OF NORTH CAROLINA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF NORTH CAROLINA FOR THE TERM OF FOUR YEARS, VICE BECKY JANE WALLACE.

RICHARD ZENOS WINGET, OF NEVADA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF NEVADA, VICE JOSE GERARDO TRONCOSO.

UNITED STATES INTERNATIONAL TRADE COMMISSION

DANIEL PEARSON, OF MINNESOTA, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR THE TERM EXPIRING JUNE 16, 2011, VICE LYNN M. BRAGG, TERM EXPIRED.

DEPARTMENT OF TRANSPORTATION

JAMES M. LOY, OF VIRGINIA, TO BE UNDER SECRETARY TRANSPORTATION FOR SECURITY FOR A TERM OF FIVE YEARS, VICE JOHN MAGAW, RESIGNED.

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. BRETT L. HANKE, 7165

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

WILLIAM C. CANNON, 0327
WILLIAM A. JOHNSTON, JR., 7980
LEONARD H. KISER, 5938
CHARLES F. MAGUIRE III, 8205

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

ROBERT D. BEAL, 8185
JEFFREY M. BIERLEY, 5102
NATHAN P. BORCHERS, 4609
STEPHEN G. BROOKS, 6879
JAMES E. BROWN, 7401
JAMES R. BRYAN, 8135
RONALD W. BURKETT, 9045
LAWRENCE C. CALAHAN, 3164
DANIEL B. CALDWELL, 6640
BRIAN L. CASPER, 1936
DAVID M. DOWLER, 5093
KEVIN L. DUZAN, 1551
DAVID C. DYE, 6392
MATTHEW G. GURGEL, 6567
JOSEPH T. HANSEN, 9750
SHAWN W. HUEY, 4931
CHARLES B. JOHNSTON, 1810
THOMAS H. KIERSTEAD, 6965
TIMOTHY M. LEDBETTER, 4229
JON H. MORETTY, 1286
CHRISTOPHER P. NODINE, 5133
MATTHEW L. PARSONS, 0148
ERIK R. PATTON, 2161
DAVID R. PERRY, 4930
VINCENT J. PERRY, 8286
KENNETH N. RADFORD, 8999
KEVIN K. ROACH, 0551
THOMAS E. SCHULTZ, 1807
JAYSON W. SCHWANTES, 0785
THOMAS W. SINGLETON, 3551
JEFFREY S. SMITH, 6647
LOUIS J. SPRINGER, 6946
LANCE E. THOMPSON, 3038
STEVEN J. ZACCARI, 2482

CONFIRMATIONS

Executive Nominations Confirmed by the Senate November 14, 2002:

NATIONAL LABOR RELATIONS BOARD

DENNIS P. WALSH, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 2004.

DEPARTMENT OF ENERGY

KYLE E. MCSLARROW, OF VIRGINIA, TO BE DEPUTY SECRETARY OF ENERGY.

DEPARTMENT OF AGRICULTURE

PHYLLIS K. FONG, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF AGRICULTURE.

FEDERAL COMMUNICATIONS COMMISSION

JONATHAN STEVEN ADELSTEIN, OF SOUTH DAKOTA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 2003.

DEPARTMENT OF THE TREASURY

WAYNE ABERNATHY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

FEDERAL MARITIME COMMISSION

REBECCA DYE, OF NORTH CAROLINA,TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2005.

DEPARTMENT OF TRANSPORTATION

ROGER P. NOBER, OF MARYLAND, TO BE A MEMBER OF THE SURFACE TRANSPOERTAITON BOARD FOR A TERM EXPIRING DECEMBER 31, 2005.

REFORM BOARD (AMTRAK)

DAVID MCQUEEN LANEY, OF TEXAS, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS.

EXPORT-IMPORT BANK OF THE UNITED STATES

PHILIP MERRILL, OF MARYLAND, TO BE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 20, 2005.

DEPARTMENT OF STATE

KIM R. HOLMES, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF STATE (INTERNATIONAL ORGANIZATIONS).

MAURA ANN HARTY, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE (CONSULAR AFFAIRS).

ELLEN R. SAUERBREY, OF MARYLAND, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE COMMISSION ON THE STATUS OF WOMEN OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

QUANAH CROSSLAND STAMPS, OF VIRGINIA, TO BE COMMISSIONER OF THE ADMINISTRATION FOR NATIVE AMERICANS, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

NATIONAL INDIAN GAMING COMMISSION

PHILIP N. HOGEN, OF SOUTH DAKOTA, TO BE CHAIRMAN OF THE NATIONAL INDIAN GAMING COMMISSION FOR THE TERM OF THREE YEARS.

DEPARTMENT OF STATE

J. COFER BLACK, OF VIRGINIA, TO BE COORDINATOR FOR COUNTERTERRORISM, WITH THE RANK AND STATUS OF AMBASSADOR AT LARGE.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

IRENE B. BROOKS, OF PENNSYLVANIA, TO BE A COMMISSIONER ON THE PART OF THE UNITED STATES ON THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA.

BROADCASTING BOARD OF GOVERNORS

BLANQUITA WALSH CULLUM, OF VIRGINIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2005.

DEPARTMENT OF STATE

PETER DESHAZO, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING TENURE OF SERVICE AS DEPUTY PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ORGANIZATION OF AMERICAN STATES.

DAVID N. GREENLEE, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BOLIVIA.

JOHN RANDLE HAMILTON, OF NORTH CAROLINA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUATEMALA.

OVERSEAS PRIVATE INVESTMENT CORPORATION

COLLISTER JOHNSON, JR., OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2004.

DEPARTMENT OF STATE

JOHN F. KEANE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PARAGUAY.

OVERSEAS PRIVATE INVESTMENT CORPORATION

JOHN L. MORRISON, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2004.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

ALLEN I. OLSON, OF MINNESOTA, TO BE A COMMISSIONER ON THE PART OF THE UNITED STATES ON THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

NATIONAL LABOR RELATIONS BOARD

RENE ACOSTA, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 27, 2003.

THE JUDICIARY

JOHN M. ROGERS, OF KENTUCKY, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.

STANLEY R. CHESLER, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

ROSEMARY M. COLLYER, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

MARK E. FULLER, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF ALABAMA.

DANIEL L. HOVLAND, OF NORTH DAKOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NORTH DAKOTA.

KENT A. JORDAN, OF DELAWARE, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF DELAWARE.

JAMES E. KINKEADE, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF TEXAS.

ROBERT G. KLAUSNER, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

ROBERT B. KUGLER, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

RONALD B. LEIGHTON, OF WASHINGTON, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON.

JOSE L. LINARES, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

ALIA M. LUDLUM, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.

WILLIAM J. MARTINI, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

THOMAS W. PHILLIPS, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE.

LINDA R. READE, OF IOWA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF IOWA.

WILLIAM E. SMITH OF RHODE ISLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF RHODE ISLAND.

JEFFREY S. WHITE, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

FREDA L.WOLFSON, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

FARM CREDIT ADMINISTRATION

NANCY C. PELLETT, OF IOWA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION FOR A TERM EXPIRING MAY 31, 2008.

DEPARTMENT OF DEFENSE

OTIS WEBB BRAWLEY, JR., OF GEORGIA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2003.

NATIONAL LABOR RELATIONS BOARD

ROBERT J. BATTISTA, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 2007.

WILMA B. LIEBMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2006.

PETER SCHAUMBER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2005.

NATIONAL COUNCIL ON DISABILITY

JOEL KAHN, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2004.

PATRICIA POUND, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2005.

LINDA WETTERS, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2003.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DAVID GELERNTER, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2006.

NATIONAL MUSEUM SERVICES BOARD

A. WILSON GREENE, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2004.

JUDITH ANN RAPANOS, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2002.

JUDITH ANN RAPANOS, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2007.

MARIA MERCEDES GUILLEMARD, OF PUERTO RICO, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2005.

NANCY S. DWIGHT, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2005.

PETER HERO, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2006.

THOMAS E. LORENTZEN, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2006.

NATIONAL INSTITUTE FOR LITERACY

JUAN R. OLIVAREZ, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM OF ONE YEAR.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

JAMES M. STEPHENS, OF VIRGINIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2005.

BARRY GOLDWATER SCHOLARSHIP & EXCELLENCE IN EDUCATION FOUNDATION

PEGGY GOLDWATER-CLAY, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING JUNE 5, 2006.

NATIONAL INSTITUTE FOR LITERACY

CAROL C. GAMBILL, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM OF THREE YEARS.

NATIONAL MUSEUM SERVICES BOARD

BETH WALKUP, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2003.

DEPARTMENT OF EDUCATION

JOHN PORTMAN HIGGINS, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF EDUCATION.

COAST GUARD NOMINATION OF DANA B. REID.

COAST GUARD NOMINATIONS BEGINNING DOUGLAS A ASH AND ENDING WARREN E. SOLODUK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 17, 2002.

COAST GUARD NOMINATIONS BEGINNING ANTHONY J. ALARID AND ENDING MICHAEL B. ZAMPERINI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 12, 2002.

FOREIGN SERVICE NOMINATIONS BEGINNING WILLIAM JOSEPH BURNS AND ENDING MICHAEL L. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 8, 2002.

FOREIGN SERVICE NOMINATIONS BEGINNING JON CHRISTOPHER KARBER AND ENDING PETER FERNANDEZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 8, 2002.

HOUSE OF REPRESENTATIVES—*Thursday, November 14, 2002*

The House met at 1 p.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord, our Protector and our Shield, wrap the Members of Congress in Your mantle of justice. Guide them in their judgments and in all their ways.

One of the great tasks You lay upon this body is "to provide for the common defense and the general welfare of the United States."

Knowing this is an awesome responsibility, be a buttress to their efforts to secure this Nation in peace and protect its people and institutions from all harm.

In and with all efforts to be ever vigilant and prepared, we know it is "in You we are to place all our trust;" for "unless the Lord guard the city in vain does the watchman keep vigil" .

Shower upon this Nation Your loving care now and forever.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. ARMEY) come forward and lead the House in the Pledge of Allegiance.

Mr. ARMEY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 3340. An act to amend title 5, United States Code, to allow certain catch-up contributions to the Thrift Savings Plan to be made by participants age 50 or over; to reauthorize the Merit Systems Protection Board and the Office of Special Counsel; and for other purposes.

H.R. 5349. An act to facilitate the use of a portion of the former O'Reilly General Hospital in Springfield, Missouri, by the local Boys and Girls Club through the release of the reversionary interest and other interests retained by the United States in 1955 when the land was conveyed to the State of Missouri.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3609. An act to amend title 49, United States Code, to enhance the security and safety of pipelines.

H.R. 3833. An act to facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes.

H.R. 4073. An act to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts, and for other purposes.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 958. An act to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Commission Docket Numbers 326–A–1, 326–A–3, 326–K, and for other purposes.

S. 2845. An act to extend for one year procedural relief provided under the USA PATRIOT Act for individuals who were or are victims or survivors of victims of a terrorist attack on the United States on September 11, 2001.

S. 3044. An act to authorize the Court Services and Offender Supervision Agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation, and supervised release.

S. 3067. An act to amend title 44, United States Code, to extend certain Government information security reform for one year, and for other purposes.

The message also announced that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1214) "An Act to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes.".

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wants to thank the gentleman from Texas (Mr. ARMEY), who is retiring as of today, for his great service.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain one-minute speeches today at the end of legislative business.

PRIVATE CALENDAR

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Pursuant to the order of the House of Wednesday, November 13, 2002, the Private Calendar will now be called.

The Clerk will call the first individual bill on the Private Calendar.

NANCY B. WILSON

The Clerk called the bill (H.R. 392) for the relief of Nancy B. Wilson.

Mr. COBLE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

SO HYUN JUN

The Clerk called the bill (H.R. 3758) for the relief of So Hyun Jun.

There being no objection, the Clerk read the bill as follows:

H.R. 3758

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMMEDIATE RELATIVE STATUS FOR SO HYUN JUN.

(a) IN GENERAL.—So Hyun Jun shall be classified as a child under section 101(b)(1)(F) of the Immigration and Nationality Act for purposes of approval of a relative visa petition filed under section 204 of such Act by her adoptive parent and the filing of an application for an immigrant visa or adjustment of status.

(b) ADJUSTMENT OF STATUS.—If So Hyun Jun enters the United States before the filing deadline specified in subsection (c), she shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the petition and the application for issuance of an immigrant visa or the application for adjustment of status are filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to So Hyun Jun, the Secretary of State shall instruct the proper officer to reduce by 1, for the current or next following fiscal year, the worldwide

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

level of family-sponsored immigrants under section 201(c)(1)(A) of the Immigration and Nationality Act.

(e) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of So Hyun Jun shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. ELIGIBILITY FOR CITIZENSHIP.

For purposes of section 320 of the Immigration and Nationality Act, So Hyun Jun shall be considered to have satisfied the requirements applicable to adopted children under section 101(b)(1) of such Act.

Mr. MCCRERY. Mr. Speaker, I rise today in support of H.R. 3758, a private bill for the relief of So Hyun Jun (So Young June). This is a no-cost, no-controversy bill that will provide needed relief to my constituents John and Ok Sun Thornton of Leesville, Louisiana who adopted So Hyun in 2001.

So Hyun was born in South Korea on September 16, 1984 to Mrs. Thornton's sister. A car accident in 1999 left her parents incapable of caring for her. At that time, Mrs. Thornton and her husband were contacted about the possibility of taking custody of So Hyun. While visiting her family in Korea, Mrs. Thornton had occasion to see first-hand the hardships suffered by her niece. The Thorntons immediately agreed to bring her to the United States.

In February 2000, So Hyun arrived in Louisiana to live with her aunt and uncle. Mrs. Thornton traveled with So Hyun back to Korea during the summer of 2000 to collect her birth certificate and other important papers. It was during this trip that Mrs. Thornton's sister and her husband agreed to relinquish their parental rights, thus giving full custody to Mr. and Mrs. Thornton. Formal adoption proceedings were begun in August of 2000 and finalized in Louisiana State Court on March 6, 2001.

The Thorntons were careful to work with the Immigration and Naturalization Service (INS) to ensure that So Hyun's move to the United States went smoothly. Mr. Thornton contacted the INS a month prior to So Hyun's arrival to inquire about the procedure for bringing her to the United States. He was told the best method would be to bring her over on a tourist visa and then file the necessary forms to complete the adoption process. During this time, Mr. Thornton was misinformed three times about the correct form to complete. In January of 2001, Mr. Thornton once again called the INS Service Center with a question about the immigration forms, as So Hyun's visa was soon expiring. He was told that there was no need to renew the visa since they were adopting the child. However, upon the adoption's finalization, the INS Adjudication Office informed the Thorntons that So Hyun's visa could not be renewed, nor could she qualify for permanent resident status, as her adoption was not finalized by her sixteenth birthday. She missed that deadline by only seven months. And this comment from the INS was the very first mention of an age requirement.

While the Immigration and Naturalization Service may not extend permanent resident status to Miss Jun, she is eligible for private relief because her adoption was begun before she turned sixteen. Without this relief, Miss Jun risks deportation to Korea where no one is legally bound to care for her. Private relief is needed to help this adopted girl remain in the United States with her new family.

I want to thank Chairmen SENSENBRENNER and GEKAS along with Ranking Members JOHN CONYERS and SHEILA JACKSON-LEE for their assistance in securing passage of H.R. 3758. I hope the Senate will follow the House's lead today by passing this private relief bill before the end of the 107th Congress.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 1214, MARITIME TRANSPORTATION SECURITY ACT OF 2002

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 605 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 605

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 1214) to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my colleague, the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume.

Mr. Speaker, it was my hope, I had actually assigned this rule for management to my colleague from Florida (Mr. DIAZ-BALART), and I have his prepared statement here, and I will go through his prepared statement, Mr. Speaker. I love Florida, and it is a great spot. My family actually has a home there, but I am a Californian; so I am just offering that as a bit of a warning as I proceed with the statement of the gentleman from Florida's (Mr. DIAZ-BALART).

During the consideration of the resolution, all time yielded will be for the purpose of debate only.

Mr. Speaker, House Resolution 605 is a standard rule waiving all points of order against the conference report to accompany the Maritime Transportation Security Act of 2002 and against its consideration.

The underlying legislation is yet another integral part of our coordinated effort to provide the most effective and comprehensive homeland security plan possible. We are working to protect our citizens at home and abroad, we are working to protect our vital infrastructure, both physical and electronic, and we are working to improve our economic security. Today we will vote to protect our Nation's ports.

Our maritime industry, including hundreds of ports nationwide, contributes $742 billion to the gross domestic product each year. The State of Florida has some of the largest ports in the country, and I should say I represent the Los Angeles area, which has the Ports of Long Beach and Los Angeles, which are even larger than the ones in Florida I should add. The gentleman from Florida (Mr. DIAZ-BALART) represents the Port of Miami and Port Everglades. Thousands of passenger and container ships pass through these ports every year. Industries from retail sales to the airline industries are effected by the business that is done at these ports in both my State and in the State of Florida and around the country.

We must ensure that these ports are not only safeguarded from being used as a point of entry for dangerous elements, but also to protect them from an attack that could be devastating to our economy. The Port of Miami's impact on Miami-Dade County is estimated at more than $8 billion and 45,000 jobs. In fiscal year 2001, the volume of cargo moving through the Port of Miami exceeded 8.2 million tons. Port Everglades' volume of business is equally impressive. In 2001, Port Everglades was host to over 3 million cruise passengers.

Our Nation's ports are significant partners in the U.S. economy and we must employ every conceivable option to protect them. This conference report will work to this end by requiring the Coast Guard to conduct vulnerability assessments of our ports, authorizing grants to help with port security upgrades around the country, and by assessing the security systems of certain foreign ports that do business with the United States.

Additionally, this legislation authorizes $6 billion for the Coast Guard in fiscal year 2003, including $550 million in additional resources to address long-standing budget shortfalls. The Coast Guard is charged with the tremendous duty of protecting our 95,000 miles of coastline. This legislation very appropriately addresses this reality.

I would like to thank the gentleman from Alaska (Mr. YOUNG) and the ranking minority member, the gentleman from Minnesota (Mr. OBERSTAR), as well as the subcommittee chairman, the gentleman from New Jersey (Mr. LOBIONDO), for their work on this very important issue. This is truly a bipartisan piece of legislation. In fact, every member of the conference committee has signed the report.

The conference report and the fair rule providing for its consideration deserve our support, and I would urge my colleagues to do this.

Mr. Speaker, I yield control of the balance of my time to the gentleman from Miami (Mr. DIAZ-BALART), who has arrived, and I know that he could have commented on Florida in a much better way than I, but I struggled to get through representation of his State if only on a temporary basis.

The SPEAKER pro tempore. Without objection, the gentleman from Florida will control the time.

There was no objection.

Mr. DIAZ-BALART. Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the chairman of the Committee on Rules for yielding me time and I thank my colleague and neighbor from Florida for his comments.

Mr. Speaker, this important legislation helps ensure the security of our Nation's ports by establishing a comprehensive national antiterrorism system to reduce the vulnerability of ports and waterways against a terrorist attack and a transportation security incident. Additionally, the conference report authorizes funding for these new antiterrorism fighting provisions as well as the planning and implementation of security plans and response efforts at all of our Nation's ports.

It authorizes additional funding to the Coast Guard which is much needed, and it establishes a nationwide security ID program for all U.S. ports. Perhaps most importantly, the report outlines the responsibilities of various Federal agencies, local law enforcement, and private companies in the day-to-day security operations of ports in the case of any unforeseen event.

□ 1315

Following September 11, as a member of the Permanent Select Committee on Intelligence and Committee on Rules, I was and remain an outspoken critic of the lack of coordination between Federal agencies in times of crises. I am happy to see that the conference had the foresight and wherewithal to provide guidance to the many agencies affected by increased port security. Perhaps our airports and the Transportation Security Administration could learn a few things from this report.

Mr. Speaker, it is fitting that I find myself managing this rule with the gentleman from Florida (Mr. DIAZ-BALART). I think the gentleman would agree that there is no region in the country that is home to three major international ports in such close proximity as South Florida. And the rest of Florida, if we take into consideration the Tampa Bay area, the Pensacola Bay area, Jacksonville and Port Canaveral, then Florida obviously is critical when it comes to port security.

Further, there are no ports that have done more security improvements in the last 18 months than Port Everglades, the Port of Palm Beach and the Port of Miami, all three of which are located in the counties the gentleman from Florida (Mr. DIAZ-BALART) and I represent.

While the underlying report is good, it would be irresponsible of me to continue without noting two of the major flaws I believe still exist in the legislation.

First, ports who had planned for or implemented new security measures prior to September 11, 2001, that bring the port into compliance with provisions of S. 1214 should be able to be reimbursed for their expenses. The underlying report does not allow for this to occur.

Case in point, Port Everglades. As one of the largest cruise ships and container ports in the Nation, Port Everglades recognized the need to improve its security long before September 11, 2001. Nearly 2 years ago, the port invested millions of dollars into establishing a new security plan. In fact, in June of 1999, the Presidential Commission on Seaport Crime and Security visited Port Everglades and recognized many of the port's "best practices" as examples for ports throughout the country to follow.

Prior to September 11, the Port Everglades security improvement plan was to be implemented over several years. However, in response to September 11, Broward County, Florida, made security at Port Everglades its top priority. The County is committed to spending more than $25 million for security improvements at the port in fiscal year 2003 alone, and the Ports of Palm Beach and Miami have similar investments in progress.

Under the report, Port Everglades will be able to be reimbursed for the security improvements it has made since September 11, as well as those it will make in the following year. However, I am appalled that Port Everglades, as well as the Ports of Palm Beach and Miami, will not be eligible to be reimbursed for the planning and implementation of various security improvements that they made prior to September 11, 2001. South Florida's three major ports and some others around the Nation were ahead of the game and made security improvements 18 months ago that Congress is just now getting around to requiring today.

Specifically, Port Everglades is an example of the intuitive thinking that ports should have been doing a long time ago, and to penalize it for being ahead of the game is just plain wrong.

Additionally, Mr. Speaker, I have major reservations about the level of funding authorized in the report. Clearly, the amount authorized is not enough to meet the security needs of our Nation's ports. In the next 18 months, South Florida's three international ports will spend more than $60 million on security improvements. Under the 50/50 or 75/25 cost-sharing agreements laid out in the report, Port Everglades, Port Palm Beach and Port of Miami could easily command nearly half of the total amount authorized in this legislation.

Realistically, the $75 million authorized in the report just is not enough to fund security improvements for all U.S. ports. I encourage my colleagues on the Committee on Appropriations to consider this reality when appropriating funds over the next 6 years.

In the end, Mr. Speaker, this rule is typical of one for a conference report, and I will be supporting it. Additionally, I will also be supporting the underlying conference report. I urge my colleagues to do the same, but, as I previously mentioned, the report has flaws and Congress must remain intent on revisiting these issues that are critical to our Nation's security.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Florida (Mr. HASTINGS) as well as the gentleman from California (Mr. DREIER) for having initiated this discussion today on this very important rule.

I think it is important that we realize that the conference report before us is a very important piece of legislation. I know of few pieces of legislation that have ever been flawless that I have voted on, and so I would simply tell my friend that perhaps this piece of legislation could be improved as well, as any human endeavor, because I have seen some things that are perfectible but very few that are perfect.

Mr. HASTINGS of Florida. Mr. Speaker, will the gentleman yield?

Mr. DIAZ-BALART. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. Mr. Speaker, would the gentleman from Florida agree that Port Everglades and Port Miami are deserving of consideration?

Mr. DIAZ-BALART. Of course.

Mr. HASTINGS of Florida. And that the funding level, although we have problems in the Nation, may not be enough to cover the ports of the United States?

Mr. DIAZ-BALART. Mr. Speaker, I would agree with the gentleman. In the House bill before it went to conference we had a provision for reimbursement for ports for acts taken for security after September 11, and in the Senate there was no such provision. The inclusion of the House provision is something we should commend. We should keep in mind there are important provisions in this legislation which I think make it not only a conference report that we should support but that we should support with pride and enthusiasm.

I thank the conferees and all of the Members who have worked so hard to bring this important piece of legislation forward, specifically the gentleman from Alaska (Mr. YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR), as well as the subcommittee chairman, the gentleman from New Jersey (Mr. LOBIONDO) for their work on this critical issue of port security. This is a fundamental aspect of national security, of homeland security, to improve the protections for our ports that are obviously so important to our economy.

Mr. Speaker, with that of mind, cognizant of the importance of the underlying legislation and the fairness of this rule, I urge my colleagues to support the rule and the underlying legislation.

Mr. DIAZ-BALART. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

The motion to reconsider was laid on the table.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3210, TERRORISM RISK PROTECTION ACT

Mr. SESSION. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 607 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 607

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the resolution is the standard rule for consideration of conference reports and waives all points of order against consideration of the conference report.

Mr. Speaker, on September 11, 2001, the collective memories of Americans were altered forever. The terrorist attacks resulted in an incalculable loss, both in loss of life and the destruction of buildings and businesses.

While America has begun its recovery and is healing from last September, we must be mindful of the threat that continues to exist. Just yesterday, our intelligence officials indicated that terrorist groups may be planning a new wave of attacks against our homeland. Exposure to terrorism is not only a threat to our national security but is also a threat to the U.S. and the global economy.

There is no doubt that these terrorist attacks have resulted in the most costly, catastrophic loss in the history of property and casualty insurance. However, the ripple effects of the attacks continues to last and will linger on.

The shortage of terrorism insurance has left any number of our hospitals, stadiums, shopping malls, apartments, and office buildings either with astronomical rates for insurance or none at all.

It goes without saying that the attacks have been a real threat not only to our homeland but also to our economic security. The United States Chamber of Commerce estimates that the economy has suffered a loss of more than $15 billion and 300,000 jobs in the construction industry alone.

Mr. Speaker, insurance has been described as the glue which holds our economy together. Without reinsurance for the risk of terrorism, some insurance companies have been forced to specifically exclude it from their future policies. Without this terrorism coverage, lenders are unlikely to underwrite loans for major projects. This sequence of events could result in dangerous disruptions to the marketplace and further hurt our economy.

In April of this year, a Washington Post article cited two real-life examples. One, J.W. "Bill" Marriott, chairman and chief executive officer of Marriott International, said that although the hotel company remained insured for terrorism, he was expecting a 300 percent increase in premiums when it had to renew its new policies.

Another example was from Baylor University, which is located in Waco, Texas. According to David Brooks, vice president for finance and administration at Baylor University, the University had to go to 23 insurance companies searching for terrorism coverage.

These snapshots from around the country form a composite picture of a dire situation that requires action from this body, the United States Congress.

Heeding President Bush's call for Congress to act, the House passed H.R. 3210, the Terrorism Risk Protection Act, shortly after the September 11, 2001, attacks. The Terrorism Risk Protection Act provides a Federal backstop for financial losses in the event of future terrorism attacks.

□ 1330

This bill establishes a system of shared public/private compensation for insured losses resulting from acts of terrorism to protect consumers and create a transitional period for the private insurance markets to stabilize.

The Federal backstop is triggered when the Secretary of the Treasury determines that an act of terrorism has occurred with losses in excess of $5 million. The Federal Government would pay 90 percent of the insured losses that exceeded the insured deductibility, which increases each year of the program, up to $100 billion each year.

The conference report provides for full payback protection for the American taxpayer by guaranteeing that the first 10- to $15 billion in losses would be paid by the insurance marketplace. The Secretary would retain the authority to fully recoup any additional costs as necessary.

Mr. Speaker, as my colleagues are fully aware, much of the recent attention has been focused on the tort provisions in this bill. The Joint Economic Committee released a study this May that estimated that lawsuits stemming from the September 11 attacks were already estimated to cost as much as $20 billion. These lawsuits typically pay 33 to 40 percent of the award to the plaintiff's lawyers.

The 1993 World Trade Center bombing, which killed six people, resulted in 500 lawsuits by 700 individuals, businesses and insurance companies. Mr. Speaker, it has now been 8 years and the cases are only now just getting to the trial stage, where hundreds of plaintiffs have yet to even receive one cent of compensation. Mr. Speaker, this is not a circumstance or a situation that we want to repeat.

Though this bill does not solve the woes of our legal system, it does take the first solid steps towards reform. By providing reasonable reforms, victims of terrorism will more quickly and equitably receive compensation while also reducing the substantial uncertainty facing the insurance industry when pricing terrorism risk.

Mr. Speaker, I would like to take a moment to commend the conferees who have labored to produce this fine work. I would also like to recognize the leadership of the gentleman from Ohio (Mr. OXLEY), who has been so instrumental in the success of this critically important bill. Mr. Speaker, I urge my colleagues to support me in not only supporting this rule but also the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I want to thank my colleague from Texas for yielding me the customary 30 minutes and I yield myself such time as I may consume.

Mr. Speaker, the tragic events of September 11, 2001, will remain fresh in our minds for years to come. The shroud of terrorism continues to surround us and terrorists around the world continue to regroup, plan and carry out attacks on innocent civilians. The economic consequences of another terrorist attack on the United States are real and, without proper preparation, could be economically devastating.

After September 11, there was no question whether the insurance industry needed financial backing in case of another terrorist attack on the United States. We all agreed that another attack could potentially cripple the American economy. In response, the Committee on Financial Services produced a truly bipartisan bill that was approved unanimously by the full committee. It was not perfect, there were real disagreements over specific provisions in the original risk insurance bill, but it was a good start.

Unfortunately, Mr. Speaker, the majority leadership decided it had to meddle in the process and inserted language drastically changing the tort system in this country. The original bill was made worse and in the process bipartisanship was thrown aside.

Mr. Speaker, this conference gets us back to the land of bipartisanship. All the Democratic conferees signed the conference report and, after initially threatening to veto it, the White House is now indicating that the President will sign the bill into law.

My concern is with the unnecessary delay here. This bill should have been completed last year. Without the tort language in the original House-passed bill, a conference report could have been easily agreed to and, with hard work, this bill might have been signed into law before the first of the year. By making this a political process rather than the truly bipartisan process it should have been and it started out to be, the majority showed us that they will bend over backward for special interests, especially before an election. Thankfully the other body was able to stand up to these special interests and, a year later, the result is a good bipartisan bill.

Mr. Speaker, I support this rule and I support this conference report which, as I said in the beginning, represents a bipartisan compromise. I would urge my colleagues to support the rule and support the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services.

Mr. OXLEY. Mr. Speaker, let me begin by thanking the gentleman from Texas for his usual excellent work as a member of the Committee on Rules that handles legislation coming from the Committee on Financial Services. I do rise in support of the rule. The efforts that the committee and the entire Congress made in antiterrorism legislation clearly is one of the most important bills that will pass the Congress this year.

It is no secret that after 9/11, the reinsurance industry, which is mostly offshore, indicated they would no longer write terrorism insurance. Since they are the insurers of the insurers, it meant that the domestic-based insurance companies were unable to spread their risk and as a result we have a crisis in insurance coverage for terrorism. That crisis has evidenced itself in many ways, not the least of which is a recent study that indicated over $15 billion in valuable projects are on hold, not going forward, because of the lack of terrorism insurance; and because they cannot get terrorism insurance, they cannot get lending for those projects.

We are not just talking, Mr. Speaker, about New York City. I was recently in Chicago. There is a major project going on in Chicago that is simply now just a hole in the ground that will employ several hundred people. The President has indicated that their studies indicate some 300,000 jobs are at stake in the construction industry, the realtors, lenders and the like. So in many, many ways this is an economic issue and a jobs issue. That is why the President has been so outspoken in virtually every opportunity that he has had asking the Congress for this important legislation. I suspect that the President has mentioned this issue perhaps more than any other issue in my memory and about the only time that he did not make a public statement about terrorism insurance was at the United Nations. But overall this issue, this crisis in insurance coverage, has been a major factor, I suggest, in the slowdown of the economy.

The Secretary of the Treasury was quoted as saying that it could very well knock 1 percent off our gross domestic product. That is a significant amount. We are fortunate today because we stand on the threshold of passing this important legislation that the President will willingly and gladly sign.

Let me just talk about the key elements briefly of this bill. The conference report provides full payback protection for American taxpayers, guaranteeing that the first 10- to $15 billion in losses will be paid by the insurance marketplace with the Secretary fully able to recoup any additional amounts necessary. This was a critical component in the House bill that Chairman BAKER and I and others insisted upon, that if the taxpayers were going to be involved in this backup, it is important that those tax dollars be repaid. Even though it was not in the Senate version, we prevailed in the conference. It is important to point that out to my colleagues in the House.

Secondly, we have incorporated a transition period that provides immediate full commercial terrorism coverage for all American business consumers while long-term contracts under the bill are being negotiated; in other words, an immediate start at getting these projects up and running and 300,000 people back to work.

Three, the Federal backstop has been simplified and requires that insurers have to pay a sizable deductible before they are eligible for the Federal backstop. This deductible is increased from 7 to 15 percent of their premiums over the program to phase out the taxpayer exposure and foster the reemergence of a private insurance market for terrorism. It insures that only truly catastrophic events trigger any Federal involvement while continuing to provide equal protection for small and rural insurers.

Fourth, we have provided more disclosures and information to consumers, with more options to insure that terrorism coverage is available in all commercial policies.

In addition, we continue to provide strong penalties to punish insurers who defraud the government. State insurance and reinsurance programs can be fully covered by the Treasury Secretary to provide equivalent protections for Americans who are unable to obtain insurance in the private markets. And we continue to give victims of terrorist attacks the ability to enforce court judgments against terrorists' assets.

Finally, while I would note that the legal protections may not be as strong as I or others would desire, they are all improvements over existing law and are very similar to those strongly approved in the Committee on Financial Services over 1 year ago.

Mr. Speaker, this conference report is timely and critical for America. We need it to protect jobs, protect our economy and protect the American people against future terrorist attacks. I urge all of our colleagues and friends to support the rule.

Mr. SESSIONS. Mr. Speaker, I yield 7 minutes to the gentleman from Alabama (Mr. BACHUS), the chairman of the Subcommittee on Financial Institutions and Consumer Credit.

Mr. BACHUS. Mr. Speaker, what we are doing today is simply a part of both responding to the terrorist attacks of September 11 and defending our country from continuing damage from those terrorist attacks. It is a very prudent thing that we do today. It is a part of the defense of our homeland and of our economy, for if our economy continues to be weakened by the terrorist attack, then the terrorists win. The President has called on us repeatedly to respond with legislation.

I commend this House. This House has passed, and passed last November, good legislation to address the problem. And what is the problem? Mr. Speaker, before the terrorist attack, normally, as a matter of course, protection against terrorist attacks was included in commercial property and casualty insurance policies. After the losses on September 11, which amounted to 40- or $50 billion, it was impossible for insurance companies to predict when and if and the extent of these terrorist attacks in the future. It is impossible for us as a government to predict when and where and to what extent these attacks will occur. So there is no way for the insurance companies to assess that damage and to make reserves and charge premiums in an adequate amount.

So what have the insurance companies done? They have done two things. They have either in most cases not extended coverage or, two, they have simply picked a very high number for a premium and extended coverage at a very substantial amount for what, in all probability, will not occur at a specific location because of the actions that this government and this administration has taken since September 11. However, because terrorist insurance coverage has not been extended, billions of dollars of projects have been put on hold or canceled. In fact, a recent, and this is very recent, real estate group estimated that the lack of affordable terrorist insurance has resulted in the delaying or the cancellation of more than $15.5 billion worth of new commercial building projects just in the past few months. The Federal Reserve, in fact, Chairman Greenspan recently said that as a result of terrorist insurance coverage not being provided, not being available, it is producing as much as a 1 percent drag on our gross domestic product.

□ 1345

We talk about percentages of 1 percent. We talk about figures of $20 or $15 billion. What we are really talking about here is layoffs. We are talking about construction workers not working. We are talking about buildings not being built. We are talking about employees who work for companies that supply the office furniture for those buildings, who supply the goods that were to be sold in those buildings, the equipment in those buildings not being sold. As the President said, we have to respond comprehensively to what happened September 11. Thus, this bill.

Let us talk about the liability provisions of this bill, because there was in fact an unwillingness on the part of some to endorse this legislation simply because of what was proposed.

What is proposed here today is that, in the event of a large-scale terrorist attack upon this country in any location, one Federal court, one jurisdiction will take control and be charged with the administration of handling all the claims as a result of that attack, instead of having State and Federal courts all over the United States handling thousands of claims. Instead of that situation, which I think we all agree would be unmanageable, one Federal court picked for the convenience of those who had been hurt by this terrorist attack and picked for the efficient handling of the claims would be picked within 90 days of the terrorist attack, a Federal cause of action.

The lawsuits under this legislation would be tried in Federal court, Federal rules of procedure. However, the substantive law of the State or where the attack occurred would be the applicable law.

Finally, there has been a lot said about punitive damages. I for one have contended, and this bill makes it very clear, that punitive damages are not insured losses. Let me repeat that. Punitive damages are not insured losses. The taxpayers will not have to pay punitive damages under this legislation, and that is very important because the people that will be responsible for these attacks that ought to be punished will be the terrorists, not the American people.

All the legal reforms, as the gentleman from Ohio (Mr. OXLEY) said, are an improvement over the current law. The Federal Government of the American taxpayers will not be forced to reinsure any punitive damage claims. Private rights of action for punitive damages are unchanged.

In conclusion, let me simply commend the gentleman from Ohio (Mr. OXLEY), chairman, and the gentleman from Louisiana (Mr. BAKER), chairman of the subcommittee, who have worked long and hard on this. I urge all Members of this conference, let us get on with strengthening our country, recovering from the attack of September 11 and doing everything we can do to prepare for other attacks, hoping they will not occur, but we have to act in self-defense.

Mr. SESSIONS. Mr. Speaker, I inquire about the time remaining.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from Texas (Mr. SESSIONS) has 10½ minutes remaining. The gentleman from Massachusetts (Mr. MCGOVERN) has 27½ minutes.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to my friend, the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of this rule, it is the standard rule for conference reports, but also in opposition to the conference report itself because it fails to include critical liability protections for victims of terrorism, which are particularly important because the conference report creates a Federal indemnification program that puts the American taxpayer on the hook for damages caused by terrorists.

It is important to note what the trial lawyers did first to mark the first anniversary of the terrorist attacks on September 11. They are suing American companies that were victims of terrorist attacks themselves. According to the Washington Post: "Things really are returning to normal a year after the terrorist attacks. Trial lawyers—surprise!—are headed back to the courthouse, [and] there is a rush by lawyers to sue airport operators, airlines, security companies, the builders of the World Trade Center and others."

Let us face the facts. Terrorist-inspired litigation is not a garden variety tort case. A banana peel is an accident waiting to happen, but a terrorist is a suicidal fanatic bent upon killing individuals, innocent people, and causing mass destruction of property. Even the most diligent property owners cannot always guard against such attacks.

To protect innocent Americans, the provisions in the terrorism insurance legislation the House passed a year ago provided that, in a lawsuit for damages arising out of a terrorist attack, no punitive damages would be allowed against victims of terrorism. The bill before us today fails to include that basic protection; and, in doing so, it fails to ensure that Americans do not become the victims of terrorists twice: first during the initial wave of death and destruction caused by the terrorists and second by the legal aftershocks caused by the unquantifiable and unpredictable damage claims brought by the plaintiffs' bar.

While the bill before us today excludes punitive damages awarded in court from insured losses paid by the United States taxpayer, the mere allegation of punitive damages always boosts the settlement value of the cases, and this bill leaves U.S. taxpayers paying the inflated costs of those cases settled out of court. So what the gentleman from Alabama (Mr. BACHUS), my friend, said, he is right, we taxpayers do not pay punitive damages, but knowing that there is a punitive damage award hovering over there means that the settlement value which is paid by the taxpayers ends up costing the taxpayers' money. So it requires the American taxpayers to engage in an egregious form of national self-flagellation. American taxpayers are punished for the evil acts of foreign enemies.

Even the Washington Post's editorial page has stated: "On insurance, the Democrats are objecting to Republican proposals to ban punitive damages in the event of terrorist attacks, which seems a reasonable proposal. The Democratic position on terrorism insurance smacks of the trial bar, which never saw a disaster that didn't justify a lawsuit."

And just a few weeks ago, the Washington Post stated that "the Democrats should indeed be embarrassed" by their efforts to defend lawyers at the expense of the American economy.

It is no surprise to me that all Democratic conferees signed this conference report.

The terrorism insurance bill the House passed last year also provided the defendants could only be liable for the amount of damages for pain and suffering in direct proportion to the defendant's percentage of responsibility for harm. That provision allows Americans who are victims of terrorists to rely, at the very least, on their own innocence to protect them from liability. My colleagues may remember that in the No Child Left Behind Act, which overwhelmingly passed both the House and the Senate, the very same rule was applied to protect teachers. If that provision is good enough for teachers, it should be good enough for victims of terrorism.

The bill that the House passed last year also provided that fees for attorneys suing victims of terrorism could not be greater than 20 percent of the damages awarded or any amount of the settlement received. That provision is simply a continuation of the longstanding Federal policy behind the Federal Tort Claims Act, namely that lawyers should not profit excessively when they are paid from the United States Treasury.

Especially today, in a time of war, excessive lawyer fees drawn from the U.S. Treasury should not be allowed to result in egregious war profiteering at the expense of victims, jobs, and businesses; and this bill, unfortunately, will allow this one segment of our society to legally, with the blessing of the United States Congress, engage in war profiteering.

This conference report does not include these protections for the victims of terrorism that were in the bill the House passed a year ago. It gives the plaintiffs' bar the keys to the United States Treasury, and it gives lawyers a license to further prey on the victims of terrorism.

We passed a compensation program the week after 9/11 for the survivors of the victims of those attacks, and some of the proceedings that have gone on under that law have resulted in embarrassment to the public and to the authors of that act and grist for investigative reporters. Should, God forbid, there be another terrorist attack and the provisions of this bill come into play, that same embarrassment will apply. There is an old adage "Fool me once, shame on you; fool me twice, shame on me." Let us not shame us by passing this bill. It should be voted down.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I want to take this opportunity to commend the gentleman from Ohio (Mr. OXLEY), the chairman; and the gentleman from New York (Mr. LAFALCE), ranking member; and all the members of the Committee on Financial Services for all of their work on this issue. As I said in my opening remarks, they initially came up with an okay bill that, unfortunately, as a result of some meddling from the majority leadership, turned into a very bad bill in my opinion.

What we have before us today in this conference report is a bill that represents bipartisan concerns and deserves bipartisan support, and I would urge my colleagues to support this rule, and I would urge my colleagues to support final passage of the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

I urge my colleagues to join with me in supporting this rule and of course the underlying legislation which is so critically important not only to this country but to the economy of this country for consumers and for men and women who own businesses and have money invested in this country.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 1 o'clock and 58 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1515

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HANSEN) at 3 o'clock and 15 minutes p.m.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 333, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2002

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 606 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 606

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 333) to amend title 11, United States Code, and for other purposes. All points of order against the conference report and against its consideration are waived.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the resolution provides the standard rule under which we consider conference reports and waives all points of order against the conference report and its consideration.

Mr. Speaker, I am exceedingly pleased that today we will finally consider the conference report for much-needed bankruptcy reform legislation. I am proud of the tireless efforts of many of the staff members and the Members who have put countless hours towards the passage of this important legislation. Their efforts allow each of us to ensure that our bankruptcy laws operate fairly, efficiently, and free of abuse. We must end the days when debtors who are able to repay some portion of their debts are allowed to game the system. This bill is crafted to ensure the debtor's rights to a fresh start while protecting the system from flagrant abuses by those who are able to pay their bills. The result is a carefully crafted package that balances and protects Americans from all walks of life and provides access to bankruptcy for all Americans who have a legitimate need.

I urge my colleagues to support this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this conference report and urge my colleagues to support this rule so that the House may proceed to the consideration of the conference agreement. The House has, in the past two Congresses, consistently supported bankruptcy reform. In the 107th Congress, the House passed its version of the bill by a vote of 306 to 108. This agreement, which is the product of months of negotiations, makes sensible changes in the law that will save American consumers millions of dollars a year. This conference agreement adheres to the principle that if an individual has the capacity to repay a substantial portion of their debt, then that debtor should have an obligation to repay. This conference agreement will rein in abuse of the system and ensure that those debtors who cannot pay are given the fresh start they need.

Mr. Speaker, I commend the conferees for their hard work on this issue and for bringing the House a conference report that is worthy of support.

I would point out, Mr. Speaker, that there are Members on our side of the aisle who strongly object to this conference report, and we will be hearing from them in the course of this debate.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH), the chairman of the Committee on Veterans' Affairs.

Mr. SMITH of New Jersey. I thank my friend for yielding me this time.

Mr. Speaker, I rise in strong opposition to this rule. Some of my colleagues were not here back in 1993 and 1994 when we debated the Freedom of Access to Clinic Entrances Act, which penalized pro-lifers in a way that was totally unfair and discriminatory, mandating ruinous lawsuits, criminal penalties and the like, for doing the same thing that some other nonviolent civil disobedient person might do. If you stood in front of an abortion clinic, you could have the book literally thrown at you, and do the same thing in front of NIH or somewhere else and have a whole different set of penalties. Today we are dealing with the same thing but an extension of that very, very wrongheaded and misguided piece of legislation.

In 1994, Chairman Sensenbrenner said this about the same language we are debating today:

"Political protest has been at the forefront of social change. From the Boston Tea Party to the abolitionist movement, from the antiwar protests to the activism of the civil rights movement, civil disobedience has been an intimate part of our history. This is perhaps the first time in our Nation's history"—this is the second, today—"that those in the power have so openly sought to use the authority of government to broadly suppress the legitimate actions of a movement with which they do not agree. The legislation, FACE," which this makes it worse, you cannot discharge a civil complaint that has been brought against you, the penalty, "sweeps with broad and heavy hand to target peaceful, nonviolent, constitutionally protected activities on the same terms as violent or forceful acts."

Chairman Sensenbrenner had it right then. He went on to say that this was McCarthyism. What we are dealing with today, with all due respect, is McCarthyism. Much has been made about the Starr memo. Let me say this: The difference is if you are from PETA or some other organization where sit-ins and civil, nonviolent disobedience, where you get arrested, is part of the intent of what you want to do to bring a focus, and Martin Luther King certainly had intent when he protested and got arrested more than a dozen times or so. The fundamental issue here is that pro-lifers are treated differently. Under the FACE bill, ruinous lawsuits, extreme penalties are leveled against nonviolent protestors.

I urge a no on the rule.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Speaker, I thank the gentleman from Texas for yielding me this time. I am pleased to rise in support of the rule for consideration in the House of the conference report to accompany the bankruptcy reform legislation. I urge approval both of the rule and of the conference report.

The reform of the Nation's bankruptcy laws, which our actions today will accomplish, is well justified. This reform is strongly in the interest of consumers. It will significantly reduce the annual hidden tax of approximately $400 that the typical consumer pays because others are misusing the bankruptcy laws. That amount represents the increased cost of credit and the increased price of consumer goods and services occasioned by bankruptcy law misuse. This reform will lower that hidden tax.

The reform also helps consumers by requiring clearer disclosures of the cost of credit on credit card statements. And the reform will be a major benefit to single parents who receive alimony or child support. That person today is fifth in priority for the receipt of payment under the bankruptcy laws. The reform before us today elevates the spouse-support recipient to number one in priority.

This reform proceeds from a basic premise that people who can afford to repay a substantial part of the debt that they owe should do so. The bill requires that repayment while allowing the discharge in bankruptcy of the debts that cannot be repaid and in so doing responds to the broad misuse of chapter 7's complete liquidation provisions that we have observed in recent years.

The reform measure sets a threshold for the use of chapter 7. Debtors who can make little or no repayment can use its provisions without limitation and can discharge all of their debts. Debtors whose annual income is below the national mean of about $50,000 per year are also untouched by the provisions of this reform. They can make full use of chapter 7 and discharge all of their debts even if they could afford to make a substantial debt repayment.

And so, Mr. Speaker, the financially unfortunate and middle-income consumers are not affected at all by this reform. They can continue to use the bankruptcy laws as they can under current law. But upper-income consumers who can make substantial repayments will be expected to enter into court-supervised repayment plans under chapter 13. This modest requirement of personal financial responsibility is appropriate, and I am pleased today to urge approval of this well-justified reform which is contained within the conference agreement.

Mr. Speaker, I am pleased today to urge approval of the rule that brings that conference agreement to the floor as well as the conference agreement itself.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, I want to rise in opposition to this rule and make it clear that I support bankruptcy reform laws very much. But not this version, not with these words that have been inserted by the conference. They did take the reference to the FACE Act, standing for Free Access to Clinic Entrances, meaning an abortion clinic, that was passed in 1994; and we have the FACE language here in white and the identical words are in the bankruptcy reform bill. They did change "reproductive health services" to "lawful goods or services." That is the one change. The key words are "interferes with" or "physical obstruction." Under FACE, peaceful pro-life protesters are being arrested and sentenced to jail for just praying on a sidewalk outside an abortion clinic, or handing a leaflet to a woman as an alternative. One man was even successfully sued for leaving his business card on the clinic's door.

Mr. Speaker, under FACE, people are being fined hundreds of thousands of dollars. What we are doing in this bill is taking the identical language and putting it in the bankruptcy bill so now they cannot even file for bankruptcy, unfair bankruptcy. So we are condemning peaceful, innocent people who have a conscience to protest just to try to save the life of an unborn to a life of financial ruin.

I have a couple of letters, one from Harvard law professor Mary Ann Glendon, a good analysis of the bill, but let me just read the last paragraph:

"A large and nondischargeable debt, beyond one's capacity to pay, especially in the hands of a hostile and motivated creditor, is a financial death sentence. That is what even peaceful pro-life protesters have to fear if the proposed language is added to the existing aggressive judicial interpretation of FACE and similar laws."

Mr. Speaker, I will submit the other letter from the Catholic Bishops for the RECORD.

BANKRUPTCY CONFERENCE REPORT H.R. 333:

SEC. 330. Nondischargibility of debts incurred through violations of law relating to the provision of lawful goods and services

(a) Debts incurred through violations of law relating to the provision of lawful goods and services.—Section 523(a) of title 11, United States Code, as amended by section 224, is amended—

(1) in paragraph (18) by striking "or" at the end;

(2) in paragraph (19) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(20) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor (including any court-ordered damages, fine, penalty, or attorney fee or cost owned by the debtor), that arises from—

"(A) the violation by the debtor of any Federal or State statutory law, including but not limited to violations of title 18, that results from intentional actions of the debtor that—

"(i) by force or threat of force or by physical obstruction, intentionally injure, intimidate, or interfere with or attempt to injure, intimidate or interfere with any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from, obtaining or providing lawful goods or services;

"(ii) by force or threat of force or by physical obstruction, intentionally injure, intimidate, or interfere with or attempt to injure, intimidate or interfere with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship; or

"(iii) intentionally damage or destroy the property of a facility, or attempt to do so, because such facility provides lawful goods or services, or intentionally damage or destroy the property of a place of religious worship; or

"(B) a violation of a court order or injunction that protects access to a facility that or a person who provides lawful goods or services or the provision of lawful goods or services if—

"(i) such violation is intentional or knowing; or

"(ii) such violation occurs after a court has found that the debtor previously violated—

"(I) such court order or such injunction; or

"(II) any other court order or injunction that protects access to the same facility or the same person; except that nothing in this paragraph shall be construed to affect any expressive conduct (including peaceful picketing, peaceful prayer, or other peaceful demonstration) protected from legal prohibition by the first amendment to the Constitution of the United States.".

(b) RESTITUTION.—Section 523(a)(13) of title 11, United States Code, is amended by inserting "or under the criminal law of a State" after "title 18".

FACE

(Freedom of access to [abortion] clinic entrances)

Signed by President Clinton in 1994—Introduced in the House by Rep. Chuck Schumer (D-NY)

Roll Call: *http://clerkweb.house.gov/cgibin/vote.exe?year-1994&rollnumber-70*

18 USC Sec. 248

Sec. 248. Freedom of access to clinic entrances.

(a) PROHIBITED ACTIVITIES.—Whoever—

(1) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from, obtaining or providing reproductive health services;

(2) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship; or

(3) intentionally damages or destroys the property of a facility, or attempts to do so because such facility provides reproductive health services, or intentionally damages or destroys the property of a place of religious worship,

(d) Nothing in this section shall be construed—(1) to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution;

HARVARD LAW SCHOOL,
Cambridge, MA, November 12, 2002.

Hon. CHRISTOPHER SMITH,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN SMITH: I am taking the liberty of writing to you today because I am deeply concerned about the application of H.R. 333 to peaceful pro-life protestors. I hope the following opinion letter will be helpful to you.

The proposed legislation would create a new 11 U.S.C. §523(a)(20), denying discharge for and judgments under the Freedom of Access of Clinic Entrances Act, 18 U.S.C. §248 (2000), or under similar state laws, or under injunctions restricting protest at abortion clinics.

The impact of the provision on peaceful pro-life protestors would be grave. Existing law substantially restricts protest at abortion clinics, and in their zeal to eliminate violent protests and obstruction protests, courts and legislators have forbidden much protest that is peaceful and nonobstructive. Proposed §523(a)(20) would add an additional sanction to all this existing law: money judgments for abortions protest would follow protestors to the ends of their lives. No matter their financial circumstances, no matter the size of the judgment or the nature of the protest, these judgments could never be discharged in bankruptcy.

1. THE FREEDOM OF ACCESS TO CLINIC ENTRANCES ACT (FACE)

Proposed §523(a)(20)(A) precisely tracks the key substantive language of FACE. FACE prohibits conduct that: "by force or threat of force or by physical obstruction, intentionally injuries, intimidates or interferes with" access to "reproductive health services," or attempts to do so. 18 U.S.C. §248(a)(1) (2000).

Proposed §523(a)(20) denies discharge for any judgment arising from actions of the debtor that: "by force or threat of force or by physical obstruction, intentionally injure, intimidate, or interfere with" access to lawful goods or services. The key language in the two block quotes is obviously identical save for the difference between singular and plural verbs ("whoever" is the subject in FACE; the debtor's "actions" is the subject in proposed §523(a)(2)).

Because the proposed language is substantively identical to FACE, it will be read in light of existing decisions under FACE. Existing interpretations of FACE will almost certainly be read into §523(a)(20). Worse, abortion clinics and their supports will likely argue that by re-enacting the same statutory language, Congress has approved existing decisions and thus confirmed their status as valid and appropriate interpretations of FACE itself. This is a critical point, because existing interpretations of FACE in the lower courts, extraordinarily favorable to the abortion clinics and their supporters, have not yet been accepted or rejected by the Supreme Court of the United States. Congressional passage of proposed §523(a)(20) could figure prominently in eventual Supreme Court arguments on the interpretation of FACE, lending plausible support to the worst interpretations of the statute.

I will not consider in this opinion letter the interpretations of "force or threat of force," "intentionally injure," or "intimidate." Some interpretations of those provisions have been surprisingly expansive, but those forms of protest are not the issue for most protestors. The real work of FACE, and of proposed §523(a)(20), is in the provisions that target anyone who "by physical obstruction * * * interferes with * * * or attempt to * * * interfere with" access to a clinic. Each of these terms has been construed or defined to mean more than first appears. No actual interference, and no actual physical obstruction is required for a violation. Courts have found violations in peaceful protest that did not actually prevent access to clinics.

"Physical obstruction" is defined in 18 U.S.C. §248(e)(4) to mean making ingress or egress "impassable * * * or unreasonably difficult or hazardous." What is "unreasonably difficult" has, in the lower federal courts, sometimes turned out to be remote from physical obstruction.

Thus in, United States v. Mahoney, 247 F.3d 270 (D.C. Cir. 2001), the court found physical obstruction and interference with access from a single protestor kneeling in prayer outside a locked door to an abortion clinic. Id. at 283–84. The door was a "rarely used" emergency exit. The court said that someone might have used the door, and that the law does not distinguish frequently and infrequently used doors. More remarkable still, the court held that a single person keeling in prayer rendered use of that door "unreasonably difficult" and forced patients to use a different entrance. *Id.* at 284.

Mahoney also held that six other defendants physically obstructed and interfered with access to another door. The court of appeals' entire discussion of this holding is that five protestors "knelt or sat within five feet of the front door," that the sixth defendant "was pacing just behind them," and that they "offered passive resistance and had to be carried away." *Id.* at 283. The court does not even say whether they were arrayed across the sidewalk or along the sidewalk, whether they left a passage open, or any other fact that might go to a plain meaning understanding of "physical obstruction" or to preserving a reasonable right to protest. It was enough for a violation that they were near the door.

Both FACE and proposed §523(a)(20) are limited to "intentional" violations, but *mahoney* shows that protection to be illusory. The court found specific intent to interfere with access to the clinic, even in the case of the lone protestor praying before the locked door. It relied on the fact that the protestor prayed that women approaching the clinic would change their minds about getting an abortion; the court quoted his prayer as evidence of criminal intent. 247 F.3d at 283–84. To similar effect is *United States* v. *Gregg*, 32 F. Supp. 2d 151, 157 (D.N.J. 1998), aff'd 226 F.3d 253 (3d Cir. 2000), cert. denied, 523 U.S. 971 (2001). Gregg had much more evidence of actual obstruction than Mahoney. Even so, the Gregg court relied on defendants' "anti-abortion statements, including imploring women not to go into the clinic or not to kill their babies," and on the fact that defendants "carried anti-abortion signs," as evidence of forbidden intent. The government in these cases has offered evidence of opposition to abortion as evidence of specific intent to obstruct access, and the courts have relied on this evidence for that purpose. Clinics and their supporters would of course argue that Congress has codified these holdings if it enacts proposed §523(a)(20).

Courts have emphasized that FACE plaintiffs need not prove actual obstruction. "It is not necessary to show that a clinic was shut down, that people could not get into a clinic at all for a period of time, or that anyone was actually denied medical services." *People* v. *Kraeger*, 160 F.Supp. 2d 360, 373 (N.D.N.Y. 2001). Plaintiffs need not "show that any particular person was interfered with by the defendants' obstruction." *United States* v. *Wilson*, 2 F. Supp. 2d 1170, 1171 n.1 (E.D. Wis.), *aff'd as United States* v. *Balint*, 201 F.3d 928 (7th Cir. 2000).

To sum up, proposed §523(a)(20) would reenact statutory language that has been interpreted not to require actual obstruction, has been interpreted to prohibit a single protestor kneeling in prayer near an unused exit, and has been interpreted to treat antiabortion statements as evidence of criminal intent. These interpretations would almost certainly be read into §523(a)(20), and there would be a serious argument that Congress had confirmed these interpretations in FACE itself.

2. INJUNCTIONS

Proposed §523(a)(20)(B) makes nondischargeable any debt arising from violation of an "injunction that protects access to" a facility that provides lawful goods or services. Nothing in proposed §523(a)(20)(B) even purports to confine this subsection to violent or obstructive protest.

Under FACE and under other sources of law, courts have issued injunctions establishing buffer zones and bubble zones, forbidding protestors from coming within stated distances of the property line of abortion clinics or within stated distances of persons approaching abortion clinics. In *Madsen* v. *Women's Health Center, Inc.*, 512 U.S. 753 (1994), the Supreme Court upheld the constitutionality of an injunction forbidding protestors to step onto clinic property, or onto public property within 36 feet of the clinic's property line. The effect was to confine protestors to the other side of the street. The Court also affirmed an injunction against making any noise audible within the clinic. In *Schenck* v. *Pro-Choice Network*, 519 U.S. 357 (1997), the Court upheld an injunction against any defendant "demonstrating within fifteen feet" of any doorway or driveway at any abortion clinic in the Western District of New York. The injunction in that case also prohibited any defendant from "trespassing" on any clinic's parking lot. (The injunction is set out *id.* at 366 n.2.)

Since *Madsen*, the lower courts have become more aggressive about issuing buffer zone injunctions without first attempting to control alleged obstruction with less intrusive means. Examples include the buffer zone injunction issued on remand after the limited violations in *United States* v. *Mahoney*, under the case name *United States* v. *Alaw*, 180 F. Supp. 2d 197 (D.D.C. 2002), and the preliminary injunction confining a single protestor to the other side of the street in *United States* v. *McMillan*, 946 F. Supp. 1254 (S.D. Miss. 1995).

Many forms of protest inside such buffer zones would not obstruct or interfere with anything. A single picketer with a pro-life sign, held in contempt of court for standing quietly inside a buffer zone, would be covered by proposed §523(a)(20)(B), and any fines, compensation, or attorneys' fees awarded would be nondischargeable. The protection for peaceful protest in proposed §523(a)(20)(B) is supposed to come from the clause excluding protest protected by the First Amendment. But given *Madsen* and *Schenck*, this protection means little; much protest that is peaceful and nonobstructive is not protected by current interpretations of the First Amendment.

3. STATE LAWS

Proposed §523(a)(20)(A) also denies discharge for judgments arising from violation of state laws protecting access to clinics if the violation includes actions that by "force or threat of force or by physical obstruction, intentionally injure, intimidate, or interfere with" clinic access, or attempt to do so. Certainly this includes statutes like the New York Clinic Access and Anti-Stalking Act, which substantially tracks FACE. (This law is codified as N.Y. Penal Law §§240.70 and 240.71 (McKinney Supp. 2002), and N.Y. Civil Rights Law §79-m (McKinney Supp. 2002)).

It will be a matter of interpretation and litigation whether §523(a)(20)(A) denies discharge for other state laws imposing more expansive restrictions on pro-life protest. For example, in *Hill* v. *Colorado*, 530 U.S. 703 (2000), the Supreme Court upheld Colo. Rev. Stat. §18-9-122(3) (West 1999), which makes it illegal to approach within eight feet of another person without that person's consent, for any form of "protest, education, or counseling" within one hundred feet of the entrance to a health care facility. The Court relied in part on the state's interest in "unimpeded access to health care facilities." 530 U.S. at 715.

Now consider a pro-life protestor who approaches a person outside an abortion clinic and offers a leaflet. Plainly this protestor would be violating the statutory eight-foot bubble zone. The statute currently authorizes compensatory damages for this violation, Colo. Rev. Stat. §18-9-122(6) (West 1999) and Colo. Rev. Stat. §13-21-106.7 (West 1997), and it could easily be amended to add liquidated damages or civil penalties on the model of FACE. In discharge litigation under proposed §523(a)(20), abortion clinics and their supporters would argue that the statute was a reasonable prophylactic means to prevent physical obstruction that interferes with clinic access, and that any violation of the statute amounts to such physical obstruction and interference. Prospective patients would prefer to enter the clinic without being offered a leaflet, and they may think the proffer of the leaflet made their entrance unreasonably difficult. If any of these arguments were accepted, judgments for violating state bubble-zone statutes would be nondischargeable under proposed §523(a)(20).

I do not think that would be a correct interpretation of proposed §523(a)(20). But after examining judicial interpretations of FACE, I think there is a substantial risk that some courts would reach this interpretation. If judgments for violating buffer-zone and bubble-zone injunctions are nondischargeable, it would likely seem a small step to hold that judgments for violating bubble-zone statutes are also nondischargeable..

4. THE MAGNITUDE AND NATURE OF THE JUDGMENTS AT ISSUE

Proposed §523(a)(20) is not confined to compensatory damages. The statutes at issue authorize punitive damages, liquidated statutory damages, civil penalties, attorneys' fees, expert witness fees, and criminal fines. Their purpose is to deter and punish, not just—or even principally—to compensate for any harm done. In fact, awards of actual compensatory damages are quite rare. The plaintiffs' preference for liquidated damages and penalties is most important in those cases in which there is no obstruction in the ordinary meaning of the word, or only brief and marginal obstruction. In such cases, there is little or no actual damage, but there still be can substantial monetary judgments.

FACE authorizes $5,000 per violation in statutory damages, at the election of plaintiffs, either private or governmental. 18 U.S.C. §248(c)(1)(B) (2000). In actions by the United States or by any State, it authorizes a civil penalty of $10,000 per protestor for the first non-violent physical obstruction, and $15,000 per protestor for each subsequent non-violent physical obstruction. 18 U.S.C. §§248(c)(2)(B) and 248(c)(3)(B) (2000).

The lower federal courts have held that the statutory damages are per violation, not per protestor. So if ten people combine to block a clinic entrance, a single judgment of $5,000 in statutory damages (plus costs and attorneys' fees) may be entered jointly and severally against them. *United State* v. *Gregg*, 226 F.3d 253, 257–60 (3d Cir. 2000), *cert. denied*, 523 U.S. 971 (2001).

But this "per violation" protection does not prevent multiple awards for multiple violations, and each alleged act of interference may be parsed as a separate violation. Moreover, civil penalties may be awarded against each protestor, and civil penalties and statutory damages may be awarded in the same case for the same violation. Thus a federal court has entered $80,200 in judgments against four members of a single family, for ten separate violations, none of them violent and none of them creating anything like an effective "blockade" of the clinic. *People* v. *Kraeger*, 160 F. Supp. 2d 360, 377–80 (N.D.N.Y. 2001). And of course there is no federal limit on the damage and penalty provisions that states might enact for judgments that would be nondischargeable under §523(a)(20).

5. THE EFFECT OF WITHHOLDING DISCHARGE

I am not an expert on bankruptcy law or debtor-creditor law, and I have not done extensive research on the options available to the protestor with a nondischargeable judgment beyond his capacity to pay. But the basics are clear enough to anyone with credit cards and a mortgage. If you are unable to pay, the creditors first threatens your credit rating, then your possessions; eventually, if there is enough at stake, the creditor sends the sheriff to seize your possessions. If you are unable to pay and unable to discharge the debt in bankruptcy, the threats and seizures would never end.

For the rest of his life, the protestor subject to a nondischargeable judgment would find it difficult or impossible to get credit. He could not get a mortgage; he could not get a loan for a new car. The creditor might be an abortion clinic motivated to make examples of pro-life protestors; such a creditor could make vigorous and continuing efforts to collect for as long as the protestor lived. In most states, the protestor's home could be seized, his wages could be garnished, his financial accounts could be emptied. In some states, even his furniture could be seized. All or part of everything the protestor ever earned or acquired for the rest of his life could be seized by the abortion clinic creditor, until and unless the judgment was paid in full, with interest.

A large and nondischargeable debt, beyond one's capacity to pay, especially in the hands of a hostile and motivated creditor, is a financial death sentence. That is what even peaceful pro-life protestors have to fear if proposed §523(a)(20) is added to the existing aggressive judicial interpretation of FACE and similar laws. I believe that any more optimistic interpretation of the bill is wishful thinking.

Very truly yours,

Mary Ann Glendon,
Harvard Law Professor.

Secretariat for Pro-Life Activities,
Washington DC, November 13, 2002.

Dear Member of Congress:

Disagreements have arisen in Congress over the conference report on the Bankruptcy Abuse Prevention and Consumer Protection Act, particularly over Section 330 on the dischargeability of debts arising from sit-ins at abortion clinics. A legal analysis of this provision by our Office of General Counsel is enclosed. Based on this analysis, we have a serious concern about the form in which the bankruptcy bill is being presented for final passage.

The bishops' conference has always strongly condemned any resort to violence in the pro-life struggle. We have never endorsed, or taken a position on, the practice of conducting sit-ins or other forms of nonviolent civil disobedience at abortion clinics. However, we have strongly opposed the Freedom of Access to Clinic Entrances Act (FACE) as a discriminatory and ideologically motivated attack on the rights of peaceful pro-life demonstrators. The current language on protesters in the bankruptcy bill closely parallels the language of FACE, and will be used to impose another layer of penalties upon protesters whose only offense was to place their bodies in the path of those who take innocent children's lives.

The discriminatory nature of this provision seems clear. It could be used to take away the savings, homes and other property of low- or middle-income peaceful protesters to pay fines and the attorneys' fees of their opponents—a form of punishment now reserved chiefly for those who are guilty of inflicting willful and malicious injury upon others. This penalty would apply even if the protesters caused no harm to person or property but only "interfered" with abortions.

We hope the House will reject the Rule on the Conference Report so this unfair and discriminatory provision can be removed.

Sincerely,

Gail Quinn,
Executive Director.

Office of the General Counsel,
Washington, DC, September 12, 2002.

MEMORANDUM

We have been asked for an analysis of the Schumer amendment to the Bankruptcy Abuse Prevention and Consumer Protection Act, H.R. 333.

SUMMARY

Under existing law, a pro-life demonstrator seeking bankruptcy protection may not discharge a debt for a judgment arising from injuries he or she intentionally causes. The Schumer amendment would expand the law by preventing a demonstrator from discharging a debt (a) based on lesser degrees of cupability, *i.e.*, when the debtor did not intend or cause injury to person or property, and (b) when the demonstrator, regardless of his or her state of mind, commits a second violation of a court order protecting a clinic, even if the violation was not intended to, and did not, interfere with clinical access.

An exception in the amendment for expressive conduct protected from legal prohibition by the First Amendment does not change this analysis. Obviously, with or without the exception, Congress lacks the power to prohibit by the First Amendment does not change this analysis. Obviously, with or without the exception, Congress lacks the power to prohibit conduct protected from prohibition by the First Amendment.

The amendment is not limited to violent or even criminal conduct. For reasons discussed below, it seems likely that the amendment will have a disproportinate impact on pro-life demonstrators.

ANALYSIS

Among the debts that may not be discharged in bankruptcy is any debt "for willful and malicious injury by the debtor to another entity or to the property of another entity." 11 U.S.C.§523(a)(6). The word "willful" in section 523(a)(6) "modifies the word 'injury,' indicating that nondischargeability takes a deliberate or intentional injury, not merely a deliberate or intentional act that leads to injury." *Kawaauhau* v. *Geiger*, 523 U.S. 57, 61 (1998) (original emphasis). "[D]ebts arising from recklessly or negligently inflicted injuries do not fall within the compass of §523(a)(6)." *Id.* at 64. Debts arising from actions that cause no injury at all are likewise outside the scope of section 523(a)(6).

Section 523(a)(6) bars the discharge of debts resulting from judgments against pro-life activists arising from deliberate or intentional injuries that they cause. *In re Treshman*, 258 B.R. 613 (Bankr. D. Md. 2001) (debt for intentional injury resulting from violation of Freedom of Access to Clinic Entrances Act was not dischargeable in bankruptcy); *In re Bray*, 256 B.R. 708 (Bankr. D. Md. 2000) (debt for intentional injury resulting from violation of FACE was not dischargeable in bankruptcy); *In re Behn*, 242 B.R. 229 (Bankr. W.D. N.Y. 1999) (debt for intentinal injury resulting from pro-life demonstrator's violation of temporary restraining order was not dischargeable in bankruptcy). There is some authority that an injury is *ipso facto* intentional when it results from violation of a court order directed specifically at the particular debtor, *Behn*, 242 B.R. at 238, but the same court left "to another day the question of the applicability of §523(a)(6) in other fact patterns, such as if there had been no court order directed specifically at the debtor, and instead the debt arose out of a judgement for trespass or menacing." *Id.* at 239 n. 6. Criminal trepass statutes generally do not require injury in the sense of actual damage to property or an intent to cause such damage; unauthorized entry or remaining unlawfully on property is usually sufficient. *See* 75 Am.Jur.2d Trespass §164.

The Schumer amendment can be divided into three parts. It prevents the discharge in bankrupty of any debt from a judgment, order, consence order, decree, or settlement agreement arising from—

(1) The debtors violation of any Federal or States resulting from intentional actions of the debtor that by force, threat of force, or physical obstruction, does any of the following—

Intentionally injures any person;

Intentionally intimidates any person;

Intentionally interferes with any person;

Attempts to injure, intimidate, or interfere with any person for any of the following reasons—

Because that person is or has been obtaining or providing lawful goods or services;

To intimidate that person from obtaining or providing lawful goods or services; or

To intimidate any other person or class of persons from obtaining or providing lawful goods or services.

(2) the debtor's violation of any Federal or State statute resulting from intentional actions of the debtor that—

Intentionally damage or destroy the property of a facility because it provides lawful goods or services, or

Attempts to damage or destroy the property of a facility because it provides lawful goods or services.

(3) a violation of a court order protecting access to a facility or person that provides lawful goods or services, or that protects the provision of such goods or services, if—

The violation is intentional or knowing, or

The violation occurs after a court has found that the debtor previously violated such a court order, or any other court order protecting access to the facility or person.

The Schumer amendment does not require an intentional injury. Parts 1 and 2, dealing with violation of federal or state law, require only an intentional act. The phrase "intentionally injure, intimidate, or interfere with" does not require intentional injury because the word "or" is used. Part 3 requires only an intentional or knowing violation of a court order, or a second violation of a court order, intended or not. The amendment would therefore expand existing law by stripping pro-life demonstrators of bankruptcy protection for injuries they did not intend, or only attempted but did not cause. Indeed, the amendment does not even require any injury in the sense of actual damage to person or property: It would remove bankruptcy protection in cases where there is neither damage to person or property nor any intent or attempt to cause such damage.

The amendment is not limited to violent crime. Physical obstruction or violation of a court order is sufficient to trigger the amendment. No crime is necessary, only violation of some federal or state statute (not necessarily a criminal statute) or court order.

It seems likely that the amendment will have a disproportionate impact on pro-life demonstrators and be invoked most frequently against them. Though broader in its current form, the amendment is based on FACE and substantially tracks it. For the most part, other federal crimes are not implicated. The amendment uses the phrase "physical obstruction," for example, which appears nowhere in the federal criminal code except in FACE. Words like "intimidate" appear elsewhere in the code, but usually not in reference to the receipt or provision of goods or services. Most federal crimes do not carry a civil remedy; FACE does. Thus, the Schumer amendment is carefully designed to impact demonstrators. There may be other instances in which the amendment would be theoretically applicable (e.g., environmental protestors who disrupt logging operations), but abortion seems the most common instance in which the targets of protest regularly allege interference with their business and often seek large judgments against their adversaries.

The amendment seems unfair not only because it has the practical effect of singling out demonstrators, but because those demonstrators, like others, are presently subject to the nondischargeability of debts for intentional injuries. Present exceptions to dischargeability for particular crimes generally involve intentional financial wrongdoing or conduct in which the debtor created a grave and unjustifiable risk to human life. Had Congress intended to remove bankruptcy protection for debt from some broader category of injury or conduct, it is unclear why that penalty should assume a form, as this amendment does, that in practical terms will be used only or primarily to deprive demonstrators, not others, of bankruptcy protection—unless, of course, the intent were to punish or chill speech, which is constitutionally impermissible.

To say that a demonstrator can avoid the problem by not violating an order or statute misses the point. The point is not to absolve unlawful conduct, but to fashion criminal and bankruptcy penalties that are proportionate to the gravity of the offense and the degree of injury and culpability—precisely what the law has traditionally done when assessing penalties. A minor or technical violation of a trespass statute resulting in no actual harm to person or property would hardly seem the sort of conduct that should trigger the severe nondischargeability penalty that this amendment would impose.

Perhaps even more significant is the risk that the amendment will chill lawful conduct. The amendment includes an exception for expressive conduct protected from legal prohibition by the First Amendment, but that does not change what the bill does or its likely chilling effect on protesters. Congress already lacks the power to prohibit conduct that is protected from prohibition by the First Amendment, and no bill can change that, yet anecdotally we hear of instances in which people decline to participate in legitimate pro-life demonstrations because of concerns about liability. Those concerns are not exaggerated give present misuse of the federal racketeering statute. People should not have to fear putting their assets at risk simply by doing what the Constitution permits. The amendment, in my view, is likely to heighten that fear and further deter legitimate and lawful protest.

MICHAEL F. MOSES,
Associate General Counsel.

Mr. FROST. Mr. Speaker, I yield 10 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I rise today in opposition to this rule. For my colleagues on both sides of the aisle who have profound concerns about this bill, I hope that you will realize that the crucial vote will be on the rule, not the bill. Because the rule is where it will have real effect.

There are many reasons to oppose this bill. This bill is opposed by almost all bankruptcy professionals, people who know anything about bankruptcy. It is opposed by organized labor, by almost every women's group, by children's advocates, by every consumer group, by civil rights organizations, and by most bankruptcy scholars. It is supported and is being pressed forward by a coalition of banks, credit card companies and other business interests who want to profit exorbitantly at the expense of families and small businesses at a time of crisis.

It is shocking that at a time when the American people are rightly outraged at the illegal and unethical machinations of many in corporate America, at a time when thousands of Americans are losing their jobs, at a time when many businesses large and small are in bankruptcy trying to stay alive and reorganize and preserve jobs, it is shocking that we would even be considering this kind of a special interest bill that will enrich lenders at the expense of families, jobs and small businesses and will force many businesses into liquidation and job destruction instead of reorganization and survival. Whatever Members may have thought of this legislation in the past, I hope they will take a very careful look at the bill we have before us today and think about what has happened since this bill was first proposed 5 years ago and since it was really debated on the floor at great length and people may have made up their minds.

We know that the lenders who have been demanding this bill, the big credit card companies and the big banks, are highly profitable. They are making big money off our constituents with high interest rates that have not come down with drops in bankruptcy or the prime rate. The prime rate is the lowest it has ever been. Have credit card interest rates come down?

My colleague from the State of Virginia says that there is a hidden tax of $400 per family because of deadbeats who do not pay. That is nonsense. What he is really saying is that the credit card companies would lower their interest rates if this bill passed. The prime rate has gone down by 8 or 9 points. Have the credit card companies lowered their interest rates? Credit card companies will never lower their interest rates because it is an oligopolistic business and they gouge from the people what they can gouge.

We know that many large banks have played a role in some of the more egregious financial scandals that have robbed workers and investors of their life's savings and their jobs. We know that this bill which serves their interests and their interests only will make it easier for these same large institutions to squeeze small debtors even more, to squeeze small businesses even more, to place outrageous and undue pressure on people to give up their right to a fresh start, and to make even larger profits at the expense of the most vulnerable.

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We know that the millionaires exemption, the unlimited homestead exemption in six States, will not be changed, will not be capped. The bill will only limit that outrageous loophole that allows one to put all of one's money into one's mansion, go bankrupt, and still have $10 million in the mansion, and this bill will limit that only if a wealthy debtor manages to get found guilty of a specific type of fraud or of a limited number of crimes or the most extreme torts resulting in serious physical injury or death. It does nothing, let me say that again, this bill does nothing about a multimillionaire who wants to shield millions of dollars in assets from creditors in a mansion, whether those creditors are small businesses or other lenders or in some cases the taxpayers. But the small debtor, him we will get.

What this bill will do is squeeze the more than 1½ million Americans who each year get in over their heads and need to reorder their finances, pay off as much of their debts as they can and then start over. These small debtors, the ones who do not have huge mansions in Texas or Florida, will be squeezed beyond the breaking point by the draconian provisions of this bill.

Let me repeat that statistic. Last year there were a million and a half individual bankruptcies. The proponents of this bill will tell us that that is a sign that we need to change the system and allow the banks and the credit card companies to squeeze families even harder so fewer people will go into bankruptcy. But there is another way to look at this. These million and a half Americans every year who file for bankruptcy are not crooks. Ninety percent of the people who filed for bankruptcy did it either because they were laid off from their job, they got divorced, or they had a medical emergency. They are in bankruptcy because they lost jobs, because Congress failed to enact an adequate national health care insurance program, because Congress failed to provide a prescription drug benefit program, because people lost their retirement savings because they invested in Enron, because Congress allowed their unemployment insurance to run out, because Congress voted to ship their jobs overseas, or for a variety of other misfortunes. Yet our answer to them is not to give them a helping hand in crises but to make things even harder for them. Is that what we are going to offer them? Is that going to be our answer? That is unconscionable.

The so-called means test in this bill would hold people to what the IRS says they would need to live on even if their actual expenses are higher. That test was so draconian that Congress told the IRS they should not use it on tax cheats, but now we are going to let the big credit card companies do what we have told the IRS it cannot do.

This bill would require the courts to assume that the income of a family in bankruptcy is what it received in the 6 months preceding the bankruptcy filing. So if someone got laid off, if they are 55 years old and got laid off from their $75,000-a-year middle management job at IBM and will never make $75,000 again, it does not matter. Their income must be assumed to be $75,000 even though they are now only making $25,000. It does not matter what the future holds. If someone once made $75,000, they will forever make $75,000 says the income test that is in this bill, and the judge has no discretion about that. It ignores the facts in reality. Many people in this economic climate will be in bankruptcy precisely because they lost the jobs that used to pay them a good income. Even still, if a family in crisis is found to be able on the basis of this ridiculous means test to pay as little as $100 a month for the next 5 years, they will be denied chapter 7 relief. They will be branded by the law as abusers of the bankruptcy system.

We will be told that this bill does not affect families with incomes below the median income. That is not true. Read the bill. It still allows landlords to evict people below the median income more easily. It still allows creditors to bring abusive and coercive motions against people below the median income more easily. It still exempts many creditors from the application of the bankruptcy rule that prohibits abusive and coercive motions even against people below the median income. It still makes it harder to save the family car in bankruptcy, and it will make it easier to force many small businesses into liquidation and thus cost jobs instead of allowing those businesses to reorganize and survive. If my colleagues think this will not hurt families at all income levels, I have a few bridges I want to sell them.

I want to remind my colleagues that chapter 7 is no walk in the park. It requires a debtor to liquidate all his or her assets and repay as much of their debts as they can. A secured loan such as a home and a car must still be paid off or the debtor loses the property. Bankruptcy never relieves one of that obligation, and the bankruptcy stays in their credit report for years and impacts their ability to borrow money in the future and their ability to get a job or rent an apartment. Even a debtor witness called by supporters of this bill complained that she had these problems after she filed for chapter 7.

And the bill rewrites chapter 13. Even though two-thirds of the people who voluntarily go into chapter 13 and had promised to repay a portion of their debts failed to do so. They cannot make the goals of the plan. This will throw millions of people into chapter 13 involuntarily, and because it will be written the way it is written, we will have many, many debtors who are judged too rich for chapter 7 but they cannot meet the requirements of the bill for chapter 13. They do not have enough money under the means test; so they are too poor for chapter 13. Too rich for chapter 7, too poor for chapter 13. They cannot get any relief. They cannot go bankrupt. That is absurd.

The bill will make it harder for businesses to reorganize. Think about the large retail chains that are now in bankruptcy. Landlords will be able to shut down the reorganizations and have an absolute veto power over the planning process. Chains like K-Mart or the various cinema chains would have to close hundreds of stores and eliminate thousands of jobs instead of reorganizing.

What this bill does not do is protect workers who lose their wages or their retirement savings or their jobs because of corporate malfeasance and bankruptcy. There have been a number of proposals by the distinguished gentleman from Massachusetts (Mr. DELAHUNT), the lead sponsor of this bill, the gentleman from Pennsylvania (Mr. GEKAS), by the junior Senator from Missouri and the junior Senator from Iowa to do this, yet there is nothing in this bill to protect workers from corporate wrongdoing. And if they are victims of corporate wrongdoing, we are going to sock them in the teeth with this bill. They have to take a number behind the crooks and behind the banks and the law firms.

This bill is part of the trifecta that we are giving businesses to make up for the accounting reform that was passed because of public outrage. We should not sacrifice our constituents to the special interests at a time when they are hurting worse than at any time in a decade. I urge a no vote on the rule. I urge a no vote on the conference report. And with a no vote on the rule we would have a chance of taking a fresh look in, I might remind my colleagues, a Republican House and Senate next January, a fresh look at this bill and see if we really want to say to the low income people and the middle income people in this country we are going to sock them in the teeth. I urge a no vote on this rule, and I thank the gentleman for yielding me this time.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I rise with a very heavy heart today to oppose this rule, and I must confess to being a bit befuddled to this very hour. I am a Member of this institution, like many, who supported the outstanding work that this Chamber did on bankruptcy reform, and it was politicized in the conference committee by the efforts of a Senator that I should not name and whose actions I dare not characterize into what has now become a debate over abortion in a bankruptcy bill. But since it has become that and more to the point, Mr. Speaker, it has become a debate over the freedom of speech, I must rise to oppose this rule because I would offer today that the freedom of speech and freedom to peacefully protest in the United States of America is more urgent and more important than any individual legislation will ever be, and I am not alone in thinking of this.

Professor Mary Ann Glendon, the Learned Hand Professor of Law at Harvard University, supports the view that this legislation will provide a chilling effect on the exercise of pro-life protestors in America. She is joined also in her opinion by the United States Conference of Catholic Bishops that argues "The current language on protestors in the bankruptcy bill will be used to impose another layer of penalties upon protestors whose only offense was to place their bodies in the path of those who take innocent children's lives," saying that the intent of the provision is clear. And even the Family Research Council, calling that provision morally bankrupt, said it was "plainly an attempt to silence by intimidation those who would participate in legitimate nonviolent protest."

Where the first amendment is concerned, prudence dictates caution, Mr. Speaker, and I urge a no vote.

Mr. FROST. Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Mr. Speaker, America does not have many home grown terrorists, and that is because we have a first amendment. Unfortunately this bill before us does terrible damage to the first amendment that our forefathers and all of us have stood so bravely for in the past. In summary, a Harvard law professor says that this is the financial death sentence for peaceful protestors.

I recall so many years ago on a cold street standing with a sign and I recall this woman that was going in to consider getting an abortion or not, and I felt completely inadequate but I told her that we would help her with services if she decided to keep her child. Today that child is probably now trying to practice to get a driver's license.

I can never support a rule or a bill on this floor which would have effectively imposed a financial death sentence on somebody who is merely standing on a sidewalk trying to help save a life.

[From The Wall Street Journal, Aug. 15, 2002]

BANKRUPTCY AND ABORTION—II

We've written before about Senator Charles Schumer's not-so-magnificent obsession with abortion and bankruptcy. He's at it again. The New York Democrat continues to play abortion politics with a promising bankruptcy bill.

The legislation in question passed both the House and Senate in 1998 with bipartisan, veto-proof majorities. The bill would make it more difficult for borrowers to file for bankruptcy and thus evade debts that they can afford to pay. Banks, which lose millions of dollars each year to these Chapter 7 filers, favor the measure for obvious reasons. But consumers also stand to benefit from a crackdown, since they're the ones burdened with higher fees and interest rates to compensate lenders for revenue lost through defaults.

Congress passed the latest version early last year and it would be law today save for Mr. Schumer, whose agenda-laced rider on abortion has mired the bill in conference ever since. His amendment would prevent pro-life activists, and only them, from using bankruptcy to avoid paying fines. The provision, said Mr. Schumer, "ensures those who use violence to close clinics can't use bankruptcy as a shield."

But no anti-abortion protestor has every succeeded in doing such a thing. Current law, which already prevents people from using bankruptcy to avoid paying fines related to violence, makes the Schumer rider redundant. The Senator's real targets aren't violent protestors of abortion but peaceful ones. And the unspecific language in his proposal—"physical obstruction," "force or the threat of force" and other pliable expressions for enterprising litigators—is a bald attempt to blur any legal distinction between the two. As it's written, vigils, sit-ins, picketing and other nonviolent activities could be interpreted as federal offenses.

We've seen this strategy from Mr. Schumer before. As a Congressman back in 1994, he successfully navigated into law the Freedom of Access to Clinic Entrances Act. Like his current proposal, FACE uses vague terminology to group together violent and peaceful protests for purposes of meting out federal punishment. Under FACE, a first-time offender convicted of "interfering with" or "intimidating" a clinic patron is subject to a $10,000 fine and six months in jail. No doubt, when civil rights protestors occupied segregated lunch counters, they intimated many. Still, the law managed to distinguish between civil disobedience and militancy.

All their talk about deterring violence notwithstanding, the Senator and his supporters are well aware that someone lunatic enough to bomb a building is unlikely to change his mind due to adjustments in the bankruptcy code. But someone planning to distribute adoption pamphlets outside a clinic, or participate in a prayer vigil on a public sidewalk, might very well have second thoughts if a civil fine could cost him his home.

Congress is set to revisit the issue when it returns next month. Mr. Schumer insists that he "is wholly committed to passing a bankruptcy bill." Don't believe it. If he were true to his word, he would remove his amendment, allow the bankruptcy bill to pass, and reintroduce his abortion provision as a separate piece of legislation.

But Democrats know that it's Republicans who are more likely to be blamed if bankruptcy reform dies. Watch for Mr. Schumer to keep his poison pill in place right through November and continue presenting his obstructionism as "a victory for women." It certainly won't hurt his fund raising.

Republicans, nonetheless, would be wise to wait him out. The issue here is not abortion so much as free speech. Using violent extremists as straw men, liberals are hoping to snatch a formidable tool of protest from the opposition. Their efforts should be resisted on principle.

Mr. FROST. Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GEKAS), a champion of this bill.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

When we began this odyssey on bankruptcy reform some 5 years ago, we began with two staunch principles guiding our pathway. One was to guarantee that those who are so overburdened, so swamped, so flooded with financial obligations that they could no longer make their way into our society's ways that they would be given the ample opportunity for a fresh start. That is what bankruptcy is all about. We guaranteed it and expanded it. As a matter of fact, it can be said that someone seeking a fresh start today under the bankruptcy reform that we want to put into the law would have an easier time than the current law. So for that purpose alone we should be supporting this legislation.

The other principle was and is that those who do approach the possibility of repaying some of the debt should be accorded a mechanism by which they can repay some of that debt over a period of years. Mind, we said, not all the debt; mind, we said, over a period of years, but yet the opportunity to regain some of the losses that the general public would encounter if this individual were allowed not to pay anything back. So those two principles have guided us right down to this moment here on this floor.

The other point that has to be made in support of the rule and the bankruptcy reform measure that underlies the rule is the fact, as was mentioned by both gentlemen from Texas in their opening remarks, that this measure over 5 years has enjoyed tremendous bipartisan support, gaining over 300 votes each and every time that it has come to the floor. Three hundred votes by any magician's count can determine through that number by itself that this was a bipartisan approval of the legislation, and it also is bicameral in different stages at different times, but by the time we came to this floor today it was bipartisan in nature.

I thank the gentleman for yielding me this time.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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Ms. JACKSON-LEE of Texas. Mr. Speaker, just a couple of weeks ago, an unspeakable tragedy hit not only this Congress, but it hit this Nation. That was the loss of Senator Paul Wellstone, his wife and daughter, staff and others who traveled with him on that fateful day. We lost a warrior who was not afraid to speak for the voiceless and those that could not be heard.

So I stand here today unabashedly opposed to this conference report and this rule; and I believe Senator Wellstone would not mind me standing in respect and admiration for his fight, for it was his unrelenting work in the other body that caused this issue to remain in the forefront, that although the representation of this legislation is what many of us would have wanted it to be, a respect for consumer interests as well as fiscal responsibility, it is a stomping out of the rights of the poor who cannot speak.

For anyone to say that people go happily into the bankruptcy court, I take issue, for the facts will prove out that those who file bankruptcy, the bulk of Americans who file bankruptcy, are faced with catastrophic illnesses; or the elderly, who have fallen upon hard times because of their illness; divorcees; single parents; individuals who have been laid off and now face the economic hard times of this Nation, the very people right now who are now facing 5 and 6 percent unemployment; the airline industry employees who lost their jobs after 9–11; the small business owners who collapsed in New York after 9–11. Those are who file bankruptcy. Yet we have determined that these are the very individuals that we are going to knock outside of the boundaries of having access to the bankruptcy court.

Let me tell you why. We have tried over and over again. Professor Warren at Harvard University, a specialist in bankruptcy law, for the past 5 years has said the means test is what it is, mean. It does not help my good friends in the credit union, because what it does is it puts a barrier, it closes the door, it puts the finger in the dike, if you will, for innocent, hard-working Americans who simply want to get themselves in order. It puts a means test in front of those who seek to enter the bankruptcy court; and as well, if you want to fight the issue, you must take monies that you do not have and go into a Federal Court to go and be able to dismantle that particular means test.

It argues against the mindset to support our children, for it promotes credit card debts and other debts over the ability to pay your child support payments. We have argued over and over about this, and it has not been fixed.

This is a bill that does not address the tragedy that I had in my community, Mr. Speaker, and that is the collapse of Enron. This bill does not address the tragedy of Cathy Peterson and her husband. I have committed to fight until the end so that Cathy Peterson's fight can be heard around the Nation.

What happened to Cathy Peterson? Her husband worked for Enron. While he worked for Enron, he was felled, if you will, with a catastrophic illness, terrible deadly cancer. And while Enron was engaged in its malfeasance, of course, you realize that Enron filed for bankruptcy, and within 24 hours 5,000 people were laid off or fired. Cathy Peterson's husband was one of those.

They had to pay their COBRA insurance. They lost their home, Mr. Speaker. They lost their home. He was suffering from an enormous tragic illness. They lost their home. He was fired. While Enron filed bankruptcy, while a corporate structure was allowed to stand, the Petersons were knocked off their feet.

So Cathy Peterson has asked us to put a provision in that disallows those who are filing bankruptcy, large corporations, from firing those who are off on the basis of catastrophic illnesses. We did not address that issue. So in Cathy Peterson's name, this bill should not go forward.

We must recognize that in the name of those Enron employees who were laid off, 5,000 of them, who would not have been able to secure a dime of recovery had it not been for the fight of the AFL-CIO, for the fight that I engaged in, for the fight that the Wall Street and Rainbow Push engaged in, that we were able through the court process to get each of them $13,500. Some of them still have not recovered, laid off, children coming out of school.

This bankruptcy bill does not address the needs of Americans who have fallen on hard times, who are sincere; and it does not address my good friends in the credit union industry, because those are the consumers who come every day to utilize those resources.

So in the name of women and children and hard-working Americans, taxpayers, this bill should not go forward. In the name of my dear friend and our friend, Senator Paul Wellstone, who stood in the other body, standing on behalf of those who could not speak, I am committed to say whatever happens, that we will fight to ensure that the bankruptcy laws of this Nation do not stand as a barrier to those who have worked and upon whose shoulders we have stood and built this economy.

I can stand and say with all emotion that anyone who views these passionate words as ones that cause them great discomfort, that is the purpose of these words, because the voiceless cannot speak today.

The issue of bankruptcy reform has been a heated topic of debate in this body since the first session of the 105th Congress, when shortly before the National Bankruptcy Review Commission issued its report recommending changes to the current bankruptcy laws; legislation was introduced to dramatically change the way in which consumer bankruptcies are administered under the U.S. Code, 11 U.S.C. sec. 101 et seq. We have battled with this issue until now and we see that the leadership of the House, with a renewed vigor, will force a vote on legislation for some of its favorite companies before the irons of the last election have even cooled and a day before we adjourn for the year.

Mr. and Ms. America, today is a preview of things to come. Today is the beginning of a time when corporate interests, in this case the interests of large creditors, will reign supreme and the interests of the little guy will slip further down to the bottom of the barrel.

I have consistently said that the greatest challenge before us in the bankruptcy reform efforts is solving the widely recognized inadequacies of the law in the area of consumer bankruptcy. As it has always been in the Congress, the key to this process, is, of course, successfully balancing the priorities of creditors, who desire a general reduction in the amount of debtor filing fraud, and debtors, who desire fair and simple access to bankruptcy protections when they need them. H.R. 333 does not accomplish this goal. Instead it runs the interest of consumers into the ground.

The bill before us today, will break the backs of working women, disappoints children, and discourages people who are struggling to do the right thing to get their lives back in order. This is a measure that unfairly subverts the interests of consumers to the interest of creditors—many whoms marketing strategies target individuals with questionable means of paying back the debt they incur.

During prior consideration of this bill I pointed out the unruly conduct of credit card companies that target college students with no income knowing that they are vulnerable and likely to charge up significant debts often without the knowledge and guidance of their parents. "An analysis [by Nellie Mae], a leading provider of student loans, of students who applied for credit-based loans with Nellie Mae in calendar year 2000 showed that 78 percent of undergraduate students (aged 18–25) have at least one credit card. This is up from the 67 percent of undergraduates included in a similar study by Nellie Mae in 1998. In years past, these same students would not have been given credit cards, certainly not without a cosigner." This is continued evidence that the credit card industry continues to prey on the lack of wisdom that many of our Nation's youth have about the burdens of accumulating massive amounts of debt. This bill gives them license to continue to do so.

This bill also uses an unrealistic inflexible formula to determine who is eligible for Chapter 7 bankruptcy relief. The measure uses Internal Revenue Service guidelines to determine what expenses a consumer has as opposed to using the debtors actual living expenses. The effect of this is to render many debtors ineligible for relief under Chapter 7 bankruptcy by estimating their living expenses as much less than they actually are. The formula also uses the debtors prior six months income to calculate what the debtor will have available to pay creditors even if that income is no longer available. The only way for the debtor to change these assumptions is to go into court. Let me ask you Mr. and Ms. America, what person seeking bankruptcy can afford to go to court and litigate the matter. The prospect of this expense alone is enough to force consumers to take extreme measures in order to satisfy their debts.

H.R. 333, also places the interests of creditor over the interest of children. By allowing a greater number of non-child support debts to survive bankruptcy, the measure diverts more money to creditors and away from parents paying and receiving child support. The bill sets up a competition for scarce resources between parents and children benefitting from child support both during and after the bankruptcy. Single parents facing financial crises brought on by divorce, nonpayment of support, the loss of a job, uninsured medical expenses or domestic violence will find it harder to regain economic stability through the bankruptcy process.

Many women find themselves as single parents and the primary providers for their children. As a result women are the fastest growing and largest group filing bankruptcy today. In 1999, over half a million women filed for bankruptcy by themselves—more than men filing by themselves or married couples. Of this number, over 200,000 women who filed for bankruptcy in 1999 tried to collect child support or alimony. The domestic support provisions of H.R. 333 does not solve the problems faced by women in bankruptcy and does nothing to address the additional problems it would cause to the hundreds of thousands of women forced into bankruptcy each year, including the single mothers forced into bankruptcy because they are unable to collect child support.

While women, children, students and the average working person in America are forced to make more available for creditors to seize in the event of financial difficulty, the bill makes minimal changes to that which the wealthy will be forced to part with in the same circumstance. Although the bill contains some new limits on the once unlimited homestead exemption, the so-called "millionaires' loophole," it still allows some rich debtors (those who have not been found to have committed certain types of wrongdoing, or those who have owned their home in the state longer than 40 months) to protect an unlimited amount of value in their residences. The wealthy should not be permitted to walk away from their debts and pocket millions, while working Americans get squeezed by a stringent and inflexible new rule.

I am for bankruptcy reform, but I believe that it must be equitable and fair to all interested parties. I am for bankruptcy reform that recognizes the financial interest at stake for the debtor, his or her family and the creditors. As elected officials for the American people we must protect America's families. In this time when corporations like Enron and Worldcomm have laid off thousands of employees, we should at least consider granting them the priority status they deserve. Under a bill that I had proposed, H.R. 5110, the omnibus Corporate Reform and Restoration Act, we would have raised the bankruptcy claim for workers from $4000 to $15,000. This would have ensured that they receive compensation as priority creditors for the corrupt actions of corporate malfeasance.

Financial hardship is a serious matter that deserves legislative reform that is the product of a deliberative process. This bill, is an extreme bill undertaken at the behest of special interest groups. We must protect working-class families. We must work to find a viable solution that deters abuse of the bankruptcy system while preserving the fresh start for debtors whose debts have been discharged. It is ironic that the consumer lending industry actively solicits consumers with promises of easy access to credit. We all know the pitches: "buy-now, pay later;" "No interest expenses for the first six months/year etc;" "No credit check, your job is your credit." Then, after addicting debtors to this "financial crack" lenders come to us begging for reform. Surely lenders bare some culpability for these beguiling and misleading advertising blitzes which entice individuals who might not otherwise qualify or apply for credit. Surely they have some roll to play in the unprecedented levels of American debt.

Congress has a time honored tradition of careful consideration of bankruptcy laws dating back 100 years. In the past members of this body have elected to carefully preserve an insolvency system that provides for a fresh start for honest, hard working debtors, protects small businesses and jobs, and fairly balances the rights of debtors against the rights of creditors. This measure is an unfortunate departure from this tradition and places the financial well being of the American people in harms way. I oppose this legislation and urge my colleagues to do the same.

Mr. SESSIONS. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. JENKINS).

Mr. JENKINS. Mr. Speaker, I rise in support of this rule. This legislation appears to me to be a compromise that is filled with positive aspects of the give and take of the legislative process and saturated with the element of common sense that both sides to this controversy say that they strive to achieve.

In one aspect that has already been mentioned, it penalizes the adjudicated intentional violator of the law and the intentional tort feasor and precludes him from escaping the consequences of his act by hiding behind the provisions of the bankruptcy act. I think this is entirely proper, because the bankruptcy act was never intended to protect anyone in this situation.

At the same time, it protects the innocent who are simply exercising their constitutional rights, who are lawfully assembled or expressing their freedom of speech.

I urge my colleagues to vote for the rule and to vote for the conference report.

Mr. FROST. Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in reluctant, but adamant, opposition to this rule. I say to my colleagues, make no mistake about it. The issue before us is not abortion, and the issue before us is not bankruptcy. The issue before us today is very important. It is the constitutional right of free speech and peaceful protest.

Mr. Speaker, this rule is an unprecedented and shameful attack on the right of free speech and peaceful protest. It does not matter where you stand on abortion; you should oppose this rule and you should oppose this legislation. If we pass this legislation, what we will be doing is for the first time in American history creating two categories of free speech, two categories of peaceful protest: one protected by our laws and one not protected. We will be saying that, based on content of your protest, you are either protected by our law or not protected.

It does not matter where you stand on the abortion law. If you care about the right of peaceful protest, if you believe in the right of people to exercise their constitutional first amendment rights, you must defeat this rule and we must go back and do this legislation again. Those who honor the right of free speech, those who honor the right of peaceable protest must understand this is a fundamental assault on the Constitution of the United States.

I urge the defeat of both the rule and the underlying legislation.

Mr. SESSIONS. Mr. Speaker, I yield 1⅙ minute to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I rise in support of the rule for bankruptcy reform. This Congress and prior Congresses have been very dedicated to making sure that this country benefits from bankruptcy reform and these attempts have been made to draw up a very good bill. Now we finally have the opportunity to finish the job.

Congress has a responsibility to pass this legislation now and to stop the bankruptcy system's abusers, those who have actually the ability to repay these debts but use the current bankruptcy system as a financial planning tool. This gaming of the system carries too high a cost to consumers, by raising costs at an extremely critical time for our economy.

Our economy needs all the help it can get. Consumer spending and consumer credit are key elements of any plan for economic growth, and bankruptcy abuse is having such a horrific effect on consumers' finances that if current practices continue, approximately one out of seven households will have filed for bankruptcy within the past decade.

Bankruptcy legislation has been debated. It has been refined; it has been revised and amended for years. It is now time for action.

Unfortunately, much of this debate has been focused on the abortion provisions in this bill. I ask my colleagues to look at the real effects of those provisions. They are not effective. They will not harm lawful protesters. I urge my colleagues to support the rule.

Mr. SESSIONS. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, I rise deeply disappointed. I am a strong supporter of bankruptcy reform. I was a former retailer and business person, and many of my supporters are in support of this. I cannot believe that we are here on the floor debating this today and that this bill has been brought up.

We are likely to hear in the closing remarks from some of our leadership that this does not apply to pro-lifers and it does not sit on free speech. I think they are terribly wrong, and they put many of us in deep conflict in trying to defend civil liberties and, at the same time, reform bankruptcy; and many of us are deeply disappointed in our leadership that this bill has come forth.

I think many Americans around the country, as nearly every pro-family and pro-life group in America, has stood arm in arm against this bill. National Right to Life, which does not take positions on issues such as this, is about the only one, and it does not mean that they favor the bill; it just means they are silent.

This is going to be double-scored if the rule passes, and many Members are going to have their ratings go down among conservative groups, as well as liberal groups, permanently, because they have not listened to their constituents at the grassroots level and the organizations that represent them.

We are going to hear probably quoted from a memo by Kenneth Starr, who has been hired by the business interests to advocate a position that is manifestly inaccurate in his memo. He, for example, tries to address the question and correctly points out that "willful" and "intentional" are the same. But that memo is silent on "malicious," and that is a critical, critical point on this. He does not have anything in there on "malicious."

The FACE Act makes it a tie; it ties the two together and makes pro-lifers liable in a way that others are not. PETA is not liable. They do not have a FACE Act. This law focuses on pro-life demonstrators. Yes, it can reach many other demonstrators, possibly even anti-war demonstrators if they protest in front of a factory that produces weapons.

Peaceful protestors. The Mahoney case, one protester, kneeling in prayer, was in front of a locked door, was found guilty by the D.C. Circuit Court. One kneeling Christian, silently protesting abortion, has had the force of law thrown at them. Where are we going in America?

Also in the Starr memo there is another false assumption, and that is that somehow the courts are going to interpret this separate from the same-as-additional law. The courts never interpret a new law as redundant. They assume that we have a purpose. Senator SCHUMER is correct in saying there is a congressional intent with this law. The courts will rule that.

This is, in fact, a broad expansion of the government potentially restricting civil liberties in all parts of protest, but particularly those of us who were very pro-business, are first and foremost deeply motivated by defending the most innocent of life, the little children. We are not talking about violent protests. We tried to compromise. We definitely favor it for violent, but peaceful, kneeling prayer should never be deprived from civil liberties.

I urge my colleagues to carefully consider those commands from Mary Ann Gloran of the Harvard Law School.

Because the proposed language is substantively identical to FACE, it will be read in light of existing decisions under FACE. Existing interpretations of FACE will almost certainly be read into § 523(a)(20). Worse, abortion clinics and their supporters will likely argue that by re-enacting the same statutory language, Congress has approved existing decisions and those confirmed their status as valid and appropriate interpretations of FACE itself. This is a critical point, because existing interpretations of FACE in the lower courts, extraordinarily favorable to the abortion clinics and their supporters, have not yet been accepted or rejected by the Supreme Court of the United States. Congressional passage of proposed §523(a)(20) could figure prominently in eventual Supreme Court arguments on the interpretation of FACE, lending plausible support to the worst interpretations of that statute.

I will not consider in this opinion letter the interpretations of "force or threat of force," "intentionally injure," or "intimidate." Some interpretations of those provisions have been surprisingly expansive, but those forms of protest are not the issue for most protestors. The real work of FACE, and of proposed §523(a)(20), is in the provisions that target anyone who "by physical obstruction . . . interferes with . . . or attempts to . . . interfere with' interfere with" access to a clinic. Each of these terms has been construed or defined to mean more than first appears. No actual interference, and no actual physical obstruction, is required for a violation. Courts have found violations in peaceful protest that did not actually prevent access to clinics.

"Physical obstruction" is defined in 18 U.S.C. §248(e)(4) to mean making ingress or egress "impassable . . . or unreasonably difficult or hazardous." What is "unreasonably difficult" has, in the lower federal courts, sometimes turned out to be remote from physical obstruction.

Thus, in United States v. Mahoney, 247 F.3d 279 (D.C. Cir. 2001), the court found physical obstruction and interference with access from a single protestor kneeling in prayer outside a locked door to an abortion clinic. Id. at 283–84. The door was a "rarely used" emergency exit. The court said that someone might have used the door, and that the law does not distinguish frequently and infrequently used doors. More remarkable still, the court held that a single person kneeling in prayer rendered use of that door "unreasonably difficult" and forced patients to use a different entrance. Id. at 284.

Mahoney also held that six other defendants physically obstructed and interfered with access to another door. The court of appeals' entire discussion of this holding is that five protestors "knelt or sat within five feet of the front door," that the sixth defendant "was pacing just behind them," and that they "offered passive resistance and had to be carried away." Id. at 283. The court does not even say whether they were arrayed across the sidewalk or along the sidewalk, whether they left a passage open, or any other fact that might to a plain meaning understanding of "physical obstruction" or to preserving a reasonable right to protest. It was enough for a violation that they were near the door.

Both FACE and proposed §523(a)(20) are limited to "intentional" violations, but Mahoney shows that protection to be illusory. The court found specific intent to interfere with access to the clinic, even in the case of the lone protestor praying before the locked door. It relied on the fact that the protestor prayed that women approaching the clinic would change their mind about getting an abortion; the court quoted his prayer as evidence of criminal intent. 247 F.3d at 283–84. To similar effect is United States v. Gregg, 32 F. Supp. 2d 151, 157 (D.N.J. 1998), aff'd, 226 F.3d 253 (3d Cir. 2000), cert. denied, 523 U.S. 971 (2001). Gregg had much more evidence of actual obstruction than Mahoney. Even so, the Gregg court relied on defendants' "anti-abortion statements, including imploring women not to go into the clinic or not to kill their babies," and on the fact that defendants "carried anti-abortion signs," as evidence of forbidden intent. The government in these cases has offered evidence of opposition to abortion as evidence of specific intent to obstruct access, and the courts have relied on this evidence for that purpose. Clinics and their supporters would of course argue that Congress has codified these holdings if it enacts proposed §523(a)(20).

Courts have emphasized that FACE plaintiffs need not prove actual obstruction. "It is not necessary to show that a clinic was shut down, that people could not get into a clinic at all for a period of time, or that anyone was actually denied medical services." People v. Kraeger, 160 F. Supp. 2d 360, 373 (N.D.N.Y. 2001). Plaintiffs need not "show that any particular person was interfered with by the defendants' obstruction." United States v. Wilson, 2 F. Supp. 2d 1170, 1171 n.1 (E.D. Wis.), aff'd as United States v. Balint, 201 F.3d 928 (7th Cir. 2000).

To sum up, proposed §523(a)(20) would reenact statutory language that has been interpreted not to require actual obstruction, has been interpreted to prohibit a single protestor kneeling in prayer near an unused exit, and has been interpreted to treat anti-abortion statements as evidence of criminal intent. These interpretations would almost certainly be read into §523(a)(20), and there would be a serious argument that Congress had confirmed these interpretations in FACE itself.

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Mr. SESSIONS. Mr. Speaker, I yield 1 minute to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Speaker, I rise today in support of H. Res. 606, the rule providing for consideration of the Bankruptcy Abuse, Prevention and Consumer Protection Act Conference Report. Congress has been working on balanced bankruptcy reform legislation for nearly 5 years. The conference report on H.R. 333 reflects countless hours of bipartisan efforts.

This conference report does not penalize any lawful behavior. It only applies when a person violates the law; second, a court then enters an award against that person; third, the person later files a bankruptcy other than a chapter 13 bankruptcy or liquidation bankruptcy; and fourth, that person thereafter seeks to discharge a debt based on fines or penalties assessed because of the unlawful protest activity.

This provision is written in an evenhanded, neutral way. It does not single out abortion-related protests, but it targets any violent protestors of providers of any lawful goods or services. It would equally apply to the anti-IMF/World Bank protestors who threw rocks through the window of the bank and attempted to impede delegates from entering the World Bank's headquarters. It could also apply to similar protests by animal rights activists, environmentalists, and unions.

As a committed pro-life Member of Congress, I am satisfied that the compromise does not impose unconstitutional or discriminatory burden upon peaceful pro-life protestors. I want to thank the chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER) for his leadership on this issue, and I urge my colleagues to support the rule and the underlying bill.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, again, I want to reiterate, I rise in very strong opposition to this rule and to the underlying bill that will follow it if the rule does pass.

Let me again point out that this bankruptcy reform conference report contains an unrelated provision that was not included in the bill that passed out of this body that discriminates against peaceful, pro-life protestors, and that is why I oppose this.

Mary Ann Glendon wrote an incisive analysis that every Member should read. The Catholic Conference has put out a very strong statement pointing out how unjust this language is. This takes the FACE bill passed back in 1994 over the opposition of my good friend, the distinguished chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER) and myself, and makes it even worse by making civil fines that are levied nondischargeable.

Much has been made about the Starr memo, which I would respectfully submit misses the point by a mile and is unworthy of Ken Starr. He argues, for example, and the gentleman from Utah (Mr. CANNON) made this point a moment ago, that rigorous intent requirements; i.e. law-breaking, are included in the conference report. Martin Luther King was an intentional law breaker. We rightly honor him with a national holiday. A tremendous man who went to prison—served short prison sentences—and faced modest and proportionate penalties in his quest for social justice. For Dr. King, law breaking was a means to an end.

Pro-lifers, on the other hand, are subjected to ruinous penalties for the same acts of civil disobedience. Nonviolent civil disobedience, obstruction, getting in the way, as was mentioned by one of my colleagues, kneeling in front of a door, praying at an abortion clinic, is construed to be a violation of the FACE Act and then, when the penalties are levied, the pro-lifers cannot discharge the ruinous judgements imposed on them.

Mr. Starr also says that section 330 is evenhanded. That, I say to my colleagues, is unmitigated nonsense, it is misleading, and it is false. Section 330 only has the appearance of evenhandedness. Other activists, labor activists, antiwar, PETA, all the groups that use civil disobedience as a means of bringing attention to their cause get a slap on the wrist, a 30-buck fine, they are out of jail the next day. Not so for pro-life protestors. They are under the FACE Act and are discriminated against and singled out for ruinous monetary penalties and criminal penalties and, again, we are talking about nonviolent activities.

Back in 1994 I would remind my colleagues I offered the substitute amendment to FACE on the floor that said for those who throw bombs or kill at abortion clinics, are jailed and appropriately fined. But for peaceful protestors, those men and women whose only motive is to try to deter an abortion, another act of violence, to say there is another way, so they have a sit-in. Perhaps they sit in front of a door or they have a pray-in. These things happen all the time. A successful complaint made by the abortion clinic, for example, would be nondischargeable under this legislation.

So to say section 330 is evenhanded when the underlying statute is applied unevenly to pro-lifers versus all other activists is unmitigated nonsense, and again I am very discouraged that Mr. Starr would put out such a misleading memo.

Vote "no" on the rule.

Mr. FROST. Mr. Speaker, I continue to reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield 6 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, before I begin my remarks, let me insert for the RECORD the memo written on October 4, 2002 by the Honorable Kenneth Starr addressed to Mr. BARTLETT of the Financial Services Roundtable, since the gentleman from New Jersey (Mr. SMITH) has repeatedly referred to it.

Washington, DC, October 4, 2002.

Hon. STEVE BARTLETT,
President, the Financial Services Roundtable,
Washington, DC

DEAR MR. BARTLETT: This letter responds to your request for my views with respect to Section 330 of the Conference Report on H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2002. In particular, you requested my view concerning two aspects of Section 330: the effect it will have on anti-abortion protests, be they lawful or unlawful; and the effect it will have on other types of protests, including the recent IMF/World Bank protests.

In my view, Section 330 will have very little practical effect. Importantly, the provision does not penalize any lawful behavior. To the contrary, it applies only if (i) a person violates the law; (ii) a court then enters an award against that person or the person settles the charges; (iii) the person later files a bankruptcy other than a Chapter 13 bankruptcy; (iv) the person thereafter seeks to discharge a debt based on fines, damage awards, or other penalties assessed because of the unlawful protest activity; and (v) the creditor continues to pursue the matter. Even then, Section 330 overlaps almost entirely with Bankruptcy Code §523(a), which already prohibits the discharge of fines payable to the government and civil damages resulting from intentional injury to others. As a result, Section 330 will have at most minimal practical effect. What is more, the Conference version of Section 330 contains rigorous intent requirements that should prevent any innocent protesters from being swept up in its provisions. Thus, even if Section 330 does have some limited practical effect, that effect should be felt only by the intentional lawbreakers it expressly targets.

In answer to your second question, Section 330 is written in an evenhanded, neutral fashion. It applies not only to abortion-related protests, but also to unlawful protests targeted at the providers of any lawful goods or services. By its express terms, Section 330 applies—with no exceptions—to all those who unlawfully intimidate or interfere with a person by physical obstruction or threat of force if those actions were motivated by the person's obtaining or providing of any lawful goods or services. Thus, it would apply, for example, to the anti-IMF/World Bank protesters who apparently threw rocks through the window of a bank and attempted to impede delegates from entering or departing the World Bank's headquarters. So too, it would apply to similar protests by animal rights activists, environmentalists, and unions.

It bears emphasis that the Conference compromise bill represents a substantial improvement over the original Senate bill. Under the Senate bill, debt related to an unproven allegation of "harassment," or an unintentional violation of a court order, could have been nondischargeable. In contrast, under the Conference compromise, there must have been an actual and intentional "violation" of either the federal Freedom of Access to Clinic Entrances Act, 18 U.S.C. §248 ("FACE"), or a court order. These significant improvements over the now-replaced Senate version are some of the reasons that Section 330 will not have significant practical or legal effect in light of the state of existing law.

Section 330 is primarily a restatement of existing law

Section 330 is primarily a restatement of existing law. The Bankruptcy Code has long provided that any debt "for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit" is not dischargeable in bankruptcy. 11 U.S.C. §523(a)(7). As a result, criminal fines and civil penalties payable to the government are already nondischargeable.

The Bankruptcy Code further provides that civil damages payable to private parties are nondischargeable if they result from "willful and malicious injury by the debtor to another entity or to the property of another entity." 11 U.S.C. §523(a)(6). The courts have interpreted this language broadly to include injuries to intangible personal or property rights. See 4 Collier on Bankruptcy ¶523.12[2] (15th ed. rev. 2002). As a result, the pivotal limitation on this provision is the intent element—a debt is nondischargeable in bankruptcy only if the debtor intentionally caused the injury. See Kawaauhau v. Geiger, 523 U.S. 57, 61 (1998).

Our research has revealed that, to date, three courts have issued published decisions on the question whether debtors' abortion protest-related debts were dischargeable in bankruptcy. Each held the debts to be nondischargeable under Section 523(a)(6). See In re Treshman, 258 B.R. 613 (Bankr. D. Md. 2001); In re Bray, 256 B.R. 708 (Bankr. D. Md. 2000); In re Behn, 242 B.R. 229 (Bankr. W.D.N.Y. 1999). As one court explained, the debt was not dischargeable because the debtor had acted "with the specific intent to interfere with or intimidate the plaintiffs from engaging in legal medical practices and procedures." Bray, 256 B.R. at 711. Each court also noted that the conduct at issue, which included apparent death threats, was unlawful and unprotected by the First Amendment.

Of course, the ultimate issue of dischargeability necessarily depends on the facts of each case. But Section 330 is drafted in such a way that it overlaps with Section 523(a)(6). Under Section 330, a debt is nondischargeable only if the debtor violated either FACE or a pre-existing court order or injunction.

Under the first of those circumstances, a debt is nondischargeable only if the debtor: (i) intentionally injured, intimidated, or interfered with a person, (ii) by force, threat of force, or physical obstruction, (iii) because the person was obtaining or providing any lawful goods or services (such as fur products or banking services). Because the injury, intimidation, or interference must be intentional, any such debt would likely satisfy the existing criteria for nondischargeability under Section 523(a)(6). One might argue that Section 523(a)(6) erects a higher standard than Section 330 because it requires "willful and malicious" (as opposed to intentional) injury, but the terms "intentional," "willful," and "malicious" have similar meanings in the law. The Supreme Court has held, for example, that "willful" means "deliberate or intentional" in Section 523(a)(6). Geiger, 523 U.S. at 61. Thus, the Section 330 and 523(a)(6) standards appear to be very similar.

The second circumstance under which Section 330 renders debt nondischargeable is when (i) the debtor violated a court order or injunction that complies with the First Amendment and protects the provision of lawful goods or services, and (ii) either the debtor's violation was "intentional or knowing," or the violation occurred after the debtor had previously been found to have violated the same court order or another order protecting access to the same facility or person. This provision of Section 330 might expand somewhat on Section 523(a)(6), because a debtor might argue that although he meant to violate an injunction (such as an injunction prohibiting him from approaching within 8 feet of a clinic entrance), he had no intent to intimidate or impede anyone while within the restricted area. Thus far, however, the courts have held that damages attributable to violation of a court injunction against abortion-related protest activity are "ipso facto the result of a 'willful and malicious injury'" for purposes of Section 523(a)(6), in part because the violation reflects an "intention to cause the very harm to the protected persons that [the] order was designed to prevent." Behn, 242 B.R. at 238. While I find this rationale questionable, it reflects the fact that courts to date have already used Section 523(a)(6) for the same purpose that Section 330 would serve. Thus, Section 330 represents either a restatement of existing law or, at most, a modest extension of that law.

Even if section 330 were interpreted more broadly than the existing nondischargeability provisions of the bankruptcy code, it would still have no effect on lawful protest and little effect on unlawful protest

Even if courts were to interpret Section 330 more broadly than Section 523, the practical consequences would be minimal. Section 330 does not affect lawful protest at all. Even with respect to unlawful protest, it applies only if: a person committed an intentional violation of the federal FACE statute or a pre-existing court order or injunction; a court entered an award against that person, or the person settled the charges; the person later filed bankruptcy other a Chapter 13 bankruptcy; the person would otherwise be entitled to discharge a protest-related debt in bankruptcy, notwithstanding Section 523(a) and the Bankruptcy Code's other existing limitations on dischargeability; and the creditor continued to pursue the matter. It would appear that very few, if any, people will fall into this category. As noted above, we have found only three reported cases in which people challenged the dischargeability of abortion protest-related debt, and in each instance the court held the debt was nondischargeable under existing law. Thus, Section 330 would have had no effect in any of the reported cases to date.

Even if a small number of protesters are affected by Section 330, the Conference version of the bill seeks to ensure that "innocent" protestors will not be affected. As explained above, Section 330 applies only to those who either (1) intentionally injure, intimidate, or interfere with a person by force, threat of force, or physical obstruction; or (ii) intentionally or repeatedly violate a court order that complies with the First Amendment. While some such conduct can be "peaceful," it is nonetheless intentional conduct that has a physical element to it (in the case of the FACE statute) or that has already been judicially determined to thwart legitimate state interests (in the case of an existing injunction). Moreover, peaceful of "innocent" conduct is not likely to lead to substantial damage awards that a debtor would need to discharge in bankruptcy. Instead, the reported cases to date have involved much more provocative, highly aggressive behavior, including perceived death threats, "wanted" posters, and the like. For these reasons, it is unlikely that anyone other than intentional and determined lawbreakers, no matter how sincere the may be, will be affected.

Section 330 is non-discriminatory

In any event, neutrality of operation is the order of the day. Section 330, as I indicated above, applies by its express terms to all those who unlawfully intimidate or interfere with a person by physical obstruction or threat of force if their actions were motivated by the victim's obtaining or providing of any lawful goods or services. Thus, it applies equally and neutrally to unlawful activity directed toward the providers or recipients of all lawful goods or services, not only abortion-related services.

The recent IMF/World Bank protests provide a useful example of Section 330's intended neutrality. Many protestors, it appears, attempted to interfere, by physical obstruction, with the ability of the IMF/World Bank delegates to attend or leave meetings because they disapproved of lawful services provided by the IMF and World Bank. Other protestors reportedly threw rocks through a window of a bank. All of this behavior is covered by the plain language of Section 330. Also protected are similar protests by animal-rights activists against stores that lawfully sell fur products and the like; environmentalists that target oil and other companies; and some unlawful union strike activity. As long as an unlawful protest satisfies the Section 330 criteria, it is covered to the same extent as an anti-abortion protest.

Conclusion

In sum, as modified in conference, Section 330 is primarily a restatement of existing law. It targets only intentional unlawful activity, and even then is not likely to have significant practical effect. To the extent that it does have such effect, Section 330 will apply neutrally and evenhandedly to anti-abortion protests and other protests aimed at business establishments.

While there is, to be sure, some risk that a court might construe the statute unreasonably, the conference minimized that risk by drafting the statute clearly. To provide further protection, however, one of the sponsors of the legislation (or another Representative) might consider making a statement of intent on the House floor. While courts vary in their treatment of such statements, some judges give consideration to floor statements, especially those made by a sponsor of the legislation. As a result, a suggested floor statement is attached to this letter, for such consideration as may be deemed appropriate.

Sincerely,

KENNETH W. STARR.

Mr. Speaker, I rise in support of the rule and the underlying bill. This is essential bankruptcy reform which will help revive our economy.

In 1998, $40 billion of debt was written off, and that amounts to a hidden tax of $400 for every family in this country who pays their bills on time and is agreed upon, and that tax hits the poor people hardest because that type of a tax is regressive.

We need to pass this legislation to prevent bankruptcy from being used as a financial planning tool.

Now, my friends over here on my right claim that this is going to hurt poor people. That is absolutely not true, because people who are genuinely unable to repay their bills will be able to get their discharge through chapter 7. But where there is a possibility of people repaying their bills over a 5-year period of time, or some of their bills, then they have to go through a reorganization, so that the money is recouped and not passed on to the consumers.

I would point out that if this legislation goes down, either on the vote on the rule or the vote on the conference report, the current homestead exemption which is unlimited in places like Texas and Florida will end up still being the law and the corporate crooks will be able to put millions in their mansions and shield them from bankruptcy. There is a partial plug to prevent people who defraud the public from being able to do that, notwithstanding State law. So voting down the rule gives the corporate crooks a get-out-of-bankruptcy-free card.

Now, to my friends over here on my left, we have heard an awful lot of allegations that this bankruptcy provision that was negotiated between Senator SCHUMER and the gentleman from Illinois (Mr. HYDE) is an outrageous attempt to financially ruin pro-life protestors. There is not a person in this Chamber that has given his life more to the pro-life movement than the gentleman from Illinois (Mr. HYDE), and he negotiated this and he signed off on this agreement, and I think that we ought to respect his work for this pro-life movement.

We have heard that section 330 of the bill is an outrageous trampling of first amendment rights. Let me read it for my colleagues.

It says, "Except that nothing in this paragraph shall be construed to affect any expressive conduct, including peaceful picketing, peaceful prayer, or other peaceful demonstration protected from legal prohibition by the first amendment of the Constitution."

Read the bill. It does not affect first amendment rights. They are protected by the Constitution, and the black and white text of this provision protects things that are protected by the first amendment.

We have heard about the infamous Starr memorandum. A part of that says that section 330 does not affect lawful protest at all. What it does do is affect unlawful protest. And you are on the side of people who break the law, who want to break the law. What we do here is we protect people who want to abide by the law.

Now, in order for section 330 to come into play, there have to be nine steps that are done by the person whose debt is to be declared nondischargeable, and I want to go through them.

First, there must be a violation of Federal or State statutory law. Second, the violation must result in some type of monetary liability such as civil or statutory damages. Third, the monetary liability must be based on a Federal or State court order or from a settlement agreement entered into by the debtor. Fourth, the violation of the law must result from an intentional act by the debtor. This does not apply to unintentional violations of the law and, thus, it would not apply to innocent protestors. Fifth, the intentional act must involve force, the threat of force, or physical obstruction. Sixth, the intentional act must result in intentional injury, intimidation, or interference, or intentional damage or destruction of property. Seventh, the debtor must have injured, intimidated, or interfered with a person because such person obtained or provided lawful goods or services or because a facility provides lawful goods or services. Eighth, the debtor must file for bankruptcy relief; and ninth, the party holding the monetary judgment against the debtor must bring an action in the bankruptcy court for the purpose of having the court determine whether the debtor's liability for the judgment is nondischargeable under section 330.

They have to do all nine of these things to get a debt nondischargeable.

Now, if the opponents of this bill and the opponents of the rule are successful, the current bankruptcy law which would stand makes all fines and forfeitures nondischargeable, including those that arise under the FACE Act. So defeating a necessary bankruptcy reform is not going to accomplish this purpose. The rule and the bill ought to pass.

Mr. SESSIONS. Mr. Speaker, at this time we are nearing the end of the speakers that we have and I would welcome an opportunity for the gentleman from Texas (Mr. FROST) to close, and then it would be my intent to briefly speak and then yield to our final speaker.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we have heard, there is controversy on this rule. This matter has been pending for some time. I personally support the rule and the bill, and I urge adoption of the rule.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

This has been a vigorous debate today, one which has I think allowed the opportunity for both sides of our conference to speak forthrightly about the issues and the ideas which they see on this bankruptcy bill. I will tell my colleagues that I believe that this is an economic development package, part of the plan that we have from the Republican Conference to help consumers and to help make sure the economy moves properly. So I support not only this rule, but the underlying legislation.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. ARMEY) to close.

Mr. ARMEY. Mr. Speaker, let me begin by thanking the gentleman from Pennsylvania (Mr. GEKAS), the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Illinois (Mr. HYDE), and the Committee on the Judiciary for the extraordinarily long and hard years of dedicated work that they have attended to this subject.

Mr. Speaker, let me make another statement fairly clear. I believe it is safe to say that if it were not for my personal insistence this bill would not be on the floor today. Therefore, I think it is safe to conclude that it is I that put this bill on the floor. Why would I do that? Why would I put a bill on the floor that gives even myself a conflict of visions?

There are two great values that are addressed in this bill, two values that I hold dear in my heart and high in my hopes and dreams for this great Nation: The one that precious lives will be saved, and the other that they will be taught how to live precious lives.

Mr. Speaker, a good nation has a government that honors the goodness of its people. A good nation is a nation that has law that knows the goodness of its people and reflects and encourages them.

□ 1615

A good Nation will have a law that honors what we teach our children, so that in the law itself our children are encouraged to those teachings which we pray into their lives will make their lives successful in their own right and a blessing in the lives of others.

One of those things we teach our children is to be careful what obligations we make in our lives, and to fulfill our obligations, and default only as a last resort and as a matter of personal embarrassment.

Our existing bankruptcy laws do not reflect that teaching. Our existing bankruptcy laws belie our teaching when we are parents at our best, instructing our children on the hopes that are our highest, about their personal responsibilities. In short, Mr. Speaker, our existing bankruptcy law says to our very same children: little darling, you are a fool if you do not file. It is wrong, Mr. Speaker.

This bill is not here about the money. To think this bill is about who gets the money or who keeps the money is too shallow an understanding. This bill is about the character of a Nation and the character of that Nation's law, and it is important. It is critical.

In this and in other ways, we must strive to have a government that knows the goodness of its own people and has the decency to expect it and to reflect it. That is why we are here with bankruptcy reform. That is what we are about.

And yes, because of a provision that was put into this bill in the other body, we are forced, and I, as deeply in my heart as any Member in this Chamber, am forced to find myself in conflict with another, perhaps even higher value, the right to present myself in encouragement to others to not do this thing that would destroy this life, and to do so without fear of punishment in our courts under a misguided law that has no respect for our very own Bill of Rights, and that is the FACE Act. It is a sabotage, we know that.

But bless his heart, our first, best champion for the life of the unborn, the gentleman from Illinois (Chairman HYDE), fought this demon to a draw to the best of his ability. We have people now who say to the gentleman from Illinois (Chairman HYDE), that is not good enough. I am not sorry, I say to the gentleman from Illinois (Chairman HYDE). I thank the gentleman from Illinois. He is, in this case, as he has always been, for the precious life of our precious babies, a good, true, and faithful servant. He did his best. I love the gentleman for his commitment. The gentleman from Illinois (Mr. HYDE) is to be respected for what he did here to help our cause.

How do we save our precious allies and friends and neighbors and devoted servants that go out there at risk already from the terror, the economic terror of the FACE Act? We do not do it by changing this law. The chairman of the committee has made that clear. There is no protection under FACE by defeating this bill.

If FACE is the evil, a trespass against our Bill of Rights, a trespass against our desire to save the unborn that we say it is, then let us not fight this mock battle; let us fight the real battle. The assault should be on FACE.

I believe I am correct in saying that those who find life precious on both sides of the aisle are the majority in this body, and the majority of this body drawn from both sides of the aisle can defeat FACE. That is what we ought to be doing.

So I say to my friends, save what we can; do not lose what we can over the hope that is without substance. Do not sacrifice the gains in the instruction of our children over the failed effort to protect those who would try to save our children. Vote for this rule; vote for this bill. Give our children a better break and a better understanding, and honor their parents as they teach their babies. Then come back, if you will, with a vengeance and defeat this atrocity against our basic human liberties called FACE. Get the villain and save the children.

Mr. JENKINS. Mr. Speaker, I rise in support of the rule for the consideration of H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act.

This legislation appears to be a compromise that is filled with positive aspects of the give and take involved in the legislative process and saturated with the element of comment sense that both sides to this controversy say that they strive to achieve.

Today, I rise to discuss one aspect that has been mentioned frequently on the floor today. The compromise language agreed to by the conference committee penalizes the adjudicated intentional violator of the law and the intentional tortfeasor and precludes him from escaping the consequences of this act by hiding behind the provisions of the bankruptcy act. This is entirely proper because the bankruptcy act was never intended to protect anyone in this situation.

At the same time, it protects the innocent who are simply exercising their constitutional rights—who are lawfully assembled or exercising their freedom of speech.

We should remember that this legislation is the product of years of hard work by the Judiciary Committee in both the House and Senate. This legislation answers a plea from across our land to address a serious weakness that exists in our system of providing relief to those who are overwhelmed by financial burdens.

I urge my colleagues to vote in favor of the rule.

Mrs. KELLY. Mr. Speaker, I rise today in strong support for the rule providing consideration for H.R. 333, the Bankruptcy Reform Conference Report, because this issue boils down to two words: personal responsibility. If a person assumes a debt, they are obligated to do everything in their power to pay it off. Creditors should be made whole, if possible. However, a safety net must remain for those who legitimately cannot pay their debts.

Some of my colleagues are trying to paint the word creditors to mean faceless financial institutions who are tricking consumers into assuming debt. They specifically speak of credit card debt. They unfortunately fail to note that credit card debt in the United States amounts to only three point eight percent of all household debt. Furthermore, only one percent of credit card accounts end up in bankruptcy. Of that one percent it is estimated that fifteen percent of those accounts can afford to repay some or all of their debt.

The people who are truly being hurt by our current bankruptcy system are Americans who play by the rules and pay off their debts. Bankruptcy costs the average American family about $400 a year.

Needs-based bankruptcy reform is well overdue, and that is what this Bankruptcy Conference Report delivers. It is the people who game the system that we need to stop.

I listened to my colleague from Virginia (Mr. MORAN). He stated that more people filed for bankruptcy than graduated from college. That is a staggering fact. It's a transference of cost from those who overspend to those who carefully manage their money.

I support the Bankruptcy Conference Report's provisions which strengthen Code protections for ex-spouses and children. They have to be supported. In the current bankruptcy law, child support and alimony are placed seventh behind attorney fees as debt obligations. If enacted, this bill would move child support and alimony payments to first on the list of debt obligations.

Also under current law, some debtors use the automatic stay to avoid paying child support payments after they file for bankruptcy. The Bankruptcy Conference Report ensures less delay in the proper payment of child support. I vehemently oppose any legislation that would reduce the ability of women and children to receive support payments.

This Conference Report is a good legislation that moves us in the right direction, and I ask my colleagues from both sides of the aisle to join me in support of this reasonable reform by voting in favor of the rule providing for consideration of this Conference Report.

Mr. BEREUTER. Mr. Speaker, this Member rises today to express his support for the rule on the conference report for the Bankruptcy Abuse Prevention and Consumer Protection Act (H.R. 333). This Member is an original cosponsor of H.R. 333, which the House first passed on March 1, 2001, by a vote of 306–108. This Member is pleased that the House and Senate conferees have finally reached an agreement on bankruptcy reform which President George W. Bush is expected to sign. It is important to note that bankruptcy reform bills passed both the House and the Senate in the 105th and 106th Congresses. In the 105th Congress, the House passed a bankruptcy reform conference report, while the Senate failed to pass the conference report. In the 106th Congress, former President Bill Clinton pocket vetoed a bankruptcy reform conference report. During this Congress, the Conference Report was delayed for too long over of all things, a tenuous connection drawn to the subject of abortion clinics by conferees from the other body.

First, this Member would thank the distinguished gentleman from Pennsylvania [Mr. GEGAS], for introducing the original House bankruptcy legislation, H.R. 333. This Member would also like to express his appreciation to the distinguished gentleman from Wisconsin [Mr. SENSENBRENNER], the Chairman of the Judiciary Committee, for his efforts in bringing this conference report to the House Floor for consideration.

This Member supports the conference report for the Bankruptcy Abuse Prevention and Consumer Protection Act for numerous reasons; however, the most important reasons include the following:

First, this Member supports the provision in the conference report for H.R. 333 which provides for a means testing, needs-based, formula when determining whether an individual should file for Chapter 7 or Chapter 13 bankruptcy. Chapter 7 bankruptcy allows a debtor to be discharged of his personal liability for many unsecured debts. In addition, there is no requirement that a Chapter 7 filer repay many of his or her debts. However, Chapter 13 bankruptcy filers commit to repay some portion of his or her debts under a repayment plan.

Some Chapter 7 filers actually have the capacity to repay some of what they owe, but they choose Chapter 7 bankruptcy and are able to walk away from these debts. For example, the stories in which an individual filed for Chapter 7 bankruptcy and then proceeds to take a nice vacation and/or buys a new car are too common. Moreover, the status quo is costing the average American individual and family increased costs for consumer goods and credit because of the amount of debt which is never repaid to creditors.

As a response to these concerns, the needs-based test of the conference report of H.R. 333 will help ensure that high income filers, who could repay some of what they owe, are required to file Chapter 13 bankruptcy as compared to Chapter 7. This needs-based system takes a debtor's income, expenses, obligations and any special circumstances into account to determine whether he or she has the capacity to repay a portion of their debts.

Second, this Member supports the additional monthly expense items that are exempted from consideration under the needs-based test which determines, under the conference report of H.R. 333, whether a person can file either a Chapter 7 or 13 version of bankruptcy. These expenses include the following: reasonable expenses incurred to maintain the safety of the debtor and debtor's family from domestic violence; an additional food and clothing allowance if demonstrated to be reasonable and necessary; and actual expenses for the care and support of an elderly, chronically ill, or disabled member of the debtor's household or immediate family.

Third, this Member supports the permanent extension of Chapter 12 bankruptcy in the conference report of H.R. 333 since it allows family farmers to reorganize their debts as compared to liquidating their assets. Using the Chapter 12 bankruptcy provision has been an important and necessary option for family farmers throughout the nation. It has allowed family farmers to reorganize their assets in a manner which balances the interests of creditors and the future success of the involved farmer.

If Chapter 12 bankruptcy provisions are not permanently extended for family farmers, its expiration on January 1, 2003, would be another very painful blow to an agricultural sector already reeling from low commodity prices. Not only will many family farmers have no viable option but to end their operations, it likely will also cause land values to plunge. Such a decrease in value of farmland will affect the ability of family farmers to obtain adequate credit to maintain a viable farm operation. It will impact the manner in which banks conduct their agricultural lending activities. Furthermore, this Member has received many contracts from his constituents supporting the extension of Chapter 12 bankruptcy because of the situation now being faced by our nation's farm families. It is clear that the agricultural sector is hurting and by a permanent extension of the Chapter 12 authorization, Congress can avoid one more negative possibility.

Lastly, this Member supports the provision in the conference report of H.R. 333 which requires that people convicted of a felony or who owe a debt from a securities fraud violation in the five years before filing for bankruptcy cannot claim an unlimited homestead exemption. Currently, there are only six states, including Texas and Florida, which provide unlimited bankruptcy protection for a person's home. Nebraska is not one of those six states as it has a maximum homestead exemption of $12,500. This Member believes that this provision in the conference report is imperative in light of the recent corporate scandals at Enron and WorldCom. For example, this provision would apply to the $7 million penthouse in Houston of Kenneth Lay, the former chairman of Enron, if he both files for personal bankruptcy in the future and owes a debt due to any conviction of securities fraud. In addition, this provision may also be relevant to Scott D. Sullivan, the former chief financial officer of WorldCom, who is building a $15 million mansion in Boca Raton, Florida.

In closing, for these aforementioned reasons and many others, this Member urges his colleagues to support the conference report of H.R. 333.

Mr. SMITH of Texas. Mr. Speaker, I support the Bankruptcy Conference Report. I know there has been deliberation about the effect of section 330 of the bill on anti-abortion protests. But I believe section 330 will have little practical effect. And the rest of this bill will have an overwhelmingly positive impact on the bankruptcy system.

Section 330 does not penalize any lawful behavior. It will apply only if a person violates the law, a court enters an award against that person, the person later files a non-chapter 13 bankruptcy and seeks to discharge a debt based on their unlawful activity, and the creditor pursues the matter.

It does not apply only to abortion-related protests, but also to unlawful protests aimed at the providers of any lawful good or service.

The compromise reached in conference on this issue also contains very stringent requirements that should prevent any innocent protesters from being included in these provisions.

Moreover, this bill will curb bankruptcy abuse and protect consumers. It will also address the loophole in current law that allows debtors in certain states with unlimited homestead exemptions to shield an almost unlimited value of their homes from their creditors.

In order to game the system, some debtors move to a state with an unlimited homestead exemption just before they file for bankruptcy in order to take advantage of that state's more generous homestead protections.

H.R. 333 closes this loophole by requiring a debtor to reside in a state for at least two years before that debtor can claim the state's homestead exemption. In addition, a debtor must own the homestead for at least forty months before they can claim the state's homestead exemption protections.

H.R. 333 will stop corporate thieves from hiding their homestead assets from those whom they have defrauded. It will cap a debtor's homestead exemption at $125,000 if the debtor was convicted of a felony, if the debtor violated a securities law, or if they engaged in any criminal act, intentional tort, or reckless misconduct that caused serious physical injury or death to another individual.

Homeownership strengthens the fabric of our society. It's the American dream—and over 70% of Americans are living it. Owning a house gives individuals and families a place to call home, where they can arise their children and become active participants in their neighborhoods and communities.

Since 1867, federal lawmakers have recognized the role of the states in determining appropriate homestead exemptions.

States are in a much better position to determine an appropriate exemption—they can more closely examine the factors that differ from state to state, such as property values, real estate inflation, and even demographics.

The balance between states' rights and the federal government is important. Any abuses of the homestead exemption can and should be addressed by the individual states themselves.

In Texas, the homestead exemption is embedded in the state constitution to prevent the sale of one's home to repay debts, except in three specific cases: when there is a debt for the purchase of a home, a debt to finance the improvements to the home, or a debt for property taxes or federal income and estate taxes.

The homestead exemption provisions were among the most contentious in the conference and I am pleased we were able to reach a compromise on this issue. The compromise we reached will prevent 'bad actors' from abusing the homestead exemption without punishing those who legitimately belong in bankruptcy.

The overwhelming majority of people who declare bankruptcy do so because they have no other choice. Bankruptcy law is intended to give debtors a fresh start, not to punish them. Less than one percent of bankruptcy debtors abuse the bankruptcy press. This bill will address those 'bad actors' while retaining the goal of giving sincere debtors a fresh start.

I strongly support this conference report and I urge my colleagues to support it, as well.

Mr. SESSIONS. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 172, nays 243, not voting 17, as follows:

[Roll No. 478]

YEAS—172

Armey
Bachus
Baird
Baker
Barton
Bass
Bentsen
Bereuter
Berry
Biggert
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Brady (TX)
Brown (SC)
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Clement
Coble
Collins
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Davis (FL)
Deal
DeLay
Dicks
Dooley
Dreier
Duncan
Dunn
Edwards
Emerson
English
Etheridge
Fletcher
Foley
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Hansen
Hart
Hastert
Hastings (WA)
Herger
Hill
Hinojosa
Hobson
Horn
Hulshof
Hyde
Isakson
Israel
Issa
Jenkins
Johnson (CT)
Johnson, E. B.
Keller
Kelly
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Linder
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Matheson
McCarthy (NY)
McCrery
McHugh
McInnis
Meeks (NY)
Miller, Dan
Moore
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Nussle
Ose
Oxley
Peterson (PA)
Petri
Platts
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rivers
Rogers (KY)
Rohrabacher
Rothman
Royce
Ryan (WI)
Schrock
Sensenbrenner
Sessions
Shays
Sherwood
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Spratt
Stenholm
Strickland
Sweeney
Tanner
Tauscher
Taylor (NC)
Thomas
Thompson (CA)
Tiberi
Turner
Upton
Walden
Walsh
Watkins (OK)
Weller
Wilson (NM)
Wu
Wynn
Young (AK)

NAYS—243

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Baca
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Becerra
Berkley
Berman
Bilirakis
Bishop
Blumenauer
Bonior
Boozman
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Bryant
Burton
Capps
Capuano
Cardin
Carson (IN)
Chambliss
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cubin
Cummings
Cunningham
Davis (CA)
Davis (IL)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
DeMint
Deutsch
Dingell
Doggett
Doyle
Ehlers
Engel
Eshoo
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Forbes
Frank
Gephardt
Goode
Goodlatte
Graham
Green (TX)
Gutierrez
Gutknecht
Hall (TX)
Harman
Hastings (FL)
Hayes
Hayworth
Hefley
Hilleary
Hilliard
Hinchey
Hoeffel
Hoekstra
Holden
Holt
Honda
Hostettler
Hoyer
Hunter
Inslee
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kleczka
Kucinich
LaFalce
LaHood
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Lynch
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Millender-McDonald
Miller, Gary
Miller, George
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Nadler
Napolitano
Neal
Norwood
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Putnam
Rahall
Rangel
Rehberg
Reyes
Rodriguez
Roemer
Rogers (MI)
Ros-Lehtinen
Ross
Roybal-Allard
Rush
Ryun (KS)
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Scott
Serrano
Shadegg
Shaw
Sherman
Shimkus
Shows
Shuster
Slaughter
Smith (NJ)
Solis
Souder
Stark
Stearns
Stupak
Sullivan
Sununu
Tancredo
Tauzin
Taylor (MS)
Terry
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Vitter
Wamp
Waters
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson (SC)
Wolf
Woolsey
Young (FL)

NOT VOTING—17

Blagojevich
Boyd
Callahan
Combest
Condit
Cooksey
Davis, Tom
Diaz-Balart
Doolittle
Ehrlich
Grucci
Hooley
Houghton
McKinney
Roukema
Stump
Toomey

□ 1717

Messrs. SHUSTER, GRAHAM, BARR of Georgia and ROGERS of Michigan, Mrs. CUBIN, Messrs. EVERETT, REHBERG, BURTON of Indiana, OTTER, OSBORNE, MICA, TERRY, KENNEDY of Minnesota, NORWOOD, GOODLATTE, CHAMBLISS, PUTNAM, PORTMAN, POMBO, LEWIS of Kentucky, SAXTON, TIAHRT, LoBIONDO, SHAW, WILSON of South Carolina and SUNUNU, Ms. ROS-LEHTINEN, and Messrs. WHITFIELD, HOYER, McKEON, MENENDEZ, KERNS, BOOZMAN, THORNBERRY, LEWIS of California, FERGUSON, LAHOOD, YOUNG of Florida and JOHNSON of Illinois changed their vote from "yea" to "nay."

Mr. MORAN of Virginia, Mr. STENHOLM, Ms. RIVERS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MEEKS of New York, Mrs. MYRICK, and Messrs. SPRATT, FOSSELLA, BROWN of South Carolina, CANTOR and EDWARDS changed their vote from "nay" to "yea."

So the resolution was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 3156. An Act to provide a grant for the construction of a new community center in St. Paul, Minnesota, in honor of the late Senator Paul Wellstone and his beloved wife, Sheila.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 5063, ARMED FORCES TAX FAIRNESS ACT OF 2002

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 609 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 609

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 5063) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, with the Senate amendments thereto, and to consider in the House, without intervention of any point of order, a single motion offered by the chairman of the Committee on Ways and Means or his designee that the House concur in each of the Senate amendments with the respective amendment printed in the report of the Committee on Rules accompanying this resolution. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the committee on Ways and Means. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

The SPEAKER pro tempore (Mr. GUTKNECHT). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I might consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 609 provides us the opportunity to take H.R. 5063, with the Senate amendments, and to consider without intervention of any point of order a motion offered by the chairman of the Committee on Ways and Means or his designee. The motion provides the opportunity for the House to concur in each of the Senate amendments with the amendment that has been printed in the Committee on Rules report accompanying this resolution. The rule also waives all points of order against consideration of the motion to concur in the Senate amendments with amendments, and it provides 1 hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

Finally, Mr. Speaker, H. Res. 609 provides that the previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

Mr. Speaker, as we prepare to complete the work of the 107th Congress and take H.R. 5063 from the Speaker's table, there are a couple of items of importance that will be inserted in this vehicle that the House will now have the opportunity to support following the adoption of this rule.

First, the amendments provide for a full extension through March 31, 2003, of current funding and program rules in the Temporary Assistance for Needy Families program and the Child Care, Abstinence Education, and Transitional Medical Assistance programs.

In 1996, the creation of the Temporary Assistance for Needy Families program fixed block grants for State designated programs of time-limited and work-conditioned aid to families with children. It also created a mandatory block grant to States for child care for low-income families, funded through fiscal year 2002. While the first continuing resolution passed by the House in September extended these programs through December 31, 2002, the CR passed by the House this week further extended those programs through the date of January 11, 2003. Unfortunately, in terms of the feasibility of approving funding for these programs through January 11 of next year, it makes much more programmatic sense for us to provide funds to the States on a quarterly basis and therefore extend the funding and program rules through an entire quarter to March 31, 2003.

Second, the amendment extends federally funded temporary unemployment benefits of current recipients and those in high unemployment States through January of 2003. In brief, this amendment will extend unemployment benefits for up to an additional 5 weeks per individual by moving the cutoff date to February 1, 2003. I believe that the House and Senate will eagerly support this provision that provides supplementary weeks of employment benefits to over 800,000 persons across the United States.

Mr. Speaker, I urge adoption of the rule and the subsequent motion to be offered by the chairman of the Committee on Ways and Means.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Georgia (Mr. LINDER) for yielding me the customary half hour, and I yield myself such time as I may consume.

Mr. Speaker, I had hoped to come to the well today to congratulate my colleagues for crafting a measure in the nick of time that addressed the real need in the communities. But like the vast majority of the legislation emerging from the 107th Congress, this is a pitiful stopgap measure that in the end will benefit far fewer than the rhetoric from the other side of the aisle suggests. I wish the unemployed had the lobbying might of the credit card companies who are enjoying the consideration of a last minute bankruptcy bill that will hammer our most vulnerable constituents, or even the insurance companies at the moment being blessed with a last minute measure to absolve them of liability in the event of future attacks, but the unemployed do not have the attention of the majority party and we do not believe they ever will.

The measure before us today is woefully inadequate when it comes to addressing the needs of our Nation's unemployed workers. I would note that these are newly unemployed workers, those that have paid into the system in the event of an economic slowdown. Mr. Speaker, the economy has not hit a soft patch. It is in a recession. Moreover, the money these workers paid into the system is there. They are workers who paid into the system when times were good and are now in need when the economy is rough. Why put obstacles in front of working families that need this aid? Indeed, most of our constituents will not qualify for an additional 13 weeks of benefits in this bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are advised to turn off their cell phones.

Ms. SLAUGHTER. In my district close to 60,000 people remain unemployed due to a slowing economy. This measure will do little or nothing to alleviate the suffering of these families, and these statistics do not include the news this week that Eastman Kodak will cut 650 more jobs in my district or that Frontier Telephone will cut an additional 100 from its ranks almost immediately, before Thanksgiving Day.

In New York since the enactment of temporary Federal legislation in March of this year, the unemployed workers have been able to qualify for federally funded benefits which in New York can last up to 13 weeks, but this program is proving wildly inadequate for New York. Exceptionally large numbers of workers are running out of Federal benefits before they find new employment. The severity of the exhaustion problem reflects the State's shaky labor market, and I wish I could say that New York was alone, but my colleagues know better. The measure before us not only fails to make necessary improvements to the program, it fails even to extend the program in its current form. In the vast majority of States, it would provide no additional weeks of federally funded unemployment benefits to the workers who have already exhausted their regular, State unemployment benefits and cannot find work.

Under this proposal large groups of unemployed workers who will need additional weeks of unemployment benefits before job growth picks up would go without any further assistance. Between now and the end of January, an estimated 1.8 million jobless workers in need of assistance would fail to receive it under the majority plan.

This body could do much better. My colleague from New York (Mr. RANGEL) introduced legislation H.R. 5491 that would extend temporary Federal unemployment assistance for an additional 6 months through June 30, 2003. This measure would ensure that workers in every State are eligible for 26 weeks of extended unemployment benefits, and in States with high unemployment, like New York, workers would receive an additional 7 weeks of benefits. But it goes without saying that the measure before us today cannot be amended, and any meaningful consideration of the measure of the gentleman from New York (Mr. RANGEL) would be shut out under this rule.

I need to clarify another point for my colleagues. The House action report today indicates that Texas, New York, and California would be deemed "high unemployment States" under the chairman's bill, but according to the minority Committee on Ways and Means staff, that is not correct. The bill contains no expansion of the definition to allow States other than three, Alaska Washington, and Oregon, to qualify.

The problem with the current formulation which is fixed in the bill of the gentleman from New York (Mr. RANGEL) is that classification as a high unemployment State is based on the insured unemployment rate, which does not include long-term unemployment.

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Thus, workers who receive the 13-week extension provided for in last year's tax bill, over and above the initial 26 weeks, are dropped from the calculation. So the formula is not a true measure of the unemployment situation in a State. States with long-term unemployment that exhausted their benefits are simply out of luck.

Another provision of this measure represents a case of too little too late. The Medicare/Medicaid reimbursement provision purports to temporarily address the controversy surrounding physician payments, but our Nation's hospitals are left out of the fix. Again, many of my colleagues I suspect are hearing from hospitals about their critical needs, and this measure will not alleviate their struggles.

Mr. Speaker, if the previous question is defeated, I will offer an amendment to the rule. Unlike the language in the bill which indemnifies the administration if it chooses to adjust Medicare physician payments, my amendment both protects beneficiaries from the harmful effects of physicians dropping out of the program and guarantees a payment increase for physicians.

Other Medicare providers, including hospitals, home health agencies and nursing homes that provide essential services to seniors and the disabled would be helped. The amendment ensures that all these providers have the resources needed to continue caring for their beneficiaries. This is about a bipartisan initiative which includes the House Republican provider package from earlier this year.

Mr. Speaker, I urge a "no" vote on the previous question so we can offer this important amendment.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I had hoped that with the overwhelming Republican victory in the House and Senate and a Republican President, that this would be an ideal time to see whether or not we can at least ease the need for the partisanship we had had in the past and to see whether or not we could get some basic things done for the country and plan better for the future of how we are going to work in the Congress.

I guess the major thing that we have to do is just talk with each other and maybe not go through the process of having hearings and going to the committees and all of that formality, but at least to be able to alert people as to how you would like to close out this Congress.

So we are adding to the Military Tax Fairness Act, that no one could be against except communists, some pretty good measures. One is to give some relief to our stopgap extension for the funding of welfare. It is small. We do not know where we are going or what we are going to do, but there is no sense letting the poor folks suffer for our confusion, so moving on that at a later date makes a lot of sense since you could not complete it this year.

The unemployment benefit extension to me only gives relief to three States, Oregon, Washington and Arkansas, and does not come anywhere near acting as though we are addressing the ever-increasing unemployment, especially in my State; and I wish we would have done something with that.

I guess the major hurdle that we have to overcome, and one of the reasons why I am opposing the rule, is because no one has explained the creativity of how we are going to give assistance to Medicare physicians. I assume that Republicans on the Committee on Rules already know what this means; and just maybe, just maybe, they might explain how we can pay Medicare doctors and forget all of the other providers.

Now, it was explained to me that we do not have the money to pay anybody else and that the administration would pay the Medicare doctors, and if they did pay the Medicare doctors, that this would say that the administration cannot be sued. Now, I know some smart people are trying to figure this out.

First of all, I do not know who is going to sue the administration; but if you are giving them some type of amnesty for paying the Medicare doctors, then the same legal creative mind that is going to spare the administration for doing the right thing for paying the doctors should have them do the right thing to pay for Medicare, and we will not sue them; to pay for the nursing homes, and we will not sue them; to pay for the teaching hospitals, and we will not sue them.

So I do not know where we are going with this. But I would hate in the last few hours of this Congress to end up providing a fig leaf for the administration, when we know they are not thinking about doing anything illegal. So if they can do this without the Congress, let them do it and take care of the needs of the other people, because our hospitals are suffering; and I just do not know why we are rifle-shooting the Medicare physicians and just ignoring the health maintenance organizations and their needs.

So I expect as soon as I sit down that someone might explain this to me, and maybe, just maybe, we might be able on the previous question to change these things so we can leave together, not as Democrats and Republicans, but as a Congress who could not complete their work on time and is just trying to get something done that we are proud of when we go home.

But I think the best way to do this is to defeat the rule and to come back with something that I really think would make us feel a little more proud of who we are.

I thank the gentlewoman for this opportunity; and I look forward to hearing from the majority, especially now that the chairman of the committee, he has not spoken to me since we have been back, but I would like to take this opportunity to congratulate him and hope we can set a new tone here, and I think just by explaining why we are not suing the administration for just singling out Medicare physicians, when we ought to sue if they ignore the rest of the people that deserve some type of assistance.

Mr. LINDER. Mr. Speaker, the gentleman from New York said he wished somebody could explain it to him. I think somebody will.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding me time.

First of all, I want to thank my friend. This is, as we sometimes have to do at the end of a session, dealing with some mistakes that were made, both intentionally and unintentionally.

As far as the tenor for the welfare renewal, in the continuing resolution the language that was assumed to have fixed the problem provided by the appropriators does not, and what we are doing is making sure that the program at least extends through March.

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, I have no problem with that.

Mr. THOMAS. Mr. Speaker, reclaiming my time, on the unemployment, as the gentleman well knows, there is a cliff that is going to occur because of the expiration of the unemployment provisions on December 28. We have had debates about how long it should be and in what form it should be. This at least provides those who are getting the unemployment, who are expecting their 13 weeks, to be able to get the 13 weeks.

Mr. RANGEL. Mr. Speaker, if the gentleman will yield further, he did not go nearly far enough, but I could hardly vote against it. The interesting part is going to be this part.

Mr. THOMAS. Mr. Speaker, reclaiming my time, there is no guarantee that the administration will do anything. The difficulty in trying to move at this time those kinds of things that we call provider packages is that what is an appropriate provider package is in the eye of the beholder; and in trying to negotiate what it is that we are going to do, it is simply an impossibility.

What we are aware of is that in one particular approach, which is the physician reimbursement structure, plugged numbers were put in for 1998 and 1999. They do not accurately reflect the number of cases that physicians were involved with.

It is possible that the administration would change those numbers. There is no guarantee that they would change the numbers, but they are concerned that if they did go in and put actual numbers in place of plugged numbers, someone may entertain a suit to go back into the 1990s or the 1980s and say this number was not an actual number, and we want to sue you to make that change.

So all this provision does is provide legal protection, that if the administration does decide to make an adjustment, that is, use real-world numbers now known rather than the plugged numbers, they would not be subject to lawsuits if they did not make additional changes.

Now, that means that all we are doing is creating an opportunity for the administration to make a decision if they so choose to do so. That does not mean that this in any way adequately addresses the needs of many other providers. But there is no other provider group that the administration could make adjustments from plugged numbers to real numbers, as in this particular case. It requires the investment of money to be addressed to those various groups, be they hospitals, skilled nursing facilities, home health care or others.

This is not about providing money to fix one group's problem versus another; it is to create an atmosphere in which, if the administration chooses to do so, they would be able to do so, and the cost would then be borne by the administration, not by the legislative branch. When we come back then at the beginning of the next Congress, we would address, as we normally do, those provider groups for which we would have to provide the finances to assist them.

So all this does is put in place a legal protection, so that if the administration does choose to adjust those numbers, they would not be required through any kind of a court case to adjust any other number.

Mr. RANGEL. Mr. Speaker, if the gentleman would yield further, I do not doubt the good intent that the gentleman has in providing some moneyless way, some way that we do not have any financial obligation to pay for it, to give relief to the Medicare physicians. But I might suggest that you are opening up Pandora's box with hospitals, nursing homes, Medicaid. I do not know why you would just go to this, just because we have not been able to address the problems of the people that are waiting for help. All of these hospitals are calling Members all over wondering for what reason are we singling out Medicare physicians for what they might call special treatment. If Members are so sophisticated that they are going to say this is an entitlement that is completely in the hands of the administration and it is just a question of which numbers they are going to use, but we are now going to hold them harmless in case they make a mistake, then I really do not think that this is the way that we should go.

I had hoped, and I do hope, that this is the end of the type of procedure that we have that the minority finds out what you are up to when the bill comes out. But maybe we can conclude by taking this off the calendar, seeing what can be worked out and start getting ready to start the new Congress on a different footing. I think some of these things could be adjusted. But it seems like this is a monkey wrench in the whole darn thing.

Mr. THOMAS. Mr. Speaker, reclaiming my time, it sounds to me the gentleman is offering the classic argument of because it is not perfect, it should be opposed. It seems to me that if there is an ability to correct a mistake and that the administration simply wants legal protection to correct that mistake, that we ought to be able to do that.

If the gentleman says others are not being provided for adequately, I would be the first to agree with the gentleman; and that is the first order of business. But no one else can be taken care of unless we go through those weeks and months of negotiations of what a package should look like.

So I would simply say, in returning my time to the gentleman who was kind enough to yield it to me, if in fact using real-world numbers and providing the administration some legal protection from being sued because they did not do something else other than putting in real-world numbers is going to be something that someone opposes, it is amazing the point that we have come to.

If others could be resolved this way, we would be doing others. Just because this particular problem could be resolved and others cannot does not mean that one should be in opposition to resolving this particular problem.

We will deal with the others when it is timely and appropriate, because we will have to negotiate and put dollars on the table to solve other providers' problems. This is one in which the administration is merely asking for legal protection, and I think we ought to provide it.

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Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. McGOVERN).

Mr. McGOVERN. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in opposition to this rule. I would urge a "no" vote on the previous question.

Mr. Speaker, this bill was brought before the Committee on Rules in the dead of night without any committee consideration. I am on the Committee on Rules, and we in the minority did not have a chance to review the legislative language even before we reported this rule. In fact, there was nobody present in the Committee on Rules last night that could answer any questions about the substance of this bill and, for that matter, the other bills that were brought before our committee. I think that on process alone this bill should be defeated.

Now, the majority claims that this bill will prevent people from losing their welfare benefits, from losing their unemployment compensation, and will allow the administration to fix the reimbursement problem. That is a tall tale if I have ever heard one.

The extension of the unemployment compensation is minimal. Because of the weak language in the bill, the House will have to address these issues again in January. I suppose one could make the argument that this is better than nothing, but not much more than that.

The so-called physicians' reimbursement fix is not a solution. There are problems with Medicare that began with the implementation of the BBA-mandated cuts on October 1, 2002. The majority may claim that this bill allows the majority to fix the physicians' reimbursement deduction, but it does not directly fix it. Nor does it address the cut in reimbursements for home health agencies, nursing homes, hospitals, and individual medical services.

Mr. Speaker, this is a last ditch attempt of the majority to pretend like they are doing something for the American people but, quite frankly, the American people deserve much more than this.

Now, at the conclusion of debate on this rule, the minority will call for a vote on the previous question. If the previous question is defeated, we will offer an amendment that will include real relief from the BBA-mandated cuts.

This House should not adjourn without providing real Medicare relief, but this bill does not provide that relief.

So I would strongly urge my colleagues to vote "no" on the previous question, defeat the rule, and support real Medicare relief that will benefit all of our seniors.

Mr. LINDER. Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I want to remind my colleagues in the House that actually we passed a payer package to address the problems in the home health industry, the nursing home industry, the hospital industry, and the physician industry. We not only passed provider reforms, but we passed reforms that would be effective for 3 years so there would be stability in the medical community and our providers would be able to meet the challenges of this current period of difficulty with greater certainty. As to Medicare reimbursements in a period when malpractice insurance is rising by leaps and bounds, in a period when nursing costs are rising, when drug costs are rising, when blood costs are rising, it is really important for us to at least guarantee to our providers payment stability, as we did in the provider package that passed this House before the July recess and must do again before many months pass.

It is unfortunate that the other body has been unable to agree on a provider package and is still unable to negotiate on that package. If that were not the case, we would have a package before us here today.

As that is the case, it is extraordinarily important that we pass this clarifying language that merely clarifies current law, protecting against administrative review to the fiscal year calendar charges as well. So this is just a clarification of current law, and we believe that if that is done, the administration will be able to make adjustments as they have in many, many other instances. The fundamental problem is the underestimate of the number of Medicare patients that were going to move to the Medicare+Choice plans. Since not as many moved as were anticipated, those patients continue to see physicians. But we stopped paying the physicians for those patients.

So this is a very simple matter. It gives the administration just the opportunity to evaluate their own formulas and make similar kinds of reviews of them. It does not guarantee anything; it just assures that the current language that has worked in many situations in the past will have the opportunity to work at this time. And, of course, as my colleagues well know, physicians are declining to take additional Medicare patients; they are declining to even convert patients. And if, in fact, physicians do begin to participate, either fewer physicians or the current physicians at a lower level of participation, it will affect access to hospitals for our senior citizens and access to office care.

So it is a very important matter for our big medical centers as well as for our smaller hospitals and for our physicians; in other words, for seniors' access to health care, that we pass this bill this evening. And in addition, of course, it does extend unemployment compensation benefits after December 31, and that alone should be cause for the support of my colleagues. It also makes a more rational extension of TANF and therefore will allow the States to go forward and get their quarterly allocation to maintain a consistent program over the next quarter.

Again, this House passed a TANF reform bill many, many months ago, and if the other body had acted, we would not be in the situation we are in this evening. I urge support of this limited but important legislation.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, I support H.R. 5063 with regard to unemployment extension and the TANF measures, and I agree that we need to address the problem facing our Nation's physicians. But there are other health care providers who are in just as dire straits, hospitals, home health, nursing homes and others.

We have in Tennessee, particularly in the rural areas now, hospitals operating in the red, laying off nurses; we have elderly citizens that cannot get home health care services. What we are trying to do when asking for Members to vote against the previous question is to allow us to bring up a bill, H.R. 5729, that includes the package of provider reimbursements or provider help that the Republicans passed in H.R. 4954 earlier this year and is within the budget. This seems to me to be imminently reasonable and fair to all of the providers across the board. It recognizes that we have a serious problem in the country.

Should we be able to defeat the previous question, we would then be able to insert into this procedure the House-passed bill, H.R. 4954, with the provider package for all health care providers.

I would urge as we debate this that we do that and point out that we in no way are trying to jeopardize the passage of the provisions with regard to unemployment and TANF that are in here and that are necessary, nor the physicians, but to recognize that people other than physicians in the health care delivery industry in this country are in just as dire straits, and it seems to me to be an imminently reasonable thing for us to do.

Mrs. JOHNSON of Connecticut. Mr. Speaker, will the gentleman yield?

Mr. TANNER. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Speaker, if we followed the course of action that the gentleman is suggesting, and no one would like to do that more than I; I think we have to address all of these issues; that is what we did in the payer package and that is what we have to do in the beginning of January. But if we follow the course of action the gentleman is suggesting, the Senate simply will not go along and then we will leave this place with nothing done.

The physicians uniquely suffered a 5 percent cut last year, and if there is anything we can do to enable the administration to follow ordinary administrative procedures to prevent an additional cut, we should do it. We do not know this will work, but we do know, because we have been trying, that the Senate will not agree to a package and we have not been able to negotiate that package.

So if we follow the gentleman's proposal that we come back with his package to recommit, they will just not accept it, and we will be nowhere. That is what has happened ever since July. Since July, we are nowhere, even though we did our part. We passed a payer package. If they had sent anything over, if they had sent the merest dribble over, we would be able to negotiate a package. I am sorry to have taken the gentleman's time.

Mr. LINDER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Iowa (Mr. GANSKE).

Mr. GANSKE. Mr. Speaker, in Iowa, the pediatricians, the obstetricians, the family practitioners rank 47th, 48th and 50th in terms of reimbursement for Medicare. With the cuts in physician payments, many of them are making decisions not to accept any new Medicare patients, and many are actually making decisions to drop out of Medicare.

This comes about because there was a faulty formula for a couple of years, and what we are dealing with now is the opportunity to at least allow the administration to look at this. This does not mean that other providers will not be taken care of in a package. But we tried to put together a balanced package earlier in the year when we were dealing with prescription drugs, and we just did not get it done in the other body in order to go to a conference to work it out.

Just because we cannot do everything, as has already been stated, does not mean we should not do something or at least allow the administration the opportunity to do that. This is not unique to Iowa. We are seeing this in many, many other places around the country. This is a result of a flawed formula, and it would be my plea to my colleagues on both sides of the aisle to allow this minimal provision to simply prevent a lawsuit from occurring from a disaffected other provider group.

I would make an argument that if the administration would do something on this, that it would actually be to the benefit of the other provider groups early next year, because it actually removes one of the players from the table and, I think, then increases the bounty on that table for the other providers. This is a rather unique situation and I would ask my colleagues to support the rule and also the bill.

Finally, since this will be the last time I speak on this floor, I just want to thank my colleagues from both sides of the aisle. I have made a lot of friendships here in the House and I will treasure them forever.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I want to make it very clear that I support the bill before us today, but I urge opposition to the previous question for the reasons of which the gentleman from Tennessee amplified on a moment ago.

The frustration that many of us have felt over the last 6 months, as the gentlewoman spoke of a moment ago about the Senate, the time is limited now in which this body can blame the other body for not acting. Unfortunately, the bill before us is not going to get acted on either and yet we are going to set up one last time in which we are going to have the blame game in which we can point to somebody else for us not doing our work.

If the previous question is voted down, then we can take care of nursing homes, hospitals, home health care, and other health care providers exactly like the majority side said we should do it that was included within the budget this year. Nothing changes regarding what was passed in the House if we vote down the previous question.

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All of the good things in this bill, all of the other things are in. It has just as good a chance of passing as the simplified, watered-down bill we have tonight.

It is unfortunate we have gotten ourselves into this position; but we have, for all the reasons, many of which were very successful politically. But that does not help the rural hospitals in my district. That does not help the one-third of the nursing homes in the State of Texas that are now in bankruptcy, and another one-fourth that are hanging on bankruptcy if we do not act, and act sooner, not later.

Excuses and finger-pointing are not going to get the job done. All we encourage is a vote against the previous question so we can send the package to the Senate, to the other body, that will do exactly what the majority wanted to do and a lot of folks on this side of the aisle also wanted to get done.

But Members should not deceive themselves that they are going to accomplish this with a finger-pointing exercise today. I encourage a vote against the previous question, allow the Tanner amendment to then come immediately back with everything, and then let us see whose fault it might be.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I thank the gentlewoman from New York for yielding time to me.

Mr. Speaker, it is really nice that we can end this session with one more act from the Republican economic follies. I mean, this is the craziest piece of legislation I have ever seen, and this rule is an amazingly stupid rule.

They bring a bill out here for equity for the veterans, right? Oh, well, now we are here, let us throw a little something on for the doctors. While we are here, let us throw a little something on for unemployment.

We had extended hearings on this issue. Our committee went over and over again and heard about all the problems. Like heck we did; there were no hearings. They come out here with Band-Aids again, and everybody on this floor knows this bill is going to die. This is nonsense. It is not going to go over to the Senate and be accepted. But as my dear friend, the gentleman from Texas, said, they want to play the blame game.

Now, unemployment is a serious issue. What they are doing in this bill is not going to fix the unemployment problem. I will give chapter and verse when we get on the substance. But the fact that they will not allow us to put any kind of amendments up here is the reason why this bill is no good, and it is what they have been doing for a whole year.

They have known that the doctors were being taken around the corner and beaten up for 5 percent. They have known that for 9 months. They are not smart enough to put together something with the other side to get it through. Now here they are at the last day and saying, well, Thanksgiving is coming, Christmas is coming, send them another package; but they are not putting any stamps on it. It is never going to get through this place.

That has got to stop. These are issues that affect Democrats and Republicans; it is not partisan. Doctors, rural hospitals are Democrat and they are Republican. As long as they try and fix the problem by coming out here and slapping one, two, three Band-Aids on to fix what they should have done, it will not work.

The unemployment bill was badly written in the first place, and we begged them to come and do something about it. What do they do? Extend it for another 5 weeks. They say, well, another 5 weeks. The long-term unemployment in this country is going up dramatically. We ought to vote this rule down and write a decent one.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say that is one of the gentleman's more interesting bits of prose. I suppose there is a kernel of thought lurking in it, but I did not detect it.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, the Republican leadership has taken care of their colleagues in the Congress. There is going to be a tidy COLA made available to Members of Congress that will far exceed 6 months' worth of unemployment benefits for most Americans. In this bill, all they could find room for was a 5-week extension.

I have to admit, coming from the State of Oregon, with the second-highest unemployment rate in the Nation, with 2,500 people a week exhausting their benefits, that that is better than nothing. Those families now know that through Christmas and the holidays they will not be totally cut off. However, it creates an incredible amount of uncertainty for those families come the end of January.

We cannot do better than that? We can give ourselves a COLA for 12 months that far exceeds any benefits they can ever expect under unemployment, but somehow we cannot give them the certainty of another 26 weeks? I do not understand that. I really do not understand that position in this House. Why are we so stingy when it comes to working people, and so generous when it comes to insurance companies and the pharmaceutical industry? It might have something to do with who funds our campaigns.

This provision of this bill is essential, but it is nowhere near enough. Congress will be immediately confronted upon returning in early January with the issue of further extending unemployment benefits and, hopefully, adopting an effective economic stimulus package.

We simply need to put America back to work. We have a trade policy that is exporting jobs, and we are being told that trickle-down will help stimulate the economy and put people back to work; but my people are tired of being trickled on. They need Federal investment. We need something that puts them back to work.

We are holding back money from the Highway Trust Fund. That will put people back to work. We cannot get a bill passed to deal with the forest fire projects which could put people back to work in the woods. We do not have time for that, but we do have time for some other special shenanigans around here.

Mr. Speaker, I will support the legislation; but I bemoan the fact that Congress sees fit to take care of itself first, its contributors second, and the working people of America last in a very, very, very cursory way that is only temporary.

Mr. LINDER. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. WU).

Mr. WU. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, thousands and thousands of Oregonians who have worked hard, played by the rules, frequently gotten a good education, and worked hard all their lives are currently without work. Many of them will be losing their unemployment benefits on December 28.

The legislation before us is hardly a perfect piece of legislation, but it will get a lot of folks over the hump until we can come back to this piece of legislation in the new congressional session. I hope that we will be able to do that.

I have legislation before this Chamber, H.R. 5731, which would not only extend the unemployment assistance benefit program, it would also extend the period of time in which any individual could receive assistance. I think that is a very necessary step to take at this point.

There are two kinds of folks, at least, who are hurting out there. I have seen so many of their faces as I have gone around communities in Oregon and in my town hall meetings. They are people who have exhausted their benefits, their 26 weeks' worth; and they are folks who, without an extension of this program, would not receive any assistance whatsoever. We need to help both groups, and I hope that we are able to come back in the new Congress and address the needs of both groups.

However, tiding one group over through the holidays I believe is a necessary step. I do intend to support the legislation.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I thank the gentlewoman for yielding time to me, and I thank her for her leadership in this matter.

Mr. Speaker, I agree, we should fix the physician fee schedule. We tried to fix it. We offered a pretty good one in the bill that was passed in this body earlier this year.

I can tell the Members this, this bill does not go far enough. Rural hospitals, nursing homes, long-term care facilities, and home health agencies are all in trouble in rural America. Our rural health infrastructure is crumbling. We suffer from a lack of nurses, doctors, skilled medical professionals.

We are losing the ability to provide health care to Medicare recipients because the reimbursement rates are so low, not only to the doctors but to the hospitals and the other providers. Rural hospitals in my district are struggling to keep their doors open and at the same time provide health care to our people.

It is time that we face this problem, deal with it in a responsible way, and stop playing the games that are being played like we are doing here tonight. We just passed a bill yesterday that reduces the amount of money that is spent on road construction, which does not make any sense at all. If there is one thing we know that helps the economy, it is constructing highways. It gives us not only immediate jobs, but long-term benefits. We are playing all these games with the American people.

I hope that the people that are supporting this today have to go and face these people that do not have any health care 2 years from now.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, if the previous question is defeated, and we will call a vote on that, I am going to offer an amendment to the rule. Unlike the language in the bill which indemnifies the administration if it chooses to adjust Medicare physician payments, my amendment both protects beneficiaries from the harmful effects of physicians dropping out of the program, and guarantees a payment increase for the physicians.

Other Medicare providers, including hospitals, home health agencies, and nursing homes also provide essential care to seniors and the disabled. The amendment ensures that all these providers have the resources needed to continue caring for the beneficiaries. This is a bipartisan initiative which includes the House Republican provider package from earlier this year.

Mr. Speaker, I urge a "no" vote on the previous question so that we can offer this important amendment, and ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question.

The SPEAKER pro tempore (Mr. GUTKNECHT). Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will agree that this is not the best we can do, but it is the best we can do at this hour. I would agree that it is perhaps true that the other body may not take it up and pass it, just like they have not passed other things we have passed. This bill going over there unpassed will have lots of company, but it is trying to do the right thing. It is trying to help with unemployment, it is trying to help with TANF, and it is trying to help with reimbursement. It is worth our consideration.

I urge this body to pass the previous question, to pass the rule, and I will support the underlying legislation.

Mrs. CHRISTENSEN. Mr. Speaker, although I have many problems with this bill, including the limited extension of unemployment, as well as the lack of relief for all providers of Medicare, I rise to support the rule and the underlying bill because this short extension is better than nothing, and it is likely all we can get right now.

I also support the bill and the rule because it addresses another very important issue affecting health care for countless Americans. It does what I have always thought was possible anyway, which is to clarify the authority of the Administrator of Center for Medicare and Medicaid Services to reverse the cuts, and hopefully revise the way provider payments for physicians are determined.

This is not a perfect solution, because Congress should have reversed the cut once and for all, but it may also help set a precedent for issues such as this in the future.

There were many measures I hoped would be passed and issues addressed in a lame duck session this year, and reversing the cuts in Medicare provider payments was one of the important ones. Health care providers have borne 4 cuts over the past 10 years and another cut is expected within two years. This Is in addition to the fact that the payment schedule, which barely allows doctors to keep their office open, was erroneously determined. This administration and CMS are forcing good doctors and other providers out of practice and denying quality health care to increasing numbers of Americans.

We have a lot more work to do to fix this broken health care system in this country, but because we are leaving to go back home tonight, we cannot do it now.

I hope my friends in the majority will commit themselves to doing more than this band aid fix when we return next year.

The text of the amendment previously referred to by Ms. SLAUGHTER is as follows:

At the end of the resolution, add the following:

Sec. . Notwithstanding any other provision of this resolution, the first amendment printed in the report of the Committee on Rules shall be modified by adding the text of H.R. 5729.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. LINDER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 207, nays 198, not voting 26, as follows:

[Roll No. 479]

YEAS—207

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiberi
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—198

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blumenauer
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—26

Baldacci
Barcia
Blagojevich
Boyd
Callahan
Combest
Condit
Cooksey
Diaz-Balart
Doolittle
Ehrlich
Grucci
Hooley
Houghton
Kleczka
Lewis (GA)
Lipinski
McKinney
Nethercutt
Oberstar
Roukema
Sensenbrenner
Stump
Tiahrt
Toomey
Weldon (PA)

□ 1841

Messrs. OWENS, RODRIQUEZ, MEEKS of New York, JEFFERSON, and DELAHUNT changed their vote from "yea" to "nay."

Mr. NUSSLE changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 245, noes 137, not voting 49, as follows:

[Roll No. 480]

AYES—245

Aderholt
Akin
Andrews
Baca
Bachus
Ballenger

Barr
Bartlett
Barton
Bass
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Castle
Chabot
Chambliss
Clayton
Clement
Coble
Collins
Costello
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeLay
DeMint
Dicks
Dingell
Dooley
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Eshoo
Evans
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Gonzalez
Goode
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hill
Hilleary
Hobson
Hoekstra
Holden
Holt
Horn
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCarthy (NY)
McCrery
McHugh
McIntyre
McKeon
Menendez
Mica
Miller, Dan
Miller, Jeff
Moore
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Ortiz
Osborne
Ose
Oxley
Pastor
Paul
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ryun (KS)
Saxton
Schaffer
Schrock
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Tiberi
Turner
Udall (CO)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—137

Abercrombie
Ackerman
Allen
Baird
Baldwin
Barrett
Becerra
Bentsen
Berman
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Capps
Capuano
Carson (IN)
Carson (OK)
Clay
Clyburn
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Doggett
Doyle
Engel
Etheridge
Farr
Fattah
Filner
Ford
Frank
Green (TX)
Gutierrez
Harman
Hastings (FL)
Hinchey
Hinojosa
Hoeffel
Honda
Hostettler
Inslee
Jackson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, George
Moran (VA)
Murtha
Napolitano
Neal
Nussle
Obey
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Peterson (MN)
Price (NC)
Rangel
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (NM)
Velázquez
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—49

Armey
Baker
Baldacci
Barcia
Blagojevich
Bonior
Borski
Boyd
Callahan
Combest
Condit
Cooksey
Crane
Deutsch
Diaz-Balart
Doolittle
Ehrlich
Gephardt
Gillmor
Goodlatte
Grucci
Hansen
Herger
Hilliard
Hooley
Houghton
Keller
Kleczka
Larsen (WA)
Lipinski
Luther
McInnis
McKinney
Miller, Gary
Mollohan
Nadler
Norwood
Oberstar
Otter
Radanovich
Roukema
Ryan (WI)
Sensenbrenner
Simpson
Stump
Tiahrt
Toomey
Watson (CA)
Weldon (PA)

□ 1852

Ms. HARMAN changed her vote from "aye" to "no."

Ms. BERKLEY changed her vote from "no" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GOODLATTE. Mr. Speaker, on rollcall No. 480 I was inadvertently detained. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. TIAHRT. Mr. Speaker, today November 14, I was unavoidably detained and missed two rollcall votes numbered 479 and 480.

Rollcall No. 479 was a vote on ordering the Previous Question concerning the Rule for H.R. 5063. Had I been present, I would have voted "yea."

Rollcall No. 480 was on passage of H. Res. 609, the "Rule Providing for Consideration of the Armed Forced Tax Fairness Act of 2002." Had I been present I would have voted "yea" on H. Res. 609.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H. CON. RES. 507

Mrs. JONES of Ohio. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H. Con. Res. 507.

The SPEAKER pro tempore (Mr. ISAKSON). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

REDUCING PREEXISTING PAYGO BALANCES

Mr. NUSSLE. Mr. Speaker, pursuant to House Resolution 602, I call up the bill (H.R. 5708) to reduce preexisting PAYGO balances, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 5708 is as follows:

H.R. 5708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Reduction of Preexisting PAYGO Balances.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall reduce any balances of direct spending and receipts legislation for all fiscal years under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero.

The SPEAKER pro tempore. Pursuant to House Resolution 602, the gentleman from Iowa (Mr. NUSSLE) and the gentleman from South Carolina (Mr. SPRATT) each will control 30 minutes.

The Chair recognizes the gentleman from Iowa (Mr. NUSSLE).

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

I rise in favor of the bill before us, H.R. 5708. It is a bill that would prevent the automatic spending cuts in Medicare and other entitlements.

Under the Budget Enforcement Act of 1990, entitlement and tax legislation must be offset on a year-by-year basis. We do this so that it will not increase the deficit or reduce the surplus. If such legislation is not offset, then automatic spending cuts, often called a sequester, are triggered in selected entitlement programs, including Medicare. This so-called pay-as-you-go rule, or what we refer to around here oftentimes as PAYGO, expired at the end of September; but the Office of Management and Budget is still required to trigger a sequester for previously enacted legislation.

On various occasions during which the Federal Government was running large surpluses, this Congress saw fit to depart from the PAYGO rule for selected measures. This was the case with the tax bill enacted last year. Similarly this year on both sides of the aisle, we have promoted initiatives to provide prescription drug benefit coverage under Medicare, and we also did so without offsetting entitlement cuts or tax increases.

But as we know, last year's recession and the shock of the terrorist attacks are still affecting our economy and have changed the budget outlook considerably. As a result, these and other such measures could trigger what we refer to as a PAYGO sequester several weeks after the Congress adjourns. Should we fail to enact this bill, the Office of Management and Budget has estimated that Medicare and other entitlements should be reduced by almost $125 billion in fiscal year 2003. Given various rules that exempt certain programs from sequestration, or that limit the size of any sequester, the maximum sequester would still be substantial, about $31 billion, all of which would have to be absorbed in 1 year.

The magnitude of these cuts would be so great as to cause a 4 percent reduction in certain Medicare payments and cuts ranging in the billions in such key programs as crop insurance, the Department of Defense health fund, payments to States for child support enforcement, veterans education and readjustment, and the September 11 victims compensation fund. With the other body unable to pass even a budget this year, we were obviously unable to reach an agreement on legislation to extend PAYGO and other budget rules. It is my hope that this can be done next year as part of a normal budget process.

I would close by reminding our Members and colleagues that the PAYGO rule contributed to the taming of deficits over the past 7 years, and it is my hope that a successor to PAYGO can be developed and coupled with caps on distressary appropriations.

Mr. Speaker, in short, what this bill does is prevents automatic spending cuts in Medicare and other entitlements. As we know in years past, particularly in years of surplus while the PAYGO rule was used, it was not a perfect rule because it suggested that tax cuts and entitlement reforms go on what we call the PAYGO scorecard. Every year in a very routinized way, the last bill has taken care of this concern in years of surplus. That would have been the intention this year. However, this controversy looms as a result of the fact that we have had this triple budget threat of a downturn in the economy, the terrorist attacks, and the war on terrorism.

Mr. Speaker, I believe all of us want to avoid Draconian cuts to Medicare and to other entitlements or to prevent tax increases in order to pay for this during a time of recession. What we need is a plan, and we have a plan. The House passed a plan. The President has endorsed that plan. If we stick to that plan, we can get back to surpluses, we can get back to fiscal discipline. But in the meantime, let us take this ministerial opportunity to take care of this unfortunate situation so that we can avoid something automatic happening while Congress is not in session.

Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. STENHOLM).

□ 1900

Mr. STENHOLM. Mr. Speaker, a year ago the Blue Dogs warned about the danger of making long-term commitments for tax cuts or new spending programs. We were concerned that the projections were based on unrealistic assumptions and that the projected surpluses could vanish as quickly as they materialized. We were concerned that the large tax cuts and increased spending would drive up the deficit and the national debt. Our warnings were ignored, and now we are told we will be borrowing virtually all of our Social Security surplus for the next decade and beyond.

After passing legislation that would rack up an additional debt of $127 billion next year alone, Congress is considering legislation that would wipe the slate clean to remove all those costs from the ledger. The bill before us wipes the slate clean not just for this year and next year but for each of the next 5 years, allowing us to avoid responsibility for legislation adding over $550 billion in new national debt.

I do not want to cut Medicare or veterans benefits, farm assistance, or child support enforcement. However, we object strongly to clearing the scorecard for the next 5 years, which allows Congress and the President to ignore the impact of legislation that will increase the deficit for the next 5 years without working to plan to stem the tide of red ink.

I agree with what the gentleman from Iowa (Mr. NUSSLE) said a moment ago. This is not the time to be talking about spending cuts or tax increases. I agree. But why not in 2004, 2005, 2006, 2007, and 2008? Why do we feel compelled tonight to say we are going to wipe the slate clean for the next 5 years when we have constantly and the motion to recommit tonight will allow us to do just that? The motion that the gentleman from Kansas (Mr. MOORE) will offer will say we do not object to wiping the scorecard clean for 2002 and 2003. Obviously 9/11/01 has made a big change in the economics of this country. But let us sit down in the next Congress and let us work out the details of how we are in fact going to deal with these exploding deficits. Let us not exempt new tax cuts or new spending increases from the hard decisions that this body should be trying to make in order to bring our budget back under control. That is what we object to. I do not understand the rationale of why we need to do this for 2004, 2005, 2006, 2007, and 2008. And I would be glad to yield to the chairman if he could answer that question because he made a very compelling argument a moment ago of why we should not do it now.

I do not want to cut Medicare right now. In fact, we need to do just the opposite. We do have to recognize the rationale of the situation we are in today, but why do we want to do it for these outyears? I do not understand that.

Just yesterday Federal Reserve Chairman Alan Greenspan reiterated the importance of restoring the budget enforcement rules for the Federal budget. We should not ignore the chairman's request of this body. "It's important for Congress and the administration to have a long-term budget structure which we continuously update and evaluate so that we have a mechanism to make judgments . . . relative priorities within the overall budget choice process or with respect to the economy . . . we need to get the process back to where it was. We need to reestablish the basic caps on discretionary spending, on PAYGO, introduce new things like triggers or other things which give us a vehicle to function with."

I believe the chairman has agreed with that in the past. I certainly do. Earlier this year Chairman Greenspan told the Committee on the Budget that failing to preserve budget enforcement rules would be a grave mistake. Tonight we are about to do just that. We are about to make a grave mistake saying we are going to waive all PAYGO rules, all discretionary caps, everything for the next 8 years in order to do what? Accomplish somebody's political agenda? Or are we going to seriously roll up our sleeves in the next Congress and deal with it?

Vote for the motion to recommit. Let us wipe the PAYGO slate clean for 2002 and 2003. Wipe it clean. We all will agree, but do not do it for 2004, 2005, 2006, 2007, 2008. That will not be a fiscally responsible thing for this House to do.

Mr. NUSSLE. Mr. Speaker I yield myself such time as I may consume.

Mr. Speaker, while I certainly enjoy the philosophical discussion of budget process and budget enforcement with maybe the best of them, the fact of the matter is that this is a real vote and you are either going to vote yes to prevent automatic sequestration of Medicare or you are not. It is either a vote to allow OMB, or not even allow, to force OMB for automatic sequestration of Medicare or you are not. So a vote in favor of this bill prevents Medicare cuts. A vote against this bill or a vote even for that matter for the motion to recommit allows Medicare cuts, and it is that simple.

So we will have a lot of time to talk about budget process for many years, weeks, months to come, but the fact of the matter is that this is a real bill. It has real consequences, and therefore it should be passed.

Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Speaker, I would like to respond to the comments just made by the chairman of the Committee on the Budget. It is correct to say that probably every Member of this body is opposed to cutting Medicare spending to fund the effects of the tax cut whose size in retrospect was way too large given the condition of the economy and the cost to our country of maintaining security at home and abroad, but there is another point involved here in the motion to recommit, and this is what we need to debate.

We are not cutting taxes tonight or spending money. We are engaged in accounting. We just spent a year preaching to corporate America about the need to be open and honest to shareholders and investors and to the public about admitting when they were in deficit and doing the math correctly, and here we are tonight in direct defiance of that principle because what we are voting upon is whether we are going to be honest first with ourselves and then with the American people that we are in deficit spending and in balance only because we are relying upon the Social Security Trust Fund. Every Member of Congress who went home the last campaign campaigned upon fiscal responsibility, the virtues of balancing the budget and paying down the debt, and there are many Democrats and some Republicans that increasingly will argue for that. It has had benefits in terms of interest rates. It has benefits in terms of preparing Social Security and Medicare for the retirement of the baby boomers. One of the key principles that brought Democrats and Republicans together to balance the budget was the principle of pay as you go because pay as you go has meant, until today after this vote, that if you want to increase spending, Medicare or other discretionary spending under formulas or programs, or if you wanted to increase taxes, you had to pay as you go. You had to consider the impact that would have on the balanced budget, growing the deficit.

Tonight we are throwing those rules out. We are saying for the next 5 years, whether it is increased spending or additional tax cuts, we do not care what impact it has on the size of the deficit. We are going to dig deeper.

Let us think back to the things we said to corporate America and what we promised the people we represent. Let us have a direct, open, and honest debate tonight. Let us admit to ourselves we made a mistake in terms of the size of the tax cut. We need to come straight with the American public. It starts by coming straight with ourselves. Let us reinstate PAYGO starting the year after this. Let us vote for the motion to recommit because what the motion to recommit says, and my colleagues are going to hear this over and over again, is let us commit, let us make the President commit to a plan to get back to a balanced budget, to stop relying upon the Social Security Trust Fund. The motion to recommit says it is not going to happen tomorrow. We have got security problems we need to deal with. We have got funding at home we need to deal with, but we need to have a plan, and we need to be honest with the folks at home just as we said to corporations across America, we have got a problem, we have got a growing deficit and we are going in the right direction and not the wrong direction. It starts by reinstating the PAYGO principle. I would ask my colleagues, Democrats and Republicans, that care about fiscal responsibility and the growing budget deficit to vote for the motion to recommit.

Mr. NUSSLE. Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I want to thank the gentleman from South Carolina (Mr. SPRATT) for yielding me this time.

Mr. Speaker, I think that I want to caution my friends on the Democratic side do not get excited. You guys understand this President is in total control of this country, and he lied to us about taxes and now it is coming home to roost. Do not get exercised because you have got to save your voice. We are going to have 2 years of this stuff where they can do anything they want. This bill is simply giving them the keys to the hen house. The fox has now got it. He has got votes in the Senate, got votes in the House, and the President is going to send up stuff here and he does not have to balance any budget anymore.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). The Chair would respectfully rule that the gentleman not make such personal references to the President of the United States. The gentleman may proceed in order.

Mr. MCDERMOTT. But you all understand where it is coming from, do you not? I mean it is not falling out of the sky. This is a concentrated effort, and what they wanted to do was they wanted to give all those taxes away so there would be no money to deal with social programs, and now it happens and they are suddenly afraid. They were fools before. They were saying, well, you can give it all away and we do not have to worry. We will just stiffen our spine and when the people come in here begging, we will send them away. Then they suddenly found out that the people coming in here were veterans.

I mean we are going to war. We are going to create a whole bunch more veterans. Are we going to take care of them? Go to my veterans hospital and you will find out what they are doing right now. Or poor people, of course they do not count anyway. So never mind. Let them yell all they want. And education, well, what do we care about stooges? Let them pile on some more debt.

This is a blank check to the executive branch to write and spend endlessly. And an unfortunate chairman of the committee has to come out here and defend this all by himself. No one will come here and speak with him. He is the only one. They put him out there and they said you are the chairman, you go carry this and just take the lumps, it will not make any difference because down at the White House we will write up some stuff and we will spend on war, we will spend the $200 billion going to war in Iraq over the next 10 years. That is no problem. We can find that anywhere.

Let us see what else we can find. Oh, we have got to have that insurance for terrorism. Of course that will not cost anything. And in this bill that is coming up next they have got additional money for Medicare. Do my colleagues know what they did? They went down to CBO and they said CBO, do not score this, do not show it cost anything, so they can bring it out here and they can say it does not cost anything, CBO says there is no scoring.

I mean this game is rigged, and you are watching this game be rigged right in front of your eyes. This will be when you come back and want to balance the budget and you look for some rules, you gave them away on whatever this is, the 15th of November. Vote for the recommittal.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

Again for the benefit of the Members, a yes vote is to follow the budget, follow our plan that we have put in place, and a no vote cuts Medicare, crop insurance, military health, child enforcement, veterans education, and the victims of September 11. It is that simple. Again, these are good discussions, nice philosophical arguments, but the facts are still the facts. If you vote for the motion to recommit, you are cutting Medicare. If you vote yes, you are allowing us to continue to follow the budget plan that has been put in place.

Mr. Speaker, I continue to reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield myself such time as I may consume.

Let me make clear that the motion to recommit will wipe clean the scorecard, $125 billion on the scorecard this year. It will wipe it clean for 2003. It will only apply to the future and it will only require that the President give us a budget which shows some light at the end of the tunnel, a balanced budget by 2008. So for this year and next year, it will allow us the freedom of movement without being concerned about it.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

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Mr. BENTSEN. Mr. Speaker, this will probably be the last legislative item that I will debate in my House career; and it is ironic that, given that when I came here as a Member of the House we heard about how we had deficits as far as the eye can see, and, in fact, even before that when I was a member of the staff of this body back in the 1980s we went through a quadrupling of the national debt and we went through Gramm-Rudman I and Gramm-Rudman II, and we never could seem to get a handle on the deficit until 1990 with the Budget Control and Enforcement Act, and we imposed PAYGO and spending caps. Then we extended it in 1993. Then when I got here the Republicans extended in 1997. Then, lo and behold, we got control of the deficit, and we began to argue about how much public debt we could pay down.

Now, in the age of deficits again where we are going to have a $200 billion deficit in the current fiscal year, apparently, we are going to repeal all the rules. We might as well repeal the Unified Budget Act and go back to the pre-68 rules when we do not know what the real budget is, the Committee on Appropriations can spend what they want to, the Committee on Ways and Means and Energy and Commerce committee can spend what they want to, and at some point, at some point, the American people will pay the tab.

I am afraid that is where we are heading with this. I do not think this is where the chairman wants to go, but I understand he has to follow his orders. But how ironic, coming in when it was deficits as far as the eye can see, and we had a chance to pay down the debt and we started to do it, I leave on a note where once again it is deficits as far as the eye can see; and we are not doing anything to correct it. In fact, we are stepping on the gas to make it even worse.

I think we are going to regret this day for a long time when we see our national debt balloon far beyond anything this country has ever seen before, and I do not think there is any Member of this House who has an idea of how they are going to deal with it, particularly if they do this today. So I hope we will defeat this really unsatisfactory piece of legislation.

Mr. NUSSLE. Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 4 minutes to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of the motion to recommit, which our distinguished colleague from South Carolina (Mr. SPRATT) will be offering.

Today's vote represents a fork in the road of Federal budgeting. We must decide whether to continue down the path of deeper budget deficits or to take those first difficult steps toward returning to a balanced budget.

The pay-as-you-go rule expired at the end of fiscal year 2002. However, PAYGO sequestration for prior laws extends through 2006. These PAYGO rules, which were adopted as part of the 1990 bipartisan budget agreement, have been crucial to the progress that we made during the 1990s to go from record budget deficits to budget surpluses, surpluses that let us retire $400 billion in the national debt.

With the help of PAYGO and statutory limits on discretionary spending, we were able to improve the bottom line of the budget for 8 consecutive years, culminating in surpluses for fiscal years 1998 through 2000. Unfortunately, the 10-year, $5.6 trillion surplus that was projected less than 2 years ago has almost disappeared, and the budget has fallen back into annual deficit.

Now more than ever, it is essential that we reaffirm our commitment to the budget tools that can help us restore budget discipline and return the Federal Government to a balanced budget. That is why I am disappointed that the Republican leadership has decided to bring to the floor legislation that would eliminate PAYGO sequestration for all future years to which the law applies.

Mr. Speaker, no one wants across-the-board cuts to Medicare or veterans' education or child support enforcement or other domestic priorities; and contrary to the assertion of the chairman of the Committee on the Budget, the motion to recommit would do no such thing.

The Republican solution, that we ignore the long-term budget deficits facing our Nation, will not make them go away. We should not ignore our budget problems; we should work to solve them.

The Spratt motion to recommit would avoid domestic spending cuts by clearing the PAYGO scorecard for 2002 and 2003. But unlike H.R. 5708, the Spratt motion would require the President to submit a budget that achieves balance within 5 years, excluding the Social Security trust fund surplus, before clearing the PAYGO scorecard for fiscal years 2004 through 2006. The motion to recommit would, therefore, hold Republicans and the President to their professed goal of achieving fiscal balance and protecting Social Security revenues in the process. To avoid future across-the-board cuts, the President would have to reverse course and move the budget back into surplus.

Mr. Speaker, for several months we have been urging the President to hold bipartisan budget negotiations to chart a path back to fiscal control. It is well past time for the President to present Congress with a budget that acknowledges the new fiscal realities confronting our Nation. I urge my colleagues to vote for the motion to recommit and to take the first steps toward restoring fiscal discipline to the Federal budget.

Mr. NUSSLE. Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I thank my friend for yielding me time.

Mr. Speaker, this is not some type of rhetorical debating society we are having tonight or some philosophical argument. This is a group of Members who feel it is important enough to stand up in this body tonight to warn the American people about the disastrous fiscal course that this Congress and this administration have embarked upon, which is leading to exploding deficits again and an accumulation of a national debt at exactly the wrong moment in our Nation's mystery, when we have close to 80 million Americans, so-called baby boom generation, all marching lockstep to their retirement in a few short years; and the decisions that we need to make today to prepare the next generation to deal with that challenge are not being made. In fact, one of the fiscal disciplinary rules that has worked well to rein in spending, to maintain balance in our budgetary choices, they are seeking to waive over the next 5 years.

I think everyone agrees that this bill before us is a recognition of a failed budgetary policy of large tax cuts that were not paid for and new spending programs were not paid for. To avoid the inevitable across-the-board cuts with Medicare and veterans benefits and farm programs, we have to pass this legislation.

But I for the life of me do not understand why we cannot deal with the fiscal mess created this fiscal year, give them a little leeway in the next fiscal year, but then support a motion to recommit that calls upon the President to submit a balanced budget plan that leaves our hands and their hands off from Social Security surpluses in the following years so we have a chance to reverse the fiscal course that we have embarked upon.

What is different today than in the past is we do not have the luxury of the 1990s to bring the budget back into balance and to run surpluses to reduce the debt before the baby boomers start their retirement. It is now or never. We can be back next year having another philosophical debate, but at that time we are going to be much deeper in the hole; and I cannot think of anything more morally irresponsible than to leave the next generation with this mountain of debt for them to bail the country out of.

Mr. NUSSLE. Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, in 1990, President Bush, looking at runaway deficits, put his political career on the line, convened a bipartisan summit on the budget and produced some very important budget rules to get a handle on these out-of-control deficits. Perhaps the most important facets of those rules were pay-as-you-go requirements, requirements that if you spend more tax money, you have got to show where it is accounted for in the budget so you do not run the deficits deeper. If you cut revenue, you got to show where it is accounted for and reduce spending so you do not run those deficits deeper. Those pay-as-you-go requirements have been critical to getting us to a surplus.

Now we are once again dealing with another President and runaway deficits, and we are looking at a completely different response.

I have read with interest accounts of the majority in terms of their agenda for the Congress ahead: make the tax cuts permanent, add prescription drug coverage to Medicare. On the one hand you reduce revenue, on the other hands you increase spending. I am wondering how does all this add up? With this legislation we see they have no intention whatsoever of making it add up. They are going to do it on the deficit. They are going to run up the debt.

Now, the motion to recommit deals with every spending problem that the chairman has illustrated tonight, Medicare fraud programs, the like of it. But over the long term, can we not agree as Republicans and Democrats that this is not the decade to run government on the debt? Because next decade, as the baby boomers retire, expenses are inevitably going to go up, and go up significantly.

This will be the greatest self-indulgent act of the self-indulgent baby boom generation if we do not pay our way now and rely on the kids to bail out the debt that this will bring upon the country. There is not a family I represent that plans for their retirement by running up the debt with the hope that the children will pay for them in retirement. It is wrong for us to do it as a country. Let us reject this approach. Let us pass the motion to recommit.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the very distinguished gentleman who just spoke suggested that he read with interest our plan, and we all appreciate the fact that he did read with interest our plan. At least we have a plan to read. Since September 11, the Democrats in both bodies have yet to present a plan on how to deal with this.

We understand that you oppose our position. We understand that you oppose the President's plan. We understand that you oppose the direction that we have taken, and that is fine. You have a right to do so.

But I also believe if you are going to complain, you also need to propose; and as of yet, your side has yet to propose an alternative. That is why tonight we are forced to continue to go down the road that we are going, continue to follow the plan that we have put into place in the House, together with the President, and that is why tonight it is important for us to vote down the motion to recommit, which would not follow that plan, and allow this bill to pass so that we do not provide cuts in Medicare and crop insurance, which I know are important to the gentleman as well as to myself and our States, as well as to military health, child enforcement, veterans' education and the victims of September 11.

It is, again, not a philosophical discussion, as the gentleman from Wisconsin said. These are real issues that are going to affect people in a real way. We want to prevent the cuts from happening. As of yet, we see no plan on how to accomplish what you are demanding from the President, even from your side, not even an idea, not even a plan.

A few are bold enough to come down and say raise taxes. A few are bold enough to come down and say that entitlements should be increased. But, by and large, I have not seen anything that has gotten close to a majority of support from the Democratic side.

So I would suggest to the gentleman that while he reads with interest our plan, we wait with interest for yours.

Mr. SPRATT. I yield 30 seconds to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me time.

I would just say in response to my friend from Iowa, the question I had about the gentleman's plan is how we pay for it. I see the revenue cuts, I see the spending increases, and the question I had was, How is this paid for?

I believe that by eliminating the budget rules, as you do in this resolution, the answer is clear: you have no intention of paying for it. You will pay for it on the debt that you will pass on to our children.

We would propose in our motion to recommit another way. Let us at least agree that by 5 years from now, by 5 years from now, on a bipartisan basis, we will be having plans to get us to a balanced budget and stop the debt on our children.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman is asking how are we going to pay for it? We passed a budget. That is how we are going to pay for it.

But I guess my question is, How did you pay for your Medicare plan that you voted for which costs $1 trillion? How were you going to pay for that? Let me see here: POMEROY, POMEROY, why, my goodness, POMEROY is on here, without a budget. The gentleman from North Dakota voted for a plan that cost $1 trillion, and yet he has the audacity to come down and ask how I am going to pay for it?

Let me look at another one here. Let us see, tax cuts. Oh, I cannot believe the gentleman from North Dakota would have voted for tax relief. POMEROY. My goodness, he voted to reduce revenue, and he does not have a budget; and he comes down and asks me how I am going to do it?

The double standard here is amazing.

□ 1930

We have a plan. I know the gentleman does not like it. Fine. Vote no. That is fine. But realize that when the gentleman votes no tonight, he is voting no for seniors. He is voting no for farmers. He is voting no for folks who are veterans. He is voting no for people who rely on these programs. Go ahead and vote no. Knock yourself out. Have a great philosophical discussion. These are facts that the gentleman cannot avoid. That is what he is voting no on. So it is great that he gets to vote for these great programs, trillion dollar drug benefits that the gentleman does not pay for and tax cuts that are not paid for, but then he comes down here and complains about our budget. Come up with a budget, come up with a plan, come up with some ideas, and then come back and tell us why ours are wrong. Otherwise, just vote no tonight and suffer the consequences.

Mr. Speaker, I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 15 seconds to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I would just say back to my friend, the gentleman from Iowa, the issue is over 5 years, can we not agree we ought to balance the budget? The gentleman's plan does not balance the budget, the plan runs up on the debt. The gentleman has run into the budget rules that require pay-as-you-go requirements and tonight he eliminates those budget rules. This is Katie-bar-the-door on deficit spending and the chairman of the Committee on the Budget owes a great deal of personal responsibility for this action.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, right now, I do not believe that the majority of the people in this country realize that we are in debt over $6 trillion; we are paying $1 billion a day in interest on consumption that we are either unwilling to make cuts to bring the budget into balance, or we are unwilling and do not have the courage to raise the revenue for a first class, world class military, a first class system of education, a health care system second to none.

Last year we ran a unified deficit of $159 billion. The statutory debt ceiling will probably have to be increased again next year, creating further incentive for Congress to borrow more money, and it is in this light we are asked to vote on a bill that throws out the PAYGO rules, and for erasing the $60 billion debt. We are here tonight because the PAYGO rules have failed. We are passing on more and more debt to our children. Those are the facts.

I would say to the gentleman from Iowa, my friend, you all are in control of this place, you are in charge, and all we are asking is that there be some plan put in place before we throw these rules out, these budgetary rules for 5 years, to at least get us, talk with us to get back to a plan that will let us get back in the black in 5 years.

Mr. Speaker, I came here in 1988 because our country was awash in red ink and, sadly, tonight, in 2002, we are back awash in a sea of red ink for as far as the eye can see. We are engaged in a generational mugging of the young people of this country on a scale that is massive and has never before been done, and we are unwilling, all of us, Democrats, Republicans, Independents, you name it, we are unwilling to face up to it. If my colleagues will not talk to us and bring these bills where we cannot even have a chance to sit down and say within the next 5 years can we not agree on a plan as Americans, not as Democrats and Republicans, as Americans with a moral obligation to those who follow. That is all we are asking for.

Mr. SPRATT. Mr. Speaker, I yield 1½ minutes to the gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I thank the gentleman from South Carolina for yielding me this time, and I appreciate his leadership.

Mr. Speaker, I can tell my colleague this, I say to the gentleman from Iowa. He may think it is cute, he may think it is funny, he may think it is smart to stand over there and act like the Blue Dogs did not submit a plan. He may think that because he put a rule up here that would not let us put a plan on the floor to be voted on that he did something cute. But let me tell my colleague something. He can continue to be intellectually dishonest, he can continue to deceive the American people, but he is passing on a burden to our children and grandchildren, and I will not be a part of it, and he is going to answer for it one of these days, and he deserves it. But I can tell my colleague this: It is not cute. So when my colleague is over there making those smart remarks, just remember, it is not funny.

Mr. SPRATT. Mr. Speaker, I yield myself the remaining time to explain to everybody what is happening here.

In 1990, after years of trying to get our hands around the deficit, we finally had a budget summit with President Bush and we devised not only a 5-year plan for reducing the deficit, but we also passed something called a Budget Enforcement Act and it contained several new rules, budget process controls which have had a significant impact on our ability to get rid of the deficit.

In particular, we adopted a set of discretionary spending ceilings, a ceiling on discretionary spending, we adopted it in 1991, we renewed it in 1993, and we extended it in 1997, and that held discretionary spending to substantially lower rates of increase than the 1980s. We also adopted something called the pay-as-you-go rule, which said with respect to entitlement spending, if you want to liberalize the entitlement benefit or add a new one, you have to pay for it or you have to go through the catalog of all of the other entitlements and reduce the entitlement by enough to pay for the new one you are creating or an increase in the benefit that you are providing for. In addition, with respect to tax cuts, we said if you want a tax cut, it will have to be budget neutral. You can cut taxes one place, but you have to increase them elsewhere so the deficit is not worsened, or you can offset a tax cut with an entitlement cut so that once again it is budget neutral.

A lot of people at the time scoffed at these process changes on the grounds that we were just rearranging the deck chairs and they would not have any real results. One of those who was skeptical at the time was Alan Greenspan, the chairman of the Fed. When he appeared before our committee this March, March 2, he said in response to my question, Congressman, I thought that whole set of rules had very little chance of working, and I was wrong. It really did matter, much to my surprise. The PAYGO rules, for example, have been extremely and always very useful. That is what the Chairman of the Fed said. He came back to us in September and repeated and said the same thing.

The gentleman from Iowa (Mr. NUSSLE), the chairman of our committee, on June 27 acknowledged that the President was seeking an extension of the discretionary caps and the PAYGO requirement and implied that that needed to be done. I think he and I were in basic agreement on that.

What has happened is we never did it. I introduced legislation to that effect and it has never come to the floor of this place; we have never had a hearing on it. We have never done it. So we are here just before adjournment, the discretionary spending caps are gone in 2002. They are gone. The PAYGO rule has expired. It is gone. The 5-year budgets that we adopted in 1991 and 1993 and 1997 are gone. The last one ran out in 2002.

So all of the devices we had to control the budget that worked spectacularly well in the 1990s; we reduced the deficit from $290 billion when President Bush left office to $330 billion surplus in 2000. When President Bush came to office, the second President Bush came to office, unlike his father, we gave him a budget in surplus, $127 billion in surplus. It is gone, and the budget devices that worked so well to help us contain the deficit, reduce the deficit every year for 8 straight years in the 1990s are gone too, and there is no effort here to reintroduce them.

Now, there is one last vestige of the PAYGO rule. PAYGO required sequestration, across-the-board cuts. If you ignored the PAYGO rule and increased entitlements or cut taxes and therefore increased the deficit, there was a scorecard kept, and at the end of the year if that scorecard showed an excess amount on it, the law decreed across-the-board reductions in spending in selected accounts. We are now faced with that particular law for this year and for years to come, because even though the PAYGO rule has expired, it still applies as to existing law and future years.

This bill takes out that last vestige. We have done away with sequestration as to any future legislation, we have done away with the PAYGO rule and discretionary spending, no 5-year budget at all, it takes that last vestige. What it does, even worse, is it passes up the opportunity to take the legislation that we have offered to extend the PAYGO rule, to extend the authority for 5-year discretionary spending caps, to extend the authority for sequestration, to reinstall those budget disciplines, those process rules that got rid of the deficit in the 1990s, to reinstate them. This bill completely ignores that opportunity and simply wipes the slate clean.

So what is happening here? What is this all about? The purpose of this is to clear the way for the next session of Congress with no disciplines whatsoever; tax cuts as much as you want. There will be no restraints, no 60-vote margins in the Senate, no other restraints, no PAYGO rules that have to be waived, no scorecard, nothing. This takes away all of the discipline at a time when the budget is literally in free-fall.

We have a deficit that increases this year to $159 billion from a surplus of $127 billion last year. It goes up next year and the next year and the next year, and there is no plan in place, nothing implicit in the budget, no 5-year plan to deal with it, and this erases any hope whatsoever of that.

Now, we are offering, we are offering a motion to recommit. The gentleman from Kansas (Mr. MOORE) will offer that motion, and it will simply say as of this year, next year, go ahead and wipe the scorecard clean. But as to future years, the scorecard will still be there, the PAYGO rule will still have that remaining applicability. However, it will not apply if the President sends us a budget which gets in balance finally by the year 2008.

Mr. Speaker, that is a small thing to ask. If we are going to have any kind of discipline, any kind of planning, it is the right thing to ask for. The right way to vote on this bill is to vote for the motion to recommit and then we will have something that we can live with and something that leaves at least some small modicum of discipline in place.

Mr. NUSSLE. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, budgeting is about choices, and it is about putting together a plan. We did so together with the President this last year. All of the items that we find on the PAYGO scorecard fit within that plan. All of the items as a result need to be taken care of as a result of that plan. This is our proposal to do so to avoid automatic sequestration by OMB.

There has been a number of comments made tonight and I just want to respond to them. First of all, there have been those that say they want to sit down and they want to talk about the future budget, and that is fine. But you need a ticket to the dance and your ticket to the dance is to come up with a plan. Now, the Blue Dogs say they came up with a plan. Well, it is kind of interesting, the Blue Dogs, so-called Blue Dog plan was basically the Republican budget with a trigger. All right. That is kind of interesting. They did not really come up with any other ideas, except for the Republican budget with a trigger. Okay. It did not get any votes, and it did not get the majority of the votes, and, as a result, it really does not qualify much as a plan because it was our plan.

There were really no other plans brought to the table. There were individual bills, however; substitutes, individual proposals. The gentleman from Texas had a farm bill that evidently does not technically fit if in fact you do not have a budget. The gentleman wrote it, wrote it under our budget, supported it, worked hard on it, I compliment the gentleman on it, I voted for it, because it fit within our budget plan. It would not fit now, would it, I would say to the gentleman and to any of my colleagues. Yet should we have automatic spending cuts? Should we have automatic cuts in Medicare in order to pay for it? No. And that is what this bill tonight does. It basically says we should not have automatic cuts in Medicare in order to accomplish that.

□ 1945

I will admit to my colleagues on both sides, and the gentleman from Arkansas, if he thought I was trying to be funny, I was not, because there is nothing funny about it; this is very serious. It is serious for both sides, because it is fine to come down here and say that the tax cuts were too big. Then have the guts to introduce a bill to repeal them. Have the guts to come down here and vote to increase taxes.

They do not have a plan that does that. I do not see too many people with the guts to introduce that kind of legislation.

The same is true on our side, though. We always talk about spending restraint. Boy, we can be spellbinding some nights about how we are going to restrain spending, cut spending. We have even said "cut spending" when in fact that is not really what is going on very often around here. Maybe it is allowing it to grow less than somebody's idea of where it should be, and therefore somebody thinks it has been cut.

The bottom line is, as we go into this next budget, we have some huge choices that we are going to have to make. We have to be serious about them. But I do think that because of the situation that we find ourselves in it is fair to allow, particularly with PAYGO, which was never written to work during times of surpluses, it was only, only written and contemplated for times of deficits, that we should allow that to expire and rewrite the rules.

While we allow that to expire, wiping the slate clean I think is a fair thing to do, particularly if it is going to result in cuts in Medicare, crop insurance, veterans' education, child support recovery, and the victims of September 11.

So what we are suggesting tonight is very simple. That is what the vote is about. This is not about the budget. There is no budget process reform in this bill, trust me. I have written a budget process reform bill. I would know one when I saw it. This is not it, either. All this does is it does two things. It says, follow the budget; and do not allow for automatic cuts in Medicare, crop insurance, military, child support, veterans' education, September 11, and actually a whole host of other automatic cuts that would occur.

Mr. SPRATT. Mr. Speaker, will the gentleman yield?

Mr. NUSSLE. I yield to the gentleman from South Carolina.

Mr. SPRATT. Mr. Speaker, would it be the chairman's intention in the next Congress to introduce legislation, pass it through our committee, bring it to the floor, which would reinstate discretionary spending caps and the PAYGO rule for 5 additional years?

Mr. NUSSLE. Reclaiming my time, Mr. Speaker, the gentleman and I need to discuss that. I would be not only very happy to consider that, but I would even go further with regard to budget process issues. There are a number of them that should be discussed, now that we have an opportunity to do so.

I would hope that we can do that quietly and calmly and with sober regard to the consequences of our actions. We have not done that. Unfortunately, people around here do not necessarily follow the budget process as well as they should; and as a result, demagoguery has reigned with regard to many of these budget rules in the past with regard to changes that we have tried to bring to the floor.

I would hope that we could bring a budget process reform bill to the floor; I have written a PAYGO extension in the past that actually contemplated this very situation that we are in; and I would hope also caps.

Mr. SPRATT. If the gentleman would yield further, Mr. Speaker, and sequestration?

Mr. NUSSLE. I want to make the budget have the force of law, so that we cannot waive it all the time on the floor. That is a proposal that I recommended. There are a number that I would suggest that the committee and the Congress need to consider.

But tonight we have a very simple situation that we need to address. It has been ministerially addressed in years past, and we should do so again tonight, and join together and prevent cuts to Medicare, crop insurance, military health, child support enforcement, veterans' education, and the victims of September 11.

Let us follow the budget plan, let us pass this bill, and let us reject the motion to recommit, which basically says: let us not follow a plan, but let us wait and cut Medicare 3 years from now.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). Pursuant to House Resolution 602, the bill is considered as read for amendment, and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MOORE

Mr. MOORE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill in its present form?

Mr. MOORE. Yes, Mr. Speaker, I am.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. MOORE moves to recommit the bill H.R. 5708 to the Committee on the Budget with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SEC. 1. REDUCTION OF PREEXISTING PAYGO BALANCES.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall reduce any balances of direct spending and receipts legislation for fiscal years 2002 and 2003 under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero. If the President submits a budget for the Government under section 1105(a) of title 31, United States Code, that projects an on-budget balance or an on-budget surplus by fiscal year 2008, then such Director shall reduce all balances of direct spending and receipts legislation under such section 252 to zero.

Mr. MOORE (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kansas (Mr. MOORE) is recognized for 5 minutes in support of his motion to recommit.

Mr. EDWARDS. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Speaker, I rise in support of the motion to recommit and in opposition to the Republican deficit tax.

Mr. Speaker, if the House Republican leadership continues forward with its fiscally irresponsible tax policies, it will be responsible for passing the largest tax increase in American history—the deficit tax. The deficit tax is real. It is permanent. It is a tax on small businesses and families all across America. In fact, on a per capita basis, the deficit tax cost each American citizen over $1000 last year. Very simply, as the $6 trillion national debt is increased, it increases the interest payments on that debt, which must be paid by taxing hard-working American families.

As bad as the deficit tax is, there's even another burden resulting from increasing the national debt. It is called higher interest rates on loans for homes, cars, credit cards and small business. When the economy gets back on its feet, borrowing hundreds of billions of dollars to finance a huge national deficit will drive up interest rates, in effect, a tax increase on families and businesses.

We all know that this measure tonight to address the pay-go rules was necessary for this year and next in order to prevent major cuts in entitlement programs such as Medicare and veterans benefits. However, by opposing the Moore motion to recommit, the Republican leadership in this House is throwing out fiscal discipline rules for several years after that. I will vote for this measure, because we cannot allow Medicare and veterans benefits to be slashed, but the Republican leadership, by forcing an up or down vote on suspending pay-go rules for the next four to five years, is leading this House down the path of higher national debt, higher annual deficits, and, yes, a deficit tax on our families and our children for the rest of their lives.

House Republicans may brag about tax cuts at election time, but they should be honest in telling our families and children that they are imposing a permanent deficit tax that will take dollars out of their paychecks for generations to come.

Instead of partisan budget bills, what this Congress should do for the good of our economy and the future of our children is to sit down on a bipartisan basis and make tough decisions on how to balance the federal budget.

That would be the right thing to do.

Mr. MOORE. Mr. Speaker, a year ago, several of my colleagues and I who believe in fiscal responsibility urged caution in making long-term commitments for tax cuts or new spending programs. We were concerned that budget projections were based on unrealistic economic assumptions and that the projected surplus might never materialize. We were concerned that large tax cuts and spending programs could drive up the deficit and add to our $6.3 trillion national debt. Our warnings were ignored.

This year, Congress will be borrowing virtually all of the Social Security surplus for the next decade. There were those who said we will have enough money for everything. That turned out not to be true, Mr. Speaker. Next year we will have a deficit of $127 billion.

Today Congress is considering legislation that would wipe the slate clean for the next 5 years. This would allow Congress to avoid responsibility for legislation, adding billions more to the national debt by wiping clean the PAYGO scorecard. What is worse, this bill provides no safeguard for the future, Mr. Speaker; no guarantees that our children and grandchildren will not suffer under a massive national debt, now at $6.3 trillion.

American families live by three basic rules: number one, do not spend more money than you make; number two, pay your debts; number three, invest in the basics of the future. I think Congress should live by those same simple rules.

I am glad that American families do not use Congress' accounting methods, Mr. Speaker. American families cannot wipe the slate clean when they overspend. The Blue Dogs have repeatedly said that Congress and the President need to sit down and develop a plan to deal with our escalating national debt: no recriminations, no finger-pointing, or blaming, but just sit down and try to come up with a plan out of this crisis. Unfortunately, our calls have been ignored, leaving us in the situation we face today.

This motion to recommit requires as a condition of waiving the PAYGO rules that the President present a balanced budget next year. The President's budget would be required to put us on a path to balancing the budget by 2008 without borrowing the Social Security surplus, a goal that I believe every Member of this Congress wants.

This motion to recommit allows the slate to be wiped clean for fiscal year 2003 to avoid sequestration, because it is too late to do anything about the current fiscal year. There would be no cuts in any programs that have been commented on by the chairman of the Committee on the Budget. This is the least we can do to stop the bleeding, to turn back red ink and get us in the black again, and to get our country out of the deficit ditch and back on the way to fiscal responsibility.

Mr. NUSSLE. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Iowa (Mr. NUSSLE) is recognized for 5 minutes.

Mr. NUSSLE. Mr. Speaker, the President said in his first address to the Congress that there were three reasons why this country may have to return to deficits: one was an emergency, one was a war, one was an economic recession. There is no one in this body who predicted any of those three.

Warnings were not heeded? Wake up. There was not anybody warning about Osama bin Laden and September 11, so do not make those accusations. They are not true. That is why we find ourselves in a deficit.

The President submitted a plan last year, and he will submit a plan this year, which he must do by law. The House last year passed a plan. The House will do so again this year, which we must do so by law.

The other body, and I know I have to be careful, here. I do not want to say anything wrong, because we have our rules. However, my understanding is what I am allowed to say is that no budget passed in the other body last year. We will wait and see what happens this next year.

The point I am getting at is that we need a plan in order to move forward. The President has proved he has a plan. The House has proved they have a plan. No other plans have been presented. No other plans have received a majority of support. No other plans have seen the light of day. Therefore, let us follow the plan that the President has laid out.

Let us not allow us to get off track with absolutely no vision for the future, which is what is being suggested here tonight. Instead, let us reject the motion to recommit, and let us vote to prevent automatic cuts to Medicare, to veterans' health, to veterans' benefits, veterans' education, to crop insurance, and the like. These Draconian cuts are not necessary if we continue to follow the plan that the President and the House has laid out.

I urge my colleagues to vote "no" on the motion to recommit and vote to prevent these cuts on final passage.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SPRATT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 187, noes 201, not voting 43, as follows:

[Roll No. 481]

AYES—187

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrett
Bentsen
Berkley
Berman
Berry
Bishop
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clayton
Clement
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (TX)
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moore
Murtha
Napolitano
Neal
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—201

Aderholt
Akin
Armey
Bachus
Baker
Bartlett
Barton
Bass
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nadler
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sununu
Sweeney
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—43

Baldacci
Ballenger
Barcia
Barr
Becerra
Bereuter
Blagojevich
Bonior
Borski
Boyd
Callahan
Clay
Clyburn
Combest
Condit
Conyers
Cooksey
Diaz-Balart
Doolittle
Ehrlich
Frost
Gillmor
Grucci
Hilliard
Hooley
Houghton
LaFalce
LaTourette
Lipinski
McInnis
McKinney
Moran (VA)
Oberstar
Obey
Paul
Peterson (PA)
Roukema
Smith (MI)
Stump
Tancredo
Toomey
Wynn
Young (FL)

□ 2023

Messrs. ABERCROMBIE, UDALL of Colorado and SNYDER changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. NUSSLE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 366, noes 19, not voting 46, as follows:

[Roll No. 482]

AYES—366

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldwin
Barrett
Bartlett
Barton
Bass
Bentsen
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Coble
Collins
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (KS)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn

Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Young (AK)

NOES—19

Blumenauer
Capuano
Costello
Coyne
DeFazio
DeGette
Delahunt
Dooley
Hill
Hinchey
Kleczka
Langevin
Lee
Olver
Stark
Stenholm
Taylor (MS)
Visclosky
Waters

NOT VOTING—46

Baldacci
Ballenger
Barcia
Barr
Becerra
Bereuter
Blagojevich
Bonior
Borski
Boyd
Callahan
Clay
Clyburn
Combest
Condit
Conyers
Cooksey
Diaz-Balart
Doolittle
Ehrlich
Frost
Graham
Greenwood
Grucci
Hilliard
Hooley
Houghton
Jenkins
LaFalce
LaTourette
Lipinski
McInnis
McKinney
Miller, Gary
Moran (VA)
Oberstar
Paul
Peterson (PA)
Roukema
Sawyer
Saxton
Stump
Tancredo
Toomey
Wynn
Young (FL)

□ 2033

Ms. WATERS changed her vote from "aye" to "no."

Ms. RIVERS changed her vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BEREUTER. Mr. Speaker, on November 14, 2002, this Member unavoidably missed two roll call votes. On Roll Call Number 481 (motion to recommit on H.R. 5708, a bill to reduce pre-existing PAYBO Balances), this Member would have voted "no." On Roll Call Number 482 (final passage of H.R. 5708), this Member would have voted "aye."

ARMED FORCES TAX FAIRNESS ACT OF 2002

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 609, I call up the bill (H.R. 5063) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services and ask for its immediate consideration.

The Clerk read the title of the bill.

MOTION OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. SIMPSON). The Clerk will designate the motion.

The text of the motion is as follows:

A motion offered by Mr. THOMAS that the House concur in each of the Senate amendments with the respective amendment printed in House Report 107–784, as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Armed Forces Tax Fairness Act of 2002".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

Sec. 101. Exclusion from gross income of certain death gratuity payments.
Sec. 102. Exclusion of gain from sale of a principal residence by a member of the uniformed services or the Foreign Service.
Sec. 103. Exclusion for amounts received under Department of Defense Homeowners Assistance Program.
Sec. 104. Expansion of combat zone filing rules to contingency operations.
Sec. 105. Above-the-line deduction for overnight travel expenses of National Guard and Reserve members.
Sec. 106. Modification of membership requirement for exemption from tax for certain veterans' organizations.
Sec. 107. Clarification of treatment of certain dependent care assistance programs.

TITLE II—OTHER PROVISIONS

Sec. 201. Revision of tax rules on expatriation.
Sec. 202. Extension of IRS user fees.
Sec. 203. Partial payment of tax liability in installment agreements.

TITLE I—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

SEC. 101. EXCLUSION FROM GROSS INCOME OF CERTAIN DEATH GRATUITY PAYMENTS.

(a) IN GENERAL.—Subsection (b)(3) of section 134 (relating to certain military benefits) is amended by adding at the end the following new.subparagraph:

"(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted after September 9, 1986.".

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 134(b)(3) is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 102. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY A MEMBER OF THE UNIFORMED SERVICES OR THE FOREIGN SERVICE.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

"(9) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—

"(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period described in subsection (a) with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service of the United States.

"(B) MAXIMUM PERIOD OF SUSPENSION.—The 5-year period described in subsection (a) shall not be extended more than 10 years by reason of subparagraph (A).

"(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 50 miles from such property or while residing under Government orders in Government quarters.

"(ii) UNIFORMED SERVICES.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

"(iii) FOREIGN SERVICE OF THE UNITED STATES.—The term 'member of the Foreign Service of the United States' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980.

"(iv) EXTENDED DUTY.—The term 'extended duty' means any period of duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

"(D) SPECIAL RULES RELATING TO ELECTION.—

"(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

"(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.".

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 103. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 132(a) (relating to the exclusion from gross income of certain fringe

benefits) is amended by striking "or" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", or" and by adding at the end the following new paragraph:

"(8) qualified military base realignment and closure fringe.".

(b) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—For purposes of this section, the term 'qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to offset the adverse effects on housing values as a result of a military base realignment or closure.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 104. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) IN GENERAL.—Section 7508(a) (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting "or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law" after "section 112",

(2) by inserting in the first sentence "or at any time during the period of such contingency operation" after "for purposes of such section",

(3) by inserting "or operation" after "such an area", and

(4) by inserting "or operation" after "such area".

(b) CONFORMING AMENDMENTS.—

(1) Section 7508(d) is amended by inserting "or contingency operation" after "area".

(2) The heading for section 7508 is amended by inserting "**OR CONTINGENCY OPERATION**" after "**COMBAT ZONE**".

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting "or contingency operation" after "combat zone".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 105. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

"(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such service.".

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

"(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, in amounts not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2001.

SEC. 106. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking "or widowers" and inserting ", widowers, or ancestors or lineal descendants".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 107. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 134(b) (defining qualified military benefit) is amended by adding at the end the following new paragraph:

"(4) CLARIFICATION OF CERTAIN BENEFITS.—For purposes of paragraph (1), such term includes any dependent care assistance program for any individual described in paragraph (1)(A).".

(b) CONFORMING AMENDMENTS.—

(1) Section 134(b)(3)(A) is amended by inserting "and paragraph (4)" after "subparagraph (B)".

(2) Section 3121(a)(18) is amended by striking "or 129" and inserting ", 129, or 134(b)(4)".

(3) Section 3306(b)(13) is amended by striking "or 129" and inserting ", 129, or 134(b)(4)".

(4) Section 3401(a)(18) is amended by striking "or 129" and inserting ", 129, or 134(b)(4)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(d) NO INFERENCE.—No inference may be drawn from the amendments made by this section with respect to the tax treatment of any amounts under the program described in section 134(b)(4) of the Internal Revenue Code of 1986 (as added by this section) for any taxable year beginning before January 1, 2002.

TITLE II—OTHER PROVISIONS

SEC. 201. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(3) EXCLUSION FOR CERTAIN GAIN.—

"(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(B) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2002, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2001' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

"(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

"(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

"(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

"(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

"(4) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(7) INTEREST.—For purposes of section 6601—

"(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

"(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

"(1) EXEMPT PROPERTY.—This section shall not apply to the following:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

"(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

"(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

"(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

"(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

"(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

"(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

"(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

"(D) APPLICABLE PLANS.—This paragraph shall apply to—

"(i) any qualified retirement plan (as defined in section 4974(c)),

"(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

"(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes citizenship, and

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

"(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5

percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

"(1) IMPOSITION OF LIEN.—

"(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

"(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

"(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

"(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

"(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

"(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

"(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.".

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

"(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).".

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(18) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request *of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).".*

(B) Safeguards.—Section 6103(p)(4) (relating to safeguards) is amended by striking "or (17)" each place it appears and inserting "(17), or (18)".

(3) Effective date.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) Conforming Amendments.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(g) Application.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after September 12, 2002.".

(2) Section 2107 is amended by adding at the end the following new subsection:

"(f) Application.—This section shall not apply to any expatriate subject to section 877A.".

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

"(F) Application.—This paragraph shall not apply to any expatriate subject to section 877A.".

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting "or 877A" after "section 877".

(B) The second sentence of section 6039G(e) is amended by inserting "or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))" after "877(a))".

(C) Section 6039G(f) is amended by inserting "or 877A(e)(2)(B)" after "877(e)(1)".

(f) Clerical Amendment.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(g) Effective Date.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after September 12, 2002.

(2) Gifts and bequests.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after September 12, 2002, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) Due date for tentative tax.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 202. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) In General.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.

"(a) General Rule.—The Secretary shall establish a program requiring the payment of user fees for—

"(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

"(2) other similar requests.

"(b) Program Criteria.—

"(1) In general.—The fees charged under the program required by subsection (a)—

"(A) shall vary according to categories (or subcategories) established by the Secretary,

"(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

"(C) shall be payable in advance.

"(2) Exemptions, etc.—

"(A) In general.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

"(B) Exemption for certain requests regarding pension plans.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

"(i) made after the later of—

"(I) the fifth plan year the pension benefit plan is in existence, or

"(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

"(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

"(C) Definitions and special rules.—For purposes of subparagraph (B)—

"(i) Pension benefit plan.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

"(ii) Eligible employer.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

"(iii) Determination of average fees charged.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

"(3) Average fee requirement.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

"Category	*Average Fee*
Employee plan ruling and opinion	*$250*
Exempt organization ruling	*$350*
Employee plan determination	*$300*
Exempt organization determination	*$275*
Chief counsel ruling	*$200.*

"(c) Termination.—No fee shall be imposed under this section with respect to requests made after September 30, 2012.".

(b) Conforming Amendments.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7527. Internal Revenue Service user fees.".

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) Limitations.—Notwithstanding any other provision of law, any fees collected pursuant to section 7527 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) Effective Date.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 203. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) In General.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) Requirement To Review Partial Payment Agreements Every Two Years.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

"(d) Secretary Required To Review Installment Agreements for Partial Collection Every Two Years.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

(c) Effective Date.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.".

Amendments printed in House Report 107–784:

Strike all after the enacting clause and insert the following:

Section 1. Section 114 of Public Law 107–229 is amended by striking "the date specified in section 107(c) of this joint resolution" and inserting "March 31, 2003".

Sec. 2. (a) In General.—The Temporary Extended Unemployment Compensation Act of 2002 (26 U.S.C. 3304 note) is amended by adding at the end the following:

"SEC. 210. EXTENSION OF PROGRAM IN HIGH UNEMPLOYMENT STATES.

"(a) In General.—Notwithstanding section 208(2), an agreement entered into under this title shall apply to weeks of unemployment beginning after December 28, 2002, and ending before February 2, 2003, but only as provided in this section and section 211.

"(b) New Account.—If, at any time during the period described in subsection (a), an individual's State is in an extended benefit period (as determined under section 203(c)(2)), and such individual meets the requirements of section 202(b)–(c), such State shall establish an account under this section for such individual (to be available beginning with the individual's first week of unemployment within such period as to which both of those conditions are met) in an amount equal to the amount determined in accordance with section 203(b).

"(c) Eligibility for Payments.—In the case of an individual for whom an account is established under subsection (b)—

"(1) temporary extended unemployment compensation shall be payable for any week of unemployment described in subsection (a) for which such individual would qualify if the criteria in effect for the week ending on December 28, 2002, were applied (and section 202(d)(3) were disregarded); and

"(2) any temporary extended unemployment compensation payable to an individual under this section shall be payable only out of the account established for such individual under subsection (b).

"(d) INELIGIBLE INDIVIDUALS.—Notwithstanding any other provision of this section, no account under subsection (b) shall be established for the benefit of an individual for whom an account was established under section 203, if—

"(1) such account was at any time augmented in the manner described in section 203(c); and

"(2) such account (as so augmented)—

"(A) was exhausted before December 29, 2002; or

"(B) remains available, for weeks beginning on or after December 29, 2002, by virtue of section 211.

"SEC. 211. PHASE-OUT PROVISIONS.

"(a) IN GENERAL.—In the case of an individual who is receiving temporary extended unemployment compensation for a week of unemployment ending on December 28, 2002, the provisions of this title and of any agreement then in effect shall be applied in a manner such that any amounts remaining in an account established for such individual under section 203 as of that date shall continue to remain available to the same extent and in the same manner as if section 208(2) had been amended by striking 'January 1' and inserting 'February 2'.

"(b) COORDINATION PROVISION.—After any amounts (in an account established under section 203) remaining available for the benefit of an individual by virtue of subsection (a) are exhausted, section 210 shall apply to such individual in accordance with its terms.

"(c) RULE OF CONSTRUCTION.—Nothing in this title shall be considered to permit or require the payment of any amount, out of an account established under section 203 or 210, for any week of unemployment ending after February 1, 2003.".

(b) CLERICAL AMENDMENT.—The table of contents of Public Law 107–147 is amended by inserting after the item relating to section 209 the following:

"210. Extension of program in high unemployment States.

"211. Phase-out provisions.".

SEC. 3. Section 1848(i)(1)(C) of the Social Security Act (42 U.S.C. 1395w–4(i)(1)(C)) is amended to read as follows:

"(C) the determination of conversion factors under subsection (d), including without limitation a prospective redetermination of the sustainable growth rates for any or all previous fiscal years,".

Amend the title so as to read as follows: "An Act to make technical amendments to the Social Security Act and related Acts.".

The SPEAKER pro tempore. Pursuant to House Resolution 609, the gentleman from California (Mr. THOMAS) and the gentleman from California (Mr. STARK) each will control 30 minutes.

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the time allotted be 30 minutes in its entirety, divided equally between myself and the gentleman from California (Mr. STARK).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) and the gentleman from California (Mr. STARK) each will control 15 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume. I want to thank the gentleman from California for the courtesy so that we can expeditiously examine this very modest bill. As we discussed under the rule earlier, there are three provisions in the bill: one, to correct a flaw dealing with the continuation of TANF, or welfare; secondly, to make sure that the unemployment program, in a modest way, continues until the House reconvenes in the 108th Congress; and the third is to provide the administration with some legal protection if they decide to make some decisions which would allow some adjustments in the Medicare program.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I suspect that many people will vote for this bill, but it cannot go unnoticed that the bill does not do nearly enough. It is a day late and a dollar short. It does not really improve Medicare and deal with many of the providers. It merely gives the administration, hopefully, the right to correct a glitch in the way physicians are reimbursed. There is some great discussion going on that they may already have that. The fight seems to be that correcting the physician glitch will cost 43 billion bucks and the question is, Do we get billed again for that or does the administration? And does it fit, or increase the deficit or does it not? So there is no guarantee that your physician friends will get their problem corrected. There is some guarantee that the hospitals, nursing homes, rural hospitals, teaching hospitals and the uninsured will absolutely get nothing.

As to the welfare reform bill, there may be a lot of blame as to why we have not reauthorized it; but in any event, since 1996, the day it was passed, the funding for welfare reform, or welfare payments in this country has dropped by 11 percent. We are not doing anything to increase it and that is tragic. Welfare reform is more than a benefit check. It is child care and job training; it is education, the very foundations of self-sufficiency.

It is too bad now, particularly that we do not worry about PAYGO anymore, that we cannot at least deal with the millions of poor families even a tenth as well as we deal with the very rich in the tax cuts that we have given them. Fourteen million families eligible for child care assistance do not receive it and millions of Americans out of work are struggling. We are not doing an adequate job in unemployment, where this bill really falls down. I will turn soon to my colleague from Maryland, the ranking member of the Subcommittee on Human Resources, to explain that to you. We have spent trillions of dollars in tax cuts for the rich and we are tonight going to talk about a mere billion dollars to extend unemployment benefits for only a small portion of the Americans who are struggling. Again, it is not fair and it is not adequate.

There was a time when we in Congress could hold up our heads high and say that we took care of all Americans who were unable to fend for themselves. We are not even doing that. I think that it is tragic that here we are in the last hours of this Congress and we are attending to something that I do not think any bill at this time could correct all the problems. It is kind of a sad commentary that we have come this far and left so many people impoverished and unaided by a government that has given so much to the wealthy.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker it is my pleasure to yield 1 minute to the gentleman from California (Mr. HERGER), the chairman of the Subcommittee on Human Resources of the Committee on Ways and Means.

Mr. HERGER. Mr. Speaker, I rise in support of H.R. 5063, as amended. This bill would temporarily extend unemployment benefits for an additional 5 weeks. It also will extend the funding and rules for the Nation's welfare reform program through March 31, 2003, allowing us additional time to reauthorize the historic 1996 law.

Mr. Speaker, we must keep the pressure on to reauthorize welfare reform for 5 years as quickly as possible. This will be our goal in the next Congress, and we look forward to working with both Republicans and Democrats to get this job done.

I urge my colleagues to support this bill.

Mr. STARK. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Maryland (Mr. CARDIN), the ranking member of the Subcommittee on Human Resources.

Mr. CARDIN. Mr. Speaker, let me thank the gentleman from California for yielding me this time. As the chairman of the Committee on Ways and Means has said, this is a modest bill that moves forward in three areas in a very modest way. It is the last train out of the station, and I would urge my colleagues to support the bill.

Mr. Speaker, it does deal, as the chairman of the Subcommittee on Human Resources said, with a 3-month extension of TANF. That is better than what was in the continuing resolution. It guarantees that our States will receive at least their first quarter payments. That is important. But I know we are all disappointed that we were unable in this Congress to reauthorize the program for 5 years. Certainly we wanted to reauthorize it for more than 3 months.

Secondly, the gentleman from California (Mr. STARK) has already commented on the Medicare provisions. We hope that the provisions here will help the physician reimbursement system. But we are all disappointed that we were unable to complete the structure changes for skilled nursing facilities, rehabilitation therapists, hospitals, home health. There were provisions in here that were noncontroversial for our military. None of that was able to get accomplished in this Congress, and I think we are all very disappointed that we were unable to do that.

But, Mr. Speaker, I want to talk about the third area, unemployment insurance. Yes, there is a modest improvement in the underlying legislation, but I think we should be very disappointed that we have done nothing at all to help the 1.8 million Americans who will have exhausted their unemployment insurance benefits before we will have an opportunity to revisit this program again next year. That is particularly disappointing when you recognize the fact that in every prior recession, in a bipartisan way, we have extended Federal unemployment insurance benefits as a safety net to those who are hurt through the recession through no fault of their own.

We have $25 billion in the Federal unemployment trust account. The money is there. The number of people suffering from long-term unemployment has doubled over the last year. We know that if we provide assistance that money will get back into the economy quickly and help us in the recovery. That is why in every prior recession, we have been very clear in providing additional help through the Federal unemployment insurance system. Yet in this recession we have failed. I think that is extremely disappointing, and I would hope that we could have done better.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Pennsylvania (Mr. ENGLISH), a member of the Committee on Ways and Means.

Mr. ENGLISH. Mr. Speaker, more than 800,000 unemployed workers throughout the U.S. and over 35,000 in Pennsylvania alone are faced with the grim reality that their unemployment benefits will end just 3 days after Christmas. With the economy in such bad straits and so many working families suffering, we cannot stand by and let the Grinch steal Christmas from the unemployed whose holidays are already constrained by an extended period of unemployment. This cutoff is hanging like a sword of Damocles, like a Grinch, over these families; and we need to act today.

This bill removes the December 28 cutoff on benefits. It allows more than 800,000 unemployed workers nationwide who will already be receiving extended benefits to temporarily continue receiving benefits when the current program expires. This bill extends federally funded benefits by up to 5 weeks per individual. This bill continues through January 2003 the current availability of additional weeks of federally funded extended benefits in certain high-unemployment States. As a long-time supporter of this issue, I feel it critical that we move now to provide extended unemployment benefits to these families.

I urge my colleagues to join me in standing up to the Grinch and making sure that America's unemployed continue to receive benefits after Christmas.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN), who understands that while the opposition is willing to spend over a trillion dollars in tax cuts to the wealthy, they are unwilling to make good on their earlier promise to spend a thousandth of that amount to insure nursing home patients.

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Mr. LEVIN. Mr. Speaker, first on unemployment comp, the gentleman from Pennsylvania (Mr. ENGLISH), about 35,000 will be benefitted, at the most, 5 weeks. More than twice that will face Christmas having exhausted their benefits and get no help through extended benefits because of the failure of this Congress to act more than twice. So this is not really a modest program. It is really a flawed program and an inferior one because 800,000 will get several weeks. Over 1,800,000 who will have exhausted their benefits will get zero, and it will be simply because of the accident of when they exhausted their benefits. If they exhausted them earlier or later, they come up with zero, and that is not the way this country should respond to the needs of people who are unemployed through no fault of their own.

Let me just finish by saying something about this approach in terms of physicians. We needed to do something, but what you are doing is essentially more appearance than it is reality in terms of the cost. You do not come forth here with a proposal that addresses this directly, which will cost $20 to $60 billion over 10 years. You do not want CBO to score it. So you come forth and give carte blanche to the administration to do what they say they cannot do anyway, and because it would be done administratively it would not be scored, but it will come out of the budget and will add $20 to $80 billion in the deficit over 10 years, and it will not address the other needs of other providers. That really is one modest approach. It is a flawed and inferior approach. It forces us perhaps to vote yes, but realizing the terrible, terrible shortcomings of this approach.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentlewoman from Washington (Ms. DUNN), a member of the Committee on Ways and Means.

Ms. DUNN. Mr. Speaker, as we all know, the extended unemployment benefits we passed last year are due to expire on December 28. Without an extension thousands of dislocated workers will lose the unemployment benefits they need to make ends meet as they search for a job. The problem is extenuated in areas like Washington State, where unemployment rates continue to be high and jobs are very tough to find.

Extending the Federal unemployment benefits for an additional 5 weeks will help about 45,400 dislocated workers living in Washington State alone. It is the least that we in Congress can do before adjourning for the year to ensure that every family has a happy holiday season. This bill is a targeted approach to help individuals who need it the most. It is a step toward providing temporary assistance at a time when our country is getting back on the track to recovery.

I urge my colleagues to vote for this important bill, and I hope that the other body will adopt this bill before leaving for the year.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, this is a really interesting bill because it really kind of lays it out cold-bloodedly. The President, or the White House, has had 2 million jobs lost since they came into office, and they do not care. When the White House announced their special interests for this session, they said we want homeland security, we want Federal judges and we want terrorism insurance. Not one single word about the economy.

I come from a State where there is 7 percent unemployment. The Northwest is the highest in the country. And anybody who exhausts their benefits before January 1 gets nothing. Oh, excuse me. They get 5 weeks after the first of the year. That is all they get is 5 weeks. As the gentleman from Maryland (Mr. CARDIN) has already said, we have $25 billion sitting in a fund to deal with this, and you come out here with a 5-week plan. I mean Merry Christmas, folks. Are you going to send turkeys around at Thanksgiving also as part of this program? Why can you not ever admit that you fouled up the economy and the people you have put out of work you are unwilling to take care of when you have the money sitting there? It is sitting there. I cannot understand how you are going to go home to people and say, well, we are sorry, we will be back in on January 7 and we will pass something real quick; so do not worry, do not worry, do not worry. I mean you are saying at Christmas time to people you are not going to take care of them.

Our unemployment in this country, we have gone up 25 percent in long-term unemployment in the last 6 months, and there is no question between now and February an estimated 1.8 million people are going to lose their unemployment insurance, and you are not doing anything for them, just a little tiny Band-Aid. And it is pretty clear where your priorities are. You are willing in the last bill to take off all the financial controls to spend on defense, to go $100 billion, $200 billion into debt in Iraq, but you will not give anything but 5 weeks of unemployment to the people who have lost their jobs in this mess you have created.

I think that we will be back in January, we will all vote for this. We know it is inadequate, but that is what you are offering them, and we are not going to say no. We are not fools. But the fact is you are going to come back in here in January and you are going to hear the same speech from me because I am going to say to you why are you only taking it 3 months or you will go 6 months? You will not recognize what you have created here, and you have long-term unemployment that is going up in this country and you just cannot seem to face it. So we will vote on this inadequate piece.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

I appreciate the gentleman's argument that we are giving someone 5 weeks. That is like saying we picked up a hitchhiker on the West Coast and drove him within three blocks of the Statue of Liberty and he is complaining because we did not drop him right at the door. As a matter of fact, we did not wait until he finished his business and then took him back to California. Because the facts are, and the gentleman is from Washington State so let us use Washington State, there are people in Washington State who have received more than 1 year of unemployment benefits. They have received 26 weeks, an additional 26 weeks, and the 5 weeks the gentleman from Washington (Mr. MCDERMOTT) was talking about was part of, on top of all of those months, an additional 13 weeks which was a 50/50 match between the State and the Federal Government. And of course States have their own programs in which they can continue to extend it.

So for the gentleman to take the time to create the impression that all we are doing is 5 weeks is to say that at the very least that is 5 weeks on top of 26 weeks, on top of 26 weeks, on top of an additional 7. So when you really look at it in terms of the way in which the benefits have been provided, a short way of saying it is there are people who have received unemployment benefits for better than a year.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

I guess that the distinguished chairman of the Committee on Ways and Means and the gentlewoman from Washington State (Ms. DUNN), the previous speaker, said it all. It is the least we can do, and it is a modest bill. We could do better. We should do better. We have never had a modest tax cut coming from the other side of the aisle. It is only modest when we try to help the least fortunate among us. So while one never looks a gift horse in the mouth, I am sure that the few people it does help will be happy. I intend to support the bill. I only wish that we could have had the leadership to do better for more people in this country.

Mr. KUCINICH. Mr. Speaker, last month's New York Times predicted that if there is to be an economic recovery in our future, it will be a "jobless recovery." I would submit that for the 8.2 million Americans who are unemployed, an economic recovery that does not provide more jobs is no recovery at all. And of course, as consumer confidence plunged to a nine year low in October, any economic recovery—with or without more job openings—seems strongly in doubt.

For this reason, H.R. 5063's plan to extend the Temporary Emergency Unemployment Compensation (TEUC) program, which is presently scheduled to expire on December 28, 2002, is woefully inadequate and provides an extremely limited amount of additional unemployment relief.

According to the Center on Budget and Policy Priorities, between now and February 2, 2003, 1.8 million jobless workers in need of assistance would fail to receive it under this plan. Only three states, Arkansas, Oregon, and Washington, are eligible for the five-week extension of the TEUC program authorized by this bill.

And when one considers that the number of long-term unemployed who are looking for work after 27 weeks almost doubled over the last year, that the Economic Policy Institute has reported there are 2.7 unemployed workers for every job opening, and that the Congressional Budget Office expects the unemployment rate to remain near 6 percent until the second half of 2003, it is clear to me that American workers deserve a better and more comprehensive unemployment plan.

In fact, the bill's proposal represents an enormous missed opportunity. The failure to provide additional weeks of benefits to those who have already exhausted their federal benefits is a missed opportunity to provide a dose of immediate, well-targeted economic stimulus.

In addition, the federal unemployment trust funds will have an estimated surplus of $24 billion at the end of this year. And yet, the Republican proposal is estimated to cost less than $1 billion, leaving $23 billion unused, helping no one. This approach seems inconsistent with the basic purpose of the trust funds: to build large resources when work is plentiful in order to provide relief to unemployed workers when they need it most. I think that time is now.

It is unfortunate that no alternative to the proposal contained in H.R. 5063 was allowed by the majority's rule. An effective alternative proposal would have recognized that American workers from the heart of this nation, and that Federal unemployment insurance was intended for those workers during tough times like today. An effective alternative proposal would have also recognized that the number of unemployed Americans is as high today as it was when the original and comprehensive Federal extended benefits program was enacted in March. This time, workers may receive much less.

In a so-called "jobless recovery", millions of Americans will remain jobless. Under today's so-called unemployment plan, 1.8 million Americans will also be without unemployment compensation. We can do better for American workers.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I will be voting for this bill, reluctantly. I feel it is a feeble attempt to run away from the challenges that face us, and to shirk our responsibilities to the American people. But because it is the only legislation the Majority is giving us the opportunity to vote on, and because it will get a modicum of temporary help to some struggling people, I'll support it.

Everyday, I receive a deluge of letters and calls from my constitutents—doctors, hospitals, patient-advocacy groups, and nursing homes—letting me know that they are in trouble. Jobless rates are up. The October 1 Medicare Cliff passed us by, and we did almost nothing to mitigate the damages. Doctor reimbursements have been slashed, we are short of nurses and have lost funds to bring in new ones. Our long-term care facilities are on the brink of financial ruin. If we do not provide appropriate funds for vital services, these services could be lost. Reimbursement rates are so low in some sectors that medical facilities lose money by treating patients, so Medicare patients may soon be denied care in some areas. People will suffer.

I understand that emergencies do happen. Sometimes, we need to bend and maneuver the rules of the House to get issues handled expeditiously. But, we have seen these problems on the horizon for months. We all knew it. I, with many like-minded colleagues have been pushing hard for real change—bold steps to take care of the challenges that face our constituents and our health care system. But good bills have been languishing here in the House. There was always an excuse for inaction. We have run out of excuses though.

I and my Democratic colleagues have consistently supported a package with provisions that would improve reimbursements to doctors and hospitals serving Medicare patients, would eliminate the 15 percent reduction in home health payments, would strengthen Medicare+Choice programs, and would help rural providers. But, unfortunately, these provisions were defeated.

Instead, the Majority has gutted an excellent bill from the other body that would have helped our men and women serving in the military receive fair tax relief, and would have stopped the horrible practice of some wealthy individuals who renounce their U.S. citizenship in order to avoid their responsibilities to pay taxes. In a time of war, what kind of a signal are we sending to our people in uniform, by sacrificing their needs, in order to play politics, and benefit the worst tax-evaders?

What we have before us today is a mockery of what good legislation can be. It is a band-aid approach to bypass surgery. It is a token for few, but an insult to the many health care providers who are struggling to meet the needs of our nation's sick. If it gets past the Senate, it will provide a brief extension for welfare recipients in programs such as Temporary Assistance for Needy Families (TANF), and child assistance. It extends, for a short time, unemployment benefits for people who are now receiving benefits and who live in a few selected states. Those in other states, and those 1 million workers whose benefits have expired, but who are still struggling in our flailing economy to find work, receive no help.

I will vote for this bill, because it is better than nothing. But, I feel the Republican leadership has squandered an opportunity to do good. They should have brought us this bill as it passed the other body, so we could show our support to the people in our military. They should have worked with the Senate to get real relief to the unemployed, which would have provided a stimulus to our economy, rather than giving a free pass to tax dodgers overseas. They should have worked with Democrats to ensure adequate reimbursements to our health providers, so that services will be there for the people on Medicare.

Instead, we have a bill that will go nowhere once it leaves the House. I hope we will do more for the American people in the 108th Congress.

Mr. DINGELL. Mr. Speaker, I support the provision in this bill that extends the welfare program and the related Temporary Medical Assistance (TMA) program through the end of March. TMA allows families leaving welfare for work to keep their Medicaid insurance coverage. My only question is why my Republican colleagues would extend such an important program for one quarter when it would make much more sense to extend it for one year, two years, or more.

Similarly, I support the effort in this bill to prevent payment cuts to physicians in Medicare. However, I regret that the bill does not accomplish nearly enough.

We do need to help physicians under Medicare, but we also need to help other providers. Hospitals, home health agencies, and nursing homes are in a similar situation. I hear from my constituents on these issues nearly every day. We cannot turn a blind eye to their problems because, like physicians, their role in caring for Medicare beneficiaries is critical.

This bill also neglects to provide States with any Medicaid fiscal relief, which is urgently needed to prevent hundreds of thousands of working Americans from losing their health insurance coverage. States are already cutting back on coverage—and as a result, pregnant women and children, senior citizens in nursing homes, working disabled, and women with breast or cervical cancer all across the country may soon find themselves without health insurance.

Ultimately, I will support this bill, because doing something is better than doing nothing. Yet it seems callous for the House Republican Leadership to let Congress leave without addressing these critical issues. We should be preventing millions of Americans from losing their health insurance and protecting the Medicare program for America's seniors.

Mr. STARK. Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). All time for debate has expired.

Pursuant to House Resolution 609, the previous question is ordered.

The question is on the motion offered by the gentleman from California (Mr. THOMAS).

The motion was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3210, TERRORISM RISK PROTECTION ACT

Mr. OXLEY. Mr. Speaker, pursuant to House Resolution 607, I call up the conference report on the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

The clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 13, 2002, at page H8722).

The SPEAKER pro tempore. The gentleman from Ohio (Mr. OXLEY) and the gentleman from New York (Mr. LAFALCE) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield myself 6 minutes.

September 11, 2001, will go down in history as one of the most tragic days in American history as a foreign terrorist network unleashed a devastating attack against our Nation, killing or injuring thousands and causing greater insured losses than all recent natural disasters combined. This attack not only destroyed the lives of innumerable innocent people from all corners of the world, but it was also intended to disrupt the very center of America's financial infrastructure.

Fortunately, the American people and our economy proved stronger and more resilient than anyone could have imagined. Under the leadership of our President, we have fought back, destroyed the terrorist launching pad, and fortified our borders and financial infrastructure security. We absorbed the terrorists' best hit, and our financial system and our will remain as strong as ever.

In the insurance industry not a single American firm was rendered insolvent and insurers were able to expedite claims payments to rush aid to those most in need.

The one weak link in our comeback has been the foreign reinsurance market, which since 9/11 has been understandably uncomfortable with providing further coverage for terrorist attacks. An effective insurance industry relies on spreading risk as broadly as possible, in the case of reinsurance across the entire globe. American insurers rely on foreign reinsurance to protect their solvency against truly catastrophic events. Insurers simply cannot responsibly provide protection for American businesses without some sort of financial backstop, and where the foreign private sector can no longer fill that role we must step in to protect our economy against the threat of future attacks.

A recent Real Estate Roundtable survey cited more than $15 billion in real estate projects across the U.S. being delayed or canceled because of their terrorism exposure. If the building projects do not go forward, it means that the architects, engineers, construction workers, and realtors do not work. Our economy will continue to be impaired and thousands of American jobs will continue to be lost. We cannot afford to allow the terrorists this victory. We must act.

Another survey found that 84 percent of responding American businesses do not believe their companies have sufficient coverage in the face of another terrorist attack and 71 percent find it difficult or impossible to obtain adequate coverage. We survived 9/11, but without a reinsurance backstop for terrorism, another attack could force thousands of companies into bankruptcy with no protection or recourse. At a time when we are preparing for war in the Middle East and facing repeated terrorism security warnings in the United States, we cannot afford not to have a Federal backstop in place.

President Bush immediately realized the significance of this economic problem and called on the Congress to pass legislation soon after 9/11 and has been tirelessly pressing Congress for legislation ever since. The House quickly answered this call with passage of legislation last November 1 a year ago and now stands ready to deliver. We have worked closely with the President and the Senate to draft strong bipartisan legislation that is pro-consumer, pro-taxpayer and pro-business. This legislation, the Terrorism Risk Insurance Act, will provide a Federal backstop for Americans to protect against future catastrophic terrorist attacks. We provide American businesses with immediate protection upon enactment while long-term contracts are being negotiated. The Federal backstop then phases out over time with insurers paying a steadily increasing deductible of

7 to 15 percent of their premiums before the Federal catastrophic protection kicks in.

□ 2100

As the reinsurance market flows back in, the Federal involvement would phase out in 3 years.

We also provide full protection for the American taxpayers. The conference report provides for full payback of any Federal assistance, with the first $10 to $15 billion of losses required to ultimately be borne by the insurance industry as mandatory retention and payback. The remainder will be recouped based on economic conditions.

Consumers are provided with mandatory availability of terrorism coverage and with a significant disclosure to improve their competitive options.

This bill is absolutely necessary to the well-being of the American economy to protect U.S. jobs and against future terrorist attacks. We need this backstop in place now.

I would be remiss if I did not point out the considerable contributions made by my colleague and subcommittee chairman, the gentleman from Louisiana (Mr. BAKER). Without his hard work and dedication, this legislation would not have been possible. Also I recognize the important contributions to protect Americans by our full committee ranking member, the gentleman from New York (Mr. LAFALCE), and our subcommittee ranking member, the gentleman from Pennsylvania (Mr. KANJORSKI), here in the House, as well as Senators DODD, SARBANES and GRAMM.

Our House conference report was signed by every single conferee on our committee, and its bipartisan support is a testament to the work of the President and these Members.

I just want to take this opportunity to thank my good friend, JOHN LAFALCE. I think he is probably handling his last bill in his role as ranking member on the committee. But I want to personally thank him for his dedication and service to our Nation, and particularly his hard work on this very, very important legislation on terrorism insurance. We have worked continuously for the last 2 years, and I just cannot say enough about his dedication and hard work. We are going to miss you, John, and all of the opportunities we have had to work together on numerous issues; and we wish you the very best in your retirement.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Ohio very, very much for his very kind comments. It, too, has been a pleasure working with him, especially the past 2 years during his chairmanship of the Committee on Financial Services.

Mr. Speaker, after very many fits and starts, the terrorism reinsurance package will finally become a reality, despite persistent opposition by many in this body who stalled passage of this bill for almost a year by seeking to unfairly limit the rights of victims resulting from a terrorist attack.

Our Nation has been faced with numerous economic dislocations as a result of the September 11 attacks as it continues to prepare for the specter of future attacks. A case in point is the legitimate concern raised that the market relating to terrorism coverage has evaporated, forcing primary insurers to increase prices or withdraw coverage, so we have had both an unavailability and an unaffordability problem.

This is not an insurance industry problem, because if the insurance industry cannot reinsure the risk of future terrorist attacks, or will not, it will either not offer terrorism coverage or will price it out of the reach of most consumers and leave areas of the country particularly susceptible to terrorist attacks without coverage, and, most importantly, stall or scuttle future building projects. The consequences of such action for our economy and for consumers, should this continue, could be devastating.

The conference report achieves what I believe is an acceptable balance. The bill makes insurance available by constructing a short-term Federal backstop with minimal government intrusion into the insurance market by ending 3 years after a private sector mechanism emerges. In addition, it requires significant contributions by industry that keeps industry on the hook for substantial losses, thereby protecting the American taxpayer.

More importantly, the bill also avoids making this important economic package a Trojan horse for tort reform, a favorite of many in this body and many in the White House, some of whom worked long and hard for over a year to derail this bill in order to advance what I consider to be an ideological agenda at the expense of economic growth and the protection of American businesses.

Rather, the bill before us tonight provides for prudent measures that protect the interests of taxpayers and maintains the legitimate rights of victims by, one, creating an exclusive Federal cause of action governed by applicable state law for all suits for property loss, personal injury or death arising out of a terrorist event; secondly, consolidating claims into a single Federal district court; and, third, ensuring that the Federal Government will not be directly or indirectly responsible in its role as a reinsurer for any punitive damages.

I support this important response to mitigate the economic fallout from the threat of future attacks on this Nation, and I urge my colleagues to support this conference report, as I have and all the Democratic conferees have, and then I would urge the President to sign it into law swiftly.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON), a valuable member of the committee, as well as the conference committee.

Mr. FERGUSON. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I rise today in strong support of this terrorism insurance legislation that is crucial to our economic security in this Nation. This year alone the lack of terrorism insurance has terminated or delayed billions of dollars' worth of commercial property financing. Across this country we have seen hospitals, office buildings, malls, stadiums and museums among the many facilities that are having difficulty finding terrorism coverage.

With commercial development stalling, workers are also missing out on jobs. That is why it is imperative that we pass this terrorism insurance legislation to protect American jobs and strengthen our economy as we protect ourselves against future terrorist attacks.

Without coverage, the economic impact of another terrorist attack would indeed be devastating. The U.S. could face a string of bankruptcies, loan defaults and layoffs that would intensify the blow of the attack. As a conferee on this legislation, I am proud to say that we have produced legislation that is a direct response to the uncertainty in the insurance market that is hindering the economy and costing American jobs.

Under this legislation, private insurance would pay for damages up to a certain amount, and the Federal Government would guarantee against catastrophic losses. By establishing a temporary risk-spreading program to shore up the insurance market, it will help provide much-needed confidence and certainty, while also minimizing government regulation, which would only go into effect if a terrorist attack occurred. It will also effectively limit market disruptions, encourage economic stabilization, and facilitate the transition to a viable private market for terrorism risk insurance.

Most importantly, we have carefully crafted a package with much-needed taxpayer protections, including mandatory payback and recoupment. This ensures the availability and affordability of terrorism insurance in the market, while also maintaining the flexibility to protect taxpayers and policyholders.

I applaud President Bush and the gentleman from Ohio (Chairman OXLEY) for their determination and leadership in moving this legislation that will strengthen our economic security. I urge my colleagues to support this terrorism insurance legislation to help create jobs, strengthen economic growth, and reduce the impact of any future terrorist attack.

Mr. LAFALCE. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the distinguished ranking member of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises responsible for the terrorist insurance bill.

Mr. KANJORSKI. Mr. Speaker, I rise in support of the conference report on the Terrorism Risk Insurance Act. We need this economic stabilization to provide an inoculation for our ailing economy.

Since last year's terrorist attacks, insurance rates for businesses have risen significantly across the country. One recent report by the Insurance Information Institute found that insurance rates have increased by 30 percent or more after last year's terrorist attacks. One of the primarily factors contributing to these dramatic increases is the lack of terrorism insurance.

The failure to create a Federal terrorism insurance backstop has also had serious implications for our economy. As the report of the Joint Economic Committee found, the problems associated with terrorism reinsurance pose a significant threat to sustained economic growth. The Real Estate Roundtable found that the lack of terrorism insurance availability for commercial properties has resulted in the cancellation or delay of $15 billion in real estate deals, resulting in the loss of potentially 300,000 fewer good-paying construction jobs.

Terrorism insurance is critical to protecting jobs and promoting America's economic security, whether in Wilkes-Barre, Scranton, or Hazleton, Pennsylvania, or in New York City. The issue of terrorism insurance may also affect our national economy more immediately and more drastically than any tax or spending issue that Congress has considered in recent years. Without Federal intervention in the insurance marketplace, our already-sluggish economy will likely experience increased instability in the near future.

The conference report before us today is workable; it is an effective compromise, one that provides substantial financial protection. I am pleased that the conference report contains a number of provisions which I advocated. For example, the legislation designates the Secretary of the Treasury as the administrator of the program and clearly authorizes auditing powers and penalties.

Additionally, I worked to ensure that this conference report allows the Treasury Secretary to consider the effect of payback surcharges on urban, smaller commercial, and rural areas and on different lines of insurance. These considerations are important because they will ensure that the individual policyholders will be treated fairly and a small business, a farmer or other rural policy holder will not be asked to disproportionately subsidize losses associated with national symbols like a skyscraper or large manufacturing plant.

Moreover, through the process of considering this bill, I have worked to adapt the simplest, cleanest bill to get us through the period of uncertainty until the private sector can price the terrorism reinsurance.

Mr. Speaker, this bill should have been before the Congress a year ago. We worked diligently in the subcommittee; and if the report of the subcommittee had been presented to this floor a year ago, I am convinced in my own mind there would have been well over 420 votes to support it. Unfortunately, as the ranking member of the committee indicated, this got caught up in ideology and other factors, trying to make it a locomotive, if you will, to handle tort reform.

I think this is a perfect example of how we could start the new year and the new Congress in recognizing that partisanship and special interests or ideologies should not be made part of public policy. We can start by looking at this case as a case in chief as to how legislation can be accomplished and how it cannot be accomplished and why 1 year lost of construction time and investment is not worth the attempt to win some political point or political benefit.

I compliment the chairman of the committee and the chairman of my subcommittee; and particularly I want to compliment, pay respect to, the ranking member from western New York. Without his diligence and without their diligence, we probably could be arguing until the cows come home.

Fortunately, everybody realized that America needs this bill. The insurance industry, which is probably the least likely industry that wants Federal involvement, recognized that this is a role government should play. But most of all, Mr. Speaker, the American people and the American economy need this bill.

I urge my colleagues to support this conference report to their fullest extent.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Texas (Mr. DELAY), the majority whip, soon to be majority leader.

Mr. DELAY. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, the chairman has done a lot of hard work on this bill, and I rise today to support the terrorism insurance legislation before us and to highlight the important work still to be done on this issue.

I had my doubts about this legislation from the very beginning. The most accurate assessment of the risk to Americans is developed by the private marketplace, free from government interference. However, terrorism insurance is not always available, and sometimes it is available only at prices people cannot pay. But the most troubling aspect of this bill is the flaw that leaves American taxpayers holding the bag and trial lawyers running away with the loot.

□ 2115

The House passed a bill containing strong liability protections. The most important was an outright ban on punitive damages. We now have a conference report that lacks this ban.

Mr. Speaker, President Bush's top four economic advisers explained it best in a June 10 letter. They said very directly, "Punitive damages are designed to punish criminal or near criminal wrongdoing. American companies that are attacked by terrorists should not be subject to predatory lawsuits. The availability of punitive damages in terrorism cases would result in inequitable relief for injured parties, and threaten bankruptcies for American companies."

I wish these were the only problems with this bill. But the most troublesome aspect is the prospect that taxpayer dollars may be negotiated away in an out of court settlement. There is no sufficient mechanism in this bill to protect a raid on the Treasury by predatory trial lawyers.

Unfortunately, there is an industry in America today that profits from tragedy and suffering. Businesses and property owners and victims who have lost their lives are innocent bystanders in terrorist attacks. My concern is that we are handing this industry additional tools to take advantage and compound these tragedies.

President Bush repeatedly said during this election that we need to stand with the "hard hats" and not the trial lawyers, and I agree with that.

However, this bill falls very short of the President's intent. The Wall Street Journal described its weaknesses as a "bonanza for trial lawyers."

I raised these concerns with President Bush. He agreed that there is more work left to protect victims of terrorism and the Federal Treasury, and he pledged to work with us next year to resolve these flaws.

I want to thank President Bush for that pledge to protect the taxpayers.

As long as I have been in Congress I have guarded the taxpayers, and we are working to fix the problems with this bill.

We are going to lock the doors of the Federal Treasury against trial lawyers who would exploit flaws in this new law to soak the taxpayers.

I am going to stand with hard-working Americans. I am going to stand with those "hard hats," and I am going to oppose anyone who seeks to plunder the Federal Treasury.

Mr. LaFALCE. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from Manhattan (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me this time and for his fine leadership on this committee and on this legislation.

I rise in strong support of the conference report for the Terrorism Risk Protection Act, which provides a Federal safety net in the form of a loan program to the insurance industry in the event of another terrorist attack.

September 11 cost the insurance industry more than $40 billion and many insurers have since dropped terror insurance completely or hiked premiums to extreme levels.

The lack of comprehensive and affordable terrorism insurance has blocked billions in development deals, halting construction and costing jobs.

The bill provides loans to insurers for 90 percent of damages over a deductible and can apply to terrorist events over $5 million. Very importantly, it sunsets 3 years after passage.

This is an economic stimulus bill for New York City and the country.

Cathy Wylde of New York City Partnership estimates that passage of this bill will add 1 percent to the GDP of New York City, and some economists believe it will have the same impact for the Nation. It is extremely important to get our economy moving again. It is about jobs, putting people to work, and not letting terrorists cut off credit.

One example of the impact of the lack of terror insurance is the situation facing the managers of the Conde Nast building in Times Square. This 48-story property is a New York City landmark that houses a publishing empire and the famous NASDAQ market site from which the TV networks broadcast updates on the stock market.

While the building's owners have always carried insurance to cover the $430 million mortgage, after September 11 terrorism coverage insurance alone for the building skyrocketed to $5 million a year. The building's owners were unable to pay this high amount while the bank holding the mortgage demanded that they carry full coverage. As my colleagues might expect, this situation has led to prolonged litigation.

Passage of this legislation will resolve the situation for the Conde Nast building and for many other properties like it across the Nation.

Importantly, this is not just a New York City or New York State problem.

According to a recent report by the Mortgage Bankers Association, the lack of terrorist insurance has led to downgrades by the rating agencies of commercial real estate property around the country. The MBA alone believes the downgrades have cost its industry $8 billion in canceled or delayed projects.

I am very pleased that today's bill contains a compromise on the tort reform issue.

Finally, I want to thank the chairman of the committee, and to the Democratic leader of the Committee on Financial Services, I want to thank very much the gentleman from New York (Mr. LaFALCE) for his tireless work on this issue and so many others. He stood for principle throughout consideration of the debate on this bill and, I would say, all legislation before the committee. We will truly miss his contributions to the Committee on Financial Services and to this Congress. I believe this will probably be the last bill that the gentleman will manage on the floor and we appreciate very much the gentleman's wonderful leadership and all of his fine work for his district, New York State, and I would say for the country.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Louisiana (Mr. BAKER), the chairman of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

Mr. BAKER. Mr. Speaker, I appreciate the chairman yielding me this time and certainly want to compliment his leadership on this most important matter, and certainly the gentleman from New York (Mr. LaFALCE) and the gentleman from Pennsylvania (Mr. KANJORSKI), who have worked tirelessly with us to propound a resolution to this most difficult problem.

The important point I wish to speak to tonight is the significance of the mechanism by which we assist the industry while requiring repayment of taxpayer dollars. When one of these tragic events occurs, certainly the most important thing we can do is to keep our economy working and not have the tragic event of terrorism which takes the lives of innocent human beings, which causes the destruction of properties, to extend into the workforce and cause people to lose their employment by the loss of construction jobs or other opportunities. Without the passage of this act, should there be another unfortunate event, which all of us hope never occurs, we would face very uncertain times.

The industry was able to respond, gratefully, to the horrific events in New York, but capital is depleted and we do not know what ability they may have if we suffer an event on such a grand scale again.

Tonight we are responding to those eventualities by saying yes, we will help industry, we will help you in times of short-term liquidity, when your bank account is low, when you have paid out the claims and you cannot meet the next obligation, but we are going to require that industry to put their money up first; we do not go to the taxpayer as the first stop. But then we say to those companies, here is the taxpayer loan and it is in fact a loan where we are going to enable you to continue to operate by extending credit to you during this time of crisis, but we are going to expect you to pay it back.

That is a unique standard. This House has acted in other areas of concern relating to business operation in times of terrorist attack and we have not required the extension of taxpayer funds to be repaid. Tonight, we establish a new standard. Yes, we are willing to help big business; yes, we are willing to do what is necessary to keep our economy going, but when the economy returns and the industry is enjoying a profit, we are going to expect to get our money back. I think that is not only entirely appropriate, but the highest standard of conduct for this committee to have exercised. We should not ever open the taxpayer checkbook to industry of any sort without demanding a high standard of conduct. Tonight we are setting it: You are going to give us the money back.

Now, the Secretary of the Treasury does have the discretion, should we be in desperate economic circumstance where the imposition of the repayment would not be wise, meaning it would raise the premiums on homeowners, on business owners, or that the industry simply could not generate the resources to pay the money back. So we have a balanced approach. We say yes, we will help in times of crisis and we expect you to pay us back, but if economic conditions do not warrant it, the Secretary of the Treasury shall report to this Congress why he believes that the repayment should not occur. I think this is an excellent balance utilizing common sense and taxpayer resources to do that which we all are driven to do: to ensure that our economy functions, that terrorists do not win, that innocent working people are not harmed, and that at the end of the day our economic interests are protected.

I wish to commend all of the parties who have contributed mightily to this effort and say, job well done.

With regard to those issues concerning punitive damages, I agree with our whip. I do believe that we should be very careful in opening the doors to allow those who choose to file unwarranted litigation and suits and take 30 or 40 or 50 percent of the award that is granted, particularly in the area of punitive damages, for no apparent public policy reason, and I hope it is an area that with the President's leadership we can return to next year and resolve in the favor of the American taxpayer.

Mr. LaFALCE. Mr. Speaker, I yield 4 minutes to the gentleman from Texas

(Mr. BENTSEN), a departing Member of Congress and a very distinguished representative who is here with his lovely daughter to witness what I think will probably be his final remarks in Congress.

Mr. BENTSEN. Mr. Speaker, I thank the gentleman for yielding me this time, and I want to say at the outset what a pleasure it has been to serve with the gentleman from New York (Mr. LAFALCE) on the Committee on Financial Services.

I rise in strong support of the conference report. I want to echo the comments of my colleague from Louisiana, because I think he does understand the prudent nature of this legislation. I for one have been one who is concerned about the extension of government credit where markets already exist which can provide for that. What we learned in the aftermath of the despicable attacks of September 11 was that in addition to the human carnage there was also an economic fallout, particularly as it related to the insurance market. In effect, the insurance market for terrorism which heretofore had been a very narrow and inexpensive market basically was unpriceable. One could not buy it at any price. And as such, not only were existing loans on commercial structures out of compliance with their loan documents, but innumerable new projects were halted because lenders were not able to, or were not comfortable to provide credit where the risk of terrorism would not be covered by the insurance market.

So it became necessary for the Congress to act.

We started looking at this issue shortly after September 11, 2001, and as the gentleman from New York and the gentlemen from Ohio and Louisiana will recall, we had a number of issues that were thrown on the table. We had the reinsurers who were here, hat in hand, and wanted a program much like what Great Britain has done with the City of London and expanded across the entire nation; we had the Treasury Secretary and the administration that was here with a proposal which, quite frankly, would have put the taxpayers I think, and I think the majority of the committee felt, a little bit too much on the hook than we felt was the appropriate way to go. Actually, over time, a pretty sensible bill was crafted, bipartisan bill was crafted, primarily with the leadership of the gentleman from Ohio and the gentleman from Louisiana, and I was proud to join them on that legislation, along with the senior Senator from the State of Maryland.

As we went forward, the principle that the gentleman from Louisiana espoused became very clear, and it was that the government would provide a backstop using the credit of the American taxpayer, but that we would not do it forever, that it would have a sunset, and that there would have to be some payback mechanism; that if we were going to extend the credit, we needed a way that we could recoup the losses to the taxpayer.

□ 2130

As the gentleman said, that was a rather unprecedented approach. It has survived in this legislation, and it was not supported across the board by a number of Republicans and Democrats, but it did survive. I think a lot of credit goes particularly to the gentleman from Louisiana (Mr. BAKER), because he was quite adamant in that regard.

In addition, I want to address the question of tort, because we discussed that in the committee when we first moved the bill on this side of the street. I have to take issue with the comments of my dear colleague, the gentleman from Texas (Mr. DELAY), my neighbor in Texas, the majority whip, soon to be majority leader. As I see the final conference report, there are a number of changes that are designed to protect the taxpayers from excessive litigation: number one, all tort claims are consolidated; number two, they are all Federal claims and not State claims; number three, if I read it properly, no claims can be made against Federal taxpayer dollars.

There are some who, unfortunately, sought to use this bill as a proxy for the issue of tort reform. Yet I do not think that was what the gentleman from Ohio, the chairman, wanted to do; and quite frankly I do not think that is what the gentleman from Louisiana wanted to do, because they understood what the core problem was.

Over the last year and a half, almost, that we have been working on this legislation, I have yet to meet one business leader, one commercial developer, one insurance person who has said that the tort issue is an issue that must be addressed. The concern they had was that there was no insurance market available and that development had come to a screeching halt.

Tonight, we finally have a product which is prudent for the American taxpayer, which sets a very fine precedent going forward for future Congresses as they look at the extension of Federal credit. I hope our colleagues will adopt this package. I wish we could have done it sooner, but thank goodness we are doing it now. I commend the chairman and the chairman of the subcommittee, and my colleague, the gentleman from New York, and the ranking member for the work they have done.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me recognize my good friend, the gentleman from Texas (Mr. EDWARDS), who also is involved in his last bill on the floor, at least for a while. He has been a principled member of our committee and has provided reasoned judgment throughout a number of the issues that the committee has dealt with over the last 2 years. I want him to know he has my personal thanks and recognition for his excellent work.

Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY), chairman of the Subcommittee on Oversight and Investigations.

Mrs. KELLY. Mr. Speaker, I thank the gentleman from Ohio for yielding time to me.

Mr. Speaker, on September 11, our world fundamentally changed with the cowardly act of a handful of terrorists. Passage of this bill represents another significant step in our efforts to address the new realities we confront.

This bill addresses the fact that one of the key objectives of the terrorist networks is to disrupt our economy. The losses of September 11 and the continued terrorist threat demonstrate that we must provide basic protections for our economy.

The September 11 attacks resulted in the largest single hit to our insurance industry in history. Since then, businesses and insurance markets have faced a new reality. Insurers are being asked to insure terrorism risk when they have no realistic way to determine the fair price for that risk, or, in the vast majority of cases, being able to obtain any reinsurance for it.

Moreover, no one can presently calculate the proper odds for where or when the next attack will occur. We do know, however, that our government officials believe that we should expect additional attacks. Consequently, the vast majority of insurers have been reluctant to cover terrorism, especially for major buildings, factories, or gathering places.

Where terrorism insurance is available or is required by law, insurers are now charging high premiums for it and offering very limited capacity to protect against the risk of insolvency. I believe that the GAO put it best when they testified before my oversight committee that "large companies, businesses of any size perceived to be in or near a target location, or those with some concentration of personnel or facilities, are unlikely to be able to obtain a meaningful level of terrorism coverage at an economically viable price."

Hospitals have been especially hard hit by this terrorism insurance crisis. Representatives of some of the New York hospitals testified before my subcommittee that they have seen a 256 percent increase in their coverage of their insurance rates for only one-third of the previous coverage. It is only one example of the crisis. I have many, many more and will insert letters into the RECORD which demonstrate this.

It is clear that the current lack of terrorism coverage acts as a chill factor, restraining our economy. We heard that businesses, particularly in cities and near potential targets, wanting to build are being required to carry terrorism insurance. However, there is little or no terrorism coverage available, so some new construction is being stopped before it can even start. This is causing the loss of new jobs at a time when creating jobs should be one of our highest priorities.

In short, the failure to act quickly on terrorism insurance legislation is imposing a fear tax on America, costing real jobs when the country is trying to pull out of a recession.

In addition, the administration says that another terrorist attack is extremely likely, and we must plan now for how the government should react to an attack; now, not after another attack. We have learned countless lessons from September 11 on homeland security, and the need for this legislation is one of them.

This conference report is a good solution to the problem and deserves our full support. I ask my colleagues on both sides of the aisle to join me in support of jobs by voting for this conference report.

I thank the gentleman from Ohio (Chairman OXLEY) for his leadership, and I thank his wonderful staff for their work on this issue.

Mr. Speaker, I include for the RECORD the following letters regarding terrorism insurance:

JULY 8, 2002.

Hon. SUE KELLY,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSWOMAN KELLY: Our members, the owners, institutional investors and others in real estate in New York City, appreciate the leadership you have provided in dealing with the critical problem of the absence of adequate terrorism insurance coverage.

I understand from a recent conversation with one of our members, Douglas Durst, that you are interested in having some specific examples of the problems the absence of terrorism insurance coverage has created. Those examples follow:

4 Times Square, also known as the Conde Nast building, is in litigation with its lender due to the absence of terrorism insurance coverage. The lender, La Salle Bank and CIGNA has threatened to invade the "lock box" into which rents are deposited in order to buy $430 million in terrorism insurance, the amount of the mortgage. The insurer for the portfolio held by the owners of 4 Times Square has refused to write coverage for this building claiming it is "high profile." The owners have recently obtained $100 million in terrorism insurance but without no coverage for biological or chemical events. As for the remaining $330 million dollars in coverage the lenders require, the courts will resolve whether the money to buy such coverage, if available, can be claimed from the cash flow of the property. Should the courts determine that the cash flow can be invaded for this purpose, the full interest due to the investors holding certificates will not be paid, the rating services will downgrade the securities which are already on the Moody's watchlist, and the individuals who invested will see their investment eroded. Meanwhile, the owner-builder of 4 Times Square has equity of $450 million invested in this $880 million building and no coverage. That owner, who typically would be investing in the construction of a new building is stymied.

A lending officer at HypoVereinsbank, the major construction lender in the nation, has advised us that at least 5 major construction projects in his portfolio are not going forward until the terrorism insurance situation is resolved. HypoVereinsbank wants full terrorism coverage including biological and chemical causes as well as certainty that for the duration of construction the insurance will be available. Four of these projects are in New York, the fifth in Chicago. Andy Veith, the lending officer will try to reach you later this week either by phone or e-mail.

Downtown, a one million square foot office building owner could not obtain refinancing for the underlying mortgage of approximately $200 million because terrorism insurance was unavailable. Finally, a lender agreed to go forward if the owner committed to pay $41 per square foot for stand alone terrorism insurance coverage. At the same time that the owner faced that $1 million additional drain on the cash flow of the building, he also had to absorb an increase of from $110,000 to $550,00 over the prior year's cost of insurance. This additional cost, in addition to excluding terrorism risk, does not cover mold or biological, nuclear or chemical events whether terrorist generated or otherwise. The owner now has $1,440,000 additional insurance expenses with less comprehensive coverage on the environmental risk side than before, and has to self-insure for the equity that he has invested in the property.

A REIT portfolio, which includes major office complexes in Boston, San Francisco, D.C. as well as a trophy midtown Manhattan building, can get only $250 million in terrorism coverage for the entire portfolio worth several billion. If there is one more terrorism incident, it is likely that even this limited coverage will be lost given its not uncommon 30-day cancellation clause.

Other examples from across the country, including hospitals, stadiums, major transportation centers and other vital private and public investments that are not covered by terrorism insurance, along with a vivid description of the ripple effect this problem is having on the overall economy, appear in the May 23rd Joint Economic Committee report to Congress.

It is most important that enactment of some form of government temporary back up for terrorism insurance coverage occur quickly.

We appreciate your efforts to resolve this critical problem.

Sincerely,

DEBORAH B. BECK,
Executive Vice President.

WIEN & MALKIN LLP,
New York, NY, July 9, 2002.

Re insurance.

Hon. SUSAN KELLY,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSWOMAN KELLY: Thank you for your efforts to date to highlight the extremely difficult insurance market for commercial real estate owners and developers in New York City and other major cities across the United States.

Our firm represents a portfolio of over 8,000,000 square feet of office space located in Manhattan, including the Empire State Building that as a result of the events of September 11th, is once again the tallest building in New York City. I feel that our recent experience trying to renew the insurance for these buildings underscores the problems that Congress needs to address.

The maximum amount of property insurance that we have been able to obtain at any price is $200 million dollars for this portfolio, less than half of our coverage of the $550 million maintained for the past 12 months. This level of insurance is significantly below replacement cost of any one of our properties, leaving our investors with significant risk.

Of even greater concern, this $200 million dollar program does not cover any loss between $75 million and $100 million. This "hole" in coverage further places our investors at risk and limits our ability to obtain future financing.

The program outlined above specifically excludes any act of terrorism. We have only managed to secure a $25 million dollar terrorism program because of insurance providers' general unwillingness to issue coverage in New York City. We also found it necessary to purchase a $50 million pollution liability program in the event of a chemical or biological attack because such an attack is excluded from the terrorism program noted above. Despite the drastic reduction of coverage, the premium for this program has increased an astonishing 500%.

In summary, it is clear that the insurance industry has opted to limit its exposure in major cities, resulting in reduced capacity, limited competition, and exorbitant pricing. The insurance industry's unwillingness to provide adequate levels of coverage at reasonable rates will translate into higher rents for tenants (to whom increased operating expenses are generally passed under typical lease clauses), fewer new construction projects and a general depression in the real estate market as the inability to shift certain risks historically assumed by the insurance industry drives people from the market.

I hope this information will help you in your continuing efforts to persuade your colleagues to rectify this situation.

Very truly yours,

PETER L. MALKIN.

Mr. LAFALCE. Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in support of this legislation, which is urgently needed and has been urgently needed since September 11, and particularly since November of 2001, when this House first passed it.

By backstopping the market's provision of terrorism insurance, this legislation will be a boon for new construction everywhere in America. But construction cannot get completed in America because financing is not available, and the reason financing is not available is that terrorism insurance is not available. This bill will fix that. By taking a huge, unquantifiable risk out of the equation, we will make writing terrorism insurance feasible again and will help Americans get back to work and start growing the economy.

We are dealing with this bill much later than we should be, many months after it should have been completed, because there has been a disagreement about protections against abusive litigation. This bill that we are voting on tonight is imperfect in that respect. Several of the protections of taxpayers' interests and the national interest that were built into this legislation in the original House-passed version have been deleted. These differences are not minor.

From the original House bill, we have eliminated a prohibition on punitive damages. We have eliminated fair-share liability for noneconomic damages, such as pain and suffering, and a requirement that attorneys' fees be reasonable. I do not believe that any of these provisions should be eliminated; but in the very brief time that I have remaining, Mr. Speaker, I will address just one of them: fair-share liability for noneconomic damages.

When the U.S. Government certifies that the terrorists were responsible, it should not be possible for lawyers to come in and assert, because of 1 percent liability found or prospectively that might be found for another party, that 100 percent of the obligation should rest there, particularly when we are talking about noneconomic damages; that is to say, completely notional damages like pain and suffering, things that lawyers can gin up by asserting it, merely by asserting it in a complaint. In each of these circumstances, the taxpayers will be made liable.

Mr. Speaker, we need to fix these flaws in the bill immediately when the 108th Congress convenes. On that understanding, I am supporting this bill because it is so desperately needed to put America back to work.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Connecticut (Mr. SHAYS), a valuable member of the committee and a member of the conference committee.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, following the terrorist attacks of September 11, the Committee on Financial Services moved quickly to study the lack of availability of terrorism insurance. Under the leadership of the gentleman from Ohio (Chairman OXLEY) and the subcommittee chairman, the gentleman from Louisiana (Mr. BAKER), we held hearings, met with financial experts, and alternately passed legislation to create a Federal insurance backstop to cover losses in the event of future terrorist attacks.

The legislation we are considering today is consistent with the bill passed by the House last November. Like its predecessor, it addresses the availability and affordability of terrorism insurance while protecting taxpayers and policyholders. It gives insurance companies the assistance they sought without giving them a blank check.

Mr. Speaker, the economy may be growing, but it sure does not feel that way. This bill is truly one of the keys to getting our economy back on track, spurring development, and creating jobs. I urge all of my colleagues to approve this measure and send it to the President, because it is not a question of if but when, where, and what magnitude we will face a terrorist attack using conventional weapons or, just as likely, weapons of mass destruction. The casualties could be large and the liability beyond comprehension.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this bill; and I encourage everyone to vote for it. It is a shame we were not able to pass it a year ago, about the time we reported our bill out of committee and passed it on the floor of the House; but I do think this is a much better bill now than the one we passed earlier.

Mr. Speaker, I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this, as I indicated in my opening remarks, is a very, very important piece of legislation. It is critical that the Congress act. The President has called for us to act.

Let me cite from an article today in The Washington Post regarding the threat of attack that "terrorist groups may be planning a new wave of attacks on Western targets. Even before the purported bin Laden tape surfaced on the al-Jazeera satellite network on Tuesday, the CIA, FBI, and National Security Agency had detected a significant spike in intelligence chatter over the previous 10 days that strongly indicated new assaults are being planned, officials in U.S. intelligence agencies said."

In congressional testimony last month, CIA Director George Tenet warned that recent attacks in Yemen, Kuwait, and Bali signal an escalation in terrorist activity which he characterized as "as bad as it was last summer, before the airliner hijacking assaults on the World Trade Center and the Pentagon."

"That threat environment level was high then and it has not lessened," a senior administration official said yesterday. "Bin Laden's appearances have always been carefully orchestrated, and unfortunately, they have often presaged a major al Qaeda attack or development."

Mr. Speaker, it is time that this Congress act. I appreciate the strong bipartisan support that this legislation has entertained over the last several months. This is a good example of Congress at its best, but it is even more important that we provide this framework for protection of the American economy. This bill does exactly that. I ask my colleagues for strong support for this conference report.

Ms. JACKSON-LEE of Texas. Mr. Speaker, the September 11 terrorist attacks have devastated many industries and sectors changing the landscape of the American economy, including the insurance industry.

The legislation before us today, H.R. 3210, is a reasonable piece of legislation and I am particularly pleased that the majority has shown the wisdom of removing the tort liability limitation provisions of the legislation. I joined my colleagues on the Judiciary Committee and those on the Financial Services Committee who worked hard to eliminate Section 15, a tort reform provision, which would effectively have banned punitive damages in terrorism-related cases. This provision was absolutely unnecessary.

This passage of this measure is important because the insurance industry has stated that, while it will be able to cover the estimated $40 billion in claims resulting from the Sept. 11 terrorist attacks, any new and renewed policies will not cover terrorist-inflicted damage unless the government helps cover that unknown liability. This is an issue of great concern to Congress and to the nation.

This legislation can make a great difference. Earlier this year, we acted swiftly and deliberately assisting the Airlines industry in the amount of $15 billion to save this important industry which was so severely devastated by the September 11 attacks. I am glad that we have come to an agreement that will allow us to act with bi-partisan sensibility to help this important sector of our economy as well.

This is not just an insurance industry problem. Rather, it is a national issue because if the insurance industry cannot reinsure the risk of further terrorist attacks, it will either increase premiums to the detriment of consumers, or simply stop offering terrorism coverage altogether. Furthermore, without adequate insurance coverage, lenders will not be able to lend and new investments will not be made, creating a credit crunch that could further devastate our economy.

Under this bill "each insurer will be responsible for paying out a certain amount in claims a deductible—before Federal assistance becomes available. This deductible is based on a percentage of direct earned premiums from the previous calendar year, and rises from 7 percent during the first year to 10 in year 2 and 15 percent in year 3. For losses above an insurer's deductible, the Federal government will cover 90 percent, while the company pays 10 percent."

"If the Federal government pays for insured losses during the course of a year, the Treasury Secretary will be required to recoup the difference between total industry costs (individual insurers' losses up to their deductibles, plus the industry's 10 percent cost share above the deductibles) and the following fixed dollar amounts per year: $10 billion for year 1, plus the last few months of 2002; $12.5 billion for year 2; and $15 billion for year 3. The recoupment will be accomplished through a surcharge on policyholders. The Secretary has discretion on the timing of the surcharge, but the surcharge cannot be more than 3 percent of the premium paid for a policy in a given year. Losses covered by the program will be capped at $100 billion; above this amount, Congress is to determine the procedures for and the source of any payments. The Secretary may assess civil penalties on participating insurance companies for submission of false or misleading information or failure to repay the Secretary for any amount required to be repaid."

I lend my support to this bill. Congress can and must act to protect the most vulnerable sectors of our economy, and those who most need assistance. The underlying bill holds the promise of protecting the insurance industry and the millions of Americans dependent on it. The version of the bill before us today goes a long way toward restoring confidence to our nations lenders and should help bolster our struggling economy. As such, I urge my colleagues to support the measure before us tonight.

Mr. NEY. Mr. Speaker, I just want to take a quick moment to comment on an important part of this legislation, group life insurance. H.R. 3210 contains a study of group life insurance and I would like to clarify that it was the intent of the House that the term "group life insurance," as it appears in the text, is used in it's typical and customary sense to mean "an insurance contract that provides life insurance coverage, accidental death coverage, or a combination of both for a number of persons under a single contract and that provides such coverage on the basis of a group selection of risks."

Mr. BEREUTER. Mr. Speaker, this Member rises today to express his support for the conference report of the Terrorism Risk Protection Act (H.R. 3210). This conference report will help ensure that businesses are able to acquire property and casualty insurance while still providing taxpayer protection against terrorist losses. This Member is pleased that the House and Senate conferees have reached an agreement on terrorism insurance which President President George W. Bush is expected to sign. This Member is a cosponsor of H.R. 3210, which the House first passed on November 29, 2001, by a vote of 227–193.

This Member would first like to thank the distinguished gentleman from Ohio (Mr. OXLEY), the Chairman of the House Financial Services committee, for both introducing this legislation and for his efforts in bringing this conference report to the House Floor. Additional appreciation is expressed to the distinguished gentleman from Louisiana (Mr. BAKER) who also played a crucial role in crafting the conference report on H.R. 3210. Moreover, this Member would also like to thank the distinguished gentleman from New York (Mr. LAFALCE), the Ranking Minority Member of the Financial Services Committee, for his bipartisan cooperation and assistance on this conference report.

The uncertainty caused by the terrorist events on September 11, 2001, has resulted in the possibility of serious problems for the insurance industry and the insured from additional severe terrorist attacks. To illustrate this, reinsurance companies provide insure against massive losses for insurance companies. Since this terrorist attack, many primary companies, because they cannot receive reinsurance, have sent notice cancellations to businesses indicating that they will not receive coverage for losses caused by terrorist activities. If both small and large businesses continue to be unable to receive insurance, it will contribute to the further instability of the American economy. Insurance provides a very important element of the stability needed by businesses to continue functioning and investing and for bankers to continue lending to businesses.

As a Member of the House Financial Services Committee, which has jurisdiction over the important elements of the limited Federal role in commercial insurance, this Member supports this conference report for the following two reasons. First, obviously it helps ensure that commercial insurance continues to be available for businesses—and available at affordable costs. Second, it provides necessary taxpayer protections against possible severe terrorist losses to businesses.

Under this conference report, a temporary Federal terrorism insurance program would be established within the Treasury Department. Under this program, Federal funds would be provided to property and casualty insurance companies when losses reach the "trigger" level. In particular, Federal funds would pay 90 percent of the terrorism-related losses of insurance companies that exceed 7 percent of the company's premiums in 2003; 10 percent of a company's premiums in 2004; and 15 percent of a company's premiums in 2005. Each insurance company would pay for 100 percent of insured losses up to those thresholds and 10 percent of the losses above those levels. This Federal terrorism insurance program would cover industry-wide losses up to $100 billion per year.

It is also very important to note that this conference report provides for the mandatory repayment of some of the Federal funds used to cover insured losses. Under this conference report, for 2003, the insurance industry must repay the Federal assistance which is the difference between the sum of all insured losses paid by the industry and $10 billion. For 2004 and 2005, these repayments would be made for the difference between the sum of all insured losses and $12.5 billion and $15 billion, respectively. These repayments would be collected through a surcharge on the policies of all commercial insurance policyholders. Therefore, this conference report is not an insurance company bailout; it protects the American taxpayer against a big hit while continuing to maintain insurability against terrorist attacks.

Furthermore, this conference report also provides taxpayer protection from punitive damages in lawsuits which claim terror-related losses or injuries. To illustrate this, this conference report requires all terror-related lawsuits to be considered in Federal court, rather than in state courts. Moreover, this conference report does not set a Federal standard for awarding punitive damages in terror-related lawsuits. However, it instead allows the state law in which the terrorist act occurred to prevail with respect to punitive damages. Most importantly, the conference report requires that punitive damages awarded through these lawsuits will not be paid for by Federal funds used to cover losses from terrorism. For my Nebraska constituents, it is important to note that punitive damages are not allowed under Nebraska state law in Nebraska state courts.

In conclusion, Mr. Speaker, this conference report balances the need of businesses to continue to receive commercial insurance against terrorist acts at affordable costs, with taxpayer liability protection. As a result, this Member urges his colleagues to support the conference report of H.R. 3210.

Mr. OXLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 3758.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

CONFERENCE REPORT ON H.R. 4628, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mr. GIBBONS submitted the conference report and statement on the bill (H.R. 4628) to authorize appropriations for the fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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CONFERENCE REPORT ON S. 1214, MARITIME TRANSPORTATION SECURITY ACT OF 2002

Mr. LOBIONDO. Pursuant to House Resolution 605, I call up the conference report on the Senate bill (S. 1214) to amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes, and ask for its consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 605, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 13, 2002, at page H8561.)

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. LOBIONDO) and the gentlewoman from Florida (Ms. BROWN) each will control 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. LOBIONDO).

Mr. LOBIONDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the Maritime Transportation Security Act of 2002. I would first like to thank the members of the conference committee who have provided the leadership and vision to create this landmark legislation, especially the gentleman from Alaska (Chairman YOUNG), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), Senator HOLLINGS, and Senator McCAIN and Senator LOTT.

The Maritime Transportation Security Act of 2002 establishes a comprehensive national system to increase transportation security for our ports and waterways. This legislation was developed to prevent a terrorist attack along our Nation's largest and perhaps most vulnerable border, consisting of 95,000 miles of coastline with hundreds of ports. The United States maritime industry contributes $742 billion to the gross domestic product each year, and a ripple effect of an attack on an American port would be absolutely devastating.

The goal of S. 1214 is to deter terrorist attacks against ocean shipping without adversely affecting the flow of U.S. commerce through our ports. Striking this balance has been a key and essential element of my approach to this issue, and I believe that this bill achieves this goal.

S. 1214 requires the Coast Guard to conduct vulnerability assessments of our United States ports. The results of the assessments will be used to implement a national maritime transportation security planning system, consisting of a comprehensive national plan, specific area plans, and local vessel and marine facility plans.

S. 1214 also establishes a requirement for the Coast Guard to assess the effectiveness of security systems in certain foreign ports and to deny entry to vessels from ports that do not maintain effective security. Under S. 1214 individuals who enter secure areas on vessels or facilities will be required to have background checks and transportation security cards that will be issued by the Federal Government.

The Maritime Transportation Security Act authorizes grants for enhanced facilities security at U.S. ports for the next 6 fiscal years. These grants will help cover the costs of port security improvements and fund research and development projects to determine which technologies will best improve port security.

I have personally visited ports located in and around my home State of New Jersey and have seen the security challenges facing these facilities. Securing our ports is a critical Federal responsibility and the grant program is helping ports around America increase security and deter any would-be attackers.

Shipping containers are particularly adaptable to use by a terrorist, and S. 1214 contains several provisions to improve the securities of our containers. The bill requires the Secretary of the Department in which the Coast Guard is operating to maintain a cargo tracking, identification and screening system for shipping containers shipped to and from the United States.

Finally, the bill requires the establishment of performance standards to enhance the physical security of shipping containers, including standards for container seals and locks.

Mr. Speaker, this bill contains other important security enhancements concerning enhanced vessel crew member identification, Coast Guard sea marshals and vessel transponders to track the movement of vessels in United States waters.

Equally significant, the bill contains several additional security enhancements and other Coast Guard provisions previously passed by the House. The Coast Guard, as one of the Nation's five armed services, has a key role in homeland security, particularly as it relates to port security and defense readiness. These provisions strengthen the authority of the Coast Guard to confront the terrorist threat facing us today. Strong maritime homeland security requires a strong Coast Guard with the resources it needs to protect the country from a terrorist attack.

During my chairmanship of the Subcommittee on Coast Guard and Maritime Transportation, I have long said that the Coast Guard needs three things, essentially, to be successful: More money, more manpower, and more modern assets. Fortunately, this measure addresses all three needs and will help the Coast Guard to keep serving America both proudly and successfully. The bill authorizes expenditures for the United States Coast Guard for fiscal year 2003. Title V of the bill authorizes approximately $6 billion for Coast Guard programs and operations for fiscal year 2003. The bill funds the Coast Guard at levels requested by the President of the United States. An injection of $550 million in additional operating resources will also allow the Coast Guard to address chronic budget shortfalls. The bill fully embraces the President's call for an additional 2,000 Coast Guard personnel.

Many of the Coast Guard's most urgent needs are similar to those experienced by the Department of Defense, including spare parts shortages and personnel training deficits. Title V authorizes $725 million for Coast Guard acquisitions. This funding will help support the recapitalization of the Coast Guard's vital assets, especially the Coast Guard's deep water program, which is so long overdue.

Immediately following the events of September 11, 2001, the Coast Guard launched the largest home port security operation since World War II. And as part of operation Noble Eagle and Operation Enduring Freedom, the Coast Guard established ports and coast line patrols with 55 cutters, 42 aircraft, and hundreds of small boats. Over 2,800 Coast Guard reservists were called to active duty to support maritime homeland security operations in 350 of our Nation's ports. The Coast Guard enforced over 118 Maritime security zones around Navy vessels, cruise ships, nuclear power plants and other facilities.

The Coast Guard now requires a 96-hour advance notice for all ships entering U.S. ports. I want to commend the Coast Guard for their rapid response to the September 11 attacks and thank them for their tremendous service to our Nation. Fortunately, we have already provided the Coast Guard with broad legal authorities to implement the necessary security measures within U.S. ports. However, without substantial additional Coast Guard resources, we are not going to be able to significantly enhance maritime security.

Mr. Speaker, I want to take this opportunity to commend the men and women of the Coast Guard who, as I said before, have done such an exceptional job in service to their country. America benefits from a small Coast Guard that is equipped to stop terrorists and drug smugglers and support the country's defense to respond to national emergencies. We must now act to put the Coast Guard on a sound financial footing to be ready to respond to increasing homeland security demands and to carry out other critical missions.

Finally, Mr. Speaker, I would like to take this opportunity to thank the hard working House staff members who really have made this bill possible. Both from the House and Senate side the staff members worked extremely hard with long hours on this bill. An accomplishment of this magnitude is in large part due to their efforts.

I would like to single out one person in particular, Rebecca Dye, who I have had the pleasure of working with as my tenure as chairman of the Subcommittee on Coast Guard and Maritime Transportation, who has worked tirelessly throughout the 2 years that I have been chair and especially worked tirelessly on this bill. She will be leaving us shortly, and I want to take the opportunity to say what is our loss will be the gain for the United States of America. I thank Rebecca very much for her service to this committee, and I wish her the best of luck in the future.

Mr. Speaker, I urge all Members to support this conference report.

Mr. Speaker, I reserve the balance of my time.

Ms. BROWN of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of the conference report on S. 1214, the Maritime Transportation Security Act of 2002.

The events of September 11, 2001 has changed America forever. Every Member of Congress has examined the programs and policies within their committee to determine what they need to do to help protect the people of the United States from terrorists. The conference report we are considering today will provide the framework to secure our seaports and coastal communities from terrorist actions.

Each year 95 percent of the U.S. imports and exports are moved by ships. U.S. consumers are dependent upon foreign oil for the gas they use in their cars. U.S. manufacturers are dependent upon the just-in-time delivery system of the container ships to resupply their manufacturing line.

We have recently seen the impact that a shutdown of the marine transportation system can cause when the West Coast waterfront employees locked out the longshoremen from unloading ships in port. A terrorist attack in our ports could have had an even more devastating impact on our Nation's economy.

Each year thousands of Americans enjoy cruises out of Florida ports. Cruise terminals and ships must ensure that cruises are not just enjoyable but also safe. The cruise ship industry is already working closely with the Coast Guard to protect the vacationing public. This legislation will help make the working relationship even closer.

On October 3, 2001, I introduced H.R. 3013, the Ports and Maritime Security Act of 2001. This legislation is very similar to the conference report we are considering today. They both require port vulnerability assessments of our Nation's ports, they both require terminal security plans, and they both establish a new grant system to help ports and terminal operators pay for security improvement. I believe that S. 1214 will lead to major improvements in securing the international maritime transportation system from threats of terrorists and from being used to deliver a weapon of mass destruction to the United States.

Section 70105 restricts access to secure areas of terminals to individuals that have a biometric security card that have passed a background investigation. Only those individuals that have unescorted access to a secure area, such as those people that have access to open containers or cargo manifests, will need a card.

Two provisions in S. 1214 are in particular interest to my home Port of Jacksonville and the 12 other ports throughout the Nation that have tremendous importance in times of war. In awarding the security grants established under Section 70107, the Secretary is directed to make it a priority for ports that have great defense importance, such as the Port of Jacksonville, to receive funds. Without securing these military load center ports, our troops that are deployed overseas may not receive the vital supplies they need.

We are contemplating military action in Iraq. Funding for these specific ports is vital, not only for the security of the soldiers protecting our freedom, but for the citizens and communities who proudly support these important ports.

The second provision ensures that the Secretary can award grants to ports for securing measures they have already taken since September 11, 2001.

In addition, S. 1214 contains the text of H.R. 3507, the Coast Guard Authorization Act for Fiscal Year 2003. This act contains many provisions to improve housing for Coast Guard personnel, to provide compensated leave for Coast Guard personnel that are in isolated duty locations, and to improve maritime safety.

I would like to thank the gentleman from Alaska (Chairman YOUNG), the gentleman from New Jersey (Mr. LOBIONDO), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR) for the bipartisan effort they have used to develop this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LOBIONDO. Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG), the chair of our full committee, who has done such a great job in helping pull this together.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I want to thank the gentleman from New Jersey (Mr. LOBIONDO) for his great work as chairman of the subcommittee. I run my committee a little different than most of the other chairmen. I like to have my subcommittee chairmen that handle the bill to do the work, and I deeply appreciate what an outstanding job he has done with the Coast Guard. And he has Coast Guard facilities in his district and represents the Coast Guard quite well and the ports, which is something that I think this bill will help take care of.

We have a serious problem, which I think we have met in this bill, and that is the importation of product without screening. We do that. We really think that this will make sure that something cannot, it could happen, but cannot readily happen because of the passage of this legislation, product damaging to the Nation through our ports, and we will be ability to make sure that does not occur. Of course, the Coast Guard plays an immense role in that.

□ 2200

Mr. Speaker, I know that the gentleman from New Jersey (Mr. LOBIONDO) has done this before; but I, too, would like to acknowledge Rebecca Dye, who has not only been a staffer for me for many, many years on the committee, her husband worked for the government; and even better, Rebecca is going to move on. This is her last presentation. She has been nominated by the President to serve as a commissioner on the Federal Maritime Commission, and I expect her nomination to be approved by the Senate very shortly. I am very proud of her actions and ability to go forth and serve in an industry that I deeply respect, and that is the maritime industry. She has been a great professional, has done an outstanding job, and formerly served in the Coast Guard as a Reservist. She knows what she is doing.

I would also like to thank Patty Seeman for her hard work, and Ed Lee for his hard work, and of course Liz Megginson, chief counsel.

This bill has been a long time coming. We had to work with Senator HOLLINGS, and I love him to death; but working with Senator HOLLINGS can sometimes be difficult. Working with Senators always is difficult, and I know that I am not supposed to say that. The next rule change, we will be able to do that.

Mr. Speaker, I think this is a good piece of legislation. I know the hour is late and this is a so-called lame duck session; but this is one part of this lame-duck session we should be proud of. It protects our Nation, supports the Coast Guard, and helps our ports. I am extremely proud of this legislation. I urge my colleagues to vote for this legislation, if we have a recorded vote. I thank all Members who have worked together on a bipartisan basis, particularly the gentleman from Minnesota (Mr. OBERSTAR), the ranking member. We have done a good job on this legislation.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WHITFIELD). The Chair reminds Members to avoid improper references to the Senate.

Ms. BROWN of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I rise in support of the bill, which I believe will go a long way towards securing our ports against potential terrorist threats.

The events of 9-11, as devastating as they were, exposed our vulnerability to terrorist attacks. None of us believe future threats will be restricted to the tools of war used on that day, so it is important for all of us to closely examine all of our security issues, particularly our port security.

My district includes the port of the Hampton Roads, the second busiest port on the eastern seaboard. There is military and commercial presence in the port. It is the home of the Navy's Atlantic fleet, and the port is used for numerous maneuvers and military exercises. It is also one of the largest commercial container ports in the United States. Almost 800,000 containers moved through the port last year. Keeping this area secure from terrorist attacks is important to all of us, so we went to work.

Along with other Members, I toured the West Coast and local ports, including the one in Richmond, Virginia, and convened the First Responders and Homeland Security Task Forces in my district to seek advice. The Democratic Homeland Security Task Force also came up with recommendations. This legislation contains many of the ideas and recommendations from those efforts.

For example, the legislation requires the new Department of Homeland Security to perform vulnerability assessments on all of our U.S. ports. It requires the development of national, area, and individual port facility antiterrorism plans. Individual vessels and shore facilities that may be targets of terrorist attacks are required to prepare individual anti-terrorist security plans. This legislation also requires the new Department of Homeland Security to develop and maintain an antiterrorism cargo identification, tracking and screening system for containerized cargo shipped through the United States ports, and to develop performance standards for the physical security of shipping containers. And it establishes a matching grant program so the Federal Government can help share the costs of increased security.

The port of Hampton Roads has already adopted many initiatives to address the potential threats, and the bill will make additional improvements possible.

Many of these ideas originated with our local first responders, and I thank them for participating in this process. This bill is a vital step in making certain that our country's ports and those who live and work nearby are kept safe from terrorism. I urge my colleagues to support the bill.

Mr. LOBIONDO. Mr. Speaker, I reserve the balance of my time.

Ms. BROWN of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a good bill with lots of important provisions, including new matching grants to improve port security, a national security card for port workers and truck drivers, antiterrorism response teams and sea marshals, and Coast Guard authority to block ships for nonsecure ports.

We still have a lot of work to do, but this is a great start; and I strongly urge my colleagues to support the passage of the conference report of Senate 1214, the Maritime Transportation Security Act of 2002.

I also want to thank staff, and in particular John Cullatner. Against all odds, they did an excellent job.

Mr. Speaker, I yield back the balance of my time.

Mr. LOBIONDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from Alaska (Mr. YOUNG), who has led us in this effort, the gentleman from Minnesota (Mr. OBERSTAR), the gentlewoman from Florida (Ms. BROWN), and our entire staff.

We have outlined why this is such a critical and important bill, and I would like to take a moment to reemphasize the job that the Coast Guard is doing for the Nation.

On September 10, 2001, the Coast Guard was dedicating about 2 percent of its resources to port and homeland security. On September 12, 2001, that percentage rose to 60 percent. They have been doing a magnificent job in protecting our ports and deploying for homeland security. Many Members have expressed their strong support for the Coast Guard and the job that they have done, but it is time for us to recognize by more than words and saying thank you, that they need more operational dollars, more acquisition dollars, and more personnel.

With the provisions outlined in this piece of legislation for authorization of almost $6 billion, honoring the request of the President of the United States, we are taking a large step towards making sure that the Coast Guard will have the assets that they need to continue to do a great job.

Mr. HORN. Mr. Speaker, I rise today in support of S. 1214, the Port and Maritime Security Act of 2002 Conference Report. As many of you know, I have been privileged to represent the Ports of Los Angeles and Long Beach for the past 10 years. Each day these ports receive cargo from points around the globe. The San Pedro Bay port complex is the third largest seaport in the world. These ports are responsible for over 30 percent of all U.S. waterborne trade with an estimated value of $162 billion a year. The bulk of these imports arrive in 20- or 40-foot containers aboard some of the world's largest cargo ships. Additionally, our ports handle millions of cruise passengers annually. Insuring the safety of containers and passengers entering and exiting the ports of this country is a daunting task. Currently, only about 2 percent of the shipping containers entering the country are inspected. This simply will not do. Passing this comprehensive port security legislation will insure that more containers are inspected and that our ports are properly protected.

I am particularly pleased that section 203 of this legislation incorporates a bill that I introduced in the 106th Congress. This section authorizes the Secretary of Transportation to make grants to the American Merchant Marine Veterans Memorial Committee to construct an addition to the American Merchant Marine Memorial Wall of Honor in San Pedro, California. Thus far, the Committee has already raised well over $500,000 to begin construction on the second phase of this memorial. Plans for the addition to the memorial call for panels to list the names of those who died while serving in the U.S. Merchant Marine.

Since 1775, the maritime community has played a critical role in gaining and preserving American freedom. The Merchant Marine served as our first Navy and defeated the British Navy in our fight for independence. We owe much to the brave mariners past and present who have served in the Merchant Marine. The American Merchant Marine Memorial Wall of Honor located in San Pedro, California, is a symbol of the debt we owe those who have served so bravely.

Many of my colleagues will remember how the Merchant Marine secured its place in American history during the Second World War. During that conflict, the 250,000 men and women in the U.S. merchant fleet made enormous contributions to the eventual winning of the war, keeping the lifeline of freedom open to our troops overseas and to our allies. This fleet was truly the "Fourth Arm of Defense" as it was called by President Franklin D. Roosevelt and other military leaders.

The members of the U.S. Merchant Marine faced danger from submarines, mines, armed raiders, destroyers, aircraft, "kamikaze," and the elements. At least 6,800 mariners were killed at sea and more than 11,000 were wounded at sea. Of those injured, at least 1,100 later died from their wounds. More than 600 men and women were taken prisoner by our enemies. In fact, one in 32 mariners serving aboard merchant ships in the Second World War died in the line of duty, suffering a greater percentage of war-related deaths than all other U.S. services.

Since that time, the U.S. Merchant Marine has continued to serve our nation, promoting freedom and meeting the high ideals of its past members. It is fitting to honor the past and present members of the U.S. Merchant Marine. This is why I introduced legislation in the previous Congress that would provide additional federal funding for the memorial wall in San Pedro. Twice the House has approved legislation authorizing funds for this worthy memorial, today I am pleased that the House and Senate are moving to approve this authorization in the port security conference report.

Throughout the development of the conference report, I have sought to provide the greatest protection for ports and the communities that surround them against terrorist attacks. I am pleased that the conferees have included port security grants and research and development grants that will encourage the development and use of state-of-the-art technology. Like the conferees, I believe it is important to encourage the private sector to continually advance the state of the art as a means of enhancing detection capabilities and thus enhancing deterrence over time.

When he is reviewing project proposals and awarding grants, I encourage the Secretary of Transportation to give preference to those projects that incorporate technologies that are capable of automatically detecting shielded nuclear weapons, liquid and other explosives, and chemical and biological agents weapons in fully loaded cargo containers without the need for humans to open the containers to manually inspect them. Based on testimony received by the Congress, it would appear that pulsed fast neutron technology is capable today of meeting this need. As a result, I hope that this technology and other technologies will be identified, developed, and installed in our ports as part of the ongoing process of enhancing port security through this legislation.

Long Beach State's Center for the Commercial Deployment of Transportation Technologies (CCDoTT) has been developing maritime technology for many years, and has recently turned their attention to port security technology as well. In the FY03 Defense Appropriations bill CCDoTT was granted $4.3 million for continuation of their important work to develop more efficient cargo handling in ports, high-speed ship designs, and port security research. This funding will allow the center to continue assessing cargo inspection technologies that can help meet the needs of agencies such as the U.S. Customs Service and the Coast Guard.

Section 70107 of the accompanying report authorizes an additional $15 million for fiscal years 2003 through 2008 for research and development grants for port security. I am pleased that report language for the Port and Maritime Security Act of 2002 particularly notes the importance of the research being done at Long Beach State's Center for the Commercial Deployment of Transportation Technologies. This language encourages the Secretary of Transportation and the Secretary of Defense to obligate any current and prior year appropriations under the continuing cooperative agreement. The Center is sponsored by the U.S. Maritime Administration and U.S. Department of Defense and I am certain it will continue to provide invaluable research for America's maritime interests. Again, I am pleased with, and strongly support, this timely port security legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to support S. 1214, Maritime Transportation Antiterrorism Act. Commercial vessels continued to experience an increased threat of criminal attack. Vessels seem to bear the brunt of these attacks which manifest themselves in the form of sea robbery, hijacking, terrorism, and piracy.

A complex set of security issues threaten the maritime industry and the movement of cargo in international trade. Those threats include terrorism, piracy, smuggling of stowaways and drugs, cargo theft and fraud, bribery and extortion. Enacting requisite port security measures and coordination, cooperation, and communication with government and maritime industry components are necessary.

In my home District, the Port of Houston Authority is a dynamic port that has helped to fuel the Houston area's development as a center of international business and trade. Companies that do business internationally also find Houston attractive because of its well-developed industrial and financial infrastructure; skilled work force; and diverse population. Ample space and favorable conditions for industrial development, as well as for cargo handling, makes the Port of Houston an excellent choice location for industry.

Port security is an essential part for a safe, secure, and competitive operation of the maritime transportation system. It promotes the development of commerce and is an essential element in maritime trade competitiveness, which cannot be achieved merely by modernizing port infrastructure and increasing operating productivity.

Consequently, port security can surface as a significant issue in trade negotiations and government and industry courses of action should be coordinated to facilitate effective solutions. Port authorities should develop the means for exchanging current information on port security issues and for the dissemination of intelligence to the commercial industry. We must protect our ports from criminal attacks and allow them to maintain their trade and commerce.

S. 1214 helps to protect our ports, such as the Port of Houston. This bill directs the Secretary of Transportation to (1) assess port vulnerability; (2) prepare a National Maritime Transportation Antiterrorism Plan [the Plan] for deterring catastrophic emergencies; and (3) review and approve Area, vessel, and facility antiterrorism plans.

Further, S. 1214 requires that the Plan to (1) coordinate Federal, State, and local efforts, including Coast Guard maritime antiterrorism teams and Federal Maritime Antiterrorism Coordinators; (2) identify security resources; and (3) include a system of surveillance and notice to ensure earliest possible identification of emergencies. The bill requires the Secretary to establish a system of antiterrorism response plans for vessels in coordination with the Federal Emergency Management Agency. The bill requires that there be transportation security cards for entry to any antiterrorism secure area of a vessel or facility. The bill requires the Under Secretary of Transportation for Security to develop and maintain an antiterrorism cargo identification and screening system, including performance standards for seals and locks of shipping containers.

Moreover, S. 1214 requires that Federal Maritime Antiterrorism Coordinators develop, update, and integrate Area Maritime Transportation Antiterrorism Plans, as needed. The bill also requires owners or operators of vessels or facilities to prepare an antiterrorism plan for deterring a catastrophic emergency, including the identification of the plan implementor, the availability of antiterrorism measures, training and drills.

S. 1214 directs the Secretary to establish maritime antiterrorism teams to protect vessels, ports, facilities, and cargo in U.S waters. Also, S. 1213 directs the Secretary to assess the effectiveness of antiterrorism measures maintained at specified foreign ports and make recommendations for improvements, if necessary.

The bill authorizes the Secretary to prescribe conditions of entry for or to deny entry into the United States to vessels arriving from foreign ports with ineffective antiterrorism measures. In addition, S. 1214 requires the advance electronic transmission of passenger and crew manifests from commercial vessels arriving in the United States from a foreign port.

The increasing nature and international scope of the maritime security issues, which threatens our port, requires participation and response from all levels of government. The lack of a secure trade corridor can hamper the economic growth of a port and possibly the country itself. A viable maritime security program is good business. A much bigger economic interdependency exists within the entire transportation network. Ports are committed to developing effective maritime security programs based on the recognition of ports as interchange hubs of commerce, critical to international trade.

In addition to the benefits that this bill will bring to the security of nation's ports, this measure also makes important changes to our nations maritime policy that will help us compete in the global marketplace and gives needed resources and flexibility to the Coast Guard and the men and women that make up this great agency, allowing it to better protect our nation's shores. I strongly support S. 1214. This bill is good for the Port of Houston and good for American ports. Therefore, I strongly urge my fellow members to support this bill.

Mr. OBERSTAR. Mr. Speaker, I rise today in strong support of the Conference Report on S. 1214, the "Maritime Transportation Security Act of 2002". Last year, Congress enacted landmark legislation to help protect the aviation industry from terrorist attacks. Today, we finalize legislation to help secure U.S. ports, vessels, and our intermodal transportation system from terrorist attack.

More than six million containers arrive in the United States each year from foreign ports carrying goods that are vital for consumers and manufacturers. Virtually all of the oil imported into the United States arrives by ship. We are a nation dependent upon international shipping.

Yet this transportation system can also be used as a means of delivering a weapon of mass destruction to the heartland of America. It is far easier for a country to put a nuclear bomb in a container and ship it to the United States and have it detonated by a Global Positioning System receiver than it is to build a missile system to deliver a nuclear warhead.

Securing America's seaports and the cargo we import from being used by a terrorist is a daunting task. There are more than 95,000 miles of coastline in the United States. One only has to look at the volume of drugs imported each year by sea to see just how porous our borders are. However, it is a challenge we must address.

The Conference Report on S. 1214 is modeled after the successful Oil Pollution Act of 1990 (OPA). OPA established a strong command and control system—and clarified that the Coast Guard has the ultimate authority to determine how best to clean up an oil spill. S. 1214 establishes a similar system to develop and implement plans to deter terrorist attacks on our ports and on vessels operating in and out of our ports. The system includes development of national plans, area security plans, facility security plans, and vessel security plans.

To help ports, local governments, and facility operators pay for these security improvements, S. 1214 establishes a port security grant program to provide a 75 percent matching grant for security measures that are implemented to address vulnerabilities identified by the Coast Guard. Many ports and facilities in the United States have made security improvements since September 11, 2001. S. 1214 allows the Secretary to make grants to reimburse these entities for any security improvements they have made since that date that are consistent with their facility security plans.

However, protecting the United States must begin overseas. By the time that a weapon of mass destruction in a containership reaches a U.S. port, it is too late. S. 1214 requires the Secretary to review security standards in foreign ports and intermodal transportation systems. If foreign governments do not address their vulnerabilities and provide adequate security for cargoes that are being shipped to the United States, the Secretary may prevent ships from those countries from entering the U.S.

S. 1214 also helps protect our marine terminals by establishing a transportation security card system for those individuals that have "unescorted access" to secure areas of marine facilities (e.g., areas with open containers or areas where individuals have access to cargo manifests). The Department of Transportation currently envisions four levels of security access that can be granted by the card. For example, Level 1 Access identifies a person as someone who has unescorted access to the unsecure areas of a terminal. A Level 4 Access means that person has had a security background check to ensure that he or she is not a "terrorist security threat" and may have access to areas in a terminal that could cause a transportation security incident. On vessels such as a passenger vessel, the bridge and engine room areas may be designated as secure areas to ensure that passengers do not try to take over the control of the vessel.

Other security provisions in S. 1214 include:

Directing the Secretary to develop enhanced standards for identifying crewmembers on foreign-flag vessels entering the United States and urging the Secretary to undertake the negotiation of a new international agreement on seafarer identification.

Directing the Secretary to implement a new system to collect, integrate, and analyze maritime intelligence concerning vessels operating on or bound for U.S. waters.

Requiring all self-propelled commercial vessels more than 65 feet in length to carry position-indicating transponders and electronic charts to make it easier to track their movements in U.S. waters.

Authorizing the Secretary to develop a long-range vessel tracking system using the satellite communication system on all ships.

Expanding the Deepwater Port Act to allow for the licensing offshore facilities for offloading of Liquefied Natural Gas (LNG). This provision will help ensure that new LNG offloading facilities are built offshore—not in coastal cities such as Boston and Charleston.

Allowing Coast Guard personnel to be assigned as sea marshals on vessels that pose a risk to U.S. communities such as tankers.

Establishing a port security training program at the U.S. Maritime Academy, the six state maritime academies, and the Appalachian Transportation Institute to help provide training and standards for maritime security professionals.

Requiring the Secretary to develop and maintain security standards related to cargo identification, tracking, screening, and the physical security of containers including standards for seals and locks.

S. 1214 also contains the Coast Guard Authorization Act for Fiscal Year 2003.

After a three-year struggle, we have reached agreement with the Other Body to reauthorize the Coast Guard and enact many changes to improve maritime safety and the quality of life for the men and women who serve in the Coast Guard.

These changes include:

Extending Coast Guard Housing Authorities from 2001 to 2007.

Allowing the Secretary to grant extra leave to Coast Guard personnel serving at isolated duty stations.

Allowing for the accelerated promotion of officers when a selection board finds to be of particular merit.

Increasing the amount that the Coast Guard may borrow from the Oil Spill Liability Trust Fund to pay for the removal cost of removing oil from a spill from $50 million to $100 million.

Requiring tug boats escorting vessels though facilities owned by the U.S. Government to be U.S.-flag vessels.

Establishing standards for working conditions and hours-of-service limitations for Coast Guard personnel working in Search and Rescue Centers.

Requiring the Commandant to ensure that all Coast Guard personnel are equipped with adequate safety equipment, including hypothermia protective clothing, when performing search and rescue missions.

Allowing mortgages and other financial instruments used to finance ships to be filed with the Coast Guard electronically.

Establishing whistle-blower protection for seamen on board vessels when the seaman believes that a serious injury may occur if he performs his duties as ordered by his employer.

Extending the period of time during which the Coast Guard can issue a recall for a recreational vessel from five years after the date of construction to ten years after that date.

Requiring the Coast Guard to publish on the internet all major marine casualty reports immediately and all other casualty reports within two years.

Allowing the Secretary to suspend the payment of retired pay of former Coast Guard personnel if the person has left the United States to avoid criminal prosecution or civil liability.

As I mentioned earlier, Mr. Speaker, S. 1214 establishes a new transportation worker biometric security card system including background checks, an appeals process, and protection of an individual's private information from his or her employer. Many of these security enhancement and worker protection provisions were not included last year in the USA Patriot Act that requires all commercial truck drivers who haul hazardous materials to undergo a criminal background check before receiving their Commercial Drivers License hazmat endorsement. Because the provisions enacted in the Patriot Act leave behind a vague and confusing regime, many states have not begun to implement the requirements. Even the U.S. Department of Transportation has acknowledged that a problem exists in Section 1012 of the USA Patriot Act and has advised state motor vehicle departments that these provisions "cannot be implemented without rulemaking by DOT."

I believe that the provisions in S. 1214 that provide an individual with the right to appeal the denial of a security card and the protection of information collected during that person's background investigation should be extended to commercial truck drivers that are subject to the Patriot Act. These standards have been developed on a bipartisan basis with the support of labor and employers. If the Department of Transportation fails to include these standards in the regulations they prescribe to implement the Patriot Act by the end of the year, we should move forward with legislation to correct these problems early next year.

Finally, I would like to thank Chairman YOUNG, Mr. LOBIONDO, and Ms. BROWN for the cooperative effort that they have put forth to develop this bipartisan port security legislation. Together, we have succeeded crafting meaningful legislation to improve the security of the marine transportation system against terrorist acts.

I urge my colleagues to support the Conference Report on S. 1214.

Mr. SHAW. Mr. Speaker, I rise in support of this legislation, which represents the next crucial step in improving America's transportation security. This bill coordinates various federal law enforcement efforts with local port authorities, develops uniform standards, and helps pay for technology upgrades and other security infrastructure at our ports. I am very pleased that this bill authorizes $6 billion for the Coast Guard, an agency that is severely overworked and underfunded.

This legislation is of particular importance to the State of Florida and its 14 publicly owned deepwater seaports, including Port Everglades, Port of Palm Beach and Port of Miami in South Florida. The challenge of protecting against potential threats to security in Florida is unique due to the state's extensive coastline, vigorous international trade, and passenger cruise activities. Our geography dictates that we must be prepared as a front-line homeland defense point against terrorism, as well as illegal immigration and drug trafficking.

Florida seaports represent some of the busiest bulk cargo and container ports in the nation, and improved security at our seaports is critical for protection of the state's citizens and millions of visitors, as well as the state's continued economic vitality.

The treat of terrorism and other crimes to Florida seaports is well documented. A 1999 state-commissioned study found that the Florida port are highly vulnerable and recommended comprehensive security plans at each Florida seaport. In 2002, the State of Florida enacted legislation mandating that such action be undertaken.

As the Chairman of the Florida Congressional Delegation, I am pleased that this bill does not penalize the Florida ports that have been pro-active in taking the necessary steps to improve security. A shining example of such a port is Port Everglades in my district. Even before September 11, Port Everglades has laid out a comprehensive security improvement plan. Since that day, the port has expedited its efforts, turning a 48 month plan to improve security into an impressive, 18 month, $37 million plan that is now near completion. I commend the Broward County Board of County Commissioners for their foresight. The fine work they've done should serve as a model for ports around the nation.

As one of the first Members of Congress to introduce comprehensive seaport security legislation, along with my friend and colleague Senator BOB GRAHAM, I am gratified that we are finally completing our work on this most important issue. It is overdue.

Mr. BORSKI. Mr. Speaker, I rise today to support the U.S. Coast Guard's Armed Drug Interdiction (HITRON) Mission. The HITRON Mission is a unique and important weapon in the arsenal against illegal drugs and counterterrorism. The MH–68A armed helicopter, which was designed, assembled and maintained in Philadelphia, Pennsylvania, is an integral part of the HITRON mission. I thank the gentleman from North Carolina, Mr. COBLE, for his leadership on this matter. The gentleman from North Carolina and I have been deeply concerned that the short-term lease for the MH–68A expires in January of 2003, potentially jeopardizing the HITRON mission if the lease is not extended in a timely fashion. The Integrated Coast Guard Systems Group (ICGS—led by Lockheed Martin-Northup Grumman) has recommended the Coast Guard fashion a permanent Deep Water airborne use of force (AUF) program and test a heavier multipurpose helicopter for the drug and terrorist intervention mission. While this is certainly a reasonably approach, there must be no interruption in the program before a permanent fleet is fully deployed. I am pleased that the Coast Guard has agreed that there must be no interruption and is executing the lease extension. I join in congratulating the Coast Guard on a successful program.

Mr. LOBIONDO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LOBIONDO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the conference report on S. 1214.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 8 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2310

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. WHITFIELD) at 11 o'clock and 10 minutes p.m.

CONFERENCE REPORT ON H.R. 4628, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2003

Mr. GOSS. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider the conference report to accompany H.R. 4628; that all points of order against the conference report and against its consideration be waived; and that the conference report be considered as read.

The SPEAKER pro tempore (Mr. WHITFIELD). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GOSS. Mr. Speaker, pursuant to the unanimous consent request, I call up the conference report on the bill (H.R. 4628) to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered as read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. GOSS) and the gentlewoman from California (Ms. PELOSI) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. GOSS).

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to present the conference report for the fiscal year 2003 intelligence authorization bill. I believe that hard work and careful deliberation have produced a comprehensive bill that funds the critically important work of our intelligence community.

Mr. Speaker, the events over the past year remind us just how critical the intelligence community work is. As has been the longstanding custom of the Permanent Select Committee on Intelligence, this conference report is a bipartisan product which reflects admirably on our committee's members and its highly professional staff. I want to thank all involved. Because of the late hour of the evening, I am not going to enumerate all of the staffers and members, but I think all of them will take satisfaction in knowing that we have had a good year.

At this point, I would like to mention one other important issue. With the conclusion of this conference, the committee will lose the talents of several valued members: the gentleman from Georgia (Mr. CHAMBLISS), who led our Subcommittee on Terrorism and Homeland Security, and put out actually the first report on the counterterrorism situation; the gentleman from Delaware (Mr. CASTLE), who led our Subcommittee on Technical and Tactical Intelligence and has dealt with some of the more challenging problems that confront the Committee on Intelligence; the gentleman from California (Mr. CONDIT) and the gentleman from Indiana (Mr. ROEMER) on the minority side, who have been heavily involved in some of the issues we will be talking about later; and in particular, the gentlewoman from California (Ms. PELOSI), our esteemed ranking member.

She will graduate, I am told, to ex officio status. It will be a fine graduation. We know she is nearby when we need her. The gentlewoman from California (Ms. PELOSI) has made a significant contribution to the Permanent Select Committee on Intelligence work during her 10 years of service on the committee. Most notable, however, has been her determination to work collectively to rebuild and reenergize our Nation's intelligence capabilities after the September 11 attacks. She has been willing to work energetically and efficiently in a fashion that puts national security first before politics or partisanship. I say to the gentlewoman from California (Ms. PELOSI), or Madam Leader, soon to be, we thank her very much for her efforts.

This conference report authorizes funds for fiscal year 2003 intelligence-related activities, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System.

I want to take a very short moment to highlight several provisions of the report for the consideration of the Members. First, the bill includes several provisions designed to strengthen our Nation's fight against international terrorism, including a cross-agency foreign terrorist asset-tracking center to identify and disrupt terrorist financial support networks. I am pleased to report we have had some success at disruption, and I look forward to more.

It also establishes an ongoing notification procedure to assure timely congressional oversight of national security-related financial enforcement actions by the executive branch, something that we have had a lot of discussion about.

Other initiatives of note are several provisions intended to enhance the language-training capacity within intelligence and defense agencies to combat our language shortfalls; again, something that has been a pet project of our committee for a number of years. The bill will enhance the training capacity by establishing a flagship language initiative within the National Security Education Program.

The third area of focus is to strengthen the capacity of the national counterterrorism executive within the Office of the Directorate of the CIA. Several recent espionage cases, most notably the Aldrich Ames case, the Robert Hanssen case, the Ana Montes case, require that we place greater efforts in assessing our counterterrorism vulnerabilities with respect to hostile intelligence services, let alone terrorist-type activity that affect our men and women in the service, even on our own shores, as we are reminded tonight with the matter involving Mir Aimal Kasi.

This legislation recognizes the concern that insufficient attention has been given to the area of counterterrorism.

Finally, I wanted to commend all involved for their diligent work on reaching a compromise on the creation of an independent commission. It shows the American people that we can work together to reach consensus. Sometimes it takes a little longer than we hoped, but usually we get there.

Mr. Speaker, I barely scratched the surface regarding the many issues and investments contained in this bill that go toward protecting our national interests. As we all know, much of it is classified. The only way to be ready to address the diverse threats to our security, both at home and abroad, is by having a vibrant first line of defense, as the President has said, that provides indications and warning. This first line of defense has to start with our intelligence community, and we have to give them the support and the oversight necessary to do that job. This conference report directly helps to strengthen our capabilities, put them on target, and ensures the protection of our rights and liberties, now and in the future.

Mr. Speaker, I reserve the balance of my time.

Ms. PELOSI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report and thank the gentleman from Florida (Mr. GOSS), our distinguished chairman of the Permanent Select Committee on Intelligence, for his very kind words of farewell to me as I leave the committee after 10 years of service there. It has been a privilege to serve on the Permanent Select Committee on Intelligence; and as the gentleman said, we always put national security first, so our work there is generally conducted in a bipartisan way, and never more so than under the leadership of our chairman, who has been very bipartisan in his approach and given us the opportunity to air our differences, which largely are not partisan, but just differences of opinion that Republicans and Democrats may share.

In any case, the tenor of his leadership has been one that has been conducive to a very bipartisan atmosphere which is very wholesome for the work that we do, and that work is vital to our country.

So, Mr. Speaker, I thank him for his kind remarks. I congratulate the gentleman on his excellent leadership. It has been an honor to serve with the gentleman, and I look forward to working with the gentleman from the perspective of the Democratic leader.

Mr. Speaker, this is the last bill I will manage from appropriations or from the Permanent Select Committee on Intelligence; and I, too, want to join the chairman in thanking our other departing members on the Democratic side, the gentleman from California (Mr. CONDIT) and the gentleman from Indiana (Mr. ROEMER), for their distinguished leadership on the committee.

We will all benefit from the work of the gentleman from Indiana (Mr. ROEMER) tonight when we discuss the independent commission, which is in this bill thanks to his relentless leadership, and also bid adieu to the gentleman from Delaware (Mr. CASTLE) and the gentleman from Georgia (Mr. CHAMBLISS), who is going on to other work.

When I joined the committee 10 years ago, the Gulf War had been recently concluded. As I leave as a voting member, the threat of war has returned to the Gulf region. One of the primary purposes of intelligence is to enable U.S. military forces to wage any campaign successfully, with a minimum of casualties. Force protection is our primary responsibility.

Great progress has been made since the Gulf War in using intelligence to improve the accuracy and effectiveness of weapons and in hastening the flow of intelligence to military commanders. Those efforts are sustained appropriately in this conference report.

Equal in importance to the role of intelligence in making certain that wars are won is its role in preventing wars from being fought; some might even say, and I agree, even more important. The conference report, particularly in the emphasis it places on strengthening the intelligence analytic function, should improve the quality of information policymakers and diplomats need to anticipate and resolve problems before they lead to armed confrontation.

The committee's work this year has been influenced greatly by the events of September 11, 2001. Our Subcommittee on Terrorism and Homeland Security, chaired by the gentleman from Georgia (Mr. CHAMBLISS) and the ranking member, the gentlewoman from California (Ms. HARMAN), has been at the forefront of efforts to draw lessons from those events and fashion corrective measures which lessen the chances for successful future attacks.

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The conference report has counterterrorism at its highest funding priority. Next year, I expect that with the benefit of the recommendations to be made in the report of the joint September 11 inquiry the committee and its Senate counterpart are conducting, significant changes will be proposed in the way in which the intelligence community conducts its antiterrorism activities.

As thorough as the work of the joint inquiry has been, the dimensions of the September 11 attacks demands an additional kind of review. I am pleased that the conference report will establish a commission to take a comprehensive, independent, I hope, look across the agencies of government at the preparation for, and response to, those horrific events.

I expect that the commission, which I mentioned is in this bill because of the leadership of the gentleman from Indiana (Mr. ROEMER), will benefit greatly from the work of the joint inquiry and the Subcommittee on Terrorism and Homeland Security as it undertakes its critical assignment.

The brave and dedicated men and women of the intelligence community perform an invaluable service for our country, and I want them to know how impressed we have all been by the work they do under frequently dangerous and demanding conditions. They deserve our appreciation. The conference report should assist them particularly in the area of language training in ways which will improve their effectiveness in years to come.

Given the uncertainties and complexities of the threats we face, especially those posed by international terrorists and proliferators of weapons of mass destruction, it is imperative that the ranks of intelligence officers be as diverse as possible. Not enough progress has been made in this area despite repeated expressions of interest by members of the committee. I hope greater attention will be paid to this matter in the future.

Mr. Speaker, as I said, I went on the committee 10 years ago. My interest there centered around stopping the proliferation of weapons of mass destruction, protecting our civil liberties as we try to gain as much intelligence as possible around the world to protect our forces, and also the prevention of war, as well as protecting us from terrorism. I hope that as we go forward with homeland security, which is essential to our country's security, that we will recall that each one of us takes an oath to protect and defend the Constitution of the United States, and as we protect and defend our country we must honor our oath to protect the Constitution and the civil liberties contained therein.

I am very pleased that President Bush has made stopping the proliferation of weapons of mass destruction a high priority. It is a pervasive problem, not only in Iraq but in other places in the world and it must have our attention. The United States must have a policy which is consistent to stop that proliferation.

Mr. Speaker, the capability to acquire intelligence is integral to the security of the American people. The conference report makes an important contribution to maintaining that capability. I commend the chairman for his leadership in putting this bill together and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Nebraska (Mr. BEREUTER), the vice chairman of the committee and the chairman of the subcommittee that fuses capability and policy, a very challenging job these days.

Mr. BEREUTER. Mr. Speaker, I rise in strong support of the conference report.

Mr. Speaker, the conference report addresses a number of pressing intelligence needs. This Member will focus his remarks on only two.

First, the legislation takes important steps to strengthen the intelligence community's analytical core. In recent years certain circumstances have demanded that we focus on terrorists, proliferators and drug traffickers. These are far more difficult targets to track than was the old Soviet Union. Frankly, the intelligence community took far too long to adapt to these new threats. It did not reach out aggressively to recruit human intelligence sources that could have provided us invaluable information.

The community lost far too many skilled analysts whose job it is to provide early warning. This legislation provides much needed funding to build a dynamic, wide-ranging global analytical capability.

A second important component of the intelligence authorization relates to terrorist finances. One of the major intelligence initiatives in the wake of 9/11 has been an attack on the financial assets of terrorist organizations and their supporters.

Terrorist networks such as al Qaeda obviously cannot function without significant financing. And al Qaeda, for example, is supported by, one, a shadowy network of fund-raisers, money lenders, and shakedown artists; two, businesses and charities serving as front organizations; and, three, unscrupulous facilitators and middlemen. However, with the decision of the executive branch to fully exploit the existing authorities to target terrorist finances and with the granting of additional authorities under the U.S. PATRIOT Act, we are now aggressively attacking the money flow. To date over $100 million of suspected terrorist money has been seized or frozen by the United States and its allies and that is just the beginning.

Mr. Speaker, this is an important and powerful tool in the war on terrorism. In order to maintain responsible legislative oversight over this effort, the Intelligence Authorization Act will require semi-annual reports on the number of assets seized, as well as the number of entities or individuals found to have engaged in financial support for terrorism.

It will also require information on the total number of requests for asset seizures that have been granted, denied or modified. This important oversight will ensure the war against terrorism financing remains on track.

In closing, this Member would congratulate the distinguished chairman of the committee, the gentleman from Florida (Mr. GOSS) and the distinguished gentlewoman from California (Ms. PELOSI) for the leadership they have demonstrated in bringing forth a genuinely bipartisan product. I will say in her existing capacity we will certainly miss the gentlewoman's long and very important experience and contributions on the Permanent Select Committee on Intelligence.

The conference report is a very serious effort. Each and every member of the committee dedicated long hours to the drafting of the legislation. Each member recognizes the importance of our action. This body can justifiably be proud of our efforts of the HPSCI, I believe, and particularly the leadership of the gentleman from Florida (Mr. GOSS) and the gentlewoman from California (Ms. PELOSI).

Finally, and of crucial importance, the staff of the committee is truly excellent in their knowledge and commitment to our oversight and our authorization responsibilities.

Mr. Speaker, this Member strongly urges adoption of the conference report of H.R. 4628.

Ms. PELOSI. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. BISHOP), a distinguished member of the committee and the ranking member of the Subcommittee on Technical and Tactical Intelligence of the Permanent Select Committee on Intelligence.

Mr. BISHOP. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in support of this conference report, but before I get started I want to express my own personal gratitude to the leadership of this committee, and most especially to the leadership of our ranking member, the gentlewoman from California (Ms. PELOSI), for the hard work she has done in leading the Democrats on this committee and the contributions that she has made to the committee as a whole.

I believe very strongly that her leadership has worked through the Permanent Select Committee on Intelligence to make the world and our country a little more of hope, a little less of fear and a little better because she traveled here, and we are very grateful for her leadership and we will miss her very much. Although she has gone on to more responsibility and we expect equally great things from her there, I do want to say that we certainly are appreciative of her hard work, and we will miss her, and it has meant a tremendous amount to our country and our intelligence community.

The committee worked hard to provide the resources that our military forces and our intelligence community require to prevail in the war on terrorism and to safeguard all of our other national security interests. The gentleman from Florida (Mr. GOSS) and the ranking member, the gentlewoman from California (Ms. PELOSI), my counterpart on the Subcommittee on Technical and Tactical Intelligence of the Permanent Select Committee on Intelligence, the gentleman from Delaware (Mr. CASTLE) and all of the other committee members deserve great credit for this important bipartisan authorization act.

In addition, this conference report adds substantial funds to the budget of the National Imagery and Mapping Agency to enable NIMA to award a contract for a major modernization program. I remain very concerned that the administration failed to budget enough funds for this effort despite the large budget increases following September 11.

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The capabilities that this modernization effort will provide are essential for the kind of flexible military operations on display in Afghanistan.

When our bill was being debated in the House earlier this year, I indicated my concern about the Department of Defense's apparent neglect of the communications and exploitation infrastructure needed to support the large fleet of unmanned aerial vehicles that the Department intends to procure over the next several years. These drones performed magnificently in Afghanistan, but this potential will never be realized without a larger investment in the means to get the data back from the aircraft and get it exploited. I had hoped the administration would signal its intention to fix these problems, but this has not happened. Congress must address this matter next year if the administration fails to do so in the fiscal year 2004 budget request.

This conference report also requires that some changes and initiatives be undertaken to correct problems with respect to the sharing of information within and between the intelligence and law enforcement communities.

There is more work to be done in this area, but the direction in this conference report, if implemented faithfully, should help. We understand the importance of protecting sources and methods, but believe that this can be done within a much more expansive information-sharing paradigm.

Finally, I wanted to speak to the implementation of the proposed compensation reform plan. Section 402 of the bill is similar to section 402 of the House bill. The Senate amendment had no similar provision. Section 402 delays implementation of the Central Intelligence Agency's proposed compensation reform plan until February 1, 2004. Prior to that date, the director of Central Intelligence may conduct a pilot project to assess the efficacy and fairness of a revised personnel compensation plan and report to the Permanent Select Committee on Intelligence 45 days after completion of the pilot project. Section 402 includes a sense of the Congress that an employee personnel evaluation mechanism with evaluation training for managers and employees of the CIA and the National Security Agency should be phased in first and then followed by introduction of a new compensation plan.

Mr. Speaker, this was a concern that was raised by the employees that has contributed to a great deal of consternation and perhaps some problems that we might anticipate if it were implemented, and I am happy that the conference report reflects the concerns raised on this issue, and that we will first, before having an en masse, grand-scale implementation, first have the pilot program instituted so any kinks or problems can be worked out.

With that, I think it is a good conference report. I think we have done good work, and I urge my colleagues to support it.

Mr. GOSS. Mr. Speaker, I reserve the balance of my time.

Ms. PELOSI. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN), the ranking member of the Subcommittee on Terrorism and Homeland Security, and acknowledge the valuable contribution that subcommittee has made to our national security.

Ms. HARMAN. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, during this term of Congress, much of my time and passion has been devoted to the activities of this committee and the contents of this conference report. It is a great committee with great bipartisan leadership, membership, and staff. It is with relief, pride and some sadness that I stand here at midnight to urge passage of the conference report.

My special appreciation goes to our ranking member, the esteemed gentlewoman from California (Ms. PELOSI), who today achieved an historic first, and who over all of the years that I have served with her on this committee, has distinguished herself with fairness, probity, intelligence, and leadership skills. We will miss her, and we will welcome her back as an ex officio member.

I would also like to use my last statement of the 107th Congress to state my respect and praise for the gentleman from Indiana (Mr. ROEMER), another departing member. It is fitting that one of the last votes of this Congress will fulfill his promise to the families of the 9-11 victims. The gentleman from Indiana (Mr. ROEMER) has worked tirelessly and passionately to enact an independent commission to investigate the 9-11 attacks. That commission will be part of this conference report. In fact, the bold actions of the gentlewoman from California (Ms. PELOSI) and the gentleman from Indiana (Mr. ROEMER) saved the commission, saved the bipartisan tradition of the committee, and reflects the vote a majority of this House took some months ago.

I would finally like to recognize that other colleagues are departing: the gentleman from Delaware (Mr. CASTLE), the gentleman from California (Mr. CONDIT), and especially the gentleman from Georgia (Mr. CHAMBLISS), who is moving to the other body where he will serve on its intelligence committee. I would advise the gentleman if he gets lonely over there, he can come home for advice and counsel.

Mr. Speaker, this is our first real chance after 9-11 to set new directions in the intelligence community, and we do that. We provide substantially more funding, more training, and more support to penetrate, prevent and disrupt the plans of terrorist organizations.

I would say that the Department of Homeland Security legislation that we passed yesterday provides for an integrated strategy to protect the homeland, but that strategy must be built on world-class intelligence. This bill provides that critical base. I urge its passage.

Ms. PELOSI. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. ROEMER), a departing member of the Permanent Select Committee on Intelligence, yet one who has demonstrated leadership right up to the last day of the Congress to ensure that we have an independent commission and that it would be one that will make our country safer.

Mr. ROEMER. Mr. Speaker, I thank the gentlewoman from California (Ms. PELOSI) for those kind and generous words.

Abraham Lincoln, when he went from Springfield, Illinois, to Washington, D.C. to take on a new job that he was elected to by the people of the United States, stood on a platform in Springfield, Illinois, and looked out at his hometown people and said to these people and their kindness, "I owe everything."

To the people of Indiana that I have served for the last 12 years in this distinguished body, I owe them everything, for the privilege and the humble responsibility of casting votes on their behalf with common sense and dignity, as we have and will tonight, to try to make this a more secure Nation and a Nation that works together in a bipartisan way to accomplish things.

When I talk about people, I want to commend the gentleman from Florida (Mr. GOSS), the chairman of the committee, for his distinguished leadership to bring this bill to the floor tonight in a most dangerous and precarious world.

I want to especially congratulate the gentlewoman from California (Ms. PELOSI), my good friend and our leader. I have two buttons in my pocket tonight with the gentlewoman's name on them that I will give to my 5-year-old daughter, Sarah, and my 2-year-old daughter, Grace. I think the talent and the dreams of women and people around the world are boundless tonight because of what example she has set. It is not just getting elected, and not only being a woman; it is being a leader and bringing a bill to the floor and keeping this body working into the night to get these things accomplished, like an independent commission.

We do live in a dangerous world where planes can wreak devastation, and a vial of smallpox that can fit in a pocket can kill millions. Therefore, this bill tonight, as the last bill of the 107th Congress, is indeed vital for our Nation's security.

We outline new language, training and proficiency programs in this bill which are funded at higher levels. We improve information sharing to decrease the problems of communication and stove-piping between the FBI and the CIA, and we put more emphasis on human intelligence, which is the most important work that we could do, not just relying on satellites in the sky.

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Finally, a great big embrace and thanks for the idealism and effectiveness and hope to the families of the victims of 9-11 who have worked so hard and been such a great example to me of how grassroots work can make this body function better. These families, led by people like Stephen Push and Kristin Breitweiser, have really led us to tonight's success on the creation of this independent commission. It is not everything, it is not perfect, but it has come a long way from opposition and dead-on-arrival predictions that it would go nowhere. We have that in a bipartisan way in this bill tonight.

It still has a lot of challenges, Mr. Speaker, and one is the subpoena power. The linchpin for me of an effective investigative body and a truly independent commission is the ability for this commission to have subpoena power, to threaten the subpoena, to ultimately deliver on it and to get depositions and to pry open doors that want to remain closed. We have that in this bill, especially if Senator McCAIN and Senator SHELBY can have the one appointment that has been promised to them out of the five Republican appointments and that helps us get to this level of six votes that can trigger subpoenas. That is crucial in this. I hope that that colloquy and that gentlemen's agreement and that codified promise is in this bill and in the legislation's intent.

I also hope that we will follow the good path of the joint inquiry. Led by that staff and this great staff here on the floor tonight, we have uncovered a lot of questions, we have a lot of suggestions and recommendations for fixing the problems that led to 9–11, but we have so much more to do in front of us, which this independent commission in a seamless way can undertake and make recommendations for.

In summing up, Mr. Speaker, there is a Shakespeare play where one character says to the other in a bragging way, "I can call spirits from the deep," and the other character says, "Well, anybody can do that, but will they come?" Will they come? I hope and I pray for this most distinguished people's House that we will call forth the very best in us and bring forth the very best ideas and challenge these people in this great country to vote in the next 2 years on great ideas put forward by Republicans and Democrats and some in bipartisan ways to keep this country strong, to move us in a positive direction and do it in the spirit of the founders of this great Nation.

I appreciate the service to this country and wish good things for the people of this body. Thank you very much and Godspeed.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois (Mr. LAHOOD), a very valued member of our committee and well known to the Members of this body.

Mr. LAHOOD. I thank the gentleman for yielding me this time.

Mr. Speaker, I do not think there are two other people in the Chamber that I have more regard for than the chairman of the committee and the ranking member. Both people are very, very hardworking people. They have done extraordinary work for the country. The leadership of Chairman GOSS and our ranking member, the gentlewoman from California (Ms. PELOSI), has just been extraordinary, particularly given what happened after 9–11 and particularly given the events that we have been through in the House and as members of the joint committee studying what happened prior to 9–11. I have really enjoyed the opportunity for the last 4 years to serve with both of these people. I want to say a word about my friend from Indiana (Mr. ROEMER) because I know he will be leaving and his service has been valued very much by all the members of the committee. I know that you will be missed, Tim, and I know that it will be a great loss to our committee. And also to you, Madam Leader, you will also be missed and thank you for your service to the committee.

I rise in very, very reluctant opposition to the conference report. As those people on the committee know, I have objected very strenuously to the idea of a commission. Almost from the very first day that this idea has been proposed, I thought it was a bad idea. I have thought it was a bad idea because what is going to happen is you are going to have people with little or no experience, and many of us on the committee have tried to gain experience over the years and tried to gain knowledge in terms of what the community is about, the intelligence-gathering community and how they do their work and what the failures are, and to have some kind of a concept of a so-called blue ribbon committee, I think, really is going to fall far short of what people's expectations are.

I know that some people think this commission is going to provide a lot of answers and provide a lot of opportunity to assuage the feelings of the family members of the victims. I think we are holding out a real, real big false hope for the family members. I have always felt that. Many of us on the committee have tried to become experts. It is difficult to do. But there are people who are experts. I consider Chairman GOSS and I consider Ranking Member PELOSI experts because of the time that they have devoted. I think the gentleman from Indiana (Mr. ROEMER) is an expert because of the time he has devoted. But to try and get 10 people from the outside to come in and understand all of this in such a short period of time I think holds out a very big false hope. It just does not make sense.

I really think this is a mistake. I want people to understand that this is a good bill, it is a good conference report in every other regard except for the idea of holding out a false hope to the families that are left behind of the victims, that somehow this blue ribbon commission is going to be the panacea, that is going to answer all the questions, that is going to lay the blame where it needs to be laid. You know I have characterized this as the blame game commission and I know you do not like to hear me say that, but that is how I feel about it. There are people here that want to try and find blame within the government, whether it is in the CIA or the FBI or within the administration. I characterize this as no more than that, an opportunity for 10 citizens to try and come together and understand something that is so complicated and so complex that it makes little sense to try and hold out hope to people that this will really give the answers to the families that have been left behind. It will not. It simply will not. I think that hopefully our joint committee can offer some answers out of the kind of work that we have done for the last year and will continue to do until the final report is written.

The idea that this is a blue ribbon commission where people are going to be paid, I think, detracts from what kind of a blue ribbon commission is it. It is right in the bill that there are going to be people who are going to be paid for this. Why do we have to pay people to serve on a blue ribbon commission? I wish I would have had an opportunity to at least strike that out of the bill, but we do not have an opportunity to strike these kinds of things out of conference reports. I think the idea of compensation is nonsense. It degrades the commission; it degrades the idea that it is a blue ribbon commission.

The final thing that I would say to my friends here in the House and to colleagues is that this really is an opportunity, I think, for people just prior really to a political election to lay on the table some kind of a report to try and lay blame at the foot of an administration. That is how I see it. This report will come out maybe a few days or a month or two before the next Presidential election. I have no idea what the report will say, but I know there are people out there that want to find blame. I have the feeling that that is what this commission will be out to do, to look for those who made mistakes, to look for those, to find fault with institutions in our government that probably in some ways did not serve the interest the way they should have.

As one Member, and I hate to do it because I know a lot of work has gone into this bill, into this conference report, but I intend to vote against it. I think this is a terrible mistake. It sends a terrible message. I do not want the families out there to think that when this report comes in from some so-called blue ribbon commission, it is going to answer. It is not going to answer.

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Some of these things are unanswerable and those of us that have served on the joint committee know that some of these things are unanswerable. So I thank the chairman for the opportunity to speak, and in no way do I want to be degrade any member of the committee, any member who supports this. I just think it is a bad idea, it is a bad time to do it, it does not make sense, and it is going to hold out a false hope that we are never ever going to be able to meet.

Ms. PELOSI. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Iowa (Mr. BOSWELL), who is the ranking member on the Subcommittee of Human Intelligence, Analysis and Counterintelligence.

Mr. BOSWELL. Mr. Speaker, I want to make the gentleman from Illinois (Mr. LAHOOD), my good friend, feel better. I have tremendous respect for him, and he knows that and I think he does for me. But as I reflect on the time it takes for the efforts gone forth, and I want to commend, as the rest of my colleagues have, our chairman and ranking member for their efforts and the efforts of the staff, but as I have observed the time necessary to go into this kind of depth, I think the blue ribbon commission is very necessary to get the answers that we ought to be able to get. So we reflect on the joint committee and the ability of Members, all the other things that demand our time and so on. I think it becomes pretty clear that we need this extra assistance to give the country and to give those families the information that they need, and they will not be satisfied with anything less.

So I tonight rise in appreciation to support this conference report because its time has come, and the people in this country ought to know that this committee under this leadership, the gentleman from Florida (Mr. GOSS), the gentlewoman from California (Ms. PELOSI), have done everything that they can possibly do to protect our country to be sure that one of their principles of safety, principles of war and principles of safety, is to have good reliable intelligence and to be timely and to be accurate.

So I am very happy to support this conference report. I think it supports the global efforts to counterterrorism and other threats to international security, and the conference report, like the House bill passed in July, reflects a commitment of this committee to invest in the people of the intelligence community and intelligence disciplines across the board, especially human intelligence. The conference reports includes the provisions on language training and proficiency maintenance found in the House bill. The conference report unfortunately delays the effective date of the provisions found in the House bill, setting forth a new authorization for the innovative language training program known as the National Flagship Initiative under the National Security Education Program, NSEP. Although disappointing, it should be noted that both the House and Senate have endorsed the National Flagship Initiative and the conference report includes a provision to ensure that the delay does not affect the ongoing NSEP pilot to fund programs to develop competency at the superior level in languages critical to national security.

Over the last few months, the House and Senate intelligence committees have made significant progress in the joint investigation they have been conducting into the circumstances surrounding the terrorist attacks of September 11. The inquiry, however, has focused on U.S. intelligence agencies and must soon conclude its work. So I support the establishment of the independent commission. I have been disappointed in how long it has taken for the agreement to be reached on whether a commission would be established and how it would be structured, but we are there.

While the final language on the commission may not be satisfactory to everyone, I believe it is important that a commission with a broad mandate and independent authorities be established by statute. I will follow with great interest its work, especially with respect to its investigation beyond the topics addressed by the joint inquiry. I urge the support of this report.

Ms. PELOSI. Mr. Speaker, I yield 3½ minutes to the very distinguished gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I congratulate the members of this committee for the product and the way in which they have done it. I was particularly impressed by the very gracious remarks of the chairman of this committee about his opposite, the ranking minority member, and frankly at a time when there is some political sniping going on that seems to me wholly inaccurate, having him so generously acknowledge the important role the gentlewoman from California (Ms. PELOSI) has played on the single most important national security issue now before this Congress is a very impressive act, and I appreciate his doing that. I should underline that what we have here is the gentlewoman from California in her role on this committee having played a wholly responsible constructive role at the center of national policy. I would ask people to contrast that with some of the silly political assassination efforts that are going on.

Speaking of silly, I want to talk about an amendment we need. We have had a policy for driving gay people out of the military lest gay men and women be allowed to help defend this country, and it has been called the policy of Don't Ask, Don't Tell. We have a new name for it. It is called Don't Ask, Don't Tell, Don't Translate, because the Army in its wisdom pursuant to a dictate given to it by this body in its wisdom has just thrown out over the past year nine linguistic specialists, six of whom were studying Arabic. Apparently the Army feels that worrying about what people do in their private lives is more important than enhancing our ability to translate from Arabic. As the gentleman from Wisconsin (Mr. OBEY), the ranking member of the Committee on Appropriations said, it is a good thing for Lawrence Arabia they were not around when he was getting involved in the Middle East. The notion that they would take people who were studying Arabic, one member of this group had completed 30 weeks of training, he was getting very good marks, he trying to learn Arabic, in the process of learning Arabic, no, we do not want him because he is gay. I understand that anti-gay prejudice gets a certain leeway here. I have been fighting against that, but to put it ahead of national security seems to me excessive. We have been told that we have a problem because we do not have enough skillful linguists. So when they kick out six Arabic speakers, two Korean speakers, and someone who speaks Mandarin Chinese, I am appalled. And let us be clear that while there is a policy on the books of which I do not approve, it is not self-executing. The military has the discretion not to apply it in some cases, and to expel from the military American citizens who are motivated by the most profound patriotism and are in the process of learning Arabic at a time when that is essential to national security, to kick them out because they are gay is preposterous, and while it is late in the session and late in the evening, too late I hope for my colleagues to bring up that bankruptcy bill they were playing with, I hope when we return next year we will look at this Don't Ask, Don't Tell, Don't Translate policy, and the notion that the Federal Government at this time should deprive itself of skillful people who want to work for national security in translating from Arabic into English and from Chinese and Korean into English, the notion that we would deny ourselves this greatly needed asset because some people do not like people like me is as silly as I can think. We are not here talking about trivia. We are not talking about anything superficial. We are talking about prejudice being elevated over national security.

Mr. Speaker, I include in the RECORD at this point an article from the AP by Margie Mason and an article from the New Republic by Nathaniel Frank which document this particular piece of stupidity.

[From the Associated Press]

MILITARY DISMISSES 6 GAY ARABIC LINGUISTS AMID SHORTAGE OF TRANSLATORS

(By Margie Mason)

SAN FRANCISCO.—Nine Army linguists, including six trained to speak Arabic, have been dismissed from the military because they are gay.

The soldiers' dismissals come at a time when the military is facing a critical shortage of translators and interpreters for the war on terrorism.

Seven of the soldiers were discharged after telling superiors they are gay, and the two others got in trouble when they were caught together after curfew, said Steve Ralls, spokesman for the Servicemembers Legal Defense Network, a group that defends homosexuals in the military.

Six were specializing in Arabic, two were studying Korean and one was studying Mandarin Chinese. All were at the Defense Language Institute in Monterey, the military's primary language training center.

The government has aggressively recruited Arabic speakers since the Sept. 11 attacks.

"We face a drastic shortage of linguists, and the direct impact of Arabic speakers is a particular problem," said Donald R. Hamilton, who documented the need for more linguists in a report to Congress as part of the National Commission on Terrorism.

One of the discharged linguists said the military's policy on gays is hurting its cause.

"It's not a gay-rights issue. I'm arguing military proficiency issues. They're throwing out good, quality people," said Alastair Gamble, a former Army specialist.

Harvey Perritt, spokesman for the Army Training and Doctrine Command at Fort Monroe in Tidewater, Va., confirmed the dismissals occurred between October 2001 and September 2002, but declined to comment further on the cases.

He said 516 linguists enrolled in the Arabic course this year at the Monterey institute and 365 graduated.

The military's "don't ask, don't tell" policy allows gays to serve provided they keep quiet about their sexual orientation.

Gamble and former Pfc. Robert Hicks were discovered in Gamble's room during a surprise inspection in April, Gamble said.

After their discharges, Gamble and Hicks applied for other federal jobs where they could use their language skills in the war on terrorism, but neither was hired, Gamble said.

[From the New Republic, Nov. 18, 2002]

"Don't Ask, Don't Tell" v. the War on Terrorism

(By Nathaniel Frank)

On October 25, one week after CIA Director George Tenet warned that the United States now faces a terrorist threat every bit as grave as it did the summer before the September 11 attacks, the Council on Foreign Relations issued the most sobering report to date: "America remains dangerously unprepared to prevent and respond to a catastrophic terrorist attack. In all likelihood, the next attack will result in even greater casualties and widespread disruption to American lives and the economy."

The key to preventing that kind of calamity, most experts agree, is intelligence. And one of the basic requirements of good intelligence about the Arab world is the ability to speak its language. Unfortunately, study after study has indicated that the U.S. government faces a severe shortage of Arabic speakers. Less than one month after September 11, 2001, a House Intelligence Committee report criticized the FBI, CIA, and National Security Agency (NSA) for relying on "intelligence generalists" rather than linguists with expertise in a specific foreign language, culture, and geographical area. The report concluded that "at the NSA and CIA, thousands of pieces of data are never analyzed, or are analyzed 'after the fact' because there are too few analysts; even fewer with the necessary language skills. Written materials can sit for months, and sometimes years, before a linguist with proper security clearances and skills can begin a translation." According to a Government Accounting Office (GAO) study released in January 2002, in 2001, the U.S. Army, FBI, and State and Commerce Departments failed to fill all their jobs that required expertise in Arabic, Chinese, Korean, Farsi, or Russian. The GAO study concluded that staff shortages at these agencies "have adversely affected agency operations and compromised U.S. military, law enforcement, intelligence, counterterrorism and diplomatic efforts." As recently as last month, the Associated Press reported that the Army faces such a critical shortage of Arabic speakers that it is considering recruiting non-Americans from Middle Eastern countries into its Special Forces teams.

Which makes it all the more shocking that, in a two-month period this fall, the Defense Language Institute (DLI)—an elite training school for military linguists in Monterey, California—discharged seven fully competent Arabic linguists. The reason? They were discovered to be gay.

DLI is a language-training center run by the Army, but soldiers from all major military branches study there. Because of its battery of entrance tests and the intensity of its courses, DLI is reputed to attract students who are older and more skilled than most enlisted personnel. Its Northern California location also, it seems, attracts a large share of gay students. "There were way too many gay people at DLI for anybody to fear the 'don't ask, don't tell' policy," says one gay former student who arrived at DLI in 2001. While there, he was out to all his gay peers and to any enlisted personnel who seemed gay-friendly. "Nobody cared," he explains. "I knew someone who was a flaming queen in a uniform, and nobody cared. Sometimes we lived on halls that were more than 50 percent homosexual. ...I never even got a sideways glance."

Still, this tolerant atmosphere does not extend to commanders, who, when a soldier's homosexuality is clearly discovered, are forced by federal law to pursue and expel him. This includes highly trained linguists like Alastair Gamble, an Emory University-educated Army specialist fired from DLI this August after completing more than 30 weeks of intensive Arabic. (DLI's Arabic course requires 63 weeks for a basic knowledge, compared with only 25 weeks for Spanish, French, Italian, or Portuguese, and only the strongest students are selected to take it.) Gamble was a human-intelligence collector, a position the GAO report cited as one of the Army's "greatest foreign language needs." And Gamble was a catch for DLI in other ways, too. He had studied German for seven years in high school and continued in college, where he also studied Latin and linguistics. Once in the Army, he completed interrogation training, a nine-week intelligence course that trains a small number of soldiers to collect information through direct questioning techniques. He then spent six weeks working for the Foreign Area Officer program, which trains officers to work with U.S. allies, where his performance won him a Certificate of Commendation from his commander. He entered DLI in June 2001 to study Arabic and earned a perfect 300 on his physical fitness test. Gamble reports that his grades placed him at the top of his class and that several teachers told him they thought he was the strongest student in the class.

In April, Gamble was finishing his second semester of the Arabic basic course at DLI when, during a surprise "health and welfare" inspection at 3:30 a.m., he was caught in his room with his boyfriend, also an army language specialist. (In eight months of dating, the two men say they had never before broken visitation policies. But Gamble's boyfriend was nearing the end of his course and preparing to relocate to Goodfellow Air Force Base in Texas. As their separation approached, they decided they could risk one night of sleeping side by side.) After the two men were found in bed, nearly a dozen people searched the room while Gamble was escorted to his First Sergeant's office. Gamble says he was not yet thinking about being discharged. "I was just absolutely embarrassed," he recalls. "There's really nothing like having someone who's your age, but a slight rank above you, discussing whether or not lube is sufficient evidence to prove homosexuality. It's like getting felt up; it's horrible." The search turned up a gay-themed, non-pornographic film, photographs showing affectionate, but not sexual, behavior between Gamble and his boyfriend, and several gift cards expressing romantic sentiments. Two weeks later, Gamble was officially notified that his unit was initiating an investigation into his sexual orientation. He was pulled from class and honorably discharged on August 2. About eight weeks later, his boyfriend was discharged as well.

Gamble and his boyfriend are not alone. The Servicemembers Legal Defense Network (SLDN), a legal aid and advocacy organization that assists men and women harmed by "don't ask, don't tell," announced in its latest quarterly report that it had assisted six other Arabic speakers recently discharged from DLI for being gay. Though only two chose to speak publicly, SLDN reports that all seven soldiers were fired while in the midst of, or having completed, the intensive DLI Arabic training course.

The army has cast the firings as routine enforcement of Army regulations. Harvey Perritt, a spokesman for U.S. Army Training and Doctrine Command, says the expulsions of competent Arabic linguists are "not relevant" to the nation's current war against largely Arabic-speaking terrorists. He insists that discharges resulting from "don't ask, don't tell" are consistent with those for other violations of Army regulations. "If someone is enrolled somewhere and they don't pass the P.T. [physical training] standards," he says, by way of comparison, "they'll be discharged. There are policies and they are always in effect."

But, regardless of what you believe about gays in the military, that's just not true. Both during the Gulf war and after the September 11 attacks, the Pentagon authorized "stop-loss" orders, allowing branch secretaries to retain soldiers who would otherwise be discharged for committing petty crimes, minor physical shortcomings, or other reasons. What's more, the military even has a history of suspending personnel policies regarding gays and lesbians during wartime, when it needs maximum retention of soldiers. In 1991, The Wall Street Journal reported that the Pentagon had allowed homosexuals to serve in the Persian Gulf, despite a ban on all gay service, and only moved to discharge several gay veterans after the war ended. For his best-selling 1993 book, Conduct Unbecoming, the late San Francisco Chronicle reporter Randy Shilts interviewed two Arab-language specialists fired from the Army for being gay. According to Shilts, the NSA contacted the two when the Gulf war began, begging them to return to service to help the war effort. (The two men declined.)

In other words, the military implicitly acknowledges that, during wartime, the gay ban may undermine national security rather than protect it. And since its leaders have consistently argued that national security should be the only criterion for determining whether gays should serve, it may be time for a new look at an "interim" policy formulated nearly ten years ago. Today's war on terrorism is less about squadrons and battalions than about deciphering the behavior of a shadowy enemy who attacks in secret. For national security's sake, let's hope our leaders are finally ready to acknowledge in public what they're admitted privately for quite some time: It is this enemy that threatens our nation's freedoms and survival, not the open homosexuality of patriotic Americans standing ready to serve.

Ms. PELOSI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to associate myself with the concerns expressed by the gentleman from Massachusetts (Mr. FRANK) regarding putting national security second to anything. It is our first priority to protect the American people. It is in the Preamble to the Constitution first to provide for the common defense and we really must revisit this idea, especially at the time of such tremendous need for linguistic skills, especially in the languages expressed by the gentleman from Massachusetts (Mr. FRANK).

Mr. Speaker, I am pleased to thank so many people who made this bill possible, my distinguished chairman for sure, all of the members of the committee acting in bipartisan fashion, and I want to commend the wonderful staff that we have. I want to acknowledge on the Democratic side our counsel Mike Sheehy who heads up the Democratic staff. We do not really think in terms of Democrat and Republican. It just somehow breaks down that way.

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But we act in a very bipartisan way, members and staff. Chris Healey, Beth Larson, Ilene Romack, Wyndee Parker, Carolyn Bartholomew, Bob Emmett, Kirk McConnell, Marcel Lettre and, again, Mike Sheehy, who heads up our side. I want to commend Tim Sample, who is the major honcho staff person of the Committee, Chris Bartow, Mike Meermans and all of the other members of the staff for all of their hard work.

Mr. Speaker, I want to just respond briefly, because the hour is late, very briefly, to the very serious concerns and the sincerity in which they were expressed by the gentleman from Illinois (Mr. LAHOOD). The purpose of the commission is not to assign blame; it is to find out why and how 9–11 happened. I agree with the gentleman, if the purpose is to assign blame, we should not have the commission. That would not be constructive. But we must try our very best to make sure that a 9–11 or anything like it does not happen again; and in order to do that, we have to get to the bottom of it.

This commission will build on the work of the Joint Inquiry, in which this committee and the Senate committee have been engaged, and we are very pleased with the work of our staff director, Eleanor Hill, and the very, very able staff of the inquiry. It will build on that.

But this commission, the purpose of it is to have fresh eyes take a new fresh look at what happened and also to go beyond those agencies of government that the inquiry has looked at, to look at every agency of government that had any responsibility for protecting the American people from terrorism.

So with that, Mr. Speaker, I would just say as we go into this commission, we are walking on hallowed ground. There is no place for politics or assigning blame here, but we do have a responsibility to reduce risk to the American people, to find answers as to why 9–11 happened, to prevent it from happening again, to provide comfort to the families who have been a source of strength. We try to console them. They are an inspiration and a source of strength to us, as the gentleman from Indiana (Mr. ROEMER) indicated.

Whatever we do, we must bring honor to the memory of those who lost their lives on September 11. I think our work in the Joint Inquiry is an excellent product, will be an excellent product when the report comes out, and that this work of the independent commission will bring honor to the memory of those who died as well.

Mr. Speaker, I urge our colleagues to support the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out that we always have in the intelligence community many options and many things to consider; and while we do it on a bipartisan basis, we do not always agree on what are the best ways to proceed when you are dealing with some very complex questions of national security. Part of the richness of the judgment of our committee, I think, is we do have many perspectives, and we have heard some of them here tonight. I think that bodes well for our institution.

I would also, in addition to thanking the gentleman from Indiana (Mr. ROEMER) for his persistence and commitment to the idea of where we go next from the Joint Committee with our review process, like to underscore that other Members have been very helpful in the breakthrough. Certainly Members of the other body as well, but I want to thank the gentleman from Georgia (Mr. CHAMBLISS) in particular, who has been referred to already as the gentleman who led with the gentlewoman from California (Ms. HARMAN) the Subcommittee on Terrorism and Homeland Security effort, which was very important and a landmark piece for our work. The gentleman from Georgia (Mr. CHAMBLISS) was also a man who was instrumental in the breakthrough on the compromise that we came through on the independent commission. So I think that he is owed a special thanks for that.

For the family groups, the survivors of 9–11, Stephen Push and Kristin Breitweiser and so forth, we referred to them and spent hours talking to them, I suppose, collectively between all of us.

We all know that we have a responsibility, and I totally agree with my distinguished ranking member about the hallowed ground involved. I do not suppose a day has gone by since 9–11 that I and other members of our committee and perhaps all of us in the room have not thought, is there something we missed? Should we have known? Did we fail in our oversight? Did something go wrong? Was there a smoking gun? Did we somehow fail the American people? Were we derelict in our duty? I can honestly look Kristin Breitweiser and Stephen Push or anybody else in the eye and say I know of no such failure. I know of collectively a lot of things we could have done better, but I see nothing yet that leads me to a smoking gun.

This year we have joined with the other body in doing a very intense review of the 9–11 event. It is not over. We will be issuing a report and that will lead to further efforts. That is appropriate. We will see where that takes us.

The question still needs to be asked and will continue to need to be asked, did we miss something? Did we do our oversight right? I hope the next commission on oversight, on the 9–11 review, will in fact come back to the congressional oversight and find out if we did our job properly.

I think we are accountable on these committees. I am certainly prepared for that, and I would love the opportunity to answer questions and give the point of view of the committee, because I am very proud of the effort that our committee has put into that. But it does not mean we have all the wisdom or judgment in the world.

Besides that review, we have tried very hard to make sure we understand the nature of the threat we are fighting in the war on terrorism and anthrax and propaganda and all the other miscreants that we deal with now on the basis of whether they are terrorists or violators of law. We are not quite sure, but they need to be stopped in their tracks. So we are fighting a global war, and we have got men and women out there taking risks, taking chances, doing hard work and sometimes, sadly, getting killed. Those people we owe a responsibility to.

The oversight and the advocacy role of our committee is on their behalf as well, to make sure they have the tools, the training, the capabilities they need to do their job, to protect all of us and to make sure in this very specialized area of intelligence they are operating in bounds, because we have promised the American people, our constituency, that we will make sure that we never violate our pledge to the American people that we will not spy on the American people. We will preserve our liberty. So we take that very seriously as well.

Then I think we come to the next question, and that is the question of catching the perpetrators of 9-11. Certainly we have not got them all, and certainly we have learned in the past 48 hours or so that Osama bin Laden himself may still be alive. This is ongoing. It will require patience, and it will require commitment. I would thank the members of the committee, the members of the staff and all who have helped us in that commitment, because that commitment remains before this body.

On behalf of the American people, I urge support for this very important bill.

Mr. GIBBONS. Mr. Speaker, I rise in support of the Intelligence Authorization bill, and I thank my friend and colleague from Florida for yielding me this time.

This is a very good bill. It addresses intelligence needs that were identified in past years by the Intelligence Committee. But only in the past year, after the deaths of innocent Americans, and innocent citizens of other countries, are these needs getting the broad attention they deserve.

Throughout much of the 1990's, after the end of the Cold War, there was a debate about whether America really needed to spend so much money on defense. As for intelligence, some people even said there was no longer any need for the CIA. I believe that debate is now over.

The bill before you today will help the intelligence agencies increase and sharpen their effectiveness—especially against terrorist groups.

If you want to know the plans and intentions of terrorist groups you have to have HUMINT—"human intelligence". This is the information you get from human sources—also known as "assets" or "agents" or simply "spies". I want to emphasize that this year's intelligence authorization bill does a great deal to strengthen our HUMINT capability. For one thing, there is money to hire more CIA operations officers.

CIA's operations officers are doing a great job, but they are few and far between. We need more, and this bill will help ensure that there will be more. This bill also provides money to hire more intelligence analysts and linguists. Likewise, there is money for more foreign language training. It is not hard to understand that if your operations officers and analysts have not learned the language of your enemy, you will not succeed in learning his plans and intentions.

These HUMINT and foreign language-related items are just some of the good provisions of this Intelligence Authorization bill. They are long overdue.

The clock is ticking, and America's enemies continue with their planning. I urge your support for our intelligence professionals, and I urge your support for this bill.

Mr. GOSS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. WHITFIELD). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LAHOOD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 366, nays 3, not voting 62, as follows:

[Roll No. 483]

YEAS—366

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldwin
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Bonilla
Bono
Boozman
Boswell
Boucher
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clyburn
Coble
Collins
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Gekas
Gephardt
Gibbons
Gilchrest
Gonzalez
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Horn
Hostettler
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Pallone
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Snyder
Solis
Souder
Spratt
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Young (AK)

NAYS—3

Kerns
LaHood
Paul

NOT VOTING—62

Baldacci
Ballenger
Barcia
Barr
Becerra
Blagojevich
Boehner
Bonior
Borski
Boyd
Callahan
Clay
Clement
Combest
Condit
Conyers
Cooksey
Diaz-Balart
Doolittle
Ehrlich
Ford
Ganske
Gillmor
Gilman
Gordon
Greenwood
Grucci
Hastings (FL)
Hooley
Houghton
Hyde
Issa
Keller
King (NY)
Lantos
Lipinski
Markey
McInnis
McKinney
Meek (FL)
Miller, Gary
Murtha
Oberstar
Oxley
Pascrell
Peterson (PA)
Rangel
Roukema
Sawyer
Sensenbrenner
Slaughter
Smith (TX)
Smith (WA)
Stark
Stearns
Stump
Sununu
Toomey
Watt (NC)
Waxman
Wynn
Young (FL)

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Mr. KERNS changed his vote from "yea" to "nay."

Mr. ALLEN changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PASCRELL. Mr. Speaker, on rollcall No. 483, I was unavoidably absent. Had I been present, I would have voted "yea."

GENERAL LEAVE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4628 and the conference report just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

TRIBUTE TO TERRY MORRIS

(Mr. TOM DAVIS of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise to honor our friend, my neighbor, Terry Morris, the Tally Clerk of the House, who is going to retire this December after 33 years of service to the House of Representatives.

Mr. Speaker, Terry accepted a position as Assistant Tally Clerk 33 years ago, and 16 years later he took over the helm as the Chief Tally Clerk, responsible for all votes in the House of Representatives. At the time of his retirement, Terry will have served longer in the House than all but 5 of the 435 currently serving Members.

During Terry Morris' tenure, the House has voted on the Gulf War, giving 18-year-olds the right to vote, impeachment, on antiterrorism measures in the wake of the attacks on September 11, and on authorizing the President to use military force against the threat of weapons of mass destruction from Iraq.

Terry's professional objectivity and down-to-earth style have made him many friends among Members on both sides of the aisle, particularly among new Members, whom he assists in familiarizing themselves with voting procedures. Terry's service has spanned both Democratic and Republican majorities, during which time his goal has always been to serve the whole House of Representatives, regardless of party.

Perhaps Terry's most unusual and important day as Tally Clerk came on December 19, 1998, when the House took four votes over a period of 2 hours on four separate articles of impeachment, two of which passed and two of which failed. Terry has been quoted as saying, "Of the thousands of votes I had taken in my career, I knew this would be the most significant."

Terry is originally from Madison, Wisconsin, where he majored in political science at the University of Wisconsin at Madison. Terry and his wife, Barbara, have two sons, Tim, a senior at Mary Washington College in Fredericksburg, Virginia, and Christopher, a sophomore at Bishop O'Connell High School in Arlington, Virginia. Terry is an avid golfer and tennis player, and one of the founders of the Capitol Hill Tennis Club. In his retirement, Terry intends to spend more time golfing, playing tennis and visiting friends around the country.

So we wish you Godspeed, Terry. We thank you for everything that you have given of yourself to this institution. We are the better for having known you, and the poorer for your leaving. We will not forget you.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, let me simply say in addition to being educated at the University of Wisconsin, where he did receive a degree in political science, I would point out that I knew him before he worked here when he was a page in the Wisconsin Legislature, when he looked just a little bit younger than both he and I look tonight.

I just want to say that I know that every day the American people look in on this institution on C-SPAN and they see these faces at the desk, they have no idea who these people are and what they do. They have no idea the contribution they make to the Republic. Terry has done everything except the one thing which is impossible: It has been impossible for him to make us look better than we deserve, and so we are going to have to let it go at that.

Terry, we wish you luck in retirement.

Ms. WATERS. Mr. Speaker, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentlewoman from California.

Ms. WATERS. Mr. Speaker, I would just like to take a moment to add to the words of my colleagues about a most unusual man.

Terry Morris sits at that desk, impeccable in his dress, never a hair out of place, a smile on his face, serving day in and day out. He goes so far as to remind Members they have not voted by looking for them in every imaginable way, connecting with his eyes, reminding Members they have voted twice and they should not do that. He is perhaps one of the friendliest clerks and assistant that we have in this House. He helps Members regardless of party, and he has made friends on both sides of the aisle.

One of my joys in this House is coming in and seeing his face, speaking with him, exchanging a few words and just knowing he is going to be there for me and all of us. I am sorry to see him leave. He is one of those persons we would like to have stay forever; but after 33 years he deserves to retire. I wish him well.

Mr. MORAN of Virginia. Mr. Speaker, will the gentleman yield?

Mr. TOM DAVIS of Virginia. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Speaker, as the gentleman from Virginia (Mr. TOM DAVIS) has mentioned all of the specifics of Terry Morris' life, I would just add that he is a constituent of mine. I am proud that is the case. But in so many ways, he is a constituent of this entire United States Congress. This is where he chose to spend most of his life, 33 years. Imagine, he has been up there for 33 years, 16 years as Assistant Clerk, and the last 17 as the Chief Tally Clerk.

As our colleague just stated, we take it for granted, every time we pass in that vote, Terry is smiling. He is looking professional. He is even looking alert. Here it is after midnight, and he is still smiling and looking alert. I do not know that we can do it. He does it day in and day out in such a way that we take it for granted. That is the kind of professionalism that the American public counts on.

□ 0050

When they have seen him on C-SPAN, I know he has just been sort of part of the institution, but the people listening in and who may one day read the CONGRESSIONAL RECORD ought to know that in many ways there is no more prized servant of the American people than Terry Morris has proven himself to be.

And so for the person you are and for what you have contributed to this institution, Terry, we will forever be grateful. Thank you.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I thank the distinguished gentleman from Virginia for yielding. I rise today to pay tribute to Terry Morris, who is retiring after 33 years of distinguished service to this House of Representatives. He has served as an assistant tally clerk and has fulfilled the duties of chief tally clerk for the past 16 years and more with great distinction. He is one of those who quietly and in an unassuming fashion makes this House of Representatives work.

In a body which is characterized by high levels of partisanship and by strong feelings, I would note that he has not only served with distinction but with fairness, and he has served well. He is known for his professional and friendly personality and for the fact that he has carried out his responsibilities with dignity, with respect for the institution, and with good faith towards all of the Members of this body. He has been an officer of this House for 33 years. He has seen history made. He has worked on many difficult and complex issues with fairness and impartiality. His service has spanned the careers of five Democratic Speakers and two Republican Speakers of this House. I speak not only on my own behalf but on behalf of his many friends in this institution when I commend him for his work and for his effort.

All of us here offer our best wishes and gratitude to him for his service and to his wife, Barbara. We wish them great happiness and the best of all things as they embark on a new chapter in their lives. All of us say to Terry Morris, not only thank you, but well done, Terry. We are grateful for what you have done for us.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. I thank my friend for yielding. As someone who hails from our neck of the woods and whose family is still sprinkled in many of our congressional districts, it is with special pride that we are here to honor you and to thank you for your many years of service in this great House, Terry. I was just 5 years old when you started your career here. Not to date you, but you have lived through eight administrations and seven separate Speakers of the House of Representatives. So I think it is safe to say that you are a great repository of a lot of the institutional memory that exists in this place. Besides you and Charlie, I think you two are the only two who probably recall the Members whose names we are honoring on courthouses and post offices throughout this country virtually every week out here. But I also want to thank you for what you mean for our government.

There is a lot of cynicism in regards to our political system today, and a lot of times that is because the only thing people back home see is the partisan clashes and the heated debates that we have. I feel it is part of our obligation to go home and report to people who do not see what we get to see how well our government functions and the fact that we have thousands of employees, in the Federal agencies, in our offices, in this House who wake up every morning with the sole goal of trying to improve this great country of ours. You do it with honor, you do it with integrity, and you do it with a lot of style and a lot of class. That is why I, after my third term, am even more hopeful and optimistic about this great government of ours, because of people like you.

I just have one request before you do leave, and that is to make sure that you download all the information that is in your brain and make sure it is all written so that we do not have to recreate the wheel. I will never forget the story you told me that after one of the late tally votes, which is seldom held around here anymore, someone asked you where the written procedure is for the tally vote, and you looked at them with a blank expression and said, "There is no written procedure. It's right here." Everyone was shocked and horrified that you were going to go home that night being the only one with the knowledge on how to do this type of work. So you sat down before you went home and actually wrote out what the procedure is like.

Again, we thank you for your great service. I personally thank you for all the conversations and the advice that you have given me. We wish you and Barbara and the two boys all the best in your retirement. Thank you very much.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, a very loyal and distinguished member of the House staff is retiring after 33 years. I personally owe much to him for helping me preserve my longtime voting record. More than once he has advised the Speaker that I had not yet arrived. I am grateful to him for that. Terry's service has spanned five Democratic Speakers and two Republican Speakers of the House. Many people can spend 33 years here and never have to vote on the awesome question of war or impeachment. He has experienced both of those awesome questions here in his responsibility.

Terry and his wife, Barbara, have two sons: Tim, a senior at Mary Washington College in Fredericksburg, Virginia, and Christopher, a sophomore at Bishop O'Connell High School in Arlington, Virginia.

Terry will be greatly missed. He is a friend of this House. He is a personal friend of mine. I am a better person because of Terry Morris.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield to the gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Terry, as a fellow Madisonian and a fellow Wisconsinite, you have made us very proud. Terry reminds me of what is great about the people of Wisconsin. We are actively involved in our democracy and government, and we have an outstanding work ethic. Wisconsinites understand what it means to serve their country; and Terry Morris has done so impeccably, in both his capacity as assistant tally clerk and as chief tally clerk. He has been a good friend to me in our frequent reminiscences about Wisconsin and Madison. I will miss you very much. Terry, thank you so very much for your service to this House and this Nation. You make Wisconsin proud. You make all of us proud. Best wishes in your retirement.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Terry, your service has been recalled and set before us. All of us appreciate your service, that is clear. I think you are emblematic of the fine service that is given by those of you who do not get to speak on this floor, those of you whose names do not scroll across the screen, those of you who work anonymously but so effectively on behalf of the American public. Terry, I wanted to add my thanks and the thanks of all the Members of this side of the aisle, along with TOM on behalf of all the Members on that side of the aisle, because you work not in a partisan sense but you work for this institution to ensure that the people's House functions as the people would like. As TOM DAVIS said, we will miss you. You have served your country well. God bless you.

CONFERENCE REPORT ON H.R. 333, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2002

Mr. GEKAS. Mr. Speaker, I call up the conference report to accompany the bill (H.R. 333) to amend title 11, United States Code, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 8, subsection C of rule XXII, the conference report is considered read.

POINT OF ORDER

Mr. BLUNT. Mr. Speaker, I make a point of order under clause 9 of rule XXII that the conference report includes matter outside the scope of the differences between the two Houses that were committed to the conference committee for resolution. I specifically cite section 331 of the conference report which is described in the joint explanatory statement of the managers as having no counterpart in either the House bill or the Senate amendment.

The SPEAKER pro tempore. Does any other Member wish to be heard on the point of order?

Mr. FRANK. Mr. Speaker, I wish to be heard on the point of order.

Mr. Speaker, I gather that this point of order is being lodged by the leadership of the House against the very bill that the leadership of the House was trying to persuade Members to vote for a couple of hours ago. So my concern is, how did a bill that was perfectly in order at about 8 o'clock fall out of order?

□ 0100

And I am concerned that we have a situation in which the leadership of this House apparently consciously brought forward a bill that they knew to be violative of the rules of the House, sought to pass it, and when not enough arms could be twisted, they now have become late converts to the rules.

PARLIAMENTARY INQUIRY

Mr. FRANK. So, Mr. Speaker, I do have a parliamentary inquiry. I am sorry the gentlemen do not want to hear this flip-flop, but I did not bring it up. I have a parliamentary inquiry, Mr. Speaker, which I believe is regular order. You might want to explain to a few of them over there. I understand on that side knowledge and commitment to the rules is a sometime thing, but a parliamentary inquiry is in order.

Is this bill against which the point of order has been lodged exactly the same bill that the leadership was trying to get people to vote for a few hours ago?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman has not raised a parliamentary inquiry.

Mr. FRANK. The parliamentary inquiry is, is this the same piece of legislation on which we voted a couple of hours ago? I think a parliamentary inquiry is relevant when we ask about what is in fact before the House. I have not had a chance to read it. Is this the same bill that the House was voting on a few hours ago?

The SPEAKER pro tempore. The conference report called up by the gentleman from Pennsylvania (Mr. GEKAS) that is the object of the pending point of order was earlier the object of House Resolution 606, which the House rejected. The gentleman from Pennsylvania (Mr. GEKAS) may make a motion after the Chair rules. He has not made that and it is not pending before the House now.

Mr. FRANK. Pardon me, Mr. Speaker, but the gentleman from Missouri (Mr. BLUNT) has made a point of order against something. I guess that is the question. The parliamentary inquiry is against what it is that the gentleman from Missouri has lodged a point of order? You said does anyone want to be heard on the point of order. He made a point of order. Against what vehicle did he make a point of order, then?

The SPEAKER pro tempore. The point of order is against the conference report against which no points of order have been waived.

Mr. FRANK. So the point of order is against the very conference report that this leadership which is now making the point of order tried to pass. I have heard about being born again in some context,. but born again parliamentarian is a new concept to me, and I think it ought to be clear. I want to be heard on the point of order, and I want to say that I want to defend the House leadership. If you sustain this point of order, you will be ruling that the very bill this House leadership tried to get majority Members to vote for a few hours ago was out of order. I do not think we ought to have the ruling calling into question the fealty of the House Republican leadership to the Rules of the House.

The SPEAKER pro tempore. Does any other Member wish to be heard on the point of order?

If not, for the reasons stated by the gentleman from Missouri (Mr. BLUNT) the point of order is sustained and the conference report is vitiated.

CONCURRING IN SENATE AMENDMENT, WITH AN AMENDMENT, TO H.R. 333, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001

Mr. GEKAS. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. GEKAS moves that the House recede from disagreement to the Senate amendment and concur therein with the following amendment:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the matter after the enacting clause in H.R. 5745 as introduced on November 14, 2002.

The text of H.R. 5745 is as follows:

H.R. 5745

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Sense of Congress and study.
Sec. 104. Notice of alternatives.
Sec. 105. Debtor financial management training test program.
Sec. 106. Credit counseling.
Sec. 107. Schedules of reasonable and necessary expenses.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

Sec. 201. Promotion of alternative dispute resolution.
Sec. 202. Effect of discharge.
Sec. 203. Discouraging abuse of reaffirmation practices.
Sec. 204. Preservation of claims and defenses upon sale of predatory loans.
Sec. 205. GAO study and report on reaffirmation process.

Subtitle B—Priority Child Support

Sec. 211. Definition of domestic support obligation.
Sec. 212. Priorities for claims for domestic support obligations.
Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 216. Continued liability of property.
Sec. 217. Protection of domestic support claims against preferential transfer motions.
Sec. 218. Disposable income defined.
Sec. 219. Collection of child support.
Sec. 220. Nondischargeability of certain educational benefits and loans.

Subtitle C—Other Consumer Protections

Sec. 221. Amendments to discourage abusive bankruptcy filings.
Sec. 222. Sense of Congress.
Sec. 223. Additional amendments to title 11, United States Code.
Sec. 224. Protection of retirement savings in bankruptcy.
Sec. 225. Protection of education savings in bankruptcy.
Sec. 226. Definitions.
Sec. 227. Restrictions on debt relief agencies.
Sec. 228. Disclosures.
Sec. 229. Requirements for debt relief agencies.
Sec. 230. GAO study.
Sec. 231. Protection of personally identifiable information.
Sec. 232. Consumer privacy ombudsman.
Sec. 233. Prohibition on disclosure of name of minor children.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

Sec. 301. Reinforcement of the fresh start.
Sec. 302. Discouraging bad faith repeat filings.
Sec. 303. Curbing abusive filings.
Sec. 304. Debtor retention of personal property security.
Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 306. Giving secured creditors fair treatment in chapter 13.
Sec. 307. Domiciliary requirements for exemptions.
Sec. 308. Reduction of homestead exemption for fraud.
Sec. 309. Protecting secured creditors in chapter 13 cases.
Sec. 310. Limitation on luxury goods.
Sec. 311. Automatic stay.
Sec. 312. Extension of period between bankruptcy discharges.
Sec. 313. Definition of household goods and antiques.
Sec. 314. Debt incurred to pay nondischargeable debts.
Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
Sec. 316. Dismissal for failure to timely file schedules or provide required information.
Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 319. Sense of Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
Sec. 320. Prompt relief from stay in individual cases.
Sec. 321. Chapter 11 cases filed by individuals.
Sec. 322. Limitations on homestead exemption.
Sec. 323. Excluding employee benefit plan participant contributions and other property from the estate.
Sec. 324. Exclusive jurisdiction in matters involving bankruptcy professionals.

Sec. 325. United States trustee program filing fee increase.
Sec. 326. Sharing of compensation.
Sec. 327. Fair valuation of collateral.
Sec. 328. Defaults based on nonmonetary obligations.
Sec. 329. Clarification of postpetition wages and benefits.
Sec. 330 Delay of discharge during pendency of certain proceedings.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

Sec. 401. Adequate protection for investors.
Sec. 402. Meetings of creditors and equity security holders.
Sec. 403. Protection of refinance of security interest.
Sec. 404. Executory contracts and unexpired leases.
Sec. 405. Creditors and equity security holders committees.
Sec. 406. Amendment to section 546 of title 11, United States Code.
Sec. 407. Amendments to section 330(a) of title 11, United States Code.
Sec. 408. Postpetition disclosure and solicitation.
Sec. 409. Preferences.
Sec. 410. Venue of certain proceedings.
Sec. 411. Period for filing plan under chapter 11.
Sec. 412. Fees arising from certain ownership interests.
Sec. 413. Creditor representation at first meeting of creditors.
Sec. 414. Definition of disinterested person.
Sec. 415. Factors for compensation of professional persons.
Sec. 416. Appointment of elected trustee.
Sec. 417. Utility service.
Sec. 418. Bankruptcy fees.
Sec. 419. More complete information regarding assets of the estate.

Subtitle B—Small Business Bankruptcy Provisions

Sec. 431. Flexible rules for disclosure statement and plan.
Sec. 432. Definitions.
Sec. 433. Standard form disclosure statement and plan.
Sec. 434. Uniform national reporting requirements.
Sec. 435. Uniform reporting rules and forms for small business cases.
Sec. 436. Duties in small business cases.
Sec. 437. Plan filing and confirmation deadlines.
Sec. 438. Plan confirmation deadline.
Sec. 439. Duties of the United States trustee.
Sec. 440. Scheduling conferences.
Sec. 441. Serial filer provisions.
Sec. 442. Expanded grounds for dismissal or conversion and appointment of trustee.
Sec. 443. Study of operation of title 11, United States Code, with respect to small businesses.
Sec. 444. Payment of interest.
Sec. 445. Priority for administrative expenses.
Sec. 446. Duties with respect to a debtor who is a plan administrator of an employee benefit plan.
Sec. 447. Appointment of committee of retired employees.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

Sec. 501. Petition and proceedings related to petition.
Sec. 502. Applicability of other sections to chapter 9.

TITLE VI—BANKRUPTCY DATA

Sec. 601. Improved bankruptcy statistics.
Sec. 602. Uniform rules for the collection of bankruptcy data.
Sec. 603. Audit procedures.
Sec. 604. Sense of Congress regarding availability of bankruptcy data.

TITLE VII—BANKRUPTCY TAX PROVISIONS

Sec. 701. Treatment of certain liens.
Sec. 702. Treatment of fuel tax claims.
Sec. 703. Notice of request for a determination of taxes.
Sec. 704. Rate of interest on tax claims.
Sec. 705. Priority of tax claims.
Sec. 706. Priority property taxes incurred.
Sec. 707. No discharge of fraudulent taxes in chapter 13.
Sec. 708. No discharge of fraudulent taxes in chapter 11.
Sec. 709. Stay of tax proceedings limited to prepetition taxes.
Sec. 710. Periodic payment of taxes in chapter 11 cases.
Sec. 711. Avoidance of statutory tax liens prohibited.
Sec. 712. Payment of taxes in the conduct of business.
Sec. 713. Tardily filed priority tax claims.
Sec. 714. Income tax returns prepared by tax authorities.
Sec. 715. Discharge of the estate's liability for unpaid taxes.
Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.
Sec. 717. Standards for tax disclosure.
Sec. 718. Setoff of tax refunds.
Sec. 719. Special provisions related to the treatment of State and local taxes.
Sec. 720. Dismissal for failure to timely file tax returns.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
Sec. 802. Other amendments to titles 11 and 28, United States Code.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

Sec. 901. Treatment of certain agreements by conservators or receivers of insured depository institutions.
Sec. 902. Authority of the corporation with respect to failed and failing institutions.
Sec. 903. Amendments relating to transfers of qualified financial contracts.
Sec. 904. Amendments relating to disaffirmance or repudiation of qualified financial contracts.
Sec. 905. Clarifying amendment relating to master agreements.
Sec. 906. Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 907. Bankruptcy law amendments.
Sec. 908. Recordkeeping requirements.
Sec. 909. Exemptions from contemporaneous execution requirement.
Sec. 910. Damage measure.
Sec. 911. SIPC stay.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

Sec. 1001. Permanent reenactment of chapter 12.
Sec. 1002. Debt limit increase.
Sec. 1003. Certain claims owed to governmental units.
Sec. 1004. Definition of family farmer.
Sec. 1005. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
Sec. 1006. Prohibition of retroactive assessment of disposable income.
Sec. 1007. Family fishermen.

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

Sec. 1101. Definitions.
Sec. 1102. Disposal of patient records.
Sec. 1103. Administrative expense claim for costs of closing a health care business and other administrative expenses.
Sec. 1104. Appointment of ombudsman to act as patient advocate.
Sec. 1105. Debtor in possession; duty of trustee to transfer patients.
Sec. 1106. Exclusion from program participation not subject to automatic stay.

TITLE XII—TECHNICAL AMENDMENTS

Sec. 1201. Definitions.
Sec. 1202. Adjustment of dollar amounts.
Sec. 1203. Extension of time.
Sec. 1204. Technical amendments.
Sec. 1205. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
Sec. 1206. Limitation on compensation of professional persons.
Sec. 1207. Effect of conversion.
Sec. 1208. Allowance of administrative expenses.
Sec. 1209. Exceptions to discharge.
Sec. 1210. Effect of discharge.
Sec. 1211. Protection against discriminatory treatment.
Sec. 1212. Property of the estate.
Sec. 1213. Preferences.
Sec. 1214. Postpetition transactions.
Sec. 1215. Disposition of property of the estate.
Sec. 1216. General provisions.
Sec. 1217. Abandonment of railroad line.
Sec. 1218. Contents of plan.
Sec. 1219. Bankruptcy cases and proceedings.
Sec. 1220. Knowing disregard of bankruptcy law or rule.
Sec. 1221. Transfers made by nonprofit charitable corporations.
Sec. 1222. Protection of valid purchase money security interests.
Sec. 1223. Compensating trustees.
Sec. 1224. Amendment to section 362 of title 11, United States Code.
Sec. 1225. Judicial education.
Sec. 1226. Reclamation.
Sec. 1227. Providing requested tax documents to the court.
Sec. 1228. Encouraging creditworthiness.
Sec. 1229. Property no longer subject to redemption.
Sec. 1230. Trustees.
Sec. 1231. Bankruptcy forms.
Sec. 1232. Direct appeals of bankruptcy matters to courts of appeals.
Sec. 1233. Involuntary cases.
Sec. 1234. Federal election law fines and penalties as nondischargeable debt.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

Sec. 1301. Enhanced disclosures under an open end credit plan.
Sec. 1302. Enhanced disclosure for credit extensions secured by a dwelling.
Sec. 1303. Disclosures related to "introductory rates".
Sec. 1304. Internet-based credit card solicitations.
Sec. 1305. Disclosures related to late payment deadlines and penalties.
Sec. 1306. Prohibition on certain actions for failure to incur finance charges.
Sec. 1307. Dual use debit card.
Sec. 1308. Study of bankruptcy impact of credit extended to dependent students.

Sec. 1309. Clarification of clear and conspicuous.

TITLE XIV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 1401. Effective date; application of amendments.

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting “or consents to” after “requests”.

SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§ 707. Dismissal of a case or conversion to a case under chapter 11 or 13”;

and

(2) in subsection (b)—

(A) by inserting “(1)” after “(b)”;

(B) in paragraph (1), as so redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking “but not at the request or suggestion of” and inserting “trustee, bankruptcy administrator, or”;

(II) by inserting “, or, with the debtor's consent, convert such a case to a case under chapter 11 or 13 of this title,” after “consumer debts”; and

(III) by striking “a substantial abuse” and inserting “an abuse”; and

(ii) by striking the next to last sentence; and

(C) by adding at the end the following:

“(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

“(I) 25 percent of the debtor's nonpriority unsecured claims in the case, or $6,000, whichever is greater; or

“(II) $10,000.

“(ii)(I) The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the entry of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 309 of the Family Violence Prevention and Services Act, or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

“(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, siblings, children, and grandchildren of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case who is not a dependent) and who is unable to pay for such reasonable and necessary expenses.

“(III) In addition, for a debtor eligible for chapter 13, the debtor's monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for United States Trustees.

“(IV) In addition, the debtor's monthly expenses may include the actual expenses for each dependent child less than 18 years of age, not to exceed $1,500 per year per child, to attend a private or public elementary or secondary school if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and why such expenses are not already accounted for in the National Standards, Local Standards, or Other Necessary Expenses referred to in subclause (I)

“(V) In addition, the debtor's monthly expenses may include an allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the Internal Revenue Service, based on the actual expenses for home energy costs if the debtor provides documentation of such actual expenses and demonstrates that such actual expenses are reasonable and necessary.

“(iii) The debtor's average monthly payments on account of secured debts shall be calculated as the sum of—

“(I) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and

“(II) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts;

divided by 60.

“(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as the total amount of debts entitled to priority, divided by 60.

“(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

“(ii) In order to establish special circumstances, the debtor shall be required to itemize each additional expense or adjustment of income and to provide—

“(I) documentation for such expense or adjustment to income; and

“(II) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.

“(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

“(iv) The presumption of abuse may only be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) when multiplied by 60 to be less than the lesser of—

“(I) 25 percent of the debtor's nonpriority unsecured claims, or $6,000, whichever is greater; or

“(II) $10,000.

“(C) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that shows how each such amount is calculated.

“(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in subparagraph (A)(i) of such paragraph does not apply or has been rebutted, the court shall consider—

“(A) whether the debtor filed the petition in bad faith; or

“(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

“(4)(A) The court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may order the attorney for the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion filed under section 707(b), including reasonable attorneys' fees, if—

“(i) a trustee files a motion for dismissal or conversion under this subsection; and

“(ii) the court—

“(I) grants such motion; and

“(II) finds that the action of the attorney for the debtor in filing under this chapter violated rule 9011 of the Federal Rules of Bankruptcy Procedure.

“(B) If the court finds that the attorney for the debtor violated rule 9011 of the Federal Rules of Bankruptcy Procedure, the court, on its own initiative or on the motion of a party in interest, in accordance with such procedures, may order—

“(i) the assessment of an appropriate civil penalty against the attorney for the debtor; and

“(ii) the payment of such civil penalty to the trustee, the United States trustee, or the bankruptcy administrator.

“(C) In the case of a petition, pleading, or written motion, the signature of an attorney shall constitute a certification that the attorney has—

“(i) performed a reasonable investigation into the circumstances that gave rise to the petition, pleading, or written motion; and

“(ii) determined that the petition, pleading, or written motion—

“(I) is well grounded in fact; and

“(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

“(D) The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.

“(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion filed by a party in interest (other than a trustee, United States trustee, or bankruptcy administrator) under this subsection if—

"(i) the court does not grant the motion; and

"(ii) the court finds that—

"(I) the position of the party that filed the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

"(II) the attorney (if any) who filed the motion did not comply with the requirements of clauses (i) and (ii) of paragraph (4)(C), and the motion was made solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

"(B) A small business that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A)(ii)(I).

"(C) For purposes of this paragraph—

"(i) the term 'small business' means an unincorporated business, partnership, corporation, association, or organization that—

"(I) has fewer than 25 full-time employees as determined on the date on which the motion is filed; and

"(II) is engaged in commercial or business activity; and

"(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

"(I) a parent corporation; and

"(II) any other subsidiary corporation of the parent corporation.

"(6) Only the judge, United States trustee, or bankruptcy administrator may file a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

"(7)(A) No judge, United States trustee, trustee, bankruptcy administrator, or other party in interest may file a motion under paragraph (2) if the current monthly income of the debtor and the debtor's spouse combined, as of the date of the order for relief when multiplied by 12, is equal to or less than—

"(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(ii) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(iii) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4.

"(B) In a case that is not a joint case, current monthly income of the debtor's spouse shall not be considered for purposes of subparagraph (A) if—

"(i)(I) the debtor and the debtor's spouse are separated under applicable nonbankruptcy law; or

"(II) the debtor and the debtor's spouse are living separate and apart, other than for the purpose of evading subparagraph (A); and

"(ii) the debtor files a statement under penalty of perjury—

"(I) specifying that the debtor meets the requirement of subclause (I) or (II) of clause (i); and

"(II) disclosing the aggregate, or best estimate of the aggregate, amount of any cash or money payments received from the debtor's spouse attributed to the debtor's current monthly income.".

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (10) the following:

"(10A) 'current monthly income'—

"(A) means the average monthly income from all sources that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the 6-month period ending on—

"(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or

"(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); and

"(B) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor's spouse), on a regular basis for the household expenses of the debtor or the debtor's dependents (and in a joint case the debtor's spouse if not otherwise a dependent), but excludes benefits received under the Social Security Act, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism;".

(c) UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR DUTIES.—Section 704 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The trustee shall—"; and

(2) by adding at the end the following:

"(b)(1) With respect to a debtor who is an individual in a case under this chapter—

"(A) the United States trustee or bankruptcy administrator shall review all materials filed by the debtor and, not later than 10 days after the date of the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and

"(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

"(2) The United States trustee or bankruptcy administrator shall, not later than 30 days after the date of filing a statement under paragraph (1), either file a motion to dismiss or convert under section 707(b) or file a statement setting forth the reasons the United States trustee or bankruptcy administrator does not believe that such a motion would be appropriate, if the United States trustee or bankruptcy administrator determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner; or

"(B) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals .".

(d) NOTICE.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

"(d) In a case under chapter 7 of this title in which the debtor is an individual and in which the presumption of abuse is triggered under section 707(b), the clerk shall give written notice to all creditors not later than 10 days after the date of the filing of the petition that the presumption of abuse has been triggered.".

(e) NONLIMITATION OF INFORMATION.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee, bankruptcy administrator or trustee.

(f) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, is amended by adding at the end the following:

"(c)(1) In this subsection—

"(A) the term 'crime of violence' has the meaning given such term in section 16 of title 18; and

"(B) the term 'drug trafficking crime' has the meaning given such term in section 924(c)(2) of title 18.

"(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such crime.

"(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.".

(g) CONFIRMATION OF PLAN.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (6) the following:

"(7) the action of the debtor in filing the petition was in good faith;".

(h) APPLICABILITY OF MEANS TEST TO CHAPTER 13.—Section 1325(b) of title 11, United States Code, is amended—

(1) in paragraph (1)(B), by inserting "to unsecured creditors" after "to make payments"; and

(2) by striking paragraph (2) and inserting the following:

"(2) For purposes of this subsection, the term 'disposable income' means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—

"(A) for the maintenance or support of the debtor or a dependent of the debtor or for a domestic support obligation that first becomes payable after the date the petition is filed and for charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) to a qualified religious or charitable entity or organization (as defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

"(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

"(3) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals , plus $525 per month for each individual in excess of 4.".

(i) Special Allowance for Health Insurance.—Section 1329(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking "or" at the end;

(2) in paragraph (3) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

"(A) such expenses are reasonable and necessary;

"(B)(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy; or

"(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance, who has similar income, expenses, age, and health status, and who lives in the same geographical location with the same number of dependents who do not otherwise have health insurance coverage; and

"(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title;

and upon request of any party in interest, files proof that a health insurance policy was purchased.".

(j) Adjustment of Dollar Amounts.—Section 104(b) of title 11, United States Code, is amended by striking "and 523(a)(2)(C)" each place it appears and inserting "523(a)(2)(C), 707(b), and 1325(b)(3)".

(k) Definition of 'Median Family Income'.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (39) the following:

"(39A) 'median family income' means for any year—

"(A) the median family income both calculated and reported by the Bureau of the Census in the then most recent year; and

"(B) if not so calculated and reported in the then current year, adjusted annually after such most recent year until the next year in which median family income is both calculated and reported by the Bureau of the Census, to reflect the percentage change in the Consumer Price Index for All Urban Consumers during the period of years occurring after such most recent year and before such current year;".

(k) Clerical Amendment.—The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

"707. Dismissal of a case or conversion to a case under chapter 11 or 13.".

SEC. 103. SENSE OF CONGRESS AND STUDY.

(a) Sense of Congress.—It is the sense of Congress that the Secretary of the Treasury has the authority to alter the Internal Revenue Service standards established to set guidelines for repayment plans as needed to accommodate their use under section 707(b) of title 11, United States Code.

(b) Study.—

(1) In general.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Director regarding the utilization of Internal Revenue Service standards for determining—

(A) the current monthly expenses of a debtor under section 707(b) of title 11, United States Code; and

(B) the impact that the application of such standards has had on debtors and on the bankruptcy courts.

(2) Recommendation.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Director under paragraph (1).

SEC. 104. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

"(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

"(1) a brief description of—

"(A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and

"(B) the types of services available from credit counseling agencies; and

"(2) statements specifying that—

"(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a bankruptcy case shall be subject to fine, imprisonment, or both; and

"(B) all information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General.".

SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) Development of Financial Management and Training Curriculum and Materials.—The Director of the Executive Office for United States Trustees (in this section referred to as the "Director") shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who serve in cases under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate debtors who are individuals on how to better manage their finances.

(b) Test.—

(1) Selection of districts.—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) Use.—For an 18-month period beginning not later than 270 days after the date of enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of title 11, United States Code.

(c) Evaluation.—

(1) In general.—During the 18-month period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.

(2) Report.—Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.

SEC. 106. CREDIT COUNSELING.

(a) Who May Be a Debtor.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

"(h)(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless that individual has, during the 180-day period preceding the date of filing of the petition of that individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted that individual in performing a related budget analysis.

"(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved nonprofit budget and credit counseling agencies for that district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from that agency by reason of the requirements of paragraph (1).

"(B) Each United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the

United States trustee or bankruptcy administrator at any time.

"(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

"(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

"(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

"(iii) is satisfactory to the court.

"(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.".

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking "or" at the end;

(2) in paragraph (10), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(11) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111, except that this paragraph shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of such district determines that the approved instructional courses are not adequate to service the additional individuals required to complete such instructional courses under this section (Each United States trustee or bankruptcy administrator who makes a determination described in this paragraph shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.).".

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

"(g)(1) The court shall not grant a discharge under this section to a debtor unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

"(2) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of such district determines that the approved instructional courses are not adequate to service the additional individuals who would be required to complete such instructional course by reason of the requirements of this section.

"(3) Each United States trustee or bankruptcy administrator who makes a determination described in paragraph (2) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.".

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

"(g) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.

"(h) Subsection (g) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to service the additional individuals who would be required to complete the instructional course by reason of the requirements of this section.

"(i) Each United States trustee or bankruptcy administrator that makes a determination described in subsection (h) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.".

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The debtor shall—"; and

(2) by adding at the end the following:

"(b) In addition to the requirements under subsection (a), a debtor who is an individual shall file with the court—

"(1) a certificate from the approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

"(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency referred to in paragraph (1).".

(e) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"§ 111. Credit counseling agencies; financial management instructional courses

"(a) The clerk shall maintain a publicly available list of—

"(1) credit counseling agencies that provide 1 or more programs described in section 109(h) currently approved by the United States trustee or the bankruptcy administrator for the district, as applicable; and

"(2) instructional courses concerning personal financial management currently approved by the United States trustee or the bankruptcy administrator for the district, as applicable.

"(b) The United States trustee or bankruptcy administrator shall only approve a credit counseling agency or instructional course concerning personal financial management as follows:

"(1) The United States trustee or bankruptcy administrator shall have thoroughly reviewed the qualifications of the credit counseling agency or of the provider of the instructional course under the standards set forth in this section, and the programs or instructional courses which will be offered by such agency or provider, and may require an agency or provider of an instructional course which has sought approval to provide information with respect to such review.

"(2) The United States trustee or bankruptcy administrator shall have determined that the credit counseling agency or instructional course fully satisfies the applicable standards set forth in this section.

"(3) When an agency or instructional course is initially approved, such approval shall be for a probationary period not to exceed 6 months. An agency or instructional course is initially approved if it did not appear on the approved list for the district under subsection (a) immediately prior to approval.

"(4) At the conclusion of the probationary period under paragraph (3), the United States trustee or bankruptcy administrator may only approve for an additional 1-year period, and for successive 1-year periods thereafter, any agency or instructional course which has demonstrated during the probationary or subsequent period that such agency or instructional course—

"(A) has met the standards set forth under this section during such period; and

"(B) can satisfy such standards in the future.

"(5) Not later than 30 days after any final decision under paragraph (4), that occurs either after the expiration of the initial probationary period, or after any 2-year period thereafter, an interested person may seek judicial review of such decision in the appropriate district court of the United States.

"(c)(1) The United States trustee or bankruptcy administrator shall only approve a credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters as relate to the quality, effectiveness, and financial security of such programs.

"(2) To be approved by the United States trustee or bankruptcy administrator, a credit counseling agency shall, at a minimum—

"(A) be a nonprofit budget and credit counseling agency, the majority of the board of directors of which—

"(i) are not employed by the agency; and

"(ii) will not directly or indirectly benefit financially from the outcome of a credit counseling session;

"(B) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

"(C) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

"(D) provide full disclosures to clients, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by the debtor and how such costs will be paid;

"(E) provide adequate counseling with respect to client credit problems that includes an analysis of their current situation, what brought them to that financial status, and how they can develop a plan to handle the problem without incurring negative amortization of their debts;

"(F) provide trained counselors who receive no commissions or bonuses based on the counseling session outcome, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);

"(G) demonstrate adequate experience and background in providing credit counseling; and

"(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

"(d) The United States trustee or bankruptcy administrator shall only approve an instructional course concerning personal financial management—

"(1) for an initial probationary period under subsection (b)(3) if the course will provide at a minimum—

"(A) trained personnel with adequate experience and training in providing effective instruction and services;

“(B) learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such instructional course;

“(C) adequate facilities situated in reasonably convenient locations at which such instructional course is offered, except that such facilities may include the provision of such instructional course or program by telephone or through the Internet, if such instructional course or program is effective; and

“(D) the preparation and retention of reasonable records (which shall include the debtor's bankruptcy case number) to permit evaluation of the effectiveness of such instructional course or program, including any evaluation of satisfaction of instructional course or program requirements for each debtor attending such instructional course or program, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee, bankruptcy administrator, or chief bankruptcy judge for the district in which such instructional course or program is offered; and

“(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

“(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

“(B) is otherwise likely to increase substantially debtor understanding of personal financial management.

“(e) The district court may, at any time, investigate the qualifications of a credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such credit counseling agencies. The district court may, at any time, remove from the approved list under subsection (a) a credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

“(f) The United States trustee or bankruptcy administrator shall notify the clerk that a credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

“(g)(1) No credit counseling agency may provide to a credit reporting agency information concerning whether a debtor who has received or sought instruction concerning personal financial management from the credit counseling agency.

“(2) A credit counseling agency that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

“(A) any actual damages sustained by the debtor as a result of the violation; and

“(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.”.

(2) Clerical amendment.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

“111. Credit counseling agencies; financial management instructional courses.”.

(f) Limitation.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

“(i) If a case commenced under chapter 7, 11, or 13 is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.

“(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.”.

SEC. 107. SCHEDULES OF REASONABLE AND NECESSARY EXPENSES.

For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act, issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

SEC. 201. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) Reduction of Claim.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

“(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based in whole on an unsecured consumer debt by not more than 20 percent of the claim, if—

“(A) the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed by an approved credit counseling agency described in section 111 acting on behalf of the debtor;

“(B) the offer of the debtor under subparagraph (A)—

“(i) was made at least 60 days before the filing of the petition; and

“(ii) provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

“(C) no part of the debt under the alternative repayment schedule is nondischargeable.

“(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—

“(A) the creditor unreasonably refused to consider the debtor's proposal; and

“(B) the proposed alternative repayment schedule was made prior to expiration of the 60-day period specified in paragraph (1)(B)(i).”.

(b) Limitation on Avoidability.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

“(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment plan between the debtor and any creditor of the debtor created by an approved credit counseling agency.”.

SEC. 202. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

“(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title, unless the order confirming the plan is revoked, the plan is in default, or the creditor has not received payments required to be made under the plan in the manner required by the plan (including crediting the amounts required under the plan), shall constitute a violation of an injunction under subsection (a)(2) if the act of the creditor to collect and failure to credit payments in the manner required by the plan caused material injury to the debtor.

“(j) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—

“(1) such creditor retains a security interest in real property that is the principal residence of the debtor;

“(2) such act is in the ordinary course of business between the creditor and the debtor; and

“(3) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.”.

SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION PRACTICES.

(a) In General.—Section 524 of title 11, United States Code, as amended section 202, is amended—

(1) in subsection (c), by striking paragraph (2) and inserting the following:

“(2) the debtor received the disclosures described in subsection (k) at or before the time at which the debtor signed the agreement;”; and

(2) by adding at the end the following:

“(k)(1) The disclosures required under subsection (c)(2) shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement, statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with the reaffirmation.

“(2) Disclosures made under paragraph (1) shall be made clearly and conspicuously and in writing. The terms ‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ shall be disclosed more conspicuously than other terms, data or information provided in connection with this disclosure, except that the phrases ‘Before agreeing to reaffirm a debt, review these important disclosures’ and ‘Summary of Reaffirmation Agreement’ may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs (2) through (8), except that the terms ‘Amount Reaffirmed’ and ‘Annual Percentage Rate’ must be used where indicated.

“(3) The disclosure statement required under this paragraph shall consist of the following:

“(A) The statement: ‘Part A: Before agreeing to reaffirm a debt, review these important disclosures:’;

“(B) Under the heading ‘Summary of Reaffirmation Agreement’, the statement: ‘This Summary is made pursuant to the requirements of the Bankruptcy Code’;

“(C) The ‘Amount Reaffirmed’, using that term, which shall be—

“(i) the total amount which the debtor agrees to reaffirm, and

“(ii) the total of any other fees or cost accrued as of the date of the disclosure statement.

“(D) In conjunction with the disclosure of the ‘Amount Reaffirmed’, the statements—

“(i) ‘The amount of debt you have agreed to reaffirm’; and

“(ii) ‘Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.’.

“(E) The ‘Annual Percentage Rate’, using that term, which shall be disclosed as—

“(i) if, at the time the petition is filed, the debt is an extension of credit under an open end credit plan, as the terms ‘credit’ and ‘open end credit plan’ are defined in section 103 of the Truth in Lending Act, then—

"(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act, as applicable, as disclosed to the debtor in the most recent periodic statement prior to the agreement or, if no such periodic statement has been given to the debtor during the prior 6 months, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

"(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed, or

"(III) if the entity making the disclosure elects, to disclose the annual percentage rate under subclause (I) and the simple interest rate under subclause (II);

"(ii) if, at the time the petition is filed, the debt is an extension of credit other than under an open end credit plan, as the terms 'credit' and 'open end credit plan' are defined in section 103 of the Truth in Lending Act, then—

"(I) the annual percentage rate under section 128(a)(4) of the Truth in Lending Act, as disclosed to the debtor in the most recent disclosure statement given to the debtor prior to the reaffirmation agreement with respect to the debt, or, if no such disclosure statement was given to the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

"(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed, or

"(III) if the entity making the disclosure elects, to disclose the annual percentage rate under (I) and the simple interest rate under (II).

"(F) If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given under the Truth in Lending Act, by stating 'The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower.'.

"(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the obligations the debtor is reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security interest then listing by items or types and the original amount of the loan.

"(H) At the election of the creditor, a statement of the repayment schedule using 1 or a combination of the following—

"(i) by making the statement: 'Your first payment in the amount of $ is due on but the future payment amount may be different. Consult your reaffirmation or credit agreement, as applicable.', and stating the amount of the first payment and the due date of that payment in the places provided;

"(ii) by making the statement: 'Your payment schedule will be:', and describing the repayment schedule with the number, amount and due dates or period of payments scheduled to repay the obligations reaffirmed to the extent then known by the disclosing party; or

"(iii) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party.

"(I) The following statement: 'Note: When this disclosure refers to what a creditor "may" do, it does not use the word "may" to give the creditor specific permission. The word "may" is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about your reaffirmation or what the law requires, talk to the attorney who helped you negotiate this agreement. If you don't have an attorney helping you, the judge will explain the effect of your reaffirmation when the reaffirmation hearing is held.'.

"(J)(i) The following additional statements:

"'Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.

"'1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).

"'2. Complete and sign Part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.

"'3. If you were represented by an attorney during the negotiation of the reaffirmation agreement, the attorney must have signed the certification in Part C.

"'4. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, you must have completed and signed Part E.

"'5. The original of this disclosure must be filed with the court by you or your creditor. If a separate reaffirmation agreement (other than the one in Part B) has been signed, it must be attached.

"'6. If you were represented by an attorney during the negotiation of the reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.

"'7. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your agreement. The bankruptcy court must approve the agreement as consistent with your best interests, except that no court approval is required if the agreement is for a consumer debt secured by a mortgage, deed of trust, security deed or other lien on your real property, like your home.

"'Your right to rescind a reaffirmation. You may rescind (cancel) your reaffirmation at any time before the bankruptcy court enters a discharge order or within 60 days after the agreement is filed with the court, whichever is longer. To rescind or cancel, you must notify the creditor that the agreement is canceled.

"'What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy. That means that if you default on your reaffirmed debt after your bankruptcy is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement or applicable law to change the terms of the agreement in the future under certain conditions.

"'Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

"'What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A "lien" is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State's law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.'.

"(ii) In the case of a reaffirmation under subsection (m)(2), numbered paragraph 6 in the disclosures required by clause (i) of this subparagraph shall read as follows:

"'6. If you were represented by an attorney during the negotiation of the reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court.'.

"(4) The form of reaffirmation agreement required under this paragraph shall consist of the following:

"'Part B: Reaffirmation Agreement. I/we agree to reaffirm the obligations arising under the credit agreement described below.

"'Brief description of credit agreement:

"'Description of any changes to the credit agreement made as part of this reaffirmation agreement:

"'Signature: Date:

"'Borrower:

"'Co-borrower, if also reaffirming:

"'Accepted by creditor:

"'Date of creditor acceptance:'.

"(5)(A) The declaration shall consist of the following:

"'Part C: Certification by Debtor's Attorney (If Any).

"'I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor(s); (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

"'Signature of Debtor's Attorney: Date:'.

"(B) In the case of reaffirmations in which a presumption of undue hardship has been established, the certification shall state that in the opinion of the attorney, the debtor is able to make the payment.

"(C) In the case of a reaffirmation agreement under subsection (m)(2), subparagraph (B) is not applicable.

"(6)(A) The statement in support of reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

"'Part D: Debtor's Statement in Support of Reaffirmation Agreement.

"'1. I believe this agreement will not impose an undue hardship on my dependents or me. I can afford to make the payments on the reaffirmed debt because my monthly income (take home pay plus any other income received) is $, and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total $, leaving $ to make the required payments on this reaffirmed debt. I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here: .

"'2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

"(B) Where the debtor is represented by an attorney and is reaffirming a debt owed to a creditor defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act, the statement of support of the reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

"'I believe this agreement is in my financial interest. I can afford to make the payments on the reaffirmed debt. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

"(7) The motion, which may be used if approval of the agreement by the court is required in order for it to be effective and shall be signed and dated by the moving party, shall consist of the following:

"'Part E: Motion for Court Approval (To be completed only where debtor is not represented by an attorney.). I (we), the debtor, affirm the following to be true and correct:

"'I am not represented by an attorney in connection with this reaffirmation agreement.

"'I believe this agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement above, and because (provide any additional relevant reasons the court should consider):

"'Therefore, I ask the court for an order approving this reaffirmation agreement.'.

"(8) The court order, which may be used to approve a reaffirmation, shall consist of the following:

"'Court Order: The court grants the debtor's motion and approves the reaffirmation agreement described above.'.

"(l) Notwithstanding any other provision of this title the following shall apply:

"(1) A creditor may accept payments from a debtor before and after the filing of a reaffirmation agreement with the court.

"(2) A creditor may accept payments from a debtor under a reaffirmation agreement which the creditor believes in good faith to be effective.

"(3) The requirements of subsections (c)(2) and (k) shall be satisfied if disclosures required under those subsections are given in good faith.

"(m)(1) Until 60 days after a reaffirmation agreement is filed with the court (or such additional period as the court, after notice and a hearing and for cause, orders before the expiration of such period), it shall be presumed that the reaffirmation agreement is an undue hardship on the debtor if the debtor's monthly income less the debtor's monthly expenses as shown on the debtor's completed and signed statement in support of the reaffirmation agreement required under subsection (k)(6)(A) is less than the scheduled payments on the reaffirmed debt. This presumption shall be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation which identifies additional sources of funds to make the payments as agreed upon under the terms of the reaffirmation agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove the agreement. No agreement shall be disapproved without notice and a hearing to the debtor and creditor and such hearing shall be concluded before the entry of the debtor's discharge.

"(2) This subsection does not apply to reaffirmation agreements where the creditor is a credit union, as defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act.".

(b) Law Enforcement.—

(1) In general.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:

"§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules

"(a) In General.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

"(b) United States Attorneys and Agents of the Federal Bureau of Investigation.—The individuals referred to in subsection (a) are—

"(1) a United States attorney for each judicial district of the United States; and

"(2) an agent of the Federal Bureau of Investigation (within the meaning of section 3107) for each field office of the Federal Bureau of Investigation.

"(c) Bankruptcy Investigations.—Each United States attorney designated under this section shall, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3057.

"(d) Bankruptcy Procedures.—The bankruptcy courts shall establish procedures for referring any case which may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.".

(2) Clerical amendment.—The analysis for chapter 9 of title 18, United States Code, is amended by adding at the end the following:

"158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.".

SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.

Section 363 of title 11, United States Code, is amended—

(1) by redesignating subsection (o) as subsection (p), and

(2) by inserting after subsection (n) the following:

"(o) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act or any interest in a consumer credit contract (as defined in section 433.1 of title 16 of the Code of Federal Regulations (January 1, 2001), as amended from time to time), and if such interest is purchased through a sale under this section, then such person shall remain subject to all claims and defenses that are related to such consumer credit transaction or such consumer credit contract, to the same extent as such person would be subject to such claims and defenses of the consumer had such interest been purchased at a sale not under this section.".

SEC. 205. GAO STUDY AND REPORT ON REAFFIRMATION PROCESS.

(a) Study.—The Comptroller General of the United States shall conduct a study of the reaffirmation process that occurs under title 11 of the United States Code, to determine the overall treatment of consumers within the context of such process, and shall include in such study consideration of—

(1) the policies and activities of creditors with respect to reaffirmation; and

(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to such title.

(b) Report to the Congress.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report on the results of the study conducted under subsection (a), together with recommendations for legislation (if any) to address any abusive or coercive tactics found in connection with the reaffirmation process that occurs under title 11 of the United States Code.

Subtitle B—Priority Child Support

SEC. 211. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

"(14A) 'domestic support obligation' means a debt that accrues before or after the entry of an order for relief under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

"(A) owed to or recoverable by—

"(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or

"(ii) a governmental unit;

"(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;

“(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

“(i) a separation agreement, divorce decree, or property settlement agreement;

“(ii) an order of a court of record; or

“(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

“(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt;”.

SEC. 212. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as so redesignated, by striking “First” and inserting “Second”;

(4) in paragraph (3), as so redesignated, by striking “Second” and inserting “Third”;

(5) in paragraph (4), as so redesignated—

(A) by striking “Third” and inserting “Fourth”; and

(B) by striking the semicolon at the end and inserting a period;

(6) in paragraph (5), as so redesignated, by striking “Fourth” and inserting “Fifth”;

(7) in paragraph (6), as so redesignated, by striking “Fifth” and inserting “Sixth”;

(8) in paragraph (7), as so redesignated, by striking “Sixth” and inserting “Seventh”; and

(9) by inserting before paragraph (2), as so redesignated, the following:

“(1) First:

“(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such child, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of that person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

“(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date the petition was filed are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a governmental unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.

“(C) If a trustee is appointed or elected under section 701, 702, 703, 1104, 1202, or 1302, the administrative expenses of the trustee allowed under paragraphs (1)(A), (2), and (6) of section 503(b) shall be paid before payment of claims under subparagraphs (A) and (B), to the extent that the trustee administers assets that are otherwise available for the payment of such claims.”.

SEC. 213. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

“(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first become payable after the date on which the petition is filed.”;

(2) in section 1208(c)—

(A) in paragraph (8), by striking “or” at the end;

(B) in paragraph (9), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.”;

(3) in section 1222(a)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period, beginning on the date that the first payment is due under the plan, will be applied to make payments under the plan.”;

(4) in section 1222(b)—

(A) by redesignating paragraph (11) as paragraph (12); and

(B) by inserting after paragraph (10) the following:

“(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1228(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;”;

(5) in section 1225(a)—

(A) in paragraph (5), by striking “and” at the end;

(B) in paragraph (6), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(7) if the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order for such obligation that first become payable after the date on which the petition is filed.”;

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting “, and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid” after “completion by the debtor of all payments under the plan”;

(7) in section 1307(c)—

(A) in paragraph (9), by striking “or” at the end;

(B) in paragraph (10), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.”;

(8) in section 1322(a)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.”;

(9) in section 1322(b)—

(A) in paragraph (9), by striking “; and” and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the following:

“(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and”;

(10) in section 1325(a), as amended by section 102, by inserting after paragraph (7) the following:

“(8) the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first becomes payable after the date on which the petition is filed; and”;

(11) in section 1328(a), in the matter preceding paragraph (1), by inserting “, and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid” after “completion by the debtor of all payments under the plan”.

SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

“(2) under subsection (a)—

“(A) of the commencement or continuation of a civil action or proceeding—

“(i) for the establishment of paternity;

“(ii) for the establishment or modification of an order for domestic support obligations;

“(iii) concerning child custody or visitation;

“(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

“(v) regarding domestic violence;

“(B) of the collection of a domestic support obligation from property that is not property of the estate;

"(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order;

"(D) of the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses under State law, as specified in section 466(a)(16) of the Social Security Act;

"(E) of the reporting of overdue support owed by a parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act;

"(F) of the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

"(G) of the enforcement of medical obligations as specified under title IV of the Social Security Act;".

SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (5) and inserting the following:

"(5) for a domestic support obligation;"; and

(B) by striking paragraph (18);

(2) in subsection (c), by striking "(6), or (15)" each place it appears and inserting "or (6)"; and

(3) in paragraph (15), as added by Public Law 103–394 (108 Stat. 4133)—

(A) by inserting "to a spouse, former spouse, or child of the debtor and" before "not of the kind";

(B) by inserting "or" after "court of record,"; and

(C) by striking "unless—" and all that follows through the end of the paragraph and inserting a semicolon.

SEC. 216. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5));";

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting "of a kind that is specified in section 523(a)(5); or"; and

(3) in subsection (g)(2), by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".

SEC. 217. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

"(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation;".

SEC. 218. DISPOSABLE INCOME DEFINED.

Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting "or for a domestic support obligation that first becomes payable after the date on which the petition is filed" after "dependent of the debtor".

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking "and" at the end;

(B) in paragraph (9), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(10) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c); and"; and

(2) by adding at the end the following:

"(c)(1) In a case described in subsection (a)(10) to which subsection (a)(10) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (a)(10) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title;

"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency; and

"(iii) include in the notice provided under clause (i) an explanation of the rights of such holder to payment of such claim under this chapter;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 727, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524 (c).

"(2)(A) The holder of a claim described in subsection (a)(10) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.".

(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(8) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c)."; and

(2) by adding at the end the following:

"(c)(1) In a case described in subsection (a)(8) to which subsection (a)(8) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (a)(8) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

"(ii) include in the notice required by clause (i) the address and telephone number of such State child support enforcement agency;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice required by clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 1141, provide written notice to such holder of such claim and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2), (3), or (14A) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (a)(8) or the State child enforcement support agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making such disclosure.".

(c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Section 1202 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c)."; and

(2) by adding at the end the following:

"(c)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 1228, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.".

(d) Duties of Trustee Under Chapter 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(6) if with respect to the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (d)."; and

(2) by adding at the end the following:

"(d)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

"(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

"(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

"(B)(i) provide written notice to such State child support enforcement agency of such claim; and

"(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

"(C) at such time as the debtor is granted a discharge under section 1328, provide written notice to such holder and to such State child support enforcement agency of—

"(i) the granting of the discharge;

"(ii) the last recent known address of the debtor;

"(iii) the last recent known name and address of the debtor's employer; and

"(iv) the name of each creditor that holds a claim that—

"(I) is not discharged under paragraph (2) or (4) of section 523(a); or

"(II) was reaffirmed by the debtor under section 524(c).

"(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(iv) the last known address of the debtor.

"(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable by reason of making that disclosure.".

SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

"(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

"(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

"(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

"(B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual;".

Subtitle C—Other Consumer Protections

SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

Section 110 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by striking "or an employee of an attorney" and inserting "for the debtor or an employee of such attorney under the direct supervision of such attorney";

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: "If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the preparer shall be required to—

"(A) sign the document for filing; and

"(B) print on the document the name and address of that officer, principal, responsible person or partner."; and

(B) by striking paragraph (2) and inserting the following:

"(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice to debtors concerning bankruptcy petition preparers, which shall be on an official form issued by the Judicial Conference of the United States.

"(B) The notice under subparagraph (A)—

"(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

"(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

"(iii) shall—

"(I) be signed by the debtor and, under penalty of perjury, by the bankruptcy petition preparer; and

"(II) be filed with any document for filing.";

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "(2) For purposes" and inserting "(2)(A) Subject to subparagraph (B), for purposes"; and

(ii) by adding at the end the following:

"(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the preparer."; and

(B) by striking paragraph (3);

(4) in subsection (d)—

(A) by striking "(d)(1)" and inserting "(d)"; and

(B) by striking paragraph (2);

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

"(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

"(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

"(i) whether—

"(I) to file a petition under this title; or

"(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

"(ii) whether the debtor's debts will be eliminated or discharged in a case under this title;

"(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;

"(iv) concerning—

"(I) the tax consequences of a case brought under this title; or

"(II) the dischargeability of tax claims;

"(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

"(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or

"(vii) concerning bankruptcy procedures and rights.";

(6) in subsection (f)—

(A) by striking "(f)(1)" and inserting "(f)"; and

(B) by striking paragraph (2);

(7) in subsection (g)—

(A) by striking "(g)(1)" and inserting "(g)"; and

(B) by striking paragraph (2);

(8) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

"(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.";

(C) in paragraph (2), as so redesignated—

(i) by striking "Within 10 days after the date of filing a petition, a bankruptcy petition preparer shall file a" and inserting "A";

(ii) by inserting "by the bankruptcy petition preparer shall be filed together with the petition," after "perjury"; and

(iii) by adding at the end the following: "If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).";

(D) by striking paragraph (3), as so redesignated, and inserting the following:

"(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

"(i) rendered by the preparer during the 12-month period immediately preceding the date of filing of the petition; or "(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

"(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

"(C) An individual may exempt any funds recovered under this paragraph under section 522(b)."; and

(E) in paragraph (4), as so redesignated, by striking "or the United States trustee" and inserting "the United States trustee, the bankruptcy administrator, or the court, on the initiative of the court,";

(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

"(i)(1) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on the motion of the debtor, trustee, United States trustee, or bankruptcy administrator, and after the court holds a hearing with respect to that violation or act, the court shall order the bankruptcy petition preparer to pay to the debtor—";

(10) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking "a violation of which subjects a person to criminal penalty";

(ii) in subparagraph (B)—

(I) by striking "or has not paid a penalty" and inserting "has not paid a penalty"; and

(II) by inserting "or failed to disgorge all fees ordered by the court" after "a penalty imposed under this section,";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued on the motion of the court, the trustee, the United States trustee, or the bankruptcy administrator."; and

(11) by adding at the end the following:

"(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.

"(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

"(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

"(B) advised the debtor to use a false Social Security account number;

"(C) failed to inform the debtor that the debtor was filing for relief under this title; or

"(D) prepared a document for filing in a manner that failed to disclose the identity of the preparer.

"(3) The debtor, the trustee, a creditor, the United States trustee, or the bankruptcy administrator may file a motion for an order imposing a fine on the bankruptcy petition preparer for each violation of this section.

"(4)(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this subparagraph shall be available to fund the enforcement of this section on a national basis.

"(B) Fines imposed under this subsection in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.".

SEC. 222. SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Section 507(a) of title 11, United States Code, is amended by inserting after paragraph (9) the following:

"(10) Tenth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.".

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) In General.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and";

(iii) by adding at the end the following:

"(C) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986."; and

(iv) by striking "(2)(A) any property" and inserting:

"(3) Property listed in this paragraph is—

"(A) any property";

(B) by striking paragraph (1) and inserting:

"(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.";

(C) by striking "(b) Notwithstanding" and inserting "(b)(1) Notwithstanding";

(D) by striking "paragraph (2)" each place it appears and inserting "paragraph (3)";

(E) by striking "paragraph (1)" each place it appears and inserting "paragraph (2)";

(F) by striking "Such property is—"; and

(G) by adding at the end the following:

"(4) For purposes of paragraph (3)(C) and subsection (d)(12), the following shall apply:

"(A) If the retirement funds are in a retirement fund that has received a favorable determination under section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the commencement of the case under section 301, 302, or 303 of this title, those funds shall be presumed to be exempt from the estate.

"(B) If the retirement funds are in a retirement fund that has not received a favorable determination under such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

"(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

"(ii)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

"(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

"(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, under section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that direct transfer.

"(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(C) or subsection (d)(12) by reason of that distribution.

"(ii) A distribution described in this clause is an amount that—

"(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

"(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of that amount."; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "subsection (b)(1)" and inserting "subsection (b)(2)"; and

(B) by adding at the end the following:

"(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.".

(b) Automatic Stay.—Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" at the end;

(2) in paragraph (18), by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (18) the following:

"(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

"(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

"(B) in the case of a loan from a thrift savings plan described in subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but this paragraph may not be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b) of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title;".

(c) Exceptions To Discharge.—Section 523(a) of title 11, United States Code, as amended by section 215, is amended by adding at the end the following:

"(18) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, under—

"(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974, or subject to section 72(p) of the Internal Revenue Code of 1986; or

"(B) a loan from the thrift savings plan described in subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.".

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

"(f) A plan may not materially alter the terms of a loan described in section 362(b)(19) and any amounts required to repay such loan shall not constitute 'disposable income' under section 1325.".

(e) ASSET LIMITATION.—

(1) LIMITATION.—Section 522 of title 11, United States Code, is amended by adding at the end the following:

"(n) For assets in individual retirement accounts described in section 408 or 408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of that Code or a simple retirement account under section 408(p) of that Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,000,000 in a case filed by a debtor who is an individual, except that such amount may be increased if the interests of justice so require.".

(2) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, are amended by inserting "522(n)," after "522(d),".

SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking "or" at the end;

(B) by redesignating paragraph (5) as paragraph (9); and

(C) by inserting after paragraph (4) the following:

"(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of filing of the petition, but—

"(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were placed in such account;

"(B) only to the extent that such funds—

"(i) are not pledged or promised to any entity in connection with any extension of credit; and

"(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

"(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

"(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of filing of the petition, but—

"(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;

"(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

"(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;"; and

(2) by adding at the end the following:

"(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.".

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by section 106, is amended by adding at the end the following:

"(c) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).".

SEC. 226. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

"(3) 'assisted person' means any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than $150,000;";

(2) by inserting after paragraph (4) the following:

"(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title;"; and

(3) by inserting after paragraph (12) the following:

"(12A) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110, but does not include—

"(A) any person that is an officer, director, employee, or agent of a person who provides such assistance or of such preparer;

"(B) a nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted person to the creditor;

"(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such depository institution or credit union; or

"(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.".

(b) CONFORMING AMENDMENT.—Section 104(b) of title 11, United States Code, is amended by inserting "101(3)," after "sections" each place it appears.

SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§ 526. Restrictions on debt relief agencies

"(a) A debt relief agency shall not—

"(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

"(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

"(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

"(i) the services that such agency will provide to such person; or

"(ii) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

"(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

"(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

"(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

"(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and a hearing, to have—

"(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

"(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

"(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

"(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

"(A) may bring an action to enjoin such violation;

"(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

"(4) The district court of the United States for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

"(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

"(A) enjoin the violation of such section; or

"(B) impose an appropriate civil penalty against such person.

"(d) No provision of this section, section 527, or section 528 shall—

"(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

"(2) be deemed to limit or curtail the authority or ability—

"(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

"(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525, the following:

"526. Restrictions on debt relief agencies.".

SEC. 228. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 227, is amended by adding at the end the following:

"§ 527. Disclosures

"(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

"(1) the written notice required under section 342(b)(1) of this title; and

"(2) to the extent not covered in the written notice described in paragraph (1), and not later than 3 business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons that—

"(A) all information that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

"(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 of this title must be stated in those documents where requested after reasonable inquiry to establish such value;

"(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13, disposable income (determined in accordance with section 707(b)(2), are required to be stated after reasonable inquiry; and

"(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the case under this title or other sanction including, in some instances, criminal sanctions.

"(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

"'IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

"'If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

"'The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

"'Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a 'trustee' and by creditors.

"'If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so and a creditor is not permitted to coerce you into reaffirming your debts.

"'If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 3 to 5 years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

"'If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of relief.

"'Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

"(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

"(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

"(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

"(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506 of this title.

"(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227, is amended by inserting after the item relating to section 526 the following:

"527. Disclosures.".

SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 227 and 228, is amended by adding at the end the following:

"§ 528. Requirements for debt relief agencies

"(a) A debt relief agency shall—

"(1) not later than 5 business days after the first date on which such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously—

"(A) the services such agency will provide to such assisted person; and

"(B) the fees or charges for such services, and the terms of payment;

"(2) provide the assisted person with a copy of the fully executed and completed contract;

"(3) clearly and conspicuously disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages, or otherwise) that the services or benefits are with respect to bankruptcy relief under this title; and

"(4) clearly and conspicuously use the following statement in such advertisement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.

"(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

"(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

"(B) statements such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

"(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

"(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

"(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 227 and 228, is amended by inserting after the item relating to section 527, the following:

"528. Requirements for debt relief agencies.".

SEC. 230. GAO STUDY.

(a) STUDY.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by debtors who are individuals under such title, the names and social security numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

SEC. 231. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) LIMITATION.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

", except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

"(A) such sale or such lease is consistent with such policy; or

"(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

"(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

"(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.".

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

"(41A) 'personally identifiable information' means—

"(A) if provided by an individual to the debtor in connection with obtaining a product or a service from the debtor primarily for personal, family, or household purposes—

"(i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;

"(ii) the geographical address of a physical place of residence of such individual;

"(iii) an electronic address (including an e-mail address) of such individual;

"(iv) a telephone number dedicated to contacting such individual at such physical place of residence;

"(v) a social security account number issued to such individual; or

"(vi) the account number of a credit card issued to such individual; or

"(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

"(i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

"(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically;".

SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) CONSUMER PRIVACY OMBUDSMAN.—Title 11 of the United States Code is amended by inserting after section 331 the following:

"§ 332. Consumer privacy ombudsman

"(a) If a hearing is required under section 363(b)(1)(B) of this title, the court shall order the United States trustee to appoint, not later than 5 days before the commencement of the hearing, 1 disinterested person (other than the United States trustee) to serve as the consumer privacy ombudsman in the case and shall require that notice of such hearing be timely given to such ombudsman.

"(b) The consumer privacy ombudsman may appear and be heard at such hearing and shall provide to the court information to assist the court in its consideration of the facts, circumstances, and conditions of the proposed sale or lease of personally identifiable information under section 363(b)(1)(B) of this title. Such information may include presentation of—

"(1) the debtor's privacy policy;

"(2) the potential losses or gains of privacy to consumers if such sale or such lease is approved by the court;

"(3) the potential costs or benefits to consumers if such sale or such lease is approved by the court; and

"(4) the potential alternatives that would mitigate potential privacy losses or potential costs to consumers.

"(c) A consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.".

(b) COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting "a consumer privacy ombudsman appointed under section 332," before "an examiner".

(c) CONFORMING AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

"332. Consumer privacy ombudsman.".

SEC. 233. PROHIBITION ON DISCLOSURE OF NAME OF MINOR CHILDREN.

(a) PROHIBITION.—Title 11 of the United States Code, as amended by section 106, is amended by inserting after section 111 the following:

"§ 112. Prohibition on disclosure of name of minor children

"The debtor may be required to provide information regarding a minor child involved in matters under this title but may not be required to disclose in the public records in the case the name of such minor child. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) appointed under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such auditor shall not disclose the name of such minor child maintained in such nonpublic record.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, as amended by section 106, is amended by inserting after the item relating to section 111 the following:

"112. Prohibition on disclosure of name of minor children.".

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is amended by inserting "and subject to section 112 of this title" after "section".

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. REINFORCEMENT OF THE FRESH START.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking "by a court" and inserting "on a prisoner by any court";

(2) by striking "section 1915(b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915"; and

(3) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears.

SEC. 302. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(3) if a single or joint case is filed by or against debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

"(A) the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

"(B) on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed; and

"(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors, if—

"(I) more than 1 previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period;

"(II) a previous case under any of chapters 7, 11, and 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

"(aa) file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

"(bb) provide adequate protection as ordered by the court; or

"(cc) perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13 or any other reason to conclude that the later case will be concluded—

"(aa) if a case under chapter 7, with a discharge; or

"(bb) if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; and

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor; and

"(4)(A)(i) if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

"(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

"(B) if, within 30 days after the filing of the later case, a party in interest requests the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed;

"(C) a stay imposed under subparagraph (B) shall be effective on the date of entry of the order allowing the stay to go into effect; and

"(D) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

"(i) as to all creditors if—

"(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

"(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

"(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

"(ii) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of such creditor.".

SEC. 303. CURBING ABUSIVE FILINGS.

(a) In General.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

"(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

"(B) multiple bankruptcy filings affecting the real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under this subsection shall be binding in any other case under this title purporting to affect the real property filed not later than 2 years after the date of entry of such order by the court, except that a debtor in a subsequent case may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.".

(b) Automatic Stay.—Section 362(b) of title 11, United States Code, as amended by section 224, is amended by inserting after paragraph (19), the following:

"(20) under subsection (a), of any act to enforce any lien against or security interest in real property following the entry of an order under section 362(d)(4) as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order, except that the debtor, in a subsequent case, may move the court for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing;

"(21) under subsection (a), of any act to enforce any lien against or security interest in real property—

"(A) if the debtor is ineligible under section 109(g) to be a debtor in a bankruptcy case; or

"(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case;".

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a), as so designated by section 106—

(A) in paragraph (4), by striking ", and" at the end and inserting a semicolon;

(B) in paragraph (5), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) in a case under chapter 7 of this title in which the debtor is an individual, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless the debtor, not later than 45 days after the first meeting of creditors under section 341(a), either—

"(A) enters into an agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

"(B) redeems such property from the security interest pursuant to section 722 of this title.

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under section 362(a) of this title is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee filed before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee."; and

(2) in section 722, by inserting "in full at the time of redemption" before the period at the end.

SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362, as amended by section 106—

(A) in subsection (c), by striking "(e), and (f)" and inserting "(e), (f), and (h)";

(B) by redesignating subsection (h) as subsection (k) and transferring such subsection so as to insert it after subjection (j) as added by section 106; and

(C) by inserting after subsection (g) the following:

"(h)(1) In a case in which the debtor is an individual, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2) of this title—

"(A) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate in that statement that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not do so, as applicable; and

"(B) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms.

"(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the proceeding on the motion."; and

(2) in section 521, as amended by sections 106 and 225—

(A) in subsection (a)(2) by striking "consumer";

(B) in subsection (a)(2)(B)—

(i) by striking "forty-five days after the filing of a notice of intent under this section" and inserting "30 days after the first date set for the meeting of creditors under section 341(a) of this title"; and

(ii) by striking "forty-five day" and inserting "30-day";

(C) in subsection (a)(2)(C) by inserting ", except as provided in section 362(h) of this title" before the semicolon; and

(D) by adding at the end the following:

"(d) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549 of this title, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.".

SEC. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(a) IN GENERAL.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

"(i) the plan provides that—

"(I) the holder of such claim retain the lien securing such claim until the earlier of—

"(aa) the payment of the underlying debt determined under nonbankruptcy law; or

"(bb) discharge under section 1328; and

"(II) if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and".

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following:

"For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 910-day preceding the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 1-year period preceding that filing.".

(c) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (13) the following:

"(13A) 'debtor's principal residence'—

"(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

"(B) includes an individual condominium or cooperative unit, a mobile or manufactured home, or trailer;"; and

(2) by inserting after paragraph (27), the following:

"(27A) 'incidental property' means, with respect to a debtor's principal residence—

"(A) property commonly conveyed with a principal residence in the area where the real estate is located;

"(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

"(C) all replacements or additions;".

SEC. 307. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(3) of title 11, United States Code, as so designated by section 106, is amended—

(1) in subparagraph (A)—

(A) by striking "180 days" and inserting "730 days"; and

(B) by striking ", or for a longer portion of such 180-day period than in any other place" and inserting "or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place"; and

(2) by adding at the end the following:

"If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d).".

SEC. 308. REDUCTION OF HOMESTEAD EXEMPTION FOR FRAUD.

Section 522 of title 11, United States Code, as amended by section 224, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting "subject to subsections (o) and (p)," before "any property"; and

(2) by adding at the end the following:

"(o) For purposes of subsection (b)(3)(A), and notwithstanding subsection (a), the value of an interest in—

"(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

"(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

"(3) a burial plot for the debtor or a dependent of the debtor; or

"(4) real or personal property that the debtor or a dependent of the debtor claims as a homestead;

shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 10-year period ending on the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b), if on such date the debtor had held the property so disposed of.".

SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(a) STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.—Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B)—

(A) by striking "in the converted case, with allowed secured claims" and inserting "only in a case converted to a case under chapter 11 or 12, but not in a case converted to a case under chapter 7, with allowed secured claims in cases under chapters 11 and 12"; and

(B) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(C) with respect to cases converted from chapter 13—

"(i) the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of such claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the case under chapter 13; and

"(ii) unless a prebankruptcy default has been fully cured under the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.".

(b) GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

"(2)(A) If the debtor in a case under chapter 7 is an individual, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract.

"(B) If, not later than 30 days after notice is provided under subparagraph (A), the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate.

"(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

"(3) In a case under chapter 11 in which the debtor is an individual and in a case under chapter 13, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.".

(c) ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.—

(1) CONFIRMATION OF PLAN.—Section 1325(a)(5)(B) of title 11, United States Code, as amended by section 306, is amended—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii), by striking "or" at the end and inserting "and"; and

(C) by adding at the end the following:

"(iii) if—

"(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

"(II) the holder of the claim is secured by personal property, the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or".

(2) PAYMENTS.—Section 1326(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) Unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—

"(A) proposed by the plan to the trustee;

"(B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and

"(C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment.

"(2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

"(3) Subject to section 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.

"(4) Not later than 60 days after the date of filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide the lessor or secured creditor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.".

SEC. 310. LIMITATION ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

"(C)(i) for purposes of subparagraph (A)—

"(I) consumer debts owed to a single creditor and aggregating more than $500 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

"(II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

"(ii) for purposes of this subparagraph—

"(I) the terms 'consumer', 'credit', and 'open end credit plan' have the same meanings as in section 103 of the Truth in Lending Act; and

"(II) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.".

SEC. 311. AUTOMATIC STAY.

(a) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224 and 303, is amended by inserting after paragraph (21), the following:

"(22) subject to subsection (n), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;

"(23) subject to subsection (o), under subsection (a)(3), of an eviction action that seeks possession of the residential property in which the debtor resides as a tenant under a lease or rental agreement based on endangerment of such property or the illegal use of controlled substances on such property, but only if the lessor files with the court, and serves upon the debtor, a certification under penalty of perjury that such an eviction action has been filed, or that the debtor, during the 30-day period preceding the date of the filing of the certification, has endangered property or illegally used or allowed to be used a controlled substance on the property;

"(24) under subsection (a), of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;".

(b) LIMITATIONS.—Section 362 of title 11, United States Code, as amended by sections 106 and 305, is amended by adding at the end the following:

"(*l*)(1) Except as otherwise provided in this subsection, subsection (b)(22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that—

"(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and

"(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

"(2) If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under nonbankrupcty law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3).

"(3)(A) If the lessor files an objection to any certification filed by the debtor under paragraph (1) or (2), and serves such objection upon the debtor, the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the certification filed by the debtor under paragraph (1) or (2) is true.

"(B) If the court upholds the objection of the lessor filed under subparagraph (A)—

"(i) subsection (b)(22) shall apply immediately and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

"(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's objection.

"(4) If a debtor, in accordance with paragraph (5), indicates on the petition that there was a judgment for possession of the residential rental property in which the debtor resides and does not file a certification under paragraph (1) or (2)—

"(A) subsection (b)(22) shall apply immediately upon failure to file such certification, and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

"(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating the absence of a filed certification and the applicability of the exception to the stay under subsection (b)(22).

"(5)(A) Where a judgment for possession of residential property in which the debtor resides as a tenant under a lease or rental agreement has been obtained by the lessor, the debtor shall so indicate on the bankruptcy petition and shall provide the name and address of the lessor that obtained that pre-petition judgment on the petition and on any certification filed under this subsection.

"(B) The form of certification filed with the petition, as specified in this subsection, shall provide for the debtor to certify, and the debtor shall certify—

"(i) whether a judgment for possession of residential rental housing in which the debtor resides has been obtained against the debtor before the filing of the petition; and

"(ii) whether the debtor is claiming under paragraph (1) that under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment of possession was entered, and has made the appropriate deposit with the court.

“(C) The standard forms (electronic and otherwise) used in a bankruptcy proceeding shall be amended to reflect the requirements of this subsection.

“(D) The clerk of the court shall arrange for the prompt transmittal of the rent deposited in accordance with paragraph (1)(B) to the lessor.

“(m)(1) Except as otherwise provided in this subsection, subsection (b)(23) shall apply on the date that is 15 days after the date on which the lessor files and serves a certification described in subsection (b)(23).

“(2)(A) If the debtor files with the court an objection to the truth or legal sufficiency of the certification described in subsection (b)(23) and serves such objection upon the lessor, subsection (b)(23) shall not apply, unless ordered to apply by the court under this subsection.

“(B) If the debtor files and serves the objection under subparagraph (A), the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the situation giving rise to the lessor's certification under paragraph (1) existed or has been remedied.

“(C) If the debtor can demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied, the stay provided under subsection (a)(3) shall remain in effect until the termination of the stay under this section.

“(D) If the debtor cannot demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied—

“(i) relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to proceed with the eviction; and

“(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's certification.

“(3) If the debtor fails to file, within 15 days, an objection under paragraph (2)(A)—

“(A) subsection (b)(23) shall apply immediately upon such failure and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

“(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating such failure.”.

SEC. 312. EXTENSION OF PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8), by striking “six” and inserting “8”; and

(2) in section 1328, by inserting after subsection (e) the following:

“(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for in the plan or disallowed under section 502, if the debtor has received a discharge—

“(1) in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter, or

“(2) in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order.”.

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

(a) DEFINITION.—Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

“(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term ‘household goods’ means—

“(i) clothing;

“(ii) furniture;

“(iii) appliances;

“(iv) 1 radio;

“(v) 1 television;

“(vi) 1 VCR;

“(vii) linens;

“(viii) china;

“(ix) crockery;

“(x) kitchenware;

“(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor;

“(xii) medical equipment and supplies;

“(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor;

“(xiv) personal effects (including the toys and hobby equipment of minor dependent children and wedding rings) of the debtor and the dependents of the debtor; and

“(xv) 1 personal computer and related equipment.

“(B) The term ‘household goods’ does not include—

“(i) works of art (unless by or of the debtor, or any relative of the debtor);

“(ii) electronic entertainment equipment with a fair market value of more than $500 in the aggregate (except 1 television, 1 radio, and 1 VCR);

“(iii) items acquired as antiques with a fair market value of more than $500 in the aggregate;

“(iv) jewelry with a fair market value of more than $500 in the aggregate (except wedding rings); and

“(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.”.

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, as added by this section, with respect to the avoidance of nonpossessory, nonpurchase money security interests in household goods under section 522(f)(1)(B) of title 11, United States Code, and the impact that section 522(f)(4) of that title, as added by this section, has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to section 522(f)(4) of title 11, United States Code, consistent with the Director's findings.

SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) IN GENERAL.—Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

“(14A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);”.

(b) DISCHARGE UNDER CHAPTER 13.—Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

“(1) provided for under section 1322(b)(5);

“(2) of the kind specified in paragraph (2), (3), (4), (5), (8), or (9) of section 523(a);

“(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

“(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.”.

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, as amended by section 102, is amended—

(1) in subsection (c)—

(A) by inserting “(1)” after “(c)”;

(B) by striking “, but the failure of such notice to contain such information shall not invalidate the legal effect of such notice”; and

(C) by adding at the end the following:

“(2)(A) If, within the 90 days before the commencement of a voluntary case, a creditor supplies the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number.

(B) If a creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if such creditor supplies the debtor in the last 2 communications with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number; and

(2) by adding at the end the following:

“(e)(1) In a case under chapter 7 or 13 of this title of a debtor who is an individual, a creditor at any time may both file with the court and serve on the debtor a notice of address to be used to provide notice in such case to such creditor.

“(2) Any notice in such case required to be provided to such creditor by the debtor or the court later than 5 days after the court and the debtor receive such creditor's notice of address, shall be provided to such address.

“(f)(1) An entity may file with any bankruptcy court a notice of address to be used by all the bankruptcy courts or by particular bankruptcy courts, as so specified by such entity at the time such notice is filed, to provide notice to such entity in all cases under chapters 7 and 13 pending in the courts with respect to which such notice is filed, in which such entity is a creditor.

“(2) In any case filed under chapter 7 or 13, any notice required to be provided by a court with respect to which a notice is filed under paragraph (1), to such entity later than 30 days after the filing of such notice under paragraph (1) shall be provided to such address unless with respect to a particular case a different address is specified in a notice filed and served in accordance with subsection (e).

“(3) A notice filed under paragraph (1) may be withdrawn by such entity.

“(g)(1) Notice provided to a creditor by the debtor or the court other than in accordance with this section (excluding this subsection) shall not be effective notice until such notice is brought to the attention of such creditor. If such creditor designates a person or an organizational subdivision of such creditor to be responsible for receiving notices under this title and establishes reasonable procedures so that such notices receivable by such creditor are to be delivered to such person or such subdivision, then a notice provided to such creditor other than in accordance with this section (excluding this subsection) shall not be considered to have been brought to the attention of such creditor until such notice is received by such person or such subdivision.

“(2) A monetary penalty may not be imposed on a creditor for a violation of a stay in effect under section 362(a) of this title (including a monetary penalty imposed under section 362(k) of this title) or for failure to comply with section 542 or 543 unless the conduct that is the basis of such violation or of such failure occurs after such creditor receives notice effective under this section of the order for relief.”.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 106, 225, and 305, is amended—

(1) in subsection (a), as so designated by section 106, by amending paragraph (1) to read as follows:

“(1) file—

“(A) a list of creditors; and

“(B) unless the court orders otherwise—

“(i) a schedule of assets and liabilities;

“(ii) a schedule of current income and current expenditures;

“(iii) a statement of the debtor's financial affairs and, if section 342(b) applies, a certificate—

“(I) of an attorney whose name is indicated on the petition as the attorney for the debtor, or any bankruptcy petition preparer signing the petition under section 110(b)(1), indicating that such attorney or such bankruptcy petition preparer delivered to the debtor the notice required by section 342(b); or

“(II) if no attorney is so indicated, and no bankruptcy petition preparer signed the petition, of the debtor that such notice was received and read by the debtor;

“(iv) copies of all payment advices or other evidence of payment received within 60 days before the filing of the petition, by the debtor from any employer of the debtor;

“(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

“(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition;”; and

(2) by adding at the end the following:

“(e)(1) If the debtor in a case under chapter 7 or 13 is an individual and if a creditor files with the court at any time a request to receive a copy of the petition, schedules, and statement of financial affairs filed by the debtor, then the court shall make such petition, such schedules, and such statement available to such creditor.

“(2)(A) The debtor shall provide—

“(i) not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed; and

“(ii) at the same time the debtor complies with clause (i), a copy of such return (or if elected under clause (i), such transcript) to any creditor that timely requests such copy.

“(B) If the debtor fails to comply with clause (i) or (ii) of subparagraph (A), the court shall dismiss the case unless the debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor.

“(C) If a creditor requests a copy of such tax return or such transcript and if the debtor fails to provide a copy of such tax return or such transcript to such creditor at the time the debtor provides such tax return or such transcript to the trustee, then the court shall dismiss the case unless the debtor demonstrates that the failure to provide a copy of such tax return or such transcript is due to circumstances beyond the control of the debtor.

“(3) If a creditor in a case under chapter 13 files with the court at any time a request to receive a copy of the plan filed by the debtor, then the court shall make available to such creditor a copy of such plan—

“(A) at a reasonable cost; and

“(B) not later than 5 days after such request is filed.

“(f) At the request of the court, the United States trustee, or any party in interest in a case under chapter 7, 11, or 13, a debtor who is an individual shall file with the court—

“(1) at the same time filed with the taxing authority, a copy of each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) with respect to each tax year of the debtor ending while the case is pending under such chapter;

“(2) at the same time filed with the taxing authority, each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) that had not been filed with such authority as of the date of the commencement of the case and that was subsequently filed for any tax year of the debtor ending in the 3-year period ending on the date of the commencement of the case;

“(3) a copy of each amendment to any Federal income tax return or transcript filed with the court under paragraph (1) or (2); and

“(4) in a case under chapter 13—

“(A) on the date that is either 90 days after the end of such tax year or 1 year after the date of the commencement of the case, whichever is later, if a plan is not confirmed before such later date; and

“(B) annually after the plan is confirmed and until the case is closed, not later than the date that is 45 days before the anniversary of the confirmation of such plan;

a statement, under penalty of perjury, of the income and expenditures of the debtor during the tax year of the debtor most recently concluded before such statement is filed under this paragraph, and of the monthly income of the debtor, that shows how income, expenditures, and monthly income are calculated.

“(g)(1) A statement referred to in subsection (f)(4) shall disclose—

“(A) the amount and sources of the income of the debtor;

“(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

“(C) the identity of any person who contributed, and the amount contributed, to the household in which the debtor resides.

“(2) The tax returns, amendments, and statement of income and expenditures described in subsections (e)(2)(A) and (f) shall be available to the United States trustee (or the bankruptcy administrator, if any), the trustee, and any party in interest for inspection and copying, subject to the requirements of subsection (h).

“(h)(1) Not later than 180 days after the date of the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2002, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

“(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

“(3) Not later than 540 days after the date of enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2002, the Director of the Administrative Office of the United States Courts shall prepare and submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report that—

“(A) assesses the effectiveness of the procedures established under paragraph (1); and

“(B) if appropriate, includes proposed legislation to—

“(i) further protect the confidentiality of tax information; and

“(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

“(i) If requested by the United States trustee or by the trustee, the debtor shall provide—

“(1) a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor; or

“(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.”.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, and 315, is amended by adding at the end the following:

“(j)(1) Subject to paragraphs (2) and (4) and notwithstanding section 707(a), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under subsection (a)(1) within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

“(2) Subject to paragraph (4) and with respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. If requested, the court shall enter an order of dismissal not later than 5 days after such request.

“(3) Subject to paragraph (4) and upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.

“(4) Notwithstanding any other provision of this subsection, on the motion of the trustee filed before the expiration of the applicable period of time specified in paragraph (1), (2), or (3), and after notice and a hearing, the court may decline to dismiss the case if the court finds that the debtor attempted in good faith to file all the information required by subsection (a)(1)(B)(iv) and that the best interests of creditors would be served by administration of the case.”.

SEC. 317. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking "After" and inserting the following:

"(a) Except as provided in subsection (b) and after"; and

(2) by adding at the end the following:

"(b) The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a), unless the court determines that it would be in the best interests of the creditors and the estate to hold such hearing at an earlier date and there is no objection to such earlier date.".

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

"(d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 5 years.

"(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than—

"(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last;

"(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals , plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.";

(2) in section 1325(b)(1)(B), by striking "three-year period" and inserting "applicable commitment period"; and

(3) in section 1325(b), as amended by section 102, by adding at the end the following:

"(4) For purposes of this subsection, the 'applicable commitment period'—

"(A) subject to subparagraph (B), shall be—

"(i) 3 years; or

"(ii) not less than 5 years, if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

"(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

"(II) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals; or

"(III) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals , plus $525 per month for each individual in excess of 4; and

"(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period."; and

(4) in section 1329(c), by striking "three years" and inserting "the applicable commitment period under section 1325(b)(1)(B)".

SEC. 319. SENSE OF CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App.) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by attorneys be submitted only after the debtors or the debtors' attorneys have made reasonable inquiry to verify that the information contained in such documents is—

(1) well grounded in fact; and

(2) warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2) Notwithstanding paragraph (1), in a case under chapter 7, 11, or 13 in which the debtor is an individual, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

"(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

"(B) that 60-day period is extended—

"(i) by agreement of all parties in interest; or

"(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.".

SEC. 321. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) PROPERTY OF THE ESTATE.—

(1) IN GENERAL.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

"§ 1115. Property of the estate

"(a) In a case concerning a debtor who is an individual, property of the estate includes, in addition to the property specified in section 541—

"(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

"(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.".

"(b) Except as provided in section 1104 or a confirmed plan or order confirming a plan, the debtor shall remain in possession of all property of the estate.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

"1115. Property of the estate.".

(b) CONTENTS OF PLAN.—Section 1123(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(8) in a case in which the debtor is an individual, provide for the payment to creditors under the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.".

(c) CONFIRMATION OF PLAN.—

(1) REQUIREMENTS RELATING TO VALUE OF PROPERTY.—Section 1129(a) of title 11, United States Code, as amended by section 213, is amended by adding at the end the following:

"(15) In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

"(A) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

"(B) the value of the property to be distributed under the plan is not less than the projected disposable income of the debtor (as defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the period for which the plan provides payments, whichever is longer.".

(2) REQUIREMENT RELATING TO INTERESTS IN PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: ", except that in a case in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section.".

(d) EFFECT OF CONFIRMATION.—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "The confirmation of a plan does not discharge an individual debtor" and inserting "A discharge under this chapter does not discharge a debtor who is an individual"; and

(2) by adding at the end the following:

"(5) In a case in which the debtor is an individual—

"(A) unless after notice and a hearing the court orders otherwise for cause, confirmation of the plan does not discharge any debt provided for in the plan until the court grants a discharge on completion of all payments under the plan;

"(B) at any time after the confirmation of the plan, and after notice and a hearing, the court may not grant a discharge to the debtor who has not completed payments under the plan unless—

"(i) for each allowed unsecured claim, the value, as of the effective date of the plan, of property actually distributed under the plan on account of that claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

"(ii) modification of the plan under section 1127 of this title is not practicable; and".

(e) MODIFICATION OF PLAN.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

"(e) If the debtor is an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the

United States trustee, or the holder of an allowed unsecured claim, to—

“(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

“(2) extend or reduce the time period for such payments; or

“(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

“(f)(1) Sections 1121 through 1128 of this title and the requirements of section 1129 of this title apply to any modification under subsection (a).

“(2) The plan, as modified, shall become the plan only after there has been disclosure under section 1125 as the court may direct, notice and a hearing, and such modification is approved.”.

SEC. 322. LIMITATIONS ON HOMESTEAD EXEMPTION.

(a) EXEMPTIONS.—Section 522 of title 11, United States Code, as amended by sections 224 and 308, is amended by adding at the end the following:

“(p)(1) Except as provided in paragraph (2) of this subsection and sections 544 and 548 of this title, as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that was acquired by the debtor during the 1215-day period preceding the filing of the petition which exceeds in the aggregate $125,000 in value in—

“(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

“(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence;

“(C) a burial plot for the debtor or a dependent of the debtor; or

“(D) real or personal property that the debtor or dependent of the debtor claims as a homestead.

“(2)(A) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of that farmer.

“(B) For purposes of paragraph (1), any amount of such interest does not include any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of such 1215-day period) into the debtor's current principal residence, if the debtor's previous and current residences are located in the same State.

“(q)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) which exceeds in the aggregate $125,000 if—

“(A) the court determines, after notice and a hearing, that the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title; or

“(B) the debtor owes a debt arising from—

“(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws;

“(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933;

“(iii) any civil remedy under section 1964 of title 18, United States Code; or

“(iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

“(2) Paragraph (1) shall not apply to the extent the amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) is reasonably necessary for the support of the debtor and any dependent of the debtor.”.

(b) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, as amended by section 224, are amended by inserting “522(p), 522(q),” after “522(n),”.

SEC. 323. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

Section 541(b) of title 11, United States Code, as amended by section 225, is amended by adding at the end the following:

“(7) any amount—

“(A) withheld by an employer from the wages of employees for payment as contributions to—

“(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986, a deferred compensation plan under section 457 of the Internal Revenue Code of 1986, or a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986, except that such amount under this clause shall not constitute disposable income, as defined in section 1325(b)(2) of this title; or

“(ii) a health insurance plan regulated by State law whether or not subject to such title; or

“(B) received by the employer from employees for payment as contributions to—

“(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986, a deferred compensation plan under section 457 of the Internal Revenue Code of 1986, or a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986, except that such amount under this clause shall not constitute disposable income, as defined in section 1325(b)(2) of this title; or

“(ii) a health insurance plan regulated by State law whether or not subject to such title;”.

SEC. 324. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

(a) IN GENERAL.—Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b), by striking “Notwithstanding” and inserting “Except as provided in subsection (e)(2), and notwithstanding”; and

(2) by striking subsection (e) and inserting the following:

“(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

“(1) of all the property, wherever located, of the debtor as of the date of commencement of such case, and of property of the estate; and

“(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.”.

(b) APPLICABILITY.—This section shall only apply to cases filed after the date of enactment of this Act.

SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

“(1) For a case commenced—

“(A) under chapter 7 of title 11, $160; or

“(B) under chapter 13 of title 11, $150.”.

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and

“(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;”;

(2) in paragraph (2), by striking “one-half” and inserting “three-fourths”; and

(3) in paragraph (4), by striking “one-half” and inserting “100 percent”.

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking “pursuant to 28 U.S.C. section 1930(b) and 33.87 per centum of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(3) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931” and inserting “under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title”.

SEC. 326. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

“(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.”.

SEC. 327. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by—

(1) inserting “(1)” after “(a)”; and

(2) by adding at the end the following:

“(2) If the debtor is an individual in a case under chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of filing the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.”.

SEC. 328. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking the semicolon at the end and inserting the following: “other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of this paragraph;”; and

(B) in paragraph (2)(D), by striking “penalty rate or provision” and inserting “penalty rate or penalty provision”;

(2) in subsection (c)—

(A) in paragraph (2), by inserting “or” at the end;

(B) in paragraph (3), by striking “; or” at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1) by striking “; except that” and all that follows through the end of the paragraph and inserting a period.

(b) Impairment of Claims or Interests.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by inserting “or of a kind that section 365(b)(2) of this title expressly does not require to be cured” before the semicolon at the end;

(2) in subparagraph (C), by striking “and” at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

“(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and”.

SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

“(A) the actual, necessary costs and expenses of preserving the estate including—

“(i) wages, salaries, or commissions for services rendered after the commencement of the case; and

“(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay attributable to any period of time occurring after commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which such award is based or to whether any services were rendered, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees, or of nonpayment of domestic support obligations, during the case under this title;”.

SEC. 330. DELAY OF DISCHARGE DURING PENDENCY OF CERTAIN PROCEEDINGS.

(a) Chapter 7.—Section 727(a) of title 11, United States Code, as amended by section 106, is amended—

(1) in paragraph (10), by striking “or” at the end;

(2) in paragraph (11) by striking the period at the end and inserting “; or”; and

(3) by inserting after paragraph (11) the following:

“(12) the court after notice and a hearing held not more than 10 days before the date of entry of the order granting the discharge finds that there is reasonable cause to believe that—

“(A) section 522(q)(1) may be applicable to the debtor; and

“(B) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B); or”.

(b) Chapter 11.—Section 1141(d) of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

“(C) unless after notice and a hearing held not more than 10 days before the date of entry of the order granting the discharge, the court finds that there is no reasonable cause to believe that—

“(i) section 522(q)(1) may be applicable to the debtor; and

“(ii) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).”.

(c) Chapter 12.—Section 1228 of title 11, United States Code, is amended—

(1) in subsection (a) by striking “As” and inserting “Subject to subsection (d), as”,

(2) in subsection (b) by striking “At” and inserting “Subject to subsection (d), at”, and

(3) by adding at the end the following:

“(f) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of entry of the order granting the discharge finds that there is no reasonable cause to believe that—

“(1) section 522(q)(1) may be applicable to the debtor; and

“(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).”.

(d) Chapter 13.—Section 1328 of title 11, United States Code, as amended by section 106, is amended—

(1) in subsection (a) by striking “As” and inserting “Subject to subsection (d), as”,

(2) in subsection (b) by striking “At” and inserting “Subject to subsection (d), at”, and

(3) by adding at the end the following:

“(h) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of entry of the order granting the discharge finds that there is no reasonable cause to believe that—

“(1) section 522(q)(1) may be applicable to the debtor; and

“(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).”.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.

(a) Definition.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

“(48A) ‘securities self regulatory organization’ means either a securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934;”.

(b) Automatic Stay.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, and 311, is amended by inserting after paragraph (24) the following:

“(25) under subsection (a), of—

“(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

“(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or

“(C) any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;”.

SEC. 402. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

“(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.”.

SEC. 403. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking “10” each place it appears and inserting “30”.

SEC. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) In General.—Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

“(4)(A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of—

“(i) the date that is 120 days after the date of the order for relief; or

“(ii) the date of the entry of an order confirming a plan.

“(B)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.

“(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.”.

(b) Exception.—Section 365(f)(1) of title 11, United States Code, is amended by striking "subsection" the first place it appears and inserting "subsections (b) and".

SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

"(4) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders. The court may order the United States trustee to increase the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act, if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.".

(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

"(3) A committee appointed under subsection (a) shall—

"(A) provide access to information for creditors who—

"(i) hold claims of the kind represented by that committee; and

"(ii) are not appointed to the committee;

"(B) solicit and receive comments from the creditors described in subparagraph (A); and

"(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).".

SEC. 406. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection (g) (as added by section 222(a) of Public Law 103-394) as subsection (i);

(2) in subsection (i), as so redesignated, by inserting "and subject to the prior rights of holders of security interests in such goods or the proceeds of such goods" after "consent of a creditor"; and

(3) by adding at the end the following:

"(j)(1) Notwithstanding paragraphs (2) and (3) of section 545, the trustee may not avoid a warehouseman's lien for storage, transportation, or other costs incidental to the storage and handling of goods.

"(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any State statute applicable to such lien that is similar to section 7-209 of the Uniform Commercial Code, as in effect on the date of enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2002, or any successor to such section 7-209.".

SEC. 407. AMENDMENTS TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "(A) In" and inserting "In"; and

(B) by inserting "to an examiner, trustee under chapter 11, or professional person" after "awarded"; and

(2) by adding at the end the following:

"(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326 of this title.".

SEC. 408. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.".

SEC. 409. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

"(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

"(B) made according to ordinary business terms;";

(2) in paragraph (8), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.".

SEC. 410. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting ", or a nonconsumer debt against a noninsider of less than $10,000," after "$5,000".

SEC. 411. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (2), on"; and

(2) by adding at the end the following:

"(2)(A) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

"(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.".

SEC. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking "dwelling" the first place it appears;

(2) by striking "ownership or" and inserting "ownership,";

(3) by striking "housing" the first place it appears; and

(4) by striking "but only" and all that follows through "such period," and inserting "or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,".

SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting at the end the following: "Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.".

SEC. 414. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

"(14) 'disinterested person' means a person that—

"(A) is not a creditor, an equity security holder, or an insider;

"(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

"(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;".

SEC. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

"(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and".

SEC. 416. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election.

"(B) Upon the filing of a report under subparagraph (A)—

"(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

"(ii) the service of any trustee appointed under subsection (d) shall terminate.

"(C) The court shall resolve any dispute arising out of an election described in subparagraph (A).".

SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)"; and

(2) by adding at the end the following:

"(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

"(i) a cash deposit;

"(ii) a letter of credit;

"(iii) a certificate of deposit;

"(iv) a surety bond;

"(v) a prepayment of utility consumption; or

"(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

"(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

"(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

"(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

"(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

"(i) the absence of security before the date of filing of the petition;

"(ii) the payment by the debtor of charges for utility service in a timely manner before the date of filing of the petition; or

"(iii) the availability of an administrative expense priority.

"(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of filing of the petition without notice or order of the court.".

SEC. 418. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking "Notwithstanding section 1915 of this title, the" and inserting "The"; and

(2) by adding at the end the following:

"(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such individual has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term 'filing fee' means the filing required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

"(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

"(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.".

SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

(a) IN GENERAL.—

(1) DISCLOSURE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States, after consideration of the views of the Director of the Executive Office for United States Trustees, shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms directing debtors under chapter 11 of title 11, United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) INFORMATION.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) PURPOSE.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor's interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

Subtitle B—Small Business Bankruptcy Provisions

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon "and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information"; and

(2) by striking subsection (f), and inserting the following:

"(f) Notwithstanding subsection (b), in a small business case—

"(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

"(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

"(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not later than 20 days before the date of the hearing on confirmation of the plan; and

"(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.".

SEC. 432. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

"(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

"(51D) 'small business debtor'—

"(A) subject to subparagraph (B), means a person engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $2,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not sufficiently active and representative to provide effective oversight of the debtor; and

"(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $2,000,000 (excluding debt owed to 1 or more affiliates or insiders);".

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting "debtor" after "small business".

(c) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting "101(51D)," after "101(3)," each place it appears.

SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 434. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

"§ 308. Debtor reporting requirements

"(a) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

"(b) A small business debtor shall file periodic financial and other reports containing information including—

"(1) the debtor's profitability;

"(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

"(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

"(4)(A) whether the debtor is—

"(i) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

"(ii) timely filing tax returns and other required government filings and paying taxes and other administrative expenses when due;

"(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

"(C) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

"308. Debtor reporting requirements.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed under section 2075 of title 28, United States Code, to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 435. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative expenses when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand the small business debtor's financial condition and plan the small business debtor's future.

SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of chapter 11 of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

"§1116. Duties of trustee or debtor in possession in small business cases

"In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

"(1) append to the voluntary petition or, in an involuntary case, file not later than 7 days after the date of the order for relief—

"(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

"(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

"(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court waives that requirement after notice and a hearing, upon a finding of extraordinary and compelling circumstances;

"(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

"(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

"(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

"(6)(A) timely file tax returns and other required government filings; and

"(B) subject to section 363(c)(2), timely pay all taxes entitled to administrative expense priority except those being contested by appropriate proceedings being diligently prosecuted; and

"(7) allow the United States trustee, or a designated representative of the United States trustee, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, as amended by section 321, is amended by inserting after the item relating to section 1115 the following:

"1116. Duties of trustee or debtor in possession in small business cases.".

SEC. 437. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) In a small business case—

"(1) only the debtor may file a plan until after 180 days after the date of the order for relief, unless that period is—

"(A) extended as provided by this subsection, after notice and a hearing; or

"(B) the court, for cause, orders otherwise;

"(2) the plan, and any necessary disclosure statement, shall be filed not later than 300 days after the date of the order for relief; and

"(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) within which the plan shall be confirmed, may be extended only if—

"(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

"(B) a new deadline is imposed at the time the extension is granted; and

"(C) the order extending time is signed before the existing deadline has expired.".

SEC. 438. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a small business case, the court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after such plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3).".

SEC. 439. DUTIES OF THE UNITED STATES TRUSTEE.

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G), by striking "and" at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

"(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases; and";

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(7) in each of such small business cases—

"(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11, at which time the United States trustee shall—

"(i) begin to investigate the debtor's viability;

"(ii) inquire about the debtor's business plan;

"(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

"(iv) attempt to develop an agreed scheduling order; and

"(v) inform the debtor of other obligations;

"(B) if determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns; and

"(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

"(8) in any case in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly after making that finding to the court for relief.".

SEC. 440. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ", may"; and

(2) by striking paragraph (1) and inserting the following:

"(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and".

SEC. 441. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by sections 106, 305, and 311, is amended—

(1) in subsection (k), as so redesignated by section 305—

(A) by striking "An" and inserting "(1) Except as provided in paragraph (2), an"; and

(B) by adding at the end the following:

"(2) If such violation is based on an action taken by an entity in the good faith belief that subsection (h) applies to the debtor, the recovery under paragraph (1) of this subsection against such entity shall be limited to actual damages."; and

(2) by adding at the end the following:

"(n)(1) Except as provided in paragraph (2), subsection (a) does not apply in a case in which the debtor—

"(A) is a debtor in a small business case pending at the time the petition is filed;

"(B) was a debtor in a small business case that was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

"(C) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

"(D) is an entity that has acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

"(2) Paragraph (1) does not apply—

"(A) to an involuntary case involving no collusion by the debtor with creditors; or

"(B) to the filing of a petition if—

"(i) the debtor proves by a preponderance of the evidence that the filing of that petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

"(ii) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.".

SEC. 442. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, subsection (c) of this section, and section 1104(a)(3), on request of a party in interest, and after notice and a hearing, absent unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause.

"(2) The relief provided in paragraph (1) shall not be granted absent unusual circumstances specifically identified by the court that establish that such relief is not in the best interests of creditors and the estate, if the debtor or another party in interest objects and establishes that—

"(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, or if such sections do not apply, within a reasonable period of time; and

"(B) the grounds for granting such relief include an act or omission of the debtor other than under paragraph (4)(A)—

"(i) for which there exists a reasonable justification for the act or omission; and

"(ii) that will be cured within a reasonable period of time fixed by the court.

"(3) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.

"(4) For purposes of this subsection, the term 'cause' includes—

"(A) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation;

"(B) gross mismanagement of the estate;

"(C) failure to maintain appropriate insurance that poses a risk to the estate or to the public;

"(D) unauthorized use of cash collateral substantially harmful to 1 or more creditors;

"(E) failure to comply with an order of the court;

"(F) unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

"(G) failure to attend the meeting of creditors convened under section 341(a) or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure without good cause shown by the debtor;

"(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee or the bankruptcy administrator;

"(I) failure timely to pay taxes owed after the date of the order for relief or to file tax returns due after the order for relief;

"(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

"(K) failure to pay any fees or charges required under chapter 123 of title 28;

"(L) revocation of an order of confirmation under section 1144;

"(M) inability to effectuate substantial consummation of a confirmed plan;

"(N) material default by the debtor with respect to a confirmed plan;

"(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

"(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.

"(5) The court shall commence the hearing on a motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion not later than 15 days after commencement of such hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.".

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee or an examiner is in the best interests of creditors and the estate.".

SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Executive Office for United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, United States Code, and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 444. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting "or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later" after "90-day period)"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) the debtor has commenced monthly payments that—

"(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), be made from rents or other income generated before or after the commencement of the case by or from the property to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien); and

"(ii) are in an amount equal to interest at the then applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or".

SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(7) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or relating to a failure to operate or a penalty provision, for the period of 2 years following the later of the rejection date or the date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from a nondebtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6);".

SEC. 446. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) IN GENERAL.—Section 521(a) of title 11, United States Code, as amended by section 106, is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) unless a trustee is serving in the case, if at the time of filing the debtor served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974 of an employee benefit plan, continue to perform the obligations required of the administrator.".

(b) DUTIES OF TRUSTEES.—Section 704(a) of title 11, United States Code, as amended by sections 102 and 219, is amended—

(1) in paragraph (9), by striking "and" at the end;

(2) in paragraph (10), by striking the period at the end; and

(3) by adding at the end the following:

"(11) if, at the time of the commencement of the case, the debtor served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan, continue to perform the obligations required of the administrator; and".

(c) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, is amended to read as follows:

"(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), and (11) of section 704;".

SEC. 447. APPOINTMENT OF COMMITTEE OF RETIRED EMPLOYEES.

Section 1114(d) of title 11, United States Code, is amended—

(1) by striking "appoint" and inserting "order the appointment of", and

(2) by adding at the end the following: "The United States trustee shall appoint any such committee.".

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting "notwithstanding section 301(b)" before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "A voluntary"; and

(2) by striking the last sentence and inserting the following:

"(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.".

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) of title 11, United States Code, is amended—

(1) by inserting "555, 556," after "553,"; and

(2) by inserting "559, 560, 561, 562" after "557,".

TITLE VI—BANKRUPTCY DATA

SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

(a) IN GENERAL.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"§ 159. Bankruptcy statistics

"(a) The clerk of the district court, or the clerk of the bankruptcy court if one is certified pursuant to section 156(b) of this title, shall collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a standardized format prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Director').

"(b) The Director shall—

"(1) compile the statistics referred to in subsection (a);

"(2) make the statistics available to the public; and

"(3) not later than June 1, 2005, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

"(c) The compilation required under subsection (b) shall—

"(1) be itemized, by chapter, with respect to title 11;

"(2) be presented in the aggregate and for each district; and

"(3) include information concerning—

"(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by those debtors;

"(B) the current monthly income, average income, and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 521 and 1322 of title 11;

"(C) the aggregate amount of debt discharged in cases filed during the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

"(D) the average period of time between the filing of the petition and the closing of the case for cases closed during the reporting period;

"(E) for cases closed during the reporting period—

"(i) the number of cases in which a reaffirmation was filed; and

"(ii)(I) the total number of reaffirmations filed;

"(II) of those cases in which a reaffirmation was filed, the number of cases in which the debtor was not represented by an attorney; and

"(III) of those cases in which a reaffirmation was filed, the number of cases in which the reaffirmation was approved by the court;

"(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

"(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

"(II) the number of final orders entered determining the value of property securing a claim;

"(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

"(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

"(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

"(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's attorney or damages awarded under such Rule.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 6 of title 28, United States Code, is amended by adding at the end the following:

"159. Bankruptcy statistics.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"§ 589b. Bankruptcy data

"(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

"(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

"(2) periodic reports by debtors in possession or trustees in cases under chapter 11 of title 11.

"(b) REPORTS.—Each report referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

"(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

"(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

"(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

"(3) appropriate privacy concerns and safeguards.

"(d) FINAL REPORTS.—The uniform forms for final reports required under subsection (a) for use by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include with respect to a case under such title—

"(1) information about the length of time the case was pending;

"(2) assets abandoned;

"(3) assets exempted;

"(4) receipts and disbursements of the estate;

"(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

"(6) claims asserted;

"(7) claims allowed; and

"(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

"(e) PERIODIC REPORTS.—The uniform forms for periodic reports required under subsection (a) for use by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General shall propose, include—

"(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

"(2) length of time the case has been pending;

"(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;

"(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

"(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

"(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

"(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

"589b. Bankruptcy data.".

SEC. 603. AUDIT PROCEDURES.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROCEDURES.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual. Such audits shall be in accordance with generally accepted auditing standards

and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) PROCEDURES.—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(B) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 cases in each Federal judicial district shall be selected for audit;

(C) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed if those variances occur by reason of higher income or higher expenses than the statistical norm of the district in which the schedules were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

(b) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

"(6) make such reports as the Attorney General directs, including the results of audits performed under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2002;"; and

(2) by adding at the end the following:

"(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2002.

"(2)(A) The report of each audit referred to in paragraph (1) shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the district court (or the clerk of the bankruptcy court if one is certified under section 156(b) of this title) shall give notice of the misstatement to the creditors in the case.

"(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

"(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18; and

"(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11.".

(c) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United States Code, as so designated by section 106, is amended in each of paragraphs (3) and (4) by inserting "or an auditor appointed under section 586(f) of title 28" after "serving in the case".

(d) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) the debtor has failed to explain satisfactorily—

"(A) a material misstatement in an audit referred to in section 586(f) of title 28; or

"(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, United States Code), should be released in a usable electronic form in bulk to the public, subject to such appropriate privacy concerns and safeguards as Congress and the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting "(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)" after "under this title";

(2) in subsection (b)(2), by inserting "(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)" after "507(a)(1)"; and

(3) by adding at the end the following:

"(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

"(1) exhaust the unencumbered assets of the estate; and

"(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

"(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

"(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(4).

"(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(5).".

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.".

SEC. 702. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

"(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement (as defined in section 31701 of title 49) and, if so filed, shall be allowed as a single claim.".

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting "at the address and in the manner designated in paragraph (1)" after "determination of such tax";

(2) by striking "(1) upon payment" and inserting "(A) upon payment";

(3) by striking "(A) such governmental unit" and inserting "(i) such governmental unit";

(4) by striking "(B) such governmental unit" and inserting "(ii) such governmental unit";

(5) by striking "(2) upon payment" and inserting "(B) upon payment";

(6) by striking "(3) upon payment" and inserting "(C) upon payment";

(7) by striking "(b)" and inserting "(2)"; and

(8) by inserting before paragraph (2), as so designated, the following:

"(b)(1)(A) The clerk shall maintain a listing under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—

"(i) designate an address for service of requests under this subsection; and

"(ii) describe where further information concerning additional requirements for filing such requests may be found.

"(B) If a governmental unit referred to in subparagraph (A) does not designate an address and provide that address to the clerk under that subparagraph, any request made under this subsection may be served at the address for the filing of a tax return or protest with the appropriate taxing authority of that governmental unit.".

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§ 511. Rate of interest on tax claims

"(a) If any provision of this title requires the payment of interest on a tax claim or on an administrative expense tax, or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable nonbankruptcy law.

"(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter 1 of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"511. Rate of interest on tax claims.".

SEC. 705. PRIORITY OF TAX CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting "for a taxable year ending on or before the date of the filing of the petition" after "gross receipts";

(B) in clause (i), by striking "for a taxable year ending on or before the date of the filing of the petition"; and

(C) by striking clause (ii) and inserting the following:

"(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

"(I) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and

"(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period, plus 90 days."; and

(2) by adding at the end the following:

"An otherwise applicable time period specified in this paragraph shall be suspended for any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor, plus 90 days; plus any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days.".

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking "assessed" and inserting "incurred".

SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.

Section 1328(a)(2) of title 11, United States Code, as amended by section 314, is amended by striking "paragraph" and inserting "section 507(a)(8)(C) or in paragraph (1)(B), (1)(C),".

SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

"(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt—

"(A) of a kind specified in paragraph (2)(A) or (2)(B) of section 523(a) that is owed to a domestic governmental unit, or owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31 or any similar State statute; or

"(B) for a tax or customs duty with respect to which the debtor—

"(i) made a fraudulent return; or

"(ii) willfully attempted in any manner to evade or to defeat such tax or such customs duty.".

SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.

Section 362(a)(8) of title 11, United States Code, is amended by striking "the debtor" and inserting "a corporate debtor's tax liability for a taxable period the bankruptcy court may determine or concerning the tax liability of a debtor who is an individual for a taxable period ending before the order for relief under this title".

SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking "deferred cash payments," and all that follows through the end of the subparagraph, and inserting "regular installment payments in cash—

"(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

"(ii) over a period ending not later than 5 years after the date of the entry of the order for relief under section 301, 302, or 303; and

"(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for by the plan (other than cash payments made to a class of creditors under section 1122(b)); and"; and

(3) by adding at the end the following:

"(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).".

SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by inserting before the semicolon at the end the following: ", except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law".

SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following:

"(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless—

"(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable period of time after the lien attaches by the trustee of a bankruptcy estate under section 554 of title 11; or

"(2) payment of the tax is excused under a specific provision of title 11.

"(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

"(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

"(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.".

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting "whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both," before "except".

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by adding "and" at the end; and

(3) by adding at the end the following:

"(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense;".

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting "or State statute" after "agreement"; and

(2) in subsection (c), by inserting ", including the payment of all ad valorem property taxes with respect to the property" before the period at the end.

SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking "before the date on which the trustee commences distribution under this section;" and inserting the following: "on or before the earlier of—

"(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

"(B) the date on which the trustee commences final distribution under this section;".

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, as amended by sections 215 and 224, is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by inserting "or equivalent report or notice," after "a return,";

(B) in clause (i), by inserting "or given" after "filed"; and

(C) in clause (ii)—

(i) by inserting "or given" after "filed"; and

(ii) by inserting ", report, or notice" after "return"; and

(2) by adding at the end the following:

"For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.".

SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b)(2) of title 11, United States Code, as amended by section 703, is amended by inserting "the estate," after "misrepresentation,".

SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by sections 102, 213, and 306, is amended by inserting after paragraph (8) the following:

"(9) the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.".

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

"§ 1308. Filing of prepetition tax returns

"(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

"(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

"(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

"(B) for any return that is not past due as of the date of the filing of the petition, the later of—

"(i) the date that is 120 days after the date of that meeting; or

"(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

"(2) After notice and a hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by a preponderance of the evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

"(A) a period of not more than 30 days for returns described in paragraph (1); and

"(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

"(c) For purposes of this section, the term 'return' includes a return prepared pursuant to subsection (a) or (b) of section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.".

(2) Conforming amendment.—The table of sections for subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

"1308. Filing of prepetition tax returns.".

(c) Dismissal or Conversion on Failure To Comply.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

"(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.".

(d) Timely Filed Claims.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following: ", and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required".

(e) Rules for Objections to Claims and to Confirmation.—It is the sense of Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States should, as soon as practicable after the date of enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a claim for a tax with respect to which a return is required to be filed under section 1308 of title 11, United States Code, shall be filed until such return has been filed as required.

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting "including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case," after "records"; and

(2) by striking "a hypothetical reasonable investor typical of holders of claims or interests" and inserting "such a hypothetical investor".

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, and 401, is amended by inserting after paragraph (25) the following:

"(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the order for relief against an income tax liability for a taxable period that also ended before the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, on the motion of the trustee and after notice and a hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of that authority in the setoff under section 506(a);".

SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) In General.—

(1) Special provisions.—Section 346 of title 11, United States Code, is amended to read as follows:

"§ 346. Special provisions related to the treatment of State and local taxes

"(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of any State and local law imposing a tax on or measured by income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

"(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make said returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.

"(c) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income that is a debtor in a case under this title, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of any income, gain, loss, deduction, or credit of a partner or member that is distributed, or considered distributed, from such partnership, after the commencement of the case, is gain, loss, income, deduction, or credit, as the case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, shall be subject to tax in accordance with subsection (a) or (b).

"(d) For purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor in a case under this title shall terminate only if and to the extent that the taxable period of such debtor terminates under the Internal Revenue Code of 1986.

"(e) The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method of accounting complies with applicable nonbankruptcy tax law.

"(f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

"(g) Whenever a tax is imposed pursuant to a State or local law imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.

"(h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld or collected was paid.

"(i)(1) To the extent that any State or local law imposing a tax on or measured by income provides for the carryover of any tax attribute from one taxable period to a subsequent taxable period, the estate shall succeed to such tax attribute in any case in which such estate is subject to tax under subsection (a).

“(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) to the extent consistent with the Internal Revenue Code of 1986.

“(3) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the order for relief under this title to the extent that—

“(A) applicable State or local tax law provides for a carryback in the case of the debtor; and

“(B) the same or a similar tax attribute may be carried back by the estate to such a taxable period of the debtor under the Internal Revenue Code of 1986.

“(j)(1) For purposes of any State or local law imposing a tax on or measured by income, income is not realized by the estate, the debtor, or a successor to the debtor by reason of discharge of indebtedness in a case under this title, except to the extent, if any, that such income is subject to tax under the Internal Revenue Code of 1986.

“(2) Whenever the Internal Revenue Code of 1986 provides that the amount excluded from gross income in respect of the discharge of indebtedness in a case under this title shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under any State or local law imposing a tax on or measured by income to the extent such State or local law recognizes such attributes. Such State or local law may also provide for the reduction of other attributes to the extent that the full amount of income from the discharge of indebtedness has not been applied.

“(k)(1) Except as provided in this section and section 505, the time and manner of filing tax returns and the items of income, gain, loss, deduction, and credit of any taxpayer shall be determined under applicable nonbankruptcy law.

“(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and other applicable Federal nonbankruptcy law.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by striking the item relating to section 346 and inserting the following:

“346. Special provisions related to the treatment of State and local taxes.”.

(b) CONFORMING AMENDMENTS.—Title 11 of the United States Code is amended—

(1) by striking section 728;

(2) in the table of sections for chapter 7 by striking the item relating to section 728;

(3) in section 1146—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively; and

(4) in section 1231—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, 315, and 316, is amended by adding at the end the following:

“(k)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.

“(2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.”.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

“CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

“Sec.
“1501. Purpose and scope of application.

“SUBCHAPTER I—GENERAL PROVISIONS

“1502. Definitions.
“1503. International obligations of the United States.
“1504. Commencement of ancillary case.
“1505. Authorization to act in a foreign country.
“1506. Public policy exception.
“1507. Additional assistance.
“1508. Interpretation.

“SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

“1509. Right of direct access.
“1510. Limited jurisdiction.
“1511. Commencement of case under section 301 or 303.
“1512. Participation of a foreign representative in a case under this title.
“1513. Access of foreign creditors to a case under this title.
“1514. Notification to foreign creditors concerning a case under this title.

“SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

“1515. Application for recognition.
“1516. Presumptions concerning recognition.
“1517. Order granting recognition.
“1518. Subsequent information.
“1519. Relief that may be granted upon filing petition for recognition.
“1520. Effects of recognition of a foreign main proceeding.
“1521. Relief that may be granted upon recognition.
“1522. Protection of creditors and other interested persons.
“1523. Actions to avoid acts detrimental to creditors.
“1524. Intervention by a foreign representative.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

“1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
“1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
“1527. Forms of cooperation.

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

“1528. Commencement of a case under this title after recognition of a foreign main proceeding.
“1529. Coordination of a case under this title and a foreign proceeding.
“1530. Coordination of more than 1 foreign proceeding.
“1531. Presumption of insolvency based on recognition of a foreign main proceeding.
“1532. Rule of payment in concurrent proceedings.

“§ 1501. Purpose and scope of application

“(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

“(1) cooperation between—

“(A) courts of the United States, United States trustees, trustees, examiners, debtors, and debtors in possession; and

“(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

“(2) greater legal certainty for trade and investment;

“(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

“(4) protection and maximization of the value of the debtor's assets; and

“(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

“(b) This chapter applies where—

“(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

“(2) assistance is sought in a foreign country in connection with a case under this title;

“(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

“(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

“(c) This chapter does not apply to—

“(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 109(b);

“(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

“(3) an entity subject to a proceeding under the Securities Investor Protection Act of 1970, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

“(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

“SUBCHAPTER I—GENERAL PROVISIONS

“§ 1502. Definitions

“For the purposes of this chapter, the term—

“(1) ‘debtor’ means an entity that is the subject of a foreign proceeding;

“(2) ‘establishment’ means any place of operations where the debtor carries out a nontransitory economic activity;

“(3) ‘foreign court’ means a judicial or other authority competent to control or supervise a foreign proceeding;

“(4) ‘foreign main proceeding’ means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

"(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

"(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapter 9 of this title;

"(7) 'recognition' means the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter; and

"(8) 'within the territorial jurisdiction of the United States', when used with reference to property of a debtor, refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

"§1503. International obligations of the United States

"To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with one or more other countries, the requirements of the treaty or agreement prevail.

"§1504. Commencement of ancillary case

"A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

"§1505. Authorization to act in a foreign country

"A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

"§1506. Public policy exception

"Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

"§1507. Additional assistance

"(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

"(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

"(1) just treatment of all holders of claims against or interests in the debtor's property;

"(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

"(3) prevention of preferential or fraudulent dispositions of property of the debtor;

"(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

"(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

"§1508. Interpretation

"In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

"SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

"§1509. Right of direct access

"(a) A foreign representative may commence a case under section 1504 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

"(b) If the court grants recognition under section 1515, and subject to any limitations that the court may impose consistent with the policy of this chapter—

"(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

"(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

"(3) a court in the United States shall grant comity or cooperation to the foreign representative.

"(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition under section 1517.

"(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

"(e) Whether or not the court grants recognition, and subject to sections 306 and 1510, a foreign representative is subject to applicable nonbankruptcy law.

"(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

"§1510. Limited jurisdiction

"The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

"§1511. Commencement of case under section 301 or 303

"(a) Upon recognition, a foreign representative may commence—

"(1) an involuntary case under section 303; or

"(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

"(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

"§1512. Participation of a foreign representative in a case under this title

"Upon recognition of a foreign proceeding, the foreign representative in the recognized proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

"§1513. Access of foreign creditors to a case under this title

"(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

"(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726 of this title, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

"(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

"(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

"§1514. Notification to foreign creditors concerning a case under this title

"(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

"(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

"(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

"(1) indicate the time period for filing proofs of claim and specify the place for their filing;

"(2) indicate whether secured creditors need to file their proofs of claim; and

"(3) contain any other information required to be included in such a notification to creditors under this title and the orders of the court.

"(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

"SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

"§1515. Application for recognition

"(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

"(b) A petition for recognition shall be accompanied by—

"(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

"(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

"(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

"(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

"(d) The documents referred to in paragraphs (1) and (2) of subsection (b) shall be translated into English. The court may require a translation into English of additional documents.

"§ 1516. Presumptions concerning recognition

"(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding and that the person or body is a foreign representative, the court is entitled to so presume.

"(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

"(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

"§ 1517. Order granting recognition

"(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

"(1) the foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

"(2) the foreign representative applying for recognition is a person or body; and

"(3) the petition meets the requirements of section 1515.

"(b) The foreign proceeding shall be recognized—

"(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

"(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

"(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

"(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. The case under this chapter may be closed in the manner prescribed under section 350.

"§ 1518. Subsequent information

"From the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

"(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

"(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

"§ 1519. Relief that may be granted upon filing petition for recognition

"(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

"(1) staying execution against the debtor's assets;

"(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

"(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

"(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

"(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

"(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

"(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

"(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

"§ 1520. Effects of recognition of a foreign main proceeding

"(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

"(1) sections 361 and 362 apply with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

"(2) sections 363, 549, and 552 of this title apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

"(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

"(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

"(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

"(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

"§ 1521. Relief that may be granted upon recognition

"(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

"(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

"(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

"(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

"(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

"(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

"(6) extending relief granted under section 1519(a); and

"(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

"(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

"(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

"(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

"(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

"(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

"§ 1522. Protection of creditors and other interested persons

"(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

"(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3) of this title, to conditions it considers appropriate, including the giving of security or the filing of a bond.

"(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

"(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

"§ 1523. Actions to avoid acts detrimental to creditors

"(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

"(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

"§ 1524. Intervention by a foreign representative

"Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

"SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

"§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

"(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

"(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

"§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

"(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

"(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

"§ 1527. Forms of cooperation

"Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

"(1) appointment of a person or body, including an examiner, to act at the direction of the court;

"(2) communication of information by any means considered appropriate by the court;

"(3) coordination of the administration and supervision of the debtor's assets and affairs;

"(4) approval or implementation of agreements concerning the coordination of proceedings; and

"(5) coordination of concurrent proceedings regarding the same debtor.

"SUBCHAPTER V—CONCURRENT PROCEEDINGS

"§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

"After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

"§ 1529. Coordination of a case under this title and a foreign proceeding

"If a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(1) If the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

"(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

"(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 1520 does not apply.

"(2) If a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

"(A) any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

"(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

"(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the laws of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

"(4) In achieving cooperation and coordination under sections 1528 and 1529, the court may grant any of the relief authorized under section 305.

"§ 1530. Coordination of more than 1 foreign proceeding

"In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

"(1) Any relief granted under section 1519 or 1521 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

"(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

"(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

"§ 1531. Presumption of insolvency based on recognition of a foreign main proceeding

"In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts as such debts become due.

"§ 1532. Rule of payment in concurrent proceedings

"Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.".

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 13 the following:

"15. Ancillary and Other Cross-Border Cases .... 1501".

SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ", and this chapter, sections 307, 362(n), 555 through 557, and 559 through 562 apply in a case under chapter 15"; and

(2) by adding at the end the following:

"(k) Chapter 15 applies only in a case under such chapter, except that—

"(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

"(2) section 1509 applies whether or not a case under this title is pending.".

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

"(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

"(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;".

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking "and" at the end;

(B) in subparagraph (O), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.".

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking "Nothing in" and inserting "Except with respect to a case under chapter 15 of title 11, nothing in".

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking "or 13" and inserting "13, or 15".

(4) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:

"§ 1410. Venue of cases ancillary to foreign proceedings

"A case under chapter 15 of title 11 may be commenced in the district court of the United States for the district—

"(1) in which the debtor has its principal place of business or principal assets in the United States;

"(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or

"(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.".

(d) OTHER SECTIONS OF TITLE 11.—Title 11 of the United States Code is amended—

(1) in section 109(b), by striking paragraph (3) and inserting the following:

"(3)(A) a foreign insurance company, engaged in such business in the United States; or

"(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 in the United States.";

(2) in section 303, by striking subsection (k);

(3) by striking section 304;

(4) in the table of sections for chapter 3 by striking the item relating to section 304;

(5) in section 306 by striking ", 304," each place it appears;

(6) in section 305(a) by striking paragraph (2) and inserting the following:

"(2)(A) a petition under section 1515 of this title for recognition of a foreign proceeding has been granted; and

"(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension."; and

(7) in section 508—

(A) by striking subsection (a); and

(B) in subsection (b), by striking "(b)".

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(1) by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(2) in clause (i), by inserting ", resolution, or order" after "any similar agreement that the Corporation determines by regulation".

(b) DEFINITION OF SECURITIES CONTRACT.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

"(III) means any option entered into on a national securities exchange relating to foreign currencies;

"(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(V) means any margin loan;

"(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) means any combination of the agreements or transactions referred to in this clause;

"(VIII) means any option to enter into any agreement or transaction referred to in this clause;

"(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

"(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(c) DEFINITION OF COMMODITY CONTRACT.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

"(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

"(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

"(II) with respect to a foreign futures commission merchant, a foreign future;

"(III) with respect to a leverage transaction merchant, a leverage transaction;

"(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

"(V) with respect to a commodity options dealer, a commodity option;

"(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

"(VII) any combination of the agreements or transactions referred to in this clause;

"(VIII) any option to enter into any agreement or transaction referred to in this clause;

"(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

"(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.".

(d) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

"(iv) FORWARD CONTRACT.—The term 'forward contract' means—

"(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

"(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

"(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

"(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

"(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.".

(e) DEFINITION OF REPURCHASE AGREEMENT.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

"(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

"(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

"(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

"(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

"(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

"(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).".

(f) Definition of Swap Agreement.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

"(vi) Swap agreement.—The term 'swap agreement' means—

"(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

"(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(III) any combination of agreements or transactions referred to in this clause;

"(IV) any option to enter into any agreement or transaction referred to in this clause;

"(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

"(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.".

(g) Definition of Transfer.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

"(viii) Transfer.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.".

(h) Treatment of Qualified Financial Contracts.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (A)—

(A) by striking "paragraph (10)" and inserting "paragraphs (9) and (10)";

(B) in clause (i), by striking "to cause the termination or liquidation" and inserting "such person has to cause the termination, liquidation, or acceleration"; and

(C) by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);"; and

(2) in subparagraph (E), by striking clause (ii) and inserting the following:

"(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);".

(i) Avoidance of Transfers.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting "section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers," before "the Corporation".

SEC. 902. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) In General.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking "other than paragraph (12) of this subsection, subsection (d)(9)" and inserting "other than subsections (d)(9) and (e)(10)"; and

(2) by adding at the end the following new subparagraphs:

"(F) Clarification.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

"(G) Walkaway clauses not effective.—

"(i) In general.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

"(ii) Walkaway clause defined.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.".

(b) Technical and Conforming Amendment.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting "or the exercise of rights or powers by" after "the appointment of".

SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) Transfers of Qualified Financial Contracts to Financial Institutions.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

"(9) Transfer of qualified financial contracts.—

"(A) In general.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

"(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

"(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

"(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

"(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

"(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

"(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

"(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

"(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

"(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking "the conservator" and all that follows through the period and inserting the following: "the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.".

(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

"(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

"(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

"(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

"(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

"(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

"(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

"(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

"(i) A bridge bank.

"(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

"(I) immediately upon the organization of the institution; or

"(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.".

SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

"(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

"(A) disaffirm or repudiate all qualified financial contracts between—

"(i) any person or any affiliate of such person; and

"(ii) the depository institution in default; or

"(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person)."; and

(3) by adding at the end the following new paragraph:

"(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.".

SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

"(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.".

SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon ", or is exempt from such registration by order of the Securities and Exchange Commission"; and

(B) in subparagraph (B), by inserting before the period ", that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)";

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;"; and

(C) by amending subparagraph (C), so redesignated, to read as follows:

"(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;";

(3) in paragraph (11), by inserting before the period "and any other clearing organization with which such clearing organization has a netting contract";

(4) by amending paragraph (14)(A)(i) to read as follows:

"(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or close out values relating to such obligations or entitlements) among the parties to the agreement; and"; and

(5) by adding at the end the following new paragraph:

"(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.".

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code)."; and

(2) by adding at the end the following new subsection:

"(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).".

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

"SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

"(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

"(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

"(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

"(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

"(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

"(c) REGULATORY AUTHORITY.—

"(1) IN GENERAL.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

"(2) SPECIFIC REQUIREMENT.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

"(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.".

SEC. 907. BANKRUPTCY LAW AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking "means a contract" and inserting "means—

"(A) a contract";

(ii) by striking ", or any combination thereof or option thereon;" and inserting ", or any other similar agreement;"; and

(iii) by adding at the end the following:

"(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

"(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

"(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

"(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title;";

(B) in paragraph (46), by striking "on any day during the period beginning 90 days before the date of" and inserting "at any time before";

(C) by amending paragraph (47) to read as follows:

"(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

"(A) means—

"(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

"(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

"(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

"(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

"(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

"(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;";

(D) in paragraph (48), by inserting ", or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission," after "1934"; and

(E) by amending paragraph (53B) to read as follows:

"(53B) 'swap agreement'—

"(A) means—

"(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

"(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

"(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

"(III) a currency swap, option, future, or forward agreement;

"(IV) an equity index or equity swap, option, future, or forward agreement;

"(V) a debt index or debt swap, option, future, or forward agreement;

"(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

"(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

"(VIII) a weather swap, weather derivative, or weather option;

"(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

"(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference therein); and

"(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

"(iii) any combination of agreements or transactions referred to in this subparagraph;

"(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

"(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

"(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

"(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000;";

(2) in section 741(7), by striking paragraph (7) and inserting the following:

"(7) 'securities contract'—

"(A) means—

"(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(ii) any option entered into on a national securities exchange relating to foreign currencies;

"(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

"(iv) any margin loan;

"(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

"(vi) any combination of the agreements or transactions referred to in this subparagraph;

"(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

"(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

"(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph, including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

"(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan;"; and

(3) in section 761(4)—

(A) by striking "or" at the end of subparagraph (D); and

(B) by adding at the end the following:

"(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

"(G) any combination of the agreements or transactions referred to in this paragraph;

"(H) any option to enter into an agreement or transaction referred to in this paragraph;

"(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

"(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title;".

(b) Definitions of Financial Institution, Financial Participant, and Forward Contract Merchant.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

"(22) 'financial institution' means—

"(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741) such customer; or

"(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940;";

(2) by inserting after paragraph (22) the following:

"(22A) 'financial participant' means—

"(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

"(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);"; and

(3) by striking paragraph (26) and inserting the following:

"(26) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;".

(c) Definition of Master Netting Agreement and Master Netting Agreement Participant.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

"(38A) 'master netting agreement'—

"(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

"(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

"(38B) 'master netting agreement participant' means an entity that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;".

(d) Swap Agreements, Securities Contracts, Commodity Contracts, Forward Contracts, Repurchase Agreements, and Master Netting Agreements Under the Automatic-Stay.—

(1) In general.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, 401, and 718, is amended—

(A) in paragraph (6), by inserting ", pledged to, under the control of," after "held by";

(B) in paragraph (7), by inserting ", pledged to, under the control of," after "held by";

(C) by striking paragraph (17) and inserting the following:

"(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;"; and

(D) by inserting after paragraph (26) the following:

"(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent that such participant is eligible to exercise such offset rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue.".

(2) Limitation.—Section 362 of title 11, United States Code, as amended by sections 106, 305, 311, and 441, is amended by adding at the end the following:

"(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.".

(e) Limitation of Avoidance Powers Under Master Netting Agreement.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking "under a swap agreement";

(B) by striking "in connection with a swap agreement" and inserting "under or in connection with any swap agreement"; and

(C) by inserting "or financial participant" after "swap participant" each place such term appears; and

(2) by adding at the end the following:

"(j) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.".

(f) Fraudulent Transfers of Master Netting Agreements.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.".

(g) Termination or Acceleration of Securities Contracts.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract";

and

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration".

(h) Termination or Acceleration of Commodities or Forward Contracts.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract";

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal

Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement";

(2) in the first sentence, by striking "liquidation" and inserting "liquidation, termination, or acceleration"; and

(3) in the third sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement";

(2) in the first sentence, by striking "termination of a swap agreement" and inserting "liquidation, termination, or acceleration of one or more swap agreements";

(3) by striking "in connection with any swap agreement" and inserting "in connection with the termination, liquidation, or acceleration of one or more swap agreements"; and

(4) in the second sentence, by striking "As used" and all that follows through "right," and inserting "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,".

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

"§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

"(a) Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

"(1) securities contracts, as defined in section 741(7);

"(2) commodity contracts, as defined in section 761(4);

"(3) forward contracts;

"(4) repurchase agreements;

"(5) swap agreements; or

"(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

"(b)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

"(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—

"(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter; and

"(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

"(3) No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

"(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

"(B) any other netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission.

"(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

"(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case under chapter 15, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

"561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.".

(l) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

"§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

"§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

"Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, financial participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.".

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: "(except

for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)";

(2) in subsection (a)(3)(C), by inserting before the period the following: "(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561 of this title)"; and

(3) in subsection (b)(1), by striking "362(b)(14)," and inserting "362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,".

(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking "financial institutions," each place such term appears and inserting "financial institution, financial participant,";

(2) in sections 362(b)(7) and 546(f), by inserting "or financial participant" after "repo participant" each place such term appears;

(3) in section 546(e), by inserting "financial participant," after "financial institution,";

(4) in section 548(d)(2)(B), by inserting "financial participant," after "financial institution,";

(5) in section 548(d)(2)(C), by inserting "or financial participant" after "repo participant";

(6) in section 548(d)(2)(D), by inserting "or financial participant" after "swap participant";

(7) in section 555—

(A) by inserting "financial participant," after "financial institution,"; and

(B) by striking the second sentence and inserting the following: "As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice";

(8) in section 556, by inserting ", financial participant," after "commodity broker";

(9) in section 559, by inserting "or financial participant" after "repo participant" each place such term appears; and

(10) in section 560, by inserting "or financial participant" after "swap participant".

(p) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

"555. Contractual right to liquidate, terminate, or accelerate a securities contract.
"556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.";

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

"559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.
"560. Contractual right to liquidate, terminate, or accelerate a swap agreement.";

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

"767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.";

and

(B) by inserting after the item relating to section 752 the following:

"753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.".

SEC. 908. RECORDKEEPING REQUIREMENTS.

Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

"(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to section 32).".

SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

"(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

"(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

"(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

"(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

"(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.".

SEC. 910. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by section 907, the following:

"§ 562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements

"(a) If the trustee rejects a swap agreement, securities contract (as defined in section 741), forward contract, commodity contract (as defined in section 761), repurchase agreement, or master netting agreement pursuant to section 365(a), or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates such contract or agreement, damages shall be measured as of the earlier of—

"(1) the date of such rejection; or

"(2) the date or dates of such liquidation, termination, or acceleration.

"(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

"(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

"(1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant; or

"(2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee,

has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates."; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by section 907) the following new item:

"562. Timing of damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.".

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) A claim for damages calculated in accordance with section 562 of this title shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.".

SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FROM STAY.—

"(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

"(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

"(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.".

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), is hereby reenacted, and as here reenacted is amended by this Act.

(2) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of the enactment of this Act.

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 1002. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting "101(18)," after "101(3)," each place it appears.

SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

"(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

"(B) the holder of a particular claim agrees to a different treatment of that claim;".

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by section 719, is amended by striking "a State or local governmental unit" and inserting "any governmental unit".

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

SEC. 1004. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking "$1,500,000" and inserting "$3,237,000"; and

(B) by striking "80" and inserting "50"; and

(2) in subparagraph (B)(ii)—

(A) by striking "$1,500,000" and inserting "$3,237,000"; and

(B) by striking "80" and inserting "50".

SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking "for the taxable year preceding the taxable year" and inserting the following:

"for—

"(i) the taxable year preceding; or

"(ii) each of the 2d and 3d taxable years preceding;

the taxable year".

SEC. 1006. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) CONFIRMATION OF PLAN.—Section 1225(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking "or" at the end;

(2) in subparagraph (B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor's projected disposable income for such period.".

(b) MODIFICATION OF PLAN.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

"(d) A plan may not be modified under this section—

"(1) to increase the amount of any payment due before the plan as modified becomes the plan;

"(2) by anyone except the debtor, based on an increase in the debtor's disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor's disposable income for such month; or

"(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.".

SEC. 1007. FAMILY FISHERMEN.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

"(7A) 'commercial fishing operation' means—

"(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

"(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);

"(7B) 'commercial fishing vessel' means a vessel used by a family fisherman to carry out a commercial fishing operation;"; and

(2) by inserting after paragraph (19) the following:

"(19A) 'family fisherman' means—

"(A) an individual or individual and spouse engaged in a commercial fishing operation—

"(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

"(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

"(B) a corporation or partnership—

"(i) in which more than 50 percent of the outstanding stock or equity is held by—

"(I) 1 family that conducts the commercial fishing operation; or

"(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

"(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

"(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

"(III) if such corporation issues stock, such stock is not publicly traded;

"(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;".

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting "or family fisherman" after "family farmer".

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting "**OR FISHERMAN**" after "**FAMILY FARMER**";

(2) in section 1203, by inserting "or commercial fishing operation" after "farm"; and

(3) in section 1206, by striking "if the property is farmland or farm equipment" and inserting "if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)".

(d) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

"12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income .... 1201".

(e) Applicability.—Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.).

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) Health Care Business Defined.—Section 101 of title 11, United States Code, as amended by section 306, is amended—

(1) by redesignating paragraph (27A) as paragraph (27B); and

(2) by inserting after paragraph (27) the following:

“(27A) ‘health care business’—

“(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

“(i) the diagnosis or treatment of injury, deformity, or disease; and

“(ii) surgical, drug treatment, psychiatric, or obstetric care; and

“(B) includes—

“(i) any—

“(I) general or specialized hospital;

“(II) ancillary ambulatory, emergency, or surgical treatment facility;

“(III) hospice;

“(IV) home health agency; and

“(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); and

“(ii) any long-term care facility, including any—

“(I) skilled nursing facility;

“(II) intermediate care facility;

“(III) assisted living facility;

“(IV) home for the aged;

“(V) domiciliary care facility; and

“(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board, laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;”.

(b) Patient and Patient Records Defined.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (40) the following:

“(40A) ‘patient’ means any person who obtains or receives services from a health care business;

“(40B) ‘patient records’ means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;”.

(c) Rule of Construction.—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

SEC. 1102. DISPOSAL OF PATIENT RECORDS.

(a) In General.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

“§ 351. Disposal of patient records

“If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

“(1) The trustee shall—

“(A) promptly publish notice, in 1 or more appropriate newspapers, that if patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 365 days after the date of that notification, the trustee will destroy the patient records; and

“(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the most recent known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

“(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency, except that no Federal agency is required to accept patient records under this paragraph.

“(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to deposit such records with that agency, the trustee shall destroy those records by—

“(A) if the records are written, shredding or burning the records; or

“(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.”.

(b) Clerical Amendment.—The table of sections for subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

“351. Disposal of patient records.”.

SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS AND OTHER ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, as amended by section 445, is amended by adding at the end the following:

“(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, including any cost or expense incurred—

“(A) in disposing of patient records in accordance with section 351; or

“(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business; and”.

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) Ombudsman To Act as Patient Advocate.—

(1) Appointment of ombudsman.—Title 11, United States Code, as amended by section 232, is amended by inserting after section 332 the following:

“§ 333. Appointment of patient care ombudsman

“(a)(1) If the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.

“(2)(A) If the court orders the appointment of an ombudsman under paragraph (1), the United States trustee shall appoint 1 disinterested person (other than the United States trustee) to serve as such ombudsman.

“(B) If the debtor is a health care business that provides long-term care, then the United States trustee may appoint the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending to serve as the ombudsman required by paragraph (1).

“(C) If the United States trustee does not appoint a State Long-Term Care Ombudsman under subparagraph (B), the court shall notify the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending, of the name and address of the person who is appointed under subparagraph (A).

“(b) An ombudsman appointed under subsection (a) shall—

“(1) monitor the quality of patient care provided to patients of the debtor, to the extent necessary under the circumstances, including interviewing patients and physicians;

“(2) not later than 60 days after the date of appointment, and not less frequently than at 60-day intervals thereafter, report to the court, at a hearing or in writing, regarding the quality of patient care provided to patients of the debtor; and

“(3) if such ombudsman determines that the quality of patient care provided to patients of the debtor is declining significantly or is otherwise being materially compromised, file with the court a motion or a written report, with notice to the parties in interest immediately upon making such determination.

“(c)(1) An ombudsman appointed under subsection (a) shall maintain any information obtained by such ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. Such ombudsman may not review confidential patient records unless the court approves such review in advance and imposes restrictions on such ombudsman to protect the confidentiality of such records.

“(2) An ombudsman appointed under subsection (a)(2)(B) shall have access to patient records consistent with authority of such ombudsman under the Older Americans Act of 1965 and under non-Federal laws governing the State Long-Term Care Ombudsman program.”.

(2) Clerical amendment.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, as amended by section 232, is amended by adding at the end the following:

“333. Appointment of ombudsman.”.

(b) Compensation of Ombudsman.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting “an ombudsman appointed under section 333, or” before “a professional person”; and

(2) in subparagraph (A), by inserting “ombudsman,” before “professional person”.

SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) In General.—Section 704(a) of title 11, United States Code, as amended by sections 102, 219, and 446, is amended by adding at the end the following:

“(12) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

“(A) is in the vicinity of the health care business that is closing;

"(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

"(C) maintains a reasonable quality of care.".

(b) Conforming Amendment.—Section 1106(a)(1) of title 11, United States Code, as amended by section 446, is amended by striking "and (11)" and inserting "(11), and (12)".

SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as amended by sections 224, 303, 311, 401, 718, and 907, the following:

"(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI of such Act or title XVIII of such Act.".

TITLE XII—TECHNICAL AMENDMENTS

SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as hereinbefore amended by this Act, is amended—

(1) by striking "In this title—" and inserting "In this title the following definitions shall apply:";

(2) in each paragraph, by inserting "The term" after the paragraph designation;

(3) in paragraph (35)(B), by striking "paragraphs (21B) and (33)(A)" and inserting "paragraphs (23) and (35)";

(4) in each of paragraphs (35A), (38), and (54A), by striking "; and" at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting "who is not a family farmer" after "debtor" the first place it appears; and

(B) by striking "thereto having aggregate" and all that follows through the end of the paragraph and inserting a semicolon;

(6) by striking paragraph (54) and inserting the following:

"(54) The term 'transfer' means—

"(A) the creation of a lien;

"(B) the retention of title as a security interest;

"(C) the foreclosure of a debtor's equity of redemption; or

"(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

"(i) property; or

"(ii) an interest in property;";

(7) by indenting the left margin of paragraph (54A) 2 ems to the right; and

(8) in each of paragraphs (1) through (35), in each of paragraphs (36), (37), (38A), (38B) and (39A), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting "522(f)(3)," after "522(d)," each place it appears.

SEC. 1203. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking "922" and all that follows through "or", and inserting "922, 1201, or".

SEC. 1204. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

(1) in section 109(b)(2), by striking "subsection (c) or (d) of"; and

(2) in section 552(b)(1), by striking "product" each place it appears and inserting "products".

SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(4) of title 11, United States Code, as so redesignated by section 221, is amended by striking "attorney's" and inserting "attorneys'".

SEC. 1206. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting "on a fixed or percentage fee basis," after "hourly basis,".

SEC. 1207. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting "of the estate" after "property" the first place it appears.

SEC. 1208. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting "subparagraph (A), (B), (C), (D), or (E) of" before "paragraph (3)".

SEC. 1209. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by sections 215 and 314, is amended—

(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103-394 (108 Stat. 4133), so as to insert such paragraph after subsection (a)(14A);

(2) in subsection (a)(9), by striking "motor vehicle" and inserting "motor vehicle, vessel, or aircraft"; and

(3) in subsection (e), by striking "a insured" and inserting "an insured".

SEC. 1210. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking "section 523" and all that follows through "or that" and inserting "section 523, 1228(a)(1), or 1328(a)(1), or that".

SEC. 1211. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting "student" before "grant" the second place it appears; and

(2) in paragraph (2), by striking "the program operated under part B, D, or E of" and inserting "any program operated under".

SEC. 1212. PROPERTY OF THE ESTATE.

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting "365 or" before "542".

SEC. 1213. PREFERENCES.

(a) In General.—Section 547 of title 11, United States Code, as amended by section 201, is amended—

(1) in subsection (b), by striking "subsection (c)" and inserting "subsections (c) and (i)"; and

(2) by adding at the end the following:

"(i) If the trustee avoids under subsection (b) a transfer made between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such transfer shall be considered to be avoided under this section only with respect to the creditor that is an insider.".

(b) Applicability.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

SEC. 1214. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting "an interest in" after "transfer of" each place it appears;

(2) by striking "such property" and inserting "such real property"; and

(3) by striking "the interest" and inserting "such interest".

SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking "1009,".

SEC. 1216. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting "1123(d)," after "1123(b),".

SEC. 1217. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. 1218. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. 1219. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking "made under this subsection" and inserting "made under subsection (c)"; and

(2) by striking "This subsection" and inserting "Subsection (c) and this subsection".

SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "(1) the term" before "'bankruptcy"; and

(B) by striking the period at the end and inserting "; and"; and

(2) in the second undesignated paragraph—

(A) by inserting "(2) the term" before "'document"; and

(B) by striking "this title" and inserting "title 11".

SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) Sale of Property of Estate.—Section 363(d) of title 11, United States Code, is amended by striking "only" and all that follows through the end of the subsection and inserting "only—

"(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

"(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.".

(b) Confirmation of Plan for Reorganization.—Section 1129(a) of title 11, United States Code, as amended by sections 213, 321, and 331, is amended by adding at the end the following:

"(17) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.".

(c) Transfer of Property.—Section 541 of title 11, United States Code, as amended by section 225, is amended by adding at the end the following:

"(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.".

(d) Applicability.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, or filed under that title on or after that date of enactment, except that the court shall not confirm a plan under chapter 11 of title 11, United States Code, without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking "20" and inserting "30".

SEC. 1223. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "and";

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

"(A) by prorating such amount over the remaining duration of the plan; and

"(B) by monthly payments not to exceed the greater of—

"(i) $25; or

"(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan."; and

(2) by adding at the end the following:

"(d) Notwithstanding any other provision of this title—

"(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior proceeding under this title; and

"(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).".

SEC. 1224. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

"(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the filing of the petition;".

SEC. 1225. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test and reaffirmations under section 707(b) of title 11, United States Code, as amended by this Act.

SEC. 1226. RECLAMATION.

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

"(c)(1) Except as provided in subsection (d) of this section and subsection (c) of section 507, and subject to the prior rights of holders of security interests in such goods or the proceeds thereof, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received such goods while insolvent, within 45 days before the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

"(A) not later than 45 days after the date of receipt of such goods by the debtor; or

"(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

"(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 503(b)(9).".

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by sections 445 and 1103, is amended by adding at the end the following:

"(9) the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.".

SEC. 1227. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual seeking bankruptcy under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) CHAPTER 11 AND CHAPTER 13 CASES.—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

(c) DOCUMENT RETENTION.—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a bankruptcy case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

SEC. 1228. ENCOURAGING CREDITWORTHINESS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

SEC. 1229. PROPERTY NO LONGER SUBJECT TO REDEMPTION.

Section 541(b) of title 11, United States Code, as amended by sections 225 and 323, is amended by adding at the end the following:

"(8) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

"(A) the tangible personal property is in the possession of the pledgee or transferee;

"(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

"(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b) of this title; or".

SEC. 1230. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following:

"(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the district court of the United States for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the district court of the United States for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.".

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

"(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the district court of the United States for the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

"(4) The Attorney General shall prescribe procedures to implement this subsection.".

SEC. 1231. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

"The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.".

SEC. 1232. DIRECT APPEALS OF BANKRUPTCY MATTERS TO COURTS OF APPEALS.

(a) APPEALS.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c)(1), by striking "Subject to subsection (b)," and inserting "Subject to subsections (b) and (d)(2),"; and

(2) in subsection (d)—

(A) by inserting "(1)" after "(d)"; and

(B) by adding at the end the following:

"(2)(A) The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that—

"(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;

"(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or

"(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;

and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

"(B) If the bankruptcy court, the district court, or the bankruptcy appellate panel—

"(i) on its own motion or on the request of a party, determines that a circumstance specified in clause (i), (ii), or (iii) of subparagraph (A) exists; or

"(ii) receives a request made by a majority of the appellants and a majority of appellees (if any) to make the certification described in subparagraph (A);

then the bankruptcy court, the district court, or the bankruptcy appellate panel shall make the certification described in subparagraph (A).

"(C) The parties may supplement the certification with a short statement of the basis for the certification.

"(D) An appeal under this paragraph does not stay any proceeding of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken, unless the respective bankruptcy court, district court, or bankruptcy appellate panel, or the court of appeals in which the appeal in pending, issues a stay of such proceeding pending the appeal.

"(E) Any request under subparagraph (B) for certification shall be made not later than 60 days after the entry of the judgment, order, or decree.".

(b) PROCEDURAL RULES.—

(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, until a rule of practice and procedure relating to such provision and such appeals is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION.—A district court, a bankruptcy court, or a bankruptcy appellate panel may make a certification under section 158(d)(2) of title 28, United States Code, only with respect to matters pending in the respective bankruptcy court, district court, or bankruptcy appellate panel.

(3) PROCEDURE.—Subject to any other provision of this subsection, an appeal authorized by the court of appeals under section 158(d)(2)(A) of title 28, United States Code, shall be taken in the manner prescribed in subdivisions (a)(1), (b), (c), and (d) of rule 5 of the Federal Rules of Appellate Procedure. For purposes of subdivision (a)(1) of rule 5—

(A) a reference in such subdivision to a district court shall be deemed to include a reference to a bankruptcy court and a bankruptcy appellate panel, as appropriate;

(B) a reference in such subdivision to the parties requesting permission to appeal to be served with the petition shall be deemed to include a reference to the parties to the judgment, order, or decree from which the appeal is taken.

(4) FILING OF PETITION WITH ATTACHMENT.—A petition requesting permission to appeal, that is based on a certification made under subparagraph (A) or (B) of section 158(d)(2) shall—

(A) be filed with the circuit clerk not later than 10 days after the certification is entered on the docket of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken; and

(B) have attached a copy of such certification.

(5) REFERENCES IN RULE 5.—For purposes of rule 5 of the Federal Rules of Appellate Procedure—

(A) a reference in such rule to a district court shall be deemed to include a reference to a bankruptcy court and to a bankruptcy appellate panel; and

(B) a reference in such rule to a district clerk shall be deemed to include a reference to a clerk of a bankruptcy court and to a clerk of a bankruptcy appellate panel.

(6) APPLICATION OF RULES.—The Federal Rules of Appellate Procedure shall apply in the courts of appeals with respect to appeals authorized under section 158(d)(2)(A), to the extent relevant and as if such appeals were taken from final judgments, orders, or decrees of the district courts or bankruptcy appellate panels exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

SEC. 1233. INVOLUNTARY CASES.

(a) AMENDMENTS.—Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting "as to liability or amount" after "bona fide dispute"; and

(B) striking "if such claims" and inserting "if such noncontingent, undisputed claims"; and

(2) in subsection (h)(1), by inserting "as to liability or amount" before the semicolon at the end.

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to cases commenced under title 11 of the United States Code before, on, and after such date.:

SEC. 1234. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, as amended by section 314, is amended by inserting after paragraph (14A) the following:

"(14B) incurred to pay fines or penalties imposed under Federal election law;".

TITLE XIII—CONSUMER CREDIT DISCLOSURE

SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(11)(A) In the case of an open end credit plan that requires a minimum monthly payment of not more than 4 percent of the balance on which finance charges are accruing, the following statement, located on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: .' (the blank space to be filled in by the creditor).

"(B) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: .' (the blank space to be filled in by the creditor).

"(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Federal Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number: .' (the blank space to be filled in by the creditor). A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).

"(D) Notwithstanding subparagraph (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor that is subject to subparagraph (B) may elect to provide the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).

"(E) The Board shall, by rule, periodically recalculate, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).

"(F)(i) The toll-free telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A), (B), or (G), as appropriate, may be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).

"(ii)(I) The Board shall establish and maintain for a period not to exceed 24 months following the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2002, a toll-free telephone number, or provide a toll-free telephone number established and maintained by a third party, for use by creditors that are depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), including a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act, with total assets not exceeding $250,000,000. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A) or (B), as applicable, by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A) or (B), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A) or (B) from an obligor through the toll-free telephone number disclosed under subparagraph (A) or (B), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i). The dollar amount contained in this subclause shall be adjusted according to an indexing mechanism established by the Board.

"(II) Not later than 6 months prior to the expiration of the 24-month period referenced in subclause (I), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the program described in subclause (I).

"(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

"(H) The Board shall—

"(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance if a consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

"(ii) establish the table required under clause (i) by assuming—

"(I) a significant number of different annual percentage rates;

"(II) a significant number of different account balances;

"(III) a significant number of different minimum payment amounts; and

"(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and

"(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

"(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

"(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the customer's outstanding balance is not subject to the requirements of subparagraph (A) or (B).

"(K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement:

'Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: .' (the blank space to be filled in by the creditor).".

(b) Regulatory Implementation.—

(1) In general.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the "Board") shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section.

(2) Effective date.—Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 18 months after the date of enactment of this Act; or

(B) 12 months after the publication of such final regulations by the Board.

(c) Study of Financial Disclosures.—

(1) In general.—The Board may conduct a study to determine the types of information available to potential borrowers from consumer credit lending institutions regarding factors qualifying potential borrowers for credit, repayment requirements, and the consequences of default.

(2) Factors for consideration.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—

(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;

(C) consumers make only the required minimum payment under open end credit plans;

(D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and

(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) Report to congress.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) Open End Credit Extensions.—

(1) Credit applications.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking "Consultation of tax adviser.—A statement that the" and inserting the following: "Tax deductibility.—A statement that—

"(A) the"; and

(B) by striking the period at the end and inserting the following: "; and

"(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.".

(2) Credit advertisements.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking "If any" and inserting the following:

"(1) In general.—If any"; and

(B) by adding at the end the following:

"(2) Credit in excess of fair market value.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.".

(b) Non-Open End Credit Extensions.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

"(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

"(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges."; and

(B) in subsection (b), by adding at the end the following:

"(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.".

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

"(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

"(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

"(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.".

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1303. DISCLOSURES RELATED TO "INTRODUCTORY RATES".

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

"(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

"(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

"(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

"(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

"(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

"(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

"(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

"(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

"(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

"(D) DEFINITIONS.—In this paragraph—

"(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

"(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.

"(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(a) INTERNET-BASED SOLICITATIONS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

"(7) INTERNET-BASED SOLICITATIONS.—

"(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

"(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

"(ii) the information described in paragraph (6).

"(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

"(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

"(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

"(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

"(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:

"(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.

"(B) The amount of the late payment fee to be imposed if payment is made after such date.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

"(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.".

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1307. DUAL USE DEBIT CARD.

(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) STUDY.—

(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of bankruptcy cases filed under title 11, United States Code.

(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term "clear and conspicuous", as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.

(b) EXAMPLES.—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).

(c) STANDARDS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

TITLE XIV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1401. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this Act and paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by sections 308, 322, and 330 shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. GEKAS) will be recognized for 30 minutes in support of the motion, and the gentleman from New York (Mr. NADLER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume. The upshot of all this parliamentary movement that we have witnessed just now is to bring back to the Chamber the conference report on the bankruptcy reform bill without the odious language that caused such a bitter debate earlier in the day which in effect would remove the abortion language altogether. In addition, it would remove the language that would call for new judges to be appointed in various jurisdictions, not because of the substance of that portion of the provisions but because this would eliminate the possibility of a point of order being lodged on the budgetary portion of the bill. So in effect we have a clean conference report without the judges and without the abortion clinic language vested in it.

Mr. Speaker, I reserve the balance of my time.

PARLIAMENTARY INQUIRIES

Mr. NADLER. Mr. Speaker, I have a parliamentary inquiry before I start my 30 minutes.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. NADLER. Mr. Speaker, we have just been handed a 472-page bill labeled H.R. 5745. My inquiry is, is this a brand new bill that is now before the House that none of us have had a chance to read?

The SPEAKER pro tempore. That is the text incorporated by reference in the pending motion.

Mr. NADLER. The motion is to consider this bill?

The SPEAKER pro tempore. The text is incorporated by reference in the motion.

Mr. NADLER. My next parliamentary inquiry is, is this brand new 472-page bill that no one has had a chance to read, including me, that we just saw for the first time about 5 minutes ago identical to anything we have ever seen before, or is this a brand new bill that we are going to debate sight unseen?

The SPEAKER pro tempore. That is not a parliamentary inquiry.

Mr. NADLER. Is this a new bill or is this a copy of something else?

The SPEAKER pro tempore. The bill was introduced today.

Mr. NADLER. But my question is, is this the same as something else that we have seen before or is it new, since we have not had a chance to read it?

The SPEAKER pro tempore. That is not a parliamentary inquiry. That is a matter for debate.

Mr. NADLER. Then I will ask the gentlemen, somebody over there, to yield and answer that question.

Mr. FRANK. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. FRANK. The gentleman referred to this as a conference report. Conference reports are handled under one set of procedures. Is this in fact still a conference report, and will it be treated in the other body that way, or is it a brand new bill, to be treated as a brand new bill?

The SPEAKER pro tempore. This motion contains a proposed amendment to the Senate amendment. It is not a conference report.

Mr. FRANK. So it is not a conference report, and therefore if we were to pass it, it does not have the status of a conference report when it goes to the other body?

The SPEAKER pro tempore. That is correct.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are told, and we have to take it on faith, that this 472-page amendment, although it says H.R. 5745, it is a new bill, is the same as the conference report minus the Schumer amendment, minus the judgeships, but otherwise it is supposedly identical. We have to take on faith that this brand new 472-page bill that we have never seen before is in fact the same as the conference report text minus the two differences we have been told about. We have to take it on faith because we have not been given any opportunity at all to read the bill.

Not being satisfied with the humiliation of having one of their top priority bills defeated by their own Members earlier today, the Republican leadership now insults our intelligence by wasting our time at one o'clock in the morning with a bill they know the Senate will not even glance at. The conference report whose rule was defeated earlier today and which was just ruled out of order a few minutes ago was the result of months of painstaking negotiations with the other body. Now we are going to undo the results of all those negotiations in a few minutes and produce a brand new bill that we know the Senate will not even glance at. Mr. Speaker, even everyone, even the banks who have paid for this legislation with cold hard cash, know that this midnight stunt cannot result in a live bill. I find it hard to believe that even the Members putting on this little show can believe that it is intended even vaguely seriously.

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It does not really matter how Members vote on this bill tonight, because the bill is not going anywhere, although I am sure the vote totals will be hastily inserted into a press release that has already been drafted.

I am not going to get into the merits of the bill. We debated the merits of the bill this afternoon, although I will note that the 28 new bankruptcy judges and the extensions of temporary judgeships that will otherwise expire that were contained in the conference report have been removed.

Now, with the great increase in bankruptcy filings that supposedly motivated the bill in the first place, everyone concedes that we need those judicial positions in order to process all the bankruptcy proceedings, especially with all the new requirements that will be imposed by this bill, which will necessitate a lot of new judicial time, according to everyone.

I find it interesting that with all the wailing and gnashing of teeth about the terrible impact on justice of the Senate's failure to confirm promptly the President's judicial nominees, we are suddenly eliminating 28 judges and many existing judges who will now be permitted to expire for no apparent reason. Why are the Republicans suddenly eliminating all these, everyone admits, needed judicial positions? Now, I understand the political necessity of paying obeisance and bowing down deeply to the religious right by eliminating the Schumer amendment, but why eliminate these judicial positions that are, everyone concedes, essential?

It is no wonder that the voters are cynical about Congress, when the leadership here, the Republican leadership, insists on putting on circuses purely to entertain the lobbyists who have put up the money behind this bill. We know this bill will not pass the Senate. It will not go to the President. It is the legislative equivalent of a fraternity stunt.

Has anyone, by the way, even read this brand new bill, these 457 new pages? I would ask anyone who has read this bill to raise their hand.

I do not see any hands raised.

I know the voters are bursting with pride as they watch this at 1 in the morning; but the fact is, this is a legislative stunt for no purpose except saying to the lobbyists, we passed it, even though we passed it in a form we know the Senate will not glance at and we are just wasting everyone's time.

Mr. Speaker, I will not waste further time by getting into the merits of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I would like to enter into a colloquy. I had an earlier discussion with the gentleman from Missouri (Mr. BLUNT), who is not on the floor as I can see now, the new whip, if somebody knows where he is.

I would like to discuss this with the sponsor of the legislation. I am concerned about the new judges. To me it is absurd that we are at this point anyhow. We should have passed this bill earlier today.

But of those 28 new judges, four of them would be in Delaware. As the gentleman knows, Delaware's bankruptcy court is extraordinarily busy, and even after the four new judges would still have the highest caseload of any court in the United States of America. As it is now, we are borrowing courts from actually the gentleman's jurisdiction, from Pennsylvania, on a regular basis to handle the bankruptcy matters there.

I understand that this was deleted from the bill because it could present apparently some sort of budgetary point of order, as I understand the circumstances. There are 28 new judges, and I think there are some expired judges there. Do we know how many expired judge terms there are? Does anyone on staff know?

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. We are not certain of that. Let me assure the gentleman that indeed this deletion of the judges does not in any way sway us away from our commitment to have these judges appointed and to assume their positions as bankruptcy judges. This is, just as we outlined, necessary in order to get the main body of the bill on bankruptcy reform to the vote for the Members. So we reassure the gentleman that the commitment to the judges is intact and that will be part of a final solution to this problem.

Mr. CASTLE. Mr. Speaker, reclaiming my time, the gentleman from Missouri (Mr. BLUNT) is here now. If I could inquire of the gentleman as part of this inquiry his representations concerning these new judges and what would happen to them in the future, if this legislation were to pass tonight and then were to pass the Senate tomorrow.

Mr. BLUNT. Mr. Speaker, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Missouri.

Mr. BLUNT. The gentleman makes a good point. Because of the passage of the legislation, I think we would need to add the judges as the legislation did that came back from the conference committee. I think that was a wise addition, and the gentleman certainly has my commitment, and I believe the commitment of the majority of our colleagues, would be my thought, that we would follow up with the sections of this bill that relate to judges, assuming that the bill is passed in the other body.

Mr. CASTLE. Well, reclaiming my time, my sense is that this bill will not pass in the other body, and perhaps in this sense it should not pass, and I think it should have passed today. As it is, I am getting some acknowledgment over there on that side.

But I think it is extraordinarily important. I cannot stress how important this is. I cannot stress how stressed our courts are as a result of this. It has been very disruptive to the entire district court practice, because the district court judges have actually had to do this in my State and a lot of other jurisdictions that are missing judges and with expired terms.

So we have a tremendous judicial problem in this country, and this needs to be acted on immediately. Again, I think bankruptcy is probably going to be a subject for next year. The way it has been handled today, it will not get through the House and Senate. But if it did, the aspect of the judges absolutely has to take the highest priority at the earliest possible time.

Mr. BLUNT. Mr. Speaker, if the gentleman will yield further, I agree totally with the gentleman. I think it became clear during the further discussion of the bill that we sent to the other body and during the conference that we needed to deal with this question of judges as well, and certainly would believe that that would follow any legislation that passed that did not include these judges.

Mr. CASTLE. Mr. Speaker, reclaiming my time, I thank both the gentlemen. I am not entirely appeased by what I heard. Obviously, I believe the judges should be in there, but I do take your word for it on that basis.

Again, this is legislation, in my judgment, we should not be considering at 1:15 in the morning. It should have happened a lot earlier in the day, and it would be over in the Senate already. But so be it. Hopefully, the word of everybody tonight will be held up.

Mr. NADLER. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, as I realized how much time was going to be wasted on this effort to allow some Members to get back in the graces of some of their financial supporters whom they had to alienate, and as we were lionizing, justifiably, Mr. Morris, the refrain kept going through my head, Hey, Mr. Tally Clerk, tally up our votes; daylight comes and we want to go home.

We cannot go home because here is what happened: the bankruptcy bill came up, and some Members on the Republican side had to choose between people who are interested in vigorously protesting abortion and the financial community; and they decided to support the people who vigorously protest abortion, which meant that the bill died.

Now, there is no way this bill is going to pass. Understand that what they did then was this. Let us be clear about the sequence. The bill died because some of the Members there were torn between the people opposed to abortion and the people with money. And you would have thought they could have waited until maybe February or March to get back in the graces of the people with money. But apparently the separation anxiety on the Republican side of not being continuously in the bosom, if not the pocket, of large financial interests, was so great that they had to come up with, and let me use the technical parliamentary term, the cockamamiest scheme I have ever seen on the floor of a legitimate democratic legislature.

You bring a bill to the floor, it is losing, and you do everything you can to get people to vote for it. And when you cannot get them to vote for it, you then decide that what you try to get them to vote for violates the rules of the House. So you bring back your own bill, which violated the rules of the House, and say to people, well, you know these rules, maybe they are more important than we thought.

So you then make a point of order against your own bill to change it, knock out a very important provision about judges, the gentleman from Delaware asked a legitimate question, he gets a little bit of mumbo-jumbo because none of this makes any sense, and he sits down with a little grumble, and now you want to vote to send this bill to the Senate. People should understand, this will go to the Senate not as a conference report, but as a standalone bill.

□ 0120

It will pass in the other body if someone gets unanimous consent to pass it.

Now, I think frankly there are a lot of things more likely to get unanimous consent than this. No one thinks that this bill will even be taken up in the Senate. So here is what puzzles me. Yes, I understand that people in the financial industry to whom many of you are attached emotionally, politically, and in any other way, they are distressed that you voted no, and they want you now to vote yes, so you can vote both ways on the same bill in the same evening. Not that bad.

But here is the problem. When the bill had a chance to pass, you voted to kill it. Now, when it is dead, you vote to pass it. And I got to say this, I have to ask you this question, I have to ask you this question because I am interested in your techniques. For this you are going to get credit? I mean, if you can persuade, and let me say in tribute, if you can persuade these sophisticated financial people to give you credit for something this phony, then you are selling too cheap. Why do you not get a platinum credit card with negative interest rates? I mean, you are going to these people and they are going to accept this? You killed the bill when it could have passed, and now you are going through this, it is not a charade because there is talking, but I do not know what it is.

Let me just say, Mr. Speaker, just to summarize, Members kill a bill because of some honest concern about the first amendment rights of people who are protesting. I honor that. Do not degrade that. Stay with that. What you have done is to transform this statement of principle by then bringing back the bill you tried to get people to vote for, announcing that your own bill violated the Rules of the House, now alleging allegiance to the Rules of the House, and engaging in the most transparent, cynical, legislative maneuver I have ever seen, giving Members a chance to switch their votes to be recorded on a bill to make contributors and other financial interests happy in the full knowledge that it will end here.

Mr. Speaker, politics is a nice business, and we are all in it. But this is so cynical, so an interruption of the legislative process that you ought to be embarrassed about it.

Mr. GEKAS. Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, the total absurdity of the situation having been well explained by the gentleman from Massachusetts, I yield back the balance of our time.

Mr. GEKAS. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding me this time.

I too was moved by the gentleman from Massachusetts and I observed how much his side of the aisle thought he made cogent points, and as we move to the vote I am going to see how many people support the position with their vote.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

PARLIAMENTARY INQUIRY

Mr. NADLER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman will state it.

Mr. NADLER. Mr. Speaker, before I yielded back the balance of my time, the gentleman from Pennsylvania had yielded back the balance of his time, had he not?

The SPEAKER pro tempore. No. The gentleman reserved the balance of his time.

PARLIAMENTARY INQUIRY

Ms. JACKSON-LEE of Texas. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state it.

Ms. JACKSON-LEE of Texas. The inquiry is to be clear on what the Members are voting on. Are they not voting on a bill that we just saw with no judges to rule on the law?

The SPEAKER pro tempore. The gentlewoman is not stating a parliamentary inquiry.

Ms. JACKSON-LEE of Texas. The parliamentary inquiry is, Mr. Speaker, is this bill without any judicial support in terms of the judges provision? Is that not in the bill?

The SPEAKER pro tempore. That is not a parliamentary inquiry.

The question is on the motion offered by the gentleman from Pennsylvania (Mr. GEKAS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRANK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 244, noes 116, not voting 72, as follows:

[Roll No. 484]

AYES—244

Aderholt
Akin
Andrews
Armey
Baca
Bachus
Baker
Bartlett
Bass
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Carson (OK)
Castle
Chabot
Chambliss
Coble
Collins
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Gutknecht
Hall (TX)
Hansen
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Inslee
Isakson
Israel
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
Kind (WI)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Matheson
McCarthy (NY)
McHugh
McIntyre
McKeon
Meeks (NY)
Menendez
Mica
Miller, Dan
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Pallone
Paul
Pence
Peterson (MN)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rivers
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sandlin
Schaffer
Schrock
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOES—116

Abercrombie
Ackerman
Allen
Baird
Baldwin
Barrett
Bentsen
Berman
Blumenauer
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capuano
Cardin
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley
Doyle
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank
Frost
Gonzalez
Green (TX)
Gutierrez
Hilliard
Hinchey
Hoeffel
Holden
Holt
Honda
Hoyer
Jackson (IL)
Jackson-Lee (TX)
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Langevin
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Matsui
McCollum
McDermott
McGovern
McNulty
Meehan
Millender-McDonald
Miller, George
Nadler
Obey
Olver
Owens
Pastor
Payne
Pelosi
Rahall
Reyes
Rodriguez
Roybal-Allard
Rush
Sanders
Schakowsky
Schiff
Scott
Serrano
Solis
Spratt
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Weiner
Wexler
Woolsey
Wu

NOT VOTING—72

Baldacci
Ballenger
Barcia
Barr
Barton
Becerra
Blagojevich
Bonior
Borski
Boyd
Callahan
Carson (IN)
Clay
Clement
Combest
Condit
Cooksey
Davis, Jo Ann
Diaz-Balart
Doolittle
Ehrlich
Ford
Ganske
Gephardt
Gillmor
Gilman
Gordon
Greenwood
Grucci
Harman
Hastings (FL)
Hefley
Hinojosa
Hooley
Houghton
Hyde
Issa
Jefferson
Johnson, Sam
King (NY)
LaFalce
Lantos
Lipinski
Markey
Mascara
McCarthy (MO)
McCrery
McInnis
McKinney
Meek (FL)
Miller, Gary
Murtha
Oberstar
Oxley
Pascrell
Peterson (PA)
Rangel
Roukema
Sanchez
Sawyer
Saxton
Sensenbrenner
Slaughter
Smith (TX)
Stark
Stump
Sununu
Toomey
Watt (NC)
Waxman
Wynn
Young (FL)

□ 0202

Mrs. CAPPS and Messrs. PRICE of North Carolina, LAMPSON and SHERMAN changed their vote from "no" to "aye."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GRUCCI. Mr. Speaker, I apologize for my absence on November 13 and 14, 2002. Should I have been present, I would have voted in the following manner on these specific rollcall votes:

November 13, 2002: rollcall vote No. 471—"nay"; rollcall vote No. 472—"yea"; and rollcall vote No. 473—"nay".

November 14, 2002: rollcall vote No. 478—"yea"; rollcall vote No. 479—"yea"; rollcall vote No. 480—"yea"; rollcall vote No. 481—"yea"; rollcall vote No. 482—"yea"; rollcall vote No. 483—"yea"; and rollcall vote No. 484—"yea".

MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3529. An act to provide tax incentives for economic recovery and assistance to displaced workers.

H.R. 5469. An act to amend title 17, United States Code, with respect to the statutory license for webcasting, and for other purposes.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4664. An act to authorize appropriations for fiscal years 2003, 2004, and 2005 for the National Science Foundation, and for other purposes.

The message also announced that the Senate has passed bills and a joint resolution of the following titles in which the concurrence of the House is requested:

S. 1742. An act to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes.

S. 2712. An act to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

S.J. Res. 53. Joint resolution relative to the convening of the first session of the One Hundred Eighth Congress.

LAYING ON TABLE SUNDRY HOUSE RESOLUTIONS

Mr. DREIER. Mr. Speaker, I ask unanimous consent that the following resolutions be laid on the table: H. Res. 586, H. Res. 587, H. Res. 601, H. Res. 603, and H. Res. 608.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from California?

There was no objection.

TRIBUTE TO THE HONORABLE GEORGE GEKAS, MEMBER OF CONGRESS

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Mr. Speaker, I take this time to honor the man who just finished the bill on bankruptcy reform, the gentleman from Pennsylvania (Mr. GEKAS) who has served in this body for 20 years, has worked on the bankruptcy reform bill for over 10 years, probably the whole 20 years that he has been in Congress, just stood up here and took all the abuse that could be hurled at him and showed what kind of man he was and passed that bill and sent it over to the Senate where we hope that it will receive the consideration that it deserves.

This is a man that has worked so hard, has been so collegial with the other Members of this body, who lost his last election. Tonight he is closing down the Congress with a bill that he has worked on his entire career and it is sort of indicative of who we are and what we are here. He is a man that is so humble that he would not even stick around on the floor tonight. He went and left the floor after passing his bill because he knows that many other Members had worked on the bill. He is a humble man, a man of great musical talent, a man that has served on the Committee on the Judiciary, went through all the things that the Committee on the Judiciary works on and not the least of which was the impeachment, a very difficult time for this House, was a stalwart, and the kind of legislation that came out of that committee, was a subcommittee chairman for the last 8 years and honored this House by his presence and honored this House by his service, a very distinguished service that we greatly appreciate. We honor tonight GEORGE GEKAS who closes the 107th Congress by passing a bill that he has worked on for so long.

Mr. TOM DAVIS of Virginia. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Let me join my friend from Texas in also honoring GEORGE GEKAS and his 20 years of service to this body. I think the crowning achievement this evening was an overwhelming vote for this bankruptcy bill. The objectionable parts of this bill were not inserts that he put in there as part of the political sausage-making that goes on between the House and the Senate; but the overwhelming 244–116 vote I think speaks well for the kind of bill that he worked with his colleagues across party lines to put together.

A graduate of Dickinson from Harrisburg, Pennsylvania, he was very underspoken, not just soft-spoken, but understated, was someone who was not always out there getting the credit, issuing press releases, but he was here. He had one of the best attendance records in the House, often driving between Harrisburg and Washington, D.C., between sessions, getting back to his district as often as possible. He was an impeachment manager as the majority whip noted and had a distinguished career in the Committee on the Judiciary where he was involved in the intricacies of many bills that came out of there. His 20 years of service here I think are a reflection of the dedication that he put into public service which preceded his election to Congress. He will be missed from this body. I will miss him. Again, I congratulate him for this crowning achievement, the passage of this bankruptcy bill tonight.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for yielding. I can only say, Members may not know that GEORGE is a person that can speak three different languages. He served in the military with honor as an officer. He has probably the greatest knowledge of anybody I have ever met. To have GEORGE GEKAS as a dear friend, as he was and is, is something I will always cherish. We are two opposites. I am the barbarian and he is the intellect. But we worked together. I watched him on this floor especially during the impeachment time, the dignity he brought and the knowledge that he had, the legal background that he used; I have the greatest respect for his abilities. I cherished his friendship and tonight was a crowning night for him. We did lose him, but we really have never lost him because he will always be in our hearts.

Mr. DELAY. I appreciate the gentleman's comments.

Mr. NUSSLE. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Iowa.

Mr. NUSSLE. Mr. Speaker, I would also like to add my voice to the many who praise GEORGE GEKAS tonight on his many accomplishments in his career. He is one of the ones who has encouraged those of us who have tried to reform the budget process. Every year he introduces the bill on the automatic continuing resolution which might have come in handy maybe this year. Who knows? At almost 2 o'clock in the morning, maybe we would have been done a lot sooner. But obviously with controversy but always with a good heart and a cheerful heart. He also demonstrated to me that we also have a personal side to all of us. We are legislators, we are chairmen, we get to be big shots on the floor once in a while. But GEORGE was also the kind of guy that liked to go and tickle the ivories and play the piano. He is a frustrated musician along with a few of the rest of us around here. He had a personal side to him, too, which was fun to get to know even for someone who did not serve with him as long as some of the rest of my colleagues. I congratulate him on his bill tonight and wish him Godspeed.

Mr. NADLER. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from New York.

Mr. NADLER. I thank the gentleman for yielding.

Mr. Speaker, I want to join in the tribute to the gentleman from Pennsylvania (Mr. GEKAS) tonight. The gentleman from Pennsylvania served for 4 years as chairman of the Subcommittee on Administrative and Commercial Law; I served for those 4 years as the ranking Democratic member. Though we often disagreed and obviously we disagreed on the bill we just passed, I must comment that the gentleman from Pennsylvania conducted the subcommittee with unfailing promptness and with unfailing courtesy and consideration despite, on some occasions, considerable provocation from me. I want to pay tribute to him on this occasion. We will miss him.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I appreciate the majority whip yielding. George Gekas is a friend of all of ours. The gentleman from Pennsylvania has made a great contribution to the House. It has been my privilege to not just be his friend but to work very intently on his behalf. He is a great guy. We will miss him in the House. He has made a great contribution to the House. Indeed, I appreciate very much the gentleman from Texas raising this point at this moment as he has had this fantastic success at the end of his legislative career.

Mr. BOEHLERT. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Speaker, I want to thank the gentleman for initiating this tribute. It is well deserved, for a guy that I have had the pleasure of knowing for 20 years. We came together in 1982 in the freshman class. Over those 20 years, I have had a chance to get to know this distinguished and very fine gentleman very well. He is a versatile guy in so many respects. He is a many-dimensional guy and one who has devoted a generation to service in the House and to service of the people of Pennsylvania. He will be missed. I think it is so fitting that he came in here as a winner in 1982 and he leaves here as a winner tonight with his signature legislation.

□ 0210

Mr. DELAY. Mr. Speaker, I appreciate the gentleman's remarks. I yield to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding. I am a relative newcomer here, but I have always enjoyed Congressman GEKAS in the many discussions we have had. He is very proud of his Greek heritage, loves to serve us the Greek delicacies that we all enjoy and is also a superb piano player. But beyond that he is an outstanding Congressman, and at one time I had a bill before his subcommittee. He treated me with fairness, with honor, and went above and beyond the call of duty of a chairman in helping me get my legislation through, and I still remember that as a newcomer to have someone with that maturity and that experience be willing to help me in my efforts before his subcommittee. He is a great gentleman. We are going to miss him here, but at least he goes out with a crowning achievement and we can all be proud of that.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman from Michigan.

I think the gentleman from California (Mr. DREIER) would like me to yield.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding. And, Mr. Speaker, I want to join in this tribute to our friend GEORGE GEKAS, and my friend from Iowa (Mr. NUSSLE) just mentioned the fact that Mr. GEKAS regularly talked about the need for us to have an automatic continuing resolution, and it was the Committee on Rules that he came before on a regular basis, and I remember one time where on every single appropriations bill, he would come before the Committee on Rules making the case. So he was dogged in his pursuit of that just as he was in his pursuit of bringing about bankruptcy reform, and we all know that this process has been a very messy, difficult one, but it is exactly as James Madison envisaged it, and I think that he was looking down and saw GEORGE GEKAS work through this process over a long period of time.

Mr. Speaker, I would also, when I think about GEORGE GEKAS, like to take a moment to mention another of our colleagues who is retiring, my very good friend from California, STEVE HORN. When I think of GEORGE GEKAS, I think of STEVE HORN, another well-educated work horse. Steve Horn is an individual who came to this institution with an amazing background, having been a college president, and he is someone who, because of his tremendous institutional memory having worked as an aid to former Senator Tom Kuchel of California, he brought an understanding of the work of the other body and an expertise which will be sorely missed.

As I think back and I see my friend from Virginia (Mr. TOM DAVIS) here, I am reminded of the work that we did on the issue of Y2K, and he will recall that our colleague Mr. HORN began very early having a wide range of hearings focusing on the governmental challenge of dealing with the turn of the century and the Y2K issue. And I want to say that he and his wonderful wife Nini have worked night and day representing a very difficult and challenging area in southern California but at the same time understanding the responsibility that they have had in this institution. So I would just like to say, Mr. Speaker, that he will be sorely missed and I certainly wish him well in his retirement. And I thank my friend for yielding.

Mr. TOM DAVIS of Virginia. Mr. Speaker, will the gentleman yield?

Mr. DELAY. Mr. Speaker, I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I appreciate the gentleman from California (Mr. DREIER) bringing up STEVE HORN. I have known STEVE HORN I think longer than anyone in this body because I was a Senate page from 1963 to 1967 and STEVE HORN worked there as a legislative aid to Senator Tom Kuchel. When he left Senator Kuchel's office, his replacement was a young man named Leon Paneta. So history works in strange ways, but I kept up with STEVE through the years, followed his career in the presidential administration he went into, leaving Tom Kuchel, and then into his academic career. Of course STEVE had degrees from Harvard and Stanford, was a university president, well regarded in the Long Beach community. When he was elected to Congress in 1992, it was a huge upset. This was a district that had been drawn to elect a Democrat, and STEVE won it and held it every time, the only Republican most years to be elected in that area because he transcended politics.

He was a very detail-oriented Member. He took copious notes on every hearing, what Members were saying. I hope some day he will publish that and share that with the world. He was active not just in the Y2K legislation that the gentleman from California (Mr. DREIER) and I worked on, he also wanted to put the "M" back in OMB, management, and he was a stickler for bringing management back into government. He felt that we spent too much time on budgetary items and not enough time managing that budget. I think this evening on some of the unanimous consent legislation going through, some of that will bear the imprint of Mr. HORN, as did a lot of legislation that passed through this body from his work on the Committee on Government Reform and Oversight when he was a very active subcommittee chairman for years.

Mr. DREIER. Mr. Speaker, would the gentleman yield briefly for one comment?

Mr. DELAY. I yield to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, I would like to say that my friend is absolutely right reminding us of the fact that STEVE HORN took copious notes in a wide range of meetings, and I want to say that sometimes even when I was having conversations with my friend Mr. HORN he was taking notes, and I would like very much to go on record saying that I hope he never publishes those particular notes that he has taken in a number of conversations we had.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would agree with the gentleman. But anyway STEVE is going to be missed. He is leaving on his own volition. We always like to say there are three ways to leave public office and two of them are not very pleasant. STEVE has opted for the third role, but I hope he will remain active in government and somewhere find a place for him perhaps in the administration because he has a lot to give and a great education and great experience.

SENSE OF HOUSE THAT NATIONAL PARK SERVICE SHOULD FORM COMMITTEE FOR ESTABLISHING GUIDELINES FOR NATIONAL DESIGN COMPETITION

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the resolution (H. Res. 591) expressing the sense of the House of Representatives that the National Park Service should form a committee for the purpose of establishing guidelines to launch a national design competition, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 591

Whereas President Thomas Jefferson received the approval of Congress on 6 February 28, 1803, to fund an expedition into the West with orders to explore the Missouri River and such tributaries as might lead to the Pacific Ocean on the most direct and practicable water route for purposes of commerce, in addition to which, the expedition was to gather scientific and geographical information, and to encourage peace among any Indian Nations encountered;

Whereas Meriwether Lewis, Captain of the First Regiment of Infantry, and former Secretary to President Jefferson, was appointed to lead the expedition, and he selected, with the approval of the President, William Clark to serve equally as a Captain in a leadership role;

Whereas the Expedition returned to St. Louis, Missouri, on September 23, 1806, after a 28-month journey covering 8,000 miles during which it traversed 11 future States: Illinois, Missouri, Kansas, Nebraska, Iowa, North Dakota, South Dakota, Montana, Idaho, Washington, and Oregon; and

Whereas the expedition was one of the most remarkable and productive scientific and military exploratory expeditions in all American history: Now, therefore, be it

Resolved, That the House of Representatives directs the National Park Service to form a committee for the purpose of establishing guidelines to launch a national design competition for the following project: In as much as Congress desires to memorialize the Lewis and Clark Expedition and because the City of Louis was the departing and returning points of the Expedition as depicted by its Gateway to the West Arch, therefore the City of St. Louis should display a proper recognition of these great men in the form of a heroic sculpture portraying the Expedition to be built in the Luther Ely Smith Park in downtown St. Louis, which lies between the Arch and the Old Courthouse, all now governed by the National Park Service.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRESIDENT JOHN ADAMS COMMEMORATIVE WORK IN THE DISTRICT OF COLUMBIA

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the joint resolution (H.J. Res. 117) approving the location of the commemorative work in the District of Columbia honoring former President John Adams, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 117

Whereas section 8908 of title 40, United States Code, provides that the location of a commemorative work in the area described as Area I shall be deemed disapproved unless approved by law not later than 150 days after notification to Congress that the commemorative work should be located in Area I;

Whereas Public Law 107-62 (115 Stat. 411) authorized the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia to honor former President John Adams and his legacy; and

Whereas the Secretary of the Interior has notified Congress of her determination that a memorial to former President John Adams should be located in Area I: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPROVAL OF COMMEMORATIVE WORK.

(a) APPROVAL.—Congress approves the location for the commemorative work to honor former President John Adams and his legacy, as authorized by Public Law 107-62 (115 Stat. 411), within Area I as described in section 8908 of title 40, United States Code, subject to the limitation in subsection (b).

(b) LIMITATION.—The commemorative work approved in subsection (a) shall not be located within the Reserve.

(c) DEFINITION OF RESERVE.—In this section the term "Reserve" means the area of The National Mall extending from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, as depicted on the map entitled "Commemorative Areas Washington, DC and Environs," numbered 869/86501A and dated May 1, 2002.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BAINBRIDGE ISLAND JAPANESE-AMERICAN MEMORIAL STUDY ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3747) to direct the Secretary of the Interior to conduct a study of the site commonly known as Eagledale Ferry Dock at Taylor Avenue in the State of Washington for potential inclusion in the National Park System.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Bainbridge Island Japanese-American Memorial Study Act of 2002".

(b) FINDINGS.—The Congress finds the following:

(1) During World War II on February 19, 1942, President Franklin Delano Roosevelt signed Executive Order 9066, setting in motion the forced exile of more than 110,000 Japanese Americans.

(2) In Washington State, 12,892 men, women and children of Japanese ancestry experienced three years of incarceration, an incarceration violating the most basic freedoms of American citizens.

(3) On March 30, 1942, 227 Bainbridge Island residents were the first Japanese Americans in United States history to be forcibly removed from their homes by the U.S. Army and sent to internment camps. They boarded the ferry Kehloken from the former Eagledale Ferry Dock, located at the end of Taylor Avenue, in the city of Bainbridge Island, Washington State.

(4) The city of Bainbridge Island has adopted a resolution stating that this site should be a National Memorial, and similar resolutions have been introduced in the Washington State Legislature.

(5) Both the Minidoka National Monument and Manzanar National Historic Site can clearly tell the story of a time in our Nation's history when constitutional rights were ignored. These camps by design were placed in very remote places and are not easily accessible. Bainbridge Island is a short ferry ride from Seattle and the site would be within easy reach of many more people.

(6) This is a unique opportunity to create a site that will honor those who suffered, cherish the friends and community who stood beside them and welcomed them home, and inspire all to stand firm in the event our nation again succumbs to similar fears.

(7) The site should be recognized by the National Park Service based on its high degree of national significance, association with significant events, and integrity of its location and setting. This site is critical as an anchor for future efforts to identify, interpret, serve, and ultimately honor the Nikkei—persons of Japanese ancestry—influence on Bainbridge Island.

SEC. 2. EAGLEDALE FERRY DOCK LOCATION AT TAYLOR AVENUE STUDY AND REPORT.

(a) STUDY.—The Secretary of the Interior shall carry out a special resource study regarding the national significance, suitability, and feasibility of designating as a unit of the National Park System the property commonly known as the Eagledale Ferry Dock at Taylor Avenue and the historical events associated with it, located in the town of Bainbridge Island, Kitsap County, Washington.

(b) REPORT.—Not later than 1 year after funds are first made available for the study under subsection (a), the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the findings, conclusions, and recommendations of the study.

(c) REQUIREMENTS FOR STUDY.—Except as otherwise provided in this section, the study under subsection (a) shall be conducted in accordance with section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)).

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CARIBBEAN NATIONAL FOREST WILDERNESS ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3955) to designate certain National Forest System lands in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3955

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Caribbean National Forest Wilderness Act of 2002".

SEC. 2. WILDERNESS DESIGNATION, CARIBBEAN NATIONAL FOREST, PUERTO RICO.

(a) EL TORO WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 113 et seq.), the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico that were proposed for wilderness classification in the revised land and resource management plan for the Caribbean National Forest/Luquillo Experimental Forest, approved April 17, 1997, are hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System. The designated lands shall be known as the El Toro Wilderness.

(b) WILDERNESS BOUNDARIES.—The El Toro Wilderness shall consist of those lands that were proposed for wilderness classification in the management plan referred to in subsection (a), except that the Secretary of Agriculture shall locate the boundaries of the wilderness area so that existing municipal water intakes will not be within the wilderness boundaries and the boundaries shall be located at least 600 feet west of Highway PR 191 from Kilometer 6.5 to Kilometer 12.0.

(c) MAP AND DESCRIPTION.—

(1) PREPARATION AND SUBMISSION.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall prepare a map and a boundary description of the El Toro Wilderness and submit the map and boundary description to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The map and boundary description shall be on file and available for public inspection in the office of the Chief of the Forest Service.

(2) TREATMENT.—The map and boundary description prepared under paragraph (1) shall have the same force and effect as if included in this Act. The Secretary may correct clerical and typographical errors in the map and description.

(d) ADMINISTRATION.—Subject to valid existing rights, the Secretary of Agriculture shall administer the El Toro Wilderness in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act. With respect to the El Toro Wilderness , any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of the enactment of this Act.

(e) SPECIAL MANAGEMENT CONSIDERATIONS.—Designation of the El Toro Wilderness, and the applicability of the Wilderness Act to the wilderness area, shall not be construed to prevent any of the following activities, subject to such conditions as the Secretary of Agriculture considers desirable, within the boundaries of the wilderness area:

(1) Installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and transmission facilities, or any combination of such facilities, when the Secretary determines that such facilities are essential to the scientific research purposes of the Luquillo Experimental Forest.

(2) Construction and maintenance of nesting structures, observation blinds, and population monitoring platforms for threatened and endangered species.

(3) Construction and maintenance of trails to such facilities as necessary for research purposes and for the recovery of threatened and endangered species.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The text of the committee amendment is as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Caribbean National Forest Wilderness Act of 2002".

SEC. 2. WILDERNESS DESIGNATION, CARIBBEAN NATIONAL FOREST, PUERTO RICO.

(a) EL TORO WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 113 et seq.), the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico that were proposed for wilderness classification in the revised land and resource management plan for the Caribbean National Forest/Luquillo Experimental Forest, approved April 17, 1997, are hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System. The designated lands shall be known as the El Toro Wilderness.

(b) WILDERNESS BOUNDARIES.—The El Toro Wilderness shall consist of those lands that were proposed for wilderness classification in the management plan referred to in subsection (a), except that the Secretary of Agriculture shall locate the boundaries of the wilderness area so that existing municipal water intakes will not be within the wilderness boundaries and the boundaries shall be located at least 600 feet west of Highway PR 191 from Kilometer 6.5 to Kilometer 12.0.

(c) MAP AND DESCRIPTION.—

(1) PREPARATION AND SUBMISSION.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall prepare a map and a boundary description of the El Toro Wilderness and submit the map and boundary description to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The map and boundary description shall be on file and available for public inspection in the office of the Chief of the Forest Service.

(2) TREATMENT.—The map and boundary description prepared under paragraph (1) shall have the same force and effect as if included in this Act. The Secretary may correct clerical and typographical errors in the map and description.

(d) ADMINISTRATION.—Subject to valid existing rights, the Secretary of Agriculture shall administer the El Toro Wilderness in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act. With respect to the El Toro Wilderness, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of the enactment of this Act.

(e) SPECIAL MANAGEMENT CONSIDERATIONS.—Designation of the El Toro Wilderness, and the applicability of the Wilderness Act to the wilderness area, shall not be construed to prevent any of the following activities, subject to such conditions as the Secretary of Agriculture considers desirable, within the boundaries of the wilderness area:

(1) Installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and transmission facilities, or any combination of such facilities, when the Secretary determines that—

(A) such facilities are essential to the scientific research purposes of the Luquillo Experimental Forest; and

(B) the scale and scope of the facility development are not detrimental to the wilderness characteristics of the wilderness area.

(2) Construction and maintenance of nesting structures, observation blinds, and population monitoring platforms for threatened and endangered species.

(3) Construction and maintenance of trails to such facilities as necessary for research purposes and for the recovery of threatened and endangered species.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HYDROGRAPHIC SERVICES IMPROVEMENT ACT AMENDMENTS OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 4883) to reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4883

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This title may be cited as the "Hydrographic Services Improvement Act Amendments of 2002".

SEC. 2. DEFINITIONS.

Section 302 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892) is amended—

(1) in paragraph (3) by inserting "geospatial or geomagnetic" after "geodetic"; and

(2) in paragraph (4) by inserting "geospatial, geomagnetic," after "geodetic,".

SEC. 3. FUNCTIONS OF ADMINISTRATOR.

(a) HYDROGRAPHIC MONITORING SYSTEMS.—Section 303(b)(4) of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892a(b)(4)) is amended to read as follows:

"(4) shall design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency.".

(b) CONSERVATION AND MANAGEMENT OF COASTAL AND OCEAN RESOURCES.—Section 303 of such Act (33 U.S.C. 892a) is further amended by adding at the end the following:

"(c) CONSERVATION AND MANAGEMENT OF COASTAL AND OCEAN RESOURCES.—Where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, the Secretary may use hydrographic data and services to support the conservation and management of coastal and ocean resources.".

SEC. 4. QUALITY ASSURANCE PROGRAM.

(a) IN GENERAL.—Section 304(b)(1) of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892b(1)) is amended to read as follows:

"(1) IN GENERAL.—The Administrator—

"(A) by not later than 2 years after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, shall, subject to the availability of appropriations, develop and implement a quality assurance program that is equally available to all applicants, under which the Administrator may certify hydrographic products that satisfy the standards promulgated by the Administrator under section 303(a)(3) of this Act;

"(B) may authorize the use of the emblem or any trademark of the Administration on a hydrographic product certified under subparagraph (A); and

"(C) may charge a fee for such certification and use.".

(b) ACCEPTANCE AND RECOGNITION OF CERTIFICATIONS.—Section 304(b) of such Act (33 U.S.C. 892b(b)) is amended by adding at the end the following:

"(3) ACCEPTANCE AND RECOGNITION OF CERTIFICATIONS.—The Administrator shall, to the maximum extent practicable, assure that any international organizations and agreements to which the United States is a party which affect hydrographic products and nautical charts accept or recognize, respectively, hydrographic products certified by the Administrator under this subsection.".

SEC. 5. HYDROGRAPHIC SERVICES REVIEW PANEL.

Section 305 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892c) is amended to read as follows:

"SEC. 305. HYDROGRAPHIC SERVICES REVIEW PANEL.

"(a) ESTABLISHMENT.—No later than 1 year after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, the Secretary shall establish the Hydrographic Services Review Panel.

"(b) DUTIES.—

"(1) IN GENERAL.—The panel shall advise the Administrator on matters related to the responsibilities and authorities set forth in section 303 of this Act and such other appropriate matters as the Administrator refers to the panel for review and advice.

"(2) ADMINISTRATIVE RESOURCES.—The Administrator shall make available to the panel such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—

"(A) The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Director of the Joint Hydrographic Institute and no more than 2 employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as nonvoting members of the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields relating to hydrographic surveying, tide, current geodetic and geospatial measurement, marine transportation, port administration, vessel pilotage, and coastal and fishery management.

"(B) An individual may not be appointed as a voting member of the panel if the individual is a full-time officer or employee of the United States.

"(C) Any voting member of the panel who is an applicant for, or beneficiary (as determined by the Secretary) of, any assistance under this Act shall disclose to the panel that relationship, and may not vote on any matter pertaining to that assistance.

"(2) TERMS.—

"(A) The term of office of a voting member of the panel shall be 4 years, except that of the original appointees, five shall be appointed for a term of 2 years, five shall be appointed for a term of 3 years, and five shall be appointed for a term of 4 years, as specified by the Administrator at the time of appointment.

"(B) Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office.

"(3) NOMINATIONS.—At least once each year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel.

"(4) CHAIRMAN AND VICE CHAIRMAN.—

"(A) The panel shall select one voting member to serve as the Chairman and another voting member to serve as the Vice Chairman.

"(B) The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

"(d) COMPENSATION.—Voting members of the panel shall—

"(1) receive compensation at a rate established by the Secretary, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when actually engaged in the performance of duties for such panel; and

"(2) be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

"(e) MEETINGS.—The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Secretary.

"(f) POWERS.—The panel may exercise such powers as are reasonably necessary in order to carry out its duties under subsection (b).".

SEC. 6. PLAN REGARDING PHOTOGRAMMETRY AND REMOTE SENSING.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator of the National Oceanic and Atmospheric Administration shall submit to the Congress a plan for increasing, consistent with this Act, contracting with the private sector for photogrammetric, remote sensing, and other geospatial reference services related to hydrographic data acquisition or hydrographic services activities performed by the National Ocean Service. In preparing the plan, the Administrator shall consult with private sector entities knowledgeable in photogrammetry and remote sensing.

(b) CONTENTS.—The plan shall include the following:

(1) An assessment of which of the photogrammetric, remote sensing, and other geospatial reference services related to hydrographic data acquisition or hydrographic services activities performed by the National Ocean Service can be performed adequately by private-sector entities.

(2) An evaluation of the relative cost-effectiveness of the Federal Government and private-sector entities in performing those activities.

(3) A strategy for enhancing and improving the acquisition and contract management capabilities of the National Oceanic and Atmospheric Administration to assist in the utilization of private sector entities for photogrammetric, remote sensing and other geospatial reference services related to hydrographic data acquisition or hydrographic services activities performed by the National Ocean Service, including—

(A) the transfer and retraining of personnel to become contracting officer technical representatives;

(B) education in the use of the procedures described in section 303(b)(3) of the Hydrographic Services Improvement Act of 1998, as amended by this Act; and

(C) the utilization of training, education, and acquisition and contract management capabilities of other Federal agencies that are expert and experienced in contracting for such services.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 306 of such Act (33 U.S.C. 892d) is amended to read as follows:

"SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Administrator the following:

"(1) To carry out nautical mapping and charting functions under sections 303 and 304 of this Act, except for conducting hydrographic surveys—

"(A) $50,000,000 for fiscal year 2003;

"(B) $55,000,000 for fiscal year 2004;

"(C) $60,000,000 for fiscal year 2005;

"(D) $65,000,000 for fiscal year 2006; and

"(E) $70,000,000 for fiscal year 2007.

"(2) To contract for hydrographic surveys under section 303(d)(1), including the leasing or time chartering of vessels—

"(A) $40,000,000 for fiscal year 2003;

"(B) $42,500,000 for fiscal year 2004;

"(C) $45,000,000 for fiscal year 2005;

"(D) $47,500,000 for fiscal year 2006; and

"(E) $50,000,000 for fiscal year 2007.

"(3) To carry out geodetic functions under this title—

"(A) $27,500,000 for fiscal year 2003;

"(B) $30,000,000 for fiscal year 2004;

"(C) $32,500,000 for fiscal year 2005;

"(D) $35,000,000 for fiscal year 2006; and

"(E) $35,500,000 for fiscal year 2007.

"(4) To carry out tide and current measurement functions under this title—

"(A) $25,000,000 for fiscal year 2003;

"(B) $27,500,000 for fiscal year 2004;

"(C) $30,000,000 for fiscal year 2005;

"(D) $32,500,000 for fiscal year 2006; and

"(E) $35,000,000 for fiscal year 2007.

"(5) To carry out activities authorized under this title that enhance homeland security, including electronic navigation charts, hydrographic surveys, real time tide and current measurements, and geodetic functions, in addition to other amounts authorized by this section, $50,000,000.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Speaker, I offer an amendment in the nature of a substitute in lieu of the committee amendment.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. HANSEN:

Strike all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—NOAA HYDROGRAPHIC SERVICES IMPROVEMENT

Sec. 101. Short title; references.
Sec. 102. Definitions.
Sec. 103. Functions of Administrator.
Sec. 104. Quality assurance program.
Sec. 105. Hydrographic Services Review Panel.
Sec. 106. Authorization of appropriations.

TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS

Sec. 201. Short title.

SUBTITLE A—GENERAL PROVISIONS

Sec. 211. Commissioned officer corps.
Sec. 212. Definitions.
Sec. 213. Authorized number on the active list.
Sec. 214. Strength and distribution in grade.
Sec. 215. Authorized number for fiscal years 2003 through 2005.

SUBTITLE B—APPOINTMENT AND PROMOTION OF OFFICERS

Sec. 221. Original appointments.
Sec. 222. Personnel boards.
Sec. 223. Promotion of ensigns to grade of lieutenant (junior grade).
Sec. 224. Promotion by selection to permanent grades above lieutenant (junior grade).

Sec. 225. Length of service for promotion purposes.
Sec. 226. Appointments and promotions to permanent grades.
Sec. 227. General qualification of officers for promotion to higher permanent grade.
Sec. 228. Positions of importance and responsibility.
Sec. 229. Temporary appointments and promotions generally.
Sec. 230. Temporary appointment or advancement of commissioned officers in time of war or national emergency.
Sec. 231. Pay and allowances; date of acceptance of promotion.
Sec. 232. Service credit as deck officer or junior engineer for promotion purposes.
Sec. 233. Suspension during war or emergency.

SUBTITLE C—SEPARATION AND RETIREMENT OF OFFICERS

Sec. 241. Involuntary retirement or separation.
Sec. 242. Separation pay.
Sec. 243. Mandatory retirement for age.
Sec. 244. Retirement for length of service.
Sec. 245. Computation of retired pay.
Sec. 246. Retired grade and retired pay.
Sec. 247. Retired rank and pay held pursuant to other laws unaffected.
Sec. 248. Continuation on active duty; deferral of retirement.
Sec. 249. Recall to active duty.

SUBTITLE D—SERVICE OF OFFICERS WITH THE MILITARY DEPARTMENTS

Sec. 251. Cooperation with and transfer to military departments.
Sec. 252. Relative rank of officers when serving with Army, Navy, or Air Force.
Sec. 253. Rules and regulations when cooperating with military departments.

SUBTITLE E—RIGHTS AND BENEFITS

Sec. 261. Applicability of certain provisions of title 10, United States Code.
Sec. 262. Eligibility for veterans benefits and other rights, privileges, immunities, and benefits under certain provisions of law.
Sec. 263. Medical and dental care.
Sec. 264. Commissary privileges.
Sec. 265. Authority to use appropriated funds for transportation and reimbursement of certain items.
Sec. 266. Presentation of United States flag upon retirement.

SUBTITLE F—REPEALS AND CONFORMING AMENDMENTS

Sec. 271. Repeals.
Sec. 272. Conforming amendments.

TITLE III—VARIOUS FISHERIES CONSERVATION REAUTHORIZATIONS

Sec. 301. Short title.
Sec. 302. Reauthorization and amendment of the Interjurisdictional Fisheries Act of 1986.
Sec. 303. Reauthorization and amendment of the Anadromous Fish Conservation Act.
Sec. 304. Reauthorization of the Atlantic Tunas Convention Act of 1975.
Sec. 305. Reauthorization of the Northwest Atlantic Fisheries Convention Act of 1995.
Sec. 306. Extension of deadline.

TITLE IV—MISCELLANEOUS

Sec. 401. Chesapeake Bay Office.
Sec. 402. Conveyance of NOAA laboratory in Tiburon, California.
Sec. 403. Emergency assistance for subsistence whale hunters.

TITLE I—NOAA HYDROGRAPHIC SERVICES IMPROVEMENT

SEC. 101. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Hydrographic Services Improvement Act Amendments of 2002".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892 et seq.).

SEC. 102. DEFINITIONS.

Section 302 (33 U.S.C. 892) is amended—

(1) in paragraph (3) by inserting ", geospatial, or geomagnetic" after "geodetic"; and

(2) in paragraph (4) by inserting "geospatial, geomagnetic" after "geodetic,".

SEC. 103. FUNCTIONS OF ADMINISTRATOR.

(a) HYDROGRAPHIC MONITORING SYSTEMS.—Section 303(b)(4) (33 U.S.C. 892a(b)(4)) is amended to read as follows:

"(4) shall, subject to the availability of appropriations, design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency.".

(b) CONSERVATION AND MANAGEMENT OF COASTAL AND OCEAN RESOURCES.—Section 303 (33 U.S.C. 892a) is further amended by adding at the end the following:

"(c) CONSERVATION AND MANAGEMENT OF COASTAL AND OCEAN RESOURCES.—Where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, the Secretary may use hydrographic data and services to support the conservation and management of coastal and ocean resources.".

SEC. 104. QUALITY ASSURANCE PROGRAM.

(a) IN GENERAL.—Section 304(b)(1) (33 U.S.C. 892b(b)(1)) is amended to read as follows:

"(1) IN GENERAL.—The Administrator—

"(A) by not later than 2 years after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, shall, subject to the availability of appropriations, develop and implement a quality assurance program that is equally available to all applicants, under which the Administrator may certify hydrographic products that satisfy the standards promulgated by the Administrator under section 303(a)(3) of this Act;

"(B) may authorize the use of the emblem or any trademark of the Administration on a hydrographic product certified under subparagraph (A); and

"(C) may charge a fee for such certification and use.".

SEC. 105. HYDROGRAPHIC SERVICES REVIEW PANEL.

Section 305 (33 U.S.C. 892c) is amended to read as follows:

"SEC. 305. HYDROGRAPHIC SERVICES REVIEW PANEL.

"(a) ESTABLISHMENT.—No later than 1 year after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, the Secretary shall establish the Hydrographic Services Review Panel.

"(b) DUTIES.—

"(1) IN GENERAL.—The panel shall advise the Administrator on matters related to the responsibilities and authorities set forth in section 303 of this Act and such other appropriate matters as the Administrator refers to the panel for review and advice.

"(2) ADMINISTRATIVE RESOURCES.—The Administrator shall make available to the panel such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—

"(A) The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Director of the Joint Hydrographic Institute and no more than 2 employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as nonvoting members of the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields relating to hydrographic surveying, tide, current geodetic and geospatial measurement, marine transportation, port administration, vessel pilotage, and coastal and fishery management.

"(B) An individual may not be appointed as a voting member of the panel if the individual is a full-time officer or employee of the United States.

"(C) Any voting member of the panel who is an applicant for, or beneficiary (as determined by the Secretary) of, any assistance under this Act shall disclose to the panel that relationship, and may not vote on any matter pertaining to that assistance.

"(2) TERMS.—

"(A) The term of office of a voting member of the panel shall be 4 years, except that of the original appointees, five shall be appointed for a term of 2 years, five shall be appointed for a term of 3 years, and five shall be appointed for a term of 4 years, as specified by the Administrator at the time of appointment.

"(B) Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office.

"(3) NOMINATIONS.—At least once each year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel.

"(4) CHAIRMAN AND VICE CHAIRMAN.—

"(A) The panel shall select one voting member to serve as the Chairman and another voting member to serve as the Vice Chairman.

"(B) The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

"(d) COMPENSATION.—Voting members of the panel shall—

"(1) receive compensation at a rate established by the Secretary, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when actually engaged in the performance of duties for such panel; and

"(2) be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

"(e) MEETINGS.—The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Secretary.

"(f) POWERS.—The panel may exercise such powers as are reasonably necessary in order to carry out its duties under subsection (b).".

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

Section 306 (33 U.S.C. 892d) is amended to read as follows:

"SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Administrator the following:

"(1) To carry out nautical mapping and charting functions under sections 303 and 304 of this Act, except for conducting hydrographic surveys—

"(A) $50,000,000 for fiscal year 2003;
"(B) $55,000,000 for fiscal year 2004;
"(C) $60,000,000 for fiscal year 2005;
"(D) $65,000,000 for fiscal year 2006; and
"(E) $70,000,000 for fiscal year 2007.

"(2) To contract for hydrographic surveys under section 303(b)(1), including the leasing or time chartering of vessels—

"(A) $40,000,000 for fiscal year 2003;
"(B) $42,500,000 for fiscal year 2004;
"(C) $45,000,000 for fiscal year 2005;
"(D) $47,500,000 for fiscal year 2006; and
"(E) $50,000,000 for fiscal year 2007.

"(3) To operate hydrographic survey vessels owned by the United States and operated by the Administration—

"(A) $14,000,000 for fiscal year 2003;
"(B) $18,000,000 for fiscal year 2004; and
"(C) $21,000,000 for fiscal years 2005 through 2007.

"(4) To carry out geodetic functions under this title—

"(A) $27,500,000 for fiscal year 2003;
"(B) $30,000,000 for fiscal year 2004;
"(C) $32,500,000 for fiscal year 2005;
"(D) $35,000,000 for fiscal year 2006; and
"(E) $35,500,000 for fiscal year 2007.

"(5) To carry out tide and current measurement functions under this title—

"(A) $25,000,000 for fiscal year 2003;
"(B) $27,500,000 for fiscal year 2004;
"(C) $30,000,000 for fiscal year 2005;
"(D) $32,500,000 for fiscal year 2006; and
"(E) $35,000,000 for fiscal year 2007.

"(6) To carry out activities authorized under this title that enhance homeland security, including electronic navigation charts, hydrographic surveys, real time tide and current measurements, and geodetic functions, in addition to other amounts authorized by this section, $20,000,000.".

TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS

SEC. 201. SHORT TITLE.

This title may be cited as the "National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002".

Subtitle A—General Provisions

SEC. 211. COMMISSIONED OFFICER CORPS.

There shall be in the National Oceanic and Atmospheric Administration a commissioned officer corps.

SEC. 212. DEFINITIONS.

(a) APPLICABILITY OF DEFINITIONS IN TITLE 10, UNITED STATES CODE.—Except as provided in subsection (b), the definitions provided in section 101 of title 10, United States Code, apply to the provisions of this title.

(b) ADDITIONAL DEFINITIONS.—In this title:

(1) ACTIVE DUTY.—The term "active duty" means full-time duty in the active service of a uniformed service.

(2) GRADE.—The term "grade" means a step or degree, in a graduated scale of office or rank, that is established and designated as a grade by law or regulation.

(3) OFFICER.—The term "officer" means an officer of the commissioned corps.

(4) FLAG OFFICER.—The term "flag officer" means an officer serving in, or having the grade of, vice admiral, rear admiral, or rear admiral (lower half).

(5) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(6) ADMINISTRATION.—The term "Administration" means the National Oceanic and Atmospheric Administration.

SEC. 213. AUTHORIZED NUMBER ON THE ACTIVE LIST.

(a) ANNUAL STRENGTH ON ACTIVE LIST.—The annual strength of the commissioned corps in officers on the lineal list of active duty officers of the corps shall be prescribed by law.

(b) LINEAL LIST.—The Secretary shall maintain a list, known as the "lineal list", of officers on active duty. Officers shall be carried on the lineal list by grade and, within grade, by seniority in grade.

SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE.

(a) RELATIVE RANK; PROPORTION.—Of the total authorized number of officers on the lineal list of the commissioned corps, there are authorized numbers in permanent grade, in relative rank with officers of the Navy, in proportions as follows:

(1) 8 in the grade of captain.
(2) 14 in the grade of commander.
(3) 19 in the grade of lieutenant commander.
(4) 23 in the grade of lieutenant.
(5) 18 in the grade of lieutenant (junior grade).
(6) 18 in the grade of ensign.

(b) COMPUTATION OF NUMBER IN GRADE.—

(1) IN GENERAL.—Subject to paragraph (2), whenever a final fraction occurs in computing the authorized number of officers in a grade, the nearest whole number shall be taken, and if the fraction is one-half the next higher whole number shall be taken.

(2) LIMITATION ON INCREASE IN TOTAL NUMBER.—The total number of officers on the lineal list authorized by law may not be increased as the result of the computations prescribed in this section, and if necessary the number of officers in the lowest grade shall be reduced accordingly.

(c) PRESERVATION OF GRADE AND PAY, ETC.—No officer may be reduced in grade or pay or separated from the commissioned corps as the result of a computation made to determine the authorized number of officers in the various grades.

(d) FILLING OF VACANCIES; ADDITIONAL NUMBERS.—Nothing in this section may be construed as requiring the filling of any vacancy or as prohibiting additional numbers in any grade to compensate for vacancies existing in higher grades.

(e) TEMPORARY INCREASE IN NUMBERS.—The total number of officers authorized by law to be on the lineal list during a fiscal year may be temporarily exceeded so long as the average number on that list during that fiscal year does not exceed the authorized number.

SEC. 215. AUTHORIZED NUMBER FOR FISCAL YEARS 2003 THROUGH 2005.

There are authorized to be on the lineal list of the commissioned corps of the National Oceanic and Atmospheric Administration—

(1) 270 officers for fiscal year 2003;
(2) 285 officers for fiscal year 2004; and
(3) 299 officers for fiscal year 2005.

Subtitle B—Appointment and Promotion of Officers

SEC. 221. ORIGINAL APPOINTMENTS.

(a) IN GENERAL.—

(1) GRADES.—Original appointments may be made in the grades of ensign, lieutenant (junior grade), and lieutenant.

(2) QUALIFICATIONS.—Under regulations prescribed by the Secretary, such an appointment may be given only to a person who—

(A) meets the qualification requirements specified in paragraphs (1) through (4) of section 532(a) of title 10, United States Code; and

(B) has such other special qualifications as the Secretary may prescribe by regulation.

(3) EXAMINATION.—A person may be given such an appointment only after passage of a mental and physical examination given in accordance with regulations prescribed by the Secretary.

(4) REVOCATION OF COMMISSION OF OFFICERS FOUND NOT QUALIFIED.—The President may revoke the commission of any officer appointed under this section during the officer's first three years of service if the officer is found not qualified for the service. Any such revocation shall be made under regulations prescribed by the President.

(b) LINEAL LIST.—Each person appointed under this section shall be placed on the lineal list in a position commensurate with that person's age, education, and experience, in accordance with regulations prescribed by the Secretary.

(c) SERVICE CREDIT UPON ORIGINAL APPOINTMENT IN GRADE ABOVE ENSIGN.—

(1) IN GENERAL.—For the purposes of basic pay, a person appointed under this section in the grade of lieutenant shall be credited as having, on the date of that appointment, three years of service, and a person appointed under this section in the grade of lieutenant (junior grade) shall be credited as having, as of the date of that appointment, 1½ years of service.

(2) HIGHER CREDIT UNDER OTHER LAW.—If a person appointed under this section is entitled to credit for the purpose of basic pay under any other provision of law that would exceed the amount of credit authorized by paragraph (1), that person shall be credited with that amount of service in lieu of the credit authorized by paragraph (1).

SEC. 222. PERSONNEL BOARDS.

(a) CONVENING.—At least once a year and at such other times as the Secretary determines necessary, the Secretary shall convene a personnel board. A personnel board shall consist of not less than five officers on the lineal list in the permanent grade of commander or above.

(b) DUTIES.—Each personnel board shall—

(1) recommend to the Secretary such changes in the lineal list as the board may determine; and

(2) make selections and recommendations to the Secretary and President for the appointment, promotion, separation, continuation, and retirement of officers as prescribed in this subtitle and subtitle C.

(c) ACTION ON RECOMMENDATIONS NOT ACCEPTABLE.—In a case in which any recommendation by a board convened under subsection (a) is not accepted by the Secretary or the President, the board shall make such further recommendations as are acceptable.

SEC. 223. PROMOTION OF ENSIGNS TO GRADE OF LIEUTENANT (JUNIOR GRADE).

(a) IN GENERAL.—An officer in the permanent grade of ensign shall be promoted to and appointed in the grade of lieutenant (junior grade) upon completion of three years of service. The authorized number of officers in the grade of lieutenant (junior grade) shall be temporarily increased as necessary to authorize such appointment.

(b) SEPARATION OF ENSIGNS FOUND NOT FULLY QUALIFIED.—If an officer in the permanent grade of ensign is at any time found not fully qualified, the officer's commission shall be revoked and the officer shall be separated from the commissioned service.

SEC. 224. PROMOTION BY SELECTION TO PERMANENT GRADES ABOVE LIEUTENANT (JUNIOR GRADE).

Promotion to fill vacancies in each permanent grade above the grade of lieutenant (junior grade) shall be made by selection from the next lower grade upon recommendation of the personnel board.

SEC. 225. LENGTH OF SERVICE FOR PROMOTION PURPOSES.

(a) GENERAL RULE.—Each officer shall be assumed to have, for promotion purposes, at least the same length of service as any other officer below that officer on the lineal list.

(b) EXCEPTION.—Notwithstanding subsection (a), an officer who has lost numbers shall be assumed to have, for promotion purposes, no greater service than the officer next above such officer in such officer's new position on the lineal list.

SEC. 226. APPOINTMENTS AND PROMOTIONS TO PERMANENT GRADES.

Appointments in and promotions to all permanent grades shall be made by the President, by and with the advice and consent of the Senate.

SEC. 227. GENERAL QUALIFICATION OF OFFICERS FOR PROMOTION TO HIGHER PERMANENT GRADE.

No officer may be promoted to a higher permanent grade on the active list until the officer has passed a satisfactory mental and physical examination in accordance with regulations prescribed by the Secretary.

SEC. 228. POSITIONS OF IMPORTANCE AND RESPONSIBILITY.

(a) DESIGNATION OF POSITIONS.—The Secretary may designate positions in the Administration as being positions of importance and responsibility for which it is appropriate that officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or rear admiral (lower half), as designated by the Secretary for each position.

(b) ASSIGNMENT OF OFFICERS TO DESIGNATED POSITIONS.—The Secretary may assign officers to positions designated under subsection (a).

(c) DIRECTOR OF NOAA CORPS AND OFFICE OF MARINE AND AVIATION OPERATIONS.—The Secretary shall designate one position under this section as responsible for oversight of the vessel and aircraft fleets and for the administration of the commissioned officer corps. That position shall be filled by an officer on the lineal list serving in or above the grade of rear admiral (lower half). For the specific purpose of administering the commissioned officer corps, that position shall carry the title of Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps. For the specific purpose of administering the vessel and aircraft fleets, that position shall carry the title of Director of the Office of Marine and Aviation Operations.

(d) GRADE.—

(1) TEMPORARY APPOINTMENT TO GRADE DESIGNATED FOR POSITION.—An officer assigned to a position under this section while so serving has the grade designated for that position, if appointed to that grade by the President, by and with the advice and consent of the Senate.

(2) REVERSION TO PERMANENT GRADE.—An officer who has served in a grade above captain, upon termination of the officer's assignment to the position for which that appointment was made, shall, unless appointed or assigned to another position for which a higher grade is designated, revert to the grade and number the officer would have occupied but for serving in a grade above that of captain. In such a case, the officer shall be an extra number in that grade.

(e) NUMBER OF OFFICERS APPOINTED.—

(1) OVERALL LIMIT.—The total number of officers serving on active duty at any one time in the grade of rear admiral (lower half) or above may not exceed four.

(2) LIMIT BY GRADE.—The number of officers serving on active duty under appointments under this section may not exceed—

(A) one in the grade of vice admiral;

(B) two in the grade of rear admiral; and

(C) two in the grade of rear admiral (lower half).

(f) PAY AND ALLOWANCES.—An officer appointed to a grade under this section, while serving in that grade, shall have the pay and allowances of the grade to which appointed.

(g) EFFECT OF APPOINTMENT.—An appointment of an officer under this section—

(1) does not vacate the permanent grade held by the officer; and

(2) creates a vacancy on the active list.

SEC. 229. TEMPORARY APPOINTMENTS AND PROMOTIONS GENERALLY.

(a) ENSIGN.—Temporary appointments in the grade of ensign may be made by the President alone. Each such temporary appointment terminates at the close of the next regular session of the Congress unless the Senate sooner gives its advice and consent to the appointment.

(b) LIEUTENANT (JUNIOR GRADE).—Officers in the permanent grade of ensign may be temporarily promoted to and appointed in the grade of lieutenant (junior grade) by the President alone whenever vacancies exist in higher grades.

(c) ANY ONE GRADE.—When determined by the Secretary to be in the best interest of the service, officers in any permanent grade may be temporarily promoted one grade by the President alone. Any such temporary promotion terminates upon the transfer of the officer to a new assignment.

SEC. 230. TEMPORARY APPOINTMENT OR ADVANCEMENT OF COMMISSIONED OFFICERS IN TIME OF WAR OR NATIONAL EMERGENCY.

(a) IN GENERAL.—Officers of the Administration shall be subject in like manner and to the same extent as personnel of the Navy to all laws authorizing temporary appointment or advancement of commissioned officers in time of war or national emergency.

(b) LIMITATIONS.—Subsection (a) shall be applied subject to the following limitations:

(1) A commissioned officer in the service of a military department under section 251 may, upon the recommendation of the Secretary of the military department concerned, be temporarily promoted to a higher rank or grade.

(2) A commissioned officer in the service of the Administration may be temporarily promoted to fill vacancies in ranks and grades caused by the transfer of commissioned officers to the service and jurisdiction of a military department under section 251.

(3) Temporary appointments may be made in all grades to which original appointments in the Administration are authorized, except that the number of officers holding temporary appointments may not exceed the number of officers transferred to a military department under section 251.

SEC. 231. PAY AND ALLOWANCES; DATE OF ACCEPTANCE OF PROMOTION.

(a) ACCEPTANCE AND DATE OF PROMOTION.—An officer of the commissioned corps who is promoted to a higher grade—

(1) is deemed for all purposes to have accepted the promotion upon the date the promotion is made by the President, unless the officer expressly declines the promotion; and

(2) shall receive the pay and allowances of the higher grade from that date unless the officer is entitled under another provision of law to receive the pay and allowances of the higher grade from an earlier date.

(b) OATH OF OFFICE.—An officer who subscribed to the oath of office required by section 3331 of title 5, United States Code, shall not be required to renew such oath or to take a new oath upon promotion to a higher grade, if the service of the officer after the taking of such oath is continuous.

SEC. 232. SERVICE CREDIT AS DECK OFFICER OR JUNIOR ENGINEER FOR PROMOTION PURPOSES.

For purposes of promotion, there shall be counted in addition to active commissioned service, service as deck officer or junior engineer.

SEC. 233. SUSPENSION DURING WAR OR EMERGENCY.

In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in the President's discretion, to suspend the operation of all or any part of the provisions of law pertaining to promotion of commissioned officers of the Administration.

Subtitle C—Separation and Retirement of Officers

SEC. 241. INVOLUNTARY RETIREMENT OR SEPARATION.

(a) TRANSFER OF OFFICERS TO RETIRED LIST; SEPARATION FROM SERVICE.—As recommended by a personnel board convened under section 222—

(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

(b) COMPUTATIONS.—In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest 4 percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

(c) EFFECTIVE DATE OF RETIREMENTS AND SEPARATIONS.—A retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary approves the retirement or separation, except that if the officer concerned requests an earlier retirement or separation date, the date shall be as determined by the Secretary.

SEC. 242. SEPARATION PAY.

(a) AUTHORIZATION OF PAYMENT.—An officer who is separated under section 241(a)(2) and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary determines that the conditions under which the officer is separated do not warrant payment of that pay.

(b) AMOUNT OF SEPARATION PAY.—

(1) SIX OR MORE YEARS.—In the case of an officer who has completed six or more years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is 10 percent of the product of—

(A) the years of active service creditable to the officer; and

(B) 12 times the monthly basic pay to which the officer was entitled at the time of separation.

(2) THREE TO SIX YEARS.—In the case of an officer who has completed three or more but fewer than six years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is one-half of the amount computed under paragraph (1).

(c) OTHER CONDITIONS, REQUIREMENTS, AND ADMINISTRATIVE PROVISIONS.—The provisions of subsections (f), (g), and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section in the same manner as such provisions apply to separation pay under that section.

SEC. 243. MANDATORY RETIREMENT FOR AGE.

(a) OFFICERS BELOW GRADE OF REAR ADMIRAL (LOWER HALF).—Unless retired or separated earlier, each officer on the lineal list of the commissioned corps who is serving in a grade below the grade of rear admiral (lower half) shall be retired on the first day of the month following the month in which the officer becomes 62 years of age.

(b) FLAG OFFICERS.—Notwithstanding subsection (a), the President may defer the retirement of an officer serving in a position that carries a grade above captain for such period as the President considers advisable, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 64 years of age.

SEC. 244. RETIREMENT FOR LENGTH OF SERVICE.

An officer who has completed 20 years of service, of which at least 10 years was service as a commissioned officer, may at any time thereafter, upon application by such officer and in the discretion of the President, be placed on the retired list.

SEC. 245. COMPUTATION OF RETIRED PAY.

(a) OFFICERS FIRST BECOMING MEMBERS BEFORE SEPTEMBER 8, 1980.—Each officer on the retired list who first became a member of a uniformed service before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1406(g) of title 10, United States Code; by

(2) 2½ percent of the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

The retired pay so computed may not exceed 75 percent of the retired pay base.

(b) OFFICERS FIRST BECOMING MEMBERS ON OR AFTER SEPTEMBER 8, 1980.—Each officer on the retired list who first became a member of a uniformed service on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1407 of title 10, United States Code; by

(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

(c) TREATMENT OF FULL AND FRACTIONAL PARTS OF MONTHS IN COMPUTING YEARS OF SERVICE.—

(1) IN GENERAL.—In computing the number of years of service of an officer for the purposes of subsection (a)—

(A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as 1/12 of a year; and

(B) any remaining fractional part of a month shall be disregarded.

(2) ROUNDING.—Retired pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

SEC. 246. RETIRED GRADE AND RETIRED PAY.

Each officer retired pursuant to law shall be placed on the retired list with the highest grade satisfactorily held by that officer while on active duty including active duty pursuant to recall, under permanent or temporary appointment, and shall receive retired pay based on such highest grade, if—

(1) the officer's performance of duty in such highest grade has been satisfactory, as determined by the Secretary of the department or departments under whose jurisdiction the officer served; and

(2) unless retired for disability, the officer's length of service in such highest grade is no less than that required by the Secretary of officers retiring under permanent appointment in that grade.

SEC. 247. RETIRED RANK AND PAY HELD PURSUANT TO OTHER LAWS UNAFFECTED.

Nothing in this subtitle shall prevent an officer from being placed on the retired list with the highest rank and with the highest retired pay to which the officer is entitled under any other provision of law.

SEC. 248. CONTINUATION ON ACTIVE DUTY; DEFERRAL OF RETIREMENT.

The provisions of subchapter IV of chapter 36 of title 10, United States Code, relating to continuation on active duty and deferral of retirement shall apply to commissioned officers of the Administration.

SEC. 249. RECALL TO ACTIVE DUTY.

The provisions of chapter 39 of title 10, United States Code, relating to recall of retired officers to active duty, including the limitations on such recalls, shall apply to commissioned officers of the Administration.

Subtitle D—Service of Officers With the Military Departments

SEC. 251. COOPERATION WITH AND TRANSFER TO MILITARY DEPARTMENTS.

(a) TRANSFERS OF RESOURCES AND OFFICERS DURING NATIONAL EMERGENCY.—

(1) TRANSFERS AUTHORIZED.—The President may, whenever in the judgment of the President a sufficient national emergency exists, transfer to the service and jurisdiction of a military department such vessels, equipment, stations, and officers of the Administration as the President considers to be in the best interest of the country.

(2) RESPONSIBILITY FOR FUNDING OF TRANSFERRED RESOURCES AND OFFICERS.—After any such transfer all expenses connected therewith shall be defrayed out of the appropriations for the department to which the transfer is made.

(3) RETURN OF TRANSFERRED RESOURCES AND OFFICERS.—Such transferred vessels, equipment, stations, and officers shall be returned to the Administration when the national emergency ceases, in the opinion of the President.

(4) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as transferring the Administration or any of its functions from the Department of Commerce except in time of national emergency and to the extent provided in this section.

(b) LIMITATION ON TRANSFER OF OFFICERS.—This section does not authorize the transfer of an officer of the Administration to a military department if the accession or retention of that officer in that military department is otherwise not authorized by law.

(c) STATUS OF TRANSFERRED OFFICERS.—An officer of the Administration transferred under this section, shall, while under the jurisdiction of a military department, have proper military status and shall be subject to the laws, regulations, and orders for the government of the Army, Navy, or Air Force, as the case may be, insofar as the same may be applicable to persons whose retention permanently in the military service of the United States is not contemplated by law.

SEC. 252. RELATIVE RANK OF OFFICERS WHEN SERVING WITH ARMY, NAVY, OR AIR FORCE.

When serving with the Army, Navy, or Air Force, an officer of the Administration shall rank with and after officers of corresponding grade in the Army, Navy, or Air Force of the same length of service in grade. Nothing in this subtitle shall be construed to affect or alter an officer's rates of pay and allowances when not assigned to military duty.

SEC. 253. RULES AND REGULATIONS WHEN COOPERATING WITH MILITARY DEPARTMENTS.

(a) JOINT REGULATIONS.—The Secretary of Defense and the Secretary of Commerce shall jointly prescribe regulations—

(1) governing the duties to be performed by the Administration in time of war; and

(2) providing for the cooperation of the Administration with the military departments in time of peace in preparation for its duties in time of war.

(b) APPROVAL.—Regulations under subsection (a) shall not be effective unless approved by each of those Secretaries.

(c) COMMUNICATIONS.—Regulations under subsection (a) may provide procedures for making reports and communications between a military department and the Administration.

Subtitle E—Rights and Benefits

SEC. 261. APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 10, UNITED STATES CODE.

(a) PROVISIONS MADE APPLICABLE TO THE CORPS.—The rules of law that apply to the Armed Forces under the following provisions of title 10, United States Code, as those provisions are in effect from time to time, apply also to the commissioned officer corps of the Administration:

(1) Chapter 40, relating to leave.

(2) Section 533(b), relating to constructive service.

(3) Section 716, relating to transfers between the armed forces and to and from National Oceanic and Atmospheric Administration.

(4) Section 1035, relating to deposits of savings.

(5) Section 1036, relating to transportation and travel allowances for escorts for dependents of members.

(6) Section 1052, relating to reimbursement for adoption expenses.

(7) Section 1174a, relating to special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such purpose and are provided at the discretion of the Secretary of Commerce).

(8) Chapter 61, relating to retirement or separation for physical disability.

(9) Chapter 69, relating to retired grade, except sections 1370, 1375, and 1376.

(10) Chapter 71, relating to computation of retired pay.

(11) Chapter 73, relating to annuities based on retired or retainer pay.

(12) Subchapter II of chapter 75, relating to death benefits.

(13) Section 2634, relating to transportation of motor vehicles for members on permanent change of station.

(14) Sections 2731 and 2735, relating to property loss incident to service.

(15) Section 2771, relating to final settlement of accounts of deceased members.

(16) Such other provisions of subtitle A of that title as may be adopted for applicability to the commissioned officer corps of the National Oceanic and Atmospheric Administration by any other provision of law.

(b) References.—The authority vested by title 10, United States Code, in the "military departments", "the Secretary concerned", or "the Secretary of Defense" with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the commissioned officer corps of the Administration, by the Secretary of Commerce or the Secretary's designee.

SEC. 262. ELIGIBILITY FOR VETERANS BENEFITS AND OTHER RIGHTS, PRIVILEGES, IMMUNITIES, AND BENEFITS UNDER CERTAIN PROVISIONS OF LAW.

(a) In General.—Active service of officers of the Administration shall be deemed to be active military service for the purposes of all rights, privileges, immunities, and benefits under the following:

(1) Laws administered by the Secretary of Veterans Affairs.

(2) The Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C. 501 et seq.).

(3) Section 210 of the Social Security Act (42 U.S.C. 410), as in effect before September 1, 1950.

(b) Exercise of Authority.—In the administration of the laws and regulations referred to in subsection (a), with respect to the Administration, the authority vested in the Secretary of Defense and the Secretaries of the military departments and their respective departments shall be exercised by the Secretary of Commerce.

SEC. 263. MEDICAL AND DENTAL CARE.

The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation.

SEC. 264. COMMISSARY PRIVILEGES.

(a) Extension of Privilege.—Commissioned officers, ships' officers, and members of crews of vessels of the Administration shall be permitted to purchase commissary and quartermaster supplies as far as available from the Armed Forces at the prices charged officers and enlisted members of the Armed Forces.

(b) Sales of Rations, Stores, Uniforms, and Related Equipment.—The Secretary may purchase ration supplies for messes, stores, uniforms, accouterments, and related equipment for sale aboard ship and shore stations of the Administration to members of the uniformed services and to personnel assigned to such ships or shore stations. Sales shall be in accordance with regulations prescribed by the Secretary, and proceeds therefrom shall, as far as is practicable, fully reimburse the appropriations charged without regard to fiscal year.

(c) Surviving Spouses' Rights.—Rights extended to members of the uniformed services in this section are extended to their surviving spouses and to such others as are designated by the Secretary concerned.

SEC. 265. AUTHORITY TO USE APPROPRIATED FUNDS FOR TRANSPORTATION AND REIMBURSEMENT OF CERTAIN ITEMS.

(a) Transportation of Effects of Deceased Officers.—In the case of an officer who dies on active duty, the Secretary may provide, from appropriations made available to the Administration, transportation (including packing, unpacking, crating, and uncrating) of personal and household effects of that officer to the official residence of record of that officer. However, upon application by the dependents of such an officer, such transportation may be provided to such other location as may be determined by the Secretary.

(b) Reimbursement for Supplies Furnished by Officers to Distressed and Shipwrecked Persons.—Under regulations prescribed by the Secretary, appropriations made available to the Administration may be used to reimburse an officer for food, clothing, medicines, and other supplies furnished by the officer—

(1) for the temporary relief of distressed persons in remote localities; or

(2) to shipwrecked persons who are temporarily provided for by the officer.

SEC. 266. PRESENTATION OF UNITED STATES FLAG UPON RETIREMENT.

(a) Presentation of Flag Upon Retirement.—Upon the release of a commissioned officer from active commissioned service for retirement, the Secretary shall present a United States flag to the officer.

(b) Multiple Presentations Not Authorized.—An officer is not eligible for presentation of a flag under subsection (a) if the officer has previously been presented a flag under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) No Cost to Recipient.—The presentation of a flag under this section shall be at no cost to the recipient.

Subtitle F—Repeals and Conforming Amendments

SEC. 271. REPEALS.

The following provisions of law are repealed:

(1) The Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a et seq.).

(2) Section 3 of the Act of August 10, 1956 (33 U.S.C. 857a).

(3) Public Law 91–621 (33 U.S.C. 857–1 et seq.).

(4) Section 16 of the Act of May 22, 1917 (33 U.S.C. 854, 855, 856, 857, and 858).

(5) Section 1 of the Act of July 22, 1947 (33 U.S.C. 874).

(6) Section 11 of the Act entitled "An Act to increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service", enacted May 18, 1920 (33 U.S.C. 864).

(7) Section 636(a)(17) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)(17)).

SEC. 272. CONFORMING AMENDMENTS.

(a) Title 10, United States Code.—Section 1406(g) of title 10, United States Code, is amended by striking "section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o)" and inserting "section 305 of the National Oceanic and Atmospheric Administration Commissioned Officers Act of 2002".

(b) Public Law 104–106.—Section 566(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 328; 10 U.S.C. 1293 note) is amended by striking "the Coast and Geodetic Survey Commissioned Officers' Act of 1948" and inserting "the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002".

TITLE III—VARIOUS FISHERIES CONSERVATION REAUTHORIZATIONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Fisheries Conservation Act of 2002".

SEC. 302. REAUTHORIZATION AND AMENDMENT OF THE INTERJURISDICTIONAL FISHERIES ACT OF 1986.

(a) Reauthorization.—Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by amending subsection (a) to read as follows:

"(a) General Appropriations.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

"(1) $5,400,000 for each of fiscal years 2003 and 2004; and

"(2) $5,900,000 for each of fiscal years 2005 and 2006."; and

(2) in subsection (c) by striking "$700,000 for fiscal year 1997, and $750,000 for each of the fiscal years 1998, 1999, and 2000" and inserting "$850,000 for each of fiscal years 2003 and 2004, and $900,000 for each of fiscal years 2005 and 2006".

(b) Purposes of the Interjurisdictional Fisheries Act of 1986.—Section 302 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4101) is amended by striking "and" after the semicolon at the end of paragraph (1), striking the period at the end of paragraph (2) and inserting "; and", and adding at the end the following:

"(3) to promote and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of interjurisdictional fishery resources throughout their range.".

SEC. 303. REAUTHORIZATION AND AMENDMENT OF THE ANADROMOUS FISH CONSERVATION ACT.

(a) Reauthorization.—Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 4. (a)(1) There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

"(A) $4,750,000 for each of fiscal years 2003 and 2004; and

"(B) $5,000,000 for each of fiscal years 2005 and 2006.

"(2) Sums appropriated under this subsection are authorized to remain available until expended.

"(b) Not more than $625,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.".

(b) Research on and Use of Ecosystems and Interspecies Approaches to Conservation and Management.—The first section of the Anadromous Fish Conservation Act (16 U.S.C. 757a) is amended in subsection (b) by inserting "(1)" after "(b)", and by adding at the end the following:

"(2) In carrying out responsibilities under this section, the Secretary shall conduct, promote, and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of anadromous and Great Lakes fishery resources.".

SEC. 304. REAUTHORIZATION OF THE ATLANTIC TUNAS CONVENTION ACT OF 1975.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 10. (a) In General.—There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in Article X of the Convention, the following sums:

Section 211 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5610) is amended by striking “2001” and inserting “2006”.

SEC. 306. EXTENSION OF DEADLINE.

(a) Extension of Deadline.—The Oceans Act of 2000 (Public Law 106-256) is amended—

(1) in section 3(i) (114 Stat. 648) by striking “30 days” and inserting “90 days”; and

(2) in section 4(a) (114 Stat. 648; 33 U.S.C. 857-19 note) by striking “120 days” and inserting “90 days”.

(b) Authorization of Appropriations.—Section 3(j) of such Act (114 Stat. 648) is amended by striking “$6,000,000” and inserting “$8,500,000”.

(c) Technical Corrections.—Section 3(e) of such Act (114 Stat. 646) is amended—

(1) in paragraph (1) by striking the colon in the third sentence and inserting a period;

(2) by inserting immediately after such period the following:

“(2) Notice; Minutes; Public Availability of Documents.—”; and

(3) by redesignating the subsequent paragraphs in order as paragraphs (3) and (4), respectively.

TITLE IV—MISCELLANEOUS

SEC. 401. CHESAPEAKE BAY OFFICE.

(a) Reauthorization of Office.—Section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d) is amended to read as follows:

“SEC. 307. CHESAPEAKE BAY OFFICE.

“(a) Establishment.—(1) The Secretary of Commerce shall establish, within the National Oceanic and Atmospheric Administration, an office to be known as the Chesapeake Bay Office (in this section referred to as the ‘Office’).

“(2) The Office shall be headed by a Director who shall be appointed by the Secretary of Commerce, in consultation with the Chesapeake Executive Council. Any individual appointed as Director shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

“(3) The Director may appoint such additional personnel for the Office as the Director determines necessary to carry out this section.

“(b) Functions.—The Office, in consultation with the Chesapeake Executive Council, shall—

“(1) provide technical assistance to the Administrator, to other Federal departments and agencies, and to State and local government agencies in—

“(A) assessing the processes that shape the Chesapeake Bay system and affect its living resources;

“(B) identifying technical and management alternatives for the restoration and protection of living resources and the habitats they depend upon; and

“(C) monitoring the implementation and effectiveness of management plans;

“(2) develop and implement a strategy for the National Oceanic and Atmospheric Administration that integrates the science, research, monitoring, data collection, regulatory, and management responsibilities of the Secretary of Commerce in such a manner as to assist the cooperative, intergovernmental Chesapeake Bay Program to meet the commitments of the Chesapeake Bay Agreement;

“(3) coordinate the programs and activities of the various organizations within the National Oceanic and Atmospheric Administration, the Chesapeake Bay Regional Sea Grant Programs, and the Chesapeake Bay units of the National Estuarine Research Reserve System, including—

“(A) programs and activities in—

“(i) coastal and estuarine research, monitoring, and assessment;

“(ii) fisheries research and stock assessments;

“(iii) data management;

“(iv) remote sensing;

“(v) coastal management;

“(vi) habitat conservation and restoration; and

“(vii) atmospheric deposition; and

“(B) programs and activities of the Cooperative Oxford Laboratory of the National Ocean Service with respect to—

“(i) nonindigenous species;

“(ii) estuarine and marine species pathology;

“(iii) human pathogens in estuarine and marine environments; and

“(iv) ecosystem health;

“(4) coordinate the activities of the National Oceanic and Atmospheric Administration with the activities of the Environmental Protection Agency and other Federal, State, and local agencies;

“(5) establish an effective mechanism which shall ensure that projects have undergone appropriate peer review and provide other appropriate means to determine that projects have acceptable scientific and technical merit for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area;

“(6) remain cognizant of ongoing research, monitoring, and management projects and assist in the dissemination of the results and findings of those projects; and

“(7) submit a biennial report to the Congress and the Secretary of Commerce with respect to the activities of the Office and on the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay, which report shall include an action plan consisting of—

“(A) a list of recommended research, monitoring, and data collection activities necessary to continue implementation of the strategy described in paragraph (2); and

“(B) proposals for—

“(i) continuing any new National Oceanic and Atmospheric Administration activities in the Chesapeake Bay; and

“(ii) the integration of those activities with the activities of the partners in the Chesapeake Bay Program to meet the commitments of the Chesapeake 2000 agreement and subsequent agreements.

“(c) Chesapeake Bay Fishery and Habitat Restoration Small Watershed Grants Program.—

“(1) In general.—The Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration (in this section referred to as the ‘Director’), in cooperation with the Chesapeake Executive Council, shall carry out a community-based fishery and habitat restoration small grants and technical assistance program in the Chesapeake Bay watershed.

“(2) Projects.—

“(A) Support.—The Director shall make grants under this subsection to pay the Federal share of the cost of projects that are carried out by entities eligible under paragraph (3) for the restoration of fisheries and habitats in the Chesapeake Bay.

“(B) Federal share.—The Federal share under subparagraph (A) shall not exceed 75 percent.

“(C) Types of projects.—Projects for which grants may be made under this subsection include—

“(i) the improvement of fish passageways;

“(ii) the creation of natural or artificial reefs or substrata for habitats;

“(iii) the restoration of wetland or sea grass;

“(iv) the production of oysters for restoration projects; and

“(v) the prevention, identification, and control of nonindigenous species.

“(3) Eligible entities.—The following entities are eligible to receive grants under this subsection:

“(A) The government of a political subdivision of a State in the Chesapeake Bay watershed, and the government of the District of Columbia.

“(B) An organization in the Chesapeake Bay watershed (such as an educational institution or a community organization)—

“(i) that is described in section 501(c) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Code; and

“(ii) that will administer such grants in coordination with a government referred to in subparagraph (A).

“(4) Additional requirements.—The Director may prescribe any additional requirements, including procedures, that the Director considers necessary to carry out the program under this subsection.

“(d) Chesapeake Executive Council.—For purposes of this section, ‘Chesapeake Executive Council’ means the representatives from the Commonwealth of Virginia, the State of Maryland, the Commonwealth of Pennsylvania, the Environmental Protection Agency, the District of Columbia, and the Chesapeake Bay Commission, who are signatories to the Chesapeake Bay Agreement, and any future signatories to that Agreement.

“(e) Authorization of Appropriations.—There is authorized to be appropriated to the Department of Commerce for the Chesapeake Bay Office $6,000,000 for each of fiscal years 2002 through 2006.”.

(b) Conforming Amendment.—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended by striking subsection (e).

(c) Multiple Species Management Strategy.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration shall begin a 5-year study, in cooperation with the scientific community of the Chesapeake Bay, appropriate State and interstate resource management entities, and appropriate Federal agencies—

(A) to determine and expand the understanding of the role and response of living resources in the Chesapeake Bay ecosystem; and

(B) to develop a multiple species management strategy for the Chesapeake Bay.

(2) Required elements of study.—In order to improve the understanding necessary for the development of the strategy under paragraph (1)(B), the study shall—

(A) determine the current status and trends of fish and shellfish that live in the Chesapeake Bay and its tributaries and are selected for study;

(B) evaluate and assess interactions among the fish and shellfish referred to in subparagraph (A) and other living resources, with particular attention to the impact of changes within and among trophic levels; and

(C) recommend management actions to optimize the return of a healthy and balanced ecosystem for the Chesapeake Bay.

SEC. 402. CONVEYANCE OF NOAA LABORATORY IN TIBURON, CALIFORNIA.

(a) In General.—Except as provided in subsection (c), the Secretary of Commerce shall convey to the Board of Trustees of the California State University, by suitable instrument, in accordance with this section, by as soon as practicable, but not later than 180 days after the date of the enactment of this Act, and without consideration, all right, title, and interest of the United States in the balance of the National Oceanic and Atmospheric Administration property known as the Tiburon Laboratory, located in Tiburon, California, as described in Exhibit A of the notarized, revocable license between the Administration and Romberg Tiburon Center for Environmental Studies at San Francisco State University dated November 5, 2001 (license number 01ABF779–N).

(b) CONDITIONS.—As a condition of any conveyance by the Secretary under this section the Secretary shall require the following:

(1) The property conveyed shall be administered by the Romberg Tiburon Center for Environmental Studies at San Francisco State University and used only for the following purposes:

(A) To enhance estuarine scientific research and estuary restoration activities within San Francisco Bay.

(B) To administer and coordinate management activities at the San Francisco Bay National Estuarine Research Reserve.

(C) To conduct education and interpretation and outreach activities to enhance public awareness and appreciation of estuary resources, and for other purposes.

(2) The Board shall—

(A) take title to the property as is;

(B) assume full responsibility for all facility maintenance and repair, security, fire prevention, utilities, signs, and grounds maintenance;

(C) allow the Secretary to have all necessary ingress and egress over the property of the Board to access Department of Commerce building and related facilities, equipment, improvements, modifications, and alterations; and

(D) not erect or allow to be erected any structure or structures or obstruction of whatever kind that will interfere with the access to or operation of property retained for the United States under subsection (c)(1), unless prior written consent has been provided by the Secretary to the Board.

(c) RETAINED INTERESTS.—The Secretary shall retain for the United States—

(1) all right, title, and interest in and to the portion of the property referred to in subsection (a) comprising Building 86, identified as Parcel C on Exhibit A of the license referred to in subsection (a), including all facilities, equipment, fixtures, improvements, modifications, or alterations made by the Secretary;

(2) rights-of-way and easements that are determined by the Secretary to be reasonable and convenient to ensure all necessary ingress, egress, utilities, drainage, and sewage disposal for the property retained under paragraph (1), including access to the existing boat launch ramp (or equivalent) and parking that is suitable to the Secretary;

(3) the exclusive right to install, maintain, repair, replace, and remove its facilities, fixtures, and equipment on the retained property, and to authorize other persons to take any such action;

(4) the right to grade, condition, and install drainage facilities, and to seed soil on the retained property, if necessary; and

(5) the right to remove all obstructions from the retained property that may constitute a hindrance to the establishment and maintenance of the retained property.

(d) EQUIVALENT ALTERNATIVE.—

(1) IN GENERAL.—At any time, either the Secretary or the Board may request of each other to enter into negotiations pursuant to which the Board may convey if appropriate to the United States, in exchange for property conveyed by the United States under subsection (a), another building that is equivalent in function to the property retained under subsection (c) that is acceptable to the Secretary.

(2) LOCATION.—Property conveyed by the Board under this subsection is not required to be located on the property referred to in subsection (a).

(3) COSTS.—If the Secretary and the Board engage in a property exchange under this subsection, all costs for repair, removal, and moving of facilities, equipment, fixtures, improvements, modifications, or alterations, including power, control, and utilities, that are necessary for the exchange—

(A) shall be the responsibility of the Secretary, if the action to seek an equivalent alternative was requested by the Secretary in response to factors unrelated to the activities of the Board or its operatives in the operation of its facilities; or

(B) shall be the responsibility of the Board, if the Secretary's request for an equivalent alternative was in response to changes or modifications made by the Board or its operatives that adversely affected the Secretary's interest in the property retained under subsection (c).

(e) ADDITIONAL CONDITIONS.—As conditions of any conveyance under subsection (a)—

(1) the Secretary shall require that—

(A) the Board remediate, or have remediated, at its sole cost, all hazardous or toxic substance contamination found on the property conveyed under subsection (a), whether known or unknown at the time of the conveyance or later discovered; and

(B) the Board of Trustees hold harmless the Secretary for any and all costs, liabilities, or claims by third parties that arise out of any hazardous or toxic substance contamination found on the property conveyed under subsection (a) that are not directly attributable to the installation, operation, or maintenance of the Secretary's facilities, equipment, fixtures, improvements, modifications, or alterations;

(2) the Secretary shall remediate, at the sole cost of the United States, all hazardous or toxic substance contamination on the property retained under subsection (c) that is found to have occurred as a direct result of the installation, operation, or maintenance of the Secretary's facilities, equipment, fixtures, improvements, modifications, or alterations; and

(3) if the Secretary decides to terminate future occupancy and interest of the property retained under subsection (c), the Secretary shall—

(A) provide written notice to the Board at least 60 days prior to the scheduled date when the property will be vacated;

(B) remove facilities, equipment, fixtures, improvements, modifications, or alterations and restore the property to as good a condition as existed at the time the property was retained under subsection (c), taking into account ordinary wear and tear and exposure to natural elements or phenomena; or

(C) surrender all facilities, equipment, fixtures, improvements, modifications, or alterations to the Board in lieu of restoration, whereupon title shall vest in the Board of Trustees, and whereby all obligations of restoration under this subsection shall be waived, and all interests retained under subsection (c) shall be revoked.

(f) REVERSIONARY INTEREST.—

(1) IN GENERAL.—All right, title, and interest in and to all property and interests conveyed by the United States under this section shall revert to the United States on the date on which the Board uses any of the property for any purpose other than the purposes described in subsection (b)(1).

(2) ADMINISTRATION OF REVERTED PROPERTY.—Any property that reverts to the United States under this subsection shall be under the administrative jurisdiction of the Administrator of General Services.

(3) ANNUAL CERTIFICATION.—One year after the date of a conveyance made pursuant to subsection (a), and annually thereafter, the Board shall certify to the Administrator of General Services or his or her designee that the Board and its designees are in compliance with the conditions of conveyance under subsections (b) and (e).

(g) DEFINITIONS.—In this section:

(1) BOARD.—The term "Board" means the Board of Trustees of the California State University.

(2) CENTER.—The term "Center" means the Romberg Tiburon Center for Environmental Studies at San Francisco State University.

(3) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

SEC. 403. EMERGENCY ASSISTANCE FOR SUBSISTENCE WHALE HUNTERS.

Notwithstanding any provision of law, the use of a vessel to tow a whale taken in a traditional subsistence whale hunt permitted by Federal law and conducted in waters off the coast of Alaska is authorized, if such towing is performed upon a request for emergency assistance made by a subsistence whale hunting organization formally recognized by an agency of the United States Government, or made by a member of such an organization, to prevent the loss of a whale.

Mr. HANSEN. (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 0220

ADJUSTING BOUNDARIES OF SALT RIVER BAY NATIONAL HISTORICAL PARK AND ECOLOGICAL PRESERVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 5097) to adjust the boundaries of the Salt River Bay National Historical Park and Ecological Preserve located in St. Croix, Virgin Islands.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARIES AMENDED.

Section 103(b) of the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Act of 1992 (16 U.S.C. 410tt–1(b)) is amended—

(1) by striking "The park shall consist" and inserting the following:

"(a) INITIAL BOUNDARIES.—The park shall consist";

(2) by striking "The map shall be" and inserting the following:

"(c) MAP ON FILE.—The map shall be"; and

(3) by inserting before subsection (c) (as added by paragraph (2) of this section) the following:

"(b) ADDITIONAL LANDS.—In addition to the lands described in subsection (a), the park shall consist of the approximately 28.45 acres depicted on the National Park Service drawing numbered 141–80002 and further described as follows:

"(1) Estate Salt River (Sugar Bay Subdivision) plots 21–37, except plots 29 and 30 and associated road plots (13.25 acres).

"(2) Estate Morning Star plot 14B (15.2 acres).".

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after the enacting clause and insert:

SECTION 1. BOUNDARY ADJUSTMENT.

The first sentence of section 103(b) of the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Act of 1992 (16 U.S.C. 410tt–1(b)) is amended to read as follows: "The park shall consist of approximately 1015 acres of lands, waters, and interests in lands as generally depicted on the map entitled 'Salt River Bay National Historical Park and Ecological Preserve, St. Croix, U.S.V.I.', numbered 141/80002, and dated May 2, 2002.".

Mr. HANSEN (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MOUNT RAINIER NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the bill (H.R. 5512) to provide for an adjustment of the boundaries of Mount Rainier National Park, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mount Rainier National Park Boundary Adjustment Act of 2002".

SEC. 2. EXPANSION OF MOUNT RAINIER NATIONAL PARK.

(a) IN GENERAL.—

(1) ACQUISITION AUTHORIZED.—The Secretary of the Interior may acquire, with the consent of the owners, by donation, purchase with donated or appropriated funds, or exchange, privately owned land depicted on the map entitled "   ", numbered   , and dated   .

(2) LIMITATION.—The total acreage of the land acquired under this subsection and the land transferred to the administrative jurisdiction of the Secretary of the Interior under subsection (b) shall not exceed 1,000 acres.

(3) INCLUSION IN PARK.—Upon the acquisition of property by the Secretary under this subsection—

(A) the boundary of Mount Rainier National Park shall be modified to include the acquired property and to ensure that access over the Carbon River Bridge to National Forest lands is maintained for commercial and other public use; and

(B) the Secretary of the Interior shall administer the acquired property as part of Mount Rainier National Park.

(b) TRANSFER OF NATIONAL FOREST LANDS.—

(1) TRANSFER.—There is transferred to the Secretary of the Interior administrative jurisdiction over National Forest lands depicted on the map referred to in subsection (a)(1).

(2) INCLUSION IN PARK.—Upon the effectiveness of this subsection, the boundary of Mount Rainier National Park shall be modified to include the lands referred to in paragraph (1).

(c) ADMINISTRATIVE SITE.—In addition to lands acquired under subsection (a), in order to provide public information for the visitor accessing public lands along the Carbon and Mowich Corridors, the Secretary of the Interior may acquire land in the vicinity of Wilkeson, Washington, not to exceed .5 acre, by purchase, donation, or exchange, and from willing sellers only.

(d) ADMINISTRATION OF ACQUIRED LANDS.—The Secretary of the Interior shall administer lands acquired under this section as part of Mount Rainier National Park and in accordance with applicable laws and regulations.

(e) AVAILABILITY OF MAP.—The map referred to in subsection (a)(1) shall be on file in the appropriate offices of the National Park Service.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. HANSEN:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mount Rainier National Park Boundary Adjustment Act of 2002".

SEC. 2. EXPANSION OF MOUNT RAINIER NATIONAL PARK.

(a) IN GENERAL.—

(1) ACQUISITION AUTHORIZED.—The Secretary of the Interior may acquire, from willing owners only, privately owned land depicted on the map entitled "Mount Rainer National Park FY2004 LWCF Project", numbered 105/92,002, and dated October 2002. The privately owned land so depicted may be acquired from such willing owners by donation, purchase with donated or appropriated funds, or exchange.

(2) LIMITATION.—The total acreage of the land acquired under this subsection and the land transferred to the administrative jurisdiction of the Secretary of the Interior under subsection (b) shall not exceed 1,000 acres.

(3) INCLUSION IN PARK.—Upon the acquisition of property by the Secretary under this subsection—

(A) the boundary of Mount Rainier National Park shall be modified to include the acquired property and to ensure that access over the Carbon River Bridge to National Forest lands is maintained for commercial and other public use; and

(B) the Secretary of the Interior shall administer the acquired property as part of Mount Rainier National Park.

(b) TRANSFER OF NATIONAL FOREST LANDS.—

(1) TRANSFER.—There is transferred to the Secretary of the Interior administrative jurisdiction over National Forest lands depicted on the map referred to in subsection (a)(1).

(2) INCLUSION IN PARK.—Upon the effective date of this subsection, the boundary of Mount Rainier National Park shall be modified to include the lands referred to in paragraph (1).

(c) ADMINISTRATIVE SITE.—In addition to lands acquired under subsection (a), in order to provide public information for visitors accessing public lands along the Carbon and Mowich Corridors, the Secretary of the Interior may acquire land in the vicinity of Wilkeson, Washington, not to exceed .5 acre, by purchase, donation, or exchange, and from willing owners only.

(d) ADMINISTRATION OF ACQUIRED LANDS.—The Secretary of the Interior shall administer lands acquired under this section as part of Mount Rainier National Park and in accordance with applicable laws and regulations.

(e) AVAILABILITY OF MAP.—The map referred to in subsection (a)(1) shall be on file in the appropriate offices of the National Park Service.

Mr. HANSEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

YAVAPAI RANCH LAND EXCHANGE REFINEMENT ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the bill (H.R. 5513) to authorize and direct the exchange of certain land in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5513

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Yavapai Ranch Land Exchange Refinement Act of 2002".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) certain parcels of private land in the approximately 170 square miles of land commonly known as the "Yavapai Ranch" and located in Yavapai County, Arizona, are intermingled with National Forest System land owned by the United States and administered by the Secretary of Agriculture as part of Prescott National Forest;

(2) the private land is owned by the Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. in an intermingled checkerboard pattern, with the United States or Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. owning alternate square mile sections of land or fractions of square mile sections;

(3) much of the private land within the checkerboard area (including the land located in or near the Pine Creek watershed, Juniper Mesa Wilderness Area, Haystack Peak, and the Luis Maria Baca Float No. 5) is located in environmentally sensitive areas that possess outstanding attributes and values for public management, use, and enjoyment, including opportunities for—

(A) outdoor recreation;

(B) preservation of stands of old growth forest;

(C) important and largely unfragmented habitat for antelope, deer, elk, mountain lion, wild turkey, and other wildlife species;

(D) watershed protection and enhancement;

(E) scientific research;

(F) rangeland;

(G) ecological and archaeological resources; and

(H) scenic vistas;

(4) the checkerboard ownership pattern of land within the Yavapai Ranch detracts from sound and efficient management of the intermingled National Forest System land;

(5) if the private land in the checkerboard area is subdivided or developed, the intermingled National Forest System land will become highly fragmented and lose much of the value of the land for wildlife habitat and future public access, use, and enjoyment;

(6) acquisition by the United States of certain parcels of land that have been offered by Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. for addition to Prescott National Forest will serve important public objectives, including—

(A) acquiring private land that meets the criteria for inclusion in the National Forest System in exchange for land with lower public, environmental, and ecological values;

(B) consolidating a large area of National Forest System land to preserve—

(i) permanent public access, use, and enjoyment of the land; and

(ii) efficient management of the land;

(C) minimizing cash outlays by the United States to achieve the objectives described in subparagraphs (A) and (B);

(D) significantly reducing administrative costs to the United States through—

(i) consolidation of Federal land holdings for more efficient land management and planning;

(ii) elimination of approximately 350 miles of boundary between private land and the Federal parcels;

(iii) reduced right-of-way, special use, and other permit processing and issuance for roads and other facilities on National Forest System land; and

(iv) other administrative cost savings;

(E) significantly protecting the watershed and stream flow of the Verde River in Arizona by reducing the land available for future development within that watershed by approximately 25,000 acres; and

(F) conserving the waters of the Verde River through the recording of declarations restricting the use of water on Federal land located near the communities of Camp Verde, Cottonwood and Clarkdale to be exchanged by the United States to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C.;

(7) Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. have selected parcels of National Forest System land that are logical for conveyance to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C. through a land exchange because the parcels—

(A) are located in less environmentally sensitive areas than the land to be acquired by the United States;

(B) have significantly lower recreational, wildlife, ecological, aesthetic, and other public purpose values than the land to be acquired by the United States; and

(C) are encumbered by special use permits and rights-of-way for a variety of purposes (including summer youth camps, municipal water treatment facilities, sewage treatment facilities, city parks, and airport-related facilities) that—

(i) limit the usefulness of the parcels for general National Forest System purposes; but

(ii) are logical for pass-through conveyances from Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. to the permit or right-of-way holders;

(8) because of residential and ranchette-style subdivisions and developments on land adjacent to the Yavapai Ranch, it is in the interest of the public—

(A) to authorize, direct, facilitate, and expedite the exchange of Federal land and non-Federal land; and

(B) to establish a large consolidated area of National Forest System land; and

(9) without a land exchange, Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. will be forced to initiate development of the non-Federal land.

(b) PURPOSE.—The purpose of this Act is to further the public interest by authorizing, directing, facilitating, and expediting the exchange of Federal land and non-Federal land between the United States, Yavapai Ranch Limited Partnership, and the Northern Yavapai, L.L.C.

SEC. 3. DEFINITIONS.

In this Act:

(1) CAMP VERDE DECLARATION.—The term "Camp Verde Declaration" means the Declaration of Covenants, Conditions, and Restrictions executed by Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C., on or about August 12, 2002, and recorded in the official records of Yavapai County, Arizona, that is intended to run with the land and imposes certain water use restrictions, water source limitations, and water conservation measures on the future development of the land described in section 4(a)(2)(D).

(2) COTTONWOOD DECLARATION.—The term "Cottonwood Declaration" means the Declaration of Covenants, Conditions and Restrictions executed by Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C., on or about August 12, 2002, and recorded in the official records of Yavapai County, Arizona, that is intended to run with the land and imposes certain water use restrictions, water source limitations, and water conservation measures on the future development of the land described in section 4(a)(2)(E).

(3) DE-CLA-RA-TIONS.—The term "Declarations" collectively means the Camp Verde Declaration and the Cottonwood Declaration, both of which Congress is requiring to be recorded as encumbrances on the Camp Verde Federal land described in section 4(a)(2)(D) and the Cottonwood/Clarkdale Federal land described in section 4(a)(2)(E) in order to conserve water resources in the Verde River Valley, Arizona.

(4) FEDERAL LAND.—The term "Federal land" means the land directed for exchange to YRLP in section 4(a)(2).

(5) MANAGEMENT PLAN.—The term "Management Plan" means the land and resource management plan for Prescott National Forest.

(6) NON-FEDERAL LAND.—The term "non-Federal land" means the approximately 35,000 acres of non-Federal land located within the boundaries of Prescott National Forest and directed for exchange to the United States, as generally depicted on the map entitled "Yavapai Ranch Non-Federal Lands", dated April 2002.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(8) SUMMER CAMPS.—The term "summer camps" means Camp Pearlstein and Friendly Pines, Patterdale Pines, Pine Summit, Sky Y, and YoungLife Lost Canyon camps in the State of Arizona.

(9) YRLP.—

(A) IN GENERAL.—The term "YRLP" means—

(i) the Yavapai Ranch Limited Partnership, an Arizona Limited Partnership; and

(ii) the Northern Yavapai, L.L.C., an Arizona Limited Liability Company.

(B) INCLUSIONS.—Except as otherwise expressly provided in this Act, the term "YRLP" includes successors-in-interest, assigns, transferees, and affiliates of YRLP.

SEC. 4. LAND EXCHANGE.

(a) CONVEYANCE OF FEDERAL LAND BY THE UNITED STATES.—

(1) IN GENERAL.—On receipt of an offer from YRLP to convey the non-Federal land, the Secretary shall convey to YRLP by deed acceptable to YRLP all right, title, and interest of the United States in and to the Federal land described in paragraph (2), subject to easements, rights-of-way, utility lines, and any other valid encumbrances on the Federal land in existence on the date of enactment of this Act and such other reservations as may be mutually agreed to by the Secretary and YRLP.

(2) DESCRIPTION OF FEDERAL LAND.—The Federal land referred to in paragraph (1) shall consist of the following:

(A) Certain land comprising approximately 15,300 acres located in Yavapai County, Arizona, as generally depicted on the map entitled "Yavapai Ranch-Ranch Area Federal Lands", dated April 2002.

(B) Certain land in the Coconino National Forest, Coconino County Arizona—

(i) comprising approximately 1,500 acres located in Coconino National Forest, Coconino County, Arizona, as generally depicted on the map entitled "Flagstaff Federal Lands-Airport Parcel", dated April 2002; and

(ii) comprising approximately 28.26 acres in 2 separate parcels, as generally depicted on the map entitled "Flagstaff Federal Lands—Wetzel School and Mt. Elden Parcels", dated September 2002.

(C) Certain land referred to as Williams Airport, Williams golf course, Williams Sewer, Buckskinner Park, Williams Railroad, and Well parcels numbers 2, 3, and 4, comprising approximately 950 acres, all located in Kaibab National Forest, Coconino County, Arizona, as generally depicted on the map entitled "Williams Federal Lands", dated April 2002.

(D) Certain land comprising approximately 2,200 acres located in Prescott National Forest, Yavapai County, Arizona, as generally depicted on the map entitled "Camp Verde Federal Land—General Crook Parcel", dated April 2002, and title to which shall be conveyed to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., but not to any successor-in-interest, assign, transferee or affiliate of Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., or any other person or entity holding or acquiring any interest in Yavapai Ranch.

(E) Certain land comprising approximately 820 acres located in Prescott National Forest in Yavapai County, Arizona, as generally depicted on the map entitled "Cottonwood/Clarkdale Federal Lands", dated April 2002, and title to which shall be conveyed to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., but not to any successor-in-interest, assign, transferee or affiliate of Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., or any other person or entity holding or acquiring any interest in Yavapai Ranch.

(F) Certain land comprising approximately 237.5 acres located in Kaibab National Forest, Coconino County, Arizona, as generally depicted on the map entitled "Younglife Lost Canyon", dated April 2002.

(G) Certain land comprising approximately 200 acres located in Prescott National Forest, Yavapai County, Arizona, and including Friendly Pines, Patterdale Pines, Camp Pearlstein, Pine Summit, and Sky Y, as generally depicted on the map entitled "Prescott Federal Lands—Summer Youth Camp Parcels", dated April 2002.

(H) Perpetual, unrestricted, and nonexclusive easements that—

(i) run with and benefit land owned by or conveyed to YRLP across certain land of the United States;

(ii) are for—

(I) the purposes of operating, maintaining, repairing, improving, and replacing electric power lines or water pipelines (including related storage tanks, valves, pumps, and hardware); and

(II) rights of reasonable ingress and egress necessary for the purposes described in subclause (I);

(iii) are 20 feet in width; and

(iv) are located 10 feet on either side of each line depicted on the map entitled "YRLP Acquired Easements for Water Lines", dated April 2002.

(3) CONDITIONS.—

(A) PERMITS.—Permits or other legal occupancies of the Federal land by third parties in existence on the date of transfer of the Federal land to YRLP shall be addressed in accordance with—

(i) part 254.15 of title 36, Code of Federal Regulations (or any successor regulation); and

(ii) other applicable laws (including regulations).

(B) CONVEYANCE OF CERTAIN PARCELS.—

(i) CAMP VERDE.—

(I) IN GENERAL.—Before YRLP acquires the parcel described in paragraph (2)(D), YRLP shall execute and record the Camp Verde Declaration.

(II) AMENDED DECLARATION.—Following the acquisition of the parcel described in paragraph (2)(D), YRLP shall execute and record with the Yavapai County Recorder an amended declaration in which the legal description of the land referred to in the Camp Verde Declaration is amended to conform to the legal description in paragraph (2)(D).

(ii) COTTONWOOD/CLARKDALE.—

(I) IN GENERAL.—Before YRLP acquires the parcel described in paragraph (2)(E), YRLP shall execute and record the Cottonwood Declaration.

(II) AMENDED DECLARATION.—Following the acquisition of the parcel described in paragraph (2)(E), YRLP shall execute and record with the Yavapai County Recorder an amended declaration in which the legal description of the land referred to in the Cottonwood Declaration is amended to conform to the legal description in paragraph (2)(E).

(b) CONVEYANCE OF NON-FEDERAL LAND BY YRLP.—

(1) IN GENERAL.—On receipt of title to the Federal land, YRLP shall simultaneously convey to the United States, by deed acceptable to Secretary and subject to any encumbrances, all right, title, and interest of YRLP in and to the non-Federal land.

(2) EASEMENTS.—

(A) IN GENERAL.—The conveyance of non-Federal land to the United States under paragraph (1) shall be subject to the reservation of—

(i) perpetual and unrestricted easements and water rights that run with and benefit the land retained by YRLP for—

(I) the operation, maintenance, repair, improvement, development, and replacement of not more than 3 existing wells;

(II) related storage tanks, valves, pumps, and hardware; and

(III) pipelines to points of use; and

(ii) easements for reasonable ingress and egress to accomplish the purposes of the easements described in clause (i).

(B) EXISTING WELLS.—

(i) IN GENERAL.—Each easement for an existing well shall be—

(I) 40 acres in area; and

(II) to the maximum extent practicable—

(aa) centered on the existing well; and

(bb) located in the same square mile section of land.

(ii) LIMITATION.—Within a 40-acre easement described in clause (i), the United States and any permitees or licensees of the United States shall be prohibited from undertaking any activity that interferes with the use of the wells by YRLP, without the written consent of YRLP.

(iii) RESERVATION OF WATER FOR THE UNITED STATES.—The United States shall be entitled to ½ of the production of each existing well, not to exceed a total of 3,100,000 gallons of water annually, for watering wildlife and stock from all 3 wells.

(C) REASONABLE ACCESS.—Each easement for ingress and egress shall be at least 20 feet in width.

(D) LOCATION.—The locations of the easements and wells shall be the locations generally depicted on a map entitled "YRLP Reserved Easements for Water Lines and Wells", dated April 2002.

(c) LAND TRANSFER PROBLEMS.—

(1) FEDERAL LAND.—If all or part of any parcels of Federal land cannot be transferred to YRLP because of hazardous materials, or if the proposed title to a Federal land parcel or parcels or fraction thereof is unacceptable to YRLP because of the existence of unpatented mining claims, or in the event of the presence of threatened or endangered species or cultural or historic resources which cannot be mitigated, or other third party rights under the public land laws, the parcel or parcels or parts thereof shall be deleted from the exchange and the Secretary and YRLP may mutually agree to exchange other Federal land in lieu of the deleted parcel or part thereof in accordance with section 5(c). If the parcel or parcels are deleted from the exchange, the non-Federal land shall be adjusted in accordance with section 5(c) as necessary to achieve equal value.

(2) NON-FEDERAL LAND.—If 1 or more of the parcels of non-Federal land or a portion of such a parcel cannot be conveyed to the United States because of the presence of hazardous materials or because the proposed title to a parcel or a portion of the parcel is unacceptable to the Secretary—

(A) the parcel or any portion of the parcel shall be excluded from the exchange; and

(B) the Federal land shall be adjusted in accordance with section 5(c) to achieve approximate equal value.

(d) PASS-THROUGH CONVEYANCES.—

(1) IN GENERAL.—On or after the acquisition of the Federal land, YRLP may subsequently pass through or convey to the cities of Flagstaff, Williams, Camp Verde, Cottonwood, and the summer camps the parcels of Federal land or portions of parcels located in or near the cities or summer camps.

(2) DELETION FROM EXCHANGE.—If YRLP and the cities or summer camps referred to in paragraph (1) have not agreed to the terms and conditions of a pass-through or subsequent conveyance of a parcel or portion of a parcel of Federal land before the completion of the exchange, the Secretary, on notice by YRLP, shall delete the parcel or any portion of the parcel from the exchange, provided that any portion so deleted shall be configured by the Secretary to leave the United States with manageable post-exchange lands and boundaries.

(3) EASEMENTS.—In accordance with section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), the United States shall reserve easements in any land transferred to YRLP.

SEC. 5. EXCHANGE VALUATION, APPRAISALS, AND EQUALIZATION.

(a) EQUAL VALUE EXCHANGE.—The values of the non-Federal and Federal land directed to be exchanged under this Act—

(1) shall be equal, as determined by the Secretary; or

(2) if the values are not equal, shall be equalized in accordance with subsection (c).

(b) APPRAISALS.—

(1) IN GENERAL.—The values of the Federal land and non-Federal land shall be determined by appraisals using the appraisal standards in—

(A) the Uniform Appraisal Standards for Federal Land Acquisitions, fifth edition (December 20, 2000); and

(B) the Uniform Standards of Professional Appraisal Practice.

(2) APPROVAL.—In accordance with part 254.9(a)(1) of title 36, Code of Federal Regulations (or any successor regulation), the appraiser shall be—

(A) acceptable to the Secretary and YRLP; and

(B) a contractor, the clients of which shall be both the Secretary and YRLP.

(3) REQUIREMENTS.—During the appraisal process—

(A) the Secretary and YRLP shall have equal access to the appraiser; and

(B) the Secretary and YRLP shall cooperate with each other and the appraiser to prepare appraisal instructions which shall require the appraiser to—

(i) consider the effect on value of the Federal land or non-Federal land because of the existence of encumbrances on each parcel, including—

(I) permitted uses on Federal land that cannot be reasonably terminated before the appraisal;

(II) facilities on Federal land that cannot be reasonably removed before the appraisal; and

(III) the reduction in value attributable to the conservation measures and restrictions on water use under the Declarations; and

(ii) determine the value of each parcel of Federal land and non-Federal land (including the value of each individual section of the intermingled Federal and non-Federal land of the Yavapai Ranch) as an assembled transaction consistent with the applicable provisions of parts 254.5 and 254.9(b)(1)(v) of title 36, Code of Federal Regulations (or any successor regulation).

(4) DISPUTE RESOLUTION.—A dispute relating to the appraised values of the Federal land or non-Federal land following completion of the appraisal shall be processed in accordance with—

(A) section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)); and

(B) part 254.10 of title 36, Code of Federal Regulations (or any successor regulation).

(5) APPRAISAL PERIOD.—After the final appraised values of the Federal land and non-Federal land have been reviewed and approved by the Secretary or otherwise determined in accordance with the requirements of paragraph (4), the final appraised values—

(A) shall not be reappraised or updated by the Secretary before the completion of the land exchange; and

(B) shall be considered to be the values of the Federal land and non-Federal land on the date of the transfer of title.

(6) AVAILABILITY.—A comprehensive summary of the appraisals approved by the Secretary shall be made available for public inspection in the Offices of the Supervisors for Prescott, Coconino, and Kaibab National Forests at the time the exchange is consummated.

(c) EQUALIZATION OF VALUES.—

(1) SURPLUS OF NON-FEDERAL LAND.—

(A) IN GENERAL.—If, after any adjustments are made to the non-Federal land or Federal land under subsection (c) or (d) of section 4, the final appraised value of the non-Federal land exceeds the final appraised value of the Federal land, the Federal land and non-Federal land shall be adjusted in accordance with subparagraph (B) until the values are approximately equal.

(B) ADJUSTMENTS.—An adjustment referred to in subparagraph (A) shall be accomplished by beginning at the east boundary of section 30, T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, and adding to the Federal land to be conveyed to YRLP in ⅛ section increments (N–S 64th line) and lot lines across the section, while deleting from the conveyance to the United States non-Federal land in the same incremental portions of sections 19 and 31, T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, to establish a linear and continuous boundary that runs north to south across the sections.

(2) SURPLUS OF FEDERAL LAND.—

(A) IN GENERAL.—If, after any adjustments are made to the non-Federal land or Federal land under subsection (c) or (d) of section 4, the final appraised value of the Federal land exceeds the final appraised value of the non-Federal land, the Federal land and non-Federal land shall be adjusted in accordance with subparagraph (B) until the values are approximately equal.

(B) ADJUSTMENTS.—Adjustments under subparagraph (A) shall be made in the following order:

(i) Beginning at the south boundary of section 31, T. 20 N., R. 5 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 33 and 35, T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, by adding to the non-Federal land to be conveyed to the United States in ⅛ section increments (E–W 64th line) while deleting from the conveyance to YRLP Federal land in the same incremental portions of section 32, T. 20 N., R. 5 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 32, 34, and 36, in T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, to establish a linear and continuous boundary that runs east to west across the sections.

(ii) By deleting the following parcels:

(I) The Williams Sewer parcel, comprising approximately 20 acres, located in Kaibab National Forest, and more particularly described as the E½NW¼SE¼ portion of section 21, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(II) The Williams railroad parcel, located in the Kaibab National Forest, and more particularly described as—

(aa) the W½SW¼ portion of section 26, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion northeast of the southwestern right-of-way line of the Burlington Northern and Santa Fe Railway (Seligman Subdivision), comprising approximately 30 acres;

(bb) the NE¼NW¼, the N½SE¼NW¼, the SE¼SE¼NW¼, the NE¼, the SE¼SW¼, and the SE¼ portions of section 27, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion north of the southern right-of-way of Interstate 40 and any portion northeast of the southwestern right-of-way line of the Burlington Northern and Santa Fe Railway (Seligman Subdivision), any portion south of the northern right-of-way of the Burlington Northern and Santa Fe Railway (Phoenix Subdivision), and any portion within Exchange Survey No. 677, comprising approximately 220 acres;

(cc) the NE¼NE¼ portion of section 34, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion southwest of the northeastern right-of-way line of the Burlington Northern and Santa Fe Railway (Phoenix Subdivision), comprising approximately 2 acres; and

(dd) the N½ portion of section 35, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion north of the southern right-of-way line of the Burlington Northern and Santa Fe Railway (Seligman Subdivision) and any portion south of the northern right-of-way of the Burlington Northern and Santa Fe Railway (Phoenix Subdivision), comprising approximately 60 acres.

(III) Buckskinner Park, comprising approximately 50 acres, located in Kaibab National Forest, and more particularly described as the SW¼SW¼, and the S½S½NW¼SW¼ portions of section 33, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(IV) The Cottonwood/Clarkdale parcel, comprising approximately 820 acres, located in Prescott National Forest, and more particularly described as—

(aa) lots 3, 4, 6, portions of lots 7, 8, and 9, and the W½NW¼ and the SW¼SE¼ portions of section 5, T. 15 N., R. 3 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona; and

(bb) the S½S½N½NW¼, the E½E½NE¼NE¼NW¼, the E½NE¼SE¼NE¼NW¼, the NW¼NE¼, the S½NE¼, the S½NW¼, and the S½ portions of section 8, T. 15 N., R. 3 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(V) A portion of the Camp Verde parcel, comprising approximately 511 acres, located in Prescott National Forest, consisting of the land south of the southeastern boundary of the I–17 right-of-way, and more particularly described as the SE¼ portion of section 26, the E½ and the E½W½ portions of section 35, and lots 5 through 7 of section 36, T. 14 N., R. 4 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(VI) The Wetzel school parcel, comprising approximately 10.89 acres, located in Coconino National Forest, and more particularly described as lot 9 of section 11, T. 21 N., R. 7 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(VII) The Mt. Eldon parcel, comprising approximately 17.21 acres, located in Coconino National Forest, and more particularly described as lot 7 of section 7, T. 21 N., R. 8 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(VIII) A portion of the Camp Verde parcel, comprising approximately 316 acres, located in Prescott National Forest, and more particularly described as the NENE¼ and lots 1, 5, and 6 of section 26, and the N½N½ of section 27, T. 14 N., R. 4 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(IX) A portion of the Camp Verde parcel, comprising approximately 314 acres, located in Prescott National Forest, and more particularly described as the SENE¼ and lots 2, 7, 8, and 9 of section 26, and the S½N½ of section 27, T. 14 N., R. 4 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(C) MODIFICATIONS.—The descriptions of land and acreage provided in subclauses (III), (IV), and (V) of subparagraph (B)(ii) may be modified to conform with a survey approved by the Bureau of Land Management.

(3) ADDITIONAL EQUALIZATION OF VALUES.—If, after the values are adjusted in accordance with paragraph (1) or (2), the values of the Federal land and non-Federal land are not equal, then the Secretary and YRLP may by mutual agreement adjust the acreage of the Federal land and non-Federal land until the values of that land are equal.

(d) CASH EQUALIZATION.—

(1) IN GENERAL.—After the values of the non-Federal and Federal land are equalized

to the maximum extent practicable under subsection (c), any balance due to the Secretary or to YRLP shall be paid—

(A) through cash equalization payments under section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)); or

(B) in accordance with standards established by the Secretary and YRLP.

(2) Limitation.—

(A) In general.—YRLP shall not be required to make any cash equalization payment to the Secretary in an amount that exceeds $50,000.

(B) Adjustments.—If the value of the Federal land exceeds the value of the non-Federal land by more than $50,000, the Secretary and YRLP shall by mutual agreement delete additional Federal land from the exchange until the values of the Federal land and non-Federal land are equal.

(C) Deposit.—Any money received by the United States under this Act shall, without further appropriation, be deposited in a fund established under Public Law 90-171 (16 U.S.C. 484(a)) (commonly known as the "Sisk Act") for the acquisition of land or interests in land for National Forest System purposes in the State of Arizona.

SEC. 6. MISCELLANEOUS PROVISIONS.

(a) Revocation of Orders.—Any public orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(b) Withdrawal of Federal Land.—The Federal land is withdrawn from all forms of entry and appropriation under the public land laws, including the mining and mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), until the date on which the exchange of Federal land and non-Federal land is completed.

(c) Surveys, Inventories, and Clearances.—Before completing the exchange of Federal land and non-Federal land directed by this Act, the Secretary shall carry out land surveys and preexchange inventories, clearances, reviews, and approvals relating to hazardous materials, threatened and endangered species, cultural and historic resources, and wetlands and floodplains.

(d) Costs of Implementing the Exchange.—

(1) In general.—Except as provided in paragraph (2), the Secretary shall be responsible for any costs of implementing the exchange of Federal land and non-Federal land.

(2) Exceptions.—Subject to paragraph (3), YRLP shall be responsible for paying—

(A) 100 percent of the costs of—

(i) conducting the appraisals of the Federal land and non-Federal land;

(ii) the preparation of necessary land surveys and verified legal descriptions of the Federal land and non-Federal land; and

(iii) title insurance; and

(B) 50 percent of the costs of—

(i) conducting cultural and historic resource surveys;

(ii) conducting surveys of hazardous materials;

(iii) escrow; and

(iv) publication of notice of the proposed exchange.

(3) Limitations.—

(A) In general.—YRLP shall not pay more than $500,000 of the costs described in paragraph (2).

(B) Credit.—Any costs paid by YRLP for cultural or historic resource surveys before the date of enactment of this Act shall be credited against the maximum amount required to be paid by YRLP under subparagraph (A).

(4) Reimbursement.—No amount paid by YRLP under this subsection shall be eligible for reimbursement under section 206(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(f)).

(e) Timing.—It is the intent of Congress that the exchange of Federal land and non-Federal land directed by this Act be completed not later than 1 year after the date of enactment of this Act.

(f) Contractors.—

(1) In general.—If the Secretary lacks adequate staff or resources to complete the exchange by the date referred to in subsection (e), or if the costs described in subsection (d)(2) exceed the limitation described in subsection (d)(3), the Secretary shall reimburse YRLP for the costs of 1 or more independent third party contractors, subject to the approval of the Secretary and YRLP, to carry out any activities necessary to complete the exchange by that date.

(2) Credits.—If the Secretary lacks funds with which to reimburse YRLP in accordance with paragraph (1), the Secretary shall credit any amounts paid by YRLP to third party independent contractors against the value of the Federal land in accordance with section 206(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(f)).

SEC. 7. STATUS AND MANAGEMENT OF LAND AFTER EXCHANGE.

(a) In General.—Non-Federal land acquired by the United States under this Act—

(1) shall become part of the Prescott National Forest; and

(2) shall be administered by the Secretary in accordance with—

(A) this Act; and

(B) the laws (including regulations) applicable to the National Forest System.

(b) Management Plan.—

(1) In general.—Acquisition of the land authorized by this Act shall not, of itself, require a revision or amendment to the Management Plan for Prescott National Forest.

(2) Amendment or revision of plan.—If the Management Plan is amended or revised after the date of acquisition of non-Federal land under this Act, the Management Plan shall be amended to reflect the acquisition of the non-Federal land.

(c) Post-Exchange Management of Certain Land.—

(1) In general.—Following its acquisition by the United States, the non-Federal land acquired by the United States and adjoining National Forest System land shall be managed in accordance with paragraphs (2) through (6), and the laws, rules, and regulations generally applicable to the National Forest System.

(2) Protection of natural resources.—The land shall be managed in a manner that maintains the species, character, and natural values of the land, including—

(A) deer, pronghorn antelope, wild turkey, mountain lion, and other resident wildlife and native plant species;

(B) suitability for livestock grazing; and

(C) aesthetic values.

(3) Grazing.—Each area located in the Yavapai Ranch grazing allotment as of the date of enactment of this Act shall—

(A) remain in the Yavapai Ranch grazing allotment; and

(B) continue to be subject to grazing in accordance with the laws, rules, and regulations generally applicable to domestic livestock grazing on National Forest System land.

(4) Roads.—

(A) Improvement and maintenance.—The Secretary shall maintain or improve a system of roads and trails on the land to provide opportunities for hunting, motorized and nonmotorized recreation, and other uses of the land by the public.

(B) Public access road.—

(i) Construction.—The Secretary shall improve or construct a public access road linking Forest Road 7 (Pine Creek Road) to Forest Road 1 (Turkey Canyon Road) through portions of sections 33, 32, 31, and 30, T. 19 N., R. 6 W., Gila and Salt River Base and Meridian.

(ii) Existing road.—The existing road linking Pine Creek and Gobbler Knob—

(I) shall remain open until the date on which the new public access road is completed; and

(II) after the date on which the new public access road is completed, shall be obliterated.

(C) Easements.—

(i) In general.—Simultaneously with completion of the land exchange directed by this Act, the Secretary and YRLP shall mutually grant to each other at no charge reciprocal easements for ingress, egress, and utilities across, over, and through—

(I) the routes depicted on the map entitled "Road and Trail Easements—Yavapai Ranch Area" dated April 2002; and any other inholdings retained by the United States or YRLP; or

(II) any relocated routes that are mutually agreed to by the Secretary and YRLP.

(ii) Requirements.—Easements granted under this subparagraph shall be unlimited, perpetual, and nonexclusive in nature, and shall run with and benefit the land of the grantee.

(iii) Rights of grantee.—The rights of the grantee shall extend to—

(I) in the case of YRLP, any successors-in-interest, assigns, and transferees of YRLP; and

(II) in the case of the Secretary, members of the general public, as determined to be appropriate by the Secretary.

(5) Timber harvesting.—

(A) In general.—Except as provided in subparagraph (B), timber harvesting for commodity production shall be prohibited on the non-Federal land.

(B) Exceptions.—Timber harvesting may be conducted on the land if the Secretary determines that timber harvesting is necessary—

(i) to prevent or control fires, insects, and disease through forest thinning or other forest management techniques; or

(ii) to protect or enhance grassland habitat, watershed values, or native plants, trees, and wildlife species.

(6) Water improvements.—Nothing in this Act prohibits the Secretary from authorizing or constructing new water improvements in accordance with the laws, rules, and regulations applicable to water improvements on National Forest System land for—

(A) the benefit of domestic livestock or wildlife management; or

(B) the improvement of forest health or forest restoration.

(d) Maps.—

(1) In general.—The Secretary and YRLP may correct any minor errors in the maps of, legal descriptions of, or encumbrances on the Federal land or non-Federal land.

(2) Discrepancy.—In the event of any discrepancy between a map, acreage, and a legal description, the map shall prevail unless the Secretary and YRLP agree otherwise.

(3) Availability.—The Declarations and all maps referred to in this Act shall be on

file and available for inspection in the Office of the Supervisor, Prescott National Forest, Prescott, Arizona.

(e) EFFECT.—Nothing in this Act precludes, prohibits, or otherwise restricts YRLP from subsequently granting, conveying, or otherwise transferring title to the Federal land after its acquisition of the Federal land and recordation of the Declarations and any conforming amendments to the Declarations.

(f) ENCROACHMENT LAND IN FLAGSTAFF.—

(1) IN GENERAL.—The Secretary shall convey by quitclaim deed lot 8 in section 11, T. 21 N., R. 7 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, to a single individual or entity, either of which represent the majority of landowners with encroachments on such lot.

(2) PAYMENT TO THE UNITED STATES.—In consideration of the conveyance directed by paragraph (1), the individual or entity representing the majority of landowners with encroachments on lot 8 shall pay to the Secretary the sum of $2500 plus any costs of remonumenting the boundary of lot 8.

(3) TIMING.—The Secretary shall convey lot 8 in accordance with this subsection within 90 days of receipt of powers of attorney executed to a single individual or entity representing the majority of landowners with encroachments on lot 8. If the powers of attorney are not delivered to the Secretary within 270 days of the date of enactment of this Act, the authorization under this subsection shall expire and, thereafter, any conveyances shall be made under Public Law 97-465 (16 U.S.C. 521c et seq.).

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. HANSEN:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prescott and San Isabel National Forests Land Exchange Act of 2002".

TITLE I—YAVAPAI RANCH LAND EXCHANGE, ARIZONA

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) certain parcels of private land in the approximately 170 square miles of land commonly known as the "Yavapai Ranch" and located in Yavapai County, Arizona, are intermingled with National Forest System land owned by the United States and administered by the Secretary of Agriculture as part of Prescott National Forest;

(2) the private land is owned by the Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. in an intermingled checkerboard pattern, with the United States or Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. owning alternate square mile sections of land or fractions of square mile sections;

(3) much of the private land within the checkerboard area (including the land located in or near the Pine Creek watershed, Juniper Mesa Wilderness Area, Haystack Peak, and the Luis Maria Baca Float No. 5) is located in environmentally sensitive areas that possess outstanding attributes and values for public management, use, and enjoyment, including opportunities for—

(A) outdoor recreation;

(B) preservation of stands of old growth forest;

(C) important and largely unfragmented habitat for antelope, deer, elk, mountain lion, wild turkey, and other wildlife species;

(D) watershed protection and enhancement;

(E) scientific research;

(F) rangeland;

(G) ecological and archaeological resources; and

(H) scenic vistas;

(4) the checkerboard ownership pattern of land within the Yavapai Ranch detracts from sound and efficient management of the intermingled National Forest System land;

(5) if the private land in the checkerboard area is subdivided or developed, the intermingled National Forest System land will become highly fragmented and lose much of the value of the land for wildlife habitat and future public access, use, and enjoyment;

(6) acquisition by the United States of certain parcels of land that have been offered by Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. for addition to Prescott National Forest will serve important public objectives, including—

(A) acquiring private land that meets the criteria for inclusion in the National Forest System in exchange for land with lower public, environmental, and ecological values;

(B) consolidating a large area of National Forest System land to preserve—

(i) permanent public access, use, and enjoyment of the land; and

(ii) efficient management of the land;

(C) minimizing cash outlays by the United States to achieve the objectives described in subparagraphs (A) and (B);

(D) significantly reducing administrative costs to the United States through—

(i) consolidation of Federal land holdings for more efficient land management and planning;

(ii) elimination of approximately 350 miles of boundary between private land and the Federal parcels;

(iii) reduced right-of-way, special use, and other permit processing and issuance for roads and other facilities on National Forest System land; and

(iv) other administrative cost savings;

(E) significantly protecting the watershed and stream flow of the Verde River in Arizona by reducing the land available for future development within that watershed by approximately 25,000 acres; and

(F) conserving the waters of the Verde River through the recording of declarations restricting the use of water on Federal land located near the communities of Camp Verde, Cottonwood and Clarkdale to be exchanged by the United States to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C.; and

(7) Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. have selected parcels of National Forest System land that are logical for conveyance to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C. through a land exchange because the parcels—

(A) are located in less environmentally sensitive areas than the land to be acquired by the United States;

(B) have significantly lower recreational, wildlife, ecological, aesthetic, and other public purpose values than the land to be acquired by the United States; and

(C) are encumbered by special use permits and rights-of-way for a variety of purposes (including summer youth camps, municipal water treatment facilities, sewage treatment facilities, city parks, and airport-related facilities) that—

(i) limit the usefulness of the parcels for general National Forest System purposes; but

(ii) are logical for pass-through conveyances from Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C. to the permit or right-of-way holders.

(b) PURPOSE.—The purpose of this title is to authorize, direct, and facilitate the exchange of Federal land and non-Federal land between the United States, Yavapai Ranch Limited Partnership, and the Northern Yavapai, L.L.C.

SEC. 102. DEFINITIONS.

In this title:

(1) CAMP VERDE DECLARATION.—The term "Camp Verde Declaration" means the Declaration of Covenants, Conditions, and Restrictions executed by Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C., on or about August 12, 2002, and recorded in the official records of Yavapai County, Arizona, that is intended to run with the land and imposes certain water use restrictions, water source limitations, and water conservation measures on the future development of the land described in section 103(a)(2)(D).

(2) COTTONWOOD DECLARATION.—The term "Cottonwood Declaration" means the Declaration of Covenants, Conditions and Restrictions executed by Yavapai Ranch Limited Partnership and the Northern Yavapai, L.L.C., on or about August 12, 2002, and recorded in the official records of Yavapai County, Arizona, that is intended to run with the land and imposes certain water use restrictions, water source limitations, and water conservation measures on the future development of the land described in section 103(a)(2)(E).

(3) DECLARATIONS.—The term "Declarations" collectively means the Camp Verde Declaration and the Cottonwood Declaration, both of which Congress is requiring to be recorded as encumbrances on the Camp Verde Federal land described in section 103(a)(2)(D) and the Cottonwood/Clarkdale Federal land described in section 103(a)(2)(E) in order to conserve water resources in the Verde River Valley, Arizona.

(4) FEDERAL LAND.—The term "Federal land" means the land directed for exchange to YRLP in section 103(a)(2).

(5) MANAGEMENT PLAN.—The term "Management Plan" means the land and resource management plan for Prescott National Forest.

(6) NON-FEDERAL LAND.—The term "non-Federal land" means the approximately 35,000 acres of non-Federal land located within the boundaries of Prescott National Forest and directed for exchange to the United States, as generally depicted on the map entitled "Yavapai Ranch Non-Federal Lands", dated April 2002.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(8) SUMMER CAMPS.—The term "summer camps" means Camp Pearlstein and Friendly Pines, Patterdale Pines, Pine Summit, Sky Y, and YoungLife Lost Canyon camps in the State of Arizona.

(9) YRLP.—

(A) IN GENERAL.—The term "YRLP" means—

(i) the Yavapai Ranch Limited Partnership, an Arizona Limited Partnership; and

(ii) the Northern Yavapai, L.L.C., an Arizona Limited Liability Company.

(B) INCLUSIONS.—Except as otherwise expressly provided in this title, the term "YRLP" includes successors-in-interest, assigns, transferees, and affiliates of YRLP.

SEC. 103. LAND EXCHANGE.

(a) CONVEYANCE OF FEDERAL LAND BY THE UNITED STATES.—

(1) IN GENERAL.—On receipt of an offer from YRLP to convey the non-Federal land, the Secretary shall convey to YRLP by deed acceptable to YRLP all right, title, and interest of the United States in and to the Federal land described in paragraph (2), subject to easements, rights-of-way, utility lines, and any other valid encumbrances on the Federal land in existence on the date of enactment of this Act and such other reservations as may be mutually agreed to by the Secretary and YRLP.

(2) DESCRIPTION OF FEDERAL LAND.—The Federal land referred to in paragraph (1) shall consist of the following:

(A) Certain land comprising approximately 15,300 acres located in Yavapai County, Arizona, as generally depicted on the map entitled "Yavapai Ranch-Ranch Area Federal Lands", dated April 2002.

(B) Certain land in the Coconino National Forest, Coconino County Arizona—

(i) comprising approximately 1,500 acres located in Coconino National Forest, Coconino County, Arizona, as generally depicted on the map entitled "Flagstaff Federal Lands-Airport Parcel", dated April 2002; and

(ii) comprising approximately 28.26 acres in 2 separate parcels, as generally depicted on the map entitled "Flagstaff Federal Lands—Wetzel School and Mt. Elden Parcels", dated September 2002.

(C) Certain land referred to as Williams Airport, Williams golf course, Williams Sewer, Buckskinner Park, Williams Railroad, and Well parcels numbers 2, 3, and 4, comprising approximately 950 acres, all located in Kaibab National Forest, Coconino County, Arizona, as generally depicted on the map entitled "Williams Federal Lands", dated April 2002.

(D) Certain land comprising approximately 2,200 acres located in Prescott National Forest, Yavapai County, Arizona, as generally depicted on the map entitled "Camp Verde Federal Land—General Crook Parcel", dated April 2002, and title to which shall be conveyed to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., but not to any successor-in-interest, assign, transferee or affiliate of Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., or any other person or entity holding or acquiring any interest in Yavapai Ranch.

(E) Certain land comprising approximately 820 acres located in Prescott National Forest in Yavapai County, Arizona, as generally depicted on the map entitled "Cottonwood/Clarkdale Federal Lands", dated April 2002, and title to which shall be conveyed to Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., but not to any successor-in-interest, assign, transferee or affiliate of Yavapai Ranch Limited Partnership or the Northern Yavapai, L.L.C., or any other person or entity holding or acquiring any interest in Yavapai Ranch.

(F) Certain land comprising approximately 237.5 acres located in Kaibab National Forest, Coconino County, Arizona, as generally depicted on the map entitled "Younglife Lost Canyon", dated April 2002.

(G) Certain land comprising approximately 200 acres located in Prescott National Forest, Yavapai County, Arizona, and including Friendly Pines, Patterdale Pines, Camp Pearlstein, Pine Summit, and Sky Y, as generally depicted on the map entitled "Prescott Federal Lands—Summer Youth Camp Parcels", dated April 2002.

(H) Perpetual, unrestricted, and nonexclusive easements that—

(i) run with and benefit land owned by or conveyed to YRLP across certain land of the United States;

(ii) are for—

(I) the purposes of operating, maintaining, repairing, improving, and replacing electric power lines or water pipelines (including related storage tanks, valves, pumps, and hardware); and

(II) rights of reasonable ingress and egress necessary for the purposes described in subclause (I);

(iii) are 20 feet in width; and

(iv) are located 10 feet on either side of each line depicted on the map entitled "YRLP Acquired Easements for Water Lines", dated April 2002.

(3) CONDITIONS.—

(A) PERMITS.—Permits or other legal occupancies of the Federal land by third parties in existence on the date of transfer of the Federal land to YRLP shall be addressed in accordance with—

(i) part 254.15 of title 36, Code of Federal Regulations (or any successor regulation); and

(ii) other applicable laws (including regulations).

(B) CONVEYANCE OF CERTAIN PARCELS.—

(i) CAMP VERDE.—Following the acquisition of the parcel described in paragraph (2)(D), YRLP shall execute and record with the Yavapai County Recorder an amended declaration in which the legal description of the land referred to in the Camp Verde Declaration is amended to conform to the legal description in paragraph (2)(D).

(ii) COTTONWOOD/CLARKDALE.—Following the acquisition of the parcel described in paragraph (2)(E), YRLP shall execute and record with the Yavapai County Recorder an amended declaration in which the legal description of the land referred to in the Cottonwood Declaration is amended to conform to the legal description in paragraph (2)(E).

(b) CONVEYANCE OF NON-FEDERAL LAND BY YRLP.—

(1) IN GENERAL.—On receipt of title to the Federal land, YRLP shall simultaneously convey to the United States, by deed acceptable to Secretary and subject to any encumbrances, all right, title, and interest of YRLP in and to the non-Federal land.

(2) EASEMENTS.—

(A) IN GENERAL.—The conveyance of non-Federal land to the United States under paragraph (1) shall be subject to the reservation of—

(i) perpetual and unrestricted easements and water rights that run with and benefit the land retained by YRLP for—

(I) the operation, maintenance, repair, improvement, development, and replacement of not more than 3 existing wells;

(II) related storage tanks, valves, pumps, and hardware; and

(III) pipelines to points of use; and

(ii) easements for reasonable ingress and egress to accomplish the purposes of the easements described in clause (i).

(B) EXISTING WELLS.—

(i) IN GENERAL.—Each easement for an existing well shall be—

(I) 40 acres in area; and

(II) to the maximum extent practicable—

(aa) centered on the existing well; and

(bb) located in the same square mile section of land.

(ii) LIMITATION.—Within a 40-acre easement described in clause (i), the United States and any permitees or licensees of the United States shall be prohibited from undertaking any activity that interferes with the use of the wells by YRLP, without the written consent of YRLP.

(iii) RESERVATION OF WATER FOR THE UNITED STATES.—The United States shall be entitled to ½ of the production of each existing well, not to exceed a total of 3,100,000 gallons of water annually, for watering wildlife and stock and for other National Forest System purposes from all 3 wells.

(C) REASONABLE ACCESS.—Each easement for ingress and egress shall be at least 20 feet in width.

(D) LOCATION.—The locations of the easements and wells shall be the locations generally depicted on a map entitled "YRLP Reserved Easements for Water Lines and Wells", dated April 2002.

(c) LAND TRANSFER PROBLEMS.—

(1) FEDERAL LAND.—If all or part of any parcels of Federal land cannot be transferred to YRLP because of hazardous materials, or if the proposed title to a Federal land parcel or parcels or fraction thereof is unacceptable to YRLP because of the existence of unpatented mining claims, or in the event of the presence of threatened or endangered species or cultural or historic resources which cannot be mitigated, or other third party rights under the public land laws, the parcel or parcels or parts thereof shall be deleted from the exchange and the Secretary and YRLP may mutually agree to exchange other Federal land in lieu of the deleted parcel or part thereof in accordance with section 104(c). If the parcel or parcels are deleted from the exchange, the non-Federal land shall be adjusted in accordance with section 104(c) as necessary to achieve equal value.

(2) NON-FEDERAL LAND.—If 1 or more of the parcels of non-Federal land or a portion of such a parcel cannot be conveyed to the United States because of the presence of hazardous materials or because the proposed title to a parcel or a portion of the parcel is unacceptable to the Secretary—

(A) the parcel or any portion of the parcel shall be excluded from the exchange; and

(B) the Federal land shall be adjusted in accordance with section 104(c).

(d) PASS-THROUGH CONVEYANCES.—

(1) IN GENERAL.—On or after the acquisition of the Federal land, YRLP may subsequently pass through or convey to the cities of Flagstaff, Williams, Camp Verde, Cottonwood, and the summer camps the parcels of Federal land or portions of parcels located in or near the cities or summer camps.

(2) DELETION FROM EXCHANGE.—If YRLP and the cities or summer camps referred to in paragraph (1) have not agreed to the terms and conditions of a pass-through or subsequent conveyance of a parcel or portion of a parcel of Federal land before the completion of the exchange, the Secretary, on notice by YRLP, shall delete the parcel or any portion of the parcel from the exchange, provided that any portion so deleted shall be configured by the Secretary to leave the United States with manageable post-exchange lands and boundaries.

(3) EASEMENTS.—In accordance with section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), the United States shall reserve easements in any land transferred to YRLP.

SEC. 104. EXCHANGE VALUATION, APPRAISALS, AND EQUALIZATION.

(a) EQUAL VALUE EXCHANGE.—The values of the non-Federal and Federal land directed to be exchanged under this title—

(1) shall be equal, as determined by the Secretary; or

(2) if, the values are not equal, shall be equalized in accordance with subsection (c).

(b) APPRAISALS.—

(1) IN GENERAL.—The values of the Federal land and non-Federal land shall be determined by appraisals using the appraisal standards in—

(A) the Uniform Appraisal Standards for Federal Land Acquisitions, fifth edition (December 20, 2000); and

(B) the Uniform Standards of Professional Appraisal Practice.

(2) APPROVAL.—In accordance with part 254.9(a)(1) of title 36, Code of Federal Regulations (or any successor regulation), the appraiser shall be—

(A) acceptable to the Secretary and YRLP; and

(B) a contractor, the clients of which shall be both the Secretary and YRLP.

(3) REQUIREMENTS.—During the appraisal process—

(A) the Secretary and YRLP shall have equal access to the appraiser; and

(B) the Secretary and YRLP shall cooperate with each other and the appraiser to prepare appraisal instructions which shall require the appraiser to—

(i) consider the effect on value of the Federal land or non-Federal land because of the existence of encumbrances on each parcel, including—

(I) permitted uses on Federal land that cannot be reasonably terminated before the appraisal; and

(II) facilities on Federal land that cannot be reasonably removed before the appraisal.

(ii) determine the value of each parcel of Federal land and non-Federal land (including the value of each individual section of the intermingled Federal and non-Federal land of the Yavapai Ranch) as an assembled transaction consistent with the applicable provisions of parts 254.5 and 254.9(b)(1)(v) of title 36, Code of Federal Regulations (or any successor regulation).

(4) DISPUTE RESOLUTION.—A dispute relating to the appraised values of the Federal land or non-Federal land following completion of the appraisal shall be processed in accordance with—

(A) section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)); and

(B) part 254.10 of title 36, Code of Federal Regulations (or any successor regulation).

(5) APPRAISAL PERIOD.—After the final appraised values of the Federal land and non-Federal land have been reviewed and approved by the Secretary or otherwise determined in accordance with the requirements of paragraph (4), the final appraised values—

(A) shall not be reappraised or updated by the Secretary before the completion of the land exchange; and

(B) shall be considered to be the values of the Federal land and non-Federal land on the date of the transfer of title.

(6) AVAILABILITY.—The appraisals approved by the Secretary shall be made available for public inspection in the Offices of the Supervisors for Prescott, Coconino, and Kaibab National Forests in accordance with Forest Service policy.

(7) ALLOCATION OF CHANGES.—For purposes of the land exchange directed by this title, any change in land value attributable to the conservation measures and restrictions on water use under the Declarations shall be allocated 50 percent to the Secretary and 50 percent to YRLP.

(c) EQUALIZATION OF VALUES.—

(1) SURPLUS OF NON-FEDERAL LAND.—

(A) IN GENERAL.—If, after any adjustments are made to the non-Federal land or Federal land under subsection (c) or (d) of section 103, the final appraised value of the non-Federal land exceeds the final appraised value of the Federal land, the Federal land and non-Federal land shall be adjusted in accordance with subparagraph (B) until the values are approximately equal.

(B) ADJUSTMENTS.—An adjustment referred to in subparagraph (A) shall be accomplished by beginning at the east boundary of section 30, T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, and adding to the Federal land to be conveyed to YRLP in ⅛ section increments (N–S 64th line) and lot lines across the section, while deleting from the conveyance to the United States non-Federal land in the same incremental portions of sections 19 and 31, T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, to establish a linear and continuous boundary that runs north to south across the sections.

(2) SURPLUS OF FEDERAL LAND.—

(A) IN GENERAL.—If, after any adjustments are made to the non-Federal land or Federal land under subsection (c) or (d) of section 103, the final appraised value of the Federal land exceeds the final appraised value of the non-Federal land, the Federal land and non-Federal land shall be adjusted in accordance with subparagraph (B) until the values are approximately equal.

(B) ADJUSTMENTS.—Adjustments under subparagraph (A) shall be made in the following order:

(i) Beginning at the south boundary of section 31, T. 20 N., R. 5 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 33 and 35, T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, by adding to the non-Federal land to be conveyed to the United States in ⅛ section increments (E–W 64th line) while deleting from the conveyance to YRLP Federal land in the same incremental portions of section 32, T. 20 N., R. 5 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 32, 34, and 36, in T. 20 N., R. 6 W., Gila and Salt River Base and Meridian, Yavapai County, Arizona, to establish a linear and continuous boundary that runs east to west across the sections.

(ii) By deleting the following parcels:

(I) The Williams Sewer parcel, comprising approximately 20 acres, located in Kaibab National Forest, and more particularly described as the E½NW¼SE¼ portion of section 21, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(II) The Williams railroad parcel, located in the Kaibab National Forest, and more particularly described as—

(aa) the W½SW¼ portion of section 26, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion northeast of the southwestern right-of-way line of the Burlington Northern and Santa Fe Railway (Seligman Subdivision), comprising approximately 30 acres;

(bb) the NE¼NW¼, the N½SE¼NW¼, the SE¼SE¼NW¼, the NE¼, the SE¼SW¼, and the SE¼ portions of section 27, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion north of the southern right-of-way of Interstate 40 and any portion northeast of the southwestern right-of-way line of the Burlington Northern and Santa Fe Railway (Seligman Subdivision), any portion south of the northern right-of-way of the Burlington Northern and Santa Fe Railway (Phoenix Subdivision), and any portion within Exchange Survey No. 677, comprising approximately 220 acres;

(cc) the NE¼NE¼ portion of section 34, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion southwest of the northeastern right-of-way line of the Burlington Northern and Santa Fe Railway (Phoenix Subdivision), comprising approximately 2 acres; and

(dd) the N½ portion of section 35, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, excluding any portion north of the southern right-of-way line of the Burlington Northern and Santa Fe Railway (Seligman Subdivision) and any portion south of the northern right-of-way of the Burlington Northern and Santa Fe Railway (Phoenix Subdivision), comprising approximately 60 acres.

(III) Buckskinner Park, comprising approximately 50 acres, located in Kaibab National Forest, and more particularly described as the SW¼SW¼, and the S½S½NW¼SW¼ portions of section 33, T. 22 N., R. 2 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(IV) The Cottonwood/Clarkdale parcel, comprising approximately 820 acres, located in Prescott National Forest, and more particularly described as—

(aa) lots 3, 4, 6, portions of lots 7, 8, and 9, and the W½NW¼ and the SW¼SE¼ portions of section 5, T. 15 N., R. 3 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona; and

(bb) the S½S½N½NW¼, the E½E½NE¼NE¼NW¼, the E½NE¼SE¼NE¼NW¼, the NW¼NE¼, the S½NE¼, the S½NW¼, and the S½ portions of section 8, T. 15 N., R. 3 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(V) The Wetzel school parcel, comprising approximately 10.89 acres, located in Coconino National Forest, and more particularly described as lot 9 of section 11, T. 21 N., R. 7 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(VI) The Mt. Eldon parcel, comprising approximately 17.21 acres, located in Coconino National Forest, and more particularly described as lot 7 of section 7, T. 21 N., R. 8 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(VII) A portion of the Camp Verde parcel, comprising approximately 316 acres, located in Prescott National Forest, and more particularly described as the NENE¼ and lots 1, 5, and 6 of section 26, and the N½N½ of section 27, T. 14 N., R. 4 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(VIII) A portion of the Camp Verde parcel, comprising approximately 314 acres, located in Prescott National Forest, and more particularly described as the SENE¼ and lots 2, 7, 8, and 9 of section 26, and the S½N½ of section 27, T. 14 N., R. 4 E., Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(C) MODIFICATIONS.—The descriptions of land and acreage provided in subclauses (III), (IV), and (V) of subparagraph (B)(ii) may be modified to conform with a survey approved by the Bureau of Land Management.

(3) ADDITIONAL EQUALIZATION OF VALUES.—If, after the values are adjusted in accordance with paragraph (1) or (2), the values of the Federal land and non-Federal land are not equal, then the Secretary and YRLP may by mutual agreement adjust the acreage of the Federal land and non-Federal land until the values of that land are equal.

(d) CASH EQUALIZATION.—

(1) IN GENERAL.—After the values of the non-Federal and Federal land are equalized

to the maximum extent practicable under subsection (c), any balance due to the Secretary or to YRLP shall be paid—

(A) through cash equalization payments under section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)); or

(B) in accordance with standards established by the Secretary and YRLP.

(2) Limitation.—

(A) In general.—YRLP shall not be required to make any cash equalization payment to the Secretary in an amount that exceeds $50,000.

(B) Adjustments.—If the value of the Federal land exceeds the value of the non-Federal land by more than $50,000, the Secretary and YRLP shall by mutual agreement delete additional Federal land from the exchange until the values of the Federal land and non-Federal land are equal.

(C) Deposit.—Any money received by the United States under this title shall, without further appropriation, be deposited in a fund established under Public Law 90–171 (16 U.S.C. 484(a); commonly known as the Sisk Act) for the acquisition of land or interests in land for National Forest System purposes in the State of Arizona.

SEC. 105. MISCELLANEOUS PROVISIONS.

(a) Revocation of Orders.—Any public orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(b) Withdrawal of Federal Land.—The Federal land is withdrawn from all forms of entry and appropriation under the public land laws, including the mining and mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), until the date on which the exchange of Federal land and non-Federal land is completed.

(c) Surveys, Inventories, and Clearances.—Before completing the exchange of Federal land and non-Federal land directed by this title, the Secretary shall carry out land surveys and preexchange inventories, clearances, reviews, and approvals relating to hazardous materials, threatened and endangered species, cultural and historic resources, and wetlands and floodplains.

(d) Costs of Implementing the Exchange.—

(1) In general.—Except as provided in paragraph (2), the Secretary shall be responsible for any costs of implementing the exchange of Federal land and non-Federal land.

(2) Exceptions.—Subject to paragraph (3), YRLP shall be responsible for paying—

(A) 100 percent of the costs of—

(i) conducting the appraisals of the Federal land and non-Federal land;

(ii) the preparation of necessary land surveys and verified legal descriptions of the Federal land and non-Federal land; and

(iii) title insurance; and

(B) 50 percent of the costs of—

(i) conducting cultural and historic resource surveys;

(ii) conducting surveys of hazardous materials;

(iii) escrow; and

(iv) publication of notice of the proposed exchange.

(3) Limitations.—

(A) In general.—YRLP shall not pay more than $500,000 of the costs described in paragraph (2).

(B) Credit.—Any costs paid by YRLP for cultural or historic resource surveys before the date of enactment of this Act shall be credited against the maximum amount required to be paid by YRLP under subparagraph (A).

(4) Reimbursement.—No amount paid by YRLP under this subsection shall be eligible for reimbursement under section 206(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(f)).

(e) Timing.—It is the intent of Congress that the exchange of Federal land and non-Federal land directed by this title be completed not later than 1 year after the date of enactment of this Act.

(f) Contractors.—

(1) In general.—If the Secretary lacks adequate staff or resources to complete the exchange by the date referred to in subsection (e), or if the costs described in subsection (d)(2) exceed the limitation described in subsection (d)(3), the Secretary shall reimburse YRLP for the costs of 1 or more independent third party contractors, subject to the approval of the Secretary and YRLP, to carry out any activities necessary to complete the exchange by that date.

(2) Credits.—If the Secretary lacks funds with which to reimburse YRLP in accordance with paragraph (1), the Secretary shall credit any amounts paid by YRLP to third party independent contractors against the value of the Federal land in accordance with section 206(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(f)).

SEC. 106. STATUS AND MANAGEMENT OF LAND AFTER EXCHANGE.

(a) In General.—Non-Federal land acquired by the United States under this title—

(1) shall become part of the Prescott National Forest; and

(2) shall be administered by the Secretary in accordance with—

(A) this title; and

(B) the laws (including regulations) applicable to the National Forest System.

(b) Management Plan.—

(1) In general.—Acquisition of the land authorized by this title shall not, of itself, require a revision or amendment to the Management Plan for Prescott National Forest.

(2) Amendment or revision of plan.—If the Management Plan is amended or revised after the date of acquisition of non-Federal land under this title, the Management Plan shall be amended to reflect the acquisition of the non-Federal land.

(c) Post-Exchange Management of Certain Land.—

(1) In general.—Following its acquisition by the United States, the non-Federal land acquired by the United States and adjoining National Forest System land shall be managed in accordance with paragraphs (2) through (6), and the laws, rules, and regulations generally applicable to the National Forest System.

(2) Protection of natural resources.—The land shall be managed in a manner that maintains the species, character, and natural values of the land, including—

(A) deer, pronghorn antelope, wild turkey, mountain lion, and other resident wildlife and native plant species;

(B) suitability for livestock grazing; and

(C) aesthetic values.

(3) Grazing.—Each area located in the Yavapai Ranch grazing allotment as of the date of enactment of this Act shall—

(A) remain in the Yavapai Ranch grazing allotment; and

(B) continue to be subject to grazing in accordance with the laws, rules, and regulations generally applicable to domestic livestock grazing on National Forest System land.

(4) Roads.—

(A) Improvement and maintenance.—The Secretary shall maintain or improve a system of roads and trails on the land to provide opportunities for hunting, motorized and nonmotorized recreation, and other uses of the land by the public.

(B) Public access road.—

(i) Construction.—The Secretary shall improve or construct a public access road linking Forest Road 7 (Pine Creek Road) to Forest Road 1 (Turkey Canyon Road) through portions of sections 33, 32, 31, and 30, T. 19 N., R. 6 W., Gila and Salt River Base and Meridian.

(ii) Existing road.—The existing road linking Pine Creek and Gobbler Knob—

(I) shall remain open until the date on which the new public access road is completed; and

(II) after the date on which the new public access road is completed, shall be obliterated.

(C) Easements.—

(i) In general.—Simultaneously with completion of the land exchange directed by this title, the Secretary and YRLP shall mutually grant to each other at no charge reciprocal easements for ingress, egress, and utilities across, over, and through—

(I) the routes depicted on the map entitled "Road and Trail Easements—Yavapai Ranch Area" dated April 2002; and any other inholdings retained by the United States or YRLP; or

(II) any relocated routes that are mutually agreed to by the Secretary and YRLP.

(ii) Requirements.—Easements granted under this subparagraph shall be unlimited, perpetual, and nonexclusive in nature, and shall run with and benefit the land of the grantee.

(iii) Rights of grantee.—The rights of the grantee shall extend to—

(I) in the case of YRLP, any successors-in-interest, assigns, and transferees of YRLP; and

(II) in the case of the Secretary, members of the general public, as determined to be appropriate by the Secretary.

(5) Timber harvesting.—

(A) In general.—Except as provided in subparagraph (B), timber harvesting for commodity production shall be prohibited on the land.

(B) Exceptions.—Timber harvesting may be conducted on the land if the Secretary determines that timber harvesting is necessary—

(i) to prevent or control fires, insects, and disease through forest thinning or other forest management techniques; or

(ii) to protect or enhance grassland habitat, watershed values, or native plants, trees, and wildlife species.

(6) Water improvements.—Nothing in this title prohibits the Secretary from authorizing or constructing new water improvements in accordance with the laws, rules, and regulations applicable to water improvements on National Forest System land for—

(A) the benefit of domestic livestock or wildlife management; or

(B) the improvement of forest health or forest restoration.

(d) Maps.—

(1) In general.—The Secretary and YRLP may correct any minor errors in the maps of, legal descriptions of, or encumbrances on the Federal land or non-Federal land.

(2) Discrepancy.—In the event of any discrepancy between a map, acreage, and a legal description, the map shall prevail unless the Secretary and YRLP agree otherwise.

(3) AVAILABILITY.—The Declarations and all maps referred to in this title shall be on file and available for inspection in the Office of the Supervisor, Prescott National Forest, Prescott, Arizona.

(e) EFFECT.—Nothing in this title precludes, prohibits, or otherwise restricts YRLP from subsequently granting, conveying, or otherwise transferring title to the Federal land after its acquisition of the Federal land and recordation of the Declarations and any conforming amendments to the Declarations.

(f) ENCROACHMENT LAND IN FLAGSTAFF.—

(1) IN GENERAL.—The Secretary shall convey by quitclaim deed lot 8 in section 11, T. 21 N., R. 7 E., Gila and Salt River Base and Meridian, Coconino County, Arizona, to a single individual or entity, either of which represent the majority of landowners with encroachments on such lot.

(2) PAYMENT TO THE UNITED STATES.—In consideration of the conveyance directed by paragraph (1), the individual or entity representing the majority of landowners with encroachments on lot 8 shall pay to the Secretary the sum of $2500 plus any costs of remonumenting the boundary of lot 8.

(3) TIMING.—The Secretary shall convey lot 8 in accordance with this subsection within 90 days of receipt of powers of attorney executed to a single individual or entity representing the majority of landowners with encroachments on lot 8. If the powers of attorney are not delivered to the Secretary within 270 days of the date of enactment of this Act, the authorization under this subsection shall expire and, thereafter, any conveyances shall be made under Public Law 97-465 (16 U.S.C. 521c et seq.).

TITLE II—SAN ISABEL NATIONAL FOREST LAND EXCHANGE, COLORADO

SEC. 201. LAND EXCHANGE, SAN ISABEL NATIONAL FOREST, COLORADO.

(a) EXCHANGE REQUIRED.—In exchange for the private property described in subsection (b), the Secretary of Agriculture shall convey to E. Michael Senter of Buena Vista, Colorado (in this section referred to as the "recipient"), all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 2.2 acres in the San Isabel National Forest, Colorado, as generally depicted on the map entitled "Senter Exchange", dated September 20, 2002. The conveyance under this subsection shall be made upon the receipt by the Secretary of a binding offer for the conveyance of title acceptable to the Secretary to the property described in subsection (b).

(b) CONSIDERATION.—As consideration for the property to be conveyed by the Secretary under subsection (a), the recipient shall convey to the Secretary a parcel of real property consisting of approximately 2.0 acres located within the boundaries of the San Isabel National Forest. This parcel is also generally depicted on the map referred to in subsection (a).

(c) EQUAL VALUE EXCHANGE; APPRAISAL.—The values of the properties to be exchanged under this section shall be equal or equalized as provided in subsection (d). The value of the properties shall be determined through an appraisal performed by a qualified appraiser mutually agreed to by the Secretary and the recipient. The appraisal shall be performed in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions (Department of Justice, December 2000) and shall be completed not later than 120 days after the date of the enactment of this Act.

(d) CASH EQUALIZATION.—Any difference in the value of the properties to be exchanged under this section shall be equalized through the making of a cash equalization payment. The Secretary shall deposit any cash equalization payment received by the Secretary under this subsection in the fund established by Public Law 90-171 (commonly known as the Sisk Act; 16 U.S.C. 484a).

(e) PAYMENT OF COSTS.—All direct costs associated with the conveyances under this section, including the costs of appraisal, title, and survey work, shall be borne by the Secretary.

(f) ADMINISTRATION OF ACQUIRED LAND.—The property acquired by the Secretary under this section shall become part of the San Isabel National Forest and be administered as such in accordance with the laws, rules, and regulations generally applicable to the National Forest System.

Mr. HANSEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership and a land exchange in the State of Colorado to acquire a private inholding in the San Isabel National Forest, and for other purposes.".

A motion to reconsider was laid on the table.

AMERICAN WILDLIFE ENHANCEMENT ACT OF 2001

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the Senate bill (S. 990) to amend the Pittman-Robertson Wildlife Restoration Act to improve the provisions relating to wildlife conservation and restoration programs, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

Mr. GILCHREST. Mr. Speaker, reserving the right to object, and I will not object, but I just want to take this moment to tell the gentleman from Utah, the chairman of the Committee on Resources, that he has stayed the course, he has given that committee dignity, he has worked to improve the resources and nature's bounty and the approachability to use those resources for human progress; and I just wanted to say, Jim, thank you for your service to your country. I enjoyed serving on your committee.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I would like to join in extending congratulations. We have just talked about two of our colleagues who are retiring. They were not in the Chamber. We actually have three of our colleagues in the Chamber at this moment at 2:22 in the morning as we retire.

Of course, we have our friend, the gentleman from Texas (Mr. ARMEY), who is always in this Chamber, no matter what; and our friend, the gentleman from Utah (Mr. HANSEN); and our friend, the gentleman from Oklahoma (Mr. WATKINS), here as well.

I would like to say to all three of our colleagues who are retiring how much we have appreciated their extraordinary service to this institution.

I had the privilege of being elected in 1980 with Jim Hansen. He came as a former speaker of the House of Representatives of the State legislature in Utah and did a phenomenal job there, and came in with a class that was actually larger than the one that will be coming in for the 108th Congress. We ended up with a class of, in a bipartisan way, I think about 76 Members or so. We had 53 Republicans who came in, and it was the day that Ronald Reagan was elected President of the United States that Jim Hansen and I were elected to the House of Representatives. He provided just extraordinary leadership to us.

I want to say on this issue that he has dealt with on the Committee on Resources dealing with the challenges that especially those of us in the West face, that I have appreciated his great service and his wonderful friendship; and I would like to say he will be missed, along with our friends, the gentleman from Texas (Mr. ARMEY) and, of course, the gentleman from Oklahoma (Mr. WATKINS), who we are going to be hearing from I expect before too terribly long. He has just informed me he will be in both Oklahoma and Washington, D.C., and I am not going to say exactly why he will be in both locations. His wife told him that there is a reason for that, but I am not going to state it right now. But his service here has been extraordinary, working very hard in his work on the Committee on Ways and Means.

I thank all of our friends who are retiring, but especially those three who are here at now 2:25 in the morning.

Mr. TOM DAVIS of Virginia. Mr. Speaker, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Speaker, let me commend my friend, the gentleman from Utah (Mr. HANSEN), for a distinguished career here, not only his stewardship of the Committee on Resources, but his stewardship of the most popular committee in the House, the Committee on Standards of Official Conduct. I know that could the gentleman have stayed on the Committee on Standards of Official Conduct as chairman, he would have probably stayed in this body, and his disappointment at going off that.

But Jim was a pillar of integrity, picked by the leadership because of that, because of his objectivity in dealing with these kinds of issue, and the gentleman added a great dimension to this body. We will miss you and I hope you stay active, Jim.

Mr. FARR of California. Mr. Speaker, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from California.

Mr. FARR of California. Mr. Speaker, I would like to rise also. I came here as a freshman and was assigned to the Committee on Resources, which I think is probably the most important committee in Congress, because it really deals with the terrain of America, the landscape of America, the things that brings us such respect for this country, its diversity and its incredible geography and beauty; and I found the gentleman from Utah (Mr. HANSEN) to be an incredibly warm chairman, always listening, being very fair, a real gentleman as a chairman; and I have to say on the other side of the aisle that we were treated always fairly and our views were respected and bills were passed.

I think that we are going to miss him. We are going to miss somebody that represents a State that really knows the beauty of America; and under his leadership we, Congress, rose to help that State put on the Olympics. It would not have happened without his leadership.

So it is a real pleasure to have served with him, and I wish him all the luck in the world. Thank you.

Mr. INSLEE. Mr. Speaker, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Washington.

Mr. INSLEE. Mr. Speaker, I would just like to report from the Democratic cloakroom that when we saw this spontaneous tribute to the gentleman from Utah (Mr. HANSEN), somebody said, You know, he is a really nice guy, and there was universal shaking of the heads affirmatively. That is the highest praise.

This has been a tremendous opportunity to work with the gentleman, Mr. Chairman, and Utah is a beautiful state and you have made it a little nicer being such a gracious person here.

Mr. GILCHREST. Mr. Speaker, reclaiming my time, I would say to WES WATKINS, DICK ARMEY, JIM HANSEN, thank you from the country's heart.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Speaker, I would like to express my appreciation for the kind words of my colleagues and friends. It has been very kind of them to say these things.

Mr. GILCHREST. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 990

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Wildlife Enhancement Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
TITLE I—PITTMAN-ROBERTSON WILDLIFE CONSERVATION AND RESTORATION PROGRAMS IMPROVEMENT
Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. Wildlife Conservation and Restoration Account.
Sec. 104. Apportionment of amounts in the Account.
Sec. 105. Wildlife conservation and restoration programs.
Sec. 106. Nonapplicability of Federal Advisory Committee Act.
Sec. 107. Technical amendments.
Sec. 108. Effective date.
TITLE II—ENDANGERED AND THREATENED SPECIES RECOVERY
Sec. 201. Purpose.
Sec. 202. Endangered and threatened species recovery assistance.
TITLE III—NON-FEDERAL LAND CONSERVATION GRANT PROGRAM
Sec. 301. Non-Federal land conservation grant program.
TITLE IV—CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND
Sec. 401. Conservation and restoration of shrubland and grassland.

TITLE I—PITTMAN-ROBERTSON WILDLIFE CONSERVATION AND RESTORATION PROGRAMS IMPROVEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Pittman-Robertson Wildlife Conservation and Restoration Programs Improvement Act".

SEC. 102. DEFINITIONS.

(a) IN GENERAL.—Section 2 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669a) is amended to read as follows:

"SEC. 2. DEFINITIONS.

"In this Act:

"(1) ACCOUNT.—The term 'Account' means the Wildlife Conservation and Restoration Account established by section 3(a)(2).

"(2) CONSERVATION.—

"(A) IN GENERAL.—The term 'conservation' means the use of a method or procedure necessary or desirable—

"(i) to sustain healthy populations of wildlife; or

"(ii) to restore declining populations of wildlife.

"(B) INCLUSIONS.—The term 'conservation' includes any activity associated with scientific resources management, such as—

"(i) research;

"(ii) census;

"(iii) monitoring of populations;

"(iv) acquisition, improvement, and management of habitat;

"(v) live trapping and transplantation;

"(vi) wildlife damage management;

"(vii) periodic or total protection of a species or population; and

"(viii) the taking of individuals within a wildlife stock or population if permitted by applicable Federal law, State law, or law of the District of Columbia, a territory, or an Indian tribe for the purpose of protecting wildlife in decline.

"(3) FUND.—The term 'fund' means the Federal aid to wildlife restoration fund established by section 3(a)(1).

"(4) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(5) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

"(6) STATE FISH AND GAME DEPARTMENT.—The term 'State fish and game department' means any department or division of a department of another name, or commission, or 1 or more officials, of a State, the District of Columbia, a territory, or an Indian tribe empowered under the laws of the State, the District of Columbia, the territory, or the Indian tribe, respectively, to exercise the functions ordinarily exercised by a State fish and game department or a State fish and wildlife department.

"(7) TERRITORY.—The term 'territory' means Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.

"(8) WILDLIFE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'wildlife' means—

"(i) any species of wild, free-ranging fauna (excluding fish); and

"(ii) any species of fauna (excluding fish) in a captive breeding program the object of which is to reintroduce individuals of a depleted native species into the previously occupied range of the species.

"(B) WILDLIFE CONSERVATION AND RESTORATION PROGRAM.—For the purposes of each wildlife conservation and restoration program, the term 'wildlife' includes fish and native plants.

"(9) WILDLIFE-ASSOCIATED RECREATION PROJECT.—The term 'wildlife-associated recreation project' means—

"(A) a project intended to meet the demand for an outdoor activity associated with wildlife, such as hunting, fishing, and wildlife observation and photography;

"(B) a project such as construction or restoration of a wildlife viewing area, observation tower, blind, platform, land or water trail, water access route, area for field trialing, or trail head; and

"(C) a project to provide access for a project described in subparagraph (A) or (B).

"(10) WILDLIFE CONSERVATION AND RESTORATION PROGRAM.—The term 'wildlife conservation and restoration program' means a program developed by a State fish and game department and approved by the Secretary under section 12.

"(11) WILDLIFE CONSERVATION EDUCATION PROJECT.—The term 'wildlife conservation education project' means a project, including public outreach, that is intended to foster responsible natural resource stewardship.

"(12) WILDLIFE-RESTORATION PROJECT.—

"(A) IN GENERAL.—The term 'wildlife-restoration project' means a project consisting of the selection, restoration, rehabilitation, or improvement of an area of land or water (including a property interest in land or water) that is adaptable as a feeding, resting, or breeding place for wildlife.

“(B) Inclusions.—The term ‘wildlife-restoration project’ includes—

“(i) acquisition of an area of land or water described in subparagraph (A) that is suitable or capable of being made suitable for feeding, resting, or breeding by wildlife;

“(ii) restoration or rehabilitation of an area of land or water described in subparagraph (A) (such as through management of habitat and invasive species);

“(iii) construction in an area described in subparagraph (A) of such works as are necessary to make the area available for feeding, resting, or breeding by wildlife;

“(iv) such research into any problem of wildlife management as is necessary for efficient administration of wildlife resources; and

“(v) such preliminary or incidental expenses as are incurred with respect to activities described in this paragraph.”.

(b) Conforming Amendments.—

(1) The first section, section 3(a)(1), and section 12 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669, 669b(a)(1), 669i) are amended by striking “Secretary of Agriculture” each place it appears and inserting “Secretary”.

(2) The Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.) is amended by striking “Secretary of the Interior” each place it appears and inserting “Secretary”.

(3) Section 3(a)(1) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b(a)(1)) is amended by striking “(hereinafter referred to as the ‘fund’)”.

(4) Section 6(c) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669e(c)) is amended by striking “established by section 3 of this Act”.

(5) Section 11(b) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h–2(b)) is amended by striking “wildlife restoration projects” each place it appears and inserting “wildlife-restoration projects”.

SEC. 103. WILDLIFE CONSERVATION AND RESTORATION ACCOUNT.

(a) In General.—Section 3 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b) is amended—

(1) by striking “Sec. 3. (a)(1) An” and inserting the following:

“SEC. 3. FEDERAL AID TO WILDLIFE RESTORATION FUND.

“(a) In General.—

“(1) Federal aid to wildlife restoration fund.—An”;

(2) in subsection (a), by striking paragraph (2) and inserting the following:

“(2) Wildlife conservation and restoration account.—

“(A) Establishment.—There is established in the fund an account to be known as the ‘Wildlife Conservation and Restoration Account’.

“(B) Funding.—

“(i) In general.—There are authorized to be appropriated to the Account for apportionment to States, the District of Columbia, territories, and Indian tribes in accordance with section 4(d)—

“(I) $50,000,000 for fiscal year 2001; and

“(II) $350,000,000 for each of fiscal years 2002 through 2006.

“(ii) Availability.—Notwithstanding the matter under the heading ‘federal aid in wildlife restoration’ under the heading ‘Fish and Wildlife Service’ in title I of chapter VII of the General Appropriation Act, 1951 (64 Stat. 693), the amount appropriated under clause (i)(II) for each of fiscal years 2002 through 2006 shall be available for obligation in that fiscal year.”; and

(3) by striking subsections (c) and (d).

(b) Conforming Amendments.—

(1) Section 3 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b) is amended—

(A) in the first sentence of subsection (a)(1)—

(i) by inserting “(other than the Account)” after “wildlife restoration fund”; and

(ii) by inserting before the period at the end the following: “(other than sections 4(d) and 12)”; and

(B) in subsection (b), by inserting “(other than the Account)” after “the fund” each place it appears.

(2) Section 4 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c) is amended—

(A) in subsection (a)—

(i) in paragraph (1)(A)—

(I) by inserting “(other than the Account)” after “the fund”; and

(II) by inserting “(other than subsection (d) and sections 3(a)(2) and 12)” after “this Act”; and

(ii) in paragraph (2)(B), by inserting “from the fund (other than the Account)” before “under this Act”; and

(B) in the first sentence of subsection (b), by striking “said fund” and inserting “the fund (other than the Account)”.

(3) Section 6 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669e) is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by inserting “(other than sections 4(d) and 12)” after “this Act”;

(ii) in the last sentence of paragraph (1), by striking “this Act from funds apportioned under this Act” and inserting “this Act (other than sections 4(d) and 12) from funds apportioned from the fund (other than the Account) under this Act”;

(iii) in paragraph (2)—

(I) in the first sentence, by inserting “(other than sections 4(d) and 12)” after “this Act”; and

(II) in the last sentence, by striking “said fund as represents the share of the United States payable under this Act” and inserting “the fund (other than the Account) as represents the share of the United States payable from the fund (other than the Account) under this Act”; and

(iv) in the last paragraph, by inserting “from the fund (other than the Account)” before “under this Act” each place it appears; and

(B) in subsection (b), by inserting “(other than sections 4(d) and 12)” after “this Act” each place it appears.

(4) Section 8A of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669g–1) is amended in the first sentence by inserting “from the fund (other than the Account)” before “under this Act”.

(5) Section 9 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h) is amended in subsections (a) and (b)(1) by striking “section 4(a)(1)” each place it appears and inserting “subsections (a)(1) and (d)(1) of section 4”.

(6) Section 10 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h–1) is amended—

(A) in subsection (a)(1)—

(i) by inserting “(other than the Account)” after “the fund”; and

(ii) in subparagraph (B), by inserting “but excluding any use authorized solely by section 12” after “target ranges”; and

(B) in subsection (c)(2), by inserting before the period at the end the following: “(other than sections 4(d) and 12)”.

(7) Section 11(a)(1) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h–2(a)(1)) is amended by inserting “(other than the Account)” after “the fund”.

SEC. 104. APPORTIONMENT OF AMOUNTS IN THE ACCOUNT.

Section 4 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c) is amended by striking the second subsection (c) and subsection (d) and inserting the following:

“(d) Apportionment of Amounts in the Account.—

“(1) Deduction for administrative expenses.—For each fiscal year, the Secretary may deduct, for payment of administrative expenses incurred by the Secretary in carrying out activities funded from the Account, not more than 3 percent of the total amount of the Account available for apportionment for the fiscal year.

“(2) Apportionment to District of Columbia, territories, and Indian tribes.—

“(A) In general.—For each fiscal year, after making the deduction under paragraph (1), the Secretary shall apportion from the amount in the Account remaining available for apportionment—

“(i) to each of the District of Columbia and the Commonwealth of Puerto Rico, a sum equal to not more than ½ of 1 percent of that remaining amount;

“(ii) to each of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands, a sum equal to not more than ¼ of 1 percent of that remaining amount; and

“(iii) to Indian tribes, a sum equal to not more than 2¼ percent of that remaining amount, of which, subject to subparagraph (B)—

“(I) ⅓ shall be apportioned among Indian tribes based on the ratio that the trust land area of each Indian tribe bears to the total trust land area of all Indian tribes; and

“(II) ⅔ shall be apportioned among Indian tribes based on the ratio that the population of each Indian tribe bears to the total population of all Indian tribes.

“(B) Maximum apportionment for each Indian tribe.—For each fiscal year, the amounts apportioned under subparagraph (A)(iii) shall be adjusted proportionately so that no Indian tribe is apportioned a sum that is more than 5 percent of the amount available for apportionment under subparagraph (A)(iii) for the fiscal year.

“(3) Apportionment to States.—

“(A) In general.—Subject to subparagraph (B), for each fiscal year, after making the deduction under paragraph (1) and the apportionment under paragraph (2), the Secretary shall apportion the amount in the Account remaining available for apportionment among States in the following manner:

“(i) ⅓ based on the ratio that the area of each State bears to the total area of all States.

“(ii) ⅔ based on the ratio that the population of each State bears to the total population of all States.

“(B) Minimum and maximum apportionments.—For each fiscal year, the amounts apportioned under this paragraph shall be adjusted proportionately so that no State is apportioned a sum that is—

“(i) less than 1 percent of the amount available for apportionment under this paragraph for the fiscal year; or “(ii) more than 5 percent of that amount.

“(4) USE.—

“(A) IN GENERAL.—Apportionments under paragraphs (2) and (3)—

“(i) shall supplement, but not supplant, funds available to States, the District of Columbia, territories, and Indian tribes—

“(I) from the fund; or

“(II) from the Sport Fish Restoration Account established by section 9504(a) of the Internal Revenue Code of 1986; and

“(ii) shall be used to address the unmet needs for wildlife (including species that are not hunted or fished, and giving priority to species that are in decline), and the habitats on which the wildlife depend, for projects authorized to be carried out as part of wildlife conservation and restoration programs in accordance with section 12.

“(B) PROHIBITION ON DIVERSION.—A State, the District of Columbia, a territory, or an Indian tribe shall not be eligible to receive an apportionment under paragraph (2) or (3) if the Secretary determines that the State, the District of Columbia, the territory, or the Indian tribe respectively, diverts funds from any source of revenue (including interest, dividends, and other income earned on the revenue) available to the State, the District of Columbia, the territory, or the Indian tribe after January 1, 2000, for conservation of wildlife for any purpose other than the administration of the State fish and game department in carrying out wildlife conservation activities.

“(5) PERIOD OF AVAILABILITY OF APPORTIONMENTS.—Notwithstanding section 3(a)(1), for each fiscal year, the apportionment to a State, the District of Columbia, a territory, or an Indian tribe from the Account under this subsection shall remain available for obligation until the end of the second following fiscal year.”.

SEC. 105. WILDLIFE CONSERVATION AND RESTORATION PROGRAMS.

(a) IN GENERAL.—The Pittman-Robertson Wildlife Restoration Act is amended—

(1) by redesignating sections 12 and 13 (16 U.S.C. 669i, 669 note) as sections 13 and 15, respectively; and

(2) by inserting after section 11 (16 U.S.C. 669h-2) the following:

“SEC. 12. WILDLIFE CONSERVATION AND RESTORATION PROGRAMS.

“(a) DEFINITION OF STATE.—In this section, the term ‘State’ means a State, the District of Columbia, a territory, and an Indian tribe.

“(b) WILDLIFE CONSERVATION AND RESTORATION PROGRAMS.—

“(1) IN GENERAL.—A State, acting through the State fish and game department, may apply to the Secretary—

“(A) for approval of a wildlife conservation and restoration program; and

“(B) to receive funds from the apportionment to the State under section 4(d) to develop and implement the wildlife conservation and restoration program.

“(2) APPLICATION CONTENTS.—As part of an application under paragraph (1), a State shall provide documentation demonstrating that the wildlife conservation and restoration program of the State includes—

“(A) provisions vesting in the State fish and game department overall responsibility and accountability for the wildlife conservation and restoration program of the State;

“(B) provisions to identify which species in the State are in greatest need of conservation; and

“(C) provisions for the development, implementation, and maintenance, under the wildlife conservation and restoration program, of—

“(i) wildlife conservation projects—

“(I) that expand and support other wildlife programs; and

“(II) that are selected giving appropriate consideration to all species of wildlife in accordance with subsection (c);

“(ii) wildlife-associated recreation projects; and

“(iii) wildlife conservation education projects.

“(3) PUBLIC PARTICIPATION.—A State shall provide an opportunity for public participation in the development, implementation, and revision of the wildlife conservation and restoration program of the State and projects carried out under the wildlife conservation and restoration program.

“(4) APPROVAL FOR FUNDING.—If the Secretary finds that the application submitted by a State meets the requirements of paragraph (2), the Secretary shall approve the wildlife conservation and restoration program of the State.

“(5) PAYMENT OF FEDERAL SHARE.—

“(A) IN GENERAL.—Subject to subparagraph (D), after the Secretary approves a wildlife conservation and restoration program of a State, the Secretary may use the apportionment to the State under section 4(d) to pay the Federal share of—

“(i) the cost of implementation of the wildlife conservation and restoration program; and

“(ii) the cost of development, implementation, and maintenance of each project that is part of the wildlife conservation and restoration program.

“(B) FEDERAL SHARE.—The Federal share shall not exceed 75 percent.

“(C) TIMING OF PAYMENTS.—Under such regulations as the Secretary may promulgate, the Secretary—

“(i) shall make payments to a State under subparagraph (A) during the course of a project; and

“(ii) may advance funds to pay the Federal share of the costs described in subparagraph (A).

“(D) MAXIMUM AMOUNT FOR CERTAIN ACTIVITIES.—

“(i) IN GENERAL.—Notwithstanding section 8(a), except as provided in clause (ii), for each fiscal year, not more than 10 percent of the apportionment to a State under section 4(d) for the wildlife conservation and restoration program of the State may be used for each of the following activities:

“(I) Law enforcement activities.

“(II) Wildlife-associated recreation projects.

“(ii) EXCEPTION.—For any fiscal year, the limitation under clause (i) shall not apply to law enforcement activities or wildlife-associated recreation projects in a State if the State demonstrates to the satisfaction of the Secretary that law enforcement activities or wildlife-associated recreation projects, respectively, have a significant impact on high priority conservation activities.

“(6) METHOD OF IMPLEMENTATION OF PROJECTS.—A State may implement a project that is part of the wildlife conservation and restoration program of the State through—

“(A) a grant made by the State to, or a contract entered into by the State with—

“(i) any Federal, State, or local agency (including an agency that gathers, evaluates, and disseminates information on wildlife and wildlife habitats);

“(ii) an Indian tribe;

“(iii) a wildlife conservation organization, sportsmen’s organization, land trust, or other nonprofit organization; or

“(iv) an outdoor recreation or conservation education entity; and

“(B) any other method determined appropriate by the State.

“(c) WILDLIFE CONSERVATION STRATEGY.—

“(1) IN GENERAL.—Not later than 5 years after the date of the initial apportionment to a State under section 4(d), to be eligible to continue to receive funds from the apportionment to the State under section 4(d), the State shall, as part of the wildlife conservation and restoration program of the State, develop and implement a wildlife conservation strategy that is based on the best available and appropriate scientific information.

“(2) REQUIRED ELEMENTS.—A wildlife conservation strategy shall—

“(A) use such information on the distribution and abundance of species of wildlife as is indicative of the diversity and health of the wildlife of the State, including such information on species with low populations and declining numbers of individuals as the State fish and game department determines to be appropriate;

“(B) identify the extent and condition of wildlife habitats and community types essential to conservation of the species of wildlife of the State identified using information described in subparagraph (A);

“(C)(i) identify the problems that may adversely affect—

“(I) the species identified using information described in subparagraph (A); and

“(II) the habitats of the species identified under subparagraph (B); and

“(ii) provide for high priority research and surveys to identify factors that may assist in the restoration and more effective conservation of—

“(I) the species identified using information described in subparagraph (A); and

“(II) the habitats of the species identified under subparagraph (B);

“(D)(i) describe which actions should be taken to conserve—

“(I) the species identified using information described in subparagraph (A); and

“(II) the habitats of the species identified under subparagraph (B); and

“(ii) establish priorities for implementing those actions; and

“(E) provide for—

“(i) periodic monitoring of—

“(I) the species identified using information described in subparagraph (A);

“(II) the habitats of the species identified under subparagraph (B); and

“(III) the effectiveness of the conservation actions described under subparagraph (D); and

“(ii) adaptation of conservation actions as appropriate to respond to new information or changing conditions.

“(3) PUBLIC PARTICIPATION IN DEVELOPMENT OF STRATEGY.—A State shall provide an opportunity for public participation in the development and implementation of the wildlife conservation strategy of the State.

“(4) REVIEW AND REVISION.—Not less often than once every 7 years, a State shall review the wildlife conservation strategy of the State and make any appropriate revisions.

“(5) COORDINATION.—During the development, implementation, review, and revision of the wildlife conservation strategy of the State, a State shall provide for coordination between—

“(A) the State fish and game department; and

“(B) Federal, State, and local agencies and Indian tribes that—

“(i) manage significant areas of land or water within the State; or

“(ii) administer programs that significantly affect the conservation of—

"(I) the species identified using information described in paragraph (2)(A); or

"(II) the habitats of the species identified under paragraph (2)(B).

"(6) EFFECT OF FAILURE TO DEVELOP OR CARRY OUT WILDLIFE CONSERVATION STRATEGY.—

"(A) IN GENERAL.—If, in any fiscal year, a State fails to develop, implement, obtain the approval of the Secretary for, review, or revise a wildlife conservation strategy as required under this subsection, the apportionment to the State under section 4(d) for the following fiscal year shall be reapportioned in accordance with section 4(d) to States that carry out those activities as required under this subsection.

"(B) CORRECTION OF DEFICIENCIES.—If a State whose apportionment for a fiscal year is reapportioned under subparagraph (A) subsequently carries out the activities described in that subparagraph as required under this subsection, the State shall be eligible to receive an apportionment under section 4(d) for the fiscal year following the fiscal year of the reapportionment.

"(d) USE OF FUNDS FOR NEW AND EXISTING PROGRAMS AND PROJECTS.—Funds made available from the Account to carry out activities under this section may be used—

"(1) to carry out new programs and projects; and

"(2) to enhance existing programs and projects.

"(e) PRIORITY FOR FUNDING.—In using funds made available from the Account to carry out activities under this section, a State shall give priority to species that are in greatest need of conservation—

"(1) as evidenced by—

"(A) a low population and declining numbers of individuals;

"(B) a current threat or reasonably anticipated threat to the habitat of the species; or

"(C) any other similar indicator of need of conservation; or

"(2) as identified in the wildlife conservation strategy of the State under subsection (c).

"(f) LIMITATION ON USE OF FUNDS FOR WILDLIFE CONSERVATION EDUCATION PROJECTS.—Funds made available from the Account to carry out wildlife conservation education projects shall not be used to fund, in whole or in part, any activity that promotes or encourages opposition to the regulated hunting or trapping of wildlife.".

(b) CONFORMING AMENDMENT.—Section 8(a) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669g) is amended by striking the last sentence.

SEC. 106. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) PITTMAN-ROBERTSON WILDLIFE RESTORATION ACT.—The Pittman-Robertson Wildlife Restoration Act (as amended by section 105(a)(1)) is amended by inserting after section 13 the following:

"SEC. 14. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

"Coordination with State fish and game department personnel or with personnel of any other agency of a State, the District of Columbia, a territory, or an Indian tribe under this Act shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).".

(b) DINGELL-JOHNSON SPORT FISH RESTORATION ACT.—The Dingell-Johnson Sport Fish Restoration Act is amended—

(1) by redesignating section 15 (16 U.S.C. 777 note) as section 16; and

(2) by inserting after section 14 (16 U.S.C. 777m) the following:

"SEC. 15. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

"Coordination with State fish and game department personnel or with personnel of any other State agency under this Act shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 107. TECHNICAL AMENDMENTS.

(a) The first section of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669) is amended by striking "That the" and inserting the following:

"SECTION 1. COOPERATION OF SECRETARY OF THE INTERIOR WITH STATES.

"The".

(b) Section 5 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669d) is amended by striking "SEC. 5." and inserting the following:

"SEC. 5. CERTIFICATION OF AMOUNTS DEDUCTED OR APPORTIONED.".

(c) Section 6 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669e) is amended by striking "SEC. 6." and inserting the following:

"SEC. 6. SUBMISSION AND APPROVAL OF PLANS AND PROJECTS.".

(d) Section 7 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669f) is amended by striking "SEC. 7." and inserting the following:

"SEC. 7. PAYMENT OF FUNDS TO STATES.".

(e) Section 8 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669g) is amended by striking "SEC. 8." and inserting the following:

"SEC. 8. MAINTENANCE OF PROJECTS; FUNDING OF HUNTER SAFETY PROGRAMS AND PUBLIC TARGET RANGES.".

(f) Section 8A of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669g–1) is amended by striking "SEC. 8A." and inserting the following:

"SEC. 8A. APPORTIONMENTS TO TERRITORIES.".

(g) Section 13 of the Pittman-Robertson Wildlife Restoration Act (as redesignated by section 105(a)(1)) is amended by striking "SEC. 13." and inserting the following:

"SEC. 13. RULES AND REGULATIONS.".

SEC. 108. EFFECTIVE DATE.

This title takes effect on October 1, 2001.

TITLE II—ENDANGERED AND THREATENED SPECIES RECOVERY

SEC. 201. PURPOSE.

The purpose of this title is to promote involvement by non-Federal entities in the recovery of—

(1)(A) the endangered species of the United States;

(B) the threatened species of the United States; and

(C) the species of the United States that may become endangered species or threatened species if conservation actions are not taken to conserve and protect the species; and

(2) the habitats on which the species depend.

SEC. 202. ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.

(a) IN GENERAL.—Section 13 of the Endangered Species Act of 1973 (87 Stat. 902) is amended to read as follows:

"SEC. 13. ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.

"(a) DEFINITIONS.—In this section:

"(1) CONSERVATION ENTITY.—

"(A) IN GENERAL.—The term 'conservation entity' means a nonprofit entity that engages in activities to conserve or protect fish, wildlife, or plants, or habitats for fish, wildlife, or plants.

"(B) INCLUSIONS.—The term 'conservation entity' includes—

"(i) a sportsmen's organization;

"(ii) an environmental organization; and

"(iii) a land trust.

"(2) FARM OR RANCH.—The term 'farm or ranch' means an activity with respect to which not less than $1,000 in income is derived from agricultural production within a census year.

"(3) PERSON.—The term 'person' includes a conservation entity.

"(4) SMALL LANDOWNER.—The term 'small landowner' means—

"(A) an individual who owns land in a State that—

"(i) is used as a farm or ranch; and

"(ii) has an acreage of not more than the greater of—

"(I) 50 percent of the average acreage of a farm or ranch in the State; or

"(II) 160 acres of land; and

"(B) an individual who owns land that—

"(i) is not used as a farm or ranch; and

"(ii) has an acreage of not more than 160 acres.

"(5) SPECIES AT RISK.—The term 'species at risk' means a species that may become an endangered species or a threatened species if conservation actions are not taken to conserve and protect the species.

"(6) SPECIES RECOVERY AGREEMENT.—The term 'species recovery agreement' means an endangered and threatened species recovery agreement entered into under subsection (c).

"(b) ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.—

"(1) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to any person for development and implementation of an endangered and threatened species recovery agreement entered into by the Secretary and the person under subsection (c).

"(2) PRIORITY.—In providing financial assistance under this subsection, the Secretary shall give priority to the development and implementation of species recovery agreements that—

"(A) implement actions identified under recovery plans approved by the Secretary under section 4(f);

"(B) have the greatest potential for contributing to the recovery of endangered species, threatened species, or species at risk;

"(C) benefit multiple endangered species, threatened species, or species at risk;

"(D) carry out activities specified in State or local conservation plans; or

"(E) are proposed by small landowners.

"(3) PROHIBITION ON ASSISTANCE FOR REQUIRED ACTIVITIES.—The Secretary shall not provide financial assistance under this subsection for any activity that is required—

"(A) by a permit issued under section 10(a)(1)(B);

"(B) by an incidental taking statement provided under section 7(b)(4) (other than an incidental taking statement with respect to a species recovery agreement entered into by the Secretary under subsection (c)); or

"(C) under another provision of this Act, any other Federal law, or any State law.

"(4) PAYMENTS UNDER OTHER PROGRAMS.—

"(A) OTHER PAYMENTS NOT AFFECTED.—Financial assistance provided to a person under this subsection shall be in addition to, and shall not affect, the total amount of payments that the person is eligible to receive under—

"(i) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

"(ii) the wetlands reserve program established under subchapter C of that chapter (16 U.S.C. 3837 et seq.);

"(iii) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.); or

"(iv) the Wildlife Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).

"(B) Limitation.—A person shall not receive financial assistance under a species recovery agreement for any activity for which the person receives a payment under a program referred to in subparagraph (A) unless the species recovery agreement imposes on the person a financial or management obligation in addition to the obligations of the person under that program.

"(c) Endangered and Threatened Species Recovery Agreements.—

"(1) In general.—In accordance with this subsection, the Secretary may enter into endangered and threatened species recovery agreements.

"(2) Required terms.—The Secretary shall include in each species recovery agreement with a person provisions that—

"(A) require the person—

"(i) to carry out on real property owned or leased by the person, or on Federal or State land, activities (such as activities that, consistent with applicable State water law (including regulations), make water available for endangered species, threatened species, or species at risk) that—

"(I) are not required by Federal or State law; and

"(II) contribute to the recovery of an endangered species, threatened species, or species at risk; or

"(ii) to refrain from carrying out on real property owned or leased by the person otherwise lawful activities that would inhibit the recovery of an endangered species, threatened species, or species at risk, such as refraining from carrying out activities that, consistent with applicable State water law (including regulations), directly reduce the availability of water for such a species;

"(B) describe the real property referred to in clauses (i) and (ii) of subparagraph (A);

"(C) specify species recovery goals for the species recovery agreement, and activities for attaining the goals;

"(D)(i) require the person to make demonstrable progress in accomplishing the species recovery goals; and

"(ii) specify a schedule for implementation of the species recovery agreement;

"(E) specify actions to be taken by the Secretary or the person to monitor the effectiveness of the species recovery agreement in attaining the species recovery goals;

"(F) require the person to notify the Secretary if any right or obligation of the person under the species recovery agreement is assigned to any other person;

"(G) require the person to notify the Secretary if any term of the species recovery agreement is breached;

"(H) specify the date on which the species recovery agreement takes effect and the period of time during which the species recovery agreement shall remain in effect;

"(I) schedule the disbursement of financial assistance provided under subsection (b) for implementation of the species recovery agreement, on an annual or other basis during the period in which the species recovery agreement is in effect, based on the schedule for implementation required under subparagraph (D)(ii); and

"(J) provide that the Secretary shall, subject to paragraph (4)(C), terminate the species recovery agreement if the person fails to carry out the species recovery agreement.

"(3) Review and approval of proposed species recovery agreements.—On submission by any person of a proposed species recovery agreement under this subsection, the Secretary shall—

"(A) review the proposed species recovery agreement and determine whether the species recovery agreement—

"(i) complies with this subsection; and

"(ii) will contribute to the recovery of each endangered species, threatened species, or species at risk that is the subject of the proposed species recovery agreement;

"(B) propose to the person any additional provisions that are necessary for the species recovery agreement to comply with this subsection; and

"(C) if the Secretary determines that the species recovery agreement complies with this subsection, enter into the species recovery agreement with the person.

"(4) Monitoring of implementation of species recovery agreements.—The Secretary shall—

"(A) periodically monitor the implementation of each species recovery agreement;

"(B) based on the information obtained from the monitoring, annually or otherwise disburse financial assistance under this section to implement the species recovery agreement as the Secretary determines to be appropriate under the species recovery agreement; and

"(C) if the Secretary determines that the person is not making demonstrable progress in accomplishing the species recovery goals specified under paragraph (2)(C)—

"(i) propose 1 or more modifications to the species recovery agreement that are necessary to accomplish the species recovery goals; or

"(ii) terminate the species recovery agreement.

"(5) Limitation with respect to Federal or State land.—The Secretary may enter into a species recovery agreement with a person with respect to Federal or State land only if the United States or the State, respectively, is a party to the species recovery agreement.

"(d) Allocation of Funds.—Of the amounts made available to carry out this section for a fiscal year—

"(1) ⅓ shall be made available to provide financial assistance for development and implementation of species recovery agreements by small landowners, subject to subparagraphs (A) through (D) of subsection (b)(2);

"(2) ⅓ shall be made available to provide financial assistance for development and implementation of species recovery agreements on public land, subject to subparagraphs (A) through (D) of subsection (b)(2); and

"(3) ⅓ shall be made available to provide financial assistance for development and implementation of species recovery agreements, subject to subsection (b)(2).

"(e) Limitation on Administrative Expenses.—Of the amounts made available to carry out this section for a fiscal year, not more than 3 percent may be used to pay administrative expenses incurred in carrying out this section.".

(b) Authorization of Appropriations.—Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended by adding at the end the following:

"(d) Endangered and Threatened Species Recovery Assistance.—There is authorized to be appropriated to carry out section 13 $150,000,000 for each of fiscal years 2002 through 2006.".

(c) Conforming Amendment.—The table of contents in the first section of the Endangered Species Act of 1973 (16 U.S.C. prec. 1531) is amended by striking the item relating to section 13 and inserting the following:

"Sec. 13. Endangered and threatened species recovery assistance.".

TITLE III—NON-FEDERAL LAND CONSERVATION GRANT PROGRAM

SEC. 301. NON-FEDERAL LAND CONSERVATION GRANT PROGRAM.

(a) In General.—The Partnerships for Wildlife Act (16 U.S.C. 3741 et seq.) is amended by adding at the end the following:

"SEC. 7106. NON-FEDERAL LAND CONSERVATION GRANT PROGRAM.

"(a) Establishment.—In consultation with appropriate State, regional, and other units of government, the Secretary shall establish a competitive grant program, to be known as the 'Non-Federal Land Conservation Grant Program' (referred to in this section as the 'program'), to make grants to States or groups of States to pay the Federal share determined under subsection (c)(4) of the costs of conservation of non-Federal land or water of regional or national significance.

"(b) Ranking Criteria.—In selecting among applications for grants for projects under the program, the Secretary shall—

"(1) rank projects according the extent to which a proposed project will protect watersheds and important scenic, cultural, recreational, fish, wildlife, and other ecological resources; and

"(2) subject to paragraph (1), give preference to proposed projects—

"(A) that seek to protect ecosystems;

"(B) that are developed in collaboration with other States;

"(C) with respect to which there has been public participation in the development of the project proposal;

"(D) that are supported by communities and individuals that are located in the immediate vicinity of the proposed project or that would be directly affected by the proposed project; or

"(E) that the State considers to be a State priority.

"(c) Grants to States.—

"(1) Notice of deadline for applications.—The Secretary shall give reasonable advance notice of each deadline for submission of applications for grants under the program by publication of a notice in the Federal Register.

"(2) Submission of applications.—

"(A) In general.—A State or group of States may submit to the Secretary an application for a grant under the program.

"(B) Required contents of applications.—Each application shall include—

"(i) a detailed description of each proposed project;

"(ii) a detailed analysis of project costs, including costs associated with—

"(I) planning;

"(II) administration;

"(III) property acquisition; and

"(IV) property management;

"(iii) a statement describing how the project is of regional or national significance; and

"(iv) a plan for stewardship of any land or water, or interest in land or water, to be acquired under the project.

"(3) Selection of grant recipients.—Not later than 90 days after the date of receipt of an application, the Secretary shall—

"(A) review the application; and

"(B)(i) notify the State or group of States of the decision of the Secretary on the application; and

"(ii) if the application is denied, provide an explanation of the reasons for the denial.

"(4) COST SHARING.—The Federal share of the costs of a project under the program shall be—

"(A) in the case of a project to acquire an interest in land or water that is not a permanent conservation easement, not more than 50 percent of the costs of the project;

"(B) in the case of a project to acquire a permanent conservation easement, not more than 70 percent of the costs of the project; and

"(C) in the case of a project involving 2 or more States, not more than 75 percent of the costs of the project.

"(5) EFFECT OF INSUFFICIENCY OF FUNDS.—If the Secretary determines that there are insufficient funds available to make grants with respect to all applications that meet the requirements of this subsection, the Secretary shall give priority to those projects that best meet the ranking criteria established under subsection (b).

"(6) GRANTS TO STATE OF NEW HAMPSHIRE.—Notwithstanding subsection (b) and paragraphs (3) and (5), the Secretary shall make grants under the program to the State of New Hampshire to pay the Federal share determined under paragraph (4) of the costs of acquiring conservation easements with respect to land or water located in northern New Hampshire and sold by International Paper to the Trust for Public Land.

"(d) REPORT.—Not later than 60 days after the end of each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report describing the grants made under this section, including an analysis of how projects were ranked under subsection (b).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) to carry out this section (other than subsection (c)(6)) $50,000,000 for each of fiscal years 2002 through 2006; and

"(2) to carry out subsection (c)(6) $9,000,000 for the period of fiscal years 2002 and 2003.".

(b) CONFORMING AMENDMENT.—Section 7105(g)(2) of the Partnerships for Wildlife Act (16 U.S.C. 3744(g)(2)) is amended by striking "this chapter" and inserting "this section".

TITLE IV—CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND

SEC. 401. CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND.

The Partnerships for Wildlife Act (16 U.S.C. 3741 et seq.) (as amended by section 301(a)) is amended by adding at the end the following:

"SEC. 7107. CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND.

"(a) DEFINITIONS.—In this section:

"(1) CONSERVATION ACTIVITY.—The term 'conservation activity' means—

"(A) a project or activity to reduce erosion;

"(B) a prescribed burn;

"(C) the restoration of riparian habitat;

"(D) the control or elimination of invasive or exotic species;

"(E) the reestablishment of native grasses; and

"(F) any other project or activity that restores or enhances habitat for endangered species, threatened species, or species at risk.

"(2) CONSERVATION AGREEMENT.—The term 'conservation agreement' means an agreement entered into under subsection (c).

"(3) CONSERVATION ENTITY.—

"(A) IN GENERAL.—The term 'conservation entity' means a nonprofit entity that engages in activities to conserve or protect fish, wildlife, or plants, or habitats for fish, wildlife, or plants.

"(B) INCLUSIONS.—The term 'conservation entity' includes—

"(i) a sportsmen's organization;

"(ii) an environmental organization; and

"(iii) a land trust.

"(4) COVERED LAND.—The term 'covered land' means public or private—

"(A) natural grassland or shrubland that serves as habitat for endangered species, threatened species, or species at risk, as determined by the Secretary; or

"(B) other land that—

"(i) is located in an area that has been historically dominated by natural grassland or shrubland; and

"(ii) if restored to natural grassland or shrubland, would have the potential to serve as habitat for endangered species, threatened species, or species at risk, as determined by the Secretary.

"(5) ENDANGERED SPECIES.—The term 'endangered species' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

"(6) PERMIT HOLDER.—The term 'permit holder' means an individual who holds a grazing permit for covered land that is the subject of a conservation agreement.

"(7) PROGRAM.—The term 'program' means the conservation assistance program established under subsection (b).

"(8) SPECIES AT RISK.—The term 'species at risk' means a species that may become an endangered species or a threatened species if conservation actions are not taken to conserve and protect the species.

"(9) THREATENED SPECIES.—The term 'threatened species' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

"(b) ESTABLISHMENT OF PROGRAM.—As soon as practicable after the date of enactment of this section, the Secretary shall establish a conservation assistance program to encourage the conservation and restoration of covered land.

"(c) CONSERVATION AGREEMENTS.—

"(1) IN GENERAL.—In carrying out the program, the Secretary shall enter into a conservation agreement with a landowner, permit holder, or conservation entity with respect to covered land under which—

"(A) the Secretary shall award a grant to the landowner, permit holder, or conservation entity; and

"(B) the landowner, permit holder, or conservation entity shall use the grant to carry out 1 or more conservation activities on the covered land that is the subject of the conservation agreement.

"(2) PERMITTED ACTIVITIES.—

"(A) IN GENERAL.—Subject to subparagraph (B), a conservation agreement may permit on the covered land subject to the conservation agreement—

"(i) operation of a managed grazing system;

"(ii) haying or mowing (except during the nesting season for birds);

"(iii) fire rehabilitation; and

"(iv) the construction of fire breaks and fences.

"(B) LIMITATION.—An activity described in subparagraph (A) may be permitted only if the activity contributes to maintaining the viability of natural grass and shrub plant communities on the covered land subject to the conservation agreement.

"(d) PAYMENTS UNDER OTHER PROGRAMS.—

"(1) OTHER PAYMENTS NOT AFFECTED.—A grant awarded to a landowner, permit holder, or conservation entity under this section shall be in addition to, and shall not affect, the total amount of payments that the landowner, permit holder, or conservation entity is eligible to receive under—

"(A) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

"(B) the wetlands reserve program established under subchapter C of that chapter (16 U.S.C. 3837 et seq.);

"(C) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.); or

"(D) the Wildlife Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).

"(2) LIMITATION.—A landowner, permit holder, or conservation entity shall not receive a grant under a conservation agreement for any activity for which the landowner, permit holder, or conservation entity receives a payment under a program referred to in paragraph (1) unless the conservation agreement imposes on the landowner, permit holder, or conservation entity a financial or management obligation in addition to the obligations of the landowner, permit holder, or conservation entity under that program.

"(e) PROHIBITION ON ASSISTANCE FOR REQUIRED ACTIVITIES.—The Secretary shall not award a grant under this section for any activity that is required under Federal or State law.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2002 through 2006.".

Passed the Senate December 20 (legislative day, December 18), 2001.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. HANSEN:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Wildlife Enhancement Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ENDANGERED AND THREATENED SPECIES RECOVERY

Sec. 101. Purpose.

Sec. 102. Endangered and threatened species recovery assistance.

TITLE II—COOPERATIVE REGIONAL CONSERVATION PROGRAM

Sec. 201. Cooperative Regional Conservation Program.

TITLE III—CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND

Sec. 301. Conservation and restoration of shrubland and grassland.

TITLE IV—CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA

Sec. 401. Revocation of public land order with respect to lands erroneously included in Cibola National Wildlife Refuge, California.
Sec. 402. Resurvey and notice of modified boundaries.

TITLE V—NUTRIA ERADICATION OR CONTROL

Sec. 501. Findings and purposes.
Sec. 502. Nutria eradication program.
Sec. 503. Report.

TITLE VI—ACQUISITION OF GARRETT ISLAND, MARYLAND

Sec. 601. Short title.
Sec. 602. Findings.
Sec. 603. Authority to acquire property for inclusion in the Blackwater National Wildlife Refuge.

TITLE VII—OTTAWA NATIONAL WILDLIFE REFUGE COMPLEX EXPANSION

Sec. 701. Short title.
Sec. 702. Findings.
Sec. 703. Definitions.
Sec. 704. Expansion of boundaries.
Sec. 705. Acquisition and transfer of lands for Refuge Complex.
Sec. 706. Administration of Refuge Complex.
Sec. 707. Study of associated area.
Sec. 708. Authorization of appropriations.

TITLE VIII—BEAR RIVER MIGRATORY BIRD REFUGE CLAIMS SETTLEMENT

Sec. 801. Short title.
Sec. 802. Findings.
Sec. 803. Definitions.
Sec. 804. Required terms of land claims settlement, Bear River Migratory Bird Refuge, Utah.

TITLE IX—EDUCATION AND ADMINISTRATIVE CENTER AT BEAR RIVER MIGRATORY BIRD REFUGE, UTAH

Sec. 901. Short title.
Sec. 902. Findings.
Sec. 903. Definitions.
Sec. 904. Authorization of construction of the education center.
Sec. 905. Matching contributions requirements.

TITLE X—ACCOKEEK CREEK NATIONAL WILDLIFE REFUGE.

Sec. 1001. Accokeek National Wildlife Refuge Establishment.

TITLE XI—MISCELLANEOUS

Sec. 1101. Amendments to the National Fish and Wildlife Foundation Establishment Act.

TITLE XII—MARINE TURTLE CONSERVATION

Sec. 1201. Short title.
Sec. 1202. Findings and purposes.
Sec. 1203. Definitions.
Sec. 1204. Marine turtle conservation assistance.
Sec. 1205. Marine Turtle Conservation Fund.
Sec. 1206. Advisory group.
Sec. 1207. Authorization of appropriations.

TITLE I—ENDANGERED AND THREATENED SPECIES STEWARDSHIP PROGRAM

SEC. 101. PURPOSE.

The purpose of this title is to promote involvement by non-Federal entities in the recovery of—

(1)(A) the endangered species of the United States;

(B) the threatened species of the United States; and

(C) the species of the United States that may become endangered species or threatened species if conservation actions are not taken to conserve and protect the species; and

(2) the habitats on which the species depend.

SEC. 102. ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.

(a) IN GENERAL.—Section 13 of the Endangered Species Act of 1973 (87 Stat. 902) is amended to read as follows:

"SEC. 13. ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.

"(a) DEFINITIONS.—In this section:

"(1) CONSERVATION ENTITY.—

"(A) IN GENERAL.—The term 'conservation entity' means a nonprofit entity that engages in activities to conserve or protect fish, wildlife, or plants, or habitats for fish, wildlife, or plants.

"(B) INCLUSIONS.—The term 'conservation entity' includes—

"(i) a sportsmen's organization;

"(ii) an environmental organization; and

"(iii) a land trust.

"(2) FARM OR RANCH.—The term 'farm or ranch' means an area where there occurs an activity with respect to which not less than $1,000 in income is derived from agricultural production within a census year.

"(3) SMALL LANDOWNER.—The term 'small landowner' means—

"(A) an individual who owns land in a State that—

"(i) is used as a farm or ranch; and

"(ii) has an acreage of not more than the greater of—

"(I) 50 percent of the average acreage of a farm or ranch in the State; or

"(II) 160 acres of land; or

"(B) an individual who owns land in a State that—

"(i) is not used as a farm or ranch; and

"(ii) has an acreage of not more than 160 acres.

"(4) SPECIES AT RISK.—The term 'species at risk' means a species that has been identified by the Secretary of the Interior and the Secretary of Commerce to be a candidate species for listing as an endangered species or threatened species.

"(5) SPECIES RECOVERY AGREEMENT.—The term 'species recovery agreement' means an endangered and threatened species recovery agreement entered into under subsection (c).

"(b) ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.—

"(1) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to any person for development and implementation of an endangered and threatened species recovery agreement entered into by the Secretary and the person under subsection (c) and carried out on real property referred to in subsection (c)(2)(A).

"(2) PRIORITY.—In providing financial assistance under this subsection, the Secretary shall give priority to the development and implementation of species recovery agreements that—

"(A) implement actions identified under recovery plans approved by the Secretary under section 4(f);

"(B) have the greatest potential for contributing to the recovery of endangered species, threatened species, or species at risk;

"(C) benefit multiple endangered species, threatened species, or species at risk;

"(D) carry out activities specified in State or local conservation plans; or

"(E) are proposed by small landowners.

"(3) PROHIBITION ON ASSISTANCE FOR REQUIRED ACTIVITIES.—The Secretary shall not provide financial assistance under this subsection for any activity that is required—

"(A) by a permit issued under section 10(a)(1)(B);

"(B) by an incidental taking statement provided under section 7(b)(4) (other than an incidental taking statement with respect to a species recovery agreement entered into by the Secretary under subsection (c)); or

"(C) under another provision of this Act, any Federal lease, permit, or law, or any State lease, permit, or law.

"(4) PAYMENTS UNDER OTHER PROGRAMS.—

"(A) OTHER PAYMENTS NOT AFFECTED.—Financial assistance provided to a person under this subsection shall be in addition to, and shall not affect, the total amount of payments that the person is eligible to receive under—

"(i) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

"(ii) the wetlands reserve program established under subchapter C of that chapter (16 U.S.C. 3837 et seq.);

"(iii) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.); or

"(iv) the Wildlife Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).

"(B) LIMITATION.—A person shall not receive financial assistance under a species recovery agreement for any activity for which the person receives a payment under a program referred to in subparagraph (A) unless the species recovery agreement imposes on the person a financial or management obligation in addition to the obligations of the person under that program.

"(c) ENDANGERED AND THREATENED SPECIES RECOVERY AGREEMENTS.—

"(1) IN GENERAL.—In accordance with this subsection, the Secretary may enter into endangered and threatened species recovery agreements.

"(2) REQUIRED TERMS.—The Secretary shall include in each species recovery agreement with a person provisions that—

"(A) require the person—

"(i) to carry out on real property owned or leased by the person, or on Federal or State land leased by the person, activities (including, but not limited to, activities that make water available, consistent with applicable State water law (including regulations); restore and manage habitat; or control invasive species) that—

"(I) are not required by Federal or State law; and

"(II) contribute to the recovery of an endangered species, threatened species, or species at risk; or

"(ii) to refrain from carrying out on real property owned or leased by the person otherwise lawful activities that would inhibit the recovery of an endangered species, threatened species, or species at risk, including, but not limited to, activities that would result in habitat destruction or activities that, consistent with applicable State water law including regulations), directly reduce the availability of water for such species;

"(B) describe the real property referred to in clauses (i) and (ii) of subparagraph (A);

"(C) specify species recovery goals for the species recovery agreement, and activities for attaining the goals;

"(D)(i) require the person to make demonstrable progress in accomplishing the species recovery goals; and

"(ii) specify a schedule for implementation of the species recovery agreement;

"(E) specify actions to be taken by the Secretary or the person to monitor the effectiveness of the species recovery agreement in attaining the species recovery goals;

"(F) require the person to notify the Secretary if any right or obligation of the person under the species recovery agreement is assigned to any other person;

"(G) require the person to notify the Secretary if any term of the species recovery agreement is breached;

"(H) specify the date on which the species recovery agreement takes effect and the period of time during which the species recovery agreement shall remain in effect;

"(I) schedule the disbursement of financial assistance provided under subsection (b) for implementation of the species recovery agreement, on an annual or other basis during the period in which the species recovery agreement is in effect, based on the schedule for implementation required under subparagraph (D)(ii); and

"(J) provide that the Secretary shall, subject to paragraph (4)(C), terminate the species recovery agreement if the person fails to carry out the species recovery agreement.

"(3) REVIEW AND APPROVAL OF PROPOSED SPECIES RECOVERY AGREEMENTS.—On submission by any person of a proposed species recovery agreement under this subsection, the Secretary shall—

"(A) review the proposed species recovery agreement and determine whether the species recovery agreement—

"(i) complies with this subsection; and

"(ii) will contribute to the recovery of each endangered species, threatened species, or species at risk that is the subject of the proposed species recovery agreement;

"(B) propose to the person any additional provisions that are necessary for the species recovery agreement to comply with this subsection; and

"(C) if the Secretary determines that the species recovery agreement complies with this subsection, enter into the species recovery agreement with the person.

"(4) MONITORING OF IMPLEMENTATION OF SPECIES RECOVERY AGREEMENTS.—The Secretary shall—

"(A) periodically monitor the implementation of each species recovery agreement;

"(B) based on the information obtained from the monitoring, annually or otherwise disburse financial assistance under this section to implement the species recovery agreement as the Secretary determines to be appropriate under the species recovery agreement; and

"(C) if the Secretary determines that the person is not making demonstrable progress in accomplishing the species recovery goals specified under paragraph (2)(C)—

"(i) propose 1 or more modifications to the species recovery agreement that are necessary to accomplish the species recovery goals; or

"(ii) terminate the species recovery agreement.

"(5) LIMITATION WITH RESPECT TO FEDERAL OR STATE LAND.—The Secretary may enter into a species recovery agreement with a person with respect to Federal or State land only if the United States or the State, respectively, is a party to the species recovery agreement.

"(d) ALLOCATION OF FUNDS.—Of the amounts made available to carry out this section for a fiscal year—

"(1) ⅓ shall be made available to provide financial assistance for development and implementation of species recovery agreements by small landowners, subject to subparagraphs (A) through (E) of subsection (b)(2);

"(2) ⅓ shall be made available to provide financial assistance for development and implementation of species recovery agreements on public land, subject to subparagraphs (A) through (D) of subsection (b)(2); and

"(3) ⅓ shall be made available to provide financial assistance for development and implementation of species recovery agreements, subject to subsection (b)(2).

"(e) LIMITATION ON ADMINISTRATIVE EXPENSES.—Of the amounts made available to carry out this section for a fiscal year, not more than 3 percent may be used to pay administrative expenses incurred in carrying out this section.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended by adding at the end the following:

"(d) ENDANGERED AND THREATENED SPECIES RECOVERY ASSISTANCE.—There is authorized to be appropriated to carry out section 13 $150,000,000 for each of fiscal years 2003 through 2007.".

(c) CONFORMING AMENDMENT.—The table of contents in the first section of the Endangered Species Act of 1973 (16 U.S.C. prec. 1531) is amended by striking the item relating to section 13 and inserting the following:

"Sec. 13. Endangered and threatened species recovery assistance.".

TITLE II—COOPERATIVE REGIONAL CONSERVATION PROGRAM

SEC. 201. COOPERATIVE REGIONAL CONSERVATION PROGRAM.

(a) IN GENERAL.—The Partnerships for Wildlife Act (16 U.S.C. 3741 et seq.) is amended by adding at the end the following:

"SEC. 7106. COOPERATIVE REGIONAL CONSERVATION PROGRAM.

"(a) ESTABLISHMENT.—In consultation with appropriate State, regional, and other units of government, the Secretary shall establish a competitive grant program, to be known as the 'Cooperative Regional Conservation Program' (referred to in this section as the 'program'), to make grants to States or groups of States to pay the Federal share determined under subsection (c)(4) of the costs of conservation of non-Federal land or water of regional or national significance any water rights acquired under the program shall be done so in compliance with the procedural and substantive requirements of the applicable state's water laws, and all interstate compacts and court decrees that may affect water or water rights.

"(b) RANKING CRITERIA.—In selecting among applications for grants for projects under the program, the Secretary shall—

"(1) rank projects according the extent to which a proposed project will protect watersheds and important scenic, cultural, recreational, fish, wildlife, and other ecological resources; and

"(2) subject to paragraph (1), give preference to proposed projects—

"(A) that seek to protect ecosystems;

"(B) that are developed in collaboration with other States;

"(C) with respect to which there has been public participation in the development of the project proposal;

"(D) that are supported by communities and individuals that are located in the immediate vicinity of the proposed project or that would be directly affected by the proposed project; or

"(E) that the State considers to be a State priority.

"(c) GRANTS TO STATES.—

"(1) NOTICE OF DEADLINE FOR APPLICATIONS.—The Secretary shall give reasonable advance notice of each deadline for submission of applications for grants under the program by publication of a notice in the Federal Register.

"(2) SUBMISSION OF APPLICATIONS.—

"(A) IN GENERAL.—A State or group of States may submit to the Secretary an application for a grant under the program.

"(B) REQUIRED CONTENTS OF APPLICATIONS.—Each application shall include—

"(i) a detailed description of each proposed project;

"(ii) a detailed analysis of project costs, including costs associated with—

"(I) planning;

"(II) administration;

"(III) property acquisition; and

"(IV) property management;

"(iii) a statement describing how the project is of regional or national significance; and

"(iv) a plan for stewardship of any land or water, or interest in land or water, including conservation easements, to be acquired under the project.

"(3) SELECTION OF GRANT RECIPIENTS.—Not later than 90 days after the date of receipt of an application, the Secretary shall—

"(A) review the application; and

"(B)(i) notify the State or group of States of the decision of the Secretary on the application; and

"(ii) if the application is denied, provide an explanation of the reasons for the denial.

"(4) COST SHARING.—The Federal share of the costs of a project under the program shall be—

"(A) in the case of a project to acquire an interest in land or water that is not a permanent conservation easement, not more than 50 percent of the costs of the project;

"(B) in the case of a project to acquire a permanent conservation easement, not more than 70 percent of the costs of the project; and

"(C) in the case of a project involving 2 or more States, not more than 75 percent of the costs of the project.

"(5) EFFECT OF INSUFFICIENCY OF FUNDS.—If the Secretary determines that there are insufficient funds available to make grants with respect to all applications that meet the requirements of this subsection, the Secretary shall give priority to those projects that best meet the ranking criteria established under subsection (b).

"(6) GRANTS TO STATE OF NEW HAMPSHIRE.—Notwithstanding subsection (b) and paragraphs (3) and (5), the Secretary shall make grants under the program to the State of New Hampshire to pay the Federal share determined under paragraph (4) of the costs of acquiring conservation easements with respect to land or water located in northern New Hampshire and sold by International Paper to the Trust for Public Land.

"(d) REPORT.—Not later than 60 days after the end of each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report describing the grants made under this section, including an analysis of how projects were ranked under subsection (b).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) to carry out this section (other than subsection (c)(6)) $50,000,000 for each of fiscal years 2003 through 2007; and

"(2) to carry out subsection (c)(6) $9,000,000 for the period of fiscal years 2003 and 2004.".

(b) CONFORMING AMENDMENT.—Section 7105(g)(2) of the Partnerships for Wildlife Act (16 U.S.C. 3744(g)(2)) is amended by striking "this chapter" and inserting "this section".

TITLE III—CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND

SEC. 301. CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND.

The Partnerships for Wildlife Act (16 U.S.C. 3741 et seq.) (as amended by section 301(a)) is amended by adding at the end the following:

"SEC. 7107. CONSERVATION AND RESTORATION OF SHRUBLAND AND GRASSLAND.

"(a) Definitions.—In this section:

"(1) Conservation activity.—The term 'conservation activity' means—

"(A) a project or activity to reduce erosion;

"(B) a prescribed burn;

"(C) the restoration of riparian habitat;

"(D) the control or elimination of invasive or exotic species;

"(E) the reestablishment of native grasses; and

"(F) any other project or activity that restores or enhances habitat for endangered species, threatened species, or species at risk.

"(2) Conservation agreement.—The term 'conservation agreement' means an agreement entered into under subsection (c).

"(3) Conservation entity.—

"(A) In general.—The term 'conservation entity' means a nonprofit entity that engages in activities to conserve or protect fish, wildlife, or plants, or habitats for fish, wildlife, or plants.

"(B) Inclusions.—The term 'conservation entity' includes—

"(i) a sportsmen's organization;

"(ii) an environmental organization; and

"(iii) a land trust.

"(4) Covered land.—The term 'covered land' means public or private—

"(A) natural grassland or shrubland that serves as habitat for endangered species, threatened species, or species at risk, as determined by the Secretary; or

"(B) other land that—

"(i) is located in an area that has been historically dominated by natural grassland or shrubland; and

"(ii) if restored to natural grassland or shrubland, would have the potential to serve as habitat for endangered species, threatened species, or species at risk, as determined by the Secretary.

"(5) Endangered species.—The term 'endangered species' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

"(6) Permit holder.—The term 'permit holder' means an individual who holds a grazing permit for covered land that is the subject of a conservation agreement.

"(7) Program.—The term 'program' means the conservation assistance program established under subsection (b).

"(8) Species at risk.—The term 'species at risk' means a species that may become an endangered species or a threatened species if conservation actions are not taken to conserve and protect the species.

"(9) Threatened species.—The term 'threatened species' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

"(b) Establishment of Program.—As soon as practicable after the date of enactment of this section, the Secretary shall establish a conservation assistance program to encourage the conservation and restoration of covered land.

"(c) Conservation Agreements.—

"(1) In general.—In carrying out the program, the Secretary shall enter into a conservation agreement with a landowner, permit holder, or conservation entity with respect to covered land under which—

"(A) the Secretary shall award a grant to the landowner, permit holder, or conservation entity; and

"(B) the landowner, permit holder, or conservation entity shall use the grant to carry out 1 or more conservation activities on the covered land that is the subject of the conservation agreement.

"(2) Permitted activities.—

"(A) In general.—Subject to subparagraph (B), a conservation agreement may permit on the covered land subject to the conservation agreement—

"(i) operation of a managed grazing system;

"(ii) haying or mowing (except during the nesting season for birds);

"(iii) fire rehabilitation; and

"(iv) the construction of fire breaks and fences.

"(B) Limitation.—An activity described in subparagraph (A) may be permitted only if the activity contributes to maintaining the viability of natural grass and shrub plant communities on the covered land subject to the conservation agreement.

"(d) Payments Under Other Programs.—

"(1) Other payments not affected.—A grant awarded to a landowner, permit holder, or conservation entity under this section shall be in addition to, and shall not affect, the total amount of payments that the landowner, permit holder, or conservation entity is eligible to receive under—

"(A) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

"(B) the wetlands reserve program established under subchapter C of that chapter (16 U.S.C. 3837 et seq.);

"(C) the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.); or

"(D) the Wildlife Habitat Incentive Program established under section 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3836a).

"(2) Limitation.—A landowner, permit holder, or conservation entity shall not receive a grant under a conservation agreement for any activity for which the landowner, permit holder, or conservation entity receives a payment under a program referred to in paragraph (1) unless the conservation agreement imposes on the landowner, permit holder, or conservation entity a financial or management obligation in addition to the obligations of the landowner, permit holder, or conservation entity under that program.

"(e) Prohibition on Assistance for Required Activities.—The Secretary shall not award a grant under this section for any activity that is required under Federal or State law.

"(f) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2003 through 2007.".

TITLE IV—CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA

SEC. 401. REVOCATION OF PUBLIC LAND ORDER WITH RESPECT TO LANDS ERRONEOUSLY INCLUDED IN CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA.

Public Land Order 3442, dated August 21, 1964, is revoked insofar as it applies to the following described lands: San Bernardino Meridian, T11S, R22E, sec. 6, all of lots 1, 16, and 17, and SE¼ of SW¼ in Imperial County, California, aggregating approximately 140.32 acres.

SEC. 402. RESURVEY AND NOTICE OF MODIFIED BOUNDARIES.

The Secretary of the Interior shall, by not later than 6 months after the date of the enactment of this Act—

(1) resurvey the boundaries of the Cibola National Wildlife Refuge, as modified by the revocation under section 401;

(2) publish notice of, and post conspicuous signs marking, the boundaries of the refuge determined in such resurvey; and

(3) prepare and publish a map showing the boundaries of the refuge.

TITLE V—NUTRIA ERADICATION OR CONTROL

SEC. 501. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds the following:

(1) Wetlands and tidal marshes of the Chesapeake Bay and in Louisiana provide significant cultural, economic, and ecological benefits to the Nation.

(2) The South American nutria (Myocastor coypus) is directly contributing to substantial marsh loss in Maryland and Louisiana on Federal, State, and private land.

(3) Traditional harvest methods to control or eradicate nutria have failed in Maryland and have had limited success in the eradication of nutria in Louisiana. Consequently, marsh loss is accelerating.

(4) The nutria eradication and control pilot program authorized by Public Law 105–322 is to develop new and effective methods for eradication of nutria.

(b) Purpose.—The purpose of this title is to authorize the Secretary of the Interior to provide financial assistance to the State of Maryland and the State of Louisiana for a program to implement measures to eradicate or control nutria and restore marshland damaged by nutria.

SEC. 502. NUTRIA ERADICATION PROGRAM.

(a) Grant Authority.—The Secretary of the Interior (in this title referred to as the "Secretary"), subject to the availability of appropriations, may provide financial assistance to the State of Maryland and the State of Louisiana for a program to implement measures to eradicate or control nutria and restore marshland damaged by nutria.

(b) Goals.—The goals of the program shall be to—

(1) eradicate nutria in Maryland;

(2) eradicate or control nutria in Louisiana and other States; and

(3) restore marshland damaged by nutria.

(c) Activities.—In the State of Maryland, the Secretary shall require that the program consist of management, research, and public education activities carried out in accordance with the document published by the United States Fish and Wildlife Service entitled "Eradication Strategies for Nutria in the Chesapeake and Delaware Bay Watersheds", dated March 2002.

(d) Cost Sharing.—

(1) Federal share.—The Federal share of the costs of the program may not exceed 75 percent of the total costs of the program.

(2) In-kind contributions.—The non-Federal share of the costs of the program may be provided in the form of in-kind contributions of materials or services.

(e) Limitation on Administrative Expenses.—Not more than 5 percent of financial assistance provided by the Secretary under this section may be used for administrative expenses.

(f) Authorization of Appropriations.—For financial assistance under this section, there is authorized to be appropriated to the Secretary $4,000,000 for the State of Maryland program and $2,000,000 for the State of Louisiana program for each of fiscal years 2003, 2004, 2005, 2006, and 2007.

SEC. 503. REPORT.

No later than 6 months after the date of the enactment of this Act, the Secretary and the National Invasive Species Council shall—

(1) give consideration to the 2002 report for the Louisiana Department of Wildlife and Fisheries titled "Nutria in Louisiana", and the 2002 document entitled "Eradication Strategies for Nutria in the Chesapeake and Delaware Bay Watersheds"; and

(2) develop, in cooperation with the State of Louisiana Department of Wildlife and Fisheries and the State of Maryland Department of Natural Resources, a long-term nutria control or eradication program, as appropriate, with the objective to significantly reduce and restore the damage nutria cause to coastal wetlands in the States of Louisiana and Maryland.

TITLE VI—ACQUISITION OF GARRETT ISLAND, MARYLAND

SEC. 601. SHORT TITLE.

This title may be cited as the "Blackwater National Wildlife Refuge Expansion Act".

SEC. 602. FINDINGS.

The Congress finds the following:

(1) Garrett Island, located at the mouth of the Susquehanna River in Cecil County, Maryland, is a microcosm of the geology and geography of the region, including hard rock piedmont, coastal plain, and volcanic formations.

(2) Garrett Island is the only rocky island in the tidal waters of the Chesapeake.

(3) Garrett Island and adjacent waters provide high-quality habitat for bird and fish species.

(4) Garrett Island contains significant archeological sites reflecting human history and prehistory of the region.

SEC. 603. AUTHORITY TO ACQUIRE PROPERTY FOR INCLUSION IN THE BLACKWATER NATIONAL WILDLIFE REFUGE.

(a) ACQUISITION.—The Secretary of the Interior may use otherwise available amounts to acquire the area known as Garrett Island, consisting of approximately 198 acres located at the mouth of the Susquehanna River in Cecil County, Maryland.

(b) ADMINISTRATION.—Lands and interests acquired by the United States under this section shall be managed by the Secretary as the Garrett Island Unit of the Blackwater National Wildlife Refuge.

(c) PURPOSES.—The purposes for which the Garrett Island Unit is established and shall be managed are the following:

(1) To support the Delmarva Conservation Corridor Demonstration Program.

(2) To conserve, restore, and manage habitats as necessary to contribute to the migratory bird populations prevalent in the Atlantic Flyway.

(3) To conserve, restore, and manage the significant aquatic resource values associated with submerged land adjacent to the unit and to achieve the habitat objectives of the agreement known as the Chesapeake 2000 Agreement.

(4) To conserve the archeological resources on the unit.

(5) To provide public access to the unit in a manner that does not adversely impact natural resources on and around the unit.

TITLE VII—OTTAWA NATIONAL WILDLIFE REFUGE COMPLEX EXPANSION

SEC. 701. SHORT TITLE.

This title may be cited as the "Ottawa National Wildlife Refuge Complex Expansion and Detroit River International Wildlife Refuge Expansion Act".

SEC. 702. FINDINGS.

The Congress finds the following:

(1) The western basin of Lake Erie, as part of the Great Lakes ecosystem, the largest freshwater ecosystem on the face of the Earth, is vitally important to the economic and environmental future of the United States.

(2) Over the past three decades, the citizens and governmental institutions of both the United States and Canada have devoted increasing attention and resources to the restoration of the water quality and fisheries of the Great Lakes, including the western basin. This increased awareness has been accompanied by a gradual shift to a holistic "ecosystem approach" that highlights a growing recognition that shoreline areas—the nearshore terrestrial ecosystems—are an integral part of the western basin and the Great Lakes ecosystem as a whole.

(3) The Great Lakes account for more than 90 percent of the surface freshwater in the nation. The western basin receives approximately 90 percent of its flow from the Detroit River and only approximately 10 percent from tributaries.

(4) The western basin of Lake Erie is an important ecosystem that includes a number of distinct islands, channels, rivers, and shoals that support dense populations of fish, wildlife, and aquatic plants.

(5) The coastal wetlands of Lake Erie support the largest diversity of plant and wildlife species in the Great Lakes. The moderate climate of Lake Erie and its more southern latitude allow for many species that are not found in or along the northern Great Lakes. More than 300 species of plants, including 37 significant species, have been identified in the aquatic and wetland habitats of the western basin.

(6) The shallow western basin of Lake Erie, from the Lower Detroit River to Sandusky Bay, is home to the largest concentration of marshes in Lake Erie, including Mouille, Metzger, and Magee marshes, the Maumee Bay wetland complex, the wetland complexes flanking Locust Point, and the wetlands in Sandusky Bay. The larger United States islands in western Lake Erie have wetlands in their small embayments.

(7) The wetlands in the western basin of Lake Erie comprise some of the most important waterfowl habitat in the Great Lakes. Waterfowl, wading birds, shore birds, gulls and terns, raptors, and perching birds all use the western basin wetlands for migration, nesting, and feeding. Hundreds of thousands of diving ducks stop to rest in the Lake Erie area on their fall migration from Canada to the east and south. The wetlands of the western basin of Lake Erie provide a major stopover for ducks such as migrating bufflehead, common goldeneye, common mergansers, and ruddy duck.

(8) The international importance of Lake Erie is manifested in the United States congressional designation of the Ottawa and Cedar Point National Wildlife Refuges.

(9) Lake Erie has an international reputation for walleye, perch, and bass fishing, recreational boating, birding, photography, and duck hunting. On an economic basis, Lake Erie tourism accounts for an estimated $1,500,000,000 in retail sales and more than 50,000 jobs.

(10) Many of the 417,000 boats that are registered in Ohio are used in the western basin of Lake Erie, in part to fish for the estimated 10,000,000 walleye that migrate from other areas of the lake to spawn. This internationally renowned walleye fishery drives much of Ohio's $2,000,000,000 sport fishing industry.

(11) Coastal wetlands in the western basin of Lake Erie have been subjected to intense pressure for 150 years. Prior to 1850, the western basin was part of an extensive coastal marsh and swamp system of approximately 122,000 hectares that comprised a portion of the Great Black Swamp. By 1951, only 12,407 wetland hectares remained in the western basin. Half of that acreage was destroyed between 1972 and 1987. Therefore, today only approximately 5,000 hectares remain. Along the Michigan shoreline, coastal wetlands were reduced by 62 percent between 1916 and the early 1970s. The development of the city of Monroe, Michigan, has had a particularly significant impact on the coastal wetlands at the mouth of the Raisin River: only approximately 100 hectares remain physically unaltered today in an area where 70 years ago marshes were 10 times more extensive. In addition to the actual loss of coastal wetland acreage along the shores of Lake Erie, the quality of many remaining diked wetlands has been degraded by numerous stressors, especially excessive loadings of sediments and nutrients, contaminants, shoreline modification, exotic species, and the diking of wetlands. Protective peninsula beach systems, such as the former Bay Point and Woodtick, at the border of Ohio and Michigan near the mouth of the Ottawa River and Maumee Bay, have been eroded over the years, exacerbating erosion along the shorelines and impacting the breeding and spawning grounds.

SEC. 703. DEFINITIONS.

For purposes of this title:

(1) The term "Refuge Complex" means the Ottawa National Wildlife Refuge Complex and the lands and waters therein, as described in the document entitled "The Comprehensive Conservation Plan for the Ottawa National Wildlife Refuge Complex" and dated September 22, 2000, including Ottawa National Wildlife Refuge, West Sister Island National Wildlife Refuge, and Cedar Point National Wildlife Refuge.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "International Refuge" means the Detroit River International Wildlife Refuge established by the Detroit River International Wildlife Refuge Establishment Act (Public Law 107-91).

SEC. 704. EXPANSION OF BOUNDARIES.

(a) REFUGE COMPLEX BOUNDARIES.—

(1) EXPANSION.—The boundaries of the Refuge Complex are expanded to include lands and waters in the State of Ohio from the eastern boundary of Maumee Bay State Park to the eastern boundary of the Darby Unit, including the Bass Island archipelago, as depicted on the map entitled "Ottawa National Wildlife Refuge Complex Expansion and Detroit River International Wildlife Refuge Complex Expansion Act" dated September 6, 2002.

(2) BOUNDARY REVISIONS.—The Secretary may make such revisions to the boundaries of the Refuge Complex as may be appropriate to carry out the purposes of the Refuge Complex or to facilitate the acquisition of property within the Refuge Complex.

(b) INTERNATIONAL REFUGE BOUNDARIES.—The southern boundary of the International Refuge is extended south to include additional lands and waters in the State of

Michigan east of Interstate Highway 75 from the southern boundary of Sterling State Park to the Ohio State boundary, as depicted on the map referred to in subsection (a)(1).

(c) AVAILABILITY OF MAP.—The Secretary shall keep the map referred to in subsection (a)(1) available for inspection in appropriate offices of the United States Fish and Wildlife Service.

SEC. 705. ACQUISITION AND TRANSFER OF LANDS FOR REFUGE COMPLEX.

(a) ACQUISITIONS.—The Secretary may acquire by donation, purchase with donated or appropriated funds, or exchange the lands and waters, or interests therein (including conservation easements), within the boundaries of the Refuge Complex as expanded by this title. No such lands, waters, or interests therein may be acquired without the consent of the owner thereof.

(b) TRANSFERS FROM OTHER AGENCIES.—Any Federal property located within the boundaries of the Refuge Complex, as expanded by this title, that is under the administrative jurisdiction of a department or agency of the United States other than the Department of the Interior may, with the concurrence of the head of administering department or agency, be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of this title.

SEC. 706. ADMINISTRATION OF REFUGE COMPLEX.

(a) IN GENERAL.—The Secretary shall administer all federally owned lands, waters, and interests therein that are within the boundaries of the Refuge Complex, as expanded by this title, in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and this title. The Secretary may use such additional statutory authority as may be available for the conservation of fish and wildlife, and the provision of fish and wildlife dependent recreational opportunities as the Secretary considers appropriate to implement this title.

(b) ADDITIONAL PURPOSES.—In addition to the purposes of the Refuge Complex under other laws, regulations, executive orders, and comprehensive conservation plans, the Refuge Complex shall be managed for the following purposes:

(1) To strengthen and complement existing resource management, conservation, and education programs and activities at the Refuge Complex in a manner consistent with the primary purpose of the Refuge Complex to provide major resting, feeding, and wintering habitats for migratory birds and other wildlife, and to enhance national resource conservation and management in the western basin of Lake Erie.

(2) To conserve, enhance, and restore the native aquatic and terrestrial community characteristics of the western basin of Lake Erie (including associated fish, wildlife, and plant species), both in the United States and Canada in partnership with nongovernmental and private organizations, as well as private individuals dedicated to habitat enhancement.

(3) To facilitate partnerships among the United States Fish and Wildlife Service, Canadian national and provincial authorities, State and local governments, local communities in the United States and in Canada, conservation organizations, and other non-Federal entities to promote public awareness of the resources of the western basin of Lake Erie.

(4) To advance the collective goals and priorities established in the "Great Lakes Strategy 2002—A Plan for the New Millennium", by the United States Policy Committee comprised of various Federal agencies, including the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the United States Geological Survey, the Forest Service, and the Great Lakes Fishery Commission, as well as the State governments and tribal governments in the Great Lakes. These goals, broadly stated, include working together to protect and restore the chemical, physical, and biological integrity of the Great Lakes basin ecosystem.

(c) PRIORITY USES.—In providing opportunities for compatible fish and wildlife dependent recreation, the Secretary, in accordance with paragraphs (3) and (4) of section 4(a) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)), shall ensure that hunting, fishing, wildlife observation and photography, and environmental education and interpretation are the priority public uses of the Refuge Complex.

(d) COOPERATIVE AGREEMENTS REGARDING NON-FEDERAL LANDS.—The Secretary may enter into cooperative agreements with the State of Ohio or the State of Michigan, or any political subdivision thereof, and with any other person or entity for the management in a manner consistent with this title of lands that are owned by such State, subdivision, or other person or entity and located within the boundaries of the Refuge Complex and to promote public awareness of the resources of the western basin of Lake Erie and encourage public participation in the conservation of those resources.

(e) USE OF EXISTING GREENWAY AUTHORITY.—The Secretary shall encourage the State of Ohio to use existing authorities under the Transportation Equity Act for the 21st Century to provide funding for acquisition and development of trails within the boundaries of the Refuge Complex.

SEC. 707. STUDY OF ASSOCIATED AREA.

(a) IN GENERAL.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, shall conduct a study of fish and wildlife habitat and aquatic and terrestrial communities of the 2 dredge spoil disposal sites referred to by the Toledo-Lucas County Port Authority as Port Authority Facility Number Three and Grassy Island, located within Toledo Harbor near the mouth of the Maumee River.

(b) REPORT.—Not later than 18 months after the date of the enactment of the Act, the Secretary shall complete such study and submit a report containing the results thereof to the Congress.

SEC. 708. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior—

(1) such sums as may be necessary for the acquisition of lands and waters within the Refuge Complex;

(2) such sums as may be necessary for the development, operation, and maintenance of the Refuge Complex; and

(3) such sums as may be necessary to carry out the study under section 707.

TITLE VIII—BEAR RIVER MIGRATORY BIRD REFUGE CLAIMS SETTLEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Bear River Migratory Bird Refuge Settlement Act of 2002".

SEC. 802. FINDINGS.

The Congress finds the following:

(1) The Secretary of the Interior and the State of Utah have negotiated a preliminary agreement concerning the ownership of lands within the Bear River Migratory Bird Refuge located in Bear River Bay of the Great Salt Lake, Utah.

(2) The State is entitled to ownership of those sovereign lands constituting the bed of the Great Salt Lake, and, generally, the location of the sovereign lands boundary was set by an official survey of the Great Salt Lake meander line.

(3) The establishment of the Refuge in 1928 along the shore of the Great Salt Lake, and lack of a meander line survey within the Refuge, has led to uncertainty of ownership of some of those sovereign lands.

(4) In order to settle the uncertainty concerning the sovereign land boundary caused by the gap in the surveyed Great Salt Lake meander line within the Refuge, the Secretary and the State have agreed to the establishment of a fixed sovereign land boundary along the southern boundary of the Refuge and the State has agreed to release any claim to the lake bed above such boundary line.

(5) The Secretary and the State have expressed their intentions to establish a mutually agreed upon procedure to address the conflicting claims to ownership of the lands and interests in land within the Refuge.

SEC. 803. DEFINITIONS.

In this title:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) REFUGE.—The term "Refuge" means the Bear River Migratory Bird Refuge located in Bear River Bay of the Great Salt Lake, Utah.

(3) AGREEMENT.—The term "agreement" means the agreement to be signed by the Secretary and the State to establish a mutually agreeable procedure for addressing the conflicting claims to ownership of the lands and interests in land within the Refuge.

(4) STATE.—The term "State" means the State of Utah.

SEC. 804. REQUIRED TERMS OF LAND CLAIMS SETTLEMENT, BEAR RIVER MIGRATORY BIRD REFUGE, UTAH.

(a) SPECIFIC TERMS REQUIRED IN AGREEMENT.—The Secretary shall not enter into an agreement with the State for the quitclaim or other transfer of lands or interests in lands within the Refuge unless the terms of the agreement include each of the following provisions:

(1) Nothing in the agreement shall be construed to impose upon the State or any agency of the State any obligation to convey to the United States any interest in water owned or controlled by the State, except upon appropriate terms and for adequate consideration.

(2) Nothing in the agreement shall constitute admission or denial of the United States claim to a Federal reserved water right.

(3) The State shall support the United States application to add an enlarged Hyrum Reservoir, or another storage facility, as an alternate place of storage under the Refuge's existing 1000 cubic feet per second State certified water right. Such support shall be contingent upon demonstration by the United States that no injury to water rights shall occur as a result of the addition.

(4) Nothing in the agreement shall affect jurisdiction by the State or the United States Fish and Wildlife Service over wildlife resources management, including fishing, hunting and trapping, within the Refuge.

(5) If the State elects to bring suit against the United States challenging the validity of the deed issued pursuant to the agreement,

and if such suit is successful in invalidating such deed, the State will—

(A) pay the United States for the fair market value of all real property improvements on the property at the time of invalidation, such as dikes, water control structures and buildings;

(B) repay any amounts paid by the United States because of ownership of the land by the United States from the date of establishment of the Refuge, such as payments in lieu of taxes; and

(C) repay any amounts paid to the State pursuant to the agreement.

(6) Subject to the availability of funds for this purpose, the Secretary shall agree to pay $15,000,000 to the State upon delivery by the State of a quitclaim deed that meets all applicable standards of the Department of Justice and covers all lands and interests in lands claimed by the State within the Refuge. Such payment shall be subject to the condition that the State use the payment for the purposes, and in the amounts, specified in subsections (b) and (c).

(b) WETLANDS AND WILDLIFE PROTECTION PROGRAMS.—

(1) DEPOSIT.—The State shall deposit $10,000,000 of the amount paid pursuant to the agreement, as required by subsection (a)(6), in a restricted account, known as the Wetlands and Habitat Protection Account, to be used as provided in paragraph (2).

(2) AUTHORIZED USES.—The Executive Director of the Utah Department of Natural Resources may withdraw from the Wetlands and Habitat Protection Account, on an annual basis, amounts equal to the interest earned on the amount deposited under paragraph (1) for the following purposes:

(A) Wetland or open space protection in and near the Great Salt Lake.

(B) Enhancement and acquisition of wildlife habitat in and near the Great Salt Lake.

(c) RECREATIONAL TRAILS DEVELOPMENT.—The Utah Department of Natural Resources shall use $5,000,000 of the amount paid pursuant to the agreement, as required by subsection (a)(6), as follows:

(1) $2,000,000 for the development, improvement, and expansion of the James V. Hansen Shoshone Trail.

(2) $1,000,000 for the development, improvement, and expansion of the Ogden-Weber Trail System.

(3) $1,000,000 for the non-motorized trails program managed by the Utah State Division of Parks and Recreation.

(4) $1,000,000 for the preservation, reclamation, enhancement, and conservation of streams in the State of Utah.

(d) COORDINATION OF PROJECTS.—The Executive Director of the Utah Department of Natural Resources shall seek to maximize the use of funds under subsections (b) and (c) through coordination with nonprofit organizations, Federal agencies, other agencies of the State, and local governments, and shall give priority to those projects under such subsections that include Federal, State, or private matching funds.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for the payment required by subsection (a)(6) to be included as a term of the agreement.

TITLE IX—EDUCATION AND ADMINISTRATIVE CENTER AT BEAR RIVER MIGRATORY BIRD REFUGE, UTAH

SEC. 901. SHORT TITLE.

This title may be cited as the "Bear River Migratory Bird Refuge Visitor Center Act".

SEC. 902. FINDINGS.

The Congress finds the following:

(1) The Bear River marshes have been a historical waterfowl oasis and an important inland waterfowl flyway for thousands of years.

(2) The Congress created the Bear River Migratory Bird Refuge as one of the first National Wildlife Refuges, for the purpose of protecting waterfowl habitat and migratory birds, educating the public regarding, and enhancing public appreciation of, waterfowl habitat and migratory birds.

(3) The Bear River Migratory Bird Refuge was virtually destroyed by devastating floods that occurred between 1983 and 1985.

(4) Refuge employees, aided by volunteers, have taken valiant actions to rebuild the Refuge by restoring habitat, increasing its attractiveness to waterfowl, reducing waterfowl botulism, and providing recreational and educational opportunities to the public.

(5) The Bear River Migratory Bird Refuge lacks a functional education and administrative center.

(6) The creation of such a facility would significantly enhance public appreciation of waterfowl and the need to preserve waterfowl habitat.

(7) The Congress has taken significant steps to provide funding for the construction of an education and administrative center.

SEC. 903. DEFINITIONS.

For the purpose of this title, the following definitions apply:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) REFUGE.—The term "Refuge" means the Bear River Migratory Bird Refuge in Box Elder County, Utah.

(3) EDUCATION AND ADMINISTRATIVE CENTER.—The term "Education and Administrative Center" means the facility identified in the Environmental Assessment dated 1991 and entitled "Restoration and Expansion of the Bear River Migratory Bird Refuge".

SEC. 904. AUTHORIZATION OF CONSTRUCTION OF THE EDUCATION CENTER.

(a) CONSTRUCTION.—The Secretary shall construct the Education and Administrative Center at the Refuge for the purposes of providing for the interpretation of resources of the Refuge for the education and benefit of the public, for the advancement of research, protection, and health of waterfowl habitat, and for the administration of the Bear River Migratory Bird Refuge.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $11,000,000 to carry out subsection (a).

SEC. 905. MATCHING CONTRIBUTIONS REQUIREMENTS.

(a) DONATION OF FUNDS AND SERVICES.—The Secretary may accept donations of funds and services from nonprofit organizations, State and local governments, and private citizens for the construction of the Education and Administrative Center.

(b) MATCHING FUNDS.—The Secretary may not require matching funds or contributions in kind with a combined total value of more than $1,500,000 for construction of the Education and Administrative Center.

TITLE X—ACCOKEEK CREEK NATIONAL WILDLIFE REFUGE

SEC. 1001. ACCOKEEK CREEK NATIONAL WILDLIFE REFUGE ESTABLISHMENT.

(a) SHORT TITLE.—This title may be cited as the "Accokeek Creek National Wildlife Refuge Establishment Act".

(b) ESTABLISHMENT.—The Secretary of the Interior (in this section referred to as the "Secretary") shall establish the Accokeek Creek National Wildlife Refuge. The refuge shall consist of any lands and waters owned or managed by the Secretary and located within the refuge acquisition boundary depicted on a map entitled "Accokeek Creek National Wildlife Refuge, Land Acquisition Boundary, Stafford County, Virginia" and dated August 2000.

(c) PURPOSES.—The purposes for which the Refuge is established are the following:

(1) To provide long-term protection of ecologically unique habitats of the peninsula between Accokeek and Potomac Creeks in Stafford County, Virginia, known as the Crow's Nest, and certain adjacent property that supports numerous species of neotropical migratory birds, waterfowl, and sport and commercial fish, and numerous rare and endangered plant species.

(2) To provide appropriate public access to, and compatible fish and wildlife dependent recreation in, the Refuge.

(d) ACQUISITION.—

(1) IN GENERAL.—(A) The Secretary may acquire by donation, purchase with donated or appropriated funds, or exchange the lands and waters, or interests therein (including conservation easements), within the boundaries of the Refuge.

(B) No such lands, waters, or interests therein may be acquired without the consent of the owner thereof.

(2) TRANSFERS FROM OTHER AGENCIES.—The head of any Federal agency having administrative jurisdiction over Federal property located within the boundaries of the Refuge may, with the approval of the Secretary, transfer such property without consideration to the administrative jurisdiction of the Secretary for inclusion in the Refuge.

(e) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall administer all federally owned lands, waters, and interests therein that are within the boundaries of the Refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and this section. The Secretary may use such additional statutory authority as may be available for the conservation of fish and wildlife, and the provision of fish and wildlife dependent recreational opportunities, as the Secretary considers appropriate to carry out the purposes described in subsection (c).

(2) PRIORITY USES.—In providing opportunities for compatible fish and wildlife dependent recreation, the Secretary, in accordance with paragraphs (3) and (4) of section 4(a) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)), shall ensure that hunting, fishing, wildlife observation and photography, and environmental education and interpretation are the priority public uses of the Refuge.

TITLE XI—MISCELLANEOUS

SEC. 1101. AMENDMENTS TO THE NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT.

(a) REQUIREMENT TO NOTIFY CONGRESS REGARDING GRANTS.—Section 4(i) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(i)) is amended by adding "in excess of $5,000" after "a grant of funds".

(b) MATCHING CONTRIBUTIONS BY SUBRECIPIENTS.—Section 10(a)(3) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(a)(3)) is amended by adding "or subrecipient" after "made to the Foundation".

TITLE XII—MARINE TURTLE CONSERVATION

SEC. 1201. SHORT TITLE.

This title may be cited as the "Marine Turtle Conservation Act of 2002".

SEC. 1202. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) marine turtle populations have declined to the point that the long-term survival of the loggerhead, green, hawksbill, Kemp's ridley, olive ridley, and leatherback turtle in the wild is in serious jeopardy;

(2) 6 of the 7 recognized species of marine turtles are listed as threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all 7 species have been included in Appendix I of CITES;

(3) because marine turtles are long-lived, late-maturing, and highly migratory, marine turtles are particularly vulnerable to the impacts of human exploitation and habitat loss;

(4) illegal international trade seriously threatens wild populations of some marine turtle species, particularly the hawksbill turtle;

(5) the challenges facing marine turtles are immense, and the resources available have not been sufficient to cope with the continued loss of nesting habitats caused by human activities and the consequent diminution of marine turtle populations;

(6) because marine turtles are flagship species for the ecosystems in which marine turtles are found, sustaining healthy populations of marine turtles provides benefits to many other species of wildlife, including many other threatened or endangered species;

(7) marine turtles are important components of the ecosystems that they inhabit, and studies of wild populations of marine turtles have provided important biological insights;

(8) changes in marine turtle populations are most reliably indicated by changes in the numbers of nests and nesting females; and

(9) the reduction, removal, or other effective addressing of the threats to the long-term viability of populations of marine turtles will require the joint commitment and effort of—

(A) countries that have within their boundaries marine turtle nesting habitats; and

(B) persons with expertise in the conservation of marine turtles.

(b) PURPOSE.—The purpose of this title is to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries by supporting and providing financial resources for projects to conserve the nesting habitats, conserve marine turtles in those habitats, and address other threats to the survival of marine turtles.

SEC. 1203. DEFINITIONS.

In this title:

(1) CITES.—The term "CITES" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249).

(2) CONSERVATION.—The term "conservation" means the use of all methods and procedures necessary to protect nesting habitats of marine turtles in foreign countries and of marine turtles in those habitats, including—

(A) protection, restoration, acquisition, and management of nesting habitats;

(B) onsite research and monitoring of nesting populations, nesting habitats, annual reproduction, and species population trends;

(C) assistance in the development, implementation, and improvement of national and regional management plans for nesting habitat ranges;

(D) enforcement and implementation of CITES and laws of foreign countries to—

(i) protect and manage nesting populations and nesting habitats; and

(ii) prevent illegal trade of marine turtles;

(E) training of local law enforcement officials in the interdiction and prevention of—

(i) the illegal killing of marine turtles on nesting habitat; and

(ii) illegal trade in marine turtles;

(F) initiatives to resolve conflicts between humans and marine turtles over habitat used by marine turtles for nesting;

(G) community outreach and education; and

(H) strengthening of the ability of local communities to implement nesting population and nesting habitat conservation programs.

(3) FUND.—The term "Fund" means the Marine Turtle Conservation Fund established by section 1205.

(4) MARINE TURTLE.—

(A) IN GENERAL.—The term "marine turtle" means any member of the family Cheloniidae or Dermochelyidae.

(B) INCLUSIONS.—The term "marine turtle" includes—

(i) any part, product, egg, or offspring of a turtle described in subparagraph (A); and

(ii) a carcass of such a turtle.

(5) MULTINATIONAL SPECIES CONSERVATION FUND.—The term "Multinational Species Conservation Fund" means the fund established under the heading "MULTINATIONAL SPECIES CONSERVATION FUND" in title I of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 4246).

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 1204. MARINE TURTLE CONSERVATION ASSISTANCE.

(a) IN GENERAL.—Subject to the availability of funds and in consultation with other Federal officials, the Secretary shall use amounts in the Fund to provide financial assistance for projects for the conservation of marine turtles for which project proposals are approved by the Secretary in accordance with this section.

(b) PROJECT PROPOSALS.—

(1) ELIGIBLE APPLICANTS.—A proposal for a project for the conservation of marine turtles may be submitted to the Secretary by—

(A) any wildlife management authority of a foreign country that has within its boundaries marine turtle nesting habitat if the activities of the authority directly or indirectly affect marine turtle conservation; or

(B) any other person or group with the demonstrated expertise required for the conservation of marine turtles.

(2) REQUIRED ELEMENTS.—A project proposal shall include—

(A) a statement of the purposes of the project;

(B) the name of the individual with overall responsibility for the project;

(C) a description of the qualifications of the individuals that will conduct the project;

(D) a description of—

(i) methods for project implementation and outcome assessment;

(ii) staff and community management for the project; and

(iii) the logistics of the project;

(E) an estimate of the funds and time required to complete the project;

(F) evidence of support for the project by appropriate governmental entities of the countries in which the project will be conducted, if the Secretary determines that such support is required for the success of the project;

(G) information regarding the source and amount of matching funding available for the project; and

(H) any other information that the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this title.

(c) PROJECT REVIEW AND APPROVAL.—

(1) IN GENERAL.—The Secretary shall—

(A) not later than 30 days after receiving a project proposal, provide a copy of the proposal to other Federal officials, as appropriate; and

(B) review each project proposal in a timely manner to determine whether the proposal meets the criteria specified in subsection (d).

(2) CONSULTATION; APPROVAL OR DISAPPROVAL.—Not later than 180 days after receiving a project proposal, and subject to the availability of funds, the Secretary, after consulting with other Federal officials, as appropriate, shall—

(A) consult on the proposal with the government of each country in which the project is to be conducted;

(B) after taking into consideration any comments resulting from the consultation, approve or disapprove the project proposal; and

(C) provide written notification of the approval or disapproval to the person that submitted the project proposal, other Federal officials, and each country described in subparagraph (A).

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a project proposal under this section if the project will help recover and sustain viable populations of marine turtles in the wild by assisting efforts in foreign countries to implement marine turtle conservation programs.

(e) PROJECT SUSTAINABILITY.—To the maximum extent practicable, in determining whether to approve project proposals under this section, the Secretary shall give preference to conservation projects that are designed to ensure effective, long-term conservation of marine turtles and their nesting habitats.

(f) MATCHING FUNDS.—In determining whether to approve project proposals under this section, the Secretary shall give preference to projects for which matching funds are available.

(g) PROJECT REPORTING.—

(1) IN GENERAL.—Each person that receives assistance under this section for a project shall submit to the Secretary periodic reports (at such intervals as the Secretary may require) that include all information that the Secretary, after consultation with other government officials, determines is necessary to evaluate the progress and success of the project for the purposes of ensuring positive results, assessing problems, and fostering improvements.

(2) AVAILABILITY TO THE PUBLIC.—Reports under paragraph (1), and any other documents relating to projects for which financial assistance is provided under this title, shall be made available to the public.

SEC. 1205. MARINE TURTLE CONSERVATION FUND.

(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund a separate account to be known as the "Marine Turtle Conservation Fund", consisting of—

(1) amounts transferred to the Secretary of the Treasury for deposit into the Fund under subsection (e);

(2) .amounts appropriated to the Fund under section 1206; and

(3) any interest earned on investment of amounts in the Fund under subsection (c).

(b) Expenditures From Fund.—

(1) In general.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary, without further appropriation, such amounts as the Secretary determines are necessary to carry out section 1204.

(2) Administrative expenses.—Of the amounts in the account available for each fiscal year, the Secretary may expand not more than 3 percent, or up to $80,000, whichever is greater, to pay the administrative expenses necessary to carry out this title.

(c) Investment of Amounts.—

(1) In general.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(2) Acquisition of obligations.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) Sale of obligations.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(4) Credits to fund.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(d) Transfers of Amounts.—

(1) In general.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) Adjustments.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) Acceptance and Use of Donations.—The Secretary may accept and use donations to provide assistance under section 1204. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit in the Fund.

SEC. 1206. ADVISORY GROUP.

(a) In General.—To assist in carrying out this title, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of marine turtles.

(b) Public Participation.—

(1) Meetings.—The Advisory Group shall—

(A) ensure that each meeting of the advisory group is open to the public; and

(B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(2) Notice.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(3) Minutes.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(c) Exemption From Federal Advisory Committee Act.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

SEC. 1207. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Fund $5,000,000 for each of fiscal years 2004 through 2008.

Mr. HANSEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Endangered Species Act of 1973 to promote involvement by non-Federal entities in the recovery of endangered species, threatened species, and species that may become endangered or threatened species, and for other purposes.".

A motion to reconsider was laid on the table.

POW/MIA MEMORIAL FLAG ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the Senate bill (S. 1226) to require the display of the POW-MIA flag at the World War II memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "POW/MIA Memorial Flag Act of 2002".

SEC. 2. DISPLAY OF POW/MIA FLAG AT WORLD WAR II MEMORIAL, KOREAN WAR MEMORIAL, AND VIETNAM VETERANS MEMORIAL.

(a) Requirement for Display.—Subsection (d)(3) of section 902 of title 36, United States Code, is amended by striking "The Korean War Veterans Memorial and the Vietnam Veterans Memorial" and inserting "The World War II memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial".

(b) Days for Display.—Subsection (c)(2) of that section is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph (A):

"(A) in the case of display at the World War II memorial, Korean War Veterans Memorial, and Vietnam Veterans Memorial (required by subsection (d)(3) of this section), any day on which the United States flag is displayed;".

(c) Display on Existing Flagpole.—No element of the United States Government may construe the amendments made by this section as requiring the acquisition of erection of a new or additional flagpole for purposes of the display of the POW/MIA flag.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CITY OF HAINES, OREGON LAND CONVEYANCE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1907) to direct the Secretary of the Interior to convey certain land to the city of Haines, Oregon.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1907

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE TO THE CITY OF HAINES, OREGON.

(a) Conveyance.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall convey, without consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the city of Haines, Oregon.

(b) Description of Land.—The parcel of land referred to in subsection (a) is the parcel of Bureau of Land Management land consisting of approximately 40 acres, as indicated on the map entitled "S. 1907: Conveyance to the City of Haines, Oregon" and dated May 9, 2002.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

OLD SPANISH TRAIL RECOGNITION ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1946) to amend the National Trails System Act to designate the Old Spanish Trail as a National Historic Trail.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Old Spanish Trail Recognition Act of 2002".

SEC. 2. AUTHORIZATION AND ADMINISTRATION.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended—

(1) by redesignating the second paragraph (21) as paragraph (22); and

(2) by adding at the end the following:

"(23) OLD SPANISH NATIONAL HISTORIC TRAIL.—

"(A) IN GENERAL.—The Old Spanish National Historic Trail, an approximately 2,700 mile long trail extending from Santa Fe, New Mexico, to Los Angeles, California, that served as a major trade route between 1829 and 1848, as generally depicted on the maps numbered 1 through 9, as contained in the report entitled "Old Spanish Trail National Historic Trail Feasibility Study", dated July 2001, including the Armijo Route, Northern Route, North Branch, and Mojave Road".

"(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the appropriate offices of the Department of the Interior.".

"(C) ADMINISTRATION.—The trail shall be administered by the Secretary of the Interior (referred to in this paragraph as the 'Secretary').

"(D) LAND ACQUISITION.—The United States shall not acquire for the trail any land or interest in land outside the exterior boundary of any federally-managed area without the consent of the owner of the land or interest in land.

"(E) CONSULTATION.—The Secretary shall consult with other Federal, State, local, and tribal agencies in the administration of the trail.

"(F) ADDITIONAL ROUTES.—The Secretary may designate additional routes to the trail if—

"(i) the additional routes were included in the Old Spanish Trail National Historic Trail Feasibility Study, but were not recommended for designation as a national historic trail; and

"(ii) the Secretary determines that the additional routes were used for trade and commerce between 1829 and 1848.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 0230

INDIAN FINANCING AMENDMENTS ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2017) to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Financing Amendments Act of 2002".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) was intended to provide Native American borrowers with access to commercial sources of capital that otherwise would not be available through the guarantee or insurance of loans by the Secretary of the Interior;

(2) although the Secretary of the Interior has made loan guarantees and insurance available, use of those guarantees and that insurance by lenders to benefit Native American business borrowers has been limited;

(3) 27 years after the date of enactment of the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.), the promotion and development of Native American-owned business remains an essential foundation for growth of economic and social stability of Native Americans;

(4) use by commercial lenders of the available loan insurance and guarantees may be limited by liquidity and other capital market-driven concerns; and

(5) it is in the best interest of the insured and guaranteed loan program of the Department of the Interior—

(A) to encourage the orderly development and expansion of a secondary market for loans guaranteed or insured by the Secretary of the Interior; and

(B) to expand the number of lenders originating loans under the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.).

(b) PURPOSE.—The purpose of this Act is to reform and clarify the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) in order to—

(1) stimulate the use by lenders of secondary market investors for loans guaranteed or insured under a program administered by the Secretary of the Interior;

(2) preserve the authority of the Secretary to administer the program and regulate lenders;

(3) clarify that a good faith investor in loans insured or guaranteed by the Secretary will receive appropriate payments;

(4) provide for the appointment by the Secretary of a qualified fiscal transfer agent to establish and administer a system for the orderly transfer of those loans; and

(5)(A) authorize the Secretary to promulgate regulations to encourage and expand a secondary market program for loans guaranteed or insured by the Secretary; and

(B) allow the pooling of those loans as the secondary market develops.

SEC. 3. AMENDMENTS TO INDIAN FINANCING ACT.

(a) LIMITATION ON LOAN AMOUNTS WITHOUT PRIOR APPROVAL.—Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended in the last sentence by striking "$100,000" and inserting "$250,000".

(b) SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.—Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

(1) by striking "Any loan guaranteed" and inserting the following:

"(a) IN GENERAL.—Any loan guaranteed or insured"; and

(2) by adding at the end the following:

"(b) INITIAL TRANSFERS.—

"(1) IN GENERAL.—The lender of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

"(A) all rights and obligations of the lender in the loan or in the unguaranteed or uninsured portion of the loan; and

"(B) any security given for the loan.

"(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

"(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

"(B) the lender shall give notice of the transfer to the Secretary.

"(3) RESPONSIBILITIES OF TRANSFEREE.—On any transfer under paragraph (1), the transferee shall—

"(A) be deemed to be the lender for the purpose of this title;

"(B) become the secured party of record; and

"(C) be responsible for—

"(i) performing the duties of the lender; and

"(ii) servicing the loan in accordance with the terms of the guarantee by the Secretary of the loan.

"(c) SECONDARY TRANSFERS.—

"(1) IN GENERAL.—Any transferee under subsection (b) of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

"(A) all rights and obligations of the transferee in the loan or in the unguaranteed or uninsured portion of the loan; and

"(B) any security given for the loan.

"(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

"(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

"(B) the transferor shall give notice of the transfer to the Secretary.

"(3) ACKNOWLEDGMENT BY SECRETARY.—On receipt of a notice of a transfer under paragraph (2)(B), the Secretary shall issue to the transferee an acknowledgement by the Secretary of—

"(A) the transfer; and

"(B) the interest of the transferee in the guaranteed or insured portion of the loan.

"(4) RESPONSIBILITIES OF LENDER.—Notwithstanding any transfer permitted by this subsection, the lender shall—

"(A) remain obligated on the guarantee agreement or insurance agreement between the lender and the Secretary;

"(B) continue to be responsible for servicing the loan in a manner consistent with that guarantee agreement or insurance agreement; and

"(C) remain the secured creditor of record.

"(d) FULL FAITH AND CREDIT.—

"(1) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all loan guarantees and loan insurance made under this title after the date of enactment of this subsection.

"(2) VALIDITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the validity of a guarantee or insurance of a loan under this title shall be incontestable if the obligations of the guarantee or insurance held by a transferee have been acknowledged under subsection (c)(3).

"(B) EXCEPTION FOR FRAUD OR MISREPRESENTATION.—Subparagraph (A) shall not apply in a case in which a transferee has actual knowledge of fraud or misrepresentation, or participates in or condones fraud or misrepresentation, in connection with a loan.

"(e) DAMAGES.—Notwithstanding section 3302 of title 31, United States Code, the Secretary may recover from a lender of a loan under this title any damages suffered by the Secretary as a result of a material breach of the obligations of the lender with respect to a guarantee or insurance by the Secretary of the loan.

"(f) FEES.—The Secretary may collect a fee for any loan or guaranteed or insured portion of a loan that is transferred in accordance with this section.

"(g) CENTRAL REGISTRATION OF LOANS.—On promulgation of final regulations under subsection (i), the Secretary shall—

"(1) provide for a central registration of all guaranteed or insured loans transferred under this section; and

"(2) enter into 1 or more contracts with a fiscal transfer agent—

"(A) to act as the designee of the Secretary under this section; and

"(B) to carry out on behalf of the Secretary the central registration and fiscal transfer agent functions, and issuance of acknowledgements, under this section.

"(h) POOLING OF LOANS.—

"(1) IN GENERAL.—Nothing in this title prohibits the pooling of whole loans or interests in loans transferred under this section.

"(2) REGULATIONS.—In promulgating regulations under subsection (i), the Secretary may include such regulations to effect orderly and efficient pooling procedures as the Secretary determines to be necessary.

"(i) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall develop such procedures and promulgate such regulations as are necessary to facilitate, administer, and promote transfers of loans and guaranteed and insured portions of loans under this section.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. HANSEN:

Strike all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—INDIAN FINANCING ACT AMENDMENTS

Sec. 101. Short title.
Sec. 102. Findings and purpose.
Sec. 103. Amendments to Indian Financing Act.

TITLE II—YANKTON SIOUX AND SANTEE SIOUX TRIBES EQUITABLE COMPENSATION

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. Yankton Sioux Tribe Development Trust Fund.
Sec. 205. Santee Sioux Tribe Development Trust Fund.
Sec. 206. Tribal plans.
Sec. 207. Eligibility of tribe for certain programs and services.
Sec. 208. Statutory construction.
Sec. 209. Authorization of appropriations.
Sec. 210. Extinguishment of claims.

TITLE III—OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM

Sec. 301. Oklahoma Native American Cultural Center and Museum.

TITLE IV—TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA

Sec. 401. Transmission of power from Indian lands in Oklahoma.

TITLE V—PECHANGA TRIBE

Sec. 501. Land of Pechanga Band of Luiseno Mission Indians.

TITLE VI—CHEROKEE, CHOCTAW, AND CHICKASAW NATIONS CLAIMS SETTLEMENT ACT

Sec. 601. Short title.
Sec. 602. Findings.
Sec. 603. Purposes.
Sec. 604. Definitions.
Sec. 605. Settlement and claims; appropriations; allocation of funds.
Sec. 606. Tribal trust funds.
Sec. 607. Attorney fees.
Sec. 608. Release of other tribal claims and filing of claims.
Sec. 609. Effect on claims.

TITLE VII—SEMINOLE TRIBE

Sec. 701. Approval not required to validate certain land transactions.

TITLE VIII—JICARILLA APACHE RESERVATION RURAL WATER SYSTEM

Sec. 801. Short title.
Sec. 802. Purposes.
Sec. 803. Definitions.
Sec. 804. Jicarilla Apache Reservation rural water system.
Sec. 805. General authority.
Sec. 806. Project requirements.
Sec. 807. Authorization of appropriations.
Sec. 808. Prohibition on use of funds for irrigation purposes.
Sec. 809. Water rights.

TITLE IX—ROCKY BOY'S RURAL WATER SYSTEM

Sec. 901. Short title.
Sec. 902. Findings and purposes.
Sec. 903. Definitions.
Sec. 904. Rocky Boy's rural water system.
Sec. 905. Noncore system.
Sec. 906. Limitation on availability of construction funds.
Sec. 907. Connection charges.
Sec. 908. Authorization of contracts.
Sec. 909. Tiber Reservoir allocation to the tribe.
Sec. 910. Use of Pick-Sloan power.
Sec. 911. Water conservation plan.
Sec. 912. Water rights.
Sec. 913. Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund.
Sec. 914. Authorization of appropriations.

TITLE X—MISCELLANEOUS

Sec. 1001. Santee Sioux Tribe, Nebraska, water system study.
Sec. 1002. Yurok Tribe and Hopland Band included in long term leasing.

TITLE I—INDIAN FINANCING ACT AMENDMENTS

SEC. 101. SHORT TITLE.

This Act may be cited as the "Indian Financing Amendments Act of 2002".

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) was intended to provide Native American borrowers with access to commercial sources of capital that otherwise would not be available through the guarantee or insurance of loans by the Secretary of the Interior;

(2) although the Secretary of the Interior has made loan guarantees and insurance available, use of those guarantees and that insurance by lenders to benefit Native American business borrowers has been limited;

(3) 27 years after the date of enactment of the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.), the promotion and development of Native American-owned business remains an essential foundation for growth of economic and social stability of Native Americans;

(4) use by commercial lenders of the available loan insurance and guarantees may be limited by liquidity and other capital market-driven concerns; and

(5) it is in the best interest of the insured and guaranteed loan program of the Department of the Interior—

(A) to encourage the orderly development and expansion of a secondary market for loans guaranteed or insured by the Secretary of the Interior; and

(B) to expand the number of lenders originating loans under the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.).

(b) PURPOSE.—The purpose of this Act is to reform and clarify the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) in order to—

(1) stimulate the use by lenders of secondary market investors for loans guaranteed or insured under a program administered by the Secretary of the Interior;

(2) preserve the authority of the Secretary to administer the program and regulate lenders;

(3) clarify that a good faith investor in loans insured or guaranteed by the Secretary will receive appropriate payments;

(4) provide for the appointment by the Secretary of a qualified fiscal transfer agent to establish and administer a system for the orderly transfer of those loans; and

(5)(A) authorize the Secretary to promulgate regulations to encourage and expand a secondary market program for loans guaranteed or insured by the Secretary; and

(B) allow the pooling of those loans as the secondary market develops.

SEC. 103. AMENDMENTS TO INDIAN FINANCING ACT.

(a) LIMITATION ON LOAN AMOUNTS WITHOUT PRIOR APPROVAL.—Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended in the last sentence by striking "$100,000" and inserting "$250,000".

(b) SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.—Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

(1) by striking "Any loan guaranteed" and inserting the following:

"(a) IN GENERAL.—Any loan guaranteed or insured"; and

(2) by adding at the end the following:

"(b) INITIAL TRANSFERS.—

"(1) IN GENERAL.—The lender of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

"(A) all rights and obligations of the lender in the loan or in the unguaranteed or uninsured portion of the loan; and

"(B) any security given for the loan.

"(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

"(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

"(B) the lender shall give notice of the transfer to the Secretary.

"(3) RESPONSIBILITIES OF TRANSFEREE.—On any transfer under paragraph (1), the transferee shall—

"(A) be deemed to be the lender for the purpose of this title;

"(B) become the secured party of record; and

"(C) be responsible for—

"(i) performing the duties of the lender; and

"(ii) servicing the loan in accordance with the terms of the guarantee by the Secretary of the loan.

"(c) SECONDARY TRANSFERS.—

"(1) IN GENERAL.—Any transferee under subsection (b) of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

"(A) all rights and obligations of the transferee in the loan or in the unguaranteed or uninsured portion of the loan; and

"(B) any security given for the loan.

"(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

"(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

"(B) the transferor shall give notice of the transfer to the Secretary.

"(3) ACKNOWLEDGMENT BY SECRETARY.—On receipt of a notice of a transfer under paragraph (2)(B), the Secretary shall issue to the transferee an acknowledgement by the Secretary of—

"(A) the transfer; and

"(B) the interest of the transferee in the guaranteed or insured portion of the loan.

"(4) RESPONSIBILITIES OF LENDER.—Notwithstanding any transfer permitted by this subsection, the lender shall—

"(A) remain obligated on the guarantee agreement or insurance agreement between the lender and the Secretary;

"(B) continue to be responsible for servicing the loan in a manner consistent with that guarantee agreement or insurance agreement; and

"(C) remain the secured creditor of record.

"(d) FULL FAITH AND CREDIT.—

"(1) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all loan guarantees and loan insurance made under this title after the date of enactment of this subsection.

"(2) VALIDITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the validity of a guarantee or insurance of a loan under this title shall be incontestable if the obligations of the guarantee or insurance held by a transferee have been acknowledged under subsection (c)(3).

"(B) EXCEPTION FOR FRAUD OR MISREPRESENTATION.—Subparagraph (A) shall not apply in a case in which a transferee has actual knowledge of fraud or misrepresentation, or participates in or condones fraud or misrepresentation, in connection with a loan.

"(e) DAMAGES.—Notwithstanding section 3302 of title 31, United States Code, the Secretary may recover from a lender of a loan under this title any damages suffered by the Secretary as a result of a material breach of the obligations of the lender with respect to a guarantee or insurance by the Secretary of the loan.

"(f) FEES.—The Secretary may collect a fee for any loan or guaranteed or insured portion of a loan that is transferred in accordance with this section.

"(g) CENTRAL REGISTRATION OF LOANS.—On promulgation of final regulations under subsection (i), the Secretary shall—

"(1) provide for a central registration of all guaranteed or insured loans transferred under this section; and

"(2) enter into 1 or more contracts with a fiscal transfer agent—

"(A) to act as the designee of the Secretary under this section; and

"(B) to carry out on behalf of the Secretary the central registration and fiscal transfer agent functions, and issuance of acknowledgements, under this section.

"(h) POOLING OF LOANS.—

"(1) IN GENERAL.—Nothing in this title prohibits the pooling of whole loans or interests in loans transferred under this section.

"(2) REGULATIONS.—In promulgating regulations under subsection (i), the Secretary may include such regulations to effect orderly and efficient pooling procedures as the Secretary determines to be necessary.

"(i) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall develop such procedures and promulgate such regulations as are necessary to facilitate, administer, and promote transfers of loans and guaranteed and insured portions of loans under this section.".

TITLE II—YANKTON SIOUX AND SANTEE SIOUX TRIBES EQUITABLE COMPENSATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act".

SEC. 202. FINDINGS.

Congress finds that—

(1) by enacting the Act of December 22, 1944, commonly known as the "Flood Control Act of 1944" (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the "Pick-Sloan program")—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the waters impounded for the Fort Randall and Gavins Point projects of the Pick-Sloan program have inundated the fertile, wooded bottom lands along the Missouri River that constituted the most productive agricultural and pastoral lands of, and the homeland of, the members of the Yankton Sioux Tribe and the Santee Sioux Tribe;

(3) the Fort Randall project (including the Fort Randall Dam and Reservoir) overlies the western boundary of the Yankton Sioux Tribe Indian Reservation;

(4) the Gavins Point project (including the Gavins Point Dam and Reservoir) overlies the eastern boundary of the Santee Sioux Tribe;

(5) although the Fort Randall and Gavins Point projects are major components of the Pick-Sloan program, and contribute to the economy of the United States by generating a substantial amount of hydropower and impounding a substantial quantity of water, the reservations of the Yankton Sioux Tribe and the Santee Sioux Tribe remain undeveloped;

(6) the United States Army Corps of Engineers took the Indian lands used for the Fort Randall and Gavins Point projects by condemnation proceedings;

(7) the Federal Government did not give the Yankton Sioux Tribe and the Santee Sioux Tribe an opportunity to receive compensation for direct damages from the Pick-Sloan program, even though the Federal Government gave 5 Indian reservations upstream from the reservations of those Indian tribes such an opportunity;

(8) the Yankton Sioux Tribe and the Santee Sioux Tribe did not receive just compensation for the taking of productive agricultural Indian lands through the condemnation referred to in paragraph (6);

(9) the settlement agreement that the United States entered into with the Yankton Sioux Tribe and the Santee Sioux Tribe to provide compensation for the taking by condemnation referred to in paragraph (6) did not take into account the increase in property values over the years between the date of taking and the date of settlement; and

(10) in addition to the financial compensation provided under the settlement agreements referred to in paragraph (9)—

(A) the Yankton Sioux Tribe should receive an aggregate amount equal to $23,023,743 for the loss value of 2,851.40 acres of Indian land taken for the Fort Randall Dam and Reservoir of the Pick-Sloan program; and

(B) the Santee Sioux Tribe should receive an aggregate amount equal to $4,789,010 for the loss value of 593.10 acres of Indian land located near the Santee village.

SEC. 203. DEFINITIONS.

In this title:

(1) INDIAN TRIBE.—The term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) SANTEE SIOUX TRIBE.—The term "Santee Sioux Tribe" means the Santee Sioux Tribe of Nebraska.

(3) YANKTON SIOUX TRIBE.—The term "Yankton Sioux Tribe" means the Yankton Sioux Tribe of South Dakota.

SEC. 204. YANKTON SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "Yankton Sioux Tribe Development Trust Fund" (referred to in this section as the "Fund"). The Fund shall consist of any amounts deposited in the Fund under this title.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $23,023,743; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO YANKTON SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Yankton Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Yankton Sioux Tribe has adopted a tribal plan under section 206.

(C) USE OF PAYMENTS BY YANKTON SIOUX TRIBE.—The Yankton Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 206.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 205. SANTEE SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "Santee Sioux Tribe Development Trust Fund" (referred to in this section as the "Fund"). The Fund shall consist of any amounts deposited in the Fund under this title.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $4,789,010; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO SANTEE SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Santee Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Santee Sioux Tribe has adopted a tribal plan under section 206.

(C) USE OF PAYMENTS BY SANTEE SIOUX TRIBE.—The Santee Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 206.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 206. TRIBAL PLANS.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the tribal council of each of the Yankton Sioux and Santee Sioux Tribes shall prepare a plan for the use of the payments to the tribe under section 204(d) or 205(d) (referred to in this subsection as a "tribal plan").

(b) CONTENTS OF TRIBAL PLAN.—Each tribal plan shall provide for the manner in which the tribe covered under the tribal plan shall expend payments to the tribe under section 204(d) or 205(d) to promote—

(1) economic development;

(2) infrastructure development;

(3) the educational, health, recreational, and social welfare objectives of the tribe and its members; or

(4) any combination of the activities described in paragraphs (1), (2), and (3).

(c) TRIBAL PLAN REVIEW AND REVISION.—

(1) IN GENERAL.—Each tribal council referred to in subsection (a) shall make available for review and comment by the members of the tribe a copy of the tribal plan for the Indian tribe before the tribal plan becomes final, in accordance with procedures established by the tribal council.

(2) UPDATING OF TRIBAL PLAN.—Each tribal council referred to in subsection (a) may, on an annual basis, revise the tribal plan prepared by that tribal council to update the tribal plan. In revising the tribal plan under this paragraph, the tribal council shall provide the members of the tribe opportunity to review and comment on any proposed revision to the tribal plan.

(3) CONSULTATION.—In preparing the tribal plan and any revisions to update the plan, each tribal council shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(4) ANNUAL REPORTS.—Each tribe shall submit an annual report to the Secretary describing any expenditures of funds withdrawn by that tribe under this title.

(d) PROHIBITION ON PER CAPITA PAYMENTS.—No portion of any payment made under this title may be distributed to any member of the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska on a per capita basis.

SEC. 207. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

(a) IN GENERAL.—No payment made to the Yankton Sioux Tribe or Santee Sioux Tribe pursuant to this title shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Yankton Sioux Tribe or Santee Sioux Tribe is otherwise entitled because of the status of the tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of a tribe under paragraph (1) is entitled because of the status of the individual as a member of the tribe.

(b) EXEMPTIONS FROM TAXATION.—No payment made pursuant to this title shall be subject to any Federal or State income tax.

(c) POWER RATES.—No payment made pursuant to this title shall affect Pick-Sloan Missouri River Basin power rates.

SEC. 208. STATUTORY CONSTRUCTION.

Nothing in this title may be construed as diminishing or affecting any water right of an Indian tribe, except as specifically provided in another provision of this title, any treaty right that is in effect on the date of enactment of this Act, or any authority of the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title, including such sums as may be necessary for the administration of the Yankton Sioux Tribe Development Trust Fund under section 204 and the Santee Sioux Tribe Development Trust Fund under section 205.

SEC. 210. EXTINGUISHMENT OF CLAIMS.

Upon the deposit of funds under sections 204(b) and 205(b), all monetary claims that the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska has or may have against the United States for loss of value or use of land related to lands described in section 202(a)(10) resulting from the Fort Randall and Gavins Point projects of the Pick-Sloan Missouri River Basin program shall be extinguished.

TITLE III—OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM

SEC. 301. OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM.

(a) FINDINGS.—Congress makes the following findings:

(1) In order to promote better understanding between Indian and non-Indian citizens of the United States, and in light of the Federal Government's continuing trust responsibilities to Indian tribes, it is appropriate, desirable, and a proper function of the Federal Government to provide grants for the development of a museum designated to display the heritage and culture of Indian tribes.

(2) In recognition of the unique status and history of Indian tribes in the State of Oklahoma and the role of the Federal Government in such history, it is appropriate and proper for the museum referred to in paragraph (1) to be located in the State of Oklahoma.

(b) GRANT.—

(1) IN GENERAL.—The Secretary shall offer to award financial assistance equaling not more than $33,000,000 and technical assistance to the Authority to be used for the development and construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma.

(2) AGREEMENT.—To be eligible to receive a grant under paragraph (1), the appropriate official of the Authority shall—

(A) enter into a grant agreement with the Secretary which shall specify the duties of the Authority under this section, including provisions for continual maintenance of the Center by the Authority without the use of Federal funds; and

(B) demonstrate, to the satisfaction of the Secretary, that the Authority has raised, or has commitments from private persons or State or local government agencies for, an amount that is equal to not less than 66 percent of the cost to the Authority of the activities to be carried out under the grant.

(3) LIMITATION.—The amount of any grant awarded under paragraph (1) shall not exceed 33 percent of the cost of the activities to be funded under the grant.

(4) IN-KIND CONTRIBUTION.—When calculating the cost share of the Authority under this title, the Secretary shall reduce such cost share obligation by the fair market value of the approximately 300 acres of land donated by Oklahoma City for the Center, if such land is used for the Center.

(c) DEFINITIONS.—For the purposes of this title:

(1) AUTHORITY.—The term "Authority" means the Native American Cultural and Educational Authority of Oklahoma, an agency of the State of Oklahoma.

(2) CENTER.—The term "Center" means the Native American Cultural Center and Museum authorized pursuant to this section.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to grant assistance under subsection (b)(1), $8,250,000 for each of fiscal years 2003 through 2006.

TITLE IV—TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA

SEC. 401. TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA.

To the extent the Southwestern Power Administration makes transmission capacity available without replacing the present capacity of existing users of the Administration's transmission system, the Administrator of the Southwestern Power Administration shall take such actions as may be necessary, in accordance with all applicable Federal law, to make the transmission services of the Administration available for the transmission of electric power generated at facilities located on land within the jurisdictional area of any Oklahoma Indian tribe (as determined by the Secretary of the Interior) recognized by the Secretary as eligible for trust land status under 25 CFR Part 151. The owner or operator of the generation facilities concerned shall reimburse the Administrator for all costs of such actions in accordance with standards applicable to payment of such costs by other users of the Southwestern Power Administration transmission system.

TITLE V—PECHANGA TRIBE

SEC. 501. LAND OF PECHANGA BAND OF LUISENO MISSION INDIANS.

(a) LIMITATION ON CONVEYANCE.—Land described in subsection (b) (or any interest in that land) shall not be voluntarily or involuntarily transferred or otherwise made available for condemnation until the date on which—

(1)(A) the Secretary of the Interior renders a final decision on the fee to trust application pending on the date of the enactment of this title concerning the land; and

(B) final decisions have been rendered regarding all appeals relating to that application decision; or

(2) the fee to trust application described in paragraph (1)(A) is withdrawn.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) is land located in Riverside County, California, that is held in fee by the Pechanga Band of Luiseno Mission Indians, as described in Document No. 211130 of the Office of the Recorder, Riverside County, California, and recorded on May 15, 2001.

(c) RULE OF CONSTRUCTION.—Nothing in this section designates, or shall be used to construe, any land described in subsection (b) (or any interest in that land) as an Indian reservation, Indian country, Indian land, or reservation land (as those terms are defined under any Federal law (including a regulation)) for any purpose under any Federal law.

TITLE VI—CHEROKEE, CHOCTAW, AND CHICKASAW NATIONS CLAIMS SETTLEMENT ACT

SEC. 601. SHORT TITLE.

This title may be cited as the "Cherokee, Choctaw, and Chickasaw Nations Claims Settlement Act".

SEC. 602. FINDINGS.

The Congress finds the following:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to encourage the resolution of disputes over historical claims through mutually agreed-to settlements between Indian Nations and the United States.

(2) There are pending before the United States Court of Federal Claims certain lawsuits against the United States brought by the Cherokee, Choctaw, and Chickasaw Nations seeking monetary damages for the alleged use and mismanagement of tribal resources along the Arkansas River in eastern Oklahoma.

(3) The Cherokee Nation, a federally recognized Indian tribe with its present tribal headquarters south of Tahlequah, Oklahoma, having adopted its most recent constitution on June 26, 1976, and having entered into various treaties with the United States, including but not limited to the Treaty at Hopewell, executed on November 28, 1785 (7 Stat. 18), and the Treaty at Washington, D.C., executed on July 19, 1866 (14 Stat. 799), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(4) The Choctaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Durant, Oklahoma, having adopted its most recent constitution on July 9, 1983, and having entered into various treaties with the United States of America, including but not limited to the Treaty at Hopewell, executed on January 3, 1786 (7 Stat. 21), and the Treaty at Washington, D.C., executed on April 28, 1866 (7 Stat. 21), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(5) The Chickasaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Ada, Oklahoma, having adopted its most recent constitution on August 27, 1983, and having entered into various treaties with the United States of America, including but not limited to the Treaty at Hopewell, executed on January 10, 1786 (7 Stat. 24), and the Treaty at Washington, D.C., executed on April 28, 1866 (7 Stat. 21), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(6) In the first half of the 19th century, the Cherokee, Choctaw, and Chickasaw Nations were forcibly removed from their homelands in the southeastern United States to lands west of the Mississippi in the Indian Territory that were ceded to them by the United States. From the "Three Forks" area near present day Muskogee, Oklahoma, downstream to the point of confluence with the Canadian River, the Arkansas River flowed entirely within the territory of the Cherokee Nation. From that point of confluence downstream to the Arkansas territorial line, the Arkansas River formed the boundary between the Cherokee Nation on the left side of the thread of the river and the Choctaw and Chickasaw Nations on the right.

(7) Pursuant to the Act of April 30, 1906 (34 Stat. 137), tribal property not allotted to individuals or otherwise disposed of, including the bed and banks of the Arkansas River, passed to the United States in trust for the use and benefit of the respective Indian Nations in accordance with their respective interests therein.

(8) For more than 60 years after Oklahoma statehood, the Bureau of Indian Affairs believed that Oklahoma owned the Riverbed from the Arkansas State line to Three Forks, and therefore took no action to protect the Indian Nations' Riverbed resources such as oil, gas, and Drybed Lands suitable for grazing and agriculture.

(9) Third parties with property near the Arkansas River began to occupy the Indian Nations' Drybed Lands—lands that were under water at the time of statehood but that are now dry due to changes in the course of the river.

(10) In 1966, the Indian Nations sued the State of Oklahoma to recover their lands. In 1970, the Supreme Court of the United States decided in the case of Choctaw Nation vs. Oklahoma (396 U.S. 620), that the Indian Nations retained title to their respective portions of the Riverbed along the navigable reach of the river.

(11) In 1987, the Supreme Court of the United States in the case of United States vs. Cherokee Nation (480 U.S. 700) decided that the riverbed lands did not gain an exemption from the Federal Government's navigational servitude and that the Cherokee Nation had no right to compensation for damage to its interest by exercise of the Government's servitude.

(12) In 1989, the Indian Nations filed lawsuits against the United States in the United States Court of Federal Claims (Case Nos. 218–89L and 630–89L), seeking damages for the United States' use and mismanagement of tribal trust resources along the Arkansas River. Those actions are still pending.

(13) In 1997, the United States filed quiet title litigation against individuals occupying some of the Indian Nations' Drybed Lands. That action, filed in the United States District Court for the Eastern District of Oklahoma, was dismissed without prejudice on technical grounds.

(14) Much of the Indian Nations' Drybed Lands have been occupied by a large number of adjacent landowners in Oklahoma. Without Federal legislation, further litigation against thousands of such landowners would be likely and any final resolution of disputes would take many years and entail great expense to the United States, the Indian Nations, and the individuals and entities occupying the Drybed Lands and would seriously impair long-term economic planning and development for all parties.

(15) The Councils of the Cherokee and Choctaw Nations and the Legislature of the Chickasaw Nation have each enacted tribal resolutions which would, contingent upon the passage of this title and the satisfaction of its terms and in exchange for the moneys appropriated hereunder—

(A) settle and forever release their respective claims against the United States asserted by them in United States Court of Federal Claims Case Nos. 218–89L and 630–89L; and

(B) forever disclaim any and all right, title, and interest in and to the Disclaimed Drybed Lands, as set forth in those enactments of the respective councils of the Indian Nations.

(16) The resolutions adopted by the respective Councils of the Cherokee, Choctaw, and Chickasaw Nations each provide that, contingent upon the passage of the settlement legislation and satisfaction of its terms, each Indian Nation agrees to dismiss, release, and forever discharge its claims asserted against the United States in the United State Court of Federal Claims, Case Nos. 218–89L and 630–89L, and to forever disclaim any right, title, or interest of the Indian Nation in the Disclaimed Drybed Lands, in exchange for the funds appropriated and allocated to the Indian Nation under the provisions of the settlement legislation, which funds the Indian

Nation agrees to accept in full satisfaction and settlement of all claims against the United States for the damages sought in the aforementioned claims asserted in the United States Court of Federal Claims, and as full and fair compensation for disclaiming its right, title, and interest in the Disclaimed Drybed Lands.

(17) In those resolutions, each Indian Nation expressly reserved all of its beneficial interest and title to all other Riverbed lands, including minerals, as determined by the Supreme Court in Choctaw Nation v. Oklahoma, 397 U.S. 620 (1970), and further reserved any and all right, title, or interest that each Nation may have in and to the water flowing in the Arkansas River and its tributaries.

SEC. 603. PURPOSES.

The purposes of this title are to resolve all claims that have been or could have been brought by the Cherokee, Choctaw, and Chickasaw Nations against the United States, and to confirm that the Indian Nations are forever disclaiming any right, title, or interest in the Disclaimed Drybed Lands, which are contiguous to the channel of the Arkansas River as of the date of the enactment of this title in certain townships in eastern Oklahoma.

SEC. 604. DEFINITIONS.

For the purposes of this title, the following definitions apply:

(1) Disclaimed drybed lands.—The term "Disclaimed Drybed Lands" means all Drybed Lands along the Arkansas River that are located in Township 10 North in Range 24 East, Townships 9 and 10 North in Range 25 East, Township 10 North in Range 26 East, and Townships 10 and 11 North in Range 27 East, in the State Oklahoma.

(2) Drybed lands.—The term "Drybed Lands" means those lands which, on the date of enactment of this title, lie above and contiguous to the mean high water mark of the Arkansas River in the State of Oklahoma. The term "Drybed Lands" is intended to have the same meaning as the term "Upland Claim Area" as used by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River. The term "Drybed Lands" includes any lands so identified in the "Holway study."

(3) Indian nation; indian nations.—The term "Indian Nation" means the Cherokee Nation, Choctaw Nation, or Chickasaw Nation, and the term "Indian Nations" means all 3 tribes collectively.

(4) Riverbed.—The term "Riverbed" means the Drybed Lands and the Wetbed Lands and includes all minerals therein.

(5) Secretary.—The term "Secretary" means the Secretary of the Interior.

(6) Wetbed lands.—The term "Wetbed Lands" means those Riverbed lands which lie below the mean high water mark of the Arkansas River in the State of Oklahoma as of the date of the enactment of this title, exclusive of the Drybed Lands. The term Wetbed Land is intended to have the same meaning as the term "Present Channel Claim Areas" as utilized by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River.

SEC. 605. SETTLEMENT AND CLAIMS; APPROPRIATIONS; ALLOCATION OF FUNDS.

(a) Extinguishment of Claims.—Pursuant to their respective tribal resolutions, and in exchange for the benefits conferred under this title, the Indian Nations shall, on the date of enactment of this title, enter into a consent decree with the United States that waives, releases, and dismisses all the claims they have asserted or could have asserted in their cases numbered 218–89L and 630–89L pending in the United States Court of Federal Claims against the United States, including but not limited to claims arising out of any and all of the Indian Nations' interests in the Disclaimed Drybed Lands and arising out of construction, maintenance and operation of the McClellan-Kerr Navigation Way. The Indian Nations and the United States shall lodge the consent decree with the Court of Federal Claims within 30 days of the enactment of this title, and shall move for entry of the consent decree at such time as all appropriations by Congress pursuant to the authority of this title have been made and deposited into the appropriate tribal trust fund account of the Indian Nations as described in section 606. Upon entry of the consent decree, all the Indian Nations' claims and all their past, present, and future right, title, and interest to the Disclaimed Drybed Lands, shall be deemed extinguished. No claims may be asserted in the future against the United States pursuant to sections 1491, 1346(a)(2), or 1505 of title 28, United States Code, for actions taken or failed to have been taken by the United States for events occurring prior to the date of the extinguishment of claims with respect to the Riverbed.

(b) Release of Tribal Claims to Certain Drybed Lands.—

(1) In general.—Upon the deposit of all funds authorized for appropriation under subsection (c) for an Indian Nation into the appropriate trust fund account described in section 606—

(A) all claims now existing or which may arise in the future with respect to the Disclaimed Drybed lands and all right, title, and interest that the Indian Nations and the United States as trustee on behalf of the Indian Nation may have to the Disclaimed Drybed Lands, shall be deemed extinguished;

(B) any interest of the Indian Nations or the United States as trustee on their behalf in the Disclaimed Drybed Lands shall further be extinguished pursuant to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, 1 Stat. 137), and all subsequent amendments thereto (as codified at 25 U.S.C. 177);

(C) to the extent parties other than the Indian Nations have transferred interests in the Disclaimed Drybed Lands in violation of the Trade and Intercourse Act, Congress does hereby approve and ratify such transfers of interests in the Disclaimed Drybed Lands to the extent that such transfers otherwise are valid under law; and

(D) the Secretary is authorized to execute an appropriate document citing this title, suitable for filing with the county clerks, or such other county official as appropriate, of those counties wherein the foregoing described lands are located, disclaiming any tribal or Federal interest on behalf of the Indian Nations in such Disclaimed Drybed Lands. The Secretary is authorized to file with the counties a plat or map of the disclaimed lands should the Secretary determine that such filing will clarify the extent of lands disclaimed. Such a plat or map may be filed regardless of whether the map or plat has been previously approved for filing, whether or not the map or plat has been filed, and regardless of whether the map or plat constitutes a final determination by the Secretary of the extent of the Indian Nations' original claim to the Disclaimed Drybed Lands. The disclaimer filed by the United States shall constitute a disclaimer of the Disclaimed Drybed Lands for purposes of the Trade and Intercourse Act (25 U.S.C. 177).

(2) Special provisions.—Notwithstanding any provision of this title—

(A) the Indian Nations do not relinquish any right, title, or interest in any lands which constitute the Wetbed Lands subject to the navigational servitude exercised by the United States on the Wetbed Lands. By virtue of the exercise of the navigational servitude, the United States shall not be liable to the Indian Nations for any loss they may have related to the minerals in the Wetbed Lands;

(B) no provision of this title shall be construed to extinguish or convey any water rights of the Indian Nations in the Arkansas River or any other stream or the beneficial interests or title of any of the Indian Nations in and to lands held in trust by the United States on the date of enactment of this title which lie above or below the mean high water mark of the Arkansas River, except for the Disclaimed Drybed Lands; and

(C) the Indian Nations do not relinquish any right, title, or interest in any lands or minerals of certain unallotted tracts which are identified in the official records of the Eastern Oklahoma Regional Office, Bureau of Indian Affairs. The disclaimer to be filed by the Secretary of the Interior under section 605(b)(1) of this title shall reflect the legal description of the unallotted tracts retained by the Nations.

(3) Setoff.—In the event the Court of Federal Claims does not enter the consent decree as set forth in subsection (a), the United States shall be entitled to setoff against any claims of the Indian Nations as set forth in subsection (a), any funds transferred to the Indian Nations pursuant to section 606, and any interest accrued thereon up to the date of setoff.

(4) Quiet title actions.—Notwithstanding any other provision of law, neither the United States nor any department of the United States nor the Indian Nations shall be made parties to any quiet title lawsuit or other lawsuit to determine ownership of or an interest in the Disclaimed Drybed Lands initiated by any private person or private entity after execution of the disclaimer set out in section 605(b)(1). The United States will have no obligation to undertake any future quiet title actions or actions for the recovery of lands or funds relating to any Drybed Lands retained by the Indian Nation or Indian Nations under this title, including any lands which are Wetbed Lands on the date of enactment of this title, but which subsequently lie above the mean high water mark of the Arkansas River and the failure or declination to initiate any quiet title action or to manage any such Drybed Lands shall not constitute a breach of trust by the United States or be compensable to the Indian Nation or Indian Nations in any manner.

(5) Land to be conveyed in fee.—To the extent that the United States determines that it is able to effectively maintain the McClellan-Kerr Navigation Way without retaining title to lands above the high water mark of the Arkansas River as of the date of enactment of this title, said lands, after being declared surplus, shall be conveyed in fee to the Indian Nation within whose boundary the land is located. The United States shall not be obligated to accept such property in trust.

(c) Authorization for Settlement Appropriations.—There is authorized to be appropriated an aggregate sum of $40,000,000 as follows:

(1) $10,000,000 for fiscal year 2004.

(2) $10,000,000 for fiscal year 2005.

(3) $10,000,000 for fiscal year 2006.

(4) $10,000,000 for fiscal year 2007.

(d) ALLOCATION AND DEPOSIT OF FUNDS.—After payment pursuant to section 607, the remaining funds authorized for appropriation under subsection (c) shall be allocated among the Indian Nations as follows:

(1) 50 percent to be deposited into the trust fund account established under section 606 for the Cherokee Nation.

(2) 37.5 percent to be deposited into the trust fund account established under section 606 for the Choctaw Nation.

(3) 12.5 percent to be deposited into the trust fund account established under section 606 for the Chickasaw Nation.

SEC. 606. TRIBAL TRUST FUNDS.

(a) ESTABLISHMENT, PURPOSE, AND MANAGEMENT OF TRUST FUNDS.—

(1) ESTABLISHMENT.—There are hereby established in the United States Treasury 3 separate tribal trust fund accounts for the benefit of each of the Indian Nations, respectively, for the purpose of receiving all appropriations made pursuant to section 605(c), and allocated pursuant to section 605(d).

(2) AVAILABILITY OF AMOUNTS IN TRUST FUND ACCOUNTS.—Amounts in the tribal trust fund accounts established by this section shall be available to the Secretary for management and investment on behalf of the Indian Nations and distribution to the Indian Nations in accordance with this title. Funds made available from the tribal trust funds under this section shall be available without fiscal year limitation.

(b) MANAGEMENT OF FUNDS.—

(1) LAND ACQUISITION.—

(A) TRUST LAND STATUS PURSUANT TO REGULATIONS.—The funds appropriated and allocated to the Indian Nations pursuant to sections 205(c) and (d), and deposited into trust fund accounts pursuant to section 606(a), together with any interest earned thereon, may be used for the acquisition of land by the Indian Nations. The Secretary may accept such lands into trust for the beneficiary Indian Nation pursuant to the authority provided in section 5 of the Act of June 18, 1934 (25 U.S.C. 465) and in accordance with the Secretary's trust land acquisition regulations at part 151 of title 25, Code of Federal Regulations, in effect at the time of the acquisition, except for those acquisitions covered by paragraph (1)(B).

(B) REQUIRED TRUST LAND STATUS.—Any such trust land acquisitions on behalf of the Cherokee Nation shall be mandatory if the land proposed to be acquired is located within Township 12 North, Range 21 East, in Sequoyah County, Township 11 North, Range 18 East, in McIntosh County, Townships 11 and 12 North, Range 19 East, or Township 12 North, Range 20 East, in Muskogee County, Oklahoma, and not within the limits of any incorporated municipality as of January 1, 2002, if—

(i) the land proposed to be acquired meets the Department of the Interior's minimum environmental standards and requirements for real estate acquisitions set forth in 602 DM 2.6, or any similar successor standards or requirements for real estate acquisitions in effect on the date of acquisition; and

(ii) the title to such land meets applicable Federal title standards in effect on the date of the acquisition.

(C) OTHER EXPENDITURE OF FUNDS.—The Indian Nations may elect to expend all or a portion of the funds deposited into its trust account for any other purposes authorized under paragraph (2).

(2) INVESTMENT OF TRUST FUNDS; NO PER CAPITA PAYMENT.—

(A) NO PER CAPITA PAYMENTS.—No money received by the Indian Nations hereunder may be used for any per capita payment.

(B) INVESTMENT BY SECRETARY.—Except as provided in this section and section 607, the principal of such funds deposited into the accounts established hereunder and any interest earned thereon shall be invested by the Secretary in accordance with current laws and regulations for the investing of tribal trust funds.

(C) USE OF PRINCIPAL FUNDS.—The principal amounts of said funds and any amounts earned thereon shall be made available to the Indian Nation for which the account was established for expenditure for purposes which may include construction or repair of health care facilities, law enforcement, cultural or other educational activities, economic development, social services, and land acquisition. Land acquisition using such funds shall be subject to the provisions of subsections (b) and (d).

(3) DISBURSEMENT OF FUNDS.—The Secretary shall disburse the funds from a trust account established under this section pursuant to a budget adopted by the Council or Legislature of the Indian Nation setting forth the amount and an intended use of such funds.

(4) ADDITIONAL RESTRICTION ON USE OF FUNDS.—None of the funds made available under this title may be allocated or otherwise assigned to authorized purposes of the Arkansas River Multipurpose Project as authorized by the River and Harbor Act of 1946, as amended by the Flood Control Act of 1948 and the Flood Control Act of 1950.

SEC. 607. ATTORNEY FEES.

(a) PAYMENT.—At the time the funds are paid to the Indian Nations, from funds authorized to be appropriated pursuant to section 605(c), the Secretary shall pay to the Indian Nations' attorneys those fees provided for in the individual tribal attorney fee contracts as approved by the respective Indian Nations.

(b) LIMITATIONS.—Notwithstanding subsection (a), the total fees payable to attorneys under such contracts with an Indian Nation shall not exceed 10 percent of that Indian Nation's allocation of funds appropriated under section 605(c).

SEC. 608. RELEASE OF OTHER TRIBAL CLAIMS AND FILING OF CLAIMS.

(a) EXTINGUISHMENT OF OTHER TRIBAL CLAIMS.—

(1) IN GENERAL.—As of the date of enactment of this title—

(A) all right, title, and interest of any Indian nation or tribe other than any Indian Nation defined in section 604 (referred to in this section and section 609 as a "claimant tribe") in or to the Disclaimed Drybed Lands, and any such right, title, or interest held by the United States on behalf of such a claimant tribe, shall be considered to be extinguished in accordance with section 177 of title 25, United States Code (section 2116 of the Revised Statutes);

(B) if any party other than a claimant tribe holds transferred interests in or to the Disclaimed Drybed Lands in violation of section 177 of title 25, United States Code (section 2116 of the Revised Statutes), Congress approves and ratifies those transfers of interests to the extent that the transfers are in accordance with other applicable law; and

(C) the documents described in section 605(b)(1)(D) shall serve to identify the geographic scope of the interests extinguished by subparagraph (A).

(2) QUIET TITLE ACTIONS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, after the date of enactment of this title, neither the United States (or any department or agency of the United States) nor any Indian Nation shall be included as a party to any civil action brought by any private person or private entity to quiet title to, or determine ownership of an interest in or to, the Disclaimed Drybed Lands.

(B) FUTURE ACTIONS.—As of the date of enactment of this title, the United States shall have no obligation to bring any civil action to quiet title to, or to recover any land or funds relating to, the Drybed Lands (including any lands that are Wetbed Lands as of the date of enactment of this title but that are located at any time after that date above the mean high water mark of the Arkansas River).

(C) NO BREACH OF TRUST.—The failure or declination by the United States to initiate any civil action to quiet title to or manage any Drybed Lands under this paragraph shall not—

(i) constitute a breach of trust by the United States; or

(ii) be compensable to a claimant tribe in any manner.

(b) CLAIMS OF OTHER INDIAN TRIBES.—

(1) LIMITED PERIOD FOR FILING CLAIMS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this title, any claimant tribe that claims that any title, interest, or entitlement held by the claimant tribe has been extinguished by operation of section 605(a) or subsection 608(a) may file a claim against the United States relating to the extinguishment in the United States Court of Federal Claims.

(B) FAILURE TO FILE.—After the date described in subparagraph (A), a claimant tribe described in that subparagraph shall be barred from filing any claim described in that subparagraph.

(2) SPECIAL HOLDING ACCOUNT.—

(A) ESTABLISHMENT.—There is established in the Treasury, in addition to the accounts established by section 606(a), an interest-bearing special holding account for the benefit of the Indian Nations.

(B) DEPOSITS.—Notwithstanding any other provision of this title or any other law, of any funds that would otherwise be deposited in a tribal trust account established by section 606(a), 10 percent shall—

(i) be deposited in the special holding account established by subparagraph (A); and

(ii) be held in that account for distribution under paragraph (3).

(3) DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—Funds deposited in the special holding account established by paragraph (2)(A) shall be distributed in accordance with subparagraphs (B) through (D).

(B) CLAIM FILED.—If a claim under paragraph (1)(A) is filed by the deadline specified in that paragraph, on final adjudication of that claim—

(i) if the final judgment awards to a claimant an amount that does not exceed the amount of funds in the special holding account under paragraph (2) attributable to the Indian Nation from the allocation of which under section 605(d) the funds in the special holding account are derived—

(I) that amount shall be distributed from the special holding account to the claimant tribe that filed the claim; and

(II) any remaining amount in the special holding account attributable to the claim shall be transferred to the appropriate tribal trust account for the Indian Nation established by section 606(a); and

(ii) if the final judgment awards to a claimant an amount that exceeds the amount of funds in the special holding account attributable to the Indian Nation from the allocation of which under section 605(d) the funds in the special holding account are derived—

(I) the balance of funds in the special holding account attributable to the Indian Nation shall be distributed to the claimant tribe that filed the claim; and

(II) payment of the remainder of the judgment amount awarded to the claimant tribe shall be made from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

(C) NO CLAIMS FILED.—If no claims under paragraph (1)(A) are filed by the deadline specified that paragraph—

(i) any funds held in the special holding account under paragraph (2) and attributed to that Indian Nation shall be deposited in the appropriate tribal trust account established by section 6(a); and

(ii) after the date that is 180 days after the date of enactment of this title, paragraph (2)(B) shall not apply to appropriations attributed to that Indian Nation.

(c) DECLARATION WITH RESPECT TO SCOPE OF RIGHTS, TITLE, AND INTERESTS.—Congress declares that—

(1) subsection (b) is intended only to establish a process by which alleged claims may be resolved; and

(2) nothing in this section acknowledges, enhances, or establishes any prior right, title, or interest of any claimant tribe in or to the Arkansas Riverbed.

SEC. 609. EFFECT ON CLAIMS.

This title shall not be construed to resolve any right, title, or interest of any Indian nation or of any claimant tribe, except their past, present, or future claims relating to right, title, or interest in or to the Riverbed and the obligations and liabilities of the United States thereto.

TITLE VII—SEMINOLE TRIBE

SEC. 701. APPROVAL NOT REQUIRED TO VALIDATE CERTAIN LAND TRANSACTIONS.

(a) TRANSACTIONS.—The Seminole Tribe of Florida may mortgage, lease, sell, convey, warrant, or otherwise transfer all or any part of any interest in any real property that—

(1) was held by the Tribe on September 1, 2002; and

(2) is not held in trust by the United States for the benefit of the Tribe.

(b) NO FURTHER APPROVAL REQUIRED.—Transactions under subsection (a) shall be valid without further approval, ratification, or authorization by the United States.

(c) TRUST LAND NOT AFFECTED.—Nothing in this section is intended or shall be construed to—

(1) authorize the Seminole Tribe of Florida to mortgage, lease, sell, convey, warrant, or otherwise transfer all or any part of an interest in any real property that is held in trust by the United States for the benefit of the Tribe; or

(2) affect the operation of any law governing mortgaging, leasing, selling, conveying, warranting, or otherwise transferring any interest in such trust land.

TITLE VIII—JICARILLA APACHE RESERVATION RURAL WATER SYSTEM

SEC. 801. SHORT TITLE.

This title may be cited as the "Jicarilla Apache Reservation Rural Water System Act".

SEC. 802. PURPOSES.

The purposes of this title are as follows:

(1) To ensure a safe and adequate rural, municipal, and water supply and wastewater systems for the residents of the Jicarilla Apache Reservation in the State of New Mexico in accordance with Public Law 106–243.

(2) To authorize the Secretary of the Interior, through the Bureau of Reclamation, in consultation and collaboration with the Jicarilla Apache Nation—

(A) to plan, design, and construct the water supply, delivery, and wastewater collection systems on the Jicarilla Apache Reservation in the State of New Mexico; and

(B) to include service connections to facilities within the town of Dulce and the surrounding area, and to individuals as part of the construction.

(3) To require the Secretary, at the request of the Jicarilla Apache Nation, to enter into a self-determination contract with the Jicarilla Apache Nation under title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.) under which—

(A) the Jicarilla Apache Nation shall plan, design, and construct the water supply, delivery, and wastewater collection systems, including service connections to communities and individuals; and

(B) the Bureau of Reclamation shall provide technical assistance and oversight responsibility for such project.

(4) To establish a process in which the Jicarilla Apache Nation shall assume title and responsibility for the ownership, operation, maintenance, and replacement of the system.

SEC. 803. DEFINITIONS.

As used in this title:

(1) BIA.—The term "BIA" means the Bureau of Indian Affairs, an agency within the Department of the Interior.

(2) IRRIGATION.—The term "irrigation" means the commercial application of water to land for the purpose of establishing or maintaining commercial agriculture in order to produce field crops and vegetables for sale.

(3) RECLAMATION.—The term "Reclamation" means the Bureau of Re-cla-ma-tion, an agency within the Department of the Interior.

(4) REPORT.—The term "Report" means the report entitled "Planning Report/Environmental Assessment, Water and Wastewater Improvements, Jicarilla Apache Nation, Dulce, New Mexico", dated September 2001, which was completed pursuant to Public Law 106–243.

(5) RESERVATION.—The term "Reservation" means the Jicarilla Apache Reservation in the State of New Mexico, including all lands and interests in land that are held in trust by the United States for the Tribe.

(6) RURAL WATER SUPPLY PROJECT.—The term "Rural Water Supply Project" means a municipal, domestic, rural, and industrial water supply and wastewater facility area and project identified to serve a group of towns, communities, cities, tribal reservations, or dispersed farmsteads with access to clean, safe domestic and industrial water, to include the use of livestock.

(7) STATE.—The term "State" means the State of New Mexico.

(8) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Bureau of Reclamation.

(9) TRIBE.—The term "Tribe" means the Jicarilla Apache Nation.

SEC. 804. JICARILLA APACHE RESERVATION RURAL WATER SYSTEM.

(a) CONSTRUCTION.—The Secretary, in consultation and collaboration with the Tribe, shall plan, design, and construct the Rural Water Supply Project to improve the water supply, delivery, and wastewater facilities to the town of Dulce, New Mexico, and surrounding communities for the purpose of providing the benefits of clean, safe, and reliable water supply, delivery, and wastewater facilities.

(b) SCOPE OF PROJECT.—The Rural Water Supply Project shall consist of the following:

(1) Facilities to provide water supply, delivery, and wastewater services for the community of Dulce, the Mundo Ranch Development, and surrounding areas on the Reservation.

(2) Pumping and treatment facilities located on the Reservation.

(3) Distribution, collection, and treatment facilities to serve the needs of the Reservation, including, but not limited to, construction, replacement, improvement, and repair of existing water and wastewater systems, including systems owned by individual tribal members and other residents on the Reservation.

(4) Appurtenant buildings and access roads.

(5) Necessary property and property rights.

(6) Such other electrical power transmission and distribution facilities, pipelines, pumping plants, and facilities as the Secretary deems necessary or appropriate to meet the water supply, economic, public health, and environmental needs of the Reservation, including, but not limited to, water storage tanks, water lines, maintenance equipment, and other facilities for the Tribe on the Reservation.

(c) COST SHARING.—

(1) TRIBAL SHARE.—Subject to paragraph (3) and subsection (d), the tribal share of the cost of the Rural Water Supply Project is comprised of the costs to design and initiate construction of the wastewater treatment plant, to replace the diversion structure on the Navajo River, and to construct raw water settling ponds, a water treatment plant, water storage plants, a water transmission pipeline, and distribution pipelines, and has been satisfied.

(2) FEDERAL SHARE.—Subject to paragraph (3) and subsection (d), the Federal share of the cost of the Rural Water Supply Project shall be all remaining costs of the project identified in the Report.

(3) OPERATION AND MAINTENANCE.—The Federal share of the cost of operation and maintenance of the Rural Water Supply Project shall continue to be available for operation and maintenance in accordance with the Indian Self-Determination Act, as set forth in this title.

(d) OPERATION, MAINTENANCE, AND REPLACEMENT AFTER COMPLETION.—Upon determination by the Secretary that the Rural Water Supply Project is substantially complete, the Tribe shall assume responsibility for and liability related to the annual operation, maintenance, and replacement cost of the project in accordance with this title and the Operation, Maintenance, and Replacement Plan under chapter IV of the Report.

SEC. 805. GENERAL AUTHORITY.

The Secretary is authorized to enter into contracts, grants, cooperative agreements, and other such agreements and to promulgate such regulations as may be necessary to carry out the purposes and provisions of this title and the Indian Self-Determination Act (Public Law 93–638; 25 U.S.C. 450 et seq.).

SEC. 806. PROJECT REQUIREMENTS.

(a) PLANS.—

(1) PROJECT PLAN.—Not later than 60 days after funds are made available for this purpose, the Secretary shall prepare a recommended project plan, which shall include

a general map showing the location of the proposed physical facilities, conceptual engineering drawings of structures, and general standards for design for the Rural Water Supply Project.

(2) OM&R PLAN.—The Tribe shall develop an operation, maintenance, and replacement plan, which shall provide the necessary framework to assist the Tribe in establishing rates and fees for customers of the Rural Water Supply Project.

(b) CONSTRUCTION MANAGER.—The Secretary, through Reclamation and in consultation with the Tribe, shall select a project construction manager to work with the Tribe in the planning, design, and construction of the Rural Water Supply Project.

(c) MEMORANDUM OF AGREEMENT.—The Secretary shall enter into a memorandum of agreement with the Tribe that commits Reclamation and BIA to a transition plan that addresses operations and maintenance of the Rural Water Supply Project while the facilities are under construction and after completion of construction.

(d) OVERSIGHT.—The Secretary shall have oversight responsibility with the Tribe and its constructing entity and shall incorporate value engineering analysis as appropriate to the Rural Water Supply Project.

(e) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance as may be necessary to the Tribe to plan, develop, and construct the Rural Water Supply Project, including, but not limited to, operation and management training.

(f) SERVICE AREA.—The service area of the Rural Water Supply Project shall be within the boundaries of the Reservation.

(g) OTHER LAW.—The planning, design, construction, operation, and maintenance of the Rural Water Supply Project shall be subject to the provisions of the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

(h) REPORT.—During the year that construction of the Rural Water Supply Project begins and annually until such construction is completed, the Secretary, through Reclamation and in consultation with the Tribe, shall report to Congress on the status of the planning, design, and construction of the Rural Water Supply Project.

(i) TITLE.—Title to the Rural Water Supply Project shall be held in trust for the Tribe by the United States and shall not be transferred or encumbered without a subsequent Act of Congress.

SEC. 807. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $45,000,000 (January 2002 dollars) plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved for the planning, design, and construction of the Rural Water Supply Project as generally described in the Report dated September 2001.

(b) CONDITIONS.—Funds may not be appropriated for the construction of any project authorized under this title until after—

(1) an appraisal investigation and a feasibility study have been completed by the Secretary and the Tribe; and

(2) the Secretary has determined that the plan required by section 806(a)(2) is completed.

(c) NEPA.—The Secretary shall not obligate funds for construction until after the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the Rural Water Supply Project.

SEC. 808. PROHIBITION ON USE OF FUNDS FOR IRRIGATION PURPOSES.

None of the funds made available to the Secretary for planning or construction of the Rural Water Supply Project may be used to plan or construct facilities used to supply water for the purposes of irrigation.

SEC. 809. WATER RIGHTS.

The water rights of the Tribe are part of and included in the Jicarilla Apache Tribe Water Rights Settlement Act (Public Law 102-441). These rights are adjudicated under New Mexico State law as a partial final judgment and decree entered in the Eleventh Judicial District Court of New Mexico. That Act and decree provide for sufficient water rights under "historic and existing uses" to supply water for the municipal water system. These water rights are recognized depletions within the San Juan River basin and no new depletions are associated with the Rural Water Supply Project. In consultation with the United States Fish and Wildlife Service, Reclamation has determined that there shall be no significant impact to endangered species as a result of water depletions associated with this project. No other water rights of the Tribe shall be impacted by the Rural Water Supply Project.

TITLE IX—ROCKY BOY'S RURAL WATER SYSTEM

SEC. 901. SHORT TITLE.

This title may be cited as the "Rocky Boy's/North Central Montana Regional Water System Act of 2002".

SEC. 902. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the water systems serving residents of the Rocky Boy's Reservation in the State of Montana—

(A) do not meet minimum health and safety standards;

(B) pose a threat to public health and safety; and

(C) are inadequate to supply the water needs of the Chippewa Cree Tribe;

(2) the United States has a responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Reservation;

(3) the entities administering the rural and municipal water systems in North Central Montana are having difficulty complying with regulations promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(4) the study, defined in section 903(k), identifies Lake Elwell, near Chester, Montana, as an available, reliable, and safe rural and municipal water supply for serving the needs of the Reservation and North Central Montana.

(b) PURPOSES.—The purposes of this title are—

(1) to ensure a safe and adequate rural, municipal, and industrial water supply for the residents of the Rocky Boy's Reservation in the State of Montana;

(2) to assist the citizens residing in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, but outside the Reservation, in developing safe and adequate rural, municipal, and industrial water supplies;

(3) to authorize the Secretary of the Interior—

(A) acting through the Commissioner of Reclamation to plan, design, and construct the core and noncore systems of the Rocky Boy's/North Central Montana Regional Water System in the State of Montana; and

(B) acting through the Bureau of Indian Affairs to operate, maintain, and replace the core system and the on-Reservation water distribution systems, including service connections to communities and individuals; and

(4) to authorize the Secretary, at the request of the Chippewa Cree Tribe, to enter into self-governance agreements with the Tribe under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.), under which the Tribe—

(A) through the Bureau of Reclamation, will plan, design, and construct the core system of the Rocky Boy's/North Central Montana Regional Water System, and

(B) through the Bureau of Indian Affairs, will operate, maintain, and replace (including service connections to communities and individuals) the core system and the on-Reservation water distribution systems.

SEC. 903. DEFINITIONS.

In this title:

(a) AUTHORITY.—The term "Authority" means the North Central Montana Regional Water Authority established under State law, Mont. Code Ann. Sec. 75-6-301, et. seq. (2001), to allow public agencies to join together to secure and provide water for resale.

(b) CORE SYSTEM.—The term "core system" means a component of the water system as described in section 904(d) and the final engineering report.

(c) FINAL ENGINEERING REPORT.—The term "final engineering report" means the final engineering report prepared for the Rocky Boy's/North Central Montana Regional Water System, as approved by the Secretary of the Interior.

(d) FUND.—The term "fund" means the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund.

(e) ON-RESERVATION WATER DISTRIBUTION SYSTEMS.—The term "on-reservation water distribution systems" means that portion of the Rocky Boy's/North Central Montana Regional Water system served by the core system and within the boundaries of the Rocky Boy's Reservation. The on-reservation water distribution systems are described in section 904(f) and the final engineering report.

(f) NONCORE SYSTEM.—The term "noncore system" means the rural water system for Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, described in section 905(c) and the final engineering report.

(g) RESERVATION.—

(1) IN GENERAL.—The term "Reservation" means the Rocky Boy's Reservation in the State of Montana.

(2) INCLUSIONS.—The term "Reservation" includes all land and interests in land that are held in trust by the United States for the Tribe at the time of the enactment of this title.

(h) ROCKY BOY'S/NORTH CENTRAL MONTANA REGIONAL WATER SYSTEM.—The term "Rocky Boy's/North Central Montana Regional Water System" means—

(1) the core system;

(2) the on-reservation water distribution systems; and

(3) the non-core system.

(i) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(j) STATE.—The term "State" means the State of Montana.

(k) STUDY.—The term "study" means the study entitled "North Central Montana Regional Water System Planning/Environmental Report" dated May 2000.

(l) TRIBE.—The term "Tribe" means—

(1) the Chippewa Cree Tribe of the Rocky Boy's Reservation; and

(2) all officers, agents, and departments of the Tribe.

SEC. 904. ROCKY BOY'S RURAL WATER SYSTEM.

(a) FINAL ENGINEERING REPORT.—The following reports will serve as the basis for the final engineering report for the Rocky Boy's/North Central Montana Regional Water System—

(1) pursuant to Public Law 104–204, a study, described in section 903(k), that was conducted to study the water and related resources in North Central Montana and to evaluate alternatives for providing a municipal, rural and industrial supply of water to the citizens residing in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, residing both on and off the Reservation; and

(2) pursuant to section 202 of Public Law 106–163, the Tribe has conducted, through a self-governance agreements with the Secretary of Interior, acting through the Bureau of Reclamation, a feasibility study to evaluate alternatives for providing a municipal, rural and industrial supply of water to the Reservation.

(3) The Secretary of Interior may require, through the agreements described in subsection (g) and section 905(d), that the final engineering report include appropriate additional study and analyses.

(b) CORE SYSTEM.—

(1) IN GENERAL.—The Secretary is authorized to plan, design, construct, operate, maintain, and replace the core system.

(2) FEDERAL SHARE.—

(A) The Federal share of the cost of planning, design, and construction of the core system shall be—

(i) 100 percent of the Tribal share of costs as identified in section 914; and

(ii) 80 percent of the authority's share of the total cost for the core system as identified in section 914; and

(iii) funded through annual appropriations to the Bureau of Reclamation.

(3) AGREEMENTS.—Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g).

(c) OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R) CORE SYSTEM.—The cost of operation, maintenance, and replacement of the core system shall be allocated as follows—

(1) 100 percent of the Tribe's share of the OM&R costs, as negotiated in the Agreements, shall be funded through the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund established in section 913;

(2) 100 percent of the Authority's share of the OM&R costs, as negotiated in the Cooperative Agreements, shall be funded by the Authority and fully reimbursable to the Secretary.

Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g) and section 905(d).

(d) CORE SYSTEM COMPONENTS.—As described in the final engineering report, the core system shall consist of—

(1) intake, pumping, water storage, and treatment facilities;

(2) transmission pipelines, pumping stations, and storage facilities;

(3) appurtenant buildings, maintenance equipment, and access roads;

(4) all property and property rights necessary for the facilities described in this subsection;

(5) all interconnection facilities at the core pipeline to the noncore system; and

(6) electrical power transmission and distribution facilities necessary for services to core system facilities.

(e) AUTHORITY TO ACQUIRE PROPERTY.—Where, in carrying out the provisions of this title for construction of the core system, it becomes necessary to acquire any rights or property, the Authority, acting pursuant to State law, Mont. Code Ann. Sec. 75–6–313 (2001), is hereby authorized to acquire the same by condemnation under judicial process, and to pay such sums which may be needed for that purpose. Nothing in this section shall apply to land held in trust by the United States.

(f) ON-RESERVATION WATER DISTRIBUTION SYSTEMS—

(1) IN GENERAL.—The Secretary is authorized to operate, maintain, and replace the water distribution systems of the Reservation.

(2) OPERATION, MAINTENANCE, AND REPLACEMENT.—The cost of operation, maintenance, and replacement of the on-reservation water distribution systems shall be allocated as follows:

(A) Up to 100 percent of the Tribe's share of the OM&R costs, as negotiated in the Agreements, shall be funded through the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund established in section 913; and

(3) AGREEMENTS.—Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g).

(4) COMPONENTS.—As described in the final engineering report, the on-reservation water distribution systems shall consist of—

(A) water systems in existence on the date of enactment of this title that may be purchased, improved, and repaired in accordance with the Agreements entered into under subsection (g);

(B) water systems owned by individual members of the Tribe and other residents of the Reservation;

(C) any water distribution system that is upgraded to current standards, disconnected from low-quality wells; and

(D) connections.

(5) CONSTRUCTION OF NEW FACILITIES, OR EXPANSION OR REHABILITATION OF CURRENT FACILITIES.—The Tribe shall use $10,000,000 of the $15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163), plus accrued interest, in the purchase, construction, expansion, or rehabilitation of the on-reservation water distribution systems.

(g) AGREEMENTS.—Federal funds made available to carry out subsections (b), (c), and (f) may be obligated and expended only in accordance with the agreements entered into under this subsection.

(1) IN GENERAL.—At the request of the Tribe, the Secretary shall enter into self-governance agreements under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.) with the Tribe, in accordance with this title—

(A) through the Bureau of Reclamation, to plan, design, and construct the core system; and

(B) through the Bureau of Indian Affairs, to operate, maintain, and replace the core system and the on-Reservation water distribution systems.

(2) PROJECT OVERSIGHT ADMINISTRATION.—The amount of Federal funds that may be used to provide technical assistance and conduct the necessary construction oversight, inspection, and administration of activities in paragraph (1)(A) shall be negotiated with the Tribe and shall be an allowable project cost.

(h) SERVICE AREA.—The service area of the Rocky Boy's Rural Water System shall be the core system and the Reservation.

(i) TITLE TO CORE SYSTEM.—Title to the core system—

(1) shall be held in trust by the United States for the Tribe; and

(2) shall not be transferred unless a transfer is authorized by an Act of Congress enacted after the date of enactment of this title.

(j) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide such technical assistance as is necessary to enable the Tribe to—

(1) plan, design, and construct the core system, including management training. Such technical assistance shall be deemed as a core system project construction cost; and

(2) operate, maintain, and replace the core system and the on-reservation water distribution systems. Such technical assistance shall be deemed as a core system and an on-reservation water distribution systems operation, maintenance, and replacement cost, as appropriate.

SEC. 905. NONCORE SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to enter into Cooperative Agreements with the Authority to provide Federal funds for the planning, design, and construction of the noncore system in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, outside the Reservation.

(b) FEDERAL SHARE.—

(1) PLANNING, DESIGN, AND CONSTRUCTION.—The Federal share of the cost of planning, design, and construction of the noncore system shall be 80 percent and will be funded through annual appropriations to the Bureau of Reclamation.

(2) OPERATION, MAINTENANCE, AND REPLACEMENT OF NON-CORE SYSTEM COMPONENTS.—The cost of operation, maintenance, and replacement associated with water deliveries to the noncore system shall not be a Federal responsibility and shall be borne by the Authority.

(3) COOPERATIVE AGREEMENTS.—Federal funds made available to carry out this section may be obligated and expended only in accordance with the Cooperative Agreements entered into under subsection (d).

(c) COMPONENTS.—As described in the final engineering report, the components of the noncore system on which Federal funds may be obligated and expended under this section shall include—

(1) storage, pumping, and pipeline facilities;

(2) appurtenant buildings, maintenance equipment, and access roads;

(3) all property and property rights necessary for the facilities described in this subsection;

(4) electrical power transmission and distribution facilities necessary for service to noncore system facilities; and

(5) other facilities and services customary to the development of a rural water distribution system in the State.

(d) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary is authorized to enter into the Cooperative Agreements with the Authority to provide Federal funds and necessary assistance for the planning, design, and construction of the noncore system. The Secretary is further authorized to enter into a tri-partite Cooperative Agreement with the Authority and the

Tribe addressing the allocation of operation, maintenance and replacement costs for the core system and action that can be undertaken to keep those costs within reasonable levels.

(2) MANDATORY PROVISIONS.—The Cooperative Agreements under paragraph (1) shall specify, in a manner that is acceptable to the Secretary and the Authority—

(A) the responsibilities of each party to the agreements for—

(i) the final engineering report;

(ii) engineering and design;

(iii) construction;

(iv) water conservation measures;

(v) environmental and cultural resource compliance activities; and

(vi) administration of contracts relating to performance of the activities described in clauses (i) through (v);

(B) the procedures and requirements for approval and acceptance of the design and construction and for carrying out other activities described in subparagraph (A); and

(C) the rights, responsibilities, and liabilities of each party to the agreements.

(3) PROJECT OVERSIGHT ADMINISTRATION.—The amount of Federal funds that may be used to provide technical assistance and to conduct the necessary construction oversight, inspection, and administration of activities in paragraph (1) shall be negotiated with the Authority, and shall be an allowable project cost.

(e) SERVICE AREA.—

(1) IN GENERAL.—Except as provided in paragraph (2), the service area of the noncore system shall be generally defined as the area—

(A) north of the Missouri River and Dutton, Montana;

(B) south of the border between the United States and Canada;

(C) west of Havre, Montana; -

(D) east of Cut Bank Creek in Glacier County, Montana; and

(E) as further defined in the final engineering report, referenced in section 904(a).

(2) EXCLUSIONS FROM SERVICE AREA.—The service area of the noncore system shall not include the area inside the Reservation.

(f) LIMITATION ON USE OF FEDERAL FUNDS.—The operation, maintenance, and replacement expenses for the noncore system—

(1) shall not be a Federal responsibility;

(2) shall be borne by the Authority; and

(3) the Secretary may not obligate or expend any Federal funds for the OM&R of the non-core system.

(g) TITLE TO NONCORE SYSTEM.—Title to the noncore system shall be held by the Authority.

(h) AUTHORITY TO ACQUIRE PROPERTY.—Where, in carrying out the provisions of this title for construction of the noncore system, it becomes necessary to acquire any rights or property, the Authority, acting pursuant to State law, Mont. Code Ann. Sec. 75-6-313 (2001), is hereby authorized to acquire the same by condemnation under judicial process, and to pay such sums which may be needed for that purpose. Nothing in this section shall apply to land held in trust by the United States.

SEC. 906. LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.

The Secretary shall not obligate funds for construction of the core system or the noncore system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the core system and the noncore system;

(2) the date that is 90 days after the date of submission to Congress of a final engineering report approved and transmitted by the Secretary; and

(3) the Secretary publishes a written finding that the water conservation plan developed under section 911(a) includes prudent and reasonable water conservation measures for the operation of the Rocky Boy's/North Central Montana Regional Water System that have been shown to be economically and financially feasible.

SEC. 907. CONNECTION CHARGES.

The cost of connection of nontribal community water distribution systems and individual service systems to transmission lines of the core system and noncore system shall be the responsibility of the entities receiving water from the transmission lines.

SEC. 908. AUTHORIZATION OF CONTRACTS.

The Secretary is authorized to enter into contracts with the Authority for water from Lake Elwell providing for the repayment of its respective share of the construction, operation, maintenance and replacement costs of Tiber dam and reservoir, as determined by the Secretary, in accordance with Federal Reclamation Law (Act of June 17, 1902, 32 Stat. 388, and acts amendatory thereof and supplemental thereto).

SEC. 909. TIBER RESERVOIR ALLOCATION TO THE TRIBE.

(a) NO DIMINISHMENT OF STORAGE.—In providing for the delivery of water to the noncore system, the Secretary shall not diminish the 10,000 acre-feet per year of water stored for the Tribe pursuant to section 201 of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163) in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana.

(b) DRAW OF SUPPLY; PURCHASE OF ADDITIONAL WATER.—In providing for delivery of water to Rocky Boy's Indian Reservation for the purposes of this title, the Tribe shall draw its supply from the 10,000 acre-feet per year of water stored for the Tribe pursuant to section 201 of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Act of 1999 (Public Law 106–163) in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana. Nothing in this title shall prevent the Tribe from entering into contracts with the Secretary for the purchase of additional water from Lake Elwell.

SEC. 910. USE OF PICK-SLOAN POWER.

The Secretary of the Interior, in cooperation with the Secretary of Energy, is directed to make Pick-Sloan Missouri Basin Program preference power available, for the purposes of this title. Power shall be made available when pumps are energized and/or upon completion of the Project.

SEC. 911. WATER CONSERVATION PLAN.

(a) IN GENERAL.—The Tribe and the Authority shall develop and incorporate into the final engineering report a water conservation plan that contains—

(1) a description of water conservation objectives;

(2) a description of appropriate water conservation measures; and

(3) a time schedule for implementing the water conservation measures to meet the water conservation objectives.

(b) PURPOSE.—The water conservation plan under subsection (a) shall be designed to ensure that users of water from the core system, on-reservation water distribution systems, and the noncore system will use the best practicable technology and management techniques to conserve water.

(c) COORDINATION OF PROGRAMS.—Section 210(a) and (c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390jj(a) and (c)) shall apply to activities under Section 911 of this title.

SEC. 912. WATER RIGHTS.

This title does not—

(1) impair the validity of or preempt any provision of State water law or any interstate compact governing water;

(2) alter the right of any State to any appropriated share of the water of any body of surface or ground water, whether determined by any past or future interstate compact or by any past or future legislative or final judicial allocation;

(3) preempt or modify any Federal or State law or interstate compact concerning water quality or disposal;

(4) confer on any non-Federal entity the authority to exercise any Federal right to the water of any stream or to any ground water resource; or

(5) affect any right of the Tribe to water, located within or outside the external boundaries of the Reservation, based on a treaty, compact, Executive Order, Agreements, Act of Congress, aboriginal title, the decision in Winters v. United States, 207 U.S. 564 (1908) (commonly known as the 'Winters Doctrine'), or other law.

SEC. 913. CHIPPEWA CREE WATER SYSTEM OPERATION, MAINTENANCE, AND REPLACEMENT TRUST FUND.

(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund", to be managed and invested by the Secretary.

(b) CONTENTS OF FUND.—The Fund shall consist of—

(1) the amount of $15,000,000 as the Federal share, as authorized to be appropriated in section 914(c);

(2) the Tribe shall deposit into the Fund $5,000,000 of the $15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163); and

(3) such interest as may accrue, until expended according to subsections (d) and (f).

(c) MANAGEMENT OF THE FUND.—The Secretary shall manage the Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) (referred to in this section as the "Trust Fund Reform Act"), and this title.

(d) USE OF FUND.—The Tribe shall use accrued interest, only, from the Fund for operation, maintenance, and replacement of the core system and the on-reservation distribution, only, pursuant to an operation, maintenance and replacement plan approved by the Secretary.

(e) INVESTMENT OF FUND.—The Secretary shall, after consulting with the Tribe on the investment of the Fund, invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, chapter 41; 25 U.S.C. 161);

(2) the first section of the Act of February 12, 1929 (25 U.S.C. 161a);

(3) the first section of the Act of June 24, 1938 (25 U.S.C. 162a); and

(4) subsection (b).

(f) EXPENDITURES AND WITHDRAWAL.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) WITHDRAWAL BY TRIBE.—The Tribe may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) REQUIREMENTS.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Tribe spend any funds only in accordance with the purposes described in subsections 913(d) and (f).

(2) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any monies withdrawn from the Fund under the plan are used in accordance with this title.

(3) LIABILITY.—If the Tribe exercises the right to withdraw monies from the Fund pursuant to the Trust Fund Reform Act, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) OPERATION, MAINTENANCE, AND REPLACEMENT PLAN.—Expenditures of accrued interest, only, from the Fund may be made for operation, maintenance, and replacement plan approved by the Secretary.

(A) IN GENERAL.—The Tribe shall submit to the Secretary for approval an operation, maintenance, and replacement plan for any funds made available to it under this section.

(B) DESCRIPTION.—The plan shall describe the manner in which, and the purposes for which, funds made available to the Tribe will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall, in a timely manner, approve the plan if the Secretary determines that the plan is reasonable and consistent with this title.

(5) AVAILABILITY.—Funds made available from the fund under this section shall be available without fiscal year limitation.

(6) ANNUAL REPORT.—The Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(g) NO PER CAPITA DISTRIBUTIONS.—No part of the Fund shall be distributed on a per capita basis to members of the Tribe.

SEC. 914. AUTHORIZATION OF APPROPRIATIONS.

(a) CORE SYSTEM.—There is authorized to be appropriated $129,280,000 to the Bureau of Reclamation for the planning, design, and construction of the core system. The Tribal portion of the costs shall be 76 percent. The Authority's portion of the costs shall be 24 percent.

(b) ON-RESERVATION WATER DISTRIBUTION SYSTEMS.—The Tribe shall use $10,000,000 of the $15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106–163), plus accrued interest, in the purchase, construction, expansion or rehabilitation of the on-reservation water distribution systems.

(c) CHIPPEWA CREE WATER SYSTEM OPERATION, MAINTENANCE, AND REPLACEMENT TRUST FUND.—For the Federal contribution to the Fund, established in section 913, there is authorized to be appropriated to the Bureau of Indian Affairs the sum of $7,500,000 each year for fiscal year 2005 and 2006.

(d) NONCORE SYSTEM.—There is authorized to be appropriated $73,600,000 to the Bureau of Reclamation for the planning, design, and construction of the noncore system.

(e) COST INDEXING.—The sums authorized to be appropriated under this section may be increased or decreased by such amounts as are justified by reason of ordinary fluctuations in development costs incurred after the date of enactment of this title, as indicated by engineering cost indices applicable for the type of construction involved.

TITLE X—MISCELLANEOUS

SEC. 1001. SANTEE SIOUX TRIBE, NEBRASKA, WATER SYSTEM STUDY.

(a) STUDY.—Pursuant to reclamation laws, the Secretary of the Interior (hereafter in this section referred to as the "Secretary"), through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (hereafter in this section referred to as the "Tribe"), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) COOPERATIVE AGREEMENT.—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) REPORT.—Not later than 1 year after funds are made available to carry out this section, the Secretary shall transmit to Congress a report containing the results of the study required by subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $500,000 to carry out this section.

SEC. 1002. YUROK TRIBE AND HOPLAND BAND INCLUDED IN LONG TERM LEASING.

(a) IN GENERAL.—The first section of the Act entitled "An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases", approved August 9, 1955 (25 U.S.C. 415(a)) is amended by inserting "lands held in trust for the Yurok Tribe, lands held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria," after "Pueblo of Santa Clara,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any lease entered into or renewed after the date of the enactment of this title.

Mr. HANSEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BIG SUR WILDERNESS AND CONSERVATION ACT OF 2002

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the bill (H.R. 4750) to designate certain lands in the State of California as components of the National Wilderness Preservation System, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Big Sur Wilderness and Conservation Act of 2002".

(b) DEFINITIONS.—As used in this Act, the term "Secretary" means the Secretary of the Interior or the Secretary of Agriculture, as appropriate.

SEC. 2. ADDITIONS TO THE WILDERNESS PRESERVATION SYSTEM.

(a) ADDITIONS TO VENTANA WILDERNESS.—

(1) IN GENERAL.—The areas described in paragraph (2)—

(A) are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System; and

(B) are hereby incorporated in and shall be deemed to be a part of the Ventana Wilderness designated by Public Law 91–58.

(2) AREAS DESCRIBED.—The areas referred to in paragraph (1) are the following lands in the State of California administered by the Bureau of Land Management or the United States Forest Service:

(A) Certain lands which comprise approximately 995 acres, as generally depicted on a map entitled "Anastasia Canyon Proposed Wilderness Additions to the Ventana Wilderness" and dated March 22, 2002.

(B) Certain lands which comprise approximately 3,530 acres, as generally depicted on a map entitled "Arroyo Seco Corridor Proposed Wilderness Addition to the Ventana Wilderness" and dated March 22, 2002.

(C) Certain lands which comprise approximately 14,550 acres, as generally depicted on a map entitled "Bear Canyon Proposed Wilderness Addition to the Ventana Wilderness" and dated March 22, 2002.

(D) Certain lands which comprise approximately 855 acres, as generally depicted on a map entitled "Black Rock Proposed Wilderness Additions to the Ventana Wilderness" and dated March 22, 2002.

(E) Certain lands which comprise approximately 6,550 acres, as generally depicted on a map entitled "Chalk Peak Proposed Wilderness Addition to the Ventana Wilderness" and dated March 22, 2002.

(F) Certain lands which comprise approximately 1,345 acres, as generally depicted on a map entitled "Chews Ridge Proposed Wilderness Addition to the Ventana Wilderness" and dated March 22, 2002.

(G) Certain lands which comprise approximately 2,130 acres, as generally depicted on a map entitled "Coast Ridge Proposed Wilderness Additions to the Ventana Wilderness" and dated March 22, 2002.

(H) Certain lands which comprise approximately 2,270 acres, as generally depicted on a map entitled "Horse Canyon Proposed Wilderness Addition to the Ventana Wilderness" and dated March 22, 2002.

(I) Certain lands which comprise approximately 755 acres, as generally depicted on a map entitled "Little Sur Proposed Wilderness Addition to the Ventana Wilderness" and dated March 22, 2002.

(J) Certain lands which comprise approximately 4,130 acres, as generally depicted on a map entitled "San Antonio Proposed Wilderness Addition to the Ventana Wilderness" and dated March 22, 2002.

(b) Additions to Silver Peak Wilderness.—

(1) In general.—The areas described in paragraph (2)—

(A) are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System; and

(B) are hereby incorporated in and shall be deemed to be a part of the Silver Peak Wilderness designated by Public Law 102–301.

(2) Areas described.—The areas referred to in paragraph (1) are the following lands in the State of California administered by the United States Forest Service:

(A) Certain lands which comprise approximately 8,235 acres, as generally depicted on a map entitled "San Carpoforo Proposed Wilderness Addition to the Silver Peak Wilderness" and dated March 22, 2002.

(B) Certain lands which comprise approximately 8,820 acres, as generally depicted on a map entitled "Willow Creek Proposed Wilderness Addition to the Silver Peak Wilderness" and dated March 22, 2002.

(c) Additions to Pinnacles Wilderness.—

(1) In general.—The areas described in paragraph (2)—

(A) are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System; and

(B) are hereby incorporated in and shall be deemed to be a part of the Pinnacles Wilderness designated by Public Law 94–567.

(2) Areas described.—The areas referred to in paragraph (1) are the lands in the State of California administered by the National Park Service which comprise approximately 2,715 acres, as generally depicted on a map entitled "Pinnacles Proposed Wilderness Additions" and dated October 30, 2001.

(d) Maps and Descriptions.—

(1) Filing.—As soon as practicable after the date of enactment of this Act, the appropriate Secretary shall file a map and a boundary description of each area designated as wilderness by this Act with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) Effect.—Each map and description shall have the same force and effect as if included in this Act, except that the appropriate Secretary is authorized to correct clerical and typographical errors in such boundary descriptions and maps.

(3) Availability.—Such maps and boundary descriptions shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management and in the Office of the Chief of the Forest Service, as appropriate.

(e) State and Private Lands.—Lands within the exterior boundaries of any area added to a wilderness area under this section that are owned by the State or by a private entity shall be included within such wilderness area if such lands are acquired by the United States. Such lands may be acquired by the United States only as provided in the Wilderness Act (16 U.S.C. 1131 and following).

SEC. 3. ADMINISTRATIVE PROVISIONS.

(a) In General.—Subject to valid existing rights, lands designated as wilderness by this Act shall be managed by the Secretary of Agriculture or the Secretary of the Interior, as appropriate, in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to any wilderness areas designated by this Act, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(b) Grazing.—Grazing of livestock in wilderness areas designated by this Act shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), as further interpreted by section 108 of Public Law 96–560, and, the guidelines set forth in Appendix A of House Report 101–405 of the 101st Congress.

(c) State Jurisdiction.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of California with respect to wildlife and fish in California.

(d) Water.—

(1) Reservation of water.—With respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this Act. The priority date of such reserved rights shall be the date of enactment of this Act.

(2) Requirement to protect rights.—The appropriate Secretary and all other officers of the United States shall take steps necessary to protect the rights reserved by paragraph (1), including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of California in which the United States is or may be joined and which is conducted in accordance with the McCarran Amendment (43 U.S.C. 666).

(3) No reduction or relinquishment.—Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of California on or before the date of enactment of this Act.

(4) Limitation on effect.—The Federal water rights reserved by this Act are specific to the wilderness areas located in the State of California designated by this Act. Nothing in this Act related to reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

SEC. 4. WILDERNESS FIRE MANAGEMENT.

(a) Revision of Management Plans.—The Secretary of Agriculture shall, by not later than 1 year after the date of the enactment of this Act, amend the management plans that apply to each of the Ventana Wilderness and the Silver Peak Wilderness, respectively, to authorize the Forest Supervisor of the Los Padres National Forest to take whatever appropriate actions in such wilderness areas are necessary for fire prevention and watershed protection consistent with wilderness values, including best management practices for fire presuppression and fire suppression measures and techniques.

(b) Incorporation Into Forest Planning.—Any special provisions contained in the management plan for the Ventana Wilderness and Silver Peak Wilderness pursuant to subsection (a) shall be incorporated into the management plan for the Los Padres National Forest.

SEC. 5. MILITARY TRAINING AT FORT HUNTER-LIGGETT.

(a) Overflights.—Nothing in this Act shall preclude low level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over wilderness areas designated by this Act.

(b) Military Access.—Nonmotorized access to and use of the wilderness areas designated by this Act for military training shall be authorized to continue in wilderness areas designated by this Act in the same manner and degree as authorized prior to enactment of this Act.

SEC. 6. BIG SUR INVASIVE SPECIES ERADICATION.

(a) In General.—The Secretary of Agriculture may conduct a 5-year pilot program to target the eradication of invasive plant and animal species in the Monterey District of the Los Padres National Forest.

(b) Application to Other Property.—Activities under the program may include actions to address invasive species problems on nearby private land or other land that is not Forest Service property, if—

(1) the land owner, or the head of the governmental agency having administrative jurisdiction over the land in the case of State, local, or Federal government-owned land, seeks to participate in the program; and

(2) the invasive species concerned occurs on the land and poses a threat to national forest lands.

(c) Authorization of Appropriations.—To carry out this section there is authorized to be appropriated $1,000,000 for each of 5 fiscal years.

SEC. 8. SILVER PEAK WILDERNESS WATER SYSTEM SPLIT.

The Secretary of Agriculture may authorize the construction and maintenance of a new water line and corresponding spring box improvements adjacent to an existing domestic water service in the Silver Peak Wilderness.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bills and resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

(Mr. WATKINS of Oklahoma asked and was given permission to speak out of order.)

GRATITUDE AND THANKS

Mr. WATKINS of Oklahoma. Mr. Speaker, I would like to express my personal gratitude and thanks to the gentleman from Utah (Mr. Hansen) for his tremendous years of service, 20 years, and for his great leadership on the Committee on Standards of Official Conduct as well as the Committee on Resources. I would like to also thank, and we would be remiss if we did not thank, the staff for the tremendous work they have done in trying to put things together so they would be workable and also so we could pass something.

So, I thank the chairman and thanks to all of the staff for all of their tremendous work and help. It has been wonderful being in this body. This is my last remarks as an official Member and I just want to thank all of my colleagues for allowing me to come and be with you and serve over these years.

(Mr. DAVIS of Virginia asked and was given permission to speak out of order.)

TRIBUTE TO MR. ARMEY

Mr. DAVIS of Virginia. Mr. Speaker, before we get to the majority leader being recognized, this is his final night on the job. I wanted to pay tribute to the gentleman from Texas (Mr. ARMEY) and his contribution to this House just in the short time I have been here.

First elected in 1984, an article in the Texas Observer called him one of the Texas 6-packs that year, 6 new Republican Members that had been elected and the consensus was these Members are never going to amount to anything, if you read the article. But the gentleman from Texas (Mr. ARMEY) has made a tremendous difference in this House, with the crowning achievement I think just this week with the Homeland Security legislation which he worked so long on, arbitrating between committees of jurisdiction, negotiating with the Senate, moving a bill that was considered dead just a week ago, bringing life to it, and bringing it to a very successful conclusion here in the House and sending it to the Senate.

Mr. Speaker, I congratulate the gentleman for this most important piece of legislation that I think is going to change the course of this Nation for a long time.

He has also been active in passing the Government Performance Results Act. This is an act that not every Member understands, but it tries to hold Federal agencies accountable for performance and results, and with this administration we are starting to see some of those results come in as we exercise legislative oversight over the executive branch.

We think of BRACs and the base closing commissions, something that this body has struggled with for a generation and could not work out because of the political wheeling and dealing it went through. This has saved billions of dollars in the defense budget. We have been able to transfer those dollars into other defense items and into domestic purposes, and this was Mr. ARMEY's idea, though not even on the committee of jurisdiction, that he brought forward to this body, because a good idea will win any day. You do not have to be strong and powerful and in a leadership position to get it through. This was done early in his career.

The Contract With America, something that I signed as a candidate in 1984, was the brainchild of Mr. ARMEY, something that came through this body. Much of that legislation became law, everything from welfare reform, unfunded mandates and a number of areas, balancing the budget, as a part of that Contract With America. DICK ARMEY was the author of that and the leader of that as we moved it through the 104th Congress.

The gentleman from Texas (Mr. ARMEY) is a native of Cando, North Dakota with a doctorate in economics. Many of us do not realize that he ran in and completed six marathons. I also want to congratulate him for just over the last few weeks having lost over 40 pounds, getting down to that marathon weight again. Maybe perhaps we will see him do some others.

DICK, I wish you the best in your retirement. You have made a lasting contribution to this country. You have set a high standard for your success here, and Mr. Majority Leader, it has been my great privilege to serve with you.

Mr. NUSSLE. Mr. Speaker, will the gentleman yield?

Mr. DAVIS of Virginia. I yield to the gentleman from Iowa.

Mr. NUSSLE. Mr. Speaker, I would like to add my words as well to a brief tribute to our majority leader. We would not be a majority if it was not for DICK ARMEY. There are many people who know that. Unfortunately, there are too many people who do not know that. His work and his labor oftentimes is done behind the scenes and oftentimes I think many people, many people are allowed to take the credit because of his work. I think it was Ronald Reagan that said that if you are willing to share the credit, you can get anything done in Washington, or something like that, and DICK ARMEY has always been willing to share the credit, to allow somebody to move up, to be elevated, to get their work done, to facilitate a dream on their behalf. His famous phrase or his motto has always been "Freedom works," and it does work. America works because freedom works, and America is better off because of the freedom that DICK ARMEY has come to fight for in the Congress of the United States.

This is a terrible way to end at 2:30 in the morning, because there were so many things done at 2:30 in the afternoon to be proud of, but you can be proud of all of the things that you have done from the moment you came here to the moment that you depart, and I think probably the one thing that I will always know is that you will always be there as a friend, not only to me, but to all of us. That is what I will know the most and that is what I will remember the most, is your friendship and the pat on the back and sometimes the kick in the drawers, and we all need that from time to time. That is what friends are for. I hope that friendship will continue with all of us.

We wish you Godspeed and we also wish Susan and your family Godspeed, because we know there are great things ahead, because freedom does work and you will ensure that freedom continues to work in America, no matter what ventures you undertake. So Godspeed, friend. Thank you so much for your service. We love you.

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DISPOSING OF VARIOUS LEGISLATIVE MEASURES

Mr. ARMEY. Mr. Speaker, in accordance with the Boyle-Turton precedent, I ask unanimous consent that the House.

(1) Be considered to have discharged from the committee and passed H.R. 5334, H.R. 5436, H.R. 5738, S. 1010, H.R. 5716, H.R. 5499, S. 2239, H.R. 5280, H.R. 5586, H.R. 5609, H.R. 628, H.R. 629, H.R. 3775, H.R. 5495, H.R. 5604, H.R. 5611, H.R. 5728, and H.R. 5436;

(2) Be considered to have taken from the Speaker's table and passed S. 2712, S. 3044, and S. 3156;

(3) Be considered to have discharged from committee and agreed to H. Res. 604, H. Con. Res. 499, H. Res. 582, H. Res. 599, and H. Res. 612;

(4) Be considered to have discharged from committee, amended, and passed S. 1843, in the form placed at the desk;

(5) Be considered to have passed H.R. 5504 as amended by the committee amendment;

(6) Be considered to have passed H.R. 3429 and H.R. 2458 as amended by the committee amendment as further amended by the form placed at the desk;

(7) Be considered to have discharged from committee, amended, and agreed to H. Con. Res. 466 in the form placed at the desk;

(8) Be considered to have taken from the Speaker's table and concurred in the respective Senate amendments to H.R. 4664, H.R. 2621, H.R. 3609, H.R. 5469, and H.R. 3833;

(9) Be considered to have taken from the Speaker's table and amended S. 2237 in the form placed at the desk; and

(10) That the committees being discharged be printed in the RECORD, the texts of each measure and any amendments thereto be considered as read and printed in the RECORD, and that motions to reconsider each of these actions be laid upon the table.

The SPEAKER pro tempore (Mr. SIMPSON). The Chair will entertain this combined request under the Speaker's guidelines as recorded on page 712 of the House Rules and Manual with assurances that it has been cleared by the bipartisan floor and all committee leadership.

The Clerk will report the titles of the various bills and resolutions.

The Clerk read as follows:

DISCHARGED FROM THE COMMITTEE ON THE JUDICIARY AND PASSED

H.R. 5334, to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits.

H.R. 5334

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hometown Heroes Survivors Benefits Act of 2002".

SEC. 2. FATAL HEART ATTACK OR STROKE ON DUTY PRESUMED TO BE DEATH IN LINE OF DUTY FOR PURPOSES OF PUBLIC SAFETY OFFICER SURVIVOR BENEFITS.

Section 1201 of the Omibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by adding at the end the following new subsection:

"(k) For purposes of this section, if a public safety officer dies as the direct and proximate result of a heart attack or stroke suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation, that officer shall be presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty.".

SEC. 3. APPLICABILITY.

Subsection (k) of section 1201 of such Act (as added by section 2) shall apply to deaths occurring on or after January 1, 2002.

DISCHARGED FROM THE COMMITTEE ON ENERGY AND COMMERCE AND PASSED

H.R. 5436, to extend the deadline for commencement of construction of a hydroelectric project in the State of Oregon.

H.R. 5436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project number 11509, the Commission shall, at the request of the licensee for the project, and after reasonable notice, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods.

(b) EFFECTIVE DATE.—Subsection (a) takes effect on the date of the expiration of the extension issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806) for Federal Energy Regulatory Commission project number 11509.

(c) REINSTATEMENT OF EXPIRED LICENSE.—If the period required for commencement of construction of the project described in subsection (a) has expired prior to the date of the enactment of this act, the commission shall reinstate the license effective as of the date of its expiration and the first extension authorized under subsection (a) shall take effect on the date of such expiration

DISCHARGED FROM THE COMMITTEE ON ENERGY AND COMMERCE AND PASSED

H.R. 5738, to amend the Public Health Service Act with respect to special diabetes programs for Type 1 diabetes and Indians.

H.R. 5738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES AND INDIANS.

(a) SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES.—Section 330B(b)(2) of the Public Health Service Act (42 U.S.C. 254c–2(b)(2)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) $150,000,000 for each of fiscal years 2004 through 2008.".

(b) SPECIAL DIABETES PROGRAMS FOR INDIANS.—Section 330C(c)(2) of the Public Health Service Act (42 U.S.C. 254c–3(c)(2)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) $150,000,000 for each of fiscal years 2004 through 2008.".

(c) EXTENSION OF FINAL REPORT ON GRANT PROGRAMS.—Section 4923(b)(2) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 251), as amended by section 931(c) of BIPA (114 Stat. 2763A–585), is amended by striking "2003" and inserting "2007".

DISCHARGED FROM THE COMMITTEE ON ENERGY AND COMMERCE AND PASSED

S. 1010, to extend the deadline for commencement of construction of a hydroelectric project in the State of North Carolina.

S. 1010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project number 11437, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods.

(b) EFFECTIVE DATE.—Subsection (a) takes effect on the date of the expiration of the extension issued by the Commission before the date of the enactment of this Act under section 13 of the Federal Power Act (16 U.S.C. 806).

DISCHARGED FROM THE COMMITTEE ON ENERGY AND COMMERCE AND FROM THE COMMITTEE ON EDUCATION AND THE WORKFORCE AND PASSED

H.R. 5716, to amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to extend the mental health benefits parity provisions for an additional year.

H.R. 5716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mental Health Parity Reauthorization Act of 2002".

SEC. 2. EXTENSION OF MENTAL HEALTH PROVISIONS.

(a) ERISA.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking "December 31, 2002" and inserting "December 31, 2003".

(b) PHSA.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg-5(f)) is amended by striking "December 31, 2002" and inserting "December 31, 2003".

Mr. BOEHNER. Mr. Speaker, in 1996, Congress enacted the Mental Health Parity Act to prevent employers and health insurers from establishing annual and lifetime limits on mental health insurance coverage unless similar limits were also established for medical and surgical health coverage. These mental health parity benefits offered through the Employee Retirement Income Security Act (ERISA) were set to expire on December 31, 2002.

Today the House will take an important step to extend mental health parity benefits for another year. Over the past six years, the parity law has made significant improvements in mental health coverage. It did so by striking a good balance—providing important mental health benefits to patients without placing unworkable mandates on employers.

I committed last year to give the issue of mental health parity serious and substantial consideration at the Committee on Education and the Workforce. As part of that commitment, the Subcommittee on Employer-Employee Relations held the first House hearing on the issue of mental health parity on March 13, 2002. At this hearing, the Subcommittee heard testimony from both mental health advocates and employers concerning current federal mental health parity law, state laws that impact the issue, and the implications of expanding mental health parity for other employers and employees.

The Committee will continue to examine the issue of mental health parity in a balanced manner that doesn't jeopardize workers' existing health care benefits or discourage employers from voluntarily providing quality benefits to their employees. It is important to remember that the number of uninsured Americans increased to 41.2 million last year, and health insurance costs are expected to rise by 15 percent this year. Congress should carefully consider the implications of any new or expanded federal regulations before enacting proposals that increase health care costs and force more Americans to lose their health insurance.

However, today's vote on H.R. 5716 is a vote to preserve the mental health benefits that workers currently enjoy. I hope you will join me in support of this bill.

DISCHARGED FROM THE COMMITTEE ON FINANCIAL SERVICES AND PASSED

H.R. 5499, to reauthorize the HOPE VI program for revitalization of severely distressed public housing, and for other purposes.

H.R. 5499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "HOPE VI Program Reauthorization Act of 2002".

SEC. 2. SELECTION CRITERIA.

Section 24(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437v(e)(2)) is amended—

(1) by striking the matter preceding subparagraph (A) and inserting the following:

"(2) SELECTION CRITERIA.—The Secretary shall establish criteria for the award of grants under this section and shall include among the factors—";

(2) in subparagraph (B), by striking "large-scale";

(3) in subparagraph (D), by inserting "and ongoing implementation" after "development";

(4) in subparagraph (H), by striking "and" at the end;

(5) by redesignating subparagraph (I) as subparagraph (M); and

(6) by inserting after subparagraph (H) the following new subparagraphs:

"(I) the extent to which the applicant can commence and complete the revitalization plan expeditiously;

"(J) the extent to which the plan minimizes temporary or permanent displacement of current residents of the public housing site who wish to remain in or return to the revitalized community;

"(K) the extent to which the plan sustains or creates more project-based housing units available to persons eligible for public housing in markets where there is demand for the maintenance or creation of such units;

"(L) the extent to which the plan gives to existing residents priority for occupancy in dwelling units in the revitalized community; and".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Paragraph (1) of section 24(m) of the United States Housing Act of 1937 (42 U.S.C. 1437v(m)(1)) is amended to read as follows:

"(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section such sums as may be necessary for each of fiscal years 2003 and 2004.".

SEC. 4. EXTENSION OF PROGRAM.

Section 24(n) of the United States Housing Act of 1937 (42 U.S.C. 1437v(n)) is amended by striking "September 30, 2002" and inserting "September 30, 2004".

DISCHARGED FROM THE COMMITTEE ON FINANCIAL SERVICES AND PASSED

S. 2239, to amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers.

S. 2239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "FHA Downpayment Simplification Act of 2002".

SEC. 2. DOWNPAYMENT SIMPLIFICATION.

Section 203 of the National Housing Act (12 U.S.C. 1709) is amended—

(1) in subsection (b)—

(A) by striking "shall—" and inserting "shall comply with the following:";

(B) in paragraph (2)—

(i) in subparagraph (A), in the matter that precedes clause (ii), by moving the margin 2 ems to the right;

(ii) in the undesignated matter immediately following subparagraph (B)(iii)—

(I) by striking the second and third sentences of such matter;

(II) by striking the seventh sentence (relating to principal obligation) and all that follows through the end of the ninth sentence (relating to charges and fees); and

(III) by striking the eleventh sentence (relating to disclosure notice) and all that follows through the end of the last undesignated paragraph (relating to disclosure notice requirements); and

(iii) by striking subparagraph (B) and inserting the following:

"(B) not to exceed an amount equal to the sum of—

"(i) the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

"(ii) in the case of—

"(I) a mortgage for a property with an appraised value equal to or less than $50,000, 98.75 percent of the appraised value of the property;

"(II) a mortgage for a property with an appraised value in excess of $50,000 but not in excess of $125,000, 97.65 percent of the appraised value of the property;

"(III) a mortgage for a property with an appraised value in excess of $125,000, 97.15 percent of the appraised value of the property; or

"(IV) notwithstanding subclauses (II) and (III), a mortgage for a property with an appraised value in excess of $50,000 that is located in an area of the State for which the average closing cost exceeds 2.10 percent of the average, for the State, of the sale price of properties located in the State for which mortgages have been executed, 97.75 percent of the appraised value of the property.";

(C) by transferring and inserting the text of paragraph (10)(B) after the period at the end of the first sentence of the undesignated paragraph that immediately follows paragraph (2)(B) (relating to the definition of "area"); and

(D) by striking paragraph (10); and

(2) by inserting after subsection (e), the following:

"(f) DISCLOSURE OF OTHER MORTGAGE PRODUCTS.—

"(1) IN GENERAL.—In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a 1-page analysis of mortgage products offered by that lender and for which the borrower would qualify.

"(2) NOTICE.—The notice required under paragraph (1) shall include—

"(A) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under subsection (b) with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) or section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), as applicable), assuming prevailing interest rates; and

"(B) a statement regarding when the requirement of the mortgagor to pay the mortgage insurance premiums for a mortgage insured under this section would terminate, or a statement that the requirement shall terminate only if the mortgage is refinanced, paid off, or otherwise terminated.".

SEC. 3. CONFORMING AMENDMENTS.

Section 245 of the National Housing Act (12 U.S.C. 1715z–10) is amended—

(1) in subsection (a), by striking ", or if the mortgagor" and all that follows through "case of veterans"; and

(2) in subsection (b)(3), by striking ", or, if the" and all that follows through "for veterans,".

SEC. 4. REPEAL OF GNMA GUARANTEE FEE INCREASE.

Section 972 of the Higher Education Amendments of 1998 (Public Law 105–244; 112 Stat. 1837) is hereby repealed.

SEC. 5. INDEXING OF FHA MULTIFAMILY HOUSING LOAN LIMITS.

(a) The National Housing Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 206 the following new section 206A (12 U.S.C. 1712A):

"SEC. 206A. INDEXING OF FHA MULTIFAMILY HOUSING LOAN LIMITS.

"(a) METHOD OF INDEXING.—The dollar amounts set forth in—

"(1) section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));

"(2) section 213(b)(2)(A) (12 U.S.C. 1715e(b)(2)(A));

"(3) section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k(d)(3)(B)(iii)(I));

"(4) section 221(d)(3)(ii)(I) (12 U.S.C. 1715l(d)(3)(ii)(I));

"(5) section 221(d)(4)(ii)(I) (12 U.S.C. 1715l(d)(4)(ii)(I));

"(6) section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A)); and

"(7) section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A));

(collectively hereinafter referred to as the "Dollar Amounts") shall be adjusted annually (commencing in 2004) on the effective date of the Federal Reserve Board's adjustment of the $400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) as applied by the Federal Reserve Board for purposes of the above-described HOEPA adjustment.

"(b) NOTIFICATION.—The Federal Reserve Board on a timely basis shall notify the Secretary, or his designee, in writing of the adjustment described in subsection (a) and of the effective date of such adjustment in order to permit the Secretary to undertake publication in the Federal Register of corresponding adjustments to the Dollar Amounts. The dollar amount of any adjustment shall be rounded to the next lower dollar.".

(b) TECHNICAL AND CONFORMING CHANGES.—(1) Section 207(c)(3) of the National Housing Act (12 U.S.C. 1713(c)(3)) is amended—

(A) by inserting "(A)" after "(3)";

(B) by striking "and accept that the Secretary" through and including "in this paragraph" and inserting in lieu thereof:

"(B) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)".

(2) Section 213(b)(2) of the National Housing Act (12 U.S.C. 1715e(b)(2)) is amended—

(A) by inserting "(A)" following "(2)";

(B) by striking ": *Provided further*, That" the first time that it occurs, through and including "contained in this paragraph" and inserting in lieu thereof: "; (B)(i) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)";

(C) by striking ": *Provided further*, That" the second time it occurs and inserting in lieu thereof: "; and (ii)";

(D) by striking ": *And provided further*, That" and inserting in lieu thereof "; and (iii)";

(E) by striking "with this subsection without regard to the preceding proviso" at the end of that subsection and inserting in lieu thereof: “with this subparagraph (B)(i).”.

(3) Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended—

(A) by inserting “(I)” following “(iii)”;

(B) by striking “design; and except that” and inserting in lieu thereof: “design; and (II)”;

(C) by striking “any of the foregoing dollar amount limitations contained in this clause” and inserting in lieu thereof: “any of the dollar amount limitations in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 206A of this Act)”;

(D) by striking “: *Provided*, That” through and including “proviso” and inserting in lieu thereof: “with respect to dollar amount limitations applicable to rehabilitation projects described in subclause (II), the Secretary may, by regulation, increase the dollar amount limitations contained in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 206A of this Act)”;

(E) by striking “: *Provided further*,” and inserting in lieu thereof: “; (III)”;

(F) by striking “subparagraph” in the second proviso and inserting in lieu thereof “subparagraph (B)(iii)(I)”;

(G) in the last proviso, by striking “: *And provided further*, That” and all that follows through and including “this clause” and inserting in lieu thereof: “; (IV) with respect to rehabilitation projects involving not more than five family units, the Secretary may further increase any of the dollar limitations which would otherwise apply to such projects”.

(4) Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(3)(ii)) is amended—

(A) by inserting “(I)” following “(ii)”;

(B) by striking “; and except that” and all that follows through and including “in this clause” and inserting in lieu thereof: “; (II) the Secretary may, by regulation, increase any of the dollar amount limitations in subclause (I) (as such limitations may have been adjusted in accordance with section 206A of this Act)”.

(5) Section 221(d)(4)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(4)(ii)) is amended—

(A) by inserting “(I)” following “(ii)”;

(B) by striking “; and except that” and all that follows through and including “in this clause” and inserting in lieu thereof: “; (II) the Secretary may, by regulation, increase any of the dollar limitations in subclause (I) (as such limitations may have been adjusted in accordance with section 206A of this Act)”.

(6) Section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended—

(A) by inserting “(A)” following “(2)”;

(B) by striking “; and except that” and all that follows through and including “in this paragraph” and inserting in lieu thereof: “; (B) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)”;

(C) by striking “: *Provided*, That” and all that follows through and including “of this section” and inserting in lieu thereof: “; (C) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)”.

(7) Section 234(e)(3) of the National Housing Act (12 U.S.C. 1715y(e)(3)) is amended—

(A) by inserting “(A)” following “(3)”;

(B) by replacing “$38,025” with “$42,048”; “$42,120” with “$48,481”; “$50,310” with “$58,469”; “$62,010” with “$74,840”; “$70,200” with “$83,375”; “$43,875” with “$44,250”; “$49,140” with “$50,724”; “$60,255” with “$61,680”; “$75,465” with “$79,793”; and “$85,328” with “$87,588”;

(C) by striking “; except that each” and all that follows through and including “contained in this paragraph” and inserting in lieu thereof: “; (B) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)”.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND PASSED

H.R. 5280, to designate the facility of the United States Postal Service located at 2001 East Willard Street in Philadelphia, Pennsylvania, as the “Robert A. Borski Post Office Building”.

H.R. 5280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ROBERT A. BORSKI POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 2001 East Willard Street in Philadelphia, Pennsylvania, shall be known and designated as the “Robert A. Borski Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Robert A. Borski Post Office Building.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND PASSED

H.R. 5586, to designate the facility of the United States Postal Service located at 141 Erie Street in Linesville, Pennsylvania, as the “James R. Merry Post Office Building”.

H.R. 5586

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JAMES R. MERRY POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 141 Erie Street in Linesville, Pennsylvania, shall be known and designated as the “James R. Merry Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the James R. Merry Post Office Building.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND PASSED

H.R. 5609, to designate the facility of the United States Postal Service located at 600 East 1st Street in Rome, Georgia, as the “Martha Berry Post Office”.

H.R. 5609

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MARTHA BERRY POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 600 East 1st Street in Rome, Georgia, shall be known and designated as the “Martha Berry Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Martha Berry Post Office.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND PASSED

H.R. 628, to designate the facility of the United States Postal Service located at 440 South Orange Blossom Trail in Orlando, Florida, as the “Arthur ‘Pappy’ Kennedy Post Office”.

H.R. 628

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 440 South Orange Blossom Trail in Orlando, Florida, shall be known and designated as the “Arthur ‘Pappy’ Kennedy Post Office”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the Arthur “Pappy” Kennedy Post Office.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND PASSED

H.R. 629, to designate the facility of the United States Postal Service located at 1601–1 Main Street in Jacksonville, Florida, as the “Eddie Mae Steward Post Office”.

H.R. 629

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 1601–1 Main Street in Jacksonville, Florida, shall be known and designated as the “Eddie Mae Steward Post Office”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the Eddie Mae Steward Post Office.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND PASSED

H.R. 3775, to designate the facility of the United States Postal Service located at 1502 East Kiest Boulevard in Dallas, Texas, as the “Dr. Caesar A.W. Clark, Sr. Post Office Building”.

H.R. 3775

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DR. CAESAR A.W. CLARK, SR. POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1502 East Kiest Boulevard in Dallas, Texas, shall be known and designated as the “Dr. Caesar A.W. Clark, Sr. Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Dr. Caesar A.W. Clark, Sr. Post Office Building.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND PASSED

H.R. 5495, to designate the facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, as the "Major Henry A. Commiskey, Sr. Post Office Building".

H.R. 5495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAJOR HENRY A. COMMISKEY, SR. POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, shall be known and designated as the "Major Henry A. Commiskey, Sr. Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Major Henry A. Commiskey, Sr. Post Office Building.

DISCHARGED FROM THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE AND PASSED

H.R. 5604, to designate the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse".

H.R. 5604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, shall be known and designated as the "Birch Bayh Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "Birch Bayh Federal Building and United States Courthouse".

Mr. OBERSTAR. Mr. Speaker, H.R. 5604 is a bill to designate the federal building located at 46 East Ohio St., Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse." This bill is sponsored by the entire Indiana delegation in the U.S. House of Representatives.

Birch Bayh was born on January 22, 1928, in Terre Haute, Indiana. He attended public schools in Indiana and joined the army in 1946. In 1954, he was elected to the Indiana House of Representatives where he served for eight years, including terms as Minority Leader and later, as Speaker of the House.

In 1962, when he was only 34 years old, Birch Bayh was elected to the first of three terms in the U.S. Senate. Senator Bayh quickly became a leader on issues of education, equal rights, and Constitutional law. As Chairman of the Constitutional Subcommittee of the Senate Judiciary Committee, Senator Bayh authored two amendments to the Constitution—the 25th Amendment setting forth the order of Presidential succession, and the 26th Amendment lowering the voting age from 21 to 18 years of age. During his time in the Senate, Senator Bayh also served on the Appropriations Committee and the Select Committee on Intelligence.

Senator Bayh was a champion of equal rights for women and minorities. He authored Title IX to the Higher Education Act, which mandates equal opportunities for women students and faculty in our Nation's schools. Further, Senator Bayh was a strong supporter of two pieces of landmark legislation—the 1964 Civil Rights Act and the 1965 Voting Rights Act. He was also instrumental in enacting the Juvenile Justice Act, which mandates the separation of juvenile offenders from adult prison populations.

Since leaving the Senate in the 1980s, Senator Bayh has continued his commitment to public service. He serves as a member of the William Fulbright Foreign Scholarship Board, National Institute Against Prejudice and Violence, and the University of Virginia's Miller Center Commission on Presidential Disability and the 25th Amendment.

It is entirely fitting and proper to honor the contributions of Senator Birch Bayh with this designation and I urge my colleagues to support H.R. 5604.

DISCHARGED FROM THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE AND PASSED

H.R. 5611, to designate the Federal building located at 324 Twenty-Fifth Street in Ogden, Utah, as the "James V. Hansen Federal Building".

H.R. 5611

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 324 Twenty-Fifth Street in Ogden, Utah, shall be known and designated as the "James V. Hansen Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "James V. Hansen Federal Building".

SEC. 3. EFFECTIVE DATE.

This Act shall take effect on January 1, 2003.

Mr. OBERSTAR. Mr. Speaker, H.R. 5611 is a bill to designate the federal building located at 324 Twenty-Fifth Street in Ogden, Utah as the James V. Hansen Federal Building.

Congressman HANSEN began his career in public service in local government in Farmington, Utah. He later served four terms in the Utah House of Representatives, where he served as Speaker of the House in his final term. In 1980, he was elected to the United States Congress from Utah's First Congressional District, and has served 11 consecutive terms.

During his service in the House, Congressman HANSEN has been an active member of the Armed Services Committee, Chairman of the Ethics Committee, and most recently, Chairman of the Resources Committee. He has fought for legislation to revise the private mortgage insurance program to benefit American homeowners, and has been instrumental in the development of environmental and natural resources policy.

After 22 years of service in the U.S. House of Representatives, Congressman HANSEN has decided to retire. It is both fitting and proper that on this, the last day of the Session for this Body in the 107th Congress, we honor the career of Congressman HANSEN with this designation.

I urge my colleagues to support H.R. 5611.

DISCHARGED FROM THE COMMITTEE ON WAYS AND MEANS AND PASSED

H.R. 5728, to amend the Internal Revenue Code of 1986 to provide fairness in tax collection procedures and improved administrative efficiency and confidentiality and to reform its penalty and interest provisions.

H.R. 5728

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Administration Reform Act of 2002".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.

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Sec. 101. Partial payment of tax liability in installment agreements.
Sec. 102. Extension of time for return of property.
Sec. 103. Individuals held harmless on wrongful levy, etc. on individual retirement plan.
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Sec. 105. Study of liens and levies.
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TITLE II—IMPROVED ADMINISTRATIVE EFFICIENCY AND CONFIDENTIALITY

SUBTITLE A—EFFICIENCY OF TAX ADMINISTRATION

Sec. 201. Revisions relating to termination of employment of Internal Revenue Service employees for misconduct.
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TITLE I—FAIRNESS IN TAX COLLECTION PROCEDURES

SEC. 101. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

"(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 102. EXTENSION OF TIME FOR RETURN OF PROPERTY.

(a) EXTENSION OF TIME FOR RETURN OF PROPERTY SUBJECT TO LEVY.—Subsection (b) of section 6343 (relating to return of property) is amended by striking "9 months" and inserting "2 years".

(b) PERIOD OF LIMITATION ON SUITS.—Subsection (c) of section 6532 (relating to suits by persons other than taxpayers) is amended—

(1) in paragraph (1) by striking "9 months" and inserting "2 years", and

(2) in paragraph (2) by striking "9-month" and inserting "2-year".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.

SEC. 103. INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC., ON INDIVIDUAL RETIREMENT PLAN.

(a) IN GENERAL.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

"(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC., ON INDIVIDUAL RETIREMENT PLAN.—

"(1) IN GENERAL.—If the Secretary determines that an individual retirement plan has been levied upon in a case to which subsection (b) or (d)(2)(A) applies, an amount equal to the sum of—

"(A) the amount of money returned by the Secretary on account of such levy, and

"(B) interest paid under subsection (c) on such amount of money,

may be deposited into an individual retirement plan (other than an endowment contract) to which a rollover from the plan levied upon is permitted.

"(2) TREATMENT AS ROLLOVER.—The distribution on account of the levy and any deposit under paragraph (1) with respect to such distribution shall be treated for purposes of this title as if such distribution and deposit were part of a rollover described in section 408(d)(3)(A)(i); except that—

"(A) interest paid under subsection (c) shall be treated as part of such distribution and as not includible in gross income,

"(B) the 60-day requirement in such section shall be treated as met if the deposit is made not later than the 60th day after the day on which the individual receives an amount under paragraph (1) from the Secretary, and

"(C) such deposit shall not be taken into account under section 408(d)(3)(B).

"(3) REFUND, ETC., OF INCOME TAX ON LEVY.—If any amount is includible in gross income for a taxable year by reason of a levy referred to in paragraph (1) and any portion of such amount is treated as a rollover under paragraph (2), any tax imposed by chapter 1 on such portion shall not be assessed, and if assessed shall be abated, and if collected shall be credited or refunded as an overpayment made on the due date for filing the return of tax for such taxable year.

"(4) INTEREST.—Notwithstanding subsection (d), interest shall be allowed under subsection (c) in a case in which the Secretary makes a determination described in subsection (d)(2)(A) with respect to a levy upon an individual retirement plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid under subsections (b), (c), and (d)(2)(A) of section 6343 of the Internal Revenue Code of 1986 after December 31, 2002.

SEC. 104. SEVEN-DAY THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING TAX REVIEW.

(a) IN GENERAL.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after "application," the following: "but only if the date of such decision is at least 7 days after the date of the taxpayer's application".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

SEC. 105. STUDY OF LIENS AND LEVIES.

The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the practices of the Internal Revenue Service concerning liens and levies. The study shall examine—

(1) the declining use of liens and levies by the Internal Revenue Service, and

(2) the practicality of recording liens and levying against property in cases in which the cost of such actions exceeds the amount to be realized from such property.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 106. LOW-INCOME TAXPAYER CLINICS.

(a) LIMITATION ON AMOUNT OF GRANTS.—Paragraph (1) of section 7526(c) (relating to special rules and limitations) is amended by striking "$6,000,000 per year" and inserting "$9,000,000 for 2002, $12,000,000 for 2003, and $15,000,000 for each year thereafter".

(b) PROMOTION OF CLINICS.—Section 7526(c) is amended by adding at the end the following new paragraph:

"(7) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.".

TITLE II—IMPROVED ADMINISTRATIVE EFFICIENCY AND CONFIDENTIALITY

Subtitle A—Efficiency of Tax Administration

SEC. 201. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF INTERNAL REVENUE SERVICE EMPLOYEES FOR MISCONDUCT.

(a) IN GENERAL.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

"SEC. 7804A. DISCIPLINARY ACTIONS FOR MISCONDUCT.

"(a) DISCIPLINARY ACTIONS.—

"(1) IN GENERAL.—Subject to subsection (c), the Commissioner shall take an action in accordance with the guidelines established under paragraph (2) against any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties or where a nexus to the employee's position exists.

"(2) GUIDELINES.—The Commissioner shall issue guidelines for determining the appropriate level of discipline, up to and including termination of employment, for committing any act or omission described under subsection (b).

"(b) ACTS OR OMISSIONS.—The acts or omissions described under this subsection are—

"(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

"(2) willfully providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

"(3) with respect to a taxpayer or taxpayer representative, the willful violation of—

"(A) any right under the Constitution of the United States;

"(B) any civil right established under—

"(i) title VI or VII of the Civil Rights Act of 1964;

"(ii) title IX of the Education Amendments of 1972;

"(iii) the Age Discrimination in Employment Act of 1967;

"(iv) the Age Discrimination Act of 1975;

"(v) section 501 or 504 of the Rehabilitation Act of 1973; or

"(vi) title I of the Americans with Disabilities Act of 1990; or

"(C) the Internal Revenue Service policy on unauthorized inspection of returns or return information;

"(4) willfully falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

"(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final adverse judgment by a court in a civil case, with respect to the assault or battery;

"(6) willful violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative;

"(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry;

"(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect;

"(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect; and

"(10) threatening to audit a taxpayer, or to take other action under this title, for the purpose of extracting personal gain or benefit.

"(c) Determinations of Commissioner.—

"(1) In general.—The Commissioner may take a personnel action other than a disciplinary action provided for in the guidelines under subsection (a)(2) for an act or omission described under subsection (b).

"(2) Discretion.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in his sole discretion, may establish a procedure to determine if an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

"(3) No appeal.—Notwithstanding any other provision of law, any determination of the Commissioner under this subsection may not be reviewed in any administrative or judicial proceeding. A finding that an act or omission described under subsection (b) occurred may be reviewed.

"(d) Definition.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

"(e) Annual Report.—The Commissioner shall submit to Congress annually a report on disciplinary actions under this section.".

(b) Clerical Amendment.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

"Sec. 7804A. Disciplinary actions for misconduct.".

(c) Repeal of Superseded Section.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206; 112 Stat. 720) is repealed.

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 202. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) Confirmation of Authority of Tax Court To Apply Doctrine of Equitable Recoupment.—Subsection (b) of section 6214 (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.".

(b) Effective Date.—The amendments made by this section shall apply to any action or proceeding in the Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 203. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) In General.—Section 6330(d)(1) (relating to judicial review of determination) is amended to read as follows:

"(1) Judicial review of determination.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to judicial appeals filed after the date of the enactment of this Act.

SEC. 204. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS IN COMPROMISE.

(a) In General.—Section 7122(b) (relating to record) is amended by striking "Whenever a compromise" and all that follows through "his delegate" and inserting "If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion".

(b) Conforming Amendments.—Section 7122(b) is amended by striking the second and third sentences.

(c) Effective Date.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 205. 15-DAY DELAY IN DUE DATE FOR ELECTRONICALLY FILED INDIVIDUAL INCOME TAX RETURNS.

(a) In General.—Section 6072 (relating to time for filing income tax returns) is amended by adding at the end the following new subsection:

"(f) Electronically Filed Returns of Individuals.—

"(1) In general.—Returns of an individual under section 6012 or 6013 (other than an individual to whom subsection (c) applies) which are filed electronically—

"(A) in the case of returns filed on the basis of a calendar year, shall be filed on or before the 30th day of April following the close of the calendar year, and

"(B) in the case of returns filed on the basis of a fiscal year, shall be filed on or before the last day of the 4th month following the close of the fiscal year.

"(2) Electronic filing.—Paragraph (1) shall not apply to any return unless—

"(A) such return is accepted by the Secretary, and

"(B) the balance due (if any) shown on such return is paid electronically in a manner prescribed by the Secretary.

"(3) Special rules.—

"(A) Estimated tax.—If—

"(i) paragraph (1) applies to an individual for any taxable year, and

"(ii) there is an overpayment of tax shown on the return for such year which the individual allows against the individual's obligation under section 6641,

then, with respect to the amount so allowed, any reference in section 6641 to the April 15 following such taxable year shall be treated as a reference to April 30.

"(B) References to due date.—Paragraph (1) shall apply solely for purposes of determining the due date for the individual's obligation to file and pay tax and, except as otherwise provided by the Secretary, shall be treated as an extension of the due date for any other purpose under this title.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

Subtitle B—Confidentiality and Disclosure

SEC. 211. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

(a) In General.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking "in writing" the first place it appears.

(b) Effective Date.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 212. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

(a) In General.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new paragraph:

"(7) Taxpayer representatives.—Notwithstanding paragraph (1), the return of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return of such representative on a basis other than by reason of such relationship.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 213. COMPLIANCE BY CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.

(a) In General.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

"(9) Disclosure to contractors.—Notwithstanding any other provision of this section, no return or return information shall be disclosed by any officer or employee of any Federal agency or State to any contractor of such agency or State unless such agency or State—

"(A) has requirements in effect which require each contractor of such agency or State which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

"(B) agrees to conduct an annual, on-site review (mid-point review in the case of contracts of less than 1 year in duration) of each contractor to determine compliance with such requirements,

"(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

"(D) certifies to the Secretary for the most recent annual period that all contractors are in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor, a description of the contract of the contractor with the Federal agency or State, and the duration of such contract.".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting "or paragraph (9)" after "subparagraph (A)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after December 31, 2002.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to calendar year 2003.

SEC. 214. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended by adding at the end the following new paragraphs:

"(2) REQUIREMENTS FOR VALID REQUESTS AND CONSENTS.—A request for or consent to disclosure under paragraph (1) shall only be valid for purposes of this section or sections 7213, 7213A, or 7431 if—

"(A) at the time of execution, such request or consent designates a recipient of such disclosure and is dated, and

"(B) at the time such request or consent is submitted to the Secretary, the submitter of such request or consent certifies, under penalty of perjury, that such request or consent complied with subparagraph (A).

"(3) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—Any person shall, as a condition for receiving return or return information under paragraph (1)—

"(A) ensure that such return and return information is kept confidential,

"(B) use such return and return information only for the purpose for which it was requested, and

"(C) not disclose such return and return information except to accomplish the purpose for which it was requested, unless a separate consent from the taxpayer is obtained.

"(4) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for requests and consents which shall—

"(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

"(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

"(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.".

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

(1) evaluate (on the basis of random sampling) whether—

(A) the amendment made by subsection (a) is achieving the purposes of this section;

(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

(C) the sanctions for violations of such requirements are adequate; and

(2) include such recommendations that the Treasury Inspector General for Tax Administration considers necessary or appropriate to better achieve the purposes of this section.

(c) CONFORMING AMENDMENT.—Section 6103(c) is amended by striking "TAXPAYER.—The Secretary" and inserting "TAXPAYER.—

"(1) IN GENERAL.—The Secretary".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after 3 months after the date of the enactment of this Act.

SEC. 215. NOTICE TO TAXPAYER CONCERNING ADMINISTRATIVE DETERMINATION OF BROWSING; ANNUAL REPORT.

(a) NOTICE TO TAXPAYER.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: "The Secretary shall also notify such taxpayer if the Treasury Inspector General for Tax Administration determines that such taxpayer's return or return information was inspected or disclosed in violation of any of the provisions specified in paragraph (1), (2), or (3).".

(b) REPORTS.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), as amended by section 245, is further amended by adding at the end the following new paragraph:

"(10) REPORT ON UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

"(A) administrative investigations,

"(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

"(C) criminal prosecutions.".

(c) EFFECTIVE DATE.—

(1) NOTICE.—The amendment made by subsection (a) shall apply to determinations made after the date of the enactment of this Act.

(2) REPORTS.—The amendment made by subsection (b) shall apply to calendar years ending after the date of the enactment of this Act.

SEC. 216. EXPANDED DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

(a) IN GENERAL.—Section 6103(i)(3)(B) (relating to danger of death or physical injury) is amended by striking "or State" and inserting ", State, or local".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 217. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c)(3) ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) DISCLOSURE OF PROPOSED ACTIONS.—

"(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

"(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

"(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

"(iii) the names and taxpayer identification numbers of organizations that have applied for recognition as organizations described in section 501(c)(3).

"(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

"(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

"(i) upon written request by an appropriate State officer, and

"(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer.

"(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of State and Federal issues relating to such organization.

"(3) USE IN JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

"(4) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (3), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

"(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

"(i) the State attorney general, or

"(ii) the head of any State agency, body, or commission which is charged under the laws of such State with responsibility for overseeing organizations of the type described in section 501(c)(3).".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6103 is amended—

(A) by inserting "or section 6104(c)" after "this section" in paragraph (2), and

(B) by striking "or subsection (n)" in paragraph (3) and inserting "subsection (n), or section 6104(c)".

(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting "and section 6104(c)" after "section" in the first sentence.

(3) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by striking "(16) or any other person described in subsection (l)(16)" and inserting "(16), any other person described in subsection (l)(16), or any appropriate State officer (as defined in section 6104(c))", and

(B) in subparagraph (F), by striking "or any other person described in subsection (l)(16)" and inserting "any other person described in subsection (l)(16), or any appropriate State officer (as defined in section 6104(c))".

(4) Paragraph (2) of section 7213(a) is amended by inserting "or under section 6104(c)" after "6103".

(5) Paragraph (2) of section 7213A(a) is amended by inserting "or 6104(c)" after "6103".

(6) Paragraph (2) of section 7431(a) is amended by inserting "(including any disclosure in violation of section 6104(c))" after "6103".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

Subtitle C—Other Provisions

SEC. 221. BETTER MEANS OF COMMUNICATING WITH TAXPAYERS.

Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to Congress evaluating whether technological advances, such as e-mail and facsimile transmission, permit the use of alternative means for the Internal Revenue Service to communicate with taxpayers.

SEC. 222. ENROLLED AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7527. ENROLLED AGENTS.

"(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

"(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7525. Enrolled agents.".

(c) PRIOR REGULATIONS.—Nothing in the amendments made by this section shall be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other Federal rule or regulation issued before the date of the enactment of this Act.

SEC. 223. FINANCIAL MANAGEMENT SERVICE FEES.

Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

SEC. 224. AMENDMENT TO TREASURY AUCTION REFORMS.

(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon "(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to meetings held after the date of the enactment of this Act.

TITLE III—REFORM OF PENALTY AND INTEREST PROVISIONS

SEC. 301. FAILURE TO PAY ESTIMATED TAX PENALTY CONVERTED TO INTEREST CHARGE ON ACCUMULATED UNPAID BALANCE.

(a) PENALTY MOVED TO INTEREST CHAPTER OF CODE.—The Internal Revenue Code of 1986 is amended by redesignating section 6654 as section 6641 and by moving section 6641 (as so redesignated) from part I of subchapter A of chapter 68 to the end of subchapter E of chapter 67 (as added by subsection (e)(1) of this section).

(b) PENALTY CONVERTED TO INTEREST CHARGE.—The heading and subsections (a) and (b) of section 6641 (as so redesignated) are amended to read as follows:

"SEC. 6641. INTEREST ON FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

"(a) IN GENERAL.—Interest shall be paid on any underpayment of estimated tax by an individual for a taxable year for each day of such underpayment. The amount of such interest for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT; INTEREST RATE.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

"(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

"(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

"(2) DETERMINATION OF INTEREST RATE.—

"(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

"(B) INSTALLMENT UNDERPAYMENT PERIOD.—For purposes of subparagraph (A), the term 'installment underpayment period' means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

"(C) DAILY RATE.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

"(3) TERMINATION OF ESTIMATED TAX INTEREST.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.".

(c) INCREASE IN SAFE HARBOR WHERE TAX IS SMALL.—

(1) IN GENERAL.—Clause (i) of section 6641(d)(1)(B) (as so redesignated) is amended to read as follows:

"(i) the lesser of—

"(I) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

"(II) the tax shown on the return for the taxable year (or, if no return is filed, the tax for such year) reduced (but not below zero) by $2,000, or".

(2) CONFORMING AMENDMENT.—Subsection (e) of section 6641 (as so redesignated) is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (1) and (2) of subsection (e) (as redesignated by subsection (c)(2)) and subsection (h) of section 6641 (as so designated) are each amended by striking "addition to tax" each place it occurs and inserting "interest".

(2) Section 167(g)(5)(D) is amended by striking "6654" and inserting "6641".

(3) Section 460(b)(1) is amended by striking "6654" and inserting "6641".

(4) Section 3510(b) is amended—

(A) by striking "section 6654" in paragraph (1) and inserting "section 6641";

(B) by amending paragraph (2)(B) to read as follows:

"(B) no interest would be required to be paid (but for this section) under 6641 for such taxable year by reason of the $2,000 amount specified in section 6641(d)(1)(B)(i)(II).";

(C) by striking "section 6654(d)(2)" in paragraph (3) and inserting "section 6641(d)(2)"; and

(D) by striking paragraph (4).

(5) Section 6201(b)(1) is amended by striking "6654" and inserting "6641".

(6) Section 6601(h) is amended by striking "6654" and inserting "6641".

(7) Section 6621(b)(2)(B) is amended by striking "addition to tax under section 6654" and inserting "interest required to be paid under section 6641".

(8) Section 6622(b) is amended—

(A) by striking "PENALTY FOR" in the heading; and

(B) by striking "addition to tax under section 6654 or 6655" and inserting "interest required to be paid under section 6641 or addition to tax under section 6655".

(9) Section 6658(a) is amended—

(A) by striking "6654, or 6655" and inserting "or 6655, and no interest shall be required to be paid under section 6641,"; and

(B) by inserting "or paying interest" after "the tax" in paragraph (2)(B)(ii).

(10) Section 6665(b) is amended—

(A) in the matter preceding paragraph (1) by striking ", 6654,"; and

(B) in paragraph (2) by striking "6654 or".

(11) Section 7203 is amended by striking "section 6654 or 6655" and inserting "section 6655 or interest required to be paid under section 6641".

(e) Clerical Amendments.—

(1) Chapter 67 is amended by inserting after subchapter D the following:

"Subchapter E—Interest on Failure by Individual to Pay Estimated Income Tax

"Sec. 6641. Interest on failure by individual to pay estimated income tax.".

(2) The table of subchapters for chapter 67 is amended by adding at the end the following new items:

"Subchapter D. Notice requirements.

"Subchapter E. Interest on failure by individual to pay estimated income tax.".

(3) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6654.

(f) Effective Date.—The amendments made by this section shall apply to installment payments for taxable years beginning after December 31, 2002.

SEC. 302. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

(a) In General.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 139 the following new section:

"SEC. 139A. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

"(a) In General.—In the case of an individual, gross income shall not include interest paid under section 6611 on any overpayment of tax imposed by this subtitle.

"(b) Exception.—Subsection (a) shall not apply in the case of a failure to claim items resulting in the overpayment on the original return if the Secretary determines that the principal purpose of such failure is to take advantage of subsection (a).

"(c) Special Rule for Determining Modified Adjusted Gross Income.—For purposes of this title, interest not included in gross income under subsection (a) shall not be treated as interest which is exempt from tax for purposes of sections 32(i)(2)(B) and 6012(d) or any computation in which interest exempt from tax under this title is added to adjusted gross income.".

(b) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139 the following new item:

"Sec. 139A. Exclusion from gross income for interest on overpayments of income tax by individuals.".

(c) Effective Date.—The amendments made by this section shall apply to interest received in calendar years beginning after the date of the enactment of this Act.

SEC. 303. ABATEMENT OF INTEREST.

(a) Abatement of Interest With Respect to Erroneous Refund Check Without Regard to Size of Refund.—Paragraph (2) of section 6404(e) is amended by striking "unless—" and all that follows and inserting "unless the taxpayer (or a related party) has in any way caused such erroneous refund.".

(b) Abatement of Interest to Extent Interest is Attributable to Taxpayer Reliance on Written Statements of the IRS.—Subsection (f) of section 6404 is amended—

(1) in the subsection heading, by striking "Penalty or Addition" and inserting "Interest, Penalty, or Addition"; and

(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking "penalty or addition" and inserting "interest, penalty, or addition".

(c) Effective Date.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

SEC. 304. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) In General.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

"(a) Authority To Make Deposits Other Than As Payment of Tax.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

"(b) No Interest Imposed.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

"(c) Return of Deposit.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

"(d) Payment of Interest.—

"(1) In general.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

"(2) Disputable tax.—

"(A) In general.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

"(B) Safe harbor based on 30-day letter.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

"(3) Other definitions.—For purposes of paragraph (2)—

"(A) Disputable item.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

"(i) has a reasonable basis for its treatment of such item, and

"(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

"(B) 30-day letter.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

"(4) Rate of interest.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

"(e) Use of Deposits.—

"(1) Payment of tax.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

"(2) Returns of deposits.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) Coordination with deposits made under revenue procedure 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 305. EXPANSION OF INTEREST NETTING FOR INDIVIDUALS.

(a) In General.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: "Solely for purposes of the preceding sentence, section 6611(e) shall not apply in the case of an individual.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to interest accrued after December 31, 2002.

SEC. 306. WAIVER OF CERTAIN PENALTIES FOR FIRST-TIME UNINTENTIONAL MINOR ERRORS.

(a) In General.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(i) Treatment of First-Time Unintentional Minor Errors.—

"(1) In general.—In the case of a return of tax imposed by subtitle A filed by an individual, the Secretary may waive an addition to tax under subsection (a) if—

"(A) the individual has a history of compliance with the requirements of this title,

"(B) it is shown that the failure is due to an unintentional minor error,

"(C) the penalty would be grossly disproportionate to the action or expense that would have been needed to avoid the error, and imposing the penalty would be against equity and good conscience,

"(D) waiving the penalty would promote compliance with the requirements of this title and effective tax administration, and

"(E) the taxpayer took all reasonable steps to remedy the error promptly after discovering it.

"(2) Exceptions.—Paragraph (1) shall not apply if—

"(A) the Secretary has waived any addition to tax under this subsection with respect to any prior failure by such individual,

"(B) the failure is a mathematical or clerical error (as defined in section 6213(g)(2)), or

"(C) the failure is the lack of a required signature.".

(b) Effective Date.—The amendment made by this section shall take effect on January 1, 2003.

SEC. 307. FRIVOLOUS TAX SUBMISSIONS.

(a) Civil Penalties.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) Civil Penalty for Specified Frivolous Submissions.—

"(1) Imposition of Penalty.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) Specified frivolous submission.—For purposes of this section—

"(A) Specified frivolous submission.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) Specified submission.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 7811 (relating to taxpayer assistance orders),

"(II) section 6159 (relating to agreements for payment of tax liability in installments), or

"(III) section 7122 (relating to compromises).

"(3) Opportunity to withdraw submission.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission promptly after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) Listing of Frivolous Positions.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) Reduction of Penalty.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) Penalties in Addition to Other Penalties.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) Treatment of Frivolous Requests for Hearings Before Levy.—

(1) Frivolous requests disregarded.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) Frivolous Requests for Hearing, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) Preclusion from raising frivolous issues at hearing.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) Statement of grounds.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) Treatment of Frivolous Requests for Hearings Upon Filing of Notice of Lien.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) Treatment of Frivolous Applications for Offers-in-Compromise and Installment Agreements.—Section 7122 is amended by adding at the end the following new subsection:

"(e) Frivolous Submissions, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) Effective Date.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 308. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

DISCHARGED FROM THE COMMITTEE ON ENERGY AND COMMERCE AND PASSED

H.R. 5436, to extend the deadline for commencement of construction of a hydroelectric project in the State of Oregon.

H.R. 5436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) In General.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project number 11509, the Commission shall, at the request of the licensee for the project, and after reasonable notice, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods.

(b) Effective Date.—Subsection (a) takes effect on the date of the expiration of the extension issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806) for Federal Energy Regulatory Commission project number 11509.

(c) Reinstatement of Expired License.—If the period required for commencement of construction of the project described in subsection (a) has expired prior to the date of the enactment of this act, the commission shall reinstate the license effective as of the date of its expiration and the first extension authorized under subsection (a) shall take effect on the date of such expiration

TAKEN FROM THE SPEAKER'S TABLE AND PASSED

S. 2712, to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

S. 2712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINITION.

(a) Short Title.—This Act may be cited as the "Afghanistan Freedom Support Act of 2002".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents; definition.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

Sec. 101. Declaration of policy.
Sec. 102. Purposes of assistance.
Sec. 103. Principles of assistance.
Sec. 104. Authorization of assistance.
Sec. 105. Coordination of assistance.
Sec. 106. Administrative provisions.
Sec. 107. Authorization of appropriations.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

Sec. 201. Support for security during transition in Afghanistan.
Sec. 202. Authorization of assistance.
Sec. 203. Eligible foreign countries and eligible international organizations.
Sec. 204. Reimbursement for assistance.
Sec. 205. Authority to provide assistance.
Sec. 206. Promoting secure delivery of humanitarian and other assistance in Afghanistan.
Sec. 207. Sunset.

TITLE III—ADDITIONAL REQUIREMENTS WITH RESPECT TO ASSISTANCE FOR AFGHANISTAN

Sec. 301. Prohibition on United States involvement in poppy cultivation or illicit narcotics growth, production, or trafficking.

Sec. 302. Requirement to report by certain United States officials.

Sec. 303. Report by the President.

(c) DEFINITION.—In this Act, the term "Government of Afghanistan" includes—

(1) the government of any political subdivision of Afghanistan; and

(2) any agency or instrumentality of the Government of Afghanistan.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

SEC. 101. DECLARATION OF POLICY.

Congress makes the following declarations:

(1) The United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan.

(2) The United States, in particular, should provide its expertise to meet immediate humanitarian and refugee needs, fight the production and flow of illicit narcotics, and aid in the reconstruction of Afghanistan's agriculture, health care, civil service, financial, and educational systems.

(3) By promoting peace and security in Afghanistan and preventing a return to conflict, the United States and the international community can help ensure that Afghanistan does not again become a source for international terrorism.

(4) The United States should support the objectives agreed to on December 5, 2001, in Bonn, Germany, regarding the provisional arrangement for Afghanistan as it moves toward the establishment of permanent institutions and, in particular, should work intensively toward ensuring the future neutrality of Afghanistan, establishing the principle that neighboring countries and other countries in the region do not threaten or interfere in one another's sovereignty, territorial integrity, or political independence, including supporting diplomatic initiatives to support this goal.

(5) The special emergency situation in Afghanistan, which from the perspective of the American people combines security, humanitarian, political, law enforcement, and development imperatives, requires that the President should receive maximum flexibility in designing, coordinating, and administering efforts with respect to assistance for Afghanistan and that a temporary special program of such assistance should be established for this purpose.

(6) To foster stability and democratization and to effectively eliminate the causes of terrorism, the United States and the international community should also support efforts that advance the development of democratic civil authorities and institutions in the broader Central Asia region.

SEC. 102. PURPOSES OF ASSISTANCE.

The purposes of assistance authorized by this title are—

(1) to help assure the security of the United States and the world by reducing or eliminating the likelihood of violence against United States or allied forces in Afghanistan and to reduce the chance that Afghanistan will again be a source of international terrorism;

(2) to support the continued efforts of the United States and the international community to address the humanitarian crisis in Afghanistan and among Afghan refugees in neighboring countries;

(3) to fight the production and flow of illicit narcotics, to control the flow of precursor chemicals used in the production of heroin, and to enhance and bolster the capacities of Afghan governmental authorities to control poppy cultivation and related activities;

(4) to help achieve a broad-based, multiethnic, gender-sensitive, and fully representative government in Afghanistan that is freely chosen by the people of Afghanistan and that respects the human rights of all Afghans, particularly women, including authorizing assistance for the rehabilitation and reconstruction of Afghanistan with a particular emphasis on meeting the educational, health, and sustenance needs of women and children to better enable their full participation in Afghan society;

(5) to support the Government of Afghanistan in its development of the capacity to facilitate, organize, develop, and implement projects and activities that meet the needs of the Afghan people;

(6) to foster the participation of civil society in the establishment of the new Afghan government in order to achieve a broad-based, multiethnic, gender-sensitive, fully representative government freely chosen by the Afghan people, without prejudice to any decisions which may be freely taken by the Afghan people about the precise form in which their government is to be organized in the future;

(7) to support the reconstruction of Afghanistan through, among other things, programs that create jobs, facilitate clearance of landmines, and rebuild the agriculture sector, the health care system, and the educational system of Afghanistan; and

(8) to include specific resources to the Ministry for Women's Affairs of Afghanistan to carry out its responsibilities for legal advocacy, education, vocational training, and women's health programs.

SEC. 103. PRINCIPLES OF ASSISTANCE.

The following principles should guide the provision of assistance authorized by this title:

(1) TERRORISM AND NARCOTICS CONTROL.—Assistance should be designed to reduce the likelihood of harm to United States and other allied forces in Afghanistan and the region, the likelihood of additional acts of international terrorism emanating from Afghanistan, and the cultivation, production, trafficking, and use of illicit narcotics in Afghanistan.

(2) ROLE OF WOMEN.—Assistance should increase the participation of women at the national, regional, and local levels in Afghanistan, wherever feasible, by enhancing the role of women in decisionmaking processes, as well as by providing support for programs that aim to expand economic and educational opportunities and health programs for women and educational and health programs for girls.

(3) AFGHAN OWNERSHIP.—Assistance should build upon Afghan traditions and practices. The strong tradition of community responsibility and self-reliance in Afghanistan should be built upon to increase the capacity of the Afghan people and institutions to participate in the reconstruction of Afghanistan.

(4) STABILITY.—Assistance should encourage the restoration of security in Afghanistan, including, among other things, the disarmament, demobilization, and reintegration of combatants, and the establishment of the rule of law, including the establishment of a police force and an effective, independent judiciary.

(5) COORDINATION.—Assistance should be part of a larger donor effort for Afghanistan. The magnitude of the devastation—natural and man-made—to institutions and infrastructure make it imperative that there be close coordination and collaboration among donors. The United States should endeavor to assert its leadership to have the efforts of international donors help achieve the purposes established by this title.

SEC. 104. AUTHORIZATION OF ASSISTANCE.

(a) IN GENERAL.—The President is authorized to provide assistance for Afghanistan for the following activities:

(1) URGENT HUMANITARIAN NEEDS.—To assist in meeting the urgent humanitarian needs of the people of Afghanistan, including assistance such as—

(A) emergency food, shelter, and medical assistance;

(B) clean drinking water and sanitation;

(C) preventative health care, including childhood vaccination, therapeutic feeding, maternal child health services, and infectious diseases surveillance and treatment;

(D) family tracing and reunification services; and

(E) clearance of landmines.

(2) REPATRIATION AND RESETTLEMENT OF REFUGEES AND INTERNALLY DISPLACED PERSONS.—To assist refugees and internally displaced persons as they return to their home communities in Afghanistan and to support their reintegration into those communities, including assistance such as—

(A) assistance identified in paragraph (1);

(B) assistance to communities, including those in neighboring countries, that have taken in large numbers of refugees in order to rehabilitate or expand social, health, and educational services that may have suffered as a result of the influx of large numbers of refugees;

(C) assistance to international organizations and host governments in maintaining security by screening refugees to ensure the exclusion of armed combatants, members of foreign terrorist organizations, and other individuals not eligible for economic assistance from the United States; and

(D) assistance for voluntary refugee repatriation and reintegration inside Afghanistan and continued assistance to those refugees who are unable or unwilling to return, and humanitarian assistance to internally displaced persons, including those persons who need assistance to return to their homes, through the United Nations High Commissioner for Refugees and other organizations charged with providing such assistance.

(3) COUNTERNARCOTICS EFFORTS.—(A) To assist in the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan and the region, with particular emphasis on assistance to—

(i) eradicate opium poppy, establish crop substitution programs, purchase nonopium products from farmers in opium-growing areas, quick-impact public works programs to divert labor from narcotics production, develop projects directed specifically at narcotics production, processing, or trafficking areas to provide incentives to cooperation in narcotics suppression activities, and related programs;

(ii) establish or provide assistance to one or more entities within the Government of Afghanistan, including the Afghan State High Commission for Drug Control, and to provide training and equipment for the entities, to help enforce counternarcotics laws in Afghanistan and limit illicit narcotics growth, production, and trafficking in Afghanistan;

(iii) train and provide equipment for customs, police, and other border control entities in Afghanistan and the region relating to illicit narcotics interdiction and relating to precursor chemical controls and interdiction to help disrupt heroin production in Afghanistan and the region;

(iv) continue the annual opium crop survey and strategic studies on opium crop planting and farming in Afghanistan; and

(v) reduce demand for illicit narcotics among the people of Afghanistan, including refugees returning to Afghanistan.

(B) For each of the fiscal years 2002 through 2005, $15,000,000 of the amount made available to carry out this title is authorized to be made available for a contribution to the United Nations Drug Control Program for the purpose of carrying out activities described in clauses (i) through (v) of subparagraph (A). Amounts made available under the preceding sentence are in addition to amounts otherwise available for such purposes.

(4) REESTABLISHMENT OF FOOD SECURITY, REHABILITATION OF THE AGRICULTURE SECTOR, IMPROVEMENT IN HEALTH CONDITIONS, AND THE RECONSTRUCTION OF BASIC INFRASTRUCTURE.—To assist in expanding access to markets in Afghanistan, to increase the availability of food in markets in Afghanistan, to rehabilitate the agriculture sector in Afghanistan by creating jobs for former combatants, returning refugees, and internally displaced persons, to improve health conditions, and assist in the rebuilding of basic infrastructure in Afghanistan, including assistance such as—

(A) rehabilitation of the agricultural infrastructure, including irrigation systems and rural roads;

(B) extension of credit;

(C) provision of critical agricultural inputs, such as seeds, tools, and fertilizer, and strengthening of seed multiplication, certification, and distribution systems;

(D) improvement in the quantity and quality of water available through, among other things, rehabilitation of existing irrigation systems and the development of local capacity to manage irrigation systems;

(E) livestock rehabilitation through market development and other mechanisms to distribute stocks to replace those stocks lost as a result of conflict or drought;

(F) mine awareness and demining programs and programs to assist mine victims, war orphans, and widows;

(G) programs relating to infant and young child feeding, immunizations, vitamin A supplementation, and prevention and treatment of diarrheal diseases and respiratory infections;

(H) programs to improve maternal and child health and reduce maternal and child mortality;

(I) programs to improve hygienic and sanitation practices and for the prevention and treatment of infectious diseases, such as tuberculosis and malaria;

(J) programs to reconstitute the delivery of health care, including the reconstruction of health clinics or other basic health infrastructure, with particular emphasis on health care for children who are orphans;

(K) programs for housing, rebuilding urban infrastructure, and supporting basic urban services; and

(L) disarmament, demobilization, and reintegration of armed combatants into society, particularly child soldiers.

(5) REESTABLISHMENT OF AFGHANISTAN AS A VIABLE NATION-STATE.—(A) To assist in the development of the capacity of the Government of Afghanistan to meet the needs of the people of Afghanistan through, among other things, support for the development and expansion of democratic and market-based institutions, including assistance such as—

(i) support for international organizations that provide civil advisers to the Government of Afghanistan;

(ii) support for an educated citizenry through improved access to basic education, with particular emphasis on basic education for children who are orphans, with particular emphasis on basic education for children;

(iii) programs to enable the Government of Afghanistan to recruit and train teachers, with special focus on the recruitment and training of female teachers;

(iv) programs to enable the Government of Afghanistan to develop school curriculum that incorporates relevant information such as landmine awareness, food security and agricultural education, human rights awareness, and civic education;

(v) support for the activities of the Government of Afghanistan to draft a new constitution, other legal frameworks, and other initiatives to promote the rule of law in Afghanistan;

(vi) support to increase the transparency, accountability, and participatory nature of governmental institutions, including programs designed to combat corruption and other programs for the promotion of good governance;

(vii) support for an independent media;

(viii) programs that support the expanded participation of women and members of all ethnic groups in government at national, regional, and local levels;

(ix) programs to strengthen civil society organizations that promote human rights and support human rights monitoring;

(x) support for national, regional, and local elections and political party development;

(xi) support for the effective administration of justice at the national, regional, and local levels, including the establishment of a responsible and community-based police force; and

(xii) support for establishment of a central bank and central budgeting authority.

(B) For each of the fiscal years 2003 through 2005, not less than $10,000,000 of the amount made available to carry out this title should be made available for the purposes of carrying out a traditional Afghan assembly or "Loya Jirga" and for support for national, regional, and local elections and political party development under subparagraph (A)(x).

(6) MARKET ECONOMY.—To support the establishment of a market economy, the establishment of private financial institutions, the adoption of policies to promote foreign direct investment, the development of a basic telecommunication infrastructure, and the development of trade and other commercial links with countries in the region and with the United States, including policies to—

(A) encourage the return of Afghanistan citizens or nationals living abroad who have marketable and business-related skills;

(B) establish financial institutions, including credit unions, cooperatives, and other entities providing microenterprise credits and other income-generation programs for the poor, with particular emphasis on women;

(C) facilitate expanded trade with countries in the region;

(D) promote and foster respect for basic workers' rights and protections against exploitation of child labor; and

(E) provide financing programs for the reconstruction of Kabul and other major cities in Afghanistan.

(b) LIMITATION.—

(1) IN GENERAL.—Amounts made available to carry out this title (except amounts made available for assistance under paragraphs (1) through (3) and subparagraphs (F) through (I) of paragraph (4) of subsection (a)) may be provided only if the President first determines and certifies to Congress with respect to the fiscal year involved that substantial progress has been made toward adopting a constitution and establishing a democratically elected government for Afghanistan.

(2) WAIVER.—

(A) IN GENERAL.—The President may waive the application of paragraph (1) if the President first determines and certifies to Congress that it is important to the national interest of the United States to do so.

(B) CONTENTS OF CERTIFICATION.—A certification transmitted to Congress under subparagraph (A) shall include a written explanation of the basis for the determination of the President to waive the application of paragraph (1).

SEC. 105. COORDINATION OF ASSISTANCE.

(a) IN GENERAL.—The President is strongly urged to designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall strategy to advance United States interests in Afghanistan;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this title;

(3) pursuing coordination with other countries and international organizations with respect to assistance to Afghanistan;

(4) ensuring that United States assistance programs for Afghanistan are consistent with this title;

(5) ensuring proper management, implementation, and oversight by agencies responsible for assistance programs for Afghanistan; and

(6) resolving policy and program disputes among United States Government agencies with respect to United States assistance for Afghanistan.

(b) RANK AND STATUS OF THE COORDINATOR.—The coordinator designated under subsection (a) shall have the rank and status of ambassador.

SEC. 106. ADMINISTRATIVE PROVISIONS.

(a) APPLICABLE ADMINISTRATIVE AUTHORITIES.—Except to the extent inconsistent with the provisions of this title, the administrative authorities under chapters 1 and 2 of part III of the Foreign Assistance Act of 1961 shall apply to the provision of assistance under this title to the same extent and in the same manner as such authorities apply to the provision of economic assistance under part I of such Act.

(b) USE OF THE EXPERTISE OF AFGHAN-AMERICANS.—In providing assistance authorized by this title, the President should—

(1) maximize the use, to the extent feasible, of the services of Afghan-Americans who have expertise in the areas for which assistance is authorized by this title; and

(2) in the awarding of contracts and grants to implement activities authorized under this title, encourage the participation of such Afghan-Americans (including organizations employing a significant number of such Afghan-Americans).

(c) DONATIONS OF MANUFACTURING EQUIPMENT; USE OF LAND GRANT COLLEGES AND

UNIVERSITIES.—In providing assistance authorized by this title, the President, to the maximum extent practicable, should—

(1) encourage the donation of appropriate excess or obsolete manufacturing and related equipment by United States businesses (including small businesses) for the reconstruction of Afghanistan; and

(2) utilize research conducted by United States land grant colleges and universities and the technical expertise of professionals within those institutions, particularly in the areas of agriculture and rural development.

(d) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available to a Federal department or agency to carry out this title for a fiscal year may be used by the department or agency for administrative expenses in connection with such assistance.

(e) MONITORING.—

(1) COMPTROLLER GENERAL.—The Comptroller General shall monitor the provision of assistance under this title.

(2) INSPECTOR GENERAL OF USAID.—

(A) IN GENERAL.—The Inspector General of the United States Agency for International Development shall conduct audits, inspections, and other activities, as appropriate, associated with the expenditure of the funds to carry out this title.

(B) FUNDING.—Not more than $1,500,000 of the amount made available to carry out this title for a fiscal year shall be made available to carry out subparagraph (A).

(f) CONGRESSIONAL NOTIFICATION PROCEDURES.—Funds made available to carry out this title may not be obligated until 15 days after notification of the proposed obligation of the funds has been provided to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President to carry out this title $300,000,000 for each of the fiscal years 2002 through 2004, and $250,000,000 for fiscal year 2005. Amounts authorized to be appropriated pursuant to the preceding sentence for fiscal year 2002 are in addition to amounts otherwise available for assistance for Afghanistan.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—

(1) authorized to remain available until expended; and

(2) in addition to funds otherwise available for such purposes, including, with respect to food assistance under section 104(a)(1), funds available under title II of the Agricultural Trade Development and Assistance Act of 1954, the Food for Progress Act of 1985, and section 416(b) of the Agricultural Act of 1949.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

SEC. 201. SUPPORT FOR SECURITY DURING TRANSITION IN AFGHANISTAN.

It is the sense of Congress that, during the transition to a broad-based, multi-ethnic, gender-sensitive, fully representative government in Afghanistan, the United States should support—

(1) the development of a civilian-controlled and centrally-governed standing Afghanistan army that respects human rights and prohibits the use of children as soldiers or combatants;

(2) the creation and training of a professional civilian police force that respects human rights; and

(3) a multinational security force in Afghanistan.

SEC. 202. AUTHORIZATION OF ASSISTANCE.

(a) TYPES OF ASSISTANCE.—

(1) IN GENERAL.—(A) To the extent that funds are appropriated in any fiscal year for the purposes of this Act, the President may provide, consistent with existing United States statutes, defense articles, defense services, counter-narcotics, crime control and police training services, and other support (including training) to the Government of Afghanistan.

(B) To the extent that funds are appropriated in any fiscal year for these purposes, the President may provide, consistent with existing United States statutes, defense articles, defense services, and other support (including training) to eligible foreign countries and eligible international organizations.

(C) The assistance authorized under subparagraph (B) shall be used for directly supporting the activities described in section 203.

(2) DRAWDOWN AUTHORITY.—The President is authorized to direct the drawdown of defense articles, defense services, and military education and training for the Government of Afghanistan, eligible foreign countries, and eligible international organizations.

(3) AUTHORITY TO ACQUIRE BY CONTRACT OR OTHERWISE.—The assistance authorized under paragraphs (1) and (2) and under Public Law 105–338 may include the supply of defense articles, defense services, counter-narcotics, crime control and police training services, other support, and military education and training that are acquired by contract or otherwise.

(b) AMOUNT OF ASSISTANCE.—The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under subsection (a)(2) may not exceed $300,000,000, provided that such limitation shall be increased by any amounts appropriated pursuant to the authorization of appropriations in section 204(b)(1).

SEC. 203. ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

(a) ELIGIBILITY FOR ASSISTANCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), a foreign country or international organization shall be eligible to receive assistance under section 202 if such foreign country or international organization is participating in or directly supporting United States military activities authorized under Public Law 107–40 or is participating in military, peacekeeping, or policing operations in Afghanistan aimed at restoring or maintaining peace and security in that country.

(2) EXCEPTION.—No country the government of which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) shall be eligible to receive assistance under section 202.

(b) WAIVER.—The President may waive the application of subsection (a)(2) if the President determines that it is important to the national security interest of the United States to do so.

SEC. 204. REIMBURSEMENT FOR ASSISTANCE.

(a) IN GENERAL.—Defense articles, defense services, and military education and training provided under section 202(a)(2) shall be made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to the authorization of appropriations in subsection (b)(1).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, or military education and training provided under section 202(a)(2).

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended, and are in addition to amounts otherwise available for the purposes described in this title.

SEC. 205. ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS.

(a) AUTHORITY.—The President may provide assistance under this title to any eligible foreign country or eligible international organization if the President determines that such assistance is important to the national security interest of the United States and notifies the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination at least 15 days in advance of providing such assistance.

(b) NOTIFICATION.—The report described in subsection (a) shall be submitted in classified and unclassified form and shall include information relating to the type and amount of assistance proposed to be provided and the actions that the proposed recipient of such assistance has taken or has committed to take.

SEC. 206. PROMOTING SECURE DELIVERY OF HUMANITARIAN AND OTHER ASSISTANCE IN AFGHANISTAN.

(a) FINDINGS.—Congress finds the following:

(1) The President has declared his view that the United States should provide significant assistance to Afghanistan so that it never again becomes a haven for terrorism.

(2) The delivery of humanitarian and reconstruction assistance from the international community is necessary for the safe return of refugees and is critical to the future stability of Afghanistan.

(3) Enhanced stability in Afghanistan through an improved security environment is critical to the fostering of the Afghan Interim Authority and the traditional Afghan assembly or "Loya Jirga" process, which is intended to lead to a permanent national government in Afghanistan, and also is essential for the participation of women in Afghan society.

(4) Incidents of violence between armed factions and local and regional commanders, and serious abuses of human rights, including attacks on women and ethnic minorities throughout Afghanistan, create an insecure, volatile, and unsafe environment in parts of Afghanistan, displacing thousands of Afghan civilians from their local communities.

(5) The violence and lawlessness may jeopardize the "Loya Jirga" process, undermine efforts to build a strong central government, severely impede reconstruction and the delivery of humanitarian assistance, and increase the likelihood that parts of Afghanistan will once again become safe havens for al-Qaida, Taliban forces, and drug traffickers.

(6) The lack of security and lawlessness may also perpetuate the need for United

States Armed Forces in Afghanistan and threaten the ability of the United States to meet its military objectives.

(7) The International Security Assistance Force in Afghanistan, currently led by Turkey, and composed of forces from other willing countries without the participation of United States Armed Forces, is deployed only in Kabul and currently does not have the mandate or the capacity to provide security to other parts of Afghanistan.

(8) Due to the ongoing military campaign in Afghanistan, the United States does not contribute troops to the International Security Assistance Force but has provided support to other countries that are doing so.

(9) The United States is providing political, financial, training, and other assistance to the Afghan Interim Authority as it begins to build a national army and police force to help provide security throughout Afghanistan, but this effort is not meeting the immediate security needs of Afghanistan.

(10) Because of these immediate security needs, the Afghan Interim Authority, its Chairman, Hamid Karzai, and many Afghan regional leaders have called for the International Security Assistance Force, which has successfully brought stability to Kabul, to be expanded and deployed throughout the country, and this request has been strongly supported by a wide range of international humanitarian organizations, including the International Committee of the Red Cross, Catholic Relief Services, and Refugees International.

(11)(A) On January 29, 2002, the President stated that "[w]e will help the new Afghan government provide the security that is the foundation of peace".

(B) On March 25, 2002, the Secretary of Defense stated, with respect to the reconstruction of Afghanistan, that "the first thing . . . you need for anything else to happen, for hospitals to happen, for roads to happen, for refugees to come back, for people to be fed and humanitarian workers to move on the country . . . [y]ou've got to have security".

(b) STATEMENT OF POLICY.—It should be the policy of the United States to support measures to help meet the immediate security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

(c) PREPARATION OF STRATEGY.—Not later than 45 days after the date of the enactment of this Act, and every six months thereafter, the President shall transmit to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a strategy for meeting the immediate and long-term security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

SEC. 207. SUNSET.

The authority of this title shall expire after December 31, 2004.

TITLE III—ADDITIONAL REQUIREMENTS WITH RESPECT TO ASSISTANCE FOR AFGHANISTAN

SEC. 301. PROHIBITION ON UNITED STATES INVOLVEMENT IN POPPY CULTIVATION OR ILLICIT NARCOTICS GROWTH, PRODUCTION, OR TRAFFICKING.

No officer or employee of any Federal department or agency who is involved in the provision of assistance under this Act may knowingly encourage or participate in poppy cultivation or illicit narcotics growth, production, or trafficking in Afghanistan. No United States military or civilian aircraft or other United States vehicle that is used with respect to the provision of assistance under this Act may be used to facilitate the distribution of poppies or illicit narcotics in Afghanistan.

SEC. 302. REQUIREMENT TO REPORT BY CERTAIN UNITED STATES OFFICIALS.

(a) REQUIREMENT.—An officer or employee of any Federal department or agency involved in the provision of assistance under this Act and having knowledge of facts or circumstances that reasonably indicate that any agency or instrumentality of the Government of Afghanistan, or any other individual (including an individual who exercises civil power by force over a limited region) or organization in Afghanistan, that receives assistance under this Act is involved in poppy cultivation or illicit narcotics growth, production, or trafficking shall, notwithstanding any memorandum of understanding or other agreement to the contrary, report such knowledge or facts to the appropriate official.

(b) DEFINITION.—In this section, the term "appropriate official" means the Attorney General, the Inspector General of the Federal department or agency involved, or the head of such department or agency.

SEC. 303. REPORT BY THE PRESIDENT.

Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the President shall transmit to Congress a written report on the progress of the Government of Afghanistan toward the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan in accordance with the provisions of this Act.

TAKEN FROM THE SPEAKER'S TABLE AND PASSED

S. 3044, to authorize the Court Services and Offender Supervision Agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation, and supervised release.

S. 3044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Court Services and Offender Supervision Agency Interstate Supervision Act of 2002".

SEC. 2. INTERSTATE SUPERVISION.

Section 11233(b)(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (sec. 24–133(b)(2), D.C. Official Code) is amended—

(1) by amending subparagraph (G) to read as follows:

"(G) arrange for the supervision of District of Columbia offenders on parole, probation, and supervised release who seek to reside in jurisdictions outside the District of Columbia;";

(2) by striking the period at the end of subparagraph (H) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(I) arrange for the supervision of offenders on parole, probation, and supervised release from jurisdictions outside the District of Columbia who seek to reside in the District of Columbia; and

"(J) have the authority to enter into agreements, including the Interstate Compact for Adult Offender Supervision, with any State or group of States in accordance with the Agency's responsibilities under subparagraphs (G) and (I).".

TAKEN FROM THE SPEAKER'S TABLE AND PASSED

S. 3156, to provide a grant for the construction of a new community center in St. Paul, Minnesota, in honor of the late Senator Paul Wellstone and his beloved wife, Sheila.

S. 3156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paul and Sheila Wellstone Center for Community Building Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Senator Paul Wellstone was a tireless advocate for the people of Minnesota, particularly for new immigrants and the economically disadvantaged.

(2) Paul and Sheila Wellstone loved St. Paul, Minnesota, and often walked the neighborhoods of St. Paul to better understand the needs of the people.

(3) Neighborhood House was founded in the late 1800's in St. Paul, Minnesota, by the women of Mount Zion Temple as a settlement house to help newly arrived Eastern European Jewish immigrants establish a new life and thrive in their new community.

(4) Paul and Sheila Wellstone were very committed to Neighborhood House and its mission to improve the lives of its residents.

(5) When Senator Wellstone became aware that the Neighborhood House Community Center was no longer adequate to meet the needs of the St. Paul community, he suggested that Neighborhood House request Federal funding to construct a new facility.

(6) As an honor to Paul and Sheila Wellstone, a Federal grant shall be awarded to Neighborhood House to be used for the design and construction of a new community center in St. Paul, Minnesota, to be known as "The Paul and Sheila Wellstone Center for Community Building".

SEC. 3. CONSTRUCTION GRANT.

(a) GRANT AUTHORIZED.—The Secretary of Housing and Urban Development shall award a grant to Neighborhood House of St. Paul, Minnesota, to finance the construction of a new community center in St. Paul, Minnesota, to be known as "The Paul and Sheila Wellstone Center for Community Building".

(b) MAXIMUM AMOUNT.—The grant awarded under this section shall be $10,000,000.

(c) USE OF FUNDS.—Funds awarded under this section shall only be used for the design and construction of the Paul and Sheila Wellstone Center for Community Building.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 for fiscal year 2003, which shall remain available until expended, to carry out this Act.

Ms. McCOLLUM. Mr. Speaker, I rise today in support of legislation (S. 3156) to create a living memorial for Paul and Sheila Wellstone in my home district of St. Paul. I am pleased that both the House and Senate were able to agree on such a fitting tribute.

Senator Wellstone was my colleague, but Paul and Sheila were also my constituents and my friends. Over the years, Paul and I have walked the streets door knocking and listening to the concerns of Minnesotans, working together to address the challenges of our communities and neighborhoods. Paul and Sheila's enthusiasm for public service and their commitment to Minnesota were unmatched.

Today, I stand with the Minnesota Congressional delegation to pay tribute to Paul and Sheila with a true living memorial to their lives of serving the people of Minnesota.

This legislation will authorize the design and construction of a new community center in St. Paul at the Neighborhood House. The Neighborhood House has played a long-standing role in building community values among diverse peoples. Since the 19th century, the Neighborhood House has supported ethnic and cultural groups through times of transition or need so that they go beyond mere self-sufficiency, develop critical workforce skills, and become active members of our democratic process. From Hmong immigrants to Hispanic women facing domestic violence, the Neighborhood House provides all those who come an opportunity to improve the quality of their lives.

The new center to be named after Paul and Sheila Wellstone will host youth and family programs, immigrant education programs such as English classes, employment services and workforce development. It will provide a forum for new citizens to learn and integrate themselves into their new society and will strengthen Minnesota's richly diverse community.

Paul and Sheila Wellstone were advocates for people from all walks of life. They were open to all Minnesotans. In the Senate, Paul spoke for those who had no voice and he worked hard to empower those who needed help the most. This new center embodies the ideals and principles that Paul and Sheila lived every day.

I thank all my colleagues in Congress for honoring Paul and Sheila Wellstone in a way that will continue their work and improve the lives of Minnesotans for years to come.

DISCHARGED FROM THE COMMITTEE ON INTERNATIONAL RELATIONS AND AGREED TO

H. Res. 604, expressing the sense of the House of Representatives that the United States should adopt a global strategy to respond to the current coffee crisis, and for other purposes.

H. RES. 604

Whereas since 1997 the price of coffee has declined nearly 70 percent on the world market and has recently reached its lowest level in a century;

Whereas the collapse of coffee prices has resulted in a widespread humanitarian crisis for 25,000,000 coffee growers and for more than 50 developing countries where coffee is a critical source of rural employment and foreign exchange earnings;

Whereas, according to a recent World Bank report, 600,000 permanent and temporary coffee workers in Central America have been left unemployed in the last two years;

Whereas the World Bank has referred to the coffee crisis as "the silent Mitch", equating the impact of record-low coffee prices upon Central American countries with the damage done to such countries by Hurricane Mitch in 1998;

Whereas 6 of 14 immigrants who died in the Arizona desert in May 2001 were small coffee farmers from Veracruz, Mexico;

Whereas The Washington Post, The New York Times, and The Wall Street Journal report that cultivation of illicit crops such as coca and opium poppy is increasing in traditional coffee-growing countries, such as Colombia and Peru, which have been adversely affected by low international coffee prices;

Whereas the economies of some of the poorest countries in the world, particularly those in Africa, are highly dependent on trade in coffee;

Whereas coffee accounts for approximately 80 percent of export revenues for Burundi, 54 percent of export revenues for Ethiopia, 34 percent of export revenues for Uganda, and 31 percent of export revenues for Rwanda;

Whereas, according to the Oxfam International Report "Mugged: Poverty in your Coffee Cup", in the Dak Lak province of Vietnam, one of the lowest-cost coffee producers in the world, the price farmers receive for their product covers as little as 60 percent of their costs of production and the income derived by the worst-off farmers in that region is categorized as "pre-starvation" income;

Whereas on February 1, 2002, the International Coffee Organization (ICO) passed Resolution 407;

Whereas Resolution 407 calls for exporting member countries to observe minimum standards for exportable coffee and provide for the issuance of ICO certificates of origin according to those standards;

Whereas ICO Resolution 407 calls on importing member countries to "make their best endeavors to support the objectives of the programme";

Whereas both the Specialty Coffee Association of America (SCAA) and the National Coffee Association (NCA) support ICO Resolution 407 and have publicly advocated for the United States to rejoin the International Coffee Organization;

Whereas on July 24, 2002, the Subcommittee on the Western Hemisphere of the Committee on International Relations of the House of Representatives held a hearing on the coffee crisis in the Western Hemisphere;

Whereas the United States Agency for International Development (USAID) has already established coffee sector assistance programs for Colombia, Bolivia, the Dominican Republic, East Timor, El Salvador, Ethiopia, Guatemala, Haiti, Honduras, Nicaragua, Panama, Peru, Rwanda, Tanzania, and Uganda; and

Whereas the report accompanying the Foreign Operations, Export Financing, and Related Programs Appropriations Bill, 2003 (House Report 107–663), highlights the coffee price crisis as a global issue and "urges USAID to focus its rural development and relief programs on regions severely affected by the coffee crisis, especially in Colombia": Now, therefore, be it

Resolved, That—

(1) it is the sense of the House of Representatives that—

(A) the United States should adopt a global strategy to respond to the coffee crisis with coordinated activities in Latin America, Africa, and Asia to address the short-term humanitarian needs and long-term rural development needs of countries adversely affected by the collapse of coffee prices; and

(B) the President should explore measures to support and complement multilateral efforts to respond to the global coffee crisis; and

(2) the House of Representatives urges private sector coffee buyers and roasters to work with the United States Government to find a solution to the crisis which is economically, socially, and environmentally sustainable for all interested parties, and that will address the fundamental problem of oversupply in the world coffee market.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND AGREED TO

H. Con. Res. 499, honoring George Rogers Clark.

H. CON. RES. 499

Whereas George Rogers Clark was a colonial frontiersman who succeeded in protecting western colonists through diplomacy and advocacy with the colonial government of Virginia;

Whereas George Rogers Clark doubled the size of colonial America through western exploration and by founding towns in Kentucky;

Whereas George Rogers Clark was an expert negotiator with American Indian tribes, securing trade and security for western colonists;

Whereas George Rogers Clark ensured American control of the Northwest Territory by leading a small band of soldiers during the Revolutionary War and successfully capturing British outposts along the Mississippi and Wabash Rivers;

Whereas George Rogers Clark boldly and courageously led fewer than 200 soldiers to recapture the British Fort Sackville at Vincennes, Indiana, in the winter of 1778–1779;

Whereas the soldiers marched across Illinois through flooded and frozen territory and reached Vincennes on the evening of February 23, 1779;

Whereas upon surrounding Fort Sackville, George Rogers Clark was able to give the impression of having a much larger army convincing the British that they were no match for Clark's forces;

Whereas on the morning of February 25, 1779, the British Lieutenant Governor Henry Hamilton surrendered Fort Sackville to George Rogers Clark and his soldiers;

Whereas this victory foiled British attempts to drive the Americans out of the region west of the Appalachians and pulled vital resources from the eastern theater during the American Revolution;

Whereas George Rogers Clark showed great leadership by commanding an expedition northward in 1782 to control unrest caused by British forces in the region;

Whereas George Rogers Clark continued to offer leadership after the Revolutionary War by serving as an advisor to his community; and

Whereas the 250th anniversary of George Rogers Clark's birth is November 19, 2002: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress honors George Rogers Clark, whose patriotism and bravery helped to secure American independence and liberty.

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND AGREED TO

H. Res. 582, recognizing and supporting the goals and ideals of "National Runaway Prevention Month".

H. RES. 582

Whereas the prevalence of runaway and homeless situations among youth is staggering, with studies suggesting that between

1,300,000 and 2,800,000 youth live on the streets of the United States each year;

Whereas running away from home is widespread, with 1 out of every 7 youth in the United States running away from home before the age of 18;

Whereas runaway youth most often are youth who have been expelled from their homes by their families, physically, sexually, and emotionally abused at home, discharged by State custodial systems without adequate transition plans, separated from their parents through death and divorce, too poor to secure their own basic needs, and ineligible or unable to access adequate medical or mental health resources;

Whereas effective programs supporting runaway youth and assisting youth and their families in remaining at home succeed because of partnerships created among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations, and businesses;

Whereas preventing youth from running away from home and supporting youth in high-risk situations is a family, community, and national priority;

Whereas the future well-being of the Nation is dependent on the opportunities provided for youth and families to acquire the knowledge, skills, and abilities necessary for youth to develop into safe, healthy, and productive adults;

Whereas the National Network for Youth and its members advocate on behalf of runaway and homeless youth and provide an array of community-based supports that address their critical needs;

Whereas the National Runaway Switchboard provides crisis intervention and referrals to reconnect runaway youth to their families and to link youth to local resources that provide positive alternatives to running away from home; and

Whereas the National Network for Youth and National Runaway Switchboard are cosponsoring National Runaway Prevention Month, during the month of November, to increase public awareness of the life circumstances of youth in high-risk situations and the need for safe, healthy, and productive alternatives, resources, and supports for youth, families, and communities: Now, therefore, be it

Resolved, That the House of Representatives recognizes and supports the goals and ideals of "National Runaway Prevention Month".

DISCHARGED FROM THE COMMITTEE ON GOVERNMENT REFORM AND AGREED TO

H. Res. 599, congratulating the Anaheim Angels for winning the 2002 World Series.

H. RES. 599

Whereas on October 27, 2002, the Anaheim Angels won the 2002 World Series;

Whereas the Angels captured their first World Series title in the team's 42-year history;

Whereas the Anaheim Angels defeated the Central Division champion Minnesota Twins to win the American League Championship Series;

Whereas the Angels defeated the Eastern Division and defending American League champion New York Yankees to win the American League Division Series;

Whereas the Angels won a team-record 110 games (including 99 games in the regular season);

Whereas the Angels' team of skilled players, including Troy Glaus, Tim Salmon, Scott Spiezio, David Eckstein, Garret Anderson, Darin Erstad, Adam Kennedy, Bengie Molina, Brad Fullmer, John Lackey, Troy Percival, Francisco Rodriguez, Kevin Appier, Jarrod Washburn, Ben Weber, Brendan Donnelly, Alex Ochoa, Ramon Ortiz, Scott Schoeneweis, Shawn Wooten, Jose Molina, Chone Figgins, Benji Gil, Orlando Palmeiro, and Scot Shields, contributed extraordinary performances during the playoffs and the World Series;

Whereas third baseman Troy Glaus, who batted .385 with 3 home runs and 8 RBI, was named Most Valuable Player of the 2002 World Series;

Whereas Manager Mike Scioscia, who provided strong leadership and solid coaching for a baseball team that was dominant in the regular season and in postseason play, was named American League Manager of the Year;

Whereas Bill Stoneman, General Manager of the Anaheim Angels, has shown dedication to the Angels franchise, successfully putting together a team of high-quality, winning players;

Whereas the Anaheim Angels were founded in 1961 by Gene Autry, the famous "Singing Cowboy" and star of motion picture and television;

Whereas on the day he became the first country musician to receive a star on the Hollywood Walk of Fame, Gene Autry said, "There's only one day that will be bigger than this one for me, and that's when we win the World Series";

Whereas Jackie Autry carries on the spirit of her husband as Honorary President of the American League, and continues to be the Angels' most devoted fan;

Whereas great players and managers, including Nolan Ryan, Gene Mauch, Jim Fregosi, Rod Carew, Don Baylor, and Wally Joyner, have helped the Angels develop a strong baseball tradition in their short history, which includes winning Western Division championships in 1979, 1982, and 1986;

Whereas the Angels fans supported their team with exceptional enthusiasm and spirit, and introduced the power of the Rally Monkey to a once-disbelieving array of opponents; and

Whereas the Angels captivated the Nation and inspired the pride of all Americans with their historic performance: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates—

(A) the Anaheim Angels for winning the 2002 Major League Baseball World Series championship and for their outstanding performance during the 2002 Major League Baseball season; and

(B) all of the eight Major League Baseball teams that played in the postseason;

(2) recognizes the achievements of the Angels players, coaches, and support staff whose hard work, dedication, and never-say-die spirit proved instrumental in the Angels' first-ever World Series victory;

(3) commends the San Francisco Giants for a valiant performance during the World Series and for showing their strength and skill as a team; and

(4) directs the Clerk of the House of Representatives to transmit an enrolled copy of this resolution to—

(A) Angels players;

(B) Angels Manager Mike Scioscia;

(C) Angels General Manager Bill Stoneman;

(D) The Walt Disney Company; and

(E) Jackie Autry.

DISCHARGED FROM COMMITTEE ON EDUCATION AND THE WORKFORCE AND AGREED TO

H. Res. 612, honoring the life of Dr. Roberto Cruz.

H. RES. 612

Whereas Dr. Cruz received a bachelor's degree in Spanish from the Wichita State University, a masters degree in education from the University of California-Berkeley, and a doctoral degree in policy, planning, and administration from the University of California-Berkeley;

Whereas Dr. Cruz was appointed by the Secretary of Education to a national advisory council that dealt with the education of language minority students;

Whereas Dr. Cruz has received many honors from educational and Hispanic organizations for his support of education for limited English proficient children, including introduction into the Hispanic Hall of Fame and the Hispanic Achievement Award in Education;

Whereas Dr. Cruz had the foresight and courage to address the lack of educational opportunities for young Hispanic students coming out of high school by founding the National Hispanic University in Oakland, California, in 1981, and serving as its first President;

Whereas Dr. Cruz developed strong partnerships between the academic and business communities to foster educational opportunities; and

Whereas on September 4, 2002, Dr. Cruz died after a long and distinguished career: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes Dr. Roberto Cruz's professionalism and commitment to education;

(2) honors Dr. Cruz's life; and

(3) extends its condolences to the Cruz family and to the faculty, staff, and students of the National Hispanic University on the occasion of his death.

DISCHARGED FROM COMMITTEE ON ENERGY AND COMMERCE, AMENDED, AND PASSED

S. 1843, to extend certain hydro-electric licenses in the State of Alaska.

Strike all after the enacting clause and insert new text:

SECTION 1. STAY AND REINSTATEMENT OF FERC LICENSE NO. 11393.

(a) Upon the request of the licensee for FERC Project No. 11393, the Federal Energy Regulatory Commission shall issue an order staying the license.

(b) Upon the request of the licensee for FERC Project No. 11393, but not later than 6 years after the date that the Federal Energy Regulatory Commission receives written notice that construction of the Swan-Tyee transmission line is completed, the Federal Energy Regulatory Commission shall issue an order lifting the stay and make the effective date of the license the date on which the stay is lifted.

(c) Upon request of the licensee for FERC Project No. 11393 and notwithstanding the time period specified in section 13 of the Federal Power Act for the commencement of construction, the Commission shall, after reasonable notice and in accordance with the good faith, due diligence, and public interest requirements of that section, extend the time period during which licensee is required to commence the construction of the project for not more than one 2-year time period.

PASSED, AS AMENDED BY THE COMMITTEE AMENDMENT

H.R. 5504, to provide for the improvement of the safety of child restraints in passenger motor vehicles, and for other purposes.

SECTION 1. SHORT TITLE.

This Act may be cited as "Anton's Law".

SEC. 2. FINDINGS.

Congress finds the following:

(1) It is the policy of the Department of Transportation that all child occupants of motor vehicles, regardless of seating position, be appropriately restrained in order to reduce the incidence of injuries and fatalities resulting from motor vehicle crashes on the streets, roads, and highways.

(2) Research has shown that very few children between the ages of 4 to 8 years old are in the appropriate restraint for their age when riding in passenger motor vehicles.

(3) Children who have outgrown their child safety seats should ride in a belt-positioning booster seat until an adult seat belt fits properly.

(4) Children who were properly restrained when riding in passenger motor vehicles suffered less severe injuries from accidents than children not properly restrained.

SEC. 3. IMPROVEMENT OF SAFETY OF CHILD RESTRAINTS IN PASSENGER MOTOR VEHICLES.

(a) IN GENERAL.—The Secretary of Transportation (hereafter referred to as the "Secretary") shall initiate a rulemaking proceeding to establish performance requirements for child restraints, including booster seats, for the restraint of children weighing more than 50 pounds.

(b) ELEMENTS FOR CONSIDERATION.—In the rulemaking proceeding required by subsection (a), the Secretary shall—

(1) consider whether to include injury performance criteria for child restraints, including booster seats and other products for use in passenger motor vehicles for the restraint of children weighing more than 50 pounds, under the requirements established in the rulemaking proceeding;

(2) consider whether to establish performance requirements for seat belt fit when used with booster seats and other belt guidance devices;

(3) consider whether to address situations where children weighing more than 50 pounds only have access to seating positions with lap belts, such as allowing tethered child restraints for such children; and

(4) review the definition of the term "booster seat" in Federal motor vehicle safety standard No. 213 under section 571.213 of title 49, Code of Federal Regulation, to determine if it is sufficiently comprehensive.

(c) COMPLETION.—The Secretary shall complete the rulemaking proceeding required by subsection (a) not later than 30 months after the date of the enactment of this Act.

SEC. 4. DEVELOPMENT OF ANTHROPOMORPHIC TEST DEVICE SIMULATING A 10-YEAR OLD CHILD.

(a) DEVELOPMENT AND EVALUATION.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall develop and evaluate an anthropomorphic test device that simulates a 10-year old child for use in testing child restraints used in passenger motor vehicles.

(b) ADOPTION BY RULEMAKING.—Within 1 year following the development and evaluation carried out under subsection (a), the Secretary shall initiate a rulemaking proceeding for the adoption of an anthropomorphic test device as developed under subsection (a).

SEC. 5. REQUIREMENTS FOR INSTALLATION OF LAP AND SHOULDER BELTS.

(a) IN GENERAL.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall complete a rulemaking proceeding to amend Federal motor vehicle safety standard No. 208 under section 571.208 of title 49, Code of Federal Regulations, relating to occupant crash protection, in order to—

(1) require a lap and shoulder belt assembly for each rear designated seating position in a passenger motor vehicle with a gross vehicle weight rating of 10,000 pounds or less, except that if the Secretary determines that installation of a lap and shoulder belt assembly is not practicable for a particular designated seating position in a particular type of passenger motor vehicle, the Secretary may exclude the designated seating position from the requirement; and

(2) apply that requirement to passenger motor vehicles in phases in accordance with subsection (b).

(b) IMPLEMENTATION SCHEDULE.—The requirement prescribed under subsection (a)(1) shall be implemented in phases on a production year basis beginning with the production year that begins not later than 12 months after the end of the year in which the regulations are prescribed under subsection (a). The final rule shall apply to all passenger motor vehicles with a gross vehicle weight rating of 10,000 pounds or less that are manufactured in the third production year of the implementation phase-in under the schedule.

SEC. 6. EVALUATION OF INTEGRATED CHILD SAFETY SYSTEMS.

(a) EVALUATION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall initiate an evaluation of integrated or built-in child restraints and booster seats. The evaluation should include—

(1) the safety of the child restraint and correctness of fit for the child;

(2) the availability of testing data on the system and vehicle in which the child restraint will be used;

(3) the compatibility of the child restraint with different makes and models;

(4) the cost-effectiveness of mass production of the child restraint for consumers;

(5) the ease of use and relative availability of the child restraint to children riding in motor vehicles; and

(6) the benefits of built-in seats for improving compliance with State child occupant restraint laws.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report of this evaluation.

SEC. 7. DEFINITIONS.

As used in this Act, the following definitions apply:

(1) CHILD RESTRAINT.—The term "child restraint" means any product designed to provide restraint to a child (including booster seats and other products used with a lap and shoulder belt assembly) that meets applicable Federal motor vehicle safety standards prescribed by the National Highway Traffic Safety Administration.

(2) PRODUCTION YEAR.—The term "production year" means the 12-month period between September 1 of a year and August 31 of the following year.

(3) PASSENGER MOTOR VEHICLE.—The term "passenger motor vehicle" has the meaning given that term in section 405(f)(5) of title 23, United States Code.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $5,000,000 to the Secretary of Transportation for—

(1) the evaluation required by Section 6 of this Act; and

(2) research of the nature and causes of injury to children involved in motor vehicle crashes.

(b) LIMITATION.—Funds appropriated under subsection (a) shall not be available for the general administrative expenses of the Secretary.

Mr. TAUZIN. Mr. Speaker, today we are considering an important and needed piece of safety legislation, H.R. 5504, the "Child Safety Enhancement Act of 2002." This bill, introduced by Rep. SHIMKUS, aims to protect the "forgotten child"—those children who are too large for the child safety seat, but too small for adult seat belts. Make no mistake about it, this bill will save the lives of innocent children who are too often the victims of automobile accidents.

This bill will enhance child passenger safety by requiring the National Highway Traffic Safety Administration (NHTSA) to draft a final rule establishing performance requirements for child restraints, including booster seats, for children weighing more than 50 pounds when riding in passenger vehicles, and the installation of three-point lap and shoulder belts in rear seats.

The legislation mandates that NHTSA initiate a rulemaking that will require the installation of the three-point, lap and shoulder belt assembly in certain rear seats within one year after enactment. This installation requirement must be phased in over three production years. NHTSA may, in accordance with past practice, allow for the earning of credits for early compliance or compliance beyond the mandated phase-in, allowing manufacturers to utilize credits in future model years. This section is intended to maximize occupant safety and it should not be construed to promote or inhibit liability. This legislation does not change the law on liability, and it is not intended to be a sword or a shield in litigation.

Again, I thank Mr. SHIMKUS for shepherding this good bill through the Energy and Commerce Committee, and I strongly support its passage.

PASSED, AS AMENDED BY THE COMMITTEE AMENDMENT AS FURTHER AMENDED

H.R. 3429, to direct the Secretary of Transportation to make grants for security improvements to over-the-road bus operations, and for other purposes.

H.R. 3429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Over-the-Road Bus Security and Safety Act of 2001".

SEC. 2. EMERGENCY OVER-THE-ROAD BUS SECURITY ASSISTANCE.

(a) IN GENERAL.—The Secretary of Transportation may make grants to private operators of over-the-road buses for system-wide security improvements to their operations, including the reimbursement of extraordinary security-related costs determined by the Secretary to have been incurred by such operators since September 11, 2001, and including—

(1) constructing and modifying garages, facilities, or over-the-road buses to assure their security;

(2) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;

(3) training employees in recognizing and responding to terrorist threats, evacuation

procedures, passenger screening procedures, and baggage inspection;

(4) hiring and training security officers or "bus marshals";

(5) installing cameras and video surveillance equipment on over-the-road buses and at garages and over-the-road bus facilities;

(6) creating a program for employee identification or background investigation;

(7) establishing an emergency communications system linked to police and emergency personnel; and

(8) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) Federal Share.—The Federal share of the cost for which any grant is made under this Act shall be 90 percent.

(c) Relationship to Other Laws.—Section 5333 of title 49, United States Code, shall apply to a grant made under this Act in the same manner and to the same extent as to a grant made under chapter 53 of such title.

SEC. 3. PLAN REQUIREMENT.

The Secretary may not make a grant under this Act to a private operator of over-the-road buses until the operator has first submitted to the Secretary—

(1) a plan of the operator for making security improvements described in section 2 and the Secretary has approved the plan; and

(2) such additional information as the Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.

SEC. 4. OVER-THE-ROAD BUS DEFINED.

In this Act, the term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

SEC. 5. FUNDING.

(a) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary of Transportation to carry out this Act $200,000,000 for fiscal year 2002. Such sums shall remain available until expended.

(b) Imposition and Collection of Passenger Fees.—The Secretary shall impose and collect from passengers of private operators of over-the-road buses in fiscal years 2002, 2003, and 2004 a fee to pay the cost of carrying out this Act. Such fee shall be $0.25 for each bus trip of a passenger of a private operator of an over-the-road bus if the cost of the trip is more than $5. Subject to subsection (c) and notwithstanding section 9701 of title 31, United States Code, and the procedural requirements of section 553 of title 5, United States Code, the Secretary shall impose the fee through the publication of notice of such fee in the Federal Register, and begin collection of the fee within 60 days of the date of enactment of this Act, or as soon as possible thereafter.

(c) Requirement for Appropriation Before Imposition or Collection of Fees.—The Secretary shall not impose or collect a fee under this section before the date on which all or any portion of the amounts authorized by subsection (a) are appropriated to carry out this Act.

(d) Fees Payable to Secretary.—All fees imposed and amounts collected under this section are payable to the Secretary.

(e) Receipts Credited to Account.—Notwithstanding section 3302 of title 31, United States Code, all fees collected under this section—

(1) shall be credited to a separate account established in the Treasury;

(2) shall be available immediately, without further appropriation, for expenditure but only for making grants under section 2 in fiscal years 2003 and 2004; and

(3) shall remain available until expended.

(f) Fees Collected by Bus Operators.—A fee imposed under this section shall be collected by the private operators of over-the-road buses and shall be remitted by such operators to the Secretary on the last day of each calendar month. The amount to be remitted shall be for the calendar month preceding the calendar month in which the remittance is made.

(g) Information.—The Secretary may require the provision of such information as the Secretary decides is necessary to verify that fees have been collected and remitted at the proper times and in the proper amounts.

(h) Refunds.—The Secretary may refund to a private operator of an over-the-road bus any fee paid by such operator by mistake or any amount paid by such operator in excess of that required.

Further amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Max Cleland Over-the-Road Bus Security and Safety Act of 2002".

SEC. 2. EMERGENCY OVER-THE-ROAD BUS SECURITY ASSISTANCE.

(a) In General.—The Secretary of Transportation, acting through the Administrator of the Federal Motor Carrier Safety Administration, shall establish a program for making grants to private operators of over-the-road buses for system-wide security improvements to their operations, including—

(1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security;

(2) protecting or isolating the driver;

(3) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;

(4) training employees in recognizing and responding to security threats, evacuation procedures, passenger screening procedures, and baggage inspection;

(5) hiring and training security officers;

(6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities;

(7) creating a program for employee identification or background investigation;

(8) establishing an emergency communications system linked to law enforcement and emergency personnel; and

(9) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) Reimbursement.—A grant under this Act may be used to provide reimbursement to private operators of over-the-road buses for extraordinary security-related costs for improvements described in paragraphs (1) through (9) of subsection (a), determined by the Secretary to have been incurred by such operators since September 11, 2001.

(c) Federal Share.—The Federal share of the cost for which any grant is made under this Act shall be 90 percent.

(d) Due Consideration.—In making grants under this Act, the Secretary shall give due consideration to private operators of over-the-road buses that have taken measures to enhance bus transportation security from those in effect before September 11, 2001.

(e) Grant Requirements.—A grant under this Act shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393).

SEC. 3. PLAN REQUIREMENT.

(a) In General.—The Secretary may not make a grant under this Act to a private operator of over-the-road buses until the operator has first submitted to the Secretary—

(1) a plan for making security improvements described in section 2 and the Secretary has approved the plan; and

(2) such additional information as the Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.

(b) Coordination.—To the extent that an application for a grant under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

SEC. 4. OVER-THE-ROAD BUS DEFINED.

In this Act, the term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

SEC. 5. BUS SECURITY ASSESSMENT.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a preliminary report in accordance with the requirements of this section.

(b) Contents of Preliminary Report.—The preliminary report shall include—

(1) an assessment of the over-the-road bus security grant program;

(2) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed;

(3) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;

(4) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;

(5) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver; and

(6) an assessment of industry best practices to enhance security.

(c) Consultation With Industry, Labor, and Other Groups.—In carrying out this section, the Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

SEC. 6. FUNDING.

There is authorized to be appropriated to the Secretary of Transportation to carry out this Act $99,000,000 for fiscal year 2003. Such sums shall remain available until expended.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of the amendment in the nature of a substitute to H.R. 3429, the Max Cleland Over-the-Road Bus Security and Safety Act of 2002.

I am pleased that the House is moving forward with this important piece of transportation security legislation. Since reporting the bill in June, the Committee has worked aggressively to bring the bill to the Floor. Unfortunately, every Committee effort to advance the bill was blocked by the Republican Leadership. I am pleased, therefore, with the Leadership's recent change of heart, even at this late date, to allow the Committee to advance this important piece of legislation.

The bill has been worked out with our counterparts on the Commerce Committee in the Other Body and has the strong support of our side of the aisle. We expect both bodies will clear the bill for the President's signature.

Since the September 11 terrorist attacks, over-the-road bus drivers and passengers have been the targets of many serious assaults, including two assaults killing a total of nine passengers and another assault injuring 33 passengers. As recently as September 30, 2002, a bus driver was attacked with a knife while transporting 49 passengers on a Greyhound bus in California. As a result of the attack, the bus went off the road and ended up on its side. Although the driver survived, two of the 49 passengers died.

These violent incidents point to the immediate need to improve security measures for intercity buses and bus terminals. On August 2, 2002, the President signed into law the FY 2002 Supplemental Appropriations Act (P.L. 107–206). The Act provided $15 million for grants and contracts to enhance security for intercity bus operations. However, the Department of Transportation (DOT) has not released a single penny of these funds. In fact, DOT has not even established an application process by which entities can apply for these security funds.

The Administration's failure to make these funds available is inexcusable. The recent California attack was the fourth attack on an intercity bus driver in the past year. Any further delay in releasing these funds risks the lives of thousands of low-income Americans whose only mode of transportation may be travel by bus. The Administration must take immediate action to make these funds available.

Mr. Speaker, H.R. 3429, as amended, moves us in the right direction. It directs the Secretary of Transportation to establish a program for making grants to private operators of over-the-road buses for system-wide security improvements to their operations, including constructing and modifying terminals, garages, or over-the-road buses to assure their security; protecting the driver; training employees in recognizing security threats; hiring and training security officers; installing camera and video surveillance equipment; and establishing an emergency communications system linked to law enforcement and emergency personnel.

Since September 11, the intercity bus industry has spent millions on enhanced security measures. The funds provided by the bill will supplement measures already undertaken by the industry to increase the security of the bus system and restore the public's confidence in traveling by bus.

H.R. 3429, as amended, authorizes $99 million in fiscal year 2003 to allow the Secretary to make grants to private bus operators for system-wide security improvements to their operations. The federal share of the cost of any grant is 90 percent.

I urge my colleagues to support the amendment in the nature of a substitute to H.R. 3429.

Mr. YOUNG of Alaska. The purposes of this bill are to establish a direct grant program to help improve the system-wide security of over-the-road bus operations, and to authorize the Secretary of Transportation to conduct a security assessment of over-the-road bus operations.

Over-the-road buses, or motorcoaches, operate in both commuter and intercity operations. The motorcoach industry, which includes regularly scheduled point-to-point service and chartered tour operations, carried more than 774 million passengers in the United States in 2000. According to the Bureau of Transportation Statistics, the intercity bus transportation industry serves 5000 locations nationwide, many of which are rural communities that might not have other modes of intercity transportation available to the public. Of the 4,000 bus companies operating in this country, 90 percent operate fewer than 25 buses.

There are worrisome precedents for security breaches on buses. For example, in the Middle East, terrorists have used buses to cause mass casualties in a number of crowded cities. In the United States, Greyhound drivers and passengers were the targets of a least 4 serious assaults last year, one killing 7 passengers and another injuring 33 passengers, and at least 3 other serious security breaches. No other major United States transportation mode had as many incidents of passenger attacks during that period. These incidents occurred in states throughout the country, including Tennessee, Arizona, Utah, Oklahoma, Pennsylvania, and Vermont.

In response to the incidents, bus companies have taken a number of steps to enhance security. These steps include: performing random screening of passengers and baggage at selected terminals; requiring ticket identification; providing cell phones to drivers as an interim emergency communications system; increasing security personnel in terminals; giving the driver the right to limit access to the first row of seats; and establishing information and communications systems to aid and coordinate with law enforcement.

In the 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States (P.L. 107–206), $15 million was provided of bus security improvements intended to address the same type of security-related issues as identified in this bill. This appropriation represents the first installment of funds for over-the-road bus security and the Managers encourage the Secretary to move forward expeditiously to utilize these funds for their intended purpose.

Section-by-section Analysis

Section 1. Short title.

This Act may be cited as the "Max Cleland Over-the-Road Bus Security and Safety Act of 2002".

Section 2. Emergency over-the-road bus security assistance.

This section directs the Secretary of Transportation, acting through the Administrator for the Federal Motor Carrier Safety Administration, to establish a program for making grants to private operators of over-the-road buses for system-wide security improvements to their operations. Improvements eligible for grants include: constructing and modifying terminals, garages, facilities and over-the-road buses to assure their security; improvements to protect or isolate the driver; upgrading, purchasing or installing manifest or ticketing systems; hiring security officers; training employees; installing surveillance equipment; conducting employee background checks; establishing emergency communications systems; and implementing passenger screening programs. Operators may also receive grants for eligible projects providing reimbursement for extraordinary security-related costs incurred since September 11, 2001. In making grants, the Secretary is directed to give due consideration to operators of over-the-road buses that have already taken measures to enhance security since September 11, 2001.

This section also makes clear that grants under this bill will adhere to the existing requirements for over-the-road bus operators under section 3038(f) of the Transportation Equity Act for the 21st Century.

The federal share will be 90 percent of the cost of the improvement for which any grant is made.

Section 3. Plan requirement.

This section requires that the Secretary approve a plan for security improvements submitted by an over-the-road bus operator before a grant may be made. The plan submitted by the operator must comply with the uses described in Section 2 and include any additional information the Secretary deems necessary to ensure the accountability for amounts made available through the grant program.

This section also provides that an applicant for a grant for improvements at a terminal owned and operated by an entity other than the applicant must demonstrate to the Secretary that the improvements have been coordinated with the terminal's owner or operator.

Section 4. Over-the-road bus defined.

This section defines an over-the-road bus as a bus characterized by an elevated passenger deck located over a baggage compartment, consistent with the definition used in the Transportation Equity Act for the 21st Century (P.L. 105–178).

Section 5. Bus security assessment.

This section directs the Secretary to submit a preliminary report within 180 days of enactment to the Senate Committee on Commerce, Science and Transportation and the House Committee on Transportation and Infrastructure. The report will include assessments of: the grant program established by the bill; actions taken by public and private entities to address security issues and recommendations on whether additional actions; including legislation are needed; the economic impact of security upgrades on the over-the-road bus industry and its employees; ongoing and needed research on over-the-road bus security; and industry best practices to enhance security. In conducting the assessments, the Secretary is to consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

Section 6. Funding.

This section authorizes $99 million for the grant program for fiscal year 2003 and provides that such sums shall remain available until expended.

Mr. YOUNG of Alaska. Mr. Speaker, I move to call up H.R. 3429, as amended, from the desk, and pass the bill by unanimous consent.

Mr. Speaker, the Max Cleland Over-the-Road Bus Security and Safety Act, H.R. 3429, will enhance the security of the nation's intercity bus network by directing the Secretary of Transportation to establish a grant program for security improvements to over-the-road operations.

The bipartisan legislation was introduced last December, and was marked up by the full Transportation and Infrastructure Committee on June 13, 2002. The amended bill before you reflects an agreement between the House Transportation and Infrastructure Committee and the Senate Commerce Committee, which reported a companion bill, S. 1739. The Senate bill was introduced and championed by Senator MAX CLELAND, and the bill has been named for him to commemorate his work on this legislation.

Since last year's terrorist attacks on New York and Washington, D.C., the Transportation Committee has re-examined the security of all modes of transportation. The intercity bus industry transports more than 750 million passengers a year, and is an important element of a intermodal national transportation system.

Unfortunately, recent terrorist bombings on foreign buses and bus stations, as well as attacks against bus drivers here in the U.S., demonstrate the need for strengthened bus security.

$15 million has already been appropriated for improvements to bus security in the fiscal year 2002 emergency supplemental, and another $15 million is pending for fiscal year 2003. It is imperative that we authorize this grant program now so the Secretary of Transportation will have direction from Congress on how these funds shall be spent.

H.R. 3429 authorizes a total of $99 million for fiscal year 2003 from the general fund for discretionary grants to private operators of intercity bus service for a number of security-related costs, including: constructing or modifying terminals, bus garages or other facilities to assure security; protecting or isolating the bus driver; upgrading, purchasing, or installing passenger ticketing systems; employee training; hiring security officers; installing cameras and video surveillance equipment on buses and in facilities; creating employee identification and background check programs; establishing emergency communications systems; and implementing passenger screening programs at terminals and on buses.

These grants can be made for new security improvements, or can be used to reimburse extraordinary security costs incurred in the wake of September 11, 2001.

There are number of changes from the House Committee-reported bill, which can be summarized as follows:

1. The Secretary is directed to establish the grant program through the Federal Motor Carrier Safety Administration, the regulatory agency that is responsible for over-the-road bus safety.

2. The total authorization period is one year, rather than three years, and the total amount authorized is $99 million instead of $200 million. This program will be reauthorized in the larger context of TEA 21 reauthorization next year.

3. A new section requested by the Senate is included that requires an assessment of the current status of security issues as they relate to the over-the-road bus industry. This report is due in six months, and will be helpful to the authorizing Committees as we work on TEA 21 reauthorization.

Mr. Speaker, thank you for allowing this bill to move through in these last days of the 107th Congress.

PASSED, AS AMENDED BY THE COMMITTEE AMENDMENT AS FURTHER AMENDED

H.R. 2458, to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

H.R. 2458

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "E-Government Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

Sec. 101. Management and promotion of electronic government services.
Sec. 102. Conforming amendments.

TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

Sec. 201. Definitions.
Sec. 202. Federal agency responsibilities.
Sec. 203. Compatibility of executive agency methods for use and acceptance of electronic signatures.
Sec. 204. Federal Internet portal.
Sec. 205. Federal courts.
Sec. 206. Regulatory agencies.
Sec. 207. Accessibility, usability, and preservation of government information.
Sec. 208. Privacy provisions.
Sec. 209. Federal information technology workforce development.
Sec. 210. Share-in-savings initiatives.
Sec. 211. Authorization for acquisition of information technology by State and local governments through Federal supply schedules.
Sec. 212. Integrated reporting study and pilot projects.
Sec. 213. Community technology centers.
Sec. 214. Enhancing crisis management through advanced information technology.
Sec. 215. Disparities in access to the Internet.

TITLE III—INFORMATION SECURITY

Sec. 301. Information security.
Sec. 302. Management of information technology.
Sec. 303. National Institute of Standards and Technology.
Sec. 304. Information Security and Privacy Advisory Board.
Sec. 305. Technical and conforming amendments.
Sec. 306. Construction.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

Sec. 401. Authorization of appropriations.
Sec. 402. Effective dates.

TITLE V—CONFIDENTIAL INFORMATION PROTECTION AND STATISTICAL EFFICIENCY

Sec. 501. Short title.
Sec. 502. Definitions.
Sec. 503. Coordination and oversight of policies.
Sec. 504. Effect on other laws.

Subtitle A—Confidential Information Protection

Sec. 511. Findings and purposes.
Sec. 512. Limitations on use and disclosure of data and information.
Sec. 513. Fines and penalties.

Subtitle B—Statistical Efficiency

Sec. 521. Findings and purposes.
Sec. 522. Designation of statistical agencies.
Sec. 523. Responsibilities of designated statistical agencies.
Sec. 524. Sharing of business data among designated statistical agencies.
Sec. 525. Limitations on use of business data provided by designated statistical agencies.
Sec. 526. Conforming amendments.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

(2) The Federal Government has had uneven success in applying advances in information technology to enhance governmental functions and services, achieve more efficient performance, increase access to Government information, and increase citizen participation in Government.

(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function or topic.

(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of sufficient funding mechanisms to support such interagency cooperation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical element in the management of Government, to be implemented as part of a management framework that also addresses finance, procurement, human capital, and other challenges to improve the performance of Government.

(7) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires strong leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget.

(2) To promote use of the Internet and other information technologies to provide increased

opportunities for citizen participation in Government.

(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related functions, and in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

(4) To improve the ability of the Government to achieve agency missions and program performance goals.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric Government information and services.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decisionmaking by policy makers.

(8) To promote access to high quality Government information and services across multiple channels.

(9) To make the Federal Government more transparent and accountable.

(10) To transform agency operations by utilizing, where appropriate, best practices from public and private sector organizations.

(11) To provide enhanced access to Government information and services in a manner consistent with laws regarding protection of personal privacy, national security, records retention, access for persons with disabilities, and other relevant laws.

TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 101. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

“CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

“Sec.
“3601. Definitions.
“3602. Office of Electronic Government.
“3603. Chief Information Officers Council.
“3604. E-Government Fund.
“3605. Program to encourage innovative solutions to enhance electronic Government services and processes.
“3606. E-Government report.

“§3601. Definitions

“In this chapter, the definitions under section 3502 shall apply, and the term—

“(1) ‘Administrator’ means the Administrator of the Office of Electronic Government established under section 3602;

“(2) ‘Council’ means the Chief Information Officers Council established under section 3603;

“(3) ‘electronic Government’ means the use by the Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to—

“(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

“(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

“(4) ‘enterprise architecture’—

“(A) means—

“(i) a strategic information asset base, which defines the mission;

“(ii) the information necessary to perform the mission;

“(iii) the technologies necessary to perform the mission; and

“(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

“(B) includes—

“(i) a baseline architecture;

“(ii) a target architecture; and

“(iii) a sequencing plan;

“(5) ‘Fund’ means the E-Government Fund established under section 3604;

“(6) ‘interoperability’ means the ability of different operating and software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner;

“(7) ‘integrated service delivery’ means the provision of Internet-based Federal Government information or services integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction; and

“(8) ‘tribal government’ means the governing body of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“§3602. Office of Electronic Government

“(a) There is established in the Office of Management and Budget an Office of Electronic Government.

“(b) There shall be at the head of the Office an Administrator who shall be appointed by the President.

“(c) The Administrator shall assist the Director in carrying out—

“(1) all functions under this chapter;

“(2) all of the functions assigned to the Director under title II of the E-Government Act of 2002; and

“(3) other electronic government initiatives, consistent with other statutes.

“(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

“(1) chapter 35;

“(2) subtitle III of title 40, United States Code;

“(3) section 552a of title 5 (commonly referred to as the ‘Privacy Act’);

“(4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note); and

“(5) the Federal Information Security Management Act of 2002.

“(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes, in a manner consistent with law, relating to—

“(1) capital planning and investment control for information technology;

“(2) the development of enterprise architectures;

“(3) information security;

“(4) privacy;

“(5) access to, dissemination of, and preservation of Government information;

“(6) accessibility of information technology for persons with disabilities; and

“(7) other areas of electronic Government.

“(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

“(1) Advise the Director on the resources required to develop and effectively administer electronic Government initiatives.

“(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

“(3) Provide overall leadership and direction to the executive branch on electronic Government.

“(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

“(5) Oversee the distribution of funds from, and ensure appropriate administration and coordination of, the E-Government Fund established under section 3604.

“(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

“(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

“(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government under section 11331 of title 40, to be developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, including the following:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Consistent with the process under section 207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(9) Sponsor ongoing dialogue that—

“(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches, as well as leaders in the private and nonprofit sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

“(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of Government information and services; and

“(C) may include—

“(i) development of innovative models—

“(I) for electronic Government management and Government information technology contracts; and

“(II) that may be developed through focused discussions or using separately sponsored research;

“(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

“(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

“(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

“(10) Sponsor activities to engage the general public in the development and implementation

of policies and programs, particularly activities aimed at fulfilling the goal of using the most effective citizen-centered strategies and those activities which engage multiple agencies providing similar or related information and services.

"(11) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 204 of the E-Government Act of 2002.

"(12) Coordinate with the Administrator for Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

"(13) Assist Federal agencies, including the General Services Administration, the Department of Justice, and the United States Access Board in—

"(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

"(B) ensuring compliance with those standards through the budget review process and other means.

"(14) Oversee the development of enterprise architectures within and across agencies.

"(15) Assist the Director and the Deputy Director for Management in overseeing agency efforts to ensure that electronic Government activities incorporate adequate, risk-based, and cost-effective security compatible with business processes.

"(16) Administer the Office of Electronic Government established under this section.

"(17) Assist the Director in preparing the E-Government report established under section 3606.

"(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

"§3603. Chief Information Officers Council

"(a) There is established in the executive branch a Chief Information Officers Council.

"(b) The members of the Council shall be as follows:

"(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

"(2) The Administrator of the Office of Electronic Government.

"(3) The Administrator of the Office of Information and Regulatory Affairs.

"(4) The chief information officer of each agency described under section 901(b) of title 31.

"(5) The chief information officer of the Central Intelligence Agency.

"(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

"(7) Any other officer or employee of the United States designated by the chairperson.

"(c)(1) The Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management.

"(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

"(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

"(3) The Administrator of General Services shall provide administrative and other support for the Council.

"(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

"(e) In performing its duties, the Council shall consult regularly with representatives of State, local, and tribal governments.

"(f) The Council shall perform functions that include the following:

"(1) Develop recommendations for the Director on Government information resources management policies and requirements.

"(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

"(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

"(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title II of the E-Government Act of 2002.

"(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 11331 of title 40, and maximize the use of commercial standards as appropriate, including the following:

"(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

"(B) Consistent with the process under section 207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

"(C) Standards and guidelines for Federal Government computer system efficiency and security.

"(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

"(7) Work with the Archivist of the United States to assess how the Federal Records Act can be addressed effectively by Federal information resources management activities.

"§3604. E-Government Fund

"(a)(1) There is established in the Treasury of the United States the E-Government Fund.

"(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

"(3) Projects under this subsection may include efforts to—

"(A) make Federal Government information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

"(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

"(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

"(b)(1) The Administrator shall—

"(A) establish procedures for accepting and reviewing proposals for funding;

"(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals; and

"(C) assist the Director in coordinating resources that agencies receive from the Fund with other resources available to agencies for similar purposes.

"(2) When reviewing proposals and managing the Fund, the Administrator shall observe and incorporate the following procedures:

"(A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agencywide authority on behalf of the head of the agency, who shall report directly to the head of the agency.

"(B) Projects shall adhere to fundamental capital planning and investment control processes.

"(C) Agencies shall identify in their proposals resource commitments from the agencies involved and how these resources would be coordinated with support from the Fund, and include plans for potential continuation of projects after all funds made available from the Fund are expended.

"(D) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

"(E) Agencies shall assess the results of funded projects.

"(c) In determining which proposals to recommend for funding, the Administrator—

"(1) shall consider criteria that include whether a proposal—

"(A) identifies the group to be served, including citizens, businesses, the Federal Government, or other governments;

"(B) indicates what service or information the project will provide that meets needs of groups identified under subparagraph (A);

"(C) ensures proper security and protects privacy;

"(D) is interagency in scope, including projects implemented by a primary or single agency that—

"(i) could confer benefits on multiple agencies; and

"(ii) have the support of other agencies; and

"(E) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

"(2) may also rank proposals based on criteria that include whether a proposal—

"(A) has Governmentwide application or implications;

"(B) has demonstrated support by the public to be served;

"(C) integrates Federal with State, local, or tribal approaches to service delivery;

"(D) identifies resource commitments from nongovernmental sectors;

"(E) identifies resource commitments from the agencies involved;

"(F) uses web-based technologies to achieve objectives;

"(G) identifies records management and records access strategies;

"(H) supports more effective citizen participation in and interaction with agency activities that further progress toward a more citizen-centered Government;

"(I) directly delivers Government information and services to the public or provides the infrastructure for delivery;

"(J) supports integrated service delivery;

"(K) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation; and

"(L) is new or innovative and does not supplant existing funding streams within agencies.

"(d) The Fund may be used to fund the integrated Internet-based system under section 204 of the E-Government Act of 2002.

"(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

"(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3606.

"(2) The report under paragraph (1) shall describe—

"(A) all projects which the Director has approved for funding from the Fund; and

"(B) the results that have been achieved to date for these funded projects.

"(g)(1) There are authorized to be appropriated to the Fund—

"(A) $45,000,000 for fiscal year 2003;

"(B) $50,000,000 for fiscal year 2004;

"(C) $100,000,000 for fiscal year 2005;

"(D) $150,000,000 for fiscal year 2006; and

"(E) such sums as are necessary for fiscal year 2007.

"(2) Funds appropriated under this subsection shall remain available until expended.

"§3605. Program to encourage innovative solutions to enhance electronic Government services and processes

"(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish and promote a Governmentwide program to encourage contractor innovation and excellence in facilitating the development and enhancement of electronic Government services and processes.

"(b) ISSUANCE OF ANNOUNCEMENTS SEEKING INNOVATIVE SOLUTIONS.—Under the program, the Administrator, in consultation with the Council and the Administrator for Federal Procurement Policy, shall issue announcements seeking unique and innovative solutions to facilitate the development and enhancement of electronic Government services and processes.

"(c) MULTIAGENCY TECHNICAL ASSISTANCE TEAM.—(1) The Administrator, in consultation with the Council and the Administrator for Federal Procurement Policy, shall convene a multiagency technical assistance team to assist in screening proposals submitted to the Administrator to provide unique and innovative solutions to facilitate the development and enhancement of electronic Government services and processes. The team shall be composed of employees of the agencies represented on the Council who have expertise in scientific and technical disciplines that would facilitate the assessment of the feasibility of the proposals.

"(2) The technical assistance team shall—

"(A) assess the feasibility, scientific and technical merits, and estimated cost of each proposal; and

"(B) submit each proposal, and the assessment of the proposal, to the Administrator.

"(3) The technical assistance team shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.

"(4) After receiving proposals and assessments from the technical assistance team, the Administrator shall consider recommending appropriate proposals for funding under the E-Government Fund established under section 3604 or, if appropriate, forward the proposal and the assessment of it to the executive agency whose mission most coincides with the subject matter of the proposal.

"§3606. E-Government report

"(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

"(b) The report under subsection (a) shall contain—

"(1) a summary of the information reported by agencies under section 202(f) of the E-Government Act of 2002;

"(2) the information required to be reported by section 3604(f); and

"(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

"36. Management and Promotion of Electronic Government Services ... 3601".

SEC. 102. CONFORMING AMENDMENTS.

(a) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

(1) IN GENERAL.—Chapter 3 of title 40, United States Code, is amended by inserting after section 304 the following new section:

"§305. Electronic Government and information technologies

"The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 3 of such title is amended by inserting after the item relating to section 304 the following:

"305. Electronic Government and information technologies.".

(b) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after paragraph (4) the following:

"(5) Chair the Chief Information Officers Council established under section 3603 of title 44.".

(c) OFFICE OF ELECTRONIC GOVERNMENT.—

(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

"§507. Office of Electronic Government

"The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

"507. Office of Electronic Government.".

TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 202. FEDERAL AGENCY RESPONSIBILITIES.

(a) IN GENERAL.—The head of each agency shall be responsible for—

(1) complying with the requirements of this Act (including the amendments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

(2) ensuring that the information resource management policies and guidance established under this Act by the Director, and the information technology standards promulgated under this Act by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 204.

(b) PERFORMANCE INTEGRATION.—

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives, strategic goals, and statutory mandates.

(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

(3) Areas of performance measurement that agencies should consider include—

(A) customer service;

(B) agency productivity; and

(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

(4) Agencies shall link their performance goals, as appropriate, to key groups, including citizens, businesses, and other governments, and to internal Federal Government operations.

(5) As appropriate, agencies shall work collectively in linking their performance goals to groups identified under paragraph (4) and shall use information technology in delivering Government information and services to those groups.

(c) AVOIDING DIMINISHED ACCESS.—When promulgating policies and implementing programs regarding the provision of Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

(1) ensure that the availability of Government information and services has not been diminished for individuals who lack access to the Internet; and

(2) pursue alternate modes of delivery that make Government information and services more accessible to individuals who do not own computers or lack access to the Internet.

(d) ACCESSIBILITY TO PEOPLE WITH DISABILITIES.—All actions taken by Federal departments and agencies under this Act shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(e) SPONSORED ACTIVITIES.—Agencies shall sponsor activities that use information technology to engage the public in the development and implementation of policies and programs.

(f) CHIEF INFORMATION OFFICERS.—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

(1) participating in the functions of the Chief Information Officers Council; and

(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated under this Act by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

(g) E-GOVERNMENT STATUS REPORT.—

(1) IN GENERAL.—Each agency shall compile and submit to the Director an annual E-Government Status Report on—

(A) the status of the implementation by the agency of electronic government initiatives;

(B) compliance by the agency with this Act; and

(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

(2) SUBMISSION.—Each agency shall submit an annual report under this subsection—

(A) to the Director at such time and in such manner as the Director requires;

(B) consistent with related reporting requirements; and

(C) which addresses any section in this title relevant to that agency.

(h) USE OF TECHNOLOGY.—Nothing in this Act supersedes the responsibility of an agency to use or manage information technology to deliver Government information and services that fulfill the statutory mission and programs of the agency.

(i) NATIONAL SECURITY SYSTEMS.—

(1) INAPPLICABILITY.—Except as provided under paragraph (2), this title does not apply to national security systems as defined in section 11103 of title 40, United States Code.

(2) APPLICABILITY.—This section, section 203, and section 214 do apply to national security systems to the extent practicable and consistent with law.

SEC. 203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

(a) PURPOSE.—The purpose of this section is to achieve interoperable implementation of electronic signatures for appropriately secure electronic transactions with Government.

(b) ELECTRONIC SIGNATURES.—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105–277; 112 Stat. 2681–749 through 2681–751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Director.

(c) AUTHORITY FOR ELECTRONIC SIGNATURES.—The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including processing of digital signatures.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, and for other activities consistent with this section, $8,000,000 or such sums as are necessary in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 204. FEDERAL INTERNET PORTAL.

(a) IN GENERAL.—

(1) PUBLIC ACCESS.—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

(2) CRITERIA.—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

(A) The provision of Internet-based Government information and services directed to key groups, including citizens, business, and other governments, and integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction.

(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

(D) Access to Federal Government information held by 1 or more agencies shall be made available in a manner that protects privacy, consistent with law.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the General Services Administration $15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

SEC. 205. FEDERAL COURTS.

(a) INDIVIDUAL COURT WEBSITES.—The Chief Justice of the United States, the chief judge of each circuit and district, and the chief bankruptcy judge of each district shall establish with respect to the Supreme Court or the respective court of appeals, district, or bankruptcy court of a district, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to all documents filed with the courthouse in electronic form, described under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

(b) MAINTENANCE OF DATA ONLINE.—

(1) UPDATE OF INFORMATION.—The information and rules on each website shall be updated regularly and kept reasonably current.

(2) CLOSED CASES.—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

(c) ELECTRONIC FILINGS.—

(1) IN GENERAL.—Except as provided under paragraph (2), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) EXCEPTIONS.—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

(3) PRIVACY AND SECURITY CONCERNS.—The Judicial Conference of the United States may promulgate rules under this subsection to protect important privacy and security concerns.

(d) DOCKETS WITH LINKS TO DOCUMENTS.—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

(e) COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.—Section 303(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking "shall hereafter" and inserting "may, only to the extent necessary,".

(f) TIME REQUIREMENTS.—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

(g) DEFERRAL.—

(1) IN GENERAL.—

(A) ELECTION.—

(i) NOTIFICATION.—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

(ii) CONTENTS.—A notification submitted under this subparagraph shall state—

(I) the reasons for the deferral; and

(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

(B) EXCEPTION.—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

(2) REPORT.—Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that—

(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

(B) summarizes and evaluates all notifications.

SEC. 206. REGULATORY AGENCIES.

(a) PURPOSES.—The purposes of this section are to—

(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the "Administrative Procedures Act").

(b) INFORMATION PROVIDED BY AGENCIES ONLINE.—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under paragraphs (1) and (2) of section 552(a) of title 5, United States Code.

(c) SUBMISSIONS BY ELECTRONIC MEANS.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means.

(d) ELECTRONIC DOCKETING.—

(1) IN GENERAL.—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under section 553 of title 5, United States Code.

(2) INFORMATION AVAILABLE.—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

(A) all submissions under section 553(c) of title 5, United States Code; and

(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

(e) TIME LIMITATION.—Agencies shall implement the requirements of this section consistent

with a timetable established by the Director and reported to Congress in the first annual report under section 3606 of title 44 (as added by this Act).

SEC. 207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) PURPOSE.—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) DEFINITIONS.—In this section, the term—

(1) "Committee" means the Interagency Committee on Government Information established under subsection (c); and

(2) "directory" means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors.

(c) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) MEMBERSHIP.—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) FUNCTIONS.—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress; and

(C) share effective practices for access to, dissemination of, and retention of Federal information.

(4) TERMINATION.—The Committee may be terminated on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) CATEGORIZING OF INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 2 years after the date of enactment of this Act, the Committee shall submit recommendations to the Director on—

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(iii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) FUNCTIONS OF THE DIRECTOR.—Not later than 1 year after the submission of recommendations under paragraph (1), the Director shall issue policies—

(A) requiring that agencies use standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers;

(ii) in ways that are interoperable across agencies; and

(iii) that are, as appropriate, consistent with the standards promulgated by the Secretary of Commerce under section 3602(f)(8) of title 44, United States Code;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Director shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(e) PUBLIC ACCESS TO ELECTRONIC INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 2 years after the date of enactment of this Act, the Committee shall submit recommendations to the Director and the Archivist of the United States on—

(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) the imposition of timetables for the implementation of the policies and procedures by agencies.

(2) FUNCTIONS OF THE ARCHIVIST.—Not later than 1 year after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—

(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(f) AGENCY WEBSITES.—

(1) STANDARDS FOR AGENCY WEBSITES.—Not later than 2 years after the effective date of this title, the Director shall promulgate guidance for agency websites that includes—

(A) requirements that websites include direct links to—

(i) descriptions of the mission and statutory authority of the agency;

(ii) information made available to the public under subsections (a)(1) and (b) of section 552 of title 5, United States Code (commonly referred to as the "Freedom of Information Act");

(iii) information about the organizational structure of the agency; and

(iv) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(B) minimum agency goals to assist public users to navigate agency websites, including—

(i) speed of retrieval of search results;

(ii) the relevance of the results;

(iii) tools to aggregate and disaggregate data; and

(iv) security protocols to protect information.

(2) AGENCY REQUIREMENTS.—(A) Not later than 2 years after the date of enactment of this Act, each agency shall—

(i) consult with the Committee and solicit public comment;

(ii) establish a process for determining which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(iii) develop priorities and schedules for making Government information available and accessible;

(iv) make such final determinations, priorities, and schedules available for public comment;

(v) post such final determinations, priorities, and schedules on the Internet; and

(vi) submit such final determinations, priorities, and schedules to the Director, in the report established under section 202(g).

(B) Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(3) PUBLIC DOMAIN DIRECTORY OF PUBLIC FEDERAL GOVERNMENT WEBSITES.—

(A) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director and each agency shall—

(i) develop and establish a public domain directory of public Federal Government websites; and

(ii) post the directory on the Internet with a link to the integrated Internet-based system established under section 204.

(B) DEVELOPMENT.—With the assistance of each agency, the Director shall—

(i) direct the development of the directory through a collaborative effort, including input from—

(I) agency librarians;

(II) information technology managers;

(III) program managers;

(IV) records managers;

(V) Federal depository librarians; and

(VI) other interested parties; and

(ii) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

(C) UPDATE.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(i) update the directory as necessary, but not less than every 6 months; and

(ii) solicit interested persons for improvements to the directory.

(g) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

(1) DEVELOPMENT AND MAINTENANCE OF GOVERNMENTWIDE REPOSITORY AND WEBSITE.—

(A) REPOSITORY AND WEBSITE.—The Director of the Office of Management and Budget, in consultation with the Director of the Office of Science and Technology Policy and other relevant agencies, shall ensure the development and maintenance of—

(i) a repository that fully integrates, to the maximum extent feasible, information about research and development funded by the Federal Government, and the repository shall—

(I) include information about research and development funded by the Federal Government, consistent with any relevant protections for the information under section 552 of title 5, United States Code, and performed by—

(aa) institutions not a part of the Federal Government, including State, local, and foreign governments; industrial firms; educational institutions; not-for-profit organizations; federally funded research and development centers; and private individuals; and

(bb) entities of the Federal Government, including research and development laboratories, centers, and offices; and

(II) integrate information about each separate research and development task or award, including—

(aa) the dates upon which the task or award is expected to start and end;

(bb) a brief summary describing the objective and the scientific and technical focus of the task or award;

(cc) the entity or institution performing the task or award and its contact information;

(dd) the total amount of Federal funds expected to be provided to the task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the task or award is ongoing;

(ee) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information required by this subsection, and the reasons for such restrictions; and

(ff) such other information as may be determined to be appropriate; and

(ii) 1 or more websites upon which all or part of the repository of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) OVERSIGHT.—The Director of the Office of Management and Budget shall issue any guidance determined necessary to ensure that agencies provide all information requested under this subsection.

(2) AGENCY FUNCTIONS.—Any agency that funds Federal research and development under this subsection shall provide the information required to populate the repository in the manner prescribed by the Director of the Office of Management and Budget.

(3) COMMITTEE FUNCTIONS.—Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

(A) policies to improve agency reporting of information for the repository established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(4) FUNCTIONS OF THE DIRECTOR.—After submission of recommendations by the Committee under paragraph (3), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3606 of title 44 (as added by this Act).

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the development, maintenance, and operation of the Governmentwide repository and website under this subsection—

(A) $2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

SEC. 208. PRIVACY PROVISIONS.

(a) PURPOSE.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) PRIVACY IMPACT ASSESSMENTS.—

(1) RESPONSIBILITIES OF AGENCIES.—

(A) IN GENERAL.—An agency shall take actions described under subparagraph (B) before developing or procuring information technology that collects, maintains, or disseminates information that is in an identifiable form.

(B) AGENCY ACTIVITIES.—To the extent required under subparagraph (A), each agency shall—

(i) conduct a privacy impact assessment;

(ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and

(iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available through the website of the agency, publication in the Federal Register, or other means.

(C) SENSITIVE INFORMATION.—Subparagraph (B)(iii) may be modified or waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment.

(D) COPY TO DIRECTOR.—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

(2) CONTENTS OF A PRIVACY IMPACT ASSESSMENT.—

(A) IN GENERAL.—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

(B) GUIDANCE.—The guidance shall—

(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of information that is in an identifiable form in that system, and the risk of harm from unauthorized release of that information; and

(ii) require that a privacy impact assessment address—

(I) what information is to be collected;

(II) why the information is being collected;

(III) the intended use of the agency of the information;

(IV) with whom the information will be shared;

(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(VI) how the information will be secured; and

(VII) whether a system of records is being created under section 552a of title 5, United States Code, (commonly referred to as the "Privacy Act").

(3) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of information that is in an identifiable form as the Director determines appropriate.

(c) PRIVACY PROTECTIONS ON AGENCY WEBSITES.—

(1) PRIVACY POLICIES ON WEBSITES.—

(A) GUIDELINES FOR NOTICES.—The Director shall develop guidance for privacy notices on agency websites used by the public.

(B) CONTENTS.—The guidance shall require that a privacy notice address, consistent with section 552a of title 5, United States Code—

(i) what information is to be collected;

(ii) why the information is being collected;

(iii) the intended use of the agency of the information;

(iv) with whom the information will be shared;

(v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(vi) how the information will be secured; and

(vii) the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the "Privacy Act"), and other laws relevant to the protection of the privacy of an individual.

(2) PRIVACY POLICIES IN MACHINE-READABLE FORMATS.—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

(d) DEFINITION.—In this section, the term "identifiable form" means any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means.

SEC. 209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

(a) PURPOSE.—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver Government information and services.

(b) WORKFORCE DEVELOPMENT.—

(1) IN GENERAL.—In consultation with the Director, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall—

(A) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(B) oversee the development of curricula, training methods, and training priorities that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

(C) assess the training of Federal employees in information technology disciplines, as necessary, in order to ensure that the information resource management needs of the Federal Government are addressed.

(2) AUTHORITY TO DETAIL EMPLOYEES TO NON-FEDERAL EMPLOYERS.—In carrying out paragraph (1), the Director of the Office of Personnel Management may provide for a program under which a Federal employee may be detailed to a non-Federal employer. The Director of the Office of Personnel Management shall prescribe regulations for such program, including the conditions for service and duties as the Director considers necessary.

(3) COORDINATION PROVISION.—An assignment described in section 3703 of title 5, United States Code, shall be made only in accordance with the program established under paragraph (2), if any.

(4) EMPLOYEE PARTICIPATION.—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall encourage employees to participate in occupational information technology training.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Personnel Management for the implementation of this subsection, $7,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

(c) INFORMATION TECHNOLOGY EXCHANGE PROGRAM.—

(1) IN GENERAL.—Subpart B of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 37—INFORMATION TECHNOLOGY EXCHANGE PROGRAM

"Sec.

"3701. Definitions.

“3702. General provisions.
“3703. Assignment of employees to private sector organizations.
“3704. Assignment of employees from private sector organizations.
“3705. Application to Office of the Chief Technology Officer of the District of Columbia.
“3706. Reporting requirement.
“3707. Regulations.

“§3701. Definitions

“For purposes of this chapter—

“(1) the term ‘agency’ means an Executive agency, but does not include the General Accounting Office; and

“(2) the term ‘detail’ means—

“(A) the assignment or loan of an employee of an agency to a private sector organization without a change of position from the agency that employs the individual, or

“(B) the assignment or loan of an employee of a private sector organization to an agency without a change of position from the private sector organization that employs the individual,

whichever is appropriate in the context in which such term is used.

“§3702. General provisions

“(a) ASSIGNMENT AUTHORITY.—On request from or with the agreement of a private sector organization, and with the consent of the employee concerned, the head of an agency may arrange for the assignment of an employee of the agency to a private sector organization or an employee of a private sector organization to the agency. An eligible employee is an individual who—

“(1) works in the field of information technology management;

“(2) is considered an exceptional performer by the individual's current employer; and

“(3) is expected to assume increased information technology management responsibilities in the future.

An employee of an agency shall be eligible to participate in this program only if the employee is employed at the GS–11 level or above (or equivalent) and is serving under a career or career-conditional appointment or an appointment of equivalent tenure in the excepted service, and applicable requirements of section 209(b) of the E-Government Act of 2002 are met with respect to the proposed assignment of such employee.

“(b) AGREEMENTS.—Each agency that exercises its authority under this chapter shall provide for a written agreement between the agency and the employee concerned regarding the terms and conditions of the employee's assignment. In the case of an employee of the agency, the agreement shall—

“(1) require the employee to serve in the civil service, upon completion of the assignment, for a period equal to the length of the assignment; and

“(2) provide that, in the event the employee fails to carry out the agreement (except for good and sufficient reason, as determined by the head of the agency from which assigned) the employee shall be liable to the United States for payment of all expenses of the assignment.

An amount under paragraph (2) shall be treated as a debt due the United States.

“(c) TERMINATION.—Assignments may be terminated by the agency or private sector organization concerned for any reason at any time.

“(d) DURATION.—Assignments under this chapter shall be for a period of between 3 months and 1 year, and may be extended in 3-month increments for a total of not more than 1 additional year, except that no assignment under this chapter may commence after the end of the 5-year period beginning on the date of the enactment of this chapter.

“(e) ASSISTANCE.—The Chief Information Officers Council, by agreement with the Office of Personnel Management, may assist in the administration of this chapter, including by maintaining lists of potential candidates for assignment under this chapter, establishing mentoring relationships for the benefit of individuals who are given assignments under this chapter, and publicizing the program.

“(f) CONSIDERATIONS.—In exercising any authority under this chapter, an agency shall take into consideration—

“(1) the need to ensure that small business concerns are appropriately represented with respect to the assignments described in sections 3703 and 3704, respectively; and

“(2) how assignments described in section 3703 might best be used to help meet the needs of the agency for the training of employees in information technology management.

“§3703. Assignment of employees to private sector organizations

“(a) IN GENERAL.—An employee of an agency assigned to a private sector organization under this chapter is deemed, during the period of the assignment, to be on detail to a regular work assignment in his agency.

“(b) COORDINATION WITH CHAPTER 81.—Notwithstanding any other provision of law, an employee of an agency assigned to a private sector organization under this chapter is entitled to retain coverage, rights, and benefits under subchapter I of chapter 81, and employment during the assignment is deemed employment by the United States, except that, if the employee or the employee's dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

“(c) REIMBURSEMENTS.—The assignment of an employee to a private sector organization under this chapter may be made with or without reimbursement by the private sector organization for the travel and transportation expenses to or from the place of assignment, subject to the same terms and conditions as apply with respect to an employee of a Federal agency or a State or local government under section 3375, and for the pay, or a part thereof, of the employee during assignment. Any reimbursements shall be credited to the appropriation of the agency used for paying the travel and transportation expenses or pay.

“(d) TORT LIABILITY; SUPERVISION.—The Federal Tort Claims Act and any other Federal tort liability statute apply to an employee of an agency assigned to a private sector organization under this chapter. The supervision of the duties of an employee of an agency so assigned to a private sector organization may be governed by an agreement between the agency and the organization.

“(e) SMALL BUSINESS CONCERNS.—

“(1) IN GENERAL.—The head of each agency shall take such actions as may be necessary to ensure that, of the assignments made under this chapter from such agency to private sector organizations in each year, at least 20 percent are to small business concerns.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘small business concern’ means a business concern that satisfies the definitions and standards specified by the Administrator of the Small Business Administration under section 3(a)(2) of the Small Business Act (as from time to time amended by the Administrator);

“(B) the term ‘year’ refers to the 12-month period beginning on the date of the enactment of this chapter, and each succeeding 12-month period in which any assignments under this chapter may be made; and

“(C) the assignments ‘made’ in a year are those commencing in such year.

“(3) REPORTING REQUIREMENT.—An agency which fails to comply with paragraph (1) in a year shall, within 90 days after the end of such year, submit a report to the Committees on Government Reform and Small Business of the House of Representatives and the Committees on Governmental Affairs and Small Business of the Senate. The report shall include—

“(A) the total number of assignments made under this chapter from such agency to private sector organizations in the year;

“(B) of that total number, the number (and percentage) made to small business concerns; and

“(C) the reasons for the agency's noncompliance with paragraph (1).

“(4) EXCLUSION.—This subsection shall not apply to an agency in any year in which it makes fewer than 5 assignments under this chapter to private sector organizations.

“§3704. Assignment of employees from private sector organizations

“(a) IN GENERAL.—An employee of a private sector organization assigned to an agency under this chapter is deemed, during the period of the assignment, to be on detail to such agency.

“(b) TERMS AND CONDITIONS.—An employee of a private sector organization assigned to an agency under this chapter—

“(1) may continue to receive pay and benefits from the private sector organization from which he is assigned;

“(2) is deemed, notwithstanding subsection (a), to be an employee of the agency for the purposes of—

“(A) chapter 73;

“(B) sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18;

“(C) sections 1343, 1344, and 1349(b) of title 31;

“(D) the Federal Tort Claims Act and any other Federal tort liability statute;

“(E) the Ethics in Government Act of 1978;

“(F) section 1043 of the Internal Revenue Code of 1986; and

“(G) section 27 of the Office of Federal Procurement Policy Act;

“(3) may not have access to any trade secrets or to any other nonpublic information which is of commercial value to the private sector organization from which he is assigned; and

“(4) is subject to such regulations as the President may prescribe.

The supervision of an employee of a private sector organization assigned to an agency under this chapter may be governed by agreement between the agency and the private sector organization concerned. Such an assignment may be made with or without reimbursement by the agency for the pay, or a part thereof, of the employee during the period of assignment, or for any contribution of the private sector organization to employee benefit systems.

“(c) COORDINATION WITH CHAPTER 81.—An employee of a private sector organization assigned to an agency under this chapter who suffers disability or dies as a result of personal injury sustained while performing duties during the assignment shall be treated, for the purpose of subchapter I of chapter 81, as an employee as defined by section 8101 who had sustained the injury in the performance of duty, except that, if the employee or the employee's dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

“(d) PROHIBITION AGAINST CHARGING CERTAIN COSTS TO THE FEDERAL GOVERNMENT.—A private sector organization may not charge the

Federal Government, as direct or indirect costs under a Federal contract, the costs of pay or benefits paid by the organization to an employee assigned to an agency under this chapter for the period of the assignment.

"§3705. Application to Office of the Chief Technology Officer of the District of Columbia

"(a) In General.—The Chief Technology Officer of the District of Columbia may arrange for the assignment of an employee of the Office of the Chief Technology Officer to a private sector organization, or an employee of a private sector organization to such Office, in the same manner as the head of an agency under this chapter.

"(b) Terms and Conditions.—An assignment made pursuant to subsection (a) shall be subject to the same terms and conditions as an assignment made by the head of an agency under this chapter, except that in applying such terms and conditions to an assignment made pursuant to subsection (a), any reference in this chapter to a provision of law or regulation of the United States shall be deemed to be a reference to the applicable provision of law or regulation of the District of Columbia, including the applicable provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1–601.01 et seq., D.C. Official Code) and section 601 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act (sec. 1–1106.01, D.C. Official Code).

"(c) Definition.—For purposes of this section, the term 'Office of the Chief Technology Officer' means the office established in the executive branch of the government of the District of Columbia under the Office of the Chief Technology Officer Establishment Act of 1998 (sec. 1–1401 et seq., D.C. Official Code).

"§3706. Reporting requirement

"(a) In General.—The Office of Personnel Management shall, not later than April 30 and October 31 of each year, prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a semiannual report summarizing the operation of this chapter during the immediately preceding 6-month period ending on March 31 and September 30, respectively.

"(b) Content.—Each report shall include, with respect to the 6-month period to which such report relates—

"(1) the total number of individuals assigned to, and the total number of individuals assigned from, each agency during such period;

"(2) a brief description of each assignment included under paragraph (1), including—

"(A) the name of the assigned individual, as well as the private sector organization and the agency (including the specific bureau or other agency component) to or from which such individual was assigned;

"(B) the respective positions to and from which the individual was assigned, including the duties and responsibilities and the pay grade or level associated with each; and

"(C) the duration and objectives of the individual's assignment; and

"(3) such other information as the Office considers appropriate.

"(c) Publication.—A copy of each report submitted under subsection (a)—

"(1) shall be published in the Federal Register; and

"(2) shall be made publicly available on the Internet.

"(d) Agency Cooperation.—On request of the Office, agencies shall furnish such information and reports as the Office may require in order to carry out this section.

"§3707. Regulations

"The Director of the Office of Personnel Management shall prescribe regulations for the administration of this chapter.".

(2) Report.—Not later than 4 years after the date of the enactment of this Act, the General Accounting Office shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the operation of chapter 37 of title 5, United States Code (as added by this subsection). Such report shall include—

(A) an evaluation of the effectiveness of the program established by such chapter; and

(B) a recommendation as to whether such program should be continued (with or without modification) or allowed to lapse.

(3) Clerical Amendment.—The analysis for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 35 the following:

"37. Information Technology Exchange Program .... 3701".

(d) Ethics Provisions.—

(1) One-year restriction on certain communications.—Section 207(c)(2)(A) of title 18, United States Code, is amended—

(A) by striking "or" at the end of clause (iii);

(B) by striking the period at the end of clause (iv) and inserting "; or"; and

(C) by adding at the end the following:

"(v) assigned from a private sector organization to an agency under chapter 37 of title 5.".

(2) Disclosure of confidential information.—Section 1905 of title 18, United States Code, is amended by inserting "or being an employee of a private sector organization who is or was assigned to an agency under chapter 37 of title 5," after "(15 U.S.C. 1311–1314),".

(3) Contract advice.—Section 207 of title 18, United States Code, is amended by adding at the end the following:

"(l) Contract Advice by Former Details.—Whoever, being an employee of a private sector organization assigned to an agency under chapter 37 of title 5, within one year after the end of that assignment, knowingly represents or aids, counsels, or assists in representing any other person (except the United States) in connection with any contract with that agency shall be punished as provided in section 216 of this title.".

(4) Restriction on disclosure of procurement information.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended in subsection (a)(1) by adding at the end the following new sentence: "In the case of an employee of a private sector organization assigned to an agency under chapter 37 of title 5, United States Code, in addition to the restriction in the preceding sentence, such employee shall not, other than as provided by law, knowingly disclose contractor bid or proposal information or source selection information during the three-year period after the end of the assignment of such employee.".

(e) Report on Existing Exchange Programs.—

(1) Exchange program defined.—For purposes of this subsection, the term "exchange program" means an executive exchange program, the program under subchapter VI of chapter 33 of title 5, United States Code, and any other program which allows for—

(A) the assignment of employees of the Federal Government to non-Federal employers;

(B) the assignment of employees of non-Federal employers to the Federal Government; or

(C) both.

(2) Reporting requirement.—Not later than 1 year after the date of the enactment of this Act, the Office of Personnel Management shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report identifying all existing exchange programs.

(3) Specific information.—The report shall, for each such program, include—

(A) a brief description of the program, including its size, eligibility requirements, and terms or conditions for participation;

(B) specific citation to the law or other authority under which the program is established;

(C) the names of persons to contact for more information, and how they may be reached; and

(D) any other information which the Office considers appropriate.

(f) Report on the Establishment of a Governmentwide Information Technology Training Program.—

(1) In general.—Not later than January 1, 2003, the Office of Personnel Management, in consultation with the Chief Information Officers Council and the Administrator of General Services, shall review and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a written report on the following:

(A) The adequacy of any existing information technology training programs available to Federal employees on a Governmentwide basis.

(B)(i) If one or more such programs already exist, recommendations as to how they might be improved.

(ii) If no such program yet exists, recommendations as to how such a program might be designed and established.

(C) With respect to any recommendations under subparagraph (B), how the program under chapter 37 of title 5, United States Code, might be used to help carry them out.

(2) Cost estimate.—The report shall, for any recommended program (or improvements) under paragraph (1)(B), include the estimated costs associated with the implementation and operation of such program as so established (or estimated difference in costs of any such program as so improved).

(g) Technical and Conforming Amendments.—

(1) Amendments to title 5, United States Code.—Title 5, United States Code, is amended—

(A) in section 3111, by adding at the end the following:

"(d) Notwithstanding section 1342 of title 31, the head of an agency may accept voluntary service for the United States under chapter 37 of this title and regulations of the Office of Personnel Management.";

(B) in section 4108, by striking subsection (d); and

(C) in section 7353(b), by adding at the end the following:

"(4) Nothing in this section precludes an employee of a private sector organization, while assigned to an agency under chapter 37, from continuing to receive pay and benefits from such organization in accordance with such chapter.".

(2) Amendment to title 18, United States Code.—Section 209 of title 18, United States Code, is amended by adding at the end the following:

"(g)(1) This section does not prohibit an employee of a private sector organization, while assigned to an agency under chapter 37 of title 5, from continuing to receive pay and benefits from such organization in accordance with such chapter.

"(2) For purposes of this subsection, the term 'agency' means an agency (as defined by section 3701 of title 5) and the Office of the Chief Technology Officer of the District of Columbia.".

(3) Other amendments.—Section 125(c)(1) of Public Law 100–238 (5 U.S.C. 8432 note) is amended—

(A) in subparagraph (B), by striking "or" at the end;

(B) in subparagraph (C), by striking “and” at the end and inserting “or”; and

(C) by adding at the end the following:

“(D) an individual assigned from a Federal agency to a private sector organization under chapter 37 of title 5, United States Code; and”.

SEC. 210. SHARE-IN-SAVINGS INITIATIVES.

(a) DEFENSE CONTRACTS.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

“§2332. Share-in-savings contracts

“(a) AUTHORITY TO ENTER INTO SHARE-IN-SAVINGS CONTRACTS.—(1) The head of an agency may enter into a share-in-savings contract for information technology (as defined in section 11101(6) of title 40) in which the Government awards a contract to improve mission-related or administrative processes or to accelerate the achievement of its mission and share with the contractor in savings achieved through contract performance.

“(2)(A) Except as provided in subparagraph (B), a share-in-savings contract shall be awarded for a period of not more than five years.

“(B) A share-in-savings contract may be awarded for a period greater than five years, but not more than 10 years, if the head of the agency determines in writing prior to award of the contract that—

“(i) the level of risk to be assumed and the investment to be undertaken by the contractor is likely to inhibit the government from obtaining the needed information technology competitively at a fair and reasonable price if the contract is limited in duration to a period of five years or less; and

“(ii) usage of the information technology to be acquired is likely to continue for a period of time sufficient to generate reasonable benefit for the government.

“(3) Contracts awarded pursuant to the authority of this section shall, to the maximum extent practicable, be performance-based contracts that identify objective outcomes and contain performance standards that will be used to measure achievement and milestones that must be met before payment is made.

“(4) Contracts awarded pursuant to the authority of this section shall include a provision containing a quantifiable baseline that is to be the basis upon which a savings share ratio is established that governs the amount of payment a contractor is to receive under the contract. Before commencement of performance of such a contract, the senior procurement executive of the agency shall determine in writing that the terms of the provision are quantifiable and will likely yield value to the Government.

“(5)(A) The head of the agency may retain savings realized through the use of a share-in-savings contract under this section that are in excess of the total amount of savings paid to the contractor under the contract. Except as provided in subparagraph (B), savings shall be credited to the appropriation or fund against which charges were made to carry out the contract and shall be used for information technology.

“(B) Amounts retained by the agency under this subsection shall—

“(i) without further appropriation, remain available until expended; and

“(ii) be applied first to fund any contingent liabilities associated with share-in-savings procurements that are not fully funded.

“(b) CANCELLATION AND TERMINATION.—(1) If funds are not made available for the continuation of a share-in-savings contract entered into under this section in a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid out of—

“(A) appropriations available for the performance of the contract;

“(B) appropriations available for acquisition of the information technology procured under the contract, and not otherwise obligated; or

“(C) funds subsequently appropriated for payments of costs of cancellation or termination, subject to the limitations in paragraph (3).

“(2) The amount payable in the event of cancellation or termination of a share-in-savings contract shall be negotiated with the contractor at the time the contract is entered into.

“(3)(A) Subject to subparagraph (B), the head of an agency may enter into share-in-savings contracts under this section in any given fiscal year even if funds are not made specifically available for the full costs of cancellation or termination of the contract if funds are available and sufficient to make payments with respect to the first fiscal year of the contract and the following conditions are met regarding the funding of cancellation and termination liability:

“(i) The amount of unfunded contingent liability for the contract does not exceed the lesser of—

“(I) 25 percent of the estimated costs of a cancellation or termination; or

“(II) $5,000,000.

“(ii) Unfunded contingent liability in excess of $1,000,000 has been approved by the Director of the Office of Management and Budget or the Director’s designee.

“(B) The aggregate number of share-in-savings contracts that may be entered into under subparagraph (A) by all agencies to which this chapter applies in a fiscal year—

“(i) may not exceed 5, in each of fiscal years 2003, 2004, and 2005; and

“(ii) may not exceed 10, in each of fiscal years 2006, 2007, 2008, and 2009.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘contractor’ means a private entity that enters into a contract with an agency.

“(2) The term ‘savings’ means—

“(A) monetary savings to an agency; or

“(B) savings in time or other benefits realized by the agency, including enhanced revenues.

“(3) The term ‘share-in-savings contract’ means a contract under which—

“(A) a contractor provides solutions for—

“(i) improving the agency’s mission-related or administrative processes; or

“(ii) accelerating the achievement of agency missions; and

“(B) the head of the agency pays the contractor an amount equal to a portion of the savings derived by the agency from—

“(i) any improvements in mission-related or administrative processes that result from implementation of the solution; or

“(ii) acceleration of achievement of agency missions.

“(d) TERMINATION.—No share-in-savings contracts may be entered into under this section after September 30, 2009.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end of the following new item:

“2332. Share-in-savings contracts.”.

(b) OTHER CONTRACTS.—Title III of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end the following:

“SEC. 317. SHARE-IN-SAVINGS CONTRACTS.

“(a) AUTHORITY TO ENTER INTO SHARE-IN-SAVINGS CONTRACTS.—(1) The head of an executive agency may enter into a share-in-savings contract for information technology (as defined in section 11101(6) of title 40, United States Code) in which the Government awards a contract to improve mission-related or administrative processes or to accelerate the achievement of its mission and share with the contractor in savings achieved through contract performance.

“(2)(A) Except as provided in subparagraph (B), a share-in-savings contract shall be awarded for a period of not more than five years.

“(B) A share-in-savings contract may be awarded for a period greater than five years, but not more than 10 years, if the head of the agency determines in writing prior to award of the contract that—

“(i) the level of risk to be assumed and the investment to be undertaken by the contractor is likely to inhibit the government from obtaining the needed information technology competitively at a fair and reasonable price if the contract is limited in duration to a period of five years or less; and

“(ii) usage of the information technology to be acquired is likely to continue for a period of time sufficient to generate reasonable benefit for the government.

“(3) Contracts awarded pursuant to the authority of this section shall, to the maximum extent practicable, be performance-based contracts that identify objective outcomes and contain performance standards that will be used to measure achievement and milestones that must be met before payment is made.

“(4) Contracts awarded pursuant to the authority of this section shall include a provision containing a quantifiable baseline that is to be the basis upon which a savings share ratio is established that governs the amount of payment a contractor is to receive under the contract. Before commencement of performance of such a contract, the senior procurement executive of the agency shall determine in writing that the terms of the provision are quantifiable and will likely yield value to the Government.

“(5)(A) The head of the agency may retain savings realized through the use of a share-in-savings contract under this section that are in excess of the total amount of savings paid to the contractor under the contract. Except as provided in subparagraph (B), savings shall be credited to the appropriation or fund against which charges were made to carry out the contract and shall be used for information technology.

“(B) Amounts retained by the agency under this subsection shall—

“(i) without further appropriation, remain available until expended; and

“(ii) be applied first to fund any contingent liabilities associated with share-in-savings procurements that are not fully funded.

“(b) CANCELLATION AND TERMINATION.—(1) If funds are not made available for the continuation of a share-in-savings contract entered into under this section in a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid out of—

“(A) appropriations available for the performance of the contract;

“(B) appropriations available for acquisition of the information technology procured under the contract, and not otherwise obligated; or

“(C) funds subsequently appropriated for payments of costs of cancellation or termination, subject to the limitations in paragraph (3).

“(2) The amount payable in the event of cancellation or termination of a share-in-savings contract shall be negotiated with the contractor at the time the contract is entered into.

“(3)(A) Subject to subparagraph (B), the head of an executive agency may enter into share-in-savings contracts under this section in any given fiscal year even if funds are not made specifically available for the full costs of cancellation or termination of the contract if funds are available and sufficient to make payments with respect to the first fiscal year of the contract and the following conditions are met regarding the funding of cancellation and termination liability:

“(i) The amount of unfunded contingent liability for the contract does not exceed the lesser of—

"(I) 25 percent of the estimated costs of a cancellation or termination; or

"(II) $5,000,000.

"(ii) Unfunded contingent liability in excess of $1,000,000 has been approved by the Director of the Office of Management and Budget or the Director's designee.

"(B) The aggregate number of share-in-savings contracts that may be entered into under subparagraph (A) by all executive agencies to which this chapter applies in a fiscal year—

"(i) may not exceed 5, in each of fiscal years 2003, 2004, and 2005; and

"(ii) may not exceed 10, in each of fiscal years 2006, 2007, 2008, and 2009.

"(c) Definitions.—In this section:

"(1) The term 'contractor' means a private entity that enters into a contract with an agency.

"(2) The term 'savings' means—

"(A) monetary savings to an agency; or

"(B) savings in time or other benefits realized by the agency, including enhanced revenues.

"(3) The term 'share-in-savings contract' means a contract under which—

"(A) a contractor provides solutions for—

"(i) improving the agency's mission-related or administrative processes; or

"(ii) accelerating the achievement of agency missions; and

"(B) the head of the agency pays the contractor an amount equal to a portion of the savings derived by the agency from—

"(i) any improvements in mission-related or administrative processes that result from implementation of the solution; or

"(ii) acceleration of achievement of agency missions.

"(d) Termination.—No share-in-savings contracts may be entered into under this section after September 30, 2009.".

(c) Development of Incentives.—The Director of the Office of Management and Budget shall, in consultation with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and executive agencies, develop techniques to permit an executive agency to retain a portion of the savings (after payment of the contractor's share of the savings) derived from share-in-savings contracts as funds are appropriated to the agency in future fiscal years.

(d) Regulations.—Not later than 270 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to implement the provisions enacted by this section. Such revisions shall—

(1) provide for the use of competitive procedures in the selection and award of share-in-savings contracts to—

(A) ensure the contractor's share of savings reflects the risk involved and market conditions; and

(B) otherwise yield greatest value to the government; and

(2) allow appropriate regulatory flexibility to facilitate the use of share-in-savings contracts by executive agencies, including the use of innovative provisions for technology refreshment and nonstandard Federal Acquisition Regulation contract clauses.

(e) Additional Guidance.—The Administrator of General Services shall—

(1) identify potential opportunities for the use of share-in-savings contracts; and

(2) in consultation with the Director of the Office of Management and Budget, provide guidance to executive agencies for determining mutually beneficial savings share ratios and baselines from which savings may be measured.

(f) OMB Report to Congress.—In consultation with executive agencies, the Director of the Office of Management and Budget shall, not later than 2 years after the date of the enactment of this Act, submit to Congress a report containing—

(1) a description of the number of share-in-savings contracts entered into by each executive agency under by this section and the amendments made by this section, and, for each contract identified—

(A) the information technology acquired;

(B) the total amount of payments made to the contractor; and

(C) the total amount of savings or other measurable benefits realized;

(2) a description of the ability of agencies to determine the baseline costs of a project against which savings can be measured; and

(3) any recommendations, as the Director deems appropriate, regarding additional changes in law that may be necessary to ensure effective use of share-in-savings contracts by executive agencies.

(g) GAO Report to Congress.—The Comptroller General shall, not later than 6 months after the report required under subsection (f) is submitted to Congress, conduct a review of that report and submit to Congress a report containing—

(1) the results of the review; and

(2) any recommendations, as the Comptroller General deems appropriate, on the use of share-in-savings contracts by executive agencies.

(h) Definitions.—In this section, the terms "contractor", "savings", and "share-in-savings contract" have the meanings given those terms in section 317 of the Federal Property and Administrative Services Act of 1949 (as added by subsection (b)).

SEC. 211. AUTHORIZATION FOR ACQUISITION OF INFORMATION TECHNOLOGY BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL SUPPLY SCHEDULES.

(a) Authority To Use Certain Supply Schedules.—Section 502 of title 40, United States Code, is amended by adding at the end the following new subsection:

"(c) Use of Certain Supply Schedules.—

"(1) In general.—The Administrator may provide for the use by State or local governments of Federal supply schedules of the General Services Administration for automated data processing equipment (including firmware), software, supplies, support equipment, and services (as contained in Federal supply classification code group 70).

"(2) Voluntary use.—In any case of the use by a State or local government of a Federal supply schedule pursuant to paragraph (1), participation by a firm that sells to the Federal Government through the supply schedule shall be voluntary with respect to a sale to the State or local government through such supply schedule.

"(3) Definitions.—In this subsection:

"(A) The term 'State or local government' includes any State, local, regional, or tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education).

"(B) The term 'tribal government' means a tribal organization, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(C) The term 'local educational agency' has the meaning given that term in section 8013 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713).

"(D) The term 'institution of higher education' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).".

(b) Procedures.—Not later than 30 days after the date of the enactment of this Act, the Administrator of General Services shall establish procedures to implement section 501(c) of title 40, United States Code (as added by subsection (a)).

(c) Report.—Not later than December 31, 2004, the Administrator shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the implementation and effects of the amendment made by subsection (a).

SEC. 212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) Purposes.—The purposes of this section are to—

(1) enhance the interoperability of Federal information systems;

(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

(b) Definitions.—In this section, the term—

(1) "agency" means an Executive agency as defined under section 105 of title 5, United States Code; and

(2) "person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

(c) Report.—

(1) In general.—Not later than 3 years after the date of enactment of this Act, the Director shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(2) Contents.—The report under this section shall—

(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements;

(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, without requiring public users to know which agency holds the information; and

(ii) allows the integration of public information held by the participating agencies;

(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

(E) make any recommendations that the Director deems appropriate on the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

(d) Pilot Projects To Encourage Integrated Collection and Management of Data and Interoperability of Federal Information Systems.—

(1) In general.—In order to provide input to the study under subsection (c), the Director shall designate, in consultation with agencies, a

series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation of the pilot projects.

(2) GOALS OF PILOT PROJECTS.—

(A) IN GENERAL.—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

(B) GOALS.—The goals under this paragraph are to—

(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

(iii) develop, or enable the development of, software to reduce errors in electronically submitted information.

(3) INPUT.—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

(e) PROTECTIONS.—The activities authorized under this section shall afford protections for—

(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law;

(2) personal privacy information under sections 552(b) (6) and (7)(C) and 552a of title 5, United States Code, and other relevant law;

(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law; and

(4) confidential statistical information collected under a confidentiality pledge, solely for statistical purposes, consistent with the Office of Management and Budget's Federal Statistical Confidentiality Order, and other relevant law.

SEC. 213. COMMUNITY TECHNOLOGY CENTERS.

(a) PURPOSES.—The purposes of this section are to—

(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

(b) STUDY AND REPORT.—Not later than 2 years after the effective date of this title, the Administrator shall—

(1) conduct a study to evaluate the best practices of community technology centers that have received Federal funds; and

(2) submit a report on the study to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Government Reform of the House of Representatives; and

(D) the Committee on Education and the Workforce of the House of Representatives.

(c) CONTENTS.—The report under subsection (b) may consider—

(1) an evaluation of the best practices being used by successful community technology centers;

(2) a strategy for—

(A) continuing the evaluation of best practices used by community technology centers; and

(B) establishing a network to share information and resources as community technology centers evolve;

(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

(4) a database of all community technology centers that have received Federal funds, including—

(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

(B) other relevant information;

(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

(6) recommendations of how to—

(A) enhance the development of community technology centers; and

(B) establish a network to share information and resources.

(d) COOPERATION.—All agencies that fund community technology centers shall provide to the Administrator any information and assistance necessary for the completion of the study and the report under this section.

(e) ASSISTANCE.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Education, shall work with other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

(A) assist in the implementation of recommendations; and

(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

(2) TYPES OF ASSISTANCE.—Assistance under this subsection may include—

(A) contribution of funds;

(B) donations of equipment, and training in the use and maintenance of the equipment; and

(C) the provision of basic instruction or training material in computer skills and Internet usage.

(f) ONLINE TUTORIAL.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Education, the Director of the Institute of Museum and Library Services, other relevant agencies, and the public, shall develop an online tutorial that—

(A) explains how to access Government information and services on the Internet; and

(B) provides a guide to available online resources.

(2) DISTRIBUTION.—The Administrator, with assistance from the Secretary of Education, shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

(g) PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.—The Administrator, with assistance from the Department of Education and in consultation with other agencies and organizations, shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

(1) $2,000,000 in fiscal year 2003;

(2) $2,000,000 in fiscal year 2004; and

(3) such sums as are necessary in fiscal years 2005 through 2007.

SEC. 214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

(a) PURPOSE.—The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness, response, and recovery, while ensuring the availability of such information across multiple access channels.

(b) IN GENERAL.—

(1) STUDY ON ENHANCEMENT OF CRISIS RESPONSE.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Federal Emergency Management Agency, shall enter into a contract to conduct a study on using information technology to enhance crisis preparedness, response, and consequence management of natural and manmade disasters.

(2) CONTENTS.—The study under this subsection shall address—

(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

(i) the Federal Emergency Management Agency; and

(ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and

(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

(3) REPORT.—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Administrator shall submit a report on the study, including findings and recommendations to—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(4) INTERAGENCY COOPERATION.—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Administrator in carrying out this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for research under this subsection, such sums as are necessary for fiscal year 2003.

(c) PILOT PROJECTS.—Based on the results of the research conducted under subsection (b), the Administrator, in consultation with the Federal Emergency Management Agency, shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Administrator shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

SEC. 215. DISPARITIES IN ACCESS TO THE INTERNET.

(a) STUDY AND REPORT.—

(1) STUDY.—Not later than 90 days after the date of enactment of this Act, the Administrator of General Services shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator of General Services shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the National Research Council.

(b) CONTENTS.—The report under subsection (a) shall include a study of—

(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(A) the nature of disparities in Internet access;

(B) the affordability of Internet service;

(C) the incidence of disparities among different groups within the population; and

(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(c) RECOMMENDATIONS.—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $950,000 in fiscal year 2003 to carry out this section.

TITLE III—INFORMATION SECURITY

SEC. 301. INFORMATION SECURITY.

(a) SHORT TITLE.—This title may be cited as the "Federal Information Security Management Act of 2002".

(b) INFORMATION SECURITY.—

(1) IN GENERAL.—Subchapter II of chapter 35 of title 44, United States Code, is amended to read as follows:

"SUBCHAPTER II—INFORMATION SECURITY

"§3531. Purposes

"The purposes of this subchapter are to—

"(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

"(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

"(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

"(4) provide a mechanism for improved oversight of Federal agency information security programs;

"(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and

"(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.

"§3532. Definitions

"(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

"(b) ADDITIONAL DEFINITIONS.—As used in this subchapter—

"(1) the term 'information security' means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

"(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

"(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and

"(C) availability, which means ensuring timely and reliable access to and use of information;

"(2) the term 'national security system' means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

"(A) the function, operation, or use of which—

"(i) involves intelligence activities;

"(ii) involves cryptologic activities related to national security;

"(iii) involves command and control of military forces;

"(iv) involves equipment that is an integral part of a weapon or weapons system; or

"(v) is critical to the direct fulfillment of military or intelligence missions,

except that this subparagraph does not include a system that is used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications); or

"(B) is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of national defense or foreign policy; and

"(3) the term 'information technology' has the meaning given that term in section 11101 of title 40.

"§3533. Authority and functions of the Director

"(a) The Director shall oversee agency information security policies and practices, including—

"(1) developing and overseeing the implementation of policies, principles, standards, and guidelines on information security, including through the promulgation of standards and guidelines under section 11331 of title 40;

"(2) requiring agencies, consistent with the standards promulgated under such section 11331 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

"(A) information collected or maintained by or on behalf of an agency; or

"(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

"(3) coordinating the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

"(4) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 11303 of title 40, to enforce accountability for compliance with such requirements;

"(5) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3534(b);

"(6) coordinating information security policies and procedures with related information resources management policies and procedures;

"(7) overseeing the operation of the Federal information security incident center required under section 3536; and

"(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

"(A) a summary of the findings of evaluations required by section 3535;

"(B) significant deficiencies in agency information security practices;

"(C) planned remedial action to address such deficiencies; and

"(D) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology under section 20(e)(7) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

"(b) Except for the authorities described in paragraphs (4) and (8) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

"§3534. Federal agency responsibilities

"(a) The head of each agency shall—

"(1) be responsible for—

"(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

"(i) information collected or maintained by or on behalf of the agency; and

"(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

"(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

"(i) information security standards promulgated by the Director under section 11331 of title 40; and

"(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

"(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

"(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

"(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

"(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 11331 of title 40, for information security classifications and related requirements;

"(C) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

"(D) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

"(3) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the requirements imposed on the agency under this subchapter, including—

"(A) designating a senior agency information security officer who shall—

"(i) carry out the Chief Information Officer's responsibilities under this section;

"(ii) possess professional qualifications, including training and experience, required to administer the functions described under this section;

"(iii) have information security duties as that official's primary duty; and

"(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

“(B) developing and maintaining an agencywide information security program as required by subsection (b);

“(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3533 of this title, and section 11331 of title 40;

“(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

“(E) assisting senior agency officials concerning their responsibilities under paragraph (2);

“(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

“(5) ensure that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

“(b) Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3533(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

“(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;

“(2) policies and procedures that—

“(A) are based on the risk assessments required by paragraph (1);

“(B) cost-effectively reduce information security risks to an acceptable level;

“(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

“(D) ensure compliance with—

“(i) the requirements of this subchapter;

“(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 11331 of title 40;

“(iii) minimally acceptable system configuration requirements, as determined by the agency; and

“(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

“(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

“(4) security awareness training to inform personnel, including contractors and other users of information systems that support the operations and assets of the agency, of—

“(A) information security risks associated with their activities; and

“(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

“(5) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

“(A) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3505(c); and

“(B) may include testing relied on in a evaluation under section 3535;

“(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

“(7) procedures for detecting, reporting, and responding to security incidents, consistent with standards and guidelines issued pursuant to section 3536(b), including—

“(A) mitigating risks associated with such incidents before substantial damage is done;

“(B) notifying and consulting with the Federal information security incident center referred to in section 3536; and

“(C) notifying and consulting with, as appropriate—

“(i) law enforcement agencies and relevant Offices of Inspector General;

“(ii) an office designated by the President for any incident involving a national security system; and

“(iii) any other agency or office, in accordance with law or as directed by the President; and

“(8) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

“(c) Each agency shall—

“(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b);

“(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

“(A) annual agency budgets;

“(B) information resources management under subchapter 1 of this chapter;

“(C) information technology management under subtitle III of title 40;

“(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

“(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101–576) (and the amendments made by that Act);

“(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

“(G) internal accounting and administrative controls under section 3512 of title 31, (known as the ‘Federal Managers Financial Integrity Act’); and

“(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

“(A) as a material weakness in reporting under section 3512 of title 31; and

“(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note).

“(d)(1) In addition to the requirements of subsection (c), each agency, in consultation with the Director, shall include as part of the performance plan required under section 1115 of title 31 a description of—

“(A) the time periods, and

“(B) the resources, including budget, staffing, and training,

that are necessary to implement the program required under subsection (b).

“(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1).

“(e) Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

“§3535. Annual independent evaluation

“(a)(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

“(2) Each evaluation by an agency under this section shall include—

“(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the agency’s information systems;

“(B) an assessment (made on the basis of the results of the testing) of compliance with—

“(i) the requirements of this subchapter; and

“(ii) related information security policies, procedures, standards, and guidelines; and

“(C) separate presentations, as appropriate, regarding information security relating to national security systems.

“(b) Subject to subsection (c)—

“(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

“(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

“(c) For each agency operating or exercising control of a national security system, that portion of the evaluation required by this section directly relating to a national security system shall be performed—

“(1) only by an entity designated by the agency head; and

“(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

“(d) The evaluation required by this section may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

“(e)(1) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

“(2) To the extent an evaluation required under this section directly relates to a national security system, the evaluation results submitted to the Director shall contain only a summary and assessment of that portion of the evaluation directly relating to a national security system.

“(f) Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

“(g)(1) The Director shall summarize the results of the evaluations conducted under this section in the report to Congress required under section 3533(a)(8).

“(2) The Director’s report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

“(3) Evaluations and any other descriptions of information systems under the authority and

control of the Director of Central Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

"(h) The Comptroller General shall periodically evaluate and report to Congress on—

"(1) the adequacy and effectiveness of agency information security policies and practices; and

"(2) implementation of the requirements of this subchapter.

"§3536. Federal information security incident center

"(a) The Director shall ensure the operation of a central Federal information security incident center to—

"(1) provide timely technical assistance to operators of agency information systems regarding security incidents, including guidance on detecting and handling information security incidents;

"(2) compile and analyze information about incidents that threaten information security;

"(3) inform operators of agency information systems about current and potential information security threats, and vulnerabilities; and

"(4) consult with agencies or offices operating or exercising control of national security systems (including the National Security Agency) and such other agencies or offices in accordance with law and as directed by the President regarding information security incidents and related matters.

"(b) Each agency operating or exercising control of a national security system shall share information about information security incidents, threats, and vulnerabilities with the Federal information security incident center to the extent consistent with standards and guidelines for national security systems, issued in accordance with law and as directed by the President.

"§3537. National security systems

"The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

"(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

"(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

"(3) complies with the requirements of this subchapter.

"§3538. Authorization of appropriations

"There are authorized to be appropriated to carry out the provisions of this subchapter such sums as may be necessary for each of fiscal years 2003 through 2007.

"§3539. Effect on existing law

"Nothing in this subchapter, section 11331 of title 40, or section 20 of the National Standards and Technology Act (15 U.S.C. 278g–3) may be construed as affecting the authority of the President, the Office of Management and Budget or the Director thereof, the National Institute of Standards and Technology, or the head of any agency, with respect to the authorized use or disclosure of information, including with regard to the protection of personal privacy under section 552a of title 5, the disclosure of information under section 552 of title 5, the management and disposition of records under chapters 29, 31, or 33 of title 44, the management of information resources under subchapter I of chapter 35 of this title, or the disclosure of information to the Congress or the Comptroller General of the United States.".

(2) CLERICAL AMENDMENT.—The items in the table of sections at the beginning of such chapter 35 under the heading "SUBCHAPTER II—INFORMATION SECURITY" are amended to read as follows:

"3531. Purposes.
"3532. Definitions.
"3533. Authority and functions of the Director.
"3534. Federal agency responsibilities.
"3535. Annual independent evaluation.
"3536. Federal information security incident center.
"3537. National security systems.
"3538. Authorization of appropriations.
"3539. Effect on existing law.".

(c) INFORMATION SECURITY RESPONSIBILITIES OF CERTAIN AGENCIES.—

(1) NATIONAL SECURITY RESPONSIBILITIES.—(A) Nothing in this Act (including any amendment made by this Act) shall supersede any authority of the Secretary of Defense, the Director of Central Intelligence, or other agency head, as authorized by law and as directed by the President, with regard to the operation, control, or management of national security systems, as defined by section 3532(b)(2) of title 44, United States Code.

(B) Section 2224 of title 10, United States Code, is amended—

(i) in subsection (b), by striking "(b) OBJECTIVES AND MINIMUM REQUIREMENTS.—(1)" and inserting "(b) OBJECTIVES OF THE PROGRAM.—";

(ii) in subsection (b), by striking paragraph (2); and

(iii) in subsection (c), in the matter preceding paragraph (1), by inserting ", including through compliance with subtitle II of chapter 35 of title 44" after "infrastructure".

(2) ATOMIC ENERGY ACT OF 1954.—Nothing in this Act shall supersede any requirement made by or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Restricted data or formerly restricted data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 302. MANAGEMENT OF INFORMATION TECHNOLOGY.

(a) IN GENERAL.—Section 11331 of title 40, United States Code, is amended to read as follows:

"§11331. Responsibilities for federal information systems standards

"(a) INFORMATION SECURITY STANDARDS.—

"(1) IN GENERAL.—(A) Except as provided under paragraph (2), the Director of the Office of Management and Budget shall, on the basis of proposed standards developed by the National Institute of Standards and Technology pursuant to paragraph (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)), promulgate information security standards pertaining to Federal information systems.

"(B) Standards promulgated under subparagraph (A) shall include—

"(i) standards that provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(b)); and

"(ii) such standards that are otherwise necessary to improve the efficiency of operation or security of Federal information systems.

"(C) Information security standards described under subparagraph (B) shall be compulsory and binding.

"(2) NATIONAL SECURITY SYSTEMS.—Standards and guidelines for national security systems under this subsection shall be developed, promulgated, enforced, and overseen as otherwise authorized by law and as directed by the President.

"(3) AGENCY HEAD AUTHORITY.—The head of an agency may employ standards for the cost-effective information security for all operations and assets within or under the supervision of that agency that are more stringent than the standards promulgated by the Director under this subsection, if such standards—

"(A) contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Director; and

"(B) are otherwise consistent with policies and guidelines issued under section 3533 of title 44.

"(4) DECISIONS ON PROMULGATION OF STANDARDS.—(A) The decision regarding the promulgation of any standard by the Director under paragraphs (1) and (2) shall occur not later than 6 months after the submission of the proposed standard to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

"(B) A decision by the Director to significantly modify, or not promulgate, a proposed standard submitted to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), shall be made after the public is given an opportunity to comment on the Director's proposed decision.

"(b) ADDITIONAL STANDARDS RELATING TO FEDERAL INFORMATION SYSTEMS.—

"(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary of Commerce shall, on the basis of proposed standards developed by the National Institute of Standards and Technology pursuant to paragraph (2) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)) and in consultation with the Director of the Office of Management and Budget, promulgate standards pertaining to Federal information systems. The Secretary shall make such standards compulsory and binding to the extent that the Secretary determines necessary to improve the efficiency and effectiveness of the operation of Federal information systems.

"(2) NATIONAL SECURITY SYSTEMS.—Standards and guidelines for national security systems under this subsection shall be developed, promulgated, enforced, and overseen as otherwise authorized by law and as directed by the President.

"(3) AUTHORITY OF SECRETARY.—The authority conferred upon the Secretary of Commerce by this subsection shall be exercised subject to direction by the President and in coordination with the Director of the Office of Management and Budget to ensure fiscal and policy consistency.

"(4) AGENCY HEAD AUTHORITY.—The head of an agency may employ standards for information systems that are more stringent than the standards promulgated by the Secretary of Commerce under this subsection, if such standards contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Secretary of Commerce.

"(c) DEFINITIONS.—In this section:

"(1) FEDERAL INFORMATION SYSTEM.—The term 'Federal information system' means an information system used or operated by an agency, by a contractor of an agency, or by another organization on behalf of an agency.

"(2) INFORMATION SECURITY.—The term 'information security' has the meaning given that term in section 3532(b)(1) of title 44.

"(3) NATIONAL SECURITY SYSTEM.—The term 'national security system' has the meaning given that term in section 3532(b)(2) of title 44.".

(b) CLERICAL AMENDMENT.—The item relating to section 11331 in the table of sections at the beginning of chapter 113 of such title is amended to read as follows:

"11331. Responsibilities for Federal information systems standards.".

SEC. 303. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), is amended by striking the text and inserting the following:

"(a) The Institute shall—

"(1) have the mission of developing standards, guidelines, and associated methods and techniques for information systems;

"(2) develop standards and guidelines, including minimum requirements, for information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency, other than national security systems (as defined in section 3532(b)(2) of title 44, United States Code); and

"(3) develop standards and guidelines, including minimum requirements, for providing adequate information security for all agency operations and assets, but such standards and guidelines shall not apply to national security systems.

"(b) The standards and guidelines required by subsection (a) shall include, at a minimum—

"(1)(A) standards to be used by all agencies to categorize all information and information systems collected or maintained by or on behalf of each agency based on the objectives of providing appropriate levels of information security according to a range of risk levels;

"(B) guidelines recommending the types of information and information systems to be included in each such category; and

"(C) minimum information security requirements for information and information systems in each such category;

"(2) a definition of and guidelines concerning detection and handling of information security incidents; and

"(3) guidelines developed in coordination with the National Security Agency for identifying an information system as a national security system consistent with applicable requirements for national security systems, issued in accordance with law and as directed by the President.

"(c) In developing standards and guidelines required by subsections (a) and (b), the Institute shall—

"(1) consult with other agencies and offices and the private sector (including the Director of the Office of Management and Budget, the Departments of Defense and Energy, the National Security Agency, the General Accounting Office, and the Secretary of Homeland Security) to assure—

"(A) use of appropriate information security policies, procedures, and techniques, in order to improve information security and avoid unnecessary and costly duplication of effort; and

"(B) that such standards and guidelines are complementary with standards and guidelines employed for the protection of national security systems and information contained in such systems;

"(2) provide the public with an opportunity to comment on proposed standards and guidelines;

"(3) submit to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code—

"(A) standards, as required under subsection (b)(1)(A), no later than 12 months after the date of the enactment of this section; and

"(B) minimum information security requirements for each category, as required under subsection (b)(1)(C), no later than 36 months after the date of the enactment of this section;

"(4) issue guidelines as required under subsection (b)(1)(B), no later than 18 months after the date of the enactment of this section;

"(5) ensure that such standards and guidelines do not specify the use or procurement of certain products, including any specific hardware or software;

"(6) ensure that such standards and guidelines provide for sufficient flexibility to permit alternative solutions to provide equivalent levels of protection for identified information security risks; and

"(7) use flexible, performance-based standards and guidelines that, to the greatest extent possible, permit the use of off-the-shelf commercially developed information security products.

"(d)(1) There is established in the Institute an Office for Information Security Programs.

"(2) The Office for Information Security Programs shall be headed by a Director, who shall be a senior executive and shall be compensated at a level in the Senior Executive Service under section 5382 of title 5, United States Code, as determined by the Secretary of Commerce.

"(3) The Director of the Institute shall delegate to the Director of the Office of Information Security Programs the authority to administer all functions under this section, except that any such delegation shall not relieve the Director of the Institute of responsibility for the administration of such functions. The Director of the Office of Information Security Programs shall serve as principal adviser to the Director of the Institute on all functions under this section.

"(e) The Institute shall—

"(1) submit standards developed pursuant to subsection (a), along with recommendations as to the extent to which these should be made compulsory and binding, to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code;

"(2) provide assistance to agencies regarding—

"(A) compliance with the standards and guidelines developed under subsection (a);

"(B) detecting and handling information security incidents; and

"(C) information security policies, procedures, and practices;

"(3) conduct research, as needed, to determine the nature and extent of information security vulnerabilities and techniques for providing cost-effective information security;

"(4) develop and periodically revise performance indicators and measures for agency information security policies and practices;

"(5) evaluate private sector information security policies and practices and commercially available information technologies to assess potential application by agencies to strengthen information security;

"(6) evaluate security policies and practices developed for national security systems to assess potential application by agencies to strengthen information security;

"(7) periodically assess the effectiveness of standards and guidelines developed under this section and undertake revisions as appropriate;

"(8) solicit and consider the recommendations of the Information Security and Privacy Advisory Board, established by section 21, regarding standards and guidelines developed under subsection (a) and submit such recommendations to the Director of the Office of Management and Budget with such standards submitted to the Director; and

"(9) prepare an annual public report on activities undertaken in the previous year, and planned for the coming year, to carry out responsibilities under this section.

"(f) As used in this section—

"(1) the term 'agency' has the same meaning as provided in section 3502(1) of title 44, United States Code;

"(2) the term 'information security' has the same meaning as provided in section 3532(b)(1) of such title;

"(3) the term 'information system' has the same meaning as provided in section 3502(8) of such title;

"(4) the term 'information technology' has the same meaning as provided in section 11101 of title 40, United States Code; and

"(5) the term 'national security system' has the same meaning as provided in section 3532(b)(2) of title 44, United States Code.

"(g) There are authorized to be appropriated to the Secretary of Commerce $20,000,000 for each of fiscal years 2003, 2004, 2005, 2006, and 2007 to enable the National Institute of Standards and Technology to carry out the provisions of this section.".

SEC. 304. INFORMATION SECURITY AND PRIVACY ADVISORY BOARD.

Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–4), is amended—

(1) in subsection (a), by striking "Computer System Security and Privacy Advisory Board" and inserting "Information Security and Privacy Advisory Board";

(2) in subsection (a)(1), by striking "computer or telecommunications" and inserting "information technology";

(3) in subsection (a)(2)—

(A) by striking "computer or telecommunications technology" and inserting "information technology"; and

(B) by striking "computer or telecommunications equipment" and inserting "information technology";

(4) in subsection (a)(3)—

(A) by striking "computer systems" and inserting "information system"; and

(B) by striking "computer systems security" and inserting "information security";

(5) in subsection (b)(1) by striking "computer systems security" and inserting "information security";

(6) in subsection (b) by striking paragraph (2) and inserting the following:

"(2) to advise the Institute and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems, including through review of proposed standards and guidelines developed under section 20; and";

(7) in subsection (b)(3) by inserting "annually" after "report";

(8) by inserting after subsection (e) the following new subsection:

"(f) The Board shall hold meetings at such locations and at such time and place as determined by a majority of the Board.";

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(10) by striking subsection (h), as redesignated by paragraph (9), and inserting the following:

"(h) As used in this section, the terms 'information system' and 'information technology' have the meanings given in section 20.".

SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS.

(a) COMPUTER SECURITY ACT.—Subsections (b) and (c) of section 11332 of title 40, United States Code, are repealed.

(b) FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) is amended by striking section 1062 (44 U.S.C. 3531 note).

(c) PAPERWORK REDUCTION ACT.—(1) Section 3504(g) of title 44, United States Code, is amended—

(A) by adding "and" at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking "sections 11331 and 11332(b) and (c) of title 40" and inserting "section 11331 of title 40 and subchapter II of this chapter"; and

(ii) by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(2) Section 3505 of such title is amended by adding at the end—

"(c)(1) The head of each agency shall develop and maintain an inventory of major information systems (including major national security systems) operated by or under the control of such agency.

"(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency.

"(3) Such inventory shall be—

"(A) updated at least annually;

"(B) made available to the Comptroller General; and

"(C) used to support information resources management, including—

"(i) preparation and maintenance of the inventory of information resources under section 3506(b)(4);

"(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), subtitle III of title 40, and related laws and guidance;

"(iii) monitoring, testing, and evaluation of information security controls under subchapter II;

"(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and

"(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33.

"(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.".

(3) Section 3506(g) of such title is amended—

(A) by adding "and" at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking "section 11332 of title 40" and inserting "subchapter II of this chapter"; and

(ii) by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

SEC. 306. CONSTRUCTION.

Nothing in this title, or the amendments made by this title, affects the authority of the National Institute of Standards and Technology or the Department of Commerce relating to the development and promulgation of standards or guidelines under paragraphs (1) and (2) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)).

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title I or II, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles I and II for each of fiscal years 2003 through 2007.

SEC. 402. EFFECTIVE DATES.

(a) Titles I and II.—

(1) In general.—Except as provided under paragraph (2), titles I and II and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) Immediate enactment.—Sections 207, 214, and 215 shall take effect on the date of enactment of this Act.

(b) Titles III and IV.—Title III and this title shall take effect on the date of enactment of this Act.

TITLE V—CONFIDENTIAL INFORMATION PROTECTION AND STATISTICAL EFFICIENCY

SEC. 501. SHORT TITLE.

This title may be cited as the "Confidential Information Protection and Statistical Efficiency Act of 2002".

SEC. 502. DEFINITIONS.

As used in this title:

(1) The term "agency" means any entity that falls within the definition of the term "executive agency" as defined in section 102 of title 31, United States Code, or "agency", as defined in section 3502 of title 44, United States Code.

(2) The term "agent"—

(A) means an employee of a private organization or a researcher affiliated with an institution of higher learning (including a person granted special sworn status by the Bureau of the Census under section 23(c) of title 13, United States Code) with whom a contract or other agreement is executed, on a temporary basis, by an executive agency to perform exclusively statistical activities under the control and supervision of an officer or employee of that agency; or

(B) means an individual who is working under the authority of a government entity with which a contract or other agreement is executed by an executive agency to perform exclusively statistical activities under the control of an officer or employee of that agency; or

(C) means an individual who is a self-employed researcher, a consultant, or a contractor, or who is an employee of a contractor and with whom a contract or other agreement is executed by an executive agency to perform a statistical activity under the control of an officer or employee of that agency; or

(D) means an individual who is a contractor or who is an employee of a contractor engaged by the agency to design or maintain the systems for handling or storage of data received under this title; and

(E) who agrees in writing to comply with all provisions of law that affect information acquired by that agency.

(3) The term "business data" means operating and financial data and information about businesses, tax-exempt organizations, and government entities.

(4) The term "identifiable form" means any representation of information that permits the identity of the respondent to whom the information applies to be reasonably inferred by either direct or indirect means.

(5) The term "nonstatistical purpose"—

(A) means the use of data in identifiable form for any purpose that is not a statistical purpose, including any administrative, regulatory, law enforcement, adjudicatory, or other purpose that affects the rights, privileges, or benefits of a particular identifiable respondent; and

(B) includes the disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act) of data that are acquired for exclusively statistical purposes under a pledge of confidentiality.

(6) The term "respondent" means a person who, or organization that, is requested or required to supply information to an agency, is the subject of information requested or required to be supplied to an agency, or provides that information to an agency.

(7) The term "statistical activities"—

(A) means the collection, compilation, processing, or analysis of data for the purpose of describing or making estimates concerning the whole, or relevant groups or components within, the economy, society, or the natural environment; and

(B) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or sampling frames.

(8) The term "statistical agency or unit" means an agency or organizational unit of the executive branch whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes.

(9) The term "statistical purpose"—

(A) means the description, estimation, or analysis of the characteristics of groups, without identifying the individuals or organizations that comprise such groups; and

(B) includes the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support the purposes described in subparagraph (A).

SEC. 503. COORDINATION AND OVERSIGHT OF POLICIES.

(a) In General.—The Director of the Office of Management and Budget shall coordinate and oversee the confidentiality and disclosure policies established by this title. The Director may promulgate rules or provide other guidance to ensure consistent interpretation of this title by the affected agencies.

(b) Agency Rules.—Subject to subsection (c), agencies may promulgate rules to implement this title. Rules governing disclosures of information that are authorized by this title shall be promulgated by the agency that originally collected the information.

(c) Review and Approval of Rules.—The Director shall review any rules proposed by an agency pursuant to this title for consistency with the provisions of this title and chapter 35 of title 44, United States Code, and such rules shall be subject to the approval of the Director.

(d) Reports.—

(1) The head of each agency shall provide to the Director of the Office of Management and Budget such reports and other information as the Director requests.

(2) Each Designated Statistical Agency referred to in section 522 shall report annually to the Director of the Office of Management and Budget, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate on the actions it has taken to implement sections 523 and 524. The report shall include copies of each written agreement entered into pursuant to section 524(a) for the applicable year.

(3) The Director of the Office of Management and Budget shall include a summary of reports submitted to the Director under paragraph (2) and actions taken by the Director to advance the purposes of this title in the annual report to the Congress on statistical programs prepared under section 3504(e)(2) of title 44, United States Code.

SEC. 504. EFFECT ON OTHER LAWS.

(a) Section 3510 of Title 44, United States Code.—This title, including amendments made by this title, does not diminish the authority under section 3510 of title 44, United States Code, of the Director of the Office of Management and Budget to direct, and of an agency to make, disclosures that are not inconsistent with any applicable law.

(b) Sections 8, 16, 301, and 401 of Title 13 and Section 2108 of Title 44, United States Code.—This title, including amendments made by this title, does not diminish the authority of the Bureau of the Census to provide information in accordance with sections 8, 16, 301, and 401 of title 13 and section 2108 of title 44, United States Code.

(c) Section 9 of Title 13, United States Code.—This title, including amendments made by this title, shall not be construed as authorizing the disclosure for nonstatistical purposes of demographic data or information collected by the Census Bureau pursuant to section 9 of title 13, United States Code.

(d) Section 12 of the Federal Energy Administration Act of 1974.—In accordance with the provisions of this title, data acquired for exclusively statistical purposes under a pledge of confidentiality are exempt from mandatory disclosure in identifiable form for nonstatistical

purposes under section 12 of the Federal Energy Administration Act of 1974 (15 U.S.C. 771).

(e) Preemption of State Law.—Nothing in this title shall preempt applicable State law regarding the confidentiality of data collected by the States.

(f) Statutes Regarding False Statements.—Notwithstanding section 512, information collected by an agency for exclusively statistical purposes under a pledge of confidentiality may be provided by the collecting agency to a law enforcement agency for the prosecution of submissions to the collecting agency of false statistical information under statutes that authorize criminal penalties (such as section 221 of title 13, United States Code) or civil penalties for the provision of false statistical information, unless such disclosure or use would otherwise be prohibited under Federal law.

(g) Construction.—Nothing in this title shall be construed as restricting or diminishing any confidentiality protections or penalties for unauthorized disclosure that otherwise apply to data or information collected for statistical purposes or nonstatistical purposes, including, but not limited to, section 6103 of the Internal Revenue Code of 1986 (26 U.S.C. 6103).

Subtitle A—Confidential Information Protection

SEC. 511. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds the following:

(1) Individuals, businesses, and other organizations have varying degrees of legal protection when providing information to the Federal Government for strictly statistical purposes.

(2) Pledges of confidentiality by the Federal Government provide assurances to the public that information about individuals or organizations or provided by individuals or organizations for exclusively statistical purposes will be held in confidence and will not be used against such individuals or organizations in any Federal Government action.

(3) Protecting the confidentiality interests of individuals or organizations who provide information for Federal statistical programs serves both the interests of the public and the needs of society.

(4) Declining trust of the public in the protection of information provided to the Federal Government adversely affects both the accuracy and completeness of statistical analyses.

(5) Ensuring that information provided for statistical purposes receives protection is essential in continuing public cooperation in statistical programs.

(b) Purposes.—The purposes of this subtitle are the following:

(1) To ensure that information supplied by individuals or organizations to an agency for statistical purposes under a pledge of confidentiality is used exclusively for statistical purposes.

(2) To ensure that individuals or organizations who supply information to the Federal Government for statistical purposes will neither have that information disclosed in identifiable form to anyone not authorized by this title nor have that information used for any purpose other than a statistical purpose.

(3) To safeguard the confidentiality of individually identifiable information acquired under a pledge of confidentiality for statistical purposes by controlling access to, and uses made of, such information.

SEC. 512. LIMITATIONS ON USE AND DISCLOSURE OF DATA AND INFORMATION.

(a) Use of Statistical Data or Information.—Data or information acquired by an agency under a pledge of confidentiality and for exclusively statistical purposes shall be used by officers, employees, or agents of the agency exclusively for statistical purposes.

(b) Disclosure of Statistical Data or Information.—

(1) Data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes shall not be disclosed by an agency in identifiable form, for any use other than an exclusively statistical purpose, except with the informed consent of the respondent.

(2) A disclosure pursuant to paragraph (1) is authorized only when the head of the agency approves such disclosure and the disclosure is not prohibited by any other law.

(3) This section does not restrict or diminish any confidentiality protections in law that otherwise apply to data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes.

(c) Rule for Use of Data or Information for Nonstatistical Purposes.—A statistical agency or unit shall clearly distinguish any data or information it collects for nonstatistical purposes (as authorized by law) by a rule that provides that the respondent supplying the data or information is fully informed, before the data or information is collected, that the data or information could be used for nonstatistical purposes.

(d) Designation of Agents.—A statistical agency or unit may designate agents, by contract or by entering into a special agreement containing the provisions required by section 502, who may perform exclusively statistical activities, subject to the limitations and penalties described in this title.

SEC. 513. FINES AND PENALTIES.

Whoever, being an officer, employee, or agent of an agency acquiring information for exclusively statistical purposes, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by section 512, comes into possession of such information by reason of his or her being an officer, employee, or agent and, knowing that the disclosure of the specific information is prohibited under the provisions of this title, willfully discloses the information in any manner to a person or agency not entitled to receive it, shall be guilty of a class E felony and imprisoned for not more than 5 years, or fined not more than $250,000, or both.

Subtitle B—Statistical Efficiency

SEC. 521. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds the following:

(1) Federal statistics are an important source of information for public and private decision-makers such as policymakers, consumers, businesses, investors, and workers.

(2) Federal statistical agencies should continuously seek to improve their efficiency. Statutory constraints limit the ability of these agencies to share data and thus to achieve higher efficiency for Federal statistical programs.

(3) The quality of Federal statistics depends on the willingness of businesses to respond to statistical surveys. Reducing reporting burdens will increase response rates, and therefore lead to more accurate characterizations of the economy.

(4) Enhanced sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes will improve their ability to track more accurately the large and rapidly changing nature of United States business. In particular, the statistical agencies will be able to better ensure that businesses are consistently classified in appropriate industries, resolve data anomalies, produce statistical samples that are consistently adjusted for the entry and exit of new businesses in a timely manner, and correct faulty reporting errors quickly and efficiently.

(5) Congress enacted the International Investment and Trade in Services Act of 1990 that allowed the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to share data on foreign-owned companies. The Act not only expanded detailed industry coverage from 135 industries to over 800 industries with no increase in the data collected from respondents but also demonstrated how data sharing can result in the creation of valuable data products.

(6) With subtitle A of this title, the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics continues to ensure the highest level of confidentiality for respondents to statistical surveys.

(b) Purposes.—The purposes of this subtitle are the following:

(1) To authorize the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes.

(2) To reduce the paperwork burdens imposed on businesses that provide requested information to the Federal Government.

(3) To improve the comparability and accuracy of Federal economic statistics by allowing the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to update sample frames, develop consistent classifications of establishments and companies into industries, improve coverage, and reconcile significant differences in data produced by the three agencies.

(4) To increase understanding of the United States economy, especially for key industry and regional statistics, to develop more accurate measures of the impact of technology on productivity growth, and to enhance the reliability of the Nation's most important economic indicators, such as the National Income and Product Accounts.

SEC. 522. DESIGNATION OF STATISTICAL AGENCIES.

For purposes of this subtitle, the term "Designated Statistical Agency" means each of the following:

(1) The Bureau of the Census of the Department of Commerce.

(2) The Bureau of Economic Analysis of the Department of Commerce.

(3) The Bureau of Labor Statistics of the Department of Labor.

SEC. 523. RESPONSIBILITIES OF DESIGNATED STATISTICAL AGENCIES.

The head of each of the Designated Statistical Agencies shall—

(1) identify opportunities to eliminate duplication and otherwise reduce reporting burden and cost imposed on the public in providing information for statistical purposes;

(2) enter into joint statistical projects to improve the quality and reduce the cost of statistical programs; and

(3) protect the confidentiality of individually identifiable information acquired for statistical purposes by adhering to safeguard principles, including—

(A) emphasizing to their officers, employees, and agents the importance of protecting the confidentiality of information in cases where the identity of individual respondents can reasonably be inferred by either direct or indirect means;

(B) training their officers, employees, and agents in their legal obligations to protect the confidentiality of individually identifiable information and in the procedures that must be followed to provide access to such information;

(C) implementing appropriate measures to assure the physical and electronic security of confidential data;

(D) establishing a system of records that identifies individuals accessing confidential data and the project for which the data were required; and

(E) being prepared to document their compliance with safeguard principles to other agencies authorized by law to monitor such compliance.

SEC. 524. SHARING OF BUSINESS DATA AMONG DESIGNATED STATISTICAL AGENCIES.

(a) IN GENERAL.—A Designated Statistical Agency may provide business data in an identifiable form to another Designated Statistical Agency under the terms of a written agreement among the agencies sharing the business data that specifies—

(1) the business data to be shared;

(2) the statistical purposes for which the business data are to be used;

(3) the officers, employees, and agents authorized to examine the business data to be shared; and

(4) appropriate security procedures to safeguard the confidentiality of the business data.

(b) RESPONSIBILITIES OF AGENCIES UNDER OTHER LAWS.—The provision of business data by an agency to a Designated Statistical Agency under this subtitle shall in no way alter the responsibility of the agency providing the data under other statutes (including section 552 of title 5, United States Code (popularly known as the "Freedom of Information Act"), and section 552b of title 5, United States Code (popularly known as the "Privacy Act of 1974")) with respect to the provision or withholding of such information by the agency providing the data.

(c) RESPONSIBILITIES OF OFFICERS, EMPLOYEES, AND AGENTS.—Examination of business data in identifiable form shall be limited to the officers, employees, and agents authorized to examine the individual reports in accordance with written agreements pursuant to this section. Officers, employees, and agents of a Designated Statistical Agency who receive data pursuant to this subtitle shall be subject to all provisions of law, including penalties, that relate—

(1) to the unlawful provision of the business data that would apply to the officers, employees, and agents of the agency that originally obtained the information; and

(2) to the unlawful disclosure of the business data that would apply to officers, employees, and agents of the agency that originally obtained the information.

(d) NOTICE.—Whenever a written agreement concerns data that respondents were required by law to report and the respondents were not informed that the data could be shared among the Designated Statistical Agencies, for exclusively statistical purposes, the terms of such agreement shall be described in a public notice issued by the agency that intends to provide the data. Such notice shall allow a minimum of 60 days for public comment.

SEC. 525. LIMITATIONS ON USE OF BUSINESS DATA PROVIDED BY DESIGNATED STATISTICAL AGENCIES.

(a) IN GENERAL.—Business data provided by a Designated Statistical Agency pursuant to this subtitle shall be used exclusively for statistical purposes.

(b) PUBLICATION OF DATA.—Publication of business data acquired by a Designated Statistical Agency shall occur in a manner whereby the data furnished by any particular respondent are not in identifiable form.

SEC. 526. CONFORMING AMENDMENTS.

(a) DEPARTMENT OF COMMERCE.—Section 1 of the Act of January 27, 1938 (15 U.S.C. 176a) is amended by striking "The" and inserting "Except as provided in the Confidential Information Protection and Statistical Efficiency Act of 2002, the".

(b) TITLE 13.—Chapter 10 of title 13, United States Code, is amended—

(1) by adding after section 401 the following:

"§402. Providing business data to Designated Statistical Agencies

"The Bureau of the Census may provide business data to the Bureau of Economic Analysis and the Bureau of Labor Statistics ('Designated Statistical Agencies') if such information is required for an authorized statistical purpose and the provision is the subject of a written agreement with that Designated Statistical Agency, or their successors, as defined in the Confidential Information Protection and Statistical Efficiency Act of 2002."; and

(2) in the table of sections for the chapter by adding after the item relating to section 401 the following:

"402. Providing business data to Designated Statistical Agencies.".

Further amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "E-Government Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

Sec. 101. Management and promotion of electronic government services.
Sec. 102. Conforming amendments.

TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

Sec. 201. Definitions.
Sec. 202. Federal agency responsibilities.
Sec. 203. Compatibility of executive agency methods for use and acceptance of electronic signatures.
Sec. 204. Federal Internet portal.
Sec. 205. Federal courts.
Sec. 206. Regulatory agencies.
Sec. 207. Accessibility, usability, and preservation of government information.
Sec. 208. Privacy provisions.
Sec. 209. Federal information technology workforce development.
Sec. 210. Share-in-savings initiatives.
Sec. 211. Authorization for acquisition of information technology by State and local governments through Federal supply schedules.
Sec. 212. Integrated reporting study and pilot projects.
Sec. 213. Community technology centers.
Sec. 214. Enhancing crisis management through advanced information technology.
Sec. 215. Disparities in access to the Internet.
Sec. 216. Common protocols for geographic information systems.

TITLE III—INFORMATION SECURITY

Sec. 301. Information security.
Sec. 302. Management of information technology.
Sec. 303. National Institute of Standards and Technology.
Sec. 304. Information Security and Privacy Advisory Board.
Sec. 305. Technical and conforming amendments.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

Sec. 401. Authorization of appropriations.
Sec. 402. Effective dates.

TITLE V—CONFIDENTIAL INFORMATION PROTECTION AND STATISTICAL EFFICIENCY

Sec. 501. Short title.
Sec. 502. Definitions.
Sec. 503. Coordination and oversight of policies.
Sec. 504. Effect on other laws.

Subtitle A—Confidential Information Protection

Sec. 511. Findings and purposes.
Sec. 512. Limitations on use and disclosure of data and information.
Sec. 513. Fines and penalties.

Subtitle B—Statistical Efficiency

Sec. 521. Findings and purposes.
Sec. 522. Designation of statistical agencies.
Sec. 523. Responsibilities of designated statistical agencies.
Sec. 524. Sharing of business data among designated statistical agencies.
Sec. 525. Limitations on use of business data provided by designated statistical agencies.
Sec. 526. Conforming amendments.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

(2) The Federal Government has had uneven success in applying advances in information technology to enhance governmental functions and services, achieve more efficient performance, increase access to Government information, and increase citizen participation in Government.

(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function or topic.

(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of sufficient funding mechanisms to support such interagency cooperation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical element in the management of Government, to be implemented as part of a management framework that also addresses finance, procurement, human capital, and other challenges to improve the performance of Government.

(7) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires strong leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget.

(2) To promote use of the Internet and other information technologies to provide increased opportunities for citizen participation in Government.

(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related functions, and in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

(4) To improve the ability of the Government to achieve agency missions and program performance goals.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric Government information and services.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decision-making by policy makers.

(8) To promote access to high quality Government information and services across multiple channels.

(9) To make the Federal Government more transparent and accountable.

(10) To transform agency operations by utilizing, where appropriate, best practices from public and private sector organizations.

(11) To provide enhanced access to Government information and services in a manner consistent with laws regarding protection of personal privacy, national security, records retention, access for persons with disabilities, and other relevant laws.

TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 101. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

“CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

“Sec.
“3601. Definitions.
“3602. Office of Electronic Government.
“3603. Chief Information Officers Council.
“3604. E-Government Fund.
“3605. Program to encourage innovative solutions to enhance electronic Government services and processes.
“3606. E-Government report.

“§ 3601. Definitions

“In this chapter, the definitions under section 3502 shall apply, and the term—

“(1) ‘Administrator’ means the Administrator of the Office of Electronic Government established under section 3602;

“(2) ‘Council’ means the Chief Information Officers Council established under section 3603;

“(3) ‘electronic Government’ means the use by the Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to—

“(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

“(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

“(4) ‘enterprise architecture’—

“(A) means—

“(i) a strategic information asset base, which defines the mission;

“(ii) the information necessary to perform the mission;

“(iii) the technologies necessary to perform the mission; and

“(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

“(B) includes—

“(i) a baseline architecture;

“(ii) a target architecture; and

“(iii) a sequencing plan;

“(5) ‘Fund’ means the E-Government Fund established under section 3604;

“(6) ‘interoperability’ means the ability of different operating and software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner;

“(7) ‘integrated service delivery’ means the provision of Internet-based Federal Government information or services integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction; and

“(8) ‘tribal government’ means—

“(A) the governing body of any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and

“(B) any Alaska Native regional or village corporation established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

“§ 3602. Office of Electronic Government

“(a) There is established in the Office of Management and Budget an Office of Electronic Government.

“(b) There shall be at the head of the Office an Administrator who shall be appointed by the President.

“(c) The Administrator shall assist the Director in carrying out—

“(1) all functions under this chapter;

“(2) all of the functions assigned to the Director under title II of the E-Government Act of 2002; and

“(3) other electronic government initiatives, consistent with other statutes.

“(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

“(1) chapter 35;

“(2) subtitle III of title 40, United States Code;

“(3) section 552a of title 5 (commonly referred to as the ‘Privacy Act’);

“(4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note); and

“(5) the Federal Information Security Management Act of 2002.

“(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes, in a manner consistent with law, relating to—

“(1) capital planning and investment control for information technology;

“(2) the development of enterprise architectures;

“(3) information security;

“(4) privacy;

“(5) access to, dissemination of, and preservation of Government information;

“(6) accessibility of information technology for persons with disabilities; and

“(7) other areas of electronic Government.

“(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

“(1) Advise the Director on the resources required to develop and effectively administer electronic Government initiatives.

“(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

“(3) Provide overall leadership and direction to the executive branch on electronic Government.

“(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

“(5) Oversee the distribution of funds from, and ensure appropriate administration and coordination of, the E-Government Fund established under section 3604.

“(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

“(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

“(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce under section 11331 of title 40, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, including the following:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Consistent with the process under section 207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(9) Sponsor ongoing dialogue that—

“(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches, as well as leaders in the private and nonprofit sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

“(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of Government information and services; and

“(C) may include—

“(i) development of innovative models—

“(I) for electronic Government management and Government information technology contracts; and

“(II) that may be developed through focused discussions or using separately sponsored research;

“(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

“(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

“(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

“(10) Sponsor activities to engage the general public in the development and implementation of policies and programs, particularly activities aimed at fulfilling the goal of using the most effective citizen-centered strategies and those activities which engage multiple agencies providing similar or related information and services.

“(11) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 204 of the E-Government Act of 2002.

“(12) Coordinate with the Administrator for Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

“(13) Assist Federal agencies, including the General Services Administration, the Department of Justice, and the United States Access Board in—

“(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

“(B) ensuring compliance with those standards through the budget review process and other means.

“(14) Oversee the development of enterprise architectures within and across agencies.

“(15) Assist the Director and the Deputy Director for Management in overseeing agency efforts to ensure that electronic Government activities incorporate adequate, risk-based, and cost-effective security compatible with business processes.

“(16) Administer the Office of Electronic Government established under this section.

“(17) Assist the Director in preparing the E-Government report established under section 3606.

“(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

“§ 3603. Chief Information Officers Council

“(a) There is established in the executive branch a Chief Information Officers Council.

“(b) The members of the Council shall be as follows:

“(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

“(2) The Administrator of the Office of Electronic Government.

“(3) The Administrator of the Office of Information and Regulatory Affairs.

“(4) The chief information officer of each agency described under section 901(b) of title 31.

“(5) The chief information officer of the Central Intelligence Agency.

“(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

“(7) Any other officer or employee of the United States designated by the chairperson.

“(c)(1) The Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management.

“(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

“(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

“(3) The Administrator of General Services shall provide administrative and other support for the Council.

“(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

“(e) In performing its duties, the Council shall consult regularly with representatives of State, local, and tribal governments.

“(f) The Council shall perform functions that include the following:

“(1) Develop recommendations for the Director on Government information resources management policies and requirements.

“(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

“(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

“(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title II of the E-Government Act of 2002.

“(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) and promulgated under section 11331 of title 40, and maximize the use of commercial standards as appropriate, including the following:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Consistent with the process under section 207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

“(7) Work with the Archivist of the United States to assess how the Federal Records Act can be addressed effectively by Federal information resources management activities.

“§ 3604. E-Government Fund

“(a)(1) There is established in the Treasury of the United States the E-Government Fund.

“(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

“(3) Projects under this subsection may include efforts to—

“(A) make Federal Government information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

“(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

“(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

“(b)(1) The Administrator shall—

“(A) establish procedures for accepting and reviewing proposals for funding;

“(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals; and

“(C) assist the Director in coordinating resources that agencies receive from the Fund with other resources available to agencies for similar purposes.

“(2) When reviewing proposals and managing the Fund, the Administrator shall observe and incorporate the following procedures:

“(A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agencywide authority on behalf of the head of the agency, who shall report directly to the head of the agency.

“(B) Projects shall adhere to fundamental capital planning and investment control processes.

“(C) Agencies shall identify in their proposals resource commitments from the agencies involved and how these resources would be coordinated with support from the Fund, and include plans for potential continuation of projects after all funds made available from the Fund are expended.

“(D) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

“(E) Agencies shall assess the results of funded projects.

“(c) In determining which proposals to recommend for funding, the Administrator—

“(1) shall consider criteria that include whether a proposal—

“(A) identifies the group to be served, including citizens, businesses, the Federal Government, or other governments;

“(B) indicates what service or information the project will provide that meets needs of groups identified under subparagraph (A);

“(C) ensures proper security and protects privacy;

“(D) is interagency in scope, including projects implemented by a primary or single agency that—

“(i) could confer benefits on multiple agencies; and

“(ii) have the support of other agencies; and

“(E) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

“(2) may also rank proposals based on criteria that include whether a proposal—

“(A) has Governmentwide application or implications;

“(B) has demonstrated support by the public to be served;

"(C) integrates Federal with State, local, or tribal approaches to service delivery;

"(D) identifies resource commitments from nongovernmental sectors;

"(E) identifies resource commitments from the agencies involved;

"(F) uses web-based technologies to achieve objectives;

"(G) identifies records management and records access strategies;

"(H) supports more effective citizen participation in and interaction with agency activities that further progress toward a more citizen-centered Government;

"(I) directly delivers Government information and services to the public or provides the infrastructure for delivery;

"(J) supports integrated service delivery;

"(K) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation; and

"(L) is new or innovative and does not supplant existing funding streams within agencies.

"(d) The Fund may be used to fund the integrated Internet-based system under section 204 of the E-Government Act of 2002.

"(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

"(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3606.

"(2) The report under paragraph (1) shall describe—

"(A) all projects which the Director has approved for funding from the Fund; and

"(B) the results that have been achieved to date for these funded projects.

"(g)(1) There are authorized to be appropriated to the Fund—

"(A) $45,000,000 for fiscal year 2003;

"(B) $50,000,000 for fiscal year 2004;

"(C) $100,000,000 for fiscal year 2005;

"(D) $150,000,000 for fiscal year 2006; and

"(E) such sums as are necessary for fiscal year 2007.

"(2) Funds appropriated under this subsection shall remain available until expended.

"§ 3605. Program to encourage innovative solutions to enhance electronic Government services and processes

"(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish and promote a Governmentwide program to encourage contractor innovation and excellence in facilitating the development and enhancement of electronic Government services and processes.

"(b) ISSUANCE OF ANNOUNCEMENTS SEEKING INNOVATIVE SOLUTIONS.—Under the program, the Administrator, in consultation with the Council and the Administrator for Federal Procurement Policy, shall issue announcements seeking unique and innovative solutions to facilitate the development and enhancement of electronic Government services and processes.

"(c) MULTIAGENCY TECHNICAL ASSISTANCE TEAM.—(1) The Administrator, in consultation with the Council and the Administrator for Federal Procurement Policy, shall convene a multiagency technical assistance team to assist in screening proposals submitted to the Administrator to provide unique and innovative solutions to facilitate the development and enhancement of electronic Government services and processes. The team shall be composed of employees of the agencies represented on the Council who have expertise in scientific and technical disciplines that would facilitate the assessment of the feasibility of the proposals.

"(2) The technical assistance team shall—

"(A) assess the feasibility, scientific and technical merits, and estimated cost of each proposal; and

"(B) submit each proposal, and the assessment of the proposal, to the Administrator.

"(3) The technical assistance team shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.

"(4) After receiving proposals and assessments from the technical assistance team, the Administrator shall consider recommending appropriate proposals for funding under the E-Government Fund established under section 3604 or, if appropriate, forward the proposal and the assessment of it to the executive agency whose mission most coincides with the subject matter of the proposal.

"§ 3606. E-Government report

"(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

"(b) The report under subsection (a) shall contain—

"(1) a summary of the information reported by agencies under section 202(f) of the E-Government Act of 2002;

"(2) the information required to be reported by section 3604(f); and

"(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

"36. Management and Promotion of Electronic Government Services .. 3601".

SEC. 102. CONFORMING AMENDMENTS.

(a) ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.—

(1) IN GENERAL.—Chapter 3 of title 40, United States Code, is amended by inserting after section 304 the following new section:

"§ 305. Electronic Government and information technologies

"The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 3 of such title is amended by inserting after the item relating to section 304 the following:

"305. Electronic Government and information technologies.".

(b) MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.—Section 503(b) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after paragraph (4) the following:

"(5) Chair the Chief Information Officers Council established under section 3603 of title 44.".

(c) OFFICE OF ELECTRONIC GOVERNMENT.—

(1) IN GENERAL.—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

"§ 507. Office of Electronic Government

"The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

"507. Office of Electronic Government.".

TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

SEC. 201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 202. FEDERAL AGENCY RESPONSIBILITIES.

(a) IN GENERAL.—The head of each agency shall be responsible for—

(1) complying with the requirements of this Act (including the amendments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

(2) ensuring that the information resource management policies and guidance established under this Act by the Director, and the related information technology standards promulgated by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 204.

(b) PERFORMANCE INTEGRATION.—

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives, strategic goals, and statutory mandates.

(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

(3) Areas of performance measurement that agencies should consider include—

(A) customer service;

(B) agency productivity; and

(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

(4) Agencies shall link their performance goals, as appropriate, to key groups, including citizens, businesses, and other governments, and to internal Federal Government operations.

(5) As appropriate, agencies shall work collectively in linking their performance goals to groups identified under paragraph (4) and shall use information technology in delivering Government information and services to those groups.

(c) Avoiding Diminished Access.—When promulgating policies and implementing programs regarding the provision of Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

(1) ensure that the availability of Government information and services has not been diminished for individuals who lack access to the Internet; and

(2) pursue alternate modes of delivery that make Government information and services more accessible to individuals who do not own computers or lack access to the Internet.

(d) Accessibility to People With Disabilities.—All actions taken by Federal departments and agencies under this Act shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(e) Sponsored Activities.—Agencies shall sponsor activities that use information technology to engage the public in the development and implementation of policies and programs.

(f) Chief Information Officers.—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

(1) participating in the functions of the Chief Information Officers Council; and

(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

(g) E-Government Status Report.—

(1) In general.—Each agency shall compile and submit to the Director an annual E-Government Status Report on—

(A) the status of the implementation by the agency of electronic government initiatives;

(B) compliance by the agency with this Act; and

(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

(2) Submission.—Each agency shall submit an annual report under this subsection—

(A) to the Director at such time and in such manner as the Director requires;

(B) consistent with related reporting requirements; and

(C) which addresses any section in this title relevant to that agency.

(h) Use of Technology.—Nothing in this Act supersedes the responsibility of an agency to use or manage information technology to deliver Government information and services that fulfill the statutory mission and programs of the agency.

(i) National Security Systems.—

(1) Inapplicability.—Except as provided under paragraph (2), this title does not apply to national security systems as defined in section 11103 of title 40, United States Code.

(2) Applicability.—This section, section 203, and section 214 do apply to national security systems to the extent practicable and consistent with law.

SEC. 203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

(a) Purpose.—The purpose of this section is to achieve interoperable implementation of electronic signatures for appropriately secure electronic transactions with Government.

(b) Electronic Signatures.—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105–277; 112 Stat. 2681–749 through 2681–751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Director.

(c) Authority for Electronic Signatures.—The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including processing of digital signatures.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, and for other activities consistent with this section, $8,000,000 or such sums as are necessary in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 204. FEDERAL INTERNET PORTAL.

(a) In General.—

(1) Public access.—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

(2) Criteria.—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

(A) The provision of Internet-based Government information and services directed to key groups, including citizens, business, and other governments, and integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction.

(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

(D) Access to Federal Government information held by 1 or more agencies shall be made available in a manner that protects privacy, consistent with law.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the General Services Administration $15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

SEC. 205. FEDERAL COURTS.

(a) Individual Court Websites.—The Chief Justice of the United States, the chief judge of each circuit and district and of the Court of Federal Claims, and the chief bankruptcy judge of each district shall cause to be established and maintained, for the court of which the judge is chief justice or judge, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to documents filed with the courthouse in electronic form, to the extent provided under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

(b) Maintenance of Data Online.—

(1) Update of information.—The information and rules on each website shall be updated regularly and kept reasonably current.

(2) Closed cases.—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

(c) Electronic Filings.—

(1) In general.—Except as provided under paragraph (2) or in the rules prescribed under paragraph (3), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) Exceptions.—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

(3) Privacy and security concerns.—(A)(i) The Supreme Court shall prescribe rules, in accordance with sections 2072 and 2075 of title 28, United States Code, to protect privacy and security concerns relating to electronic filing of documents and the public availability under this subsection of documents filed electronically.

(ii) Such rules shall provide to the extent practicable for uniform treatment of privacy and security issues throughout the Federal courts.

(iii) Such rules shall take into consideration best practices in Federal and State courts to protect private information or otherwise maintain necessary information security.

(iv) To the extent that such rules provide for the redaction of certain categories of information in order to protect privacy and security concerns, such rules shall provide that a party that wishes to file an otherwise proper document containing such information may file an unredacted document under seal, which shall be retained by the court as part of the record, and which, at the discretion of the court and subject to any applicable rules issued in accordance with chapter 131 of title 28, United States Code, shall be either in lieu of, or in addition, to, a redacted copy in the public file.

(B)(i) Subject to clause (ii), the Judicial Conference of the United States may issue interim rules, and interpretive statements relating to the application of such rules, which conform to the requirements of this paragraph and which shall cease to have effect upon the effective date of the rules required under subparagraph (A).

(ii) Pending issuance of the rules required under subparagraph (A), any rule or order of any court, or of the Judicial Conference, providing for the redaction of certain categories of information in order to protect privacy and security concerns arising from electronic filing shall comply with, and be construed in conformity with, subparagraph (A)(iv).

(C) Not later than 1 year after the rules prescribed under subparagraph (A) take effect, and every 2 years thereafter, the Judicial Conference shall submit to Congress a report on the adequacy of those rules to protect privacy and security.

(d) DOCKETS WITH LINKS TO DOCUMENTS.—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

(e) COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.—Section 303(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking "shall hereafter" and inserting "may, only to the extent necessary,".

(f) TIME REQUIREMENTS.—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

(g) DEFERRAL.—

(1) IN GENERAL.—

(A) ELECTION.—

(i) NOTIFICATION.—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

(ii) CONTENTS.—A notification submitted under this subparagraph shall state—

(I) the reasons for the deferral; and

(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

(B) EXCEPTION.—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

(2) REPORT.—Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that—

(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

(B) summarizes and evaluates all notifications.

SEC. 206. REGULATORY AGENCIES.

(a) PURPOSES.—The purposes of this section are to—

(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the "Administrative Procedures Act").

(b) INFORMATION PROVIDED BY AGENCIES ONLINE.—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under paragraphs (1) and (2) of section 552(a) of title 5, United States Code.

(c) SUBMISSIONS BY ELECTRONIC MEANS.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means.

(d) ELECTRONIC DOCKETING.—

(1) IN GENERAL.—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under section 553 of title 5, United States Code.

(2) INFORMATION AVAILABLE.—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

(A) all submissions under section 553(c) of title 5, United States Code; and

(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

(e) TIME LIMITATION.—Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3606 of title 44 (as added by this Act).

SEC. 207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) PURPOSE.—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) DEFINITIONS.—In this section, the term—

(1) "Committee" means the Interagency Committee on Government Information established under subsection (c); and

(2) "directory" means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors.

(c) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) MEMBERSHIP.—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) FUNCTIONS.—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress; and

(C) share effective practices for access to, dissemination of, and retention of Federal information.

(4) TERMINATION.—The Committee may be terminated on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) CATEGORIZING OF INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 2 years after the date of enactment of this Act, the Committee shall submit recommendations to the Director on—

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(ii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) FUNCTIONS OF THE DIRECTOR.—Not later than 1 year after the submission of recommendations under paragraph (1), the Director shall issue policies—

(A) requiring that agencies use standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers;

(ii) in ways that are interoperable across agencies; and

(iii) that are, as appropriate, consistent with the provisions under section 3602(f)(8) of title 44, United States Code;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Director shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(e) PUBLIC ACCESS TO ELECTRONIC INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 2 years after the date of enactment of this Act, the Committee shall submit recommendations to the Director and the Archivist of the United States on—

(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) the imposition of timetables for the implementation of the policies and procedures by agencies.

(2) FUNCTIONS OF THE ARCHIVIST.—Not later than 1 year after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—

(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United

States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and

(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.

(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).

(f) AGENCY WEBSITES.—

(1) STANDARDS FOR AGENCY WEBSITES.—Not later than 2 years after the effective date of this title, the Director shall promulgate guidance for agency websites that includes—

(A) requirements that websites include direct links to—

(i) descriptions of the mission and statutory authority of the agency;

(ii) information made available to the public under subsections (a)(1) and (b) of section 552 of title 5, United States Code (commonly referred to as the "Freedom of Information Act");

(iii) information about the organizational structure of the agency; and

(iv) the strategic plan of the agency developed under section 306 of title 5, United States Code; and

(B) minimum agency goals to assist public users to navigate agency websites, including—

(i) speed of retrieval of search results;

(ii) the relevance of the results;

(iii) tools to aggregate and disaggregate data; and

(iv) security protocols to protect information.

(2) AGENCY REQUIREMENTS.—(A) Not later than 2 years after the date of enactment of this Act, each agency shall—

(i) consult with the Committee and solicit public comment;

(ii) establish a process for determining which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(iii) develop priorities and schedules for making Government information available and accessible;

(iv) make such final determinations, priorities, and schedules available for public comment;

(v) post such final determinations, priorities, and schedules on the Internet; and

(vi) submit such final determinations, priorities, and schedules to the Director, in the report established under section 202(g).

(B) Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(3) PUBLIC DOMAIN DIRECTORY OF PUBLIC FEDERAL GOVERNMENT WEBSITES.—

(A) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director and each agency shall—

(i) develop and establish a public domain directory of public Federal Government websites; and

(ii) post the directory on the Internet with a link to the integrated Internet-based system established under section 204.

(B) DEVELOPMENT.—With the assistance of each agency, the Director shall—

(i) direct the development of the directory through a collaborative effort, including input from—

(I) agency librarians;

(II) information technology managers;

(III) program managers;

(IV) records managers;

(V) Federal depository librarians; and

(VI) other interested parties; and

(ii) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

(C) UPDATE.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(i) update the directory as necessary, but not less than every 6 months; and

(ii) solicit interested persons for improvements to the directory.

(g) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

(1) DEVELOPMENT AND MAINTENANCE OF GOVERNMENTWIDE REPOSITORY AND WEBSITE.—

(A) REPOSITORY AND WEBSITE.—The Director of the Office of Management and Budget (or the Director's delegate), in consultation with the Director of the Office of Science and Technology Policy and other relevant agencies, shall ensure the development and maintenance of—

(i) a repository that fully integrates, to the maximum extent feasible, information about research and development funded by the Federal Government, and the repository shall—

(I) include information about research and development funded by the Federal Government, consistent with any relevant protections for the information under section 552 of title 5, United States Code, and performed by—

(aa) institutions not a part of the Federal Government, including State, local, and foreign governments; industrial firms; educational institutions; not-for-profit organizations; federally funded research and development centers; and private individuals; and

(bb) entities of the Federal Government, including research and development laboratories, centers, and offices; and

(II) integrate information about each separate research and development task or award, including—

(aa) the dates upon which the task or award is expected to start and end;

(bb) a brief summary describing the objective and the scientific and technical focus of the task or award;

(cc) the entity or institution performing the task or award and its contact information;

(dd) the total amount of Federal funds expected to be provided to the task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the task or award is ongoing;

(ee) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information required by this subsection, and the reasons for such restrictions; and

(ff) such other information as may be determined to be appropriate; and

(ii) 1 or more websites upon which all or part of the repository of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) OVERSIGHT.—The Director of the Office of Management and Budget shall issue any guidance determined necessary to ensure that agencies provide all information requested under this subsection.

(2) AGENCY FUNCTIONS.—Any agency that funds Federal research and development under this subsection shall provide the information required to populate the repository in the manner prescribed by the Director of the Office of Management and Budget.

(3) COMMITTEE FUNCTIONS.—Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

(A) policies to improve agency reporting of information for the repository established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(4) FUNCTIONS OF THE DIRECTOR.—After submission of recommendations by the Committee under paragraph (3), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3606 of title 44 (as added by this Act).

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the development, maintenance, and operation of the Governmentwide repository and website under this subsection—

(A) $2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

SEC. 208. PRIVACY PROVISIONS.

(a) PURPOSE.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) PRIVACY IMPACT ASSESSMENTS.—

(1) RESPONSIBILITIES OF AGENCIES.—

(A) IN GENERAL.—An agency shall take actions described under subparagraph (B) before—

(i) developing or procuring information technology that collects, maintains, or disseminates information that is in an identifiable form; or

(ii) initiating a new collection of information that—

(I) will be collected, maintained, or disseminated using information technology; and

(II) includes any information in an identifiable form permitting the physical or online contacting of a specific individual, if identical questions have been posed to, or identical reporting requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the Federal Government.

(B) AGENCY ACTIVITIES.—To the extent required under subparagraph (A), each agency shall—

(i) conduct a privacy impact assessment;

(ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and

(iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available through the website of the agency, publication in the Federal Register, or other means.

(C) Sensitive information.—Subparagraph (B)(iii) may be modified or waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment.

(D) Copy to director.—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

(2) Contents of a privacy impact assessment.—

(A) In general.—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

(B) Guidance.—The guidance shall—

(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of information that is in an identifiable form in that system, and the risk of harm from unauthorized release of that information; and

(ii) require that a privacy impact assessment address—

(I) what information is to be collected;

(II) why the information is being collected;

(III) the intended use of the agency of the information;

(IV) with whom the information will be shared;

(V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(VI) how the information will be secured; and

(VII) whether a system of records is being created under section 552a of title 5, United States Code, (commonly referred to as the "Privacy Act").

(3) Responsibilities of the director.—The Director shall—

(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of information that is in an identifiable form as the Director determines appropriate.

(c) Privacy Protections on Agency Websites.—

(1) Privacy policies on websites.—

(A) Guidelines for notices.—The Director shall develop guidance for privacy notices on agency websites used by the public.

(B) Contents.—The guidance shall require that a privacy notice address, consistent with section 552a of title 5, United States Code—

(i) what information is to be collected;

(ii) why the information is being collected;

(iii) the intended use of the agency of the information;

(iv) with whom the information will be shared;

(v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;

(vi) how the information will be secured; and

(vii) the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the "Privacy Act"), and other laws relevant to the protection of the privacy of an individual.

(2) Privacy policies in machine-readable formats.—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

(d) Definition.—In this section, the term "identifiable form" means any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means.

SEC. 209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

(a) Purpose.—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver Government information and services.

(b) Workforce Development.—

(1) In general.—In consultation with the Director of the Office of Management and Budget, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall—

(A) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(B) identify where current information technology and information resource management training do not satisfy the personnel needs described in subparagraph (A);

(C) oversee the development of curricula, training methods, and training priorities that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

(D) assess the training of Federal employees in information technology disciplines in order to ensure that the information resource management needs of the Federal Government are addressed.

(2) Information technology training programs.—The head of each Executive agency, after consultation with the Director of the Office of Personnel Management, the Chief Information Officers Council, and the Administrator of General Services, shall establish and operate information technology training programs consistent with the requirements of this subsection. Such programs shall—

(A) have curricula covering a broad range of information technology disciplines corresponding to the specific information technology and information resource management needs of the agency involved;

(B) be developed and applied according to rigorous standards; and

(C) be designed to maximize efficiency, through the use of self-paced courses, online courses, on-the-job training, and the use of remote instructors, wherever such features can be applied without reducing the effectiveness of the training or negatively impacting academic standards.

(3) Governmentwide policies and evaluation.—The Director of the Office of Personnel Management, in coordination with the Director of the Office of Management and Budget, shall issue policies to promote the development of performance standards for training and uniform implementation of this subsection by Executive agencies, with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission. The Director of the Office of Personnel Management shall evaluate the implementation of the provisions of this subsection by Executive agencies.

(4) Chief information officer authorities and responsibilities.—Subject to the authority, direction, and control of the head of an Executive agency, the chief information officer of such agency shall carry out all powers, functions, and duties of the head of the agency with respect to implementation of this subsection. The chief information officer shall ensure that the policies of the agency head established in accordance with this subsection are implemented throughout the agency.

(5) Information technology training reporting.—The Director of the Office of Management and Budget shall ensure that the heads of Executive agencies collect and maintain standardized information on the information technology and information resources management workforce related to the implementation of this subsection.

(6) Authority to detail employees to non-federal employers.—In carrying out the preceding provisions of this subsection, the Director of the Office of Personnel Management may provide for a program under which a Federal employee may be detailed to a non-Federal employer. The Director of the Office of Personnel Management shall prescribe regulations for such program, including the conditions for service and duties as the Director considers necessary.

(7) Coordination provision.—An assignment described in section 3703 of title 5, United States Code, may not be made unless a program under paragraph (6) is established, and the assignment is made in accordance with the requirements of such program.

(8) Employee participation.—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall encourage employees to participate in occupational information technology training.

(9) Authorization of appropriations.—There are authorized to be appropriated to the Office of Personnel Management for the implementation of this subsection, $15,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

(10) Executive agency defined.—For purposes of this subsection, the term "Executive agency" has the meaning given the term "agency" under section 3701 of title 5, United States Code (as added by subsection (c)).

(c) Information Technology Exchange Program.—

(1) In general.—Subpart B of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 37—INFORMATION TECHNOLOGY EXCHANGE PROGRAM

"Sec.
"3701. Definitions.
"3702. General provisions.
"3703. Assignment of employees to private sector organizations.
"3704. Assignment of employees from private sector organizations.
"3705. Application to Office of the Chief Technology Officer of the District of Columbia.
"3706. Reporting requirement.
"3707. Regulations.

"§ 3701. Definitions

"For purposes of this chapter—

"(1) the term 'agency' means an Executive agency, but does not include the General Accounting Office; and

"(2) the term 'detail' means—

"(A) the assignment or loan of an employee of an agency to a private sector organization without a change of position from the agency that employs the individual, or

"(B) the assignment or loan of an employee of a private sector organization to an agency without a change of position from the private sector organization that employs the individual,

whichever is appropriate in the context in which such term is used.

"§ 3702. General provisions

"(a) ASSIGNMENT AUTHORITY.—On request from or with the agreement of a private sector organization, and with the consent of the employee concerned, the head of an agency may arrange for the assignment of an employee of the agency to a private sector organization or an employee of a private sector organization to the agency. An eligible employee is an individual who—

"(1) works in the field of information technology management;

"(2) is considered an exceptional performer by the individual's current employer; and

"(3) is expected to assume increased information technology management responsibilities in the future.

An employee of an agency shall be eligible to participate in this program only if the employee is employed at the GS–11 level or above (or equivalent) and is serving under a career or career-conditional appointment or an appointment of equivalent tenure in the excepted service, and applicable requirements of section 209(b) of the E-Government Act of 2002 are met with respect to the proposed assignment of such employee.

"(b) AGREEMENTS.—Each agency that exercises its authority under this chapter shall provide for a written agreement between the agency and the employee concerned regarding the terms and conditions of the employee's assignment. In the case of an employee of the agency, the agreement shall—

"(1) require the employee to serve in the civil service, upon completion of the assignment, for a period equal to the length of the assignment; and

"(2) provide that, in the event the employee fails to carry out the agreement (except for good and sufficient reason, as determined by the head of the agency from which assigned) the employee shall be liable to the United States for payment of all expenses of the assignment.

An amount under paragraph (2) shall be treated as a debt due the United States.

"(c) TERMINATION.—Assignments may be terminated by the agency or private sector organization concerned for any reason at any time.

"(d) DURATION.—Assignments under this chapter shall be for a period of between 3 months and 1 year, and may be extended in 3-month increments for a total of not more than 1 additional year, except that no assignment under this chapter may commence after the end of the 5-year period beginning on the date of the enactment of this chapter.

"(e) ASSISTANCE.—The Chief Information Officers Council, by agreement with the Office of Personnel Management, may assist in the administration of this chapter, including by maintaining lists of potential candidates for assignment under this chapter, establishing mentoring relationships for the benefit of individuals who are given assignments under this chapter, and publicizing the program.

"(f) CONSIDERATIONS.—In exercising any authority under this chapter, an agency shall take into consideration—

"(1) the need to ensure that small business concerns are appropriately represented with respect to the assignments described in sections 3703 and 3704, respectively; and

"(2) how assignments described in section 3703 might best be used to help meet the needs of the agency for the training of employees in information technology management.

"§ 3703. Assignment of employees to private sector organizations

"(a) IN GENERAL.—An employee of an agency assigned to a private sector organization under this chapter is deemed, during the period of the assignment, to be on detail to a regular work assignment in his agency.

"(b) COORDINATION WITH CHAPTER 81.—Notwithstanding any other provision of law, an employee of an agency assigned to a private sector organization under this chapter is entitled to retain coverage, rights, and benefits under subchapter I of chapter 81, and employment during the assignment is deemed employment by the United States, except that, if the employee or the employee's dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

"(c) REIMBURSEMENTS.—The assignment of an employee to a private sector organization under this chapter may be made with or without reimbursement by the private sector organization for the travel and transportation expenses to or from the place of assignment, subject to the same terms and conditions as apply with respect to an employee of a Federal agency or a State or local government under section 3375, and for the pay, or a part thereof, of the employee during assignment. Any reimbursements shall be credited to the appropriation of the agency used for paying the travel and transportation expenses or pay.

"(d) TORT LIABILITY; SUPERVISION.—The Federal Tort Claims Act and any other Federal tort liability statute apply to an employee of an agency assigned to a private sector organization under this chapter. The supervision of the duties of an employee of an agency so assigned to a private sector organization may be governed by an agreement between the agency and the organization.

"(e) SMALL BUSINESS CONCERNS.—

"(1) IN GENERAL.—The head of each agency shall take such actions as may be necessary to ensure that, of the assignments made under this chapter from such agency to private sector organizations in each year, at least 20 percent are to small business concerns.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'small business concern' means a business concern that satisfies the definitions and standards specified by the Administrator of the Small Business Administration under section 3(a)(2) of the Small Business Act (as from time to time amended by the Administrator);

"(B) the term 'year' refers to the 12-month period beginning on the date of the enactment of this chapter, and each succeeding 12-month period in which any assignments under this chapter may be made; and

"(C) the assignments 'made' in a year are those commencing in such year.

"(3) REPORTING REQUIREMENT.—An agency which fails to comply with paragraph (1) in a year shall, within 90 days after the end of such year, submit a report to the Committees on Government Reform and Small Business of the House of Representatives and the Committees on Governmental Affairs and Small Business of the Senate. The report shall include—

"(A) the total number of assignments made under this chapter from such agency to private sector organizations in the year;

"(B) of that total number, the number (and percentage) made to small business concerns; and

"(C) the reasons for the agency's noncompliance with paragraph (1).

"(4) EXCLUSION.—This subsection shall not apply to an agency in any year in which it makes fewer than 5 assignments under this chapter to private sector organizations.

"§ 3704. Assignment of employees from private sector organizations

"(a) IN GENERAL.—An employee of a private sector organization assigned to an agency under this chapter is deemed, during the period of the assignment, to be on detail to such agency.

"(b) TERMS AND CONDITIONS.—An employee of a private sector organization assigned to an agency under this chapter—

"(1) may continue to receive pay and benefits from the private sector organization from which he is assigned;

"(2) is deemed, notwithstanding subsection (a), to be an employee of the agency for the purposes of—

"(A) chapter 73;

"(B) sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18;

"(C) sections 1343, 1344, and 1349(b) of title 31;

"(D) the Federal Tort Claims Act and any other Federal tort liability statute;

"(E) the Ethics in Government Act of 1978;

"(F) section 1043 of the Internal Revenue Code of 1986; and

"(G) section 27 of the Office of Federal Procurement Policy Act;

"(3) may not have access to any trade secrets or to any other nonpublic information which is of commercial value to the private sector organization from which he is assigned; and

"(4) is subject to such regulations as the President may prescribe.

The supervision of an employee of a private sector organization assigned to an agency under this chapter may be governed by agreement between the agency and the private sector organization concerned. Such an assignment may be made with or without reimbursement by the agency for the pay, or a part thereof, of the employee during the period of assignment, or for any contribution of the private sector organization to employee benefit systems.

"(c) COORDINATION WITH CHAPTER 81.—An employee of a private sector organization assigned to an agency under this chapter who suffers disability or dies as a result of personal injury sustained while performing duties during the assignment shall be treated, for the purpose of subchapter I of chapter 81, as an employee as defined by section 8101 who had sustained the injury in the performance of duty, except that, if the employee or the employee's dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

"(d) PROHIBITION AGAINST CHARGING CERTAIN COSTS TO THE FEDERAL GOVERNMENT.—A private sector organization may not charge the Federal Government, as direct or indirect costs under a Federal contract, the costs of pay or benefits paid by the organization to an employee assigned to an agency under this chapter for the period of the assignment.

"§ 3705. Application to Office of the Chief Technology Officer of the District of Columbia

"(a) In General.—The Chief Technology Officer of the District of Columbia may arrange for the assignment of an employee of the Office of the Chief Technology Officer to a private sector organization, or an employee of a private sector organization to such Office, in the same manner as the head of an agency under this chapter.

"(b) Terms and Conditions.—An assignment made pursuant to subsection (a) shall be subject to the same terms and conditions as an assignment made by the head of an agency under this chapter, except that in applying such terms and conditions to an assignment made pursuant to subsection (a), any reference in this chapter to a provision of law or regulation of the United States shall be deemed to be a reference to the applicable provision of law or regulation of the District of Columbia, including the applicable provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1-601.01 et seq., D.C. Official Code) and section 601 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act (sec. 1-1106.01, D.C. Official Code).

"(c) Definition.—For purposes of this section, the term 'Office of the Chief Technology Officer' means the office established in the executive branch of the government of the District of Columbia under the Office of the Chief Technology Officer Establishment Act of 1998 (sec. 1-1401 et seq., D.C. Official Code).

"§ 3706. Reporting requirement

"(a) In General.—The Office of Personnel Management shall, not later than April 30 and October 31 of each year, prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a semiannual report summarizing the operation of this chapter during the immediately preceding 6-month period ending on March 31 and September 30, respectively.

"(b) Content.—Each report shall include, with respect to the 6-month period to which such report relates—

"(1) the total number of individuals assigned to, and the total number of individuals assigned from, each agency during such period;

"(2) a brief description of each assignment included under paragraph (1), including—

"(A) the name of the assigned individual, as well as the private sector organization and the agency (including the specific bureau or other agency component) to or from which such individual was assigned;

"(B) the respective positions to and from which the individual was assigned, including the duties and responsibilities and the pay grade or level associated with each; and

"(C) the duration and objectives of the individual's assignment; and

"(3) such other information as the Office considers appropriate.

"(c) Publication.—A copy of each report submitted under subsection (a)—

"(1) shall be published in the Federal Register; and

"(2) shall be made publicly available on the Internet.

"(d) Agency Cooperation.—On request of the Office, agencies shall furnish such information and reports as the Office may require in order to carry out this section.

"§ 3707. Regulations

"The Director of the Office of Personnel Management shall prescribe regulations for the administration of this chapter.".

(2) Report.—Not later than 4 years after the date of the enactment of this Act, the General Accounting Office shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the operation of chapter 37 of title 5, United States Code (as added by this subsection). Such report shall include—

(A) an evaluation of the effectiveness of the program established by such chapter; and

(B) a recommendation as to whether such program should be continued (with or without modification) or allowed to lapse.

(3) Clerical Amendment.—The analysis for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 35 the following:

"37. Information Technology Exchange Program .... 3701".

(d) Ethics Provisions.—

(1) One-year restriction on certain communications.—Section 207(c)(2)(A) of title 18, United States Code, is amended—

(A) by striking "or" at the end of clause (iii);

(B) by striking the period at the end of clause (iv) and inserting "; or"; and

(C) by adding at the end the following:

"(v) assigned from a private sector organization to an agency under chapter 37 of title 5.".

(2) Disclosure of confidential information.—Section 1905 of title 18, United States Code, is amended by inserting "or being an employee of a private sector organization who is or was assigned to an agency under chapter 37 of title 5," after "(15 U.S.C. 1311–1314),".

(3) Contract advice.—Section 207 of title 18, United States Code, is amended by adding at the end the following:

"(l) Contract Advice by Former Details.—Whoever, being an employee of a private sector organization assigned to an agency under chapter 37 of title 5, within one year after the end of that assignment, knowingly represents or aids, counsels, or assists in representing any other person (except the United States) in connection with any contract with that agency shall be punished as provided in section 216 of this title.".

(4) Restriction on disclosure of procurement information.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended in subsection (a)(1) by adding at the end the following new sentence: "In the case of an employee of a private sector organization assigned to an agency under chapter 37 of title 5, United States Code, in addition to the restriction in the preceding sentence, such employee shall not, other than as provided by law, knowingly disclose contractor bid or proposal information or source selection information during the three-year period after the end of the assignment of such employee.".

(e) Report on Existing Exchange Programs.—

(1) Exchange program defined.—For purposes of this subsection, the term "exchange program" means an executive exchange program, the program under subchapter VI of chapter 33 of title 5, United States Code, and any other program which allows for—

(A) the assignment of employees of the Federal Government to non-Federal employers;

(B) the assignment of employees of non-Federal employers to the Federal Government; or

(C) both.

(2) Reporting requirement.—Not later than 1 year after the date of the enactment of this Act, the Office of Personnel Management shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report identifying all existing exchange programs.

(3) Specific information.—The report shall, for each such program, include—

(A) a brief description of the program, including its size, eligibility requirements, and terms or conditions for participation;

(B) specific citation to the law or other authority under which the program is established;

(C) the names of persons to contact for more information, and how they may be reached; and

(D) any other information which the Office considers appropriate.

(f) Report on the Establishment of a Governmentwide Information Technology Training Program.—

(1) In general.—Not later than January 1, 2003, the Office of Personnel Management, in consultation with the Chief Information Officers Council and the Administrator of General Services, shall review and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a written report on the following:

(A) The adequacy of any existing information technology training programs available to Federal employees on a Governmentwide basis.

(B)(i) If one or more such programs already exist, recommendations as to how they might be improved.

(ii) If no such program yet exists, recommendations as to how such a program might be designed and established.

(C) With respect to any recommendations under subparagraph (B), how the program under chapter 37 of title 5, United States Code, might be used to help carry them out.

(2) Cost estimate.—The report shall, for any recommended program (or improvements) under paragraph (1)(B), include the estimated costs associated with the implementation and operation of such program as so established (or estimated difference in costs of any such program as so improved).

(g) Technical and Conforming Amendments.—

(1) Amendments to title 5, United States Code.—Title 5, United States Code, is amended—

(A) in section 3111, by adding at the end the following:

"(d) Notwithstanding section 1342 of title 31, the head of an agency may accept voluntary service for the United States under chapter 37 of this title and regulations of the Office of Personnel Management.";

(B) in section 4108, by striking subsection (d); and

(C) in section 7353(b), by adding at the end the following:

"(4) Nothing in this section precludes an employee of a private sector organization, while assigned to an agency under chapter 37, from continuing to receive pay and benefits from such organization in accordance with such chapter.".

(2) Amendment to title 18, United States Code.—Section 209 of title 18, United States Code, is amended by adding at the end the following:

"(g)(1) This section does not prohibit an employee of a private sector organization, while assigned to an agency under chapter 37 of title 5, from continuing to receive pay and benefits from such organization in accordance with such chapter.

"(2) For purposes of this subsection, the term 'agency' means an agency (as defined by section 3701 of title 5) and the Office of the Chief Technology Officer of the District of Columbia.".

(3) OTHER AMENDMENTS.—Section 125(c)(1) of Public Law 100–238 (5 U.S.C. 8432 note) is amended—

(A) in subparagraph (B), by striking "or" at the end;

(B) in subparagraph (C), by striking "and" at the end and inserting "or"; and

(C) by adding at the end the following:

"(D) an individual assigned from a Federal agency to a private sector organization under chapter 37 of title 5, United States Code; and".

SEC. 210. SHARE-IN-SAVINGS INITIATIVES.

(a) DEFENSE CONTRACTS.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2332. Share-in-savings contracts

"(a) AUTHORITY TO ENTER INTO SHARE-IN-SAVINGS CONTRACTS.—(1) The head of an agency may enter into a share-in-savings contract for information technology (as defined in section 11101(6) of title 40) in which the Government awards a contract to improve mission-related or administrative processes or to accelerate the achievement of its mission and share with the contractor in savings achieved through contract performance.

"(2)(A) Except as provided in subparagraph (B), a share-in-savings contract shall be awarded for a period of not more than five years.

"(B) A share-in-savings contract may be awarded for a period greater than five years, but not more than 10 years, if the head of the agency determines in writing prior to award of the contract that—

"(i) the level of risk to be assumed and the investment to be undertaken by the contractor is likely to inhibit the government from obtaining the needed information technology competitively at a fair and reasonable price if the contract is limited in duration to a period of five years or less; and

"(ii) usage of the information technology to be acquired is likely to continue for a period of time sufficient to generate reasonable benefit for the government.

"(3) Contracts awarded pursuant to the authority of this section shall, to the maximum extent practicable, be performance-based contracts that identify objective outcomes and contain performance standards that will be used to measure achievement and milestones that must be met before payment is made.

"(4) Contracts awarded pursuant to the authority of this section shall include a provision containing a quantifiable baseline that is to be the basis upon which a savings share ratio is established that governs the amount of payment a contractor is to receive under the contract. Before commencement of performance of such a contract, the senior procurement executive of the agency shall determine in writing that the terms of the provision are quantifiable and will likely yield value to the Government.

"(5)(A) The head of the agency may retain savings realized through the use of a share-in-savings contract under this section that are in excess of the total amount of savings paid to the contractor under the contract, but may not retain any portion of such savings that is attributable to a decrease in the number of civilian employees of the Federal Government performing the function. Except as provided in subparagraph (B), savings shall be credited to the appropriation or fund against which charges were made to carry out the contract and shall be used for information technology.

"(B) Amounts retained by the agency under this subsection shall—

"(i) without further appropriation, remain available until expended; and

"(ii) be applied first to fund any contingent liabilities associated with share-in-savings procurements that are not fully funded.

"(b) CANCELLATION AND TERMINATION.—(1) If funds are not made available for the continuation of a share-in-savings contract entered into under this section in a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid out of—

"(A) appropriations available for the performance of the contract;

"(B) appropriations available for acquisition of the information technology procured under the contract, and not otherwise obligated; or

"(C) funds subsequently appropriated for payments of costs of cancellation or termination, subject to the limitations in paragraph (3).

"(2) The amount payable in the event of cancellation or termination of a share-in-savings contract shall be negotiated with the contractor at the time the contract is entered into.

"(3)(A) Subject to subparagraph (B), the head of an agency may enter into share-in-savings contracts under this section in any given fiscal year even if funds are not made specifically available for the full costs of cancellation or termination of the contract if funds are available and sufficient to make payments with respect to the first fiscal year of the contract and the following conditions are met regarding the funding of cancellation and termination liability:

"(i) The amount of unfunded contingent liability for the contract does not exceed the lesser of—

"(I) 25 percent of the estimated costs of a cancellation or termination; or

"(II) $5,000,000.

"(ii) Unfunded contingent liability in excess of $1,000,000 has been approved by the Director of the Office of Management and Budget or the Director's designee.

"(B) The aggregate number of share-in-savings contracts that may be entered into under subparagraph (A) by all agencies to which this chapter applies in a fiscal year may not exceed 5 in each of fiscal years 2003, 2004, and 2005.

"(c) DEFINITIONS.—In this section:

"(1) The term 'contractor' means a private entity that enters into a contract with an agency.

"(2) The term 'savings' means—

"(A) monetary savings to an agency; or

"(B) savings in time or other benefits realized by the agency, including enhanced revenues (other than enhanced revenues from the collection of fees, taxes, debts, claims, or other amounts owed the Federal Government).

"(3) The term 'share-in-savings contract' means a contract under which—

"(A) a contractor provides solutions for—

"(i) improving the agency's mission-related or administrative processes; or

"(ii) accelerating the achievement of agency missions; and

"(B) the head of the agency pays the contractor an amount equal to a portion of the savings derived by the agency from—

"(i) any improvements in mission-related or administrative processes that result from implementation of the solution; or

"(ii) acceleration of achievement of agency missions.

"(d) TERMINATION.—No share-in-savings contracts may be entered into under this section after September 30, 2005.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end of the following new item:

"2332. Share-in-savings contracts.".

(b) OTHER CONTRACTS.—Title III of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end the following:

"SEC. 317. SHARE-IN-SAVINGS CONTRACTS.

"(a) AUTHORITY TO ENTER INTO SHARE-IN-SAVINGS CONTRACTS.—(1) The head of an executive agency may enter into a share-in-savings contract for information technology (as defined in section 11101(6) of title 40, United States Code) in which the Government awards a contract to improve mission-related or administrative processes or to accelerate the achievement of its mission and share with the contractor in savings achieved through contract performance.

"(2)(A) Except as provided in subparagraph (B), a share-in-savings contract shall be awarded for a period of not more than five years.

"(B) A share-in-savings contract may be awarded for a period greater than five years, but not more than 10 years, if the head of the agency determines in writing prior to award of the contract that—

"(i) the level of risk to be assumed and the investment to be undertaken by the contractor is likely to inhibit the government from obtaining the needed information technology competitively at a fair and reasonable price if the contract is limited in duration to a period of five years or less; and

"(ii) usage of the information technology to be acquired is likely to continue for a period of time sufficient to generate reasonable benefit for the government.

"(3) Contracts awarded pursuant to the authority of this section shall, to the maximum extent practicable, be performance-based contracts that identify objective outcomes and contain performance standards that will be used to measure achievement and milestones that must be met before payment is made.

"(4) Contracts awarded pursuant to the authority of this section shall include a provision containing a quantifiable baseline that is to be the basis upon which a savings share ratio is established that governs the amount of payment a contractor is to receive under the contract. Before commencement of performance of such a contract, the senior procurement executive of the agency shall determine in writing that the terms of the provision are quantifiable and will likely yield value to the Government.

"(5)(A) The head of the agency may retain savings realized through the use of a share-in-savings contract under this section that are in excess of the total amount of savings paid to the contractor under the contract, but may not retain any portion of such savings that is attributable to a decrease in the number of civilian employees of the Federal Government performing the function. Except as provided in subparagraph (B), savings shall be credited to the appropriation or fund against which charges were made to carry out the contract and shall be used for information technology.

"(B) Amounts retained by the agency under this subsection shall—

"(i) without further appropriation, remain available until expended; and

"(ii) be applied first to fund any contingent liabilities associated with share-in-savings procurements that are not fully funded.

"(b) Cancellation and Termination.—(1) If funds are not made available for the continuation of a share-in-savings contract entered into under this section in a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid out of—

"(A) appropriations available for the performance of the contract;

"(B) appropriations available for acquisition of the information technology procured under the contract, and not otherwise obligated; or

"(C) funds subsequently appropriated for payments of costs of cancellation or termination, subject to the limitations in paragraph (3).

"(2) The amount payable in the event of cancellation or termination of a share-in-savings contract shall be negotiated with the contractor at the time the contract is entered into.

"(3)(A) Subject to subparagraph (B), the head of an executive agency may enter into share-in-savings contracts under this section in any given fiscal year even if funds are not made specifically available for the full costs of cancellation or termination of the contract if funds are available and sufficient to make payments with respect to the first fiscal year of the contract and the following conditions are met regarding the funding of cancellation and termination liability:

"(i) The amount of unfunded contingent liability for the contract does not exceed the lesser of—

"(I) 25 percent of the estimated costs of a cancellation or termination; or

"(II) $5,000,000.

"(ii) Unfunded contingent liability in excess of $1,000,000 has been approved by the Director of the Office of Management and Budget or the Director's designee.

"(B) The aggregate number of share-in-savings contracts that may be entered into under subparagraph (A) by all executive agencies to which this chapter applies in a fiscal year may not exceed 5 in each of fiscal years 2003, 2004, and 2005.

"(c) Definitions.—In this section:

"(1) The term 'contractor' means a private entity that enters into a contract with an agency.

"(2) The term 'savings' means—

"(A) monetary savings to an agency; or

"(B) savings in time or other benefits realized by the agency, including enhanced revenues (other than enhanced revenues from the collection of fees, taxes, debts, claims, or other amounts owed the Federal Government).

"(3) The term 'share-in-savings contract' means a contract under which—

"(A) a contractor provides solutions for—

"(i) improving the agency's mission-related or administrative processes; or

"(ii) accelerating the achievement of agency missions; and

"(B) the head of the agency pays the contractor an amount equal to a portion of the savings derived by the agency from—

"(i) any improvements in mission-related or administrative processes that result from implementation of the solution; or

"(ii) acceleration of achievement of agency missions.

"(d) Termination.—No share-in-savings contracts may be entered into under this section after September 30, 2005.".

(c) Development of Incentives.—The Director of the Office of Management and Budget shall, in consultation with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and executive agencies, develop techniques to permit an executive agency to retain a portion of the savings (after payment of the contractor's share of the savings) derived from share-in-savings contracts as funds are appropriated to the agency in future fiscal years.

(d) Regulations.—Not later than 270 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to implement the provisions enacted by this section. Such revisions shall—

(1) provide for the use of competitive procedures in the selection and award of share-in-savings contracts to—

(A) ensure the contractor's share of savings reflects the risk involved and market conditions; and

(B) otherwise yield greatest value to the government; and

(2) allow appropriate regulatory flexibility to facilitate the use of share-in-savings contracts by executive agencies, including the use of innovative provisions for technology refreshment and nonstandard Federal Acquisition Regulation contract clauses.

(e) Additional Guidance.—The Administrator of General Services shall—

(1) identify potential opportunities for the use of share-in-savings contracts; and

(2) in consultation with the Director of the Office of Management and Budget, provide guidance to executive agencies for determining mutually beneficial savings share ratios and baselines from which savings may be measured.

(f) OMB Report to Congress.—In consultation with executive agencies, the Director of the Office of Management and Budget shall, not later than 2 years after the date of the enactment of this Act, submit to Congress a report containing—

(1) a description of the number of share-in-savings contracts entered into by each executive agency under by this section and the amendments made by this section, and, for each contract identified—

(A) the information technology acquired;

(B) the total amount of payments made to the contractor; and

(C) the total amount of savings or other measurable benefits realized;

(2) a description of the ability of agencies to determine the baseline costs of a project against which savings can be measured; and

(3) any recommendations, as the Director deems appropriate, regarding additional changes in law that may be necessary to ensure effective use of share-in-savings contracts by executive agencies.

(g) GAO Report to Congress.—The Comptroller General shall, not later than 6 months after the report required under subsection (f) is submitted to Congress, conduct a review of that report and submit to Congress a report containing—

(1) the results of the review;

(2) an independent assessment by the Comptroller General of the effectiveness of the use of share-in-savings contracts in improving the mission-related and administrative processes of the executive agencies and the achievement of agency missions; and

(3) a recommendation on whether the authority to enter into share-in-savings contracts should be continued.

(h) Repeal of Share-in-Savings Pilot Program.—

(1) Repeal.—Section 11521 of title 40, United States Code, is repealed.

(2) Conforming amendments to pilot program authority.—

(A) Section 11501 of title 40, United States Code, is amended—

(i) in the section heading, by striking "**PROGRAMS**" and inserting "**PROGRAM**";

(ii) in subsection (a)(1), by striking "conduct pilot programs" and inserting "conduct a pilot program pursuant to the requirements of section 11521 of this title";

(iii) in subsection (a)(2), by striking "each pilot program" and inserting "the pilot program";

(iv) in subsection (b), by striking "Limitations.—" and all that follows through "$750,000,000." and inserting the following: "Limitation on Amount.—The total amount obligated for contracts entered into under the pilot program conducted under this chapter may not exceed $375,000,000."; and

(v) in subsection (c)(1), by striking "a pilot" and inserting "the pilot".

(B) The following provisions of chapter 115 of such title are each amended by striking "a pilot" each place it appears and inserting "the pilot":

(i) Section 11502(a).

(ii) Section 11502(b).

(iii) Section 11503(a).

(iv) Section 11504.

(C) Section 11505 of such chapter is amended by striking "programs" and inserting "program".

(3) Additional conforming amendments.—

(A) Section 11522 of title 40, United States Code, is redesignated as section 11521.

(B) The chapter heading for chapter 115 of such title is amended by striking "**PROGRAMS**" and inserting "**PROGRAM**".

(C) The subchapter heading for subchapter I and for subchapter II of such chapter are each amended by striking "PROGRAMS" and inserting "PROGRAM".

(D) The item relating to subchapter I in the table of sections at the beginning of such chapter is amended to read as follows:

"SUBCHAPTER I—CONDUCT OF PILOT PROGRAM".

(E) The item relating to subchapter II in the table of sections at the beginning of such chapter is amended to read as follows:

"SUBCHAPTER II—SPECIFIC PILOT PROGRAM".

(F) The item relating to section 11501 in the table of sections at the beginning of such is amended by striking "programs" and inserting "program".

(G) The table of sections at the beginning of such chapter is amended by striking the item relating to section 11521 and redesignating the item relating to section 11522 as section 11521.

(H) The item relating to chapter 115 in the table of chapters for subtitle III of title 40, United States Code, is amended to read as follows:

"115. INFORMATION TECHNOLOGY
ACQUISITION PILOT PROGRAM 11501".

(i) Definitions.—In this section, the terms "contractor", "savings", and "share-in-savings contract" have the meanings given those terms in section 317 of the Federal Property and Administrative Services Act of 1949 (as added by subsection (b)).

SEC. 211. AUTHORIZATION FOR ACQUISITION OF INFORMATION TECHNOLOGY BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL SUPPLY SCHEDULES.

(a) Authority To Use Certain Supply Schedules.—Section 502 of title 40, United States Code, is amended by adding at the end the following new subsection:

"(c) Use of Certain Supply Schedules.—

"(1) In general.—The Administrator may provide for the use by State or local governments of Federal supply schedules of the General Services Administration for automated data processing equipment (including firmware), software, supplies, support equipment, and services (as contained in Federal supply classification code group 70).

"(2) Voluntary use.—In any case of the use by a State or local government of a Federal supply schedule pursuant to paragraph (1), participation by a firm that sells to the Federal Government through the supply schedule shall be voluntary with respect to a sale to the State or local government through such supply schedule.

"(3) Definitions.—In this subsection:

"(A) The term 'State or local government' includes any State, local, regional, or tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education).

"(B) The term 'tribal government' means—

"(i) the governing body of any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and

"(ii) any Alaska Native regional or village corporation established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

"(C) The term 'local educational agency' has the meaning given that term in section 8013 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713).

"(D) The term 'institution of higher education' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).".

(b) Procedures.—Not later than 30 days after the date of the enactment of this Act, the Administrator of General Services shall establish procedures to implement section 501(c) of title 40, United States Code (as added by subsection (a)).

(c) Report.—Not later than December 31, 2004, the Administrator shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the implementation and effects of the amendment made by subsection (a).

SEC. 212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) Purposes.—The purposes of this section are to—

(1) enhance the interoperability of Federal information systems;

(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

(b) Definitions.—In this section, the term—

(1) "agency" means an Executive agency as defined under section 105 of title 5, United States Code; and

(2) "person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

(c) Report.—

(1) In general.—Not later than 3 years after the date of enactment of this Act, the Director shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(2) Contents.—The report under this section shall—

(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements;

(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, without requiring public users to know which agency holds the information; and

(ii) allows the integration of public information held by the participating agencies;

(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

(E) make any recommendations that the Director deems appropriate on the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

(d) Pilot Projects To Encourage Integrated Collection and Management of Data and Interoperability of Federal Information Systems.—

(1) In general.—In order to provide input to the study under subsection (c), the Director shall designate, in consultation with agencies, a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation of the pilot projects.

(2) Goals of pilot projects.—

(A) In general.—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

(B) Goals.—The goals under this paragraph are to—

(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

(iii) develop, or enable the development of, software to reduce errors in electronically submitted information.

(3) Input.—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

(e) Protections.—The activities authorized under this section shall afford protections for—

(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law;

(2) personal privacy information under sections 552(b) (6) and (7)(C) and 552a of title 5, United States Code, and other relevant law;

(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law; and

(4) confidential statistical information collected under a confidentiality pledge, solely for statistical purposes, consistent with the Office of Management and Budget's Federal Statistical Confidentiality Order, and other relevant law.

SEC. 213. COMMUNITY TECHNOLOGY CENTERS.

(a) Purposes.—The purposes of this section are to—

(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

(b) Study and Report.—Not later than 2 years after the effective date of this title, the Administrator shall—

(1) ensure that a study is conducted to evaluate the best practices of community technology centers that have received Federal funds; and

(2) submit a report on the study to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Government Reform of the House of Representatives; and

(D) the Committee on Education and the Workforce of the House of Representatives.

(c) Contents.—The report under subsection (b) may consider—

(1) an evaluation of the best practices being used by successful community technology centers;

(2) a strategy for—

(A) continuing the evaluation of best practices used by community technology centers; and

(B) establishing a network to share information and resources as community technology centers evolve;

(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

(4) a database of all community technology centers that have received Federal funds, including—

(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

(B) other relevant information;

(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

(6) recommendations of how to—

(A) enhance the development of community technology centers; and

(B) establish a network to share information and resources.

(d) COOPERATION.—All agencies that fund community technology centers shall provide to the Administrator any information and assistance necessary for the completion of the study and the report under this section.

(e) ASSISTANCE.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Education, shall work with other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

(A) assist in the implementation of recommendations; and

(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

(2) TYPES OF ASSISTANCE.—Assistance under this subsection may include—

(A) contribution of funds;

(B) donations of equipment, and training in the use and maintenance of the equipment; and

(C) the provision of basic instruction or training material in computer skills and Internet usage.

(f) ONLINE TUTORIAL.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Education, the Director of the Institute of Museum and Library Services, other relevant agencies, and the public, shall develop an online tutorial that—

(A) explains how to access Government information and services on the Internet; and

(B) provides a guide to available online resources.

(2) DISTRIBUTION.—The Administrator, with assistance from the Secretary of Education, shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

(g) PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.—The Administrator, with assistance from the Department of Education and in consultation with other agencies and organizations, shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

(1) $2,000,000 in fiscal year 2003;

(2) $2,000,000 in fiscal year 2004; and

(3) such sums as are necessary in fiscal years 2005 through 2007.

SEC. 214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

(a) PURPOSE.—The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness, response, and recovery, while ensuring the availability of such information across multiple access channels.

(b) IN GENERAL.—

(1) STUDY ON ENHANCEMENT OF CRISIS RESPONSE.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Federal Emergency Management Agency, shall ensure that a study is conducted on using information technology to enhance crisis preparedness, response, and consequence management of natural and manmade disasters.

(2) CONTENTS.—The study under this subsection shall address—

(A) a research and implementation strategy for effective use of information technology in crisis response and consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

(i) the Federal Emergency Management Agency; and

(ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and

(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

(3) REPORT.—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Administrator shall submit a report on the study, including findings and recommendations to—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(4) INTERAGENCY COOPERATION.—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Administrator in carrying out this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for research under this subsection, such sums as are necessary for fiscal year 2003.

(c) PILOT PROJECTS.—Based on the results of the research conducted under subsection (b), the Administrator, in consultation with the Federal Emergency Management Agency, shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Administrator shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

SEC. 215. DISPARITIES IN ACCESS TO THE INTERNET.

(a) STUDY AND REPORT.—

(1) STUDY.—Not later than 90 days after the date of enactment of this Act, the Administrator of General Services shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator of General Services shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the National Research Council.

(b) CONTENTS.—The report under subsection (a) shall include a study of—

(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(A) the nature of disparities in Internet access;

(B) the affordability of Internet service;

(C) the incidence of disparities among different groups within the population; and

(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(c) RECOMMENDATIONS.—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $950,000 in fiscal year 2003 to carry out this section.

SEC. 216. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

(a) PURPOSES.—The purposes of this section are to—

(1) reduce redundant data collection and information; and

(2) promote collaboration and use of standards for government geographic information.

(b) DEFINITION.—In this section, the term "geographic information" means information systems that involve locational data, such as maps or other geospatial information resources.

(c) IN GENERAL.—

(1) COMMON PROTOCOLS.—The Administrator, in consultation with the Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information. If practicable, the Administrator shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

(2) INTERAGENCY GROUP.—The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

(d) DIRECTOR.—The Director shall oversee—

(1) the interagency initiative to develop common protocols;

(2) the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

(3) the adoption of common standards relating to the protocols.

(e) COMMON PROTOCOLS.—The common protocols shall be designed to—

(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

(2) promote the development of interoperable geographic information systems technologies that shall—

(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

(B) enable the enhancement of services using geographic data.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.

TITLE III—INFORMATION SECURITY

SEC. 301. INFORMATION SECURITY.

(a) SHORT TITLE.—This title may be cited as the "Federal Information Security Management Act of 2002".

(b) INFORMATION SECURITY.—

(1) IN GENERAL.—Chapter 35 of title 44, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—INFORMATION SECURITY

"§ 3541. Purposes

"The purposes of this subchapter are to—

"(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

"(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

"(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

"(4) provide a mechanism for improved oversight of Federal agency information security programs;

"(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and

"(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.

"§ 3542. Definitions

"(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

"(b) ADDITIONAL DEFINITIONS.—As used in this subchapter:

"(1) The term 'information security' means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

"(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

"(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and

"(C) availability, which means ensuring timely and reliable access to and use of information.

"(2)(A) The term 'national security system' means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

"(i) the function, operation, or use of which—

"(I) involves intelligence activities;

"(II) involves cryptologic activities related to national security;

"(III) involves command and control of military forces;

"(IV) involves equipment that is an integral part of a weapon or weapons system; or

"(V) subject to subparagraph (B), is critical to the direct fulfillment of military or intelligence missions; or

"(ii) is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of national defense or foreign policy.

"(B) Subparagraph (A)(i)(V) does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

"(3) The term 'information technology' has the meaning given that term in section 11101 of title 40.

"§ 3543. Authority and functions of the Director

"(a) IN GENERAL.—The Director shall oversee agency information security policies and practices, including—

"(1) developing and overseeing the implementation of policies, principles, standards, and guidelines on information security, including through ensuring timely agency adoption of and compliance with standards promulgated under section 11331 of title 40;

"(2) requiring agencies, consistent with the standards promulgated under such section 11331 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

"(A) information collected or maintained by or on behalf of an agency; or

"(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

"(3) coordinating the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

"(4) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 11303 of title 40, to enforce accountability for compliance with such requirements;

"(5) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3544(b);

"(6) coordinating information security policies and procedures with related information resources management policies and procedures;

"(7) overseeing the operation of the Federal information security incident center required under section 3546; and

"(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

"(A) a summary of the findings of evaluations required by section 3545;

"(B) an assessment of the development, promulgation, and adoption of, and compliance with, standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 11331 of title 40;

"(C) significant deficiencies in agency information security practices;

"(D) planned remedial action to address such deficiencies; and

"(E) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology under section 20(d)(10) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).

"(b) NATIONAL SECURITY SYSTEMS.—Except for the authorities described in paragraphs (4) and (8) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

"(c) DEPARTMENT OF DEFENSE AND CENTRAL INTELLIGENCE AGENCY SYSTEMS.—(1) The authorities of the Director described in paragraphs (1) and (2) of subsection (a) shall be delegated to the Secretary of Defense in the case of systems described in paragraph (2) and to the Director of Central Intelligence in the case of systems described in paragraph (3).

"(2) The systems described in this paragraph are systems that are operated by the Department of Defense, a contractor of the Department of Defense, or another entity on behalf of the Department of Defense that processes any information the unauthorized access, use, disclosure, disruption, modification, or destruction of which would have a debilitating impact on the mission of the Department of Defense.

"(3) The systems described in this paragraph are systems that are operated by the Central Intelligence Agency, a contractor of the Central Intelligence Agency, or another entity on behalf of the Central Intelligence Agency that processes any information the unauthorized access, use, disclosure, disruption, modification, or destruction of which would have a debilitating impact on the mission of the Central Intelligence Agency.

"§ 3544. Federal agency responsibilities

"(a) IN GENERAL.—The head of each agency shall—

"(1) be responsible for—

"(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

"(i) information collected or maintained by or on behalf of the agency; and

"(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

"(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

"(i) information security standards promulgated under section 11331 of title 40; and

"(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

"(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

"(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

"(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

“(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 11331 of title 40, for information security classifications and related requirements;

“(C) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

“(D) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

“(3) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the requirements imposed on the agency under this subchapter, including—

“(A) designating a senior agency information security officer who shall—

“(i) carry out the Chief Information Officer's responsibilities under this section;

“(ii) possess professional qualifications, including training and experience, required to administer the functions described under this section;

“(iii) have information security duties as that official's primary duty; and

“(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

“(B) developing and maintaining an agencywide information security program as required by subsection (b);

“(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3543 of this title, and section 11331 of title 40;

“(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

“(E) assisting senior agency officials concerning their responsibilities under paragraph (2);

“(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

“(5) ensure that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

“(b) AGENCY PROGRAM.—Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3543(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

“(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;

“(2) policies and procedures that—

“(A) are based on the risk assessments required by paragraph (1);

“(B) cost-effectively reduce information security.risks to an acceptable level;

“(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

“(D) ensure compliance with—

“(i) the requirements of this subchapter;

“(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 11331 of title 40;

“(iii) minimally acceptable system configuration requirements, as determined by the agency; and

“(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

“(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

“(4) security awareness training to inform personnel, including contractors and other users of information systems that support the operations and assets of the agency, of—

“(A) information security risks associated with their activities; and

“(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

“(5) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

“(A) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3505(c); and

“(B) may include testing relied on in a evaluation under section 3545;

“(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

“(7) procedures for detecting, reporting, and responding to security incidents, consistent with standards and guidelines issued pursuant to section 3546(b), including—

“(A) mitigating risks associated with such incidents before substantial damage is done;

“(B) notifying and consulting with the Federal information security incident center referred to in section 3546; and

“(C) notifying and consulting with, as appropriate—

“(i) law enforcement agencies and relevant Offices of Inspector General;

“(ii) an office designated by the President for any incident involving a national security system; and

“(iii) any other agency or office, in accordance with law or as directed by the President; and

“(8) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

“(c) AGENCY REPORTING.—Each agency shall—

“(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b);

“(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

“(A) annual agency budgets;

“(B) information resources management under subchapter 1 of this chapter;

“(C) information technology management under subtitle III of title 40;

“(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

“(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101–576) (and the amendments made by that Act);

“(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

“(G) internal accounting and administrative controls under section 3512 of title 31, (known as the ‘Federal Managers Financial Integrity Act’); and

“(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

“(A) as a material weakness in reporting under section 3512 of title 31; and

“(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note).

“(d) PERFORMANCE PLAN.—(1) In addition to the requirements of subsection (c), each agency, in consultation with the Director, shall include as part of the performance plan required under section 1115 of title 31 a description of—

“(A) the time periods, and

“(B) the resources, including budget, staffing, and training,

that are necessary to implement the program required under subsection (b).

“(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1).

“(e) PUBLIC NOTICE AND COMMENT.—Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

“§ 3545. Annual independent evaluation

“(a) IN GENERAL.—(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

“(2) Each evaluation under this section shall include—

“(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the agency's information systems;

“(B) an assessment (made on the basis of the results of the testing) of compliance with—

“(i) the requirements of this subchapter; and

“(ii) related information security policies, procedures, standards, and guidelines; and

“(C) separate presentations, as appropriate, regarding information security relating to national security systems.

“(b) INDEPENDENT AUDITOR.—Subject to subsection (c)—

“(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

"(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

"(c) National Security Systems.—For each agency operating or exercising control of a national security system, that portion of the evaluation required by this section directly relating to a national security system shall be performed—

"(1) only by an entity designated by the agency head; and

"(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

"(d) Existing Evaluations.—The evaluation required by this section may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

"(e) Agency Reporting.—(1) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

"(2) To the extent an evaluation required under this section directly relates to a national security system, the evaluation results submitted to the Director shall contain only a summary and assessment of that portion of the evaluation directly relating to a national security system.

"(f) Protection of Information.—Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

"(g) OMB Reports to Congress.—(1) The Director shall summarize the results of the evaluations conducted under this section in the report to Congress required under section 3543(a)(8).

"(2) The Director's report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

"(3) Evaluations and any other descriptions of information systems under the authority and control of the Director of Central Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

"(h) Comptroller General.—The Comptroller General shall periodically evaluate and report to Congress on—

"(1) the adequacy and effectiveness of agency information security policies and practices; and

"(2) implementation of the requirements of this subchapter.

"§ 3546. Federal information security incident center

"(a) In General.—The Director shall ensure the operation of a central Federal information security incident center to—

"(1) provide timely technical assistance to operators of agency information systems regarding security incidents, including guidance on detecting and handling information security incidents;

"(2) compile and analyze information about incidents that threaten information security;

"(3) inform operators of agency information systems about current and potential information security threats, and vulnerabilities; and

"(4) consult with the National Institute of Standards and Technology, agencies or offices operating or exercising control of national security systems (including the National Security Agency), and such other agencies or offices in accordance with law and as directed by the President regarding information security incidents and related matters.

"(b) National Security Systems.—Each agency operating or exercising control of a national security system shall share information about information security incidents, threats, and vulnerabilities with the Federal information security incident center to the extent consistent with standards and guidelines for national security systems, issued in accordance with law and as directed by the President.

"§ 3547. National security systems

"The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

"(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

"(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

"(3) complies with the requirements of this subchapter.

"§ 3548. Authorization of appropriations

"There are authorized to be appropriated to carry out the provisions of this subchapter such sums as may be necessary for each of fiscal years 2003 through 2007.

"§ 3549. Effect on existing law

"Nothing in this subchapter, section 11331 of title 40, or section 20 of the National Standards and Technology Act (15 U.S.C. 278g-3) may be construed as affecting the authority of the President, the Office of Management and Budget or the Director thereof, the National Institute of Standards and Technology, or the head of any agency, with respect to the authorized use or disclosure of information, including with regard to the protection of personal privacy under section 552a of title 5, the disclosure of information under section 552 of title 5, the management and disposition of records under chapters 29, 31, or 33 of title 44, the management of information resources under subchapter I of chapter 35 of this title, or the disclosure of information to the Congress or the Comptroller General of the United States. While this subchapter is in effect, subchapter II of this chapter shall not apply.".

(2) Clerical amendment.—The table of sections at the beginning of such chapter 35 is amended by adding at the end the following:

"SUBCHAPTER III—INFORMATION SECURITY

"Sec.
"3541. Purposes.
"3542. Definitions.
"3543. Authority and functions of the Director.
"3544. Federal agency responsibilities.
"3545. Annual independent evaluation.
"3546. Federal information security incident center.
"3547. National security systems.
"3548. Authorization of appropriations.
"3549. Effect on existing law.".

(c) Information Security Responsibilities of Certain Agencies.—

(1) National security responsibilities.—(A) Nothing in this Act (including any amendment made by this Act) shall supersede any authority of the Secretary of Defense, the Director of Central Intelligence, or other agency head, as authorized by law and as directed by the President, with regard to the operation, control, or management of national security systems, as defined by section 3542(b)(2) of title 44, United States Code.

(B) Section 2224 of title 10, United States Code, is amended—

(i) in subsection (b), by striking "(b) Objectives and Minimum Requirements.—(1)" and inserting "(b) Objectives of the Program.—";

(ii) in subsection (b), by striking paragraph (2); and

(iii) in subsection (c), in the matter preceding paragraph (1), by inserting ", including through compliance with subchapter III of chapter 35 of title 44" after "infrastructure".

(2) Atomic energy act of 1954.—Nothing in this Act shall supersede any requirement made by or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Restricted data or formerly restricted data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 302. MANAGEMENT OF INFORMATION TECHNOLOGY.

(a) In General.—Section 11331 of title 40, United States Code, is amended to read as follows:

"§ 11331. Responsibilities for Federal information systems standards

"(a) Standards and Guidelines.—

"(1) Authority to prescribe.—Except as provided under paragraph (2), the Secretary of Commerce shall, on the basis of standards and guidelines developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(a)), prescribe standards and guidelines pertaining to Federal information systems.

"(2) National security systems.—Standards and guidelines for national security systems (as defined under this section) shall be developed, prescribed, enforced, and overseen as otherwise authorized by law and as directed by the President.

"(b) Mandatory Requirements.—

"(1) Authority to make mandatory.—Except as provided under paragraph (2), the Secretary shall make standards prescribed under subsection (a)(1) compulsory and binding to the extent determined necessary by the Secretary to improve the efficiency of operation or security of Federal information systems.

"(2) Required mandatory standards.—(A) Standards prescribed under subsection (a)(1) shall include information security standards that—

"(i) provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(b)); and "(ii) are otherwise necessary to improve the security of Federal information and information systems.

"(B) Information security standards described in subparagraph (A) shall be compulsory and binding.

"(c) Authority to Disapprove or Modify.—The President may disapprove or modify the standards and guidelines referred to in subsection (a)(1) if the President determines such action to be in the public interest. The President's authority to disapprove or modify such standards and guidelines may not be delegated. Notice of such disapproval or modification shall be published promptly in the Federal Register. Upon receiving notice of such disapproval or modification, the Secretary of Commerce shall immediately rescind or modify such standards or guidelines as directed by the President.

"(d) Exercise of Authority.—To ensure fiscal and policy consistency, the Secretary shall exercise the authority conferred by this section subject to direction by the President and in coordination with the Director of the Office of Management and Budget.

"(e) Application of More Stringent Standards.—The head of an executive agency may employ standards for the cost-effective information security for information systems within or under the supervision of that agency that are more stringent than the standards the Secretary prescribes under this section if the more stringent standards—

"(1) contain at least the applicable standards made compulsory and binding by the Secretary; and

"(2) are otherwise consistent with policies and guidelines issued under section 3543 of title 44.

"(f) Decisions on Promulgation of Standards.—The decision by the Secretary regarding the promulgation of any standard under this section shall occur not later than 6 months after the submission of the proposed standard to the Secretary by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3).

"(g) Definitions.—In this section:

"(1) Federal information system.—The term 'Federal information system' means an information system used or operated by an executive agency, by a contractor of an executive agency, or by another organization on behalf of an executive agency.

"(2) Information security.—The term 'information security' has the meaning given that term in section 3542(b)(1) of title 44.

"(3) National security system.—The term 'national security system' has the meaning given that term in section 3542(b)(2) of title 44.".

(b) Clerical Amendment.—The item relating to section 11331 in the table of sections at the beginning of chapter 113 of such title is amended to read as follows:

"11331. Responsibilities for Federal information systems standards."

SEC. 303. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3), is amended by striking the text and inserting the following:

"(a) In General.—The Institute shall—

"(1) have the mission of developing standards, guidelines, and associated methods and techniques for information systems;

"(2) develop standards and guidelines, including minimum requirements, for information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency, other than national security systems (as defined in section 3542(b)(2) of title 44, United States Code); and

"(3) develop standards and guidelines, including minimum requirements, for providing adequate information security for all agency operations and assets, but such standards and guidelines shall not apply to national security systems.

"(b) Minimum Requirements for Standards and Guidelines.—The standards and guidelines required by subsection (a) shall include, at a minimum—

"(1)(A) standards to be used by all agencies to categorize all information and information systems collected or maintained by or on behalf of each agency based on the objectives of providing appropriate levels of information security according to a range of risk levels;

"(B) guidelines recommending the types of information and information systems to be included in each such category; and

"(C) minimum information security requirements for information and information systems in each such category;

"(2) a definition of and guidelines concerning detection and handling of information security incidents; and

"(3) guidelines developed in conjunction with the Department of Defense, including the National Security Agency, for identifying an information system as a national security system consistent with applicable requirements for national security systems, issued in accordance with law and as directed by the President.

"(c) Development of Standards and Guidelines.—In developing standards and guidelines required by subsections (a) and (b), the Institute shall—

"(1) consult with other agencies and offices and the private sector (including the Director of the Office of Management and Budget, the Departments of Defense and Energy, the National Security Agency, the General Accounting Office, and the Secretary of Homeland Security) to assure—

"(A) use of appropriate information security policies, procedures, and techniques, in order to improve information security and avoid unnecessary and costly duplication of effort; and

"(B) that such standards and guidelines are complementary with standards and guidelines employed for the protection of national security systems and information contained in such systems;

"(2) provide the public with an opportunity to comment on proposed standards and guidelines;

"(3) submit to the Secretary of Commerce for promulgation under section 11331 of title 40, United States Code—

"(A) standards, as required under subsection (b)(1)(A), no later than 12 months after the date of the enactment of this section; and

"(B) minimum information security requirements for each category, as required under subsection (b)(1)(C), no later than 36 months after the date of the enactment of this section;

"(4) issue guidelines as required under subsection (b)(1)(B), no later than 18 months after the date of the enactment of this section;

"(5) to the maximum extent practicable, ensure that such standards and guidelines do not require the use or procurement of specific products, including any specific hardware or software;

"(6) to the maximum extent practicable, ensure that such standards and guidelines provide for sufficient flexibility to permit alternative solutions to provide equivalent levels of protection for identified information security risks; and

"(7) to the maximum extent practicable, use flexible, performance-based standards and guidelines that permit the use of off-the-shelf commercially developed information security products.

"(d) Information Security Functions.—The Institute shall—

"(1) submit standards developed pursuant to subsection (a), along with recommendations as to the extent to which these should be made compulsory and binding, to the Secretary of Commerce for promulgation under section 11331 of title 40, United States Code;

"(2) provide technical assistance to agencies, upon request, regarding—

"(A) compliance with the standards and guidelines developed under subsection (a);

"(B) detecting and handling information security incidents; and

"(C) information security policies, procedures, and practices;

"(3) conduct research, as needed, to determine the nature and extent of information security vulnerabilities and techniques for providing cost-effective information security;

"(4) develop and periodically revise performance indicators and measures for agency information security policies and practices;

"(5) evaluate private sector information security policies and practices and commercially available information technologies to assess potential application by agencies to strengthen information security;

"(6) assist the private sector, upon request, in using and applying the results of activities under this section;

"(7) evaluate security policies and practices developed for national security systems to assess potential application by agencies to strengthen information security;

"(8) periodically assess the effectiveness of standards and guidelines developed under this section and undertake revisions as appropriate;

"(9) solicit and consider the recommendations of the Information Security and Privacy Advisory Board, established by section 21, regarding standards and guidelines developed under subsection (a) and submit such recommendations to the Secretary of Commerce with such standards submitted to the Secretary; and

"(10) prepare an annual public report on activities undertaken in the previous year, and planned for the coming year, to carry out responsibilities under this section.

"(e) Definitions.—As used in this section—

"(1) the term 'agency' has the same meaning as provided in section 3502(1) of title 44, United States Code;

"(2) the term 'information security' has the same meaning as provided in section 3542(b)(1) of such title;

"(3) the term 'information system' has the same meaning as provided in section 3502(8) of such title;

"(4) the term 'information technology' has the same meaning as provided in section 11101 of title 40, United States Code; and

"(5) the term 'national security system' has the same meaning as provided in section 3542(b)(2) of title 44, United States Code.

"(f) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Commerce $20,000,000 for each of fiscal years 2003, 2004, 2005, 2006, and 2007 to enable the National Institute of

Standards and Technology to carry out the provisions of this section.".

SEC. 304. INFORMATION SECURITY AND PRIVACY ADVISORY BOARD.

Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-4), is amended—

(1) in subsection (a), by striking "Computer System Security and Privacy Advisory Board" and inserting "Information Security and Privacy Advisory Board";

(2) in subsection (a)(1), by striking "computer or telecommunications" and inserting "information technology";

(3) in subsection (a)(2)—

(A) by striking "computer or telecommunications technology" and inserting "information technology"; and

(B) by striking "computer or telecommunications equipment" and inserting "information technology";

(4) in subsection (a)(3)—

(A) by striking "computer systems" and inserting "information system"; and

(B) by striking "computer systems security" and inserting "information security";

(5) in subsection (b)(1) by striking "computer systems security" and inserting "information security";

(6) in subsection (b) by striking paragraph (2) and inserting the following:

"(2) to advise the Institute, the Secretary of Commerce, and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems, including through review of proposed standards and guidelines developed under section 20; and";

(7) in subsection (b)(3) by inserting "annually" after "report";

(8) by inserting after subsection (e) the following new subsection:

"(f) The Board shall hold meetings at such locations and at such time and place as determined by a majority of the Board.";

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(10) by striking subsection (h), as redesignated by paragraph (9), and inserting the following:

"(h) As used in this section, the terms 'information system' and 'information technology' have the meanings given in section 20.".

SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Computer Security Act.—Section 11332 of title 40, United States Code, and the item relating to that section in the table of sections for chapter 113 of such title, are repealed.

(b) Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) is amended by striking section 1062 (44 U.S.C. 3531 note).

(c) Paperwork Reduction Act.—(1) Section 3504(g) of title 44, United States Code, is amended—

(A) by adding "and" at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking "sections 11331 and 11332(b) and (c) of title 40" and inserting "section 11331 of title 40 and subchapter II of this chapter"; and

(ii) by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

(2) Section 3505 of such title is amended by adding at the end—

"(c) Inventory of Major Information Systems.—(1) The head of each agency shall develop and maintain an inventory of major information systems (including major national security systems) operated by or under the control of such agency.

"(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency.

"(3) Such inventory shall be—

"(A) updated at least annually;

"(B) made available to the Comptroller General; and

"(C) used to support information resources management, including—

"(i) preparation and maintenance of the inventory of information resources under section 3506(b)(4);

"(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), subtitle III of title 40, and related laws and guidance;

"(iii) monitoring, testing, and evaluation of information security controls under subchapter II;

"(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and

"(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33.

"(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.".

(3) Section 3506(g) of such title is amended—

(A) by adding "and" at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking "section 11332 of title 40" and inserting "subchapter II of this chapter"; and

(ii) by striking "; and" and inserting a period; and

(C) by striking paragraph (3).

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title I or II, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles I and II for each of fiscal years 2003 through 2007.

SEC. 402. EFFECTIVE DATES.

(a) Titles I and II.—

(1) In general.—Except as provided under paragraph (2), titles I and II and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) Immediate enactment.—Sections 207, 214, and 215 shall take effect on the date of enactment of this Act.

(b) Titles III and IV.—Title III and this title shall take effect on the date of enactment of this Act.

TITLE V—CONFIDENTIAL INFORMATION PROTECTION AND STATISTICAL EFFICIENCY

SEC. 501. SHORT TITLE.

This title may be cited as the "Confidential Information Protection and Statistical Efficiency Act of 2002".

SEC. 502. DEFINITIONS.

As used in this title:

(1) The term "agency" means any entity that falls within the definition of the term "executive agency" as defined in section 102 of title 31, United States Code, or "agency", as defined in section 3502 of title 44, United States Code.

(2) The term "agent" means an individual—

(A)(i) who is an employee of a private organization or a researcher affiliated with an institution of higher learning (including a person granted special sworn status by the Bureau of the Census under section 23(c) of title 13, United States Code), and with whom a contract or other agreement is executed, on a temporary basis, by an executive agency to perform exclusively statistical activities under the control and supervision of an officer or employee of that agency;

(ii) who is working under the authority of a government entity with which a contract or other agreement is executed by an executive agency to perform exclusively statistical activities under the control of an officer or employee of that agency;

(iii) who is a self-employed researcher, a consultant, a contractor, or an employee of a contractor, and with whom a contract or other agreement is executed by an executive agency to perform a statistical activity under the control of an officer or employee of that agency; or

(iv) who is a contractor or an employee of a contractor, and who is engaged by the agency to design or maintain the systems for handling or storage of data received under this title; and

(B) who agrees in writing to comply with all provisions of law that affect information acquired by that agency.

(3) The term "business data" means operating and financial data and information about businesses, tax-exempt organizations, and government entities.

(4) The term "identifiable form" means any representation of information that permits the identity of the respondent to whom the information applies to be reasonably inferred by either direct or indirect means.

(5) The term "nonstatistical purpose"—

(A) means the use of data in identifiable form for any purpose that is not a statistical purpose, including any administrative, regulatory, law enforcement, adjudicatory, or other purpose that affects the rights, privileges, or benefits of a particular identifiable respondent; and

(B) includes the disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act) of data that are acquired for exclusively statistical purposes under a pledge of confidentiality.

(6) The term "respondent" means a person who, or organization that, is requested or required to supply information to an agency, is the subject of information requested or required to be supplied to an agency, or provides that information to an agency.

(7) The term "statistical activities"—

(A) means the collection, compilation, processing, or analysis of data for the purpose of describing or making estimates concerning the whole, or relevant groups or components within, the economy, society, or the natural environment; and

(B) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or sampling frames.

(8) The term "statistical agency or unit" means an agency or organizational unit of the executive branch whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes.

(9) The term "statistical purpose"—

(A) means the description, estimation, or analysis of the characteristics of groups, without identifying the individuals or organizations that comprise such groups; and

(B) includes the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support the purposes described in subparagraph (A).

SEC. 503. COORDINATION AND OVERSIGHT OF POLICIES.

(a) In General.—The Director of the Office of Management and Budget shall coordinate and oversee the confidentiality and disclosure policies established by this title. The Director may promulgate rules or provide other guidance to ensure consistent interpretation of this title by the affected agencies.

(b) Agency Rules.—Subject to subsection (c), agencies may promulgate rules to implement this title. Rules governing disclosures of information that are authorized by this title shall be promulgated by the agency that originally collected the information.

(c) Review and Approval of Rules.—The Director shall review any rules proposed by an agency pursuant to this title for consistency with the provisions of this title and chapter 35 of title 44, United States Code, and such rules shall be subject to the approval of the Director.

(d) Reports.—

(1) The head of each agency shall provide to the Director of the Office of Management and Budget such reports and other information as the Director requests.

(2) Each Designated Statistical Agency referred to in section 522 shall report annually to the Director of the Office of Management and Budget, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate on the actions it has taken to implement sections 523 and 524. The report shall include copies of each written agreement entered into pursuant to section 524(a) for the applicable year.

(3) The Director of the Office of Management and Budget shall include a summary of reports submitted to the Director under paragraph (2) and actions taken by the Director to advance the purposes of this title in the annual report to the Congress on statistical programs prepared under section 3504(e)(2) of title 44, United States Code.

SEC. 504. EFFECT ON OTHER LAWS.

(a) Title 44, United States Code.—This title, including amendments made by this title, does not diminish the authority under section 3510 of title 44, United States Code, of the Director of the Office of Management and Budget to direct, and of an agency to make, disclosures that are not inconsistent with any applicable law.

(b) Title 13 and Title 44, United States Code.—This title, including amendments made by this title, does not diminish the authority of the Bureau of the Census to provide information in accordance with sections 8, 16, 301, and 401 of title 13, United States Code, and section 2108 of title 44, United States Code.

(c) Title 13, United States Code.—This title, including amendments made by this title, shall not be construed as authorizing the disclosure for nonstatistical purposes of demographic data or information collected by the Census Bureau pursuant to section 9 of title 13, United States Code.

(d) Various Energy Statutes.—Data or information acquired by the Energy Information Administration under a pledge of confidentiality and designated by the Energy Information Administration to be used for exclusively statistical purposes shall not be disclosed in identifiable form for nonstatistical purposes under—

(1) section 12, 20, or 59 of the Federal Energy Administration Act of 1974 (15 U.S.C. 771, 779, 790h);

(2) section 11 of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796); or

(3) section 205 or 407 of the Department of the Energy Organization Act of 1977 (42 U.S.C. 7135, 7177).

(e) Section 201 of Congressional Budget Act of 1974.—This title, including amendments made by this title, shall not be construed to limit any authorities of the Congressional Budget Office to work (consistent with laws governing the confidentiality of information the disclosure of which would be a violation of law) with databases of Designated Statistical Agencies (as defined in section 522), either separately or, for data that may be shared pursuant to section 524 of this title or other authority, jointly in order to improve the general utility of these databases for the statistical purpose of analyzing pension and health care financing issues.

(f) Preemption of State Law.—Nothing in this title shall preempt applicable State law regarding the confidentiality of data collected by the States.

(g) Statutes Regarding False Statements.—Notwithstanding section 512, information collected by an agency for exclusively statistical purposes under a pledge of confidentiality may be provided by the collecting agency to a law enforcement agency for the prosecution of submissions to the collecting agency of false statistical information under statutes that authorize criminal penalties (such as section 221 of title 13, United States Code) or civil penalties for the provision of false statistical information, unless such disclosure or use would otherwise be prohibited under Federal law.

(h) Construction.—Nothing in this title shall be construed as restricting or diminishing any confidentiality protections or penalties for unauthorized disclosure that otherwise apply to data or information collected for statistical purposes or nonstatistical purposes, including, but not limited to, section 6103 of the Internal Revenue Code of 1986 (26 U.S.C. 6103).

(i) Authority of Congress.—Nothing in this title shall be construed to affect the authority of the Congress, including its committees, members, or agents, to obtain data or information for a statistical purpose, including for oversight of an agency's statistical activities.

Subtitle A—Confidential Information Protection

SEC. 511. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds the following:

(1) Individuals, businesses, and other organizations have varying degrees of legal protection when providing information to the agencies for strictly statistical purposes.

(2) Pledges of confidentiality by agencies provide assurances to the public that information about individuals or organizations or provided by individuals or organizations for exclusively statistical purposes will be held in confidence and will not be used against such individuals or organizations in any agency action.

(3) Protecting the confidentiality interests of individuals or organizations who provide information under a pledge of confidentiality for Federal statistical programs serves both the interests of the public and the needs of society.

(4) Declining trust of the public in the protection of information provided under a pledge of confidentiality to the agencies adversely affects both the accuracy and completeness of statistical analyses.

(5) Ensuring that information provided under a pledge of confidentiality for statistical purposes receives protection is essential in continuing public cooperation in statistical programs.

(b) Purposes.—The purposes of this subtitle are the following:

(1) To ensure that information supplied by individuals or organizations to an agency for statistical purposes under a pledge of confidentiality is used exclusively for statistical purposes.

(2) To ensure that individuals or organizations who supply information under a pledge of confidentiality to agencies for statistical purposes will neither have that information disclosed in identifiable form to anyone not authorized by this title nor have that information used for any purpose other than a statistical purpose.

(3) To safeguard the confidentiality of individually identifiable information acquired under a pledge of confidentiality for statistical purposes by controlling access to, and uses made of, such information.

SEC. 512. LIMITATIONS ON USE AND DISCLOSURE OF DATA AND INFORMATION.

(a) Use of Statistical Data or Information.—Data or information acquired by an agency under a pledge of confidentiality and for exclusively statistical purposes shall be used by officers, employees, or agents of the agency exclusively for statistical purposes.

(b) Disclosure of Statistical Data or Information.—

(1) Data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes shall not be disclosed by an agency in identifiable form, for any use other than an exclusively statistical purpose, except with the informed consent of the respondent.

(2) A disclosure pursuant to paragraph (1) is authorized only when the head of the agency approves such disclosure and the disclosure is not prohibited by any other law.

(3) This section does not restrict or diminish any confidentiality protections in law that otherwise apply to data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes.

(c) Rule for Use of Data or Information for Nonstatistical Purposes.—A statistical agency or unit shall clearly distinguish any data or information it collects for nonstatistical purposes (as authorized by law) and provide notice to the public, before the data or information is collected, that the data or information could be used for nonstatistical purposes.

(d) Designation of Agents.—A statistical agency or unit may designate agents, by contract or by entering into a special agreement containing the provisions required under section 502(2) for treatment as an agent under that section, who may perform exclusively statistical activities, subject to the limitations and penalties described in this title.

SEC. 513. FINES AND PENALTIES.

Whoever, being an officer, employee, or agent of an agency acquiring information for exclusively statistical purposes, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by section 512, comes into possession of such information by reason of his or her being an officer, employee, or agent and, knowing that the disclosure of the specific information is prohibited under the provisions of this title, willfully discloses the information in any manner to a person or agency not entitled to receive it, shall be guilty of a class E felony and imprisoned for not more than 5 years, or fined not more than $250,000, or both.

Subtitle B—Statistical Efficiency

SEC. 521. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Federal statistics are an important source of information for public and private decision-makers such as policymakers, consumers, businesses, investors, and workers.

(2) Federal statistical agencies should continuously seek to improve their efficiency. Statutory constraints limit the ability of these agencies to share data and thus to achieve higher efficiency for Federal statistical programs.

(3) The quality of Federal statistics depends on the willingness of businesses to respond to statistical surveys. Reducing reporting burdens will increase response rates, and therefore lead to more accurate characterizations of the economy.

(4) Enhanced sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes will improve their ability to track more accurately the large and rapidly changing nature of United States business. In particular, the statistical agencies will be able to better ensure that businesses are consistently classified in appropriate industries, resolve data anomalies, produce statistical samples that are consistently adjusted for the entry and exit of new businesses in a timely manner, and correct faulty reporting errors quickly and efficiently.

(5) The Congress enacted the International Investment and Trade in Services Act of 1990 that allowed the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to share data on foreign-owned companies. The Act not only expanded detailed industry coverage from 135 industries to over 800 industries with no increase in the data collected from respondents but also demonstrated how data sharing can result in the creation of valuable data products.

(6) With subtitle A of this title, the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics continues to ensure the highest level of confidentiality for respondents to statistical surveys.

(b) PURPOSES.—The purposes of this subtitle are the following:

(1) To authorize the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes.

(2) To reduce the paperwork burdens imposed on businesses that provide requested information to the Federal Government.

(3) To improve the comparability and accuracy of Federal economic statistics by allowing the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to update sample frames, develop consistent classifications of establishments and companies into industries, improve coverage, and reconcile significant differences in data produced by the three agencies.

(4) To increase understanding of the United States economy, especially for key industry and regional statistics, to develop more accurate measures of the impact of technology on productivity growth, and to enhance the reliability of the Nation's most important economic indicators, such as the National Income and Product Accounts.

SEC. 522. DESIGNATION OF STATISTICAL AGENCIES.

For purposes of this subtitle, the term "Designated Statistical Agency" means each of the following:

(1) The Bureau of the Census of the Department of Commerce.

(2) The Bureau of Economic Analysis of the Department of Commerce.

(3) The Bureau of Labor Statistics of the Department of Labor.

SEC. 523. RESPONSIBILITIES OF DESIGNATED STATISTICAL AGENCIES.

The head of each of the Designated Statistical Agencies shall—

(1) identify opportunities to eliminate duplication and otherwise reduce reporting burden and cost imposed on the public in providing information for statistical purposes;

(2) enter into joint statistical projects to improve the quality and reduce the cost of statistical programs; and

(3) protect the confidentiality of individually identifiable information acquired for statistical purposes by adhering to safeguard principles, including—

(A) emphasizing to their officers, employees, and agents the importance of protecting the confidentiality of information in cases where the identity of individual respondents can reasonably be inferred by either direct or indirect means;

(B) training their officers, employees, and agents in their legal obligations to protect the confidentiality of individually identifiable information and in the procedures that must be followed to provide access to such information;

(C) implementing appropriate measures to assure the physical and electronic security of confidential data;

(D) establishing a system of records that identifies individuals accessing confidential data and the project for which the data were required; and

(E) being prepared to document their compliance with safeguard principles to other agencies authorized by law to monitor such compliance.

SEC. 524. SHARING OF BUSINESS DATA AMONG DESIGNATED STATISTICAL AGENCIES.

(a) IN GENERAL.—A Designated Statistical Agency may provide business data in an identifiable form to another Designated Statistical Agency under the terms of a written agreement among the agencies sharing the business data that specifies—

(1) the business data to be shared;

(2) the statistical purposes for which the business data are to be used;

(3) the officers, employees, and agents authorized to examine the business data to be shared; and

(4) appropriate security procedures to safeguard the confidentiality of the business data.

(b) RESPONSIBILITIES OF AGENCIES UNDER OTHER LAWS.—The provision of business data by an agency to a Designated Statistical Agency under this subtitle shall in no way alter the responsibility of the agency providing the data under other statutes (including section 552 of title 5, United States Code (popularly known as the Freedom of Information Act), and section 552b of title 5, United States Code (popularly known as the Privacy Act of 1974)) with respect to the provision or withholding of such information by the agency providing the data.

(c) RESPONSIBILITIES OF OFFICERS, EMPLOYEES, AND AGENTS.—Examination of business data in identifiable form shall be limited to the officers, employees, and agents authorized to examine the individual reports in accordance with written agreements pursuant to this section. Officers, employees, and agents of a Designated Statistical Agency who receive data pursuant to this subtitle shall be subject to all provisions of law, including penalties, that relate—

(1) to the unlawful provision of the business data that would apply to the officers, employees, and agents of the agency that originally obtained the information; and

(2) to the unlawful disclosure of the business data that would apply to officers, employees, and agents of the agency that originally obtained the information.

(d) NOTICE.—Whenever a written agreement concerns data that respondents were required by law to report and the respondents were not informed that the data could be shared among the Designated Statistical Agencies, for exclusively statistical purposes, the terms of such agreement shall be described in a public notice issued by the agency that intends to provide the data. Such notice shall allow a minimum of 60 days for public comment.

SEC. 525. LIMITATIONS ON USE OF BUSINESS DATA PROVIDED BY DESIGNATED STATISTICAL AGENCIES.

(a) USE, GENERALLY.—Business data provided by a Designated Statistical Agency pursuant to this subtitle shall be used exclusively for statistical purposes.

(b) PUBLICATION.—Publication of business data acquired by a Designated Statistical Agency shall occur in a manner whereby the data furnished by any particular respondent are not in identifiable form.

SEC. 526. CONFORMING AMENDMENTS.

(a) DEPARTMENT OF COMMERCE.—Section 1 of the Act of January 27, 1938 (15 U.S.C. 176a) is amended by striking "The" and inserting "Except as provided in the Confidential Information Protection and Statistical Efficiency Act of 2002, the".

(b) TITLE 13.—Chapter 10 of title 13, United States Code, is amended—

(1) by adding after section 401 the following:

"§402. Providing business data to Designated Statistical Agencies

"The Bureau of the Census may provide business data to the Bureau of Economic Analysis and the Bureau of Labor Statistics ('Designated Statistical Agencies') if such information is required for an authorized statistical purpose and the provision is the subject of a written agreement with that Designated Statistical Agency, or their successors, as defined in the Confidential Information Protection and Statistical Efficiency Act of 2002."; and

(2) in the table of sections for the chapter by adding after the item relating to section 401 the following:

"402. Providing business data to Designated Statistical Agencies.".

Mr. SAWYER. Mr. Speaker, I rise in support of this bill. I am pleased that H.R. 2458 includes title 5 of the bill to improve the government's statistical capabilities. As the lead Democratic sponsor of this section, I would like to thank the gentleman from California (Mr. HORN) for the opportunity to work with him on this legislation and for his leadership on this issue. This measure has been years in the making. It builds on the gentleman from California's approach to provide limited data sharing among agencies as well as my bill to strengthen the confidentiality of government statistics. My remarks focus on the new confidentiality provisions contained in the bill.

The confidentiality measures create a uniform set of protections for statistical information that would replace the current patchwork of rules and extend these protections to all individually identifiable data collected for statistical purposes. This will encourage greater public cooperation with government surveys and improve the quality of federal statistics.

In too many instances, existing law does not ensure that personal information collected will remain confidential. More than 70 federal agencies or statistical units collect such data but only 12 are covered by government regulations to protect personal identifiable information from disclosure, and only a handful of those have the stronger protection of law. Some of these uncovered units collected information on highly sensitive topics such as substance abuse and mental health. Such sensitive data deserves the most stringent of protections from disclosure. While agency policy may have once been enough in the past, real public trust requires that information be shielded by the force of law.

Statutory protection under this legislation would prevent any regulatory or law enforcement misuse of these data. This recommendation was first made under the Privacy Act of 1974. However, that Act has several loopholes that allow for disclosure of personally identifiable information without the informed consent of those who supplied the information. These are twelve categories of such exemptions and the Act fails to distinguish between data collected for research purposes and data collected for administrative purposes, offering minimal protection from improper disclosure.

The commission recommended that no record or information collected for statistical purposes be used in identifiable form to make any decision or take any action directly affecting the person to whom the record pertains. H.R. 5215 embodies the commission's recommendation.

Improvements that this bill would make in our nation's statistical programs are long overdue. The measures are needed not only to protect the public but also to ensure the public's continued cooperation and participation in essential government research. Informed public policy relies on it. I am pleased that this measure has the support of the House and urge the Senate to pass this legislation before adjourning for the year.

Mr. TOM DAVIS of Virginia. Mr. Speaker, as the federal government has increased its use of the Internet and other information technologies to conduct its business, the need for a comprehensive approach to the management of Electronic Government initiatives has become evident. Therefore, Congressman JIM TURNER, the Ranking Member of the Government Reform Subcommittee on Technology and Procurement Policy, introduced H.R. 2458, the Electronic Government Act of 2002. H.R. 2458 is a bipartisan bill to enhance the management and promotion of electronic government services and processes and to increase the electronic availability of information to the public. I worked closely with Congressman TURNER to develop this bill. H.R. 2458 was reported favorably by the Committee on Government Reform with a unanimous vote. With agreed upon changes reflected in the text before the House today, the bill is supported by the Science and Armed Services Committees, as well as by the leadership of the Senate Governmental Affairs Committee. Following action by the House, the legislation is expected to be taken up by the Senate and acted on in its present form.

The bill contains five titles, covering a broad array of government information management issues.

Title I would strengthen government-wide approaches to improving the use of information technology for service delivery and governmental efficiency and effectiveness by establishing an Office of Electronic Government in the Office of Management and Budget (OMB), a statutory interagency Chief Information Officers (CIO) Council, a program to promote contractor innovation and excellence in E-Gov services and processes, and an interagency E-Gov Fund to provide funding for innovative E-Gov initiatives.

Title II would mandate a number of specific initiatives to enhance Federal E-Gov capabilities. Among its provisions are requirements to support broader use of electronic signatures, a develop a Federal Internet portal, improve public access to public information in Federal agencies and the courts, strengthen privacy protections, improve Federal workforce information technology skills, and make greater use of share-in-savings contracts.

Title III, "Federal Information Security Management Act of 2002" (FISMA), would permanently authorize a government-wide risk-based approach to information security and otherwise strengthen Government Information Security Reform (GISRA) provisions of the FY 2001 Defense Authorization Act.

Title IV would provide authorization of appropriations for the legislation and effective dates for its provisions.

Title V would reduce paperwork burdens and improve privacy protections by establishing new procedures for statistical data sharing among key statistical agencies.

Following favorable action on the bill by the Committee on Government Reform, the managers renewed discussions with the Administration, including OMB, the Department of Defense, and the Department of Commerce, and the Committees on Science and Armed Services, and the Senate Committee on Government Affairs. The resulting agreement involved making a number of revisions to the reported bill. The changes are described below.

Section 205 of H.R. 2458 is revised at the request of the Administration to ensure that on-line access to Federal court records not compromise legitimate privacy and security concerns. The revised language would require the judiciary to develop rules to clearly set forth litigant rights and obligations, as well as court responsibilities with regards to the treatment of privacy and security issues associated with court records.

Section 209 is revised with the addition of subsection (b) to require the Director of OPM, in consultation with the Director of OMB, the CIO Council, and the Administration of GSA, to analyze, identify, assess, and oversee the government-wide development of information technology and information resource management training curricula and methods. Agency heads will use these curricula and methods to establish training programs that meet their needs for information technology and information resource management while designing the training to maximize efficiency and economy.

Section 210 authorizing the government-wide use of share-in savings contracts for information technology has been amended to sunset in September 2005, rather than in 2009. The provision has also been amended to prohibit the agency letting the contract to retain any savings attributable to a decrease in the number of employees performing the function and to prohibit the inclusion in savings of enhanced revenues from the collection of fees, taxes, debts, claims, or other amounts collected by the government. The requirement that the General Accounting Office (GAO) review the Office of Management and Budget report to Congress on the use by the agencies of the share-in-savings authority has been expanded to include an independent assessment by the GAO of the effectiveness of share-in-savings contracts and of whether the authority should be continued. Finally the section now provides for the repeal of the current share-in-savings pilot authority in 40 U.S.C. 11521.

Section 213(b) requires a study to evaluate the best practices of community technology centers that receive federal funds. 213(b)(1) is amended to clarify that OMB must ensure that such a study is conducted.

Likewise, Section 214(b)(1) is amended to clarify that OMB must ensure a study is conducted on the use of information technology to enhance crisis management.

A new section 216 is added to Title II that calls for the development of protocols for geographic information systems so that industry and government can develop innovative multilayered maps and analyses using the government's massive amount of geographic data. This section is not intended to inappropriately move activity into the government that is best left to the private sector. Furthermore, nothing in this provision is intended to encourage the development of technical standards that would require the procurement of specific hardware or software.

A new subsection (c) is added to §3533 in section 301 of the bill. This subsection delegates to the Secretary of the Defense and the Director of Central Intelligence OMB authority under §3533(a)(1) for developing and overseeing the implementation of information security policies, and under §3533(a)(2) for providing risk-based information security protections, for DOD and CIA systems that process information whose unauthorized access, use, disclosure, disruption, modification, or destruction would have a debilitating impact on the missions of the agencies. This revision was requested by the Administration and the Armed Services Committee.

§3536(a)(4) in section 301 of the bill is modified to require that the Federal information security incident center described under this section is to keep the National Institute of Standards and Technology (NIST), as well as other appropriate agencies, informed about information security incidents and related matters.

Section 303 of the legislation as reported by the Committee on Government Reform would amend 40 U.S.C. 11331 to transfer to OMB the authority to promulgate information security standards, which is currently a responsibility of the Secretary of Commerce. After much discussion about the practical consequences of such a transfer, it was agreed to retain the current law's structure while strengthening it in a number of instances. First, FISMA's revision of 40 U.S.C. 11331, at sec. 303, is modified to maintain standards promulgation by the Secretary of Commerce, largely as currently provided in law. § 11331 is revised, however, to continue FISMA provisions for minimum mandatory security standards, a time limit on promulgation of the standards, and the elimination of waiver authority. Second, FISMA's § 3533(a), in sec. 301, is revised accordingly to strike references to OMB promulgation of the NIST-developed standards. In place of that mandate, OMB would be required, at § 3533(a)(1), to use its oversight authority to ensure agency use of such standards, and at § 3533(a)(8), to include an assessment of the standards in its annual report to Congress. Third, to harmonize other references in the legislation to standards promulgation, a number of provisions in Titles I and II are also revised purely for the sake of consistency: i.e., in § 3602(f)(8) in sec. 101, in sec. 202(a)(2), in sec. 202(f)(2), in sec. 207(d)(2)(iii), in § 3534(a)(1)(B)(i) in sec. 301, in § 20(c)(3), (e)(1), and (e)(8) in sec. 303, and in sec. 304(6). Finally, sec. 306 is stricken because given the transfer back to Commerce of all standards promulgation, there is no need to address the division in authority between OMB (security standards) and Commerce (system standards).

Section 303's amendments to section 20 of the NIST Act, 15 U.S.C. 278g–3, are modified in several respects. First, NIST guidance concerning the identification of national security systems, at subsection (b)(3), is to be developed in conjunction with the Department of Defense, including the National Security Agency. Second, as requested by the Administration and the Science Committee, subsections (c)(5), (6), and (7) are modified to be "to the maximum extent practicable." These changes are intended to preserve the policy of reliance on flexible, performance-based, technology-neutral requirements, while recognizing that there likely will be times where needs such as interoperability or the reality of market predominance will require guidance that addresses specific technologies or products. Third, as requested by the Science Committee, the bill drops subsection (d), which would have established a NIST Office for Information Security Programs. Finally, also at the request of the Science Committee, subsection (e) is revised consistent with current law to provide for NIST technical assistance to agencies, at (e)(2), and to authorize NIST to help the private sector, upon request, with NIST guidance and other assistance, at (e)(6).

Title V of this bill is based on H.R. 5215, the Confidential Information Protection and Statistical Efficiency Act of 2002, introduced by Congressman STEPHEN HORN, Chairman of the Government Reform Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations. Chairman HORN and Ranking Member JANICE D. SCHAKOWSKY have worked tirelessly with the Administration to finalize these provisions. This section creates the opportunity for three federal statistical agencies to reduce reporting burdens on businesses while simultaneously making the process of developing economic statistics more efficient. This title provides the statutory changes necessary to allow the Bureau of Economic Analysis, the Bureau of Labor Statistics, and the U.S. Census Bureau to enter into negotiated agreements to share confidential business information. The magnitude of the gains in efficiency and burden reduction will turn on the willingness of these agencies to move swiftly to capitalize on the opportunities presented by these changes. Title V also include language introduced in this Congress by Representatives SAWYER and WAXMAN, which provides strong protection from disclosure for information provided to the government by individuals and businesses. A new provision added to Title V provides a resolution to a longstanding problem of information exchange between the Congressional Budget Office and statistical agencies by making it clear that Congressional intent is for CBO, in fulfilling its statistical service to the Congress, to have access to the necessary information held by statistical agencies in the executive branch.

Finally, a number of technical corrections are made: At § 3532(b)(2)(A) in sec. 101 to correct a paragraph indentation; and at § 3533(a)(8)(D) in sec. 101 to correct a subsection cross-reference.

With these changes, the managers of H.R. 2458 are able to state that the legislation before the House of Representatives today reflects agreement across the aisle, among key members and committees in both houses of Congress, and with the executive branch. I urge passage of this bill.

Mr. TURNER. Mr. Speaker, I want to thank Chairman DAVIS for the bipartisan manner in which we have worked to address the issues in H.R. 2458, the E-Government Act of 2002, as amendment. In addition to incorporating many of the changes agreed to by the Senate and Administration, we have been able to address concerns that I and others had with this legislation since the bill has been marked up by the Government Reform Committee. I thank Chairman DAVIS and BURTON, as well as Representative HENRY WAXMAN, ranking member of the Government Reform Committee, for working constructively with me on those issues. I believe all of us hope that this bill will become law before the end of the 107th Congress.

The information technology revolution of the last decade has had a profound impact on almost all aspects of our economy and government. Providing a statutory basis for applying some of the impacts of that revolution to the federal government is a complicated, but necessary, step. The Subcommittee on Technology and Procurement Policy has held numerous hearings on the issues H.R. 2458 addresses, and I want to commend Chairman DAVIS for his attention to this topic.

When it comes to information technology, effective use of the internet, and other cutting edge information resources, the federal government is playing catch-up with the private sector, which seems to have been able to integrate the new technology into its day-to-day operations more rapidly and effectively than the federal government. And while we have played catch-up, we're losing money through inefficiency, and we're wasting the time of millions of citizens, who deserve the modern effective government information technology can help us achieve. This bill will go some way toward improving the federal government's use of information technology.

That is why I, along with Senator LIEBERMAN, introduced the E-Government Act, to help us move toward that goal by improving leadership and funding, as well as addressing other critical issues like privacy, training, and accessibility. I believe the measure holds great promise for improving government and its relationship to American citizens.

The measure before us also incorporates other legislation which has bipartisan support, including bill Chairman DAVIS authored, H.R. 3844, the Federal Information Security Management Act, and H.R. 5215, the Confidential Information Protection and Statistical Efficiency Act, introduced by Chairman HORN. These are all important measures and I urge my colleagues to support them.

DISCHARGED FROM COMMITTEE ON GOVERNMENT REFORM, AMENDED, AND AGREED TO

H. Con. Res. 466, recognizing the significance of bread in American history, culture, and daily diet.

H. CON. RES. 466

Whereas bread is a gift of friendship in the United States;

Whereas bread is used as a symbol of unity for families and friends;

Whereas the expression "breaking bread together" means sharing friendship, peace, and goodwill, and the actual breaking of bread together can help restore a sense of normalcy and encourage a sense of community;

Whereas bread, the staff of life, not only nourishes the body but symbolizes nourishment for the human spirit;

Whereas bread is used in many cultures to commemorate milestones such as births, weddings, and deaths;

Whereas bread is the most consumed of grain foods, is recognized by the United States Department of Agriculture as part of the most important food group, and plays a vital role in American diets;

Whereas Americans consume an average of 60 pounds of bread annually;

Whereas bread has been a staple of American diets for hundreds of years;

Whereas Americans are demonstrating a new interest in artisan and home-style types of breads, increasingly found in cafes, bakeries, restaurants, and homes across the country;

Whereas bread sustained the Pilgrims during their long ocean voyage to America and was used to celebrate their first harvest in the American wilderness; and

Whereas bread remains an important part of the family meal when Americans celebrate Thanksgiving, and the designation of November 2002 as National Bread Month would recognize the significance of bread in American history, culture, and daily diet: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress supports the goals of National Bread Month and encourages the President to issue a proclamation calling on the people of the United States to observe such month with appropriate ceremonies and activities.

TAKEN FROM THE SPEAKER'S TABLE AND CONCURRED IN SENATE AMENDMENT

H.R. 2621, to amend title 18, United States Code, with respect to consumer product protection.

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Product Packaging Protection Act of 2002".

SEC. 2. TAMPERING WITH CONSUMER PRODUCTS.

Section 1365 of title 18, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

"(f)(1) Whoever, without the consent of the manufacturer, retailer, or distributor, intentionally tampers with a consumer product that is sold in interstate or foreign commerce by knowingly placing or inserting any writing in the consumer product, or in the container for the consumer product, before the sale of the consumer product to any consumer shall be fined under this title, imprisoned not more than 1 year, or both.

"(2) Notwithstanding the provisions of paragraph (1), if any person commits a violation of this subsection after a prior conviction under this section becomes final, such person shall be fined under this title, imprisoned for not more than 3 years, or both.

"(3) In this subsection, the term 'writing' means any form of representation or communication, including hand-bills, notices, or advertising, that contain letters, words, or pictorial representations.".

TAKEN FROM THE SPEAKER'S TABLE AND CONCURRED IN SENATE AMENDMENT

H.R. 3609, to amend title 49, United States Code, to enhance the security and safety of pipelines.

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Pipeline Safety Improvement Act of 2002".

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2. ONE-CALL NOTIFICATION PROGRAMS.

(a) MINIMUM STANDARDS.—Section 6103 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting ", including all government operators" before the semicolon at the end; and

(B) in paragraph (2) by inserting ", including all government and contract excavators" before the semicolon at the end; and

(2) in subsection (c) by striking "provide for" and inserting "provide for and document".

(b) COMPLIANCE WITH MINIMUM STANDARDS.—Section 6104(d) is amended by striking "Within 3 years after the date of the enactment of this chapter, the Secretary shall begin to" and inserting "The Secretary shall".

(c) IMPLEMENTATION OF BEST PRACTICES GUIDELINES.—

(1) IN GENERAL.—Section 6105 is amended to read as follows:

"§6105. Implementation of best practices guidelines

"(a) ADOPTION OF BEST PRACTICES.—The Secretary of Transportation shall encourage States, operators of one-call notification programs, excavators (including all government and contract excavators), and underground facility operators to adopt and implement practices identified in the best practices report entitled 'Common Ground', as periodically updated.

"(b) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to and participate in programs sponsored by a non-profit organization specifically established for the purpose of reducing construction-related damage to underground facilities.

"(c) GRANTS.—

"(1) IN GENERAL.—The Secretary may make grants to a non-profit organization described in subsection (b).

"(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized under section 6107, there is authorized to be appropriated for making grants under this subsection $500,000 for each of fiscal years 2003 through 2006. Such sums shall remain available until expended.

"(3) GENERAL REVENUE FUNDING.—Any sums appropriated under this subsection shall be derived from general revenues and may not be derived from amounts collected under section 60301.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 61 is amended by striking the item relating to section 6105 and inserting the following:

"6105. Implementation of best practices guidelines.".

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) FOR GRANTS FOR STATES.—Section 6107(a) is amended by striking "$1,000,000 for fiscal year 2000" and all that follows before the period at the end of the first sentence and inserting "$1,000,000 for each of fiscal years 2003 through 2006".

(2) FOR ADMINISTRATION.—Section 6107(b) is amended by striking "for fiscal years 1999, 2000, and 2001" and inserting "for fiscal years 2003 through 2006".

SEC. 3. ONE-CALL NOTIFICATION OF PIPELINE OPERATORS.

(a) LIMITATION ON PREEMPTION.—Section 60104(c) is amended by adding at the end the following: "Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.".

(b) MINIMUM REQUIREMENTS.—Section 60114(a)(2) is amended by inserting ", including a government employee or contractor," after "person".

(c) CRIMINAL PENALTIES.—Section 60123(d) is amended—

(1) in the matter preceding paragraph (1) by striking "knowingly and willfully";

(2) in paragraph (1) by inserting "knowingly and willfully" before "engages";

(3) by striking paragraph (2)(B) and inserting the following:

"(B) a pipeline facility, and knows or has reason to know of the damage, but does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or"; and

(4) by adding after paragraph (2) the following:

"Penalties under this subsection may be reduced in the case of a violation that is promptly reported by the violator.".

SEC. 4. STATE OVERSIGHT ROLE.

(a) STATE AGREEMENTS WITH CERTIFICATION.—Section 60106 is amended—

(1) in subsection (a) by striking "GENERAL AUTHORITY.—" and inserting "AGREEMENTS WITHOUT CERTIFICATION.—";

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(3) by inserting after subsection (a) the following:

"(b) AGREEMENTS WITH CERTIFICATION.—

"(1) IN GENERAL.—If the Secretary accepts a certification under section 60105 and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards for interstate pipeline facilities prescribed under this chapter to a State authority.

"(2) DETERMINATIONS REQUIRED.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines in writing that—

"(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;

"(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

"(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

"(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

"(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

"(3) EXISTING AGREEMENTS.—If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after January 31, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2002 if—

"(A) the State authority fails to comply with the terms of the agreement;

"(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or

"(C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.".

(b) ENDING AGREEMENTS.—Subsection (e) of section 60106 (as redesignated by subsection (a)(2) of this section) is amended to read as follows:

"(e) ENDING AGREEMENTS.—

"(1) PERMISSIVE TERMINATION.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

"(2) MANDATORY TERMINATION OF AGREEMENT.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—

"(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

"(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

"(C) continued participation by the State authority in the oversight of interstate pipeline

transportation would not promote pipeline safety.

"(3) PROCEDURAL REQUIREMENTS.—The Secretary shall give notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.".

(c) SECRETARY'S RESPONSE TO STATE NOTICES OF VIOLATIONS.—Subsection (c) of section 60106 (as redesignated by subsection (a)(2) of this section) is amended—

(1) by striking "Each agreement" and inserting the following:

"(1) IN GENERAL.—Each agreement";

(2) by adding at the end the following:

"(2) RESPONSE BY SECRETARY.—If a State authority notifies the Secretary under paragraph (1) of a violation or probable violation of an applicable safety standard, the Secretary, not later than 60 days after the date of receipt of the notification, shall—

"(A) issue an order under section 60118(b) or take other appropriate enforcement actions to ensure compliance with this chapter; or

"(B) provide the State authority with a written explanation as to why the Secretary has determined not to take such actions."; and

(3) by aligning the text of paragraph (1) (as designated by this subsection) with paragraph (2) (as added by this subsection).

SEC. 5. PUBLIC EDUCATION PROGRAMS.

Section 60116 is amended to read as follows:

"§ 60116. Public education programs

"(a) IN GENERAL.—Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.

"(b) MODIFICATION OF EXISTING PROGRAMS.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, each owner or operator of a gas or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed program shall include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program shall be submitted to the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency, and shall be periodically reviewed by the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency.

"(c) STANDARDS.—The Secretary may issue standards prescribing the elements of an effective public education program. The Secretary may also develop material for use in the program.".

SEC. 6. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION.

(a) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

"§ 60129. Protection of employees providing pipeline safety information

"(a) DISCRIMINATION AGAINST EMPLOYEE.—

"(1) IN GENERAL.—No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(A) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard under this chapter or any other Federal law relating to pipeline safety;

"(B) refused to engage in any practice made unlawful by this chapter or any other Federal law relating to pipeline safety, if the employee has identified the alleged illegality to the employer;

"(C) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this chapter or any other Federal law relating to pipeline safety;

"(D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter or any other Federal law relating to pipeline safety, or a proceeding for the administration or enforcement of any requirement imposed under this chapter or any other Federal law relating to pipeline safety;

"(E) provided, caused to be provided, or is about to provide or cause to be provided, testimony in any proceeding described in subparagraph (D); or

"(F) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this chapter or any other Federal law relating to pipeline safety.

"(2) EMPLOYER DEFINED.—In this section, the term 'employer' means—

"(A) a person owning or operating a pipeline facility; or

"(B) a contractor or subcontractor of such a person.

"(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

"(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person or persons named in the complaint and the Secretary of Transportation of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person or persons under paragraph (2).

"(2) INVESTIGATION; PRELIMINARY ORDER.—

"(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person or persons named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary of Labor to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person or persons alleged to have committed a violation of subsection (a) of the Secretary of Labor's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary of Labor shall include with the Secretary of Labor's findings a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 60 days after the date of notification of findings under this subparagraph, any person alleged to have committed a violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 60-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

"(B) REQUIREMENTS.—

"(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary of Labor that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary of Labor may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(3) FINAL ORDER.—

"(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 90 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person or persons alleged to have committed the violation.

"(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person or persons who committed such violation to—

"(i) take affirmative action to abate the violation;

"(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

"(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person or persons against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

"(4) REVIEW.—

"(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

"(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

"(6) ENFORCEMENT OF ORDER BY PARTIES.—

"(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person or persons to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award of costs is appropriate.

"(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

"(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an action of an employee of an employer who, acting without direction from the employer (or such employer's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.".

(b) CIVIL PENALTY.—Section 60122(a) is amended by adding at the end the following:

"(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than $1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

"60129. Protection of employees providing pipeline safety information.".

SEC. 7. SAFETY ORDERS.

Section 60117 is amended by adding at the end the following:

"(l) SAFETY ORDERS.—If the Secretary decides that a pipeline facility has a potential safety-related condition, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, replacement, or other appropriate action to remedy the safety-related condition.".

SEC. 8. PENALTIES.

(a) PIPELINE FACILITIES HAZARDOUS TO LIFE, PROPERTY, OR THE ENVIRONMENT.—

(1) GENERAL AUTHORITY.—Section 60112(a) is amended to read as follows:

"(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide that a pipeline facility is hazardous if the Secretary decides that—

"(1) operation of the facility is or would be hazardous to life, property, or the environment; or

"(2) the facility is or would be constructed or operated, or a component of the facility is or would be constructed or operated, with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.".

(2) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended by striking "is hazardous" and inserting "is or would be hazardous".

(b) ENFORCEMENT.—

(1) GENERAL PENALTIES.—Section 60122(a)(1) is amended—

(A) by striking "$25,000" and inserting "$100,000"; and

(B) by striking "$500,000" and inserting "$1,000,000".

(2) PENALTY CONSIDERATIONS.—Section 60122(b) is amended by striking "under this section" and all that follows through paragraph (4) and inserting "under this section—

"(1) the Secretary shall consider—

"(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

"(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business; and

"(C) good faith in attempting to comply; and

"(2) the Secretary may consider—

"(A) the economic benefit gained from the violation without any reduction because of subsequent damages; and

"(B) other matters that justice requires.".

(3) CIVIL ACTIONS.—Section 60120(a) is amended—

(A) by striking "(a) CIVIL ACTIONS.—(1)" and all that follows through "(2) At the request" and inserting the following:

"(a) CIVIL ACTIONS.—

"(1) CIVIL ACTIONS TO ENFORCE THIS CHAPTER.—At the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties, considering the same factors as prescribed for the Secretary in an administrative case under section 60122.

"(2) CIVIL ACTIONS TO REQUIRE COMPLIANCE WITH SUBPOENAS OR ALLOW FOR INSPECTIONS.—At the request"; and

(B) by aligning the remainder of the text of paragraph (2) with the text of paragraph (1).

(c) CRIMINAL PENALTIES FOR DAMAGING OR DESTROYING A FACILITY.—Section 60123(b) is amended—

(1) by striking "or" after "gas pipeline facility" and inserting ", an"; and

(2) by inserting after "liquid pipeline facility" the following: ", or either an intrastate gas pipeline facility or intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce".

(d) COMPTROLLER GENERAL STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the actions, policies, and procedures of the Secretary of Transportation for assessing and collecting fines and penalties on operators of hazardous liquid and gas transmission pipelines.

(2) ANALYSIS.—In conducting the study, the Comptroller General shall examine, at a minimum, the following:

(A) The frequency with which the Secretary has substituted corrective orders for fines and penalties.

(B) Changes in the amounts of fines recommended by safety inspectors, assessed by the Secretary, and actually collected.

(C) An evaluation of the overall effectiveness of the Secretary's enforcement strategy.

(D) The extent to which the Secretary has complied with the report of the Government Accounting Office entitled "Pipeline Safety: The Office of Pipeline Safety is Changing How it Oversees the Pipeline Industry".

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report on the results of the study.

SEC. 9. PIPELINE SAFETY INFORMATION GRANTS TO COMMUNITIES.

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

"§60130. Pipeline safety information grants to communities

"(a) GRANT AUTHORITY.—

"(1) IN GENERAL.—The Secretary of Transportation may make grants for technical assistance to local communities and groups of individuals (not including for-profit entities) relating to the safety of pipeline facilities in local communities, other than facilities regulated under Public Law 93–153 (43 U.S.C. 1651 et seq.). The Secretary shall establish competitive procedures for awarding grants under this section and criteria for selecting grant recipients. The amount of any grant under this section may not exceed $50,000 for a single grant recipient. The Secretary shall establish appropriate procedures to ensure the proper use of funds provided under this section.

"(2) TECHNICAL ASSISTANCE DEFINED.—In this subsection, the term 'technical assistance' means engineering and other scientific analysis of pipeline safety issues, including the promotion of public participation in official proceedings conducted under this chapter.

"(b) PROHIBITED USES.—Funds provided under this section may not be used for lobbying or in direct support of litigation.

"(c) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than 90 days after the last day of each fiscal year for which grants are made by the Secretary under this section, the Secretary shall report to the Committees on Commerce, Science, and Transportation and Energy and Natural Resources of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives on grants made under this section in the preceding fiscal year.

"(2) CONTENTS.—The report shall include—

"(A) a listing of the identity and location of each recipient of a grant under this section in the preceding fiscal year and the amount received by the recipient;

"(B) a description of the purpose for which each grant was made; and

"(C) a description of how each grant was used by the recipient.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation for carrying out this section $1,000,000 for each of the fiscal years 2003 through 2006. Such amounts shall not be derived from user fees collected under section 60301.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

"60130. Pipeline safety information grants to communities.".

SEC. 10. OPERATOR ASSISTANCE IN INVESTIGATIONS.

(a) IN GENERAL.—Section 60118 is amended by adding at the end the following:

"(e) OPERATOR ASSISTANCE IN INVESTIGATIONS.—If the Secretary or the National Transportation Safety Board investigate an accident involving a pipeline facility, the operator of the facility shall make available to the Secretary or the Board all records and information that in any way pertain to the accident (including integrity management plans and test results), and shall afford all reasonable assistance in the investigation of the accident.".

(b) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended—

(1) by striking "If the Secretary" and inserting the following:

"(1) IN GENERAL.—If the Secretary";

(2) by adding the end the following:

"(2) ACTIONS ATTRIBUTABLE TO AN EMPLOYEE.—If, in the case of a corrective action order issued following an accident, the Secretary determines that the actions of an employee carrying out an activity regulated under this chapter, including duties under section 60102(a), may have contributed substantially to the cause of the accident, the Secretary shall direct the operator to relieve the employee from performing those activities, reassign the employee, or place the employee on leave until the earlier of the date on which—

"(A) the Secretary, after notice and an opportunity for a hearing, determines that the employee's actions did not contribute substantially to the cause of the accident; or

"(B) the Secretary determines the employee has been re-qualified or re-trained as provided for in section 60131 and can safely perform those activities.

"(3) EFFECT OF COLLECTIVE BARGAINING AGREEMENTS.—An action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement."; and

(3) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this subsection) with paragraph (2) (as added by paragraph (2) of this subsection).

(c) LIMITATION ON STATUTORY CONSTRUCTION.—Section 60118 is amended by adding at the end the following:

"(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to infringe upon the constitutional rights of an operator or its employees.".

SEC. 11. POPULATION ENCROACHMENT AND RIGHTS-OF-WAY.

(a) IN GENERAL.—Section 60127 is amended to read as follows:

"§60127. Population encroachment and rights-of-way

"(a) STUDY.—The Secretary of Transportation, in conjunction with the Federal Energy Regulatory Commission and in consultation with appropriate Federal agencies and State and local governments, shall undertake a study of land use practices, zoning ordinances, and preservation of environmental resources with regard to pipeline rights-of-way and their maintenance.

"(b) PURPOSE OF STUDY.—The purpose of the study shall be to gather information on land use practices, zoning ordinances, and preservation of environmental resources—

"(1) to determine effective practices to limit encroachment on existing pipeline rights-of-way;

"(2) to address and prevent the hazards and risks to the public, pipeline workers, and the environment associated with encroachment on pipeline rights-of-way;

"(3) to raise the awareness of the risks and hazards of encroachment on pipeline rights-of-way; and

"(4) to address how to best preserve environmental resources in conjunction with maintaining pipeline rights-of-way, recognizing pipeline operators' regulatory obligations to maintain rights-of-way and to protect public safety.

"(c) CONSIDERATIONS.—In conducting the study, the Secretary shall consider, at a minimum, the following:

"(1) The legal authority of Federal agencies and State and local governments in controlling land use and the limitations on such authority.

"(2) The current practices of Federal agencies and State and local governments in addressing land use issues involving a pipeline easement.

"(3) The most effective way to encourage Federal agencies and State and local governments to monitor and reduce encroachment upon pipeline rights-of-way.

"(d) REPORT.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish a report identifying practices, laws, and ordinances that are most successful in addressing issues of encroachment and maintenance on pipeline rights-of-way so as to more effectively protect public safety, pipeline workers, and the environment.

"(2) DISTRIBUTION OF REPORT.—The Secretary shall provide a copy of the report to—

"(A) Congress and appropriate Federal agencies; and

"(B) States for further distribution to appropriate local authorities.

"(3) ADOPTION OF PRACTICES, LAWS, AND ORDINANCES.—The Secretary shall encourage Federal agencies and State and local governments to adopt and implement appropriate practices, laws, and ordinances, as identified in the report, to address the risks and hazards associated with encroachment upon pipeline rights-of-way and to address the potential methods of preserving environmental resources while maintaining pipeline rights-of-way, consistent with pipeline safety.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by striking the item relating to section 60127 and inserting the following:

"60127. Population encroachment and rights-of-way.".

SEC. 12. PIPELINE INTEGRITY, SAFETY, AND RELIABILITY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The heads of the participating agencies shall carry out a program of research, development, demonstration, and standardization to ensure the integrity of pipeline facilities.

(b) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the heads of the participating agencies shall enter into a memorandum of understanding detailing their respective responsibilities in the program authorized by subsection (a).

(2) AREAS OF EXPERTISE.—Under the memorandum of understanding, each of the participating agencies shall have the primary responsibility for ensuring that the elements of the program within its expertise are implemented in accordance with this section. The Department of Transportation's responsibilities shall reflect its lead role in pipeline safety and expertise in pipeline inspection, integrity management, and damage prevention. The Department of Energy's responsibilities shall reflect its expertise in system reliability, low-volume gas leak detection, and surveillance technologies. The National Institute of Standards and Technology's responsibilities shall reflect its expertise in materials research and assisting in the development of consensus technical standards, as that term is used in section 12(d)(4) of Public Law 104–13 (15 U.S.C. 272 note).

(c) PROGRAM ELEMENTS.—The program authorized by subsection (a) shall include research, development, demonstration, and standardization activities related to—

(1) materials inspection;

(2) stress and fracture analysis, detection of cracks, corrosion, abrasion, and other abnormalities inside pipelines that lead to pipeline failure, and development of new equipment or technologies that are inserted into pipelines to detect anomalies;

(3) internal inspection and leak detection technologies, including detection of leaks at very low volumes;

(4) methods of analyzing content of pipeline throughput;

(5) pipeline security, including improving the real-time surveillance of pipeline rights-of-way, developing tools for evaluating and enhancing pipeline security and infrastructure, reducing natural, technological, and terrorist threats, and protecting first response units and persons near an incident;

(6) risk assessment methodology, including vulnerability assessment and reduction of third-party damage;

(7) communication, control, and information systems surety;

(8) fire safety of pipelines;

(9) improved excavation, construction, and repair technologies; and

(10) other appropriate elements.

(d) PROGRAM PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary of Transportation, in coordination with the Secretary of Energy and the Director of the National Institute of Standards and Technology, shall prepare and transmit to Congress a 5-year program plan to guide activities under this section. Such program plan shall be submitted to the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee for review, and the report to Congress shall include the comments of the committees. The 5-year program plan shall be based on the memorandum of understanding under subsection (b) and take into account related activities of other Federal agencies.

(2) CONSULTATION.—In preparing the program plan and selecting and prioritizing appropriate project proposals, the Secretary of Transportation shall consult with or seek the advice of appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries, utilities, manufacturers, institutions of higher learning, Federal agencies, pipeline research institutions, national laboratories, State pipeline safety officials, labor organizations, environmental organizations, pipeline safety advocates, and professional and technical societies.

(e) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the heads of the participating agencies shall transmit jointly to Congress a report on the status and results to date of the implementation of the program plan prepared under subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) DEPARTMENT OF TRANSPORTATION.—There is authorized to be appropriated to the Secretary of Transportation for carrying out this section $10,000,000 for each of the fiscal years 2003 through 2006.

(2) DEPARTMENT OF ENERGY.—There is authorized to be appropriated to the Secretary of Energy for carrying out this section $10,000,000 for each of the fiscal years 2003 through 2006.

(3) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There is authorized to be appropriated to the Director of the National Institute of Standards and Technology for carrying out this section $5,000,000 for each of the fiscal years 2003 through 2006.

(4) GENERAL REVENUE FUNDING.—Any sums appropriated under this subsection shall be derived from general revenues and may not be derived from amounts collected under section 60301 of title 49, United States Code.

(g) PIPELINE INTEGRITY PROGRAM.—Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), $3,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs for detection, prevention, and mitigation of oil spills for each of the fiscal years 2003 through 2006.

(h) PARTICIPATING AGENCIES DEFINED.—In this section, the term "participating agencies" means the Department of Transportation, the Department of Energy, and the National Institute of Standards and Technology.

SEC. 13. PIPELINE QUALIFICATION PROGRAMS.

(a) VERIFICATION PROGRAM.—

(1) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

"§60131. Verification of pipeline qualification programs

"(a) IN GENERAL.—Subject to the requirements of this section, the Secretary of Transportation shall require the operator of a pipeline facility to develop and adopt a qualification program to ensure that the individuals who perform covered tasks are qualified to conduct such tasks.

"(b) STANDARDS AND CRITERIA.—

"(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of this section, the Secretary shall ensure that the Department of Transportation has in place standards and criteria for qualification programs referred to in subsection (a).

"(2) CONTENTS.—The standards and criteria shall include the following:

"(A) The establishment of methods for evaluating the acceptability of the qualifications of individuals described in subsection (a).

"(B) A requirement that pipeline operators develop and implement written plans and procedures to qualify individuals described in subsection (a) to a level found acceptable using the methods established under subparagraph (A) and evaluate the abilities of individuals described in subsection (a) according to such methods.

"(C) A requirement that the plans and procedures adopted by a pipeline operator under subparagraph (B) be reviewed and verified under subsection (e).

"(c) DEVELOPMENT OF QUALIFICATION PROGRAMS BY PIPELINE OPERATORS.—The Secretary shall require each pipeline operator to develop and adopt, not later than 2 years after the date of enactment of this section, a qualification program that complies with the standards and criteria described in subsection (b).

"(d) ELEMENTS OF QUALIFICATION PROGRAMS.—A qualification program adopted by an operator under subsection (a) shall include, at a minimum, the following elements:

"(1) A method for examining or testing the qualifications of individuals described in subsection (a). The method may include written examination, oral examination, observation during on-the-job performance, on-the-job training, simulations, and other forms of assessment. The method may not be limited to observation of on-the-job performance, except with respect to tasks for which the Secretary has determined that such observation is the best method of examining or testing qualifications. The Secretary shall ensure that the results of any such observations are documented in writing.

"(2) A requirement that the operator complete the qualification of all individuals described in subsection (a) not later than 18 months after the date of adoption of the qualification program.

"(3) A periodic requalification component that provides for examination or testing of individuals in accordance with paragraph (1).

"(4) A program to provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.

"(e) REVIEW AND VERIFICATION OF PROGRAMS.—

"(1) IN GENERAL.—The Secretary shall review the qualification program of each pipeline operator and verify its compliance with the standards and criteria described in subsection (b) and that it includes the elements described in subsection (d). The Secretary shall record the results of that review for use in the next review of an operator's program.

"(2) DEADLINE FOR COMPLETION.—Reviews and verifications under this subsection shall be completed not later than 3 years after the date of the enactment of this section.

"(3) INADEQUATE PROGRAMS.—If the Secretary decides that a qualification program is inadequate for the safe operation of a pipeline facility, the Secretary shall act as under section 60108(a)(2) to require the operator to revise the qualification program.

"(4) PROGRAM MODIFICATIONS.—If the operator of a pipeline facility significantly modifies a program that has been verified under this subsection, the operator shall notify the Secretary of the modifications. The Secretary shall review and verify such modifications in accordance with paragraph (1).

"(5) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement of this section if the waiver or modification is not inconsistent with pipeline safety.

"(6) INACTION BY THE SECRETARY.—Notwithstanding any failure of the Secretary to prescribe standards and criteria as described in subsection (b), an operator of a pipeline facility shall develop and adopt a qualification program that complies with the requirement of subsection (b)(2)(B) and includes the elements described in subsection (d) not later than 2 years after the date of enactment of this section.

"(f) INTRASTATE PIPELINE FACILITIES.—In the case of an intrastate pipeline facility operator, the duties and powers of the Secretary under this section with respect to the qualification program of the operator shall be vested in the appropriate State regulatory agency, consistent with this chapter.

"(g) COVERED TASK DEFINED.—In this section, the term 'covered task'—

"(1) with respect to a gas pipeline facility, has the meaning such term has under section 192.801 of title 49, Code of Federal Regulations, including any subsequent modifications; and

"(2) with respect to a hazardous liquid pipeline facility, has the meaning such term has under section 195.501 of such title, including any subsequent modifications.

"(h) REPORT.—Not later than 4 years after the date of enactment of this section, the Secretary shall transmit to Congress a report on the status and results to date of the personnel qualification regulations issued under this chapter.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at end the following:

"60131. Verification of pipeline qualification programs.".

(b) PILOT PROGRAM FOR CERTIFICATION OF CERTAIN PIPELINE WORKERS.—

(1) IN GENERAL.—Not later than 36 months after the date of enactment of this Act, the Secretary of Transportation shall—

(A) develop tests and other requirements for certifying the qualifications of individuals who operate computer-based systems for controlling the operations of pipelines; and

(B) establish and carry out a pilot program for 3 pipeline facilities under which the individuals operating computer-based systems for controlling the operations of pipelines at such facilities are required to be certified under the process established under subparagraph (A).

(2) REPORT.—The Secretary shall include in the report required under section 60131(h), as added by subsection (a) of this section, the results of the pilot program. The report shall include—

(A) a description of the pilot program and implementation of the pilot program at each of the 3 pipeline facilities;

(B) an evaluation of the pilot program, including the effectiveness of the process for certifying individuals who operate computer-based systems for controlling the operations of pipelines;

(C) any recommendations of the Secretary for requiring the certification of all individuals who operate computer-based systems for controlling the operations of pipelines; and

(D) an assessment of the ramifications of requiring the certification of other individuals performing safety-sensitive functions for a pipeline facility.

(3) COMPUTER-BASED SYSTEMS DEFINED.—In this subsection, the term "computer-based systems" means supervisory control and data acquisition systems.

SEC. 14. RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS FOR GAS PIPELINES.

(a) IN GENERAL.—Section 60109 is amended by adding at the end the following:

"(c) RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS.—

"(1) REQUIREMENT.—Each operator of a gas pipeline facility shall conduct an analysis of the risks to each facility of the operator located in an area identified pursuant to subsection (a)(1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, and shall adopt and implement a written integrity management program for such facility to reduce the risks.

"(2) REGULATIONS.—

"(A) IN GENERAL.—Not later than 12 months after the date of enactment of this subsection, the Secretary shall issue regulations prescribing standards to direct an operator's conduct of a risk analysis and adoption and implementation of an integrity management program under this subsection. The regulations shall require an operator to conduct a risk analysis and adopt an integrity management program within a time period prescribed by the Secretary, ending not later than 24 months after such date of enactment. Not later than 18 months after such date of enactment, each operator of a gas pipeline facility shall begin a baseline integrity assessment described in paragraph (3).

"(B) AUTHORITY TO ISSUE REGULATIONS.—The Secretary may satisfy the requirements of this paragraph through the issuance of regulations under this paragraph or under other authority of law.

"(3) MINIMUM REQUIREMENTS OF INTEGRITY MANAGEMENT PROGRAMS.—An integrity management program required under paragraph (1)

shall include, at a minimum, the following requirements:

“(A) A baseline integrity assessment of each of the operator's facilities in areas identified pursuant to subsection (a)(1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, by internal inspection device, pressure testing, direct assessment, or an alternative method that the Secretary determines would provide an equal or greater level of safety. The operator shall complete such assessment not later than 10 years after the date of enactment of this subsection. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

“(B) Subject to paragraph (5), periodic reassessment of the facility, at a minimum of once every 7 years, using methods described in subparagraph (A).

“(C) Clearly defined criteria for evaluating the results of assessments conducted under subparagraphs (A) and (B) and for taking actions based on such results.

“(D) A method for conducting an analysis on a continuing basis that integrates all available information about the integrity of the facility and the consequences of releases from the facility.

“(E) A description of actions to be taken by the operator to promptly address any integrity issue raised by an evaluation conducted under subparagraph (C) or the analysis conducted under subparagraph (D).

“(F) A description of measures to prevent and mitigate the consequences of releases from the facility.

“(G) A method for monitoring cathodic protection systems throughout the pipeline system of the operator to the extent not addressed by other regulations.

“(H) If the Secretary raises a safety concern relating to the facility, a description of the actions to be taken by the operator to address the safety concern, including issues raised with the Secretary by States and local authorities under an agreement entered into under section 60106.

“(4) TREATMENT OF BASELINE INTEGRITY ASSESSMENTS.—In the case of a baseline integrity assessment conducted by an operator in the period beginning on the date of enactment of this subsection and ending on the date of issuance of regulations under this subsection, the Secretary shall accept the assessment as complete, and shall not require the operator to repeat any portion of the assessment, if the Secretary determines that the assessment was conducted in accordance with the requirements of this subsection.

“(5) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement for reassessment of a facility under paragraph (3)(B) for reasons that may include the need to maintain local product supply or the lack of internal inspection devices if the Secretary determines that such waiver is not inconsistent with pipeline safety.

“(6) STANDARDS.—The standards prescribed by the Secretary under paragraph (2) shall address each of the following factors:

“(A) The minimum requirements described in paragraph (3).

“(B) The type or frequency of inspections or testing of pipeline facilities, in addition to the minimum requirements of paragraph (3)(B).

“(C) The manner in which the inspections or testing are conducted.

“(D) The criteria used in analyzing results of the inspections or testing.

“(E) The types of information sources that must be integrated in assessing the integrity of a pipeline facility as well as the manner of integration.

“(F) The nature and timing of actions selected to address the integrity of a pipeline facility.

“(G) Such other factors as the Secretary determines appropriate to ensure that the integrity of a pipeline facility is addressed and that appropriate mitigative measures are adopted to protect areas identified under subsection (a)(1). In prescribing those standards, the Secretary shall ensure that all inspections required are conducted in a manner that minimizes environmental and safety risks, and shall take into account the applicable level of protection established by national consensus standards organizations.

“(7) ADDITIONAL OPTIONAL STANDARDS.—The Secretary may also prescribe standards requiring an operator of a pipeline facility to include in an integrity management program under this subsection—

“(A) changes to valves or the establishment or modification of systems that monitor pressure and detect leaks based on the operator's risk analysis; and

“(B) the use of emergency flow restricting devices.

“(8) LACK OF REGULATIONS.—In the absence of regulations addressing the elements of an integrity management program described in this subsection, the operator of a pipeline facility shall conduct a risk analysis and adopt and implement an integrity management program described in this subsection not later than 24 months after the date of enactment of this subsection and shall complete the baseline integrity assessment described in this subsection not later than 10 years after such date of enactment. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

“(9) REVIEW OF INTEGRITY MANAGEMENT PROGRAMS.—

“(A) REVIEW OF PROGRAMS.—

“(i) IN GENERAL.—The Secretary shall review a risk analysis and integrity management program under paragraph (1) and record the results of that review for use in the next review of an operator's program.

“(ii) CONTEXT OF REVIEW.—The Secretary may conduct a review under clause (i) as an element of the Secretary's inspection of an operator.

“(iii) INADEQUATE PROGRAMS.—If the Secretary determines that a risk analysis or integrity management program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), or is inadequate for the safe operation of a pipeline facility, the Secretary shall act under section 60108(a)(2) to require the operator to revise the risk analysis or integrity management program.

“(B) AMENDMENTS TO PROGRAMS.—In order to facilitate reviews under this paragraph, an operator of a pipeline facility shall notify the Secretary of any amendment made to the operator's integrity management program not later than 30 days after the date of adoption of the amendment. The Secretary shall review any such amendment in accordance with this paragraph.

“(C) TRANSMITTAL OF PROGRAMS TO STATE AUTHORITIES.—The Secretary shall provide a copy of each risk analysis and integrity management program reviewed by the Secretary under this paragraph to any appropriate State authority with which the Secretary has entered into an agreement under section 60106.

“(10) STATE REVIEW OF INTEGRITY MANAGEMENT PLANS.—A State authority that enters into an agreement pursuant to section 60106, permitting the State authority to review the risk analysis and integrity management program pursuant to paragraph (9), may provide the Secretary with a written assessment of the risk analysis and integrity management program, make recommendations, as appropriate, to address safety concerns not adequately addressed by the operator's risk analysis or integrity management program, and submit documentation explaining the State-proposed revisions. The Secretary shall consider carefully the State's proposals and work in consultation with the States and operators to address safety concerns.

“(11) APPLICATION OF STANDARDS.—Section 60104(b) shall not apply to this section.”.

(b) INTEGRITY MANAGEMENT REGULATIONS.—Section 60109 is further amended by adding at the end the following:

“(d) EVALUATION OF INTEGRITY MANAGEMENT REGULATIONS.—Not later than 4 years after the date of enactment of this subsection, the Comptroller General shall complete an assessment and evaluation of the effects on public safety and the environment of the requirements for the implementation of integrity management programs contained in the standards prescribed as described in subsection (c)(2).”.

(c) CONFORMING AMENDMENT.—Section 60118(a) is amended—

(1) by striking “and” at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting “; and”; and

(3) by adding at the end the following:

“(4) conduct a risk analysis, and adopt and implement an integrity management program, for pipeline facilities as required under section 60109(c).”.

(d) STUDY OF REASSESSMENT INTERVALS.—

(1) STUDY.—The Comptroller General shall conduct a study to evaluate the 7-year reassessment interval required by section 60109(c)(3)(B) of title 49, United States Code, as added by subsection (a) of this section.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the study conducted under paragraph (1).

SEC. 15. NATIONAL PIPELINE MAPPING SYSTEM.

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

“§60132. National pipeline mapping system

“(a) INFORMATION TO BE PROVIDED.—Not later than 6 months after the date of enactment of this section, the operator of a pipeline facility (except distribution lines and gathering lines) shall provide to the Secretary of Transportation the following information with respect to the facility:

“(1) Geospatial data appropriate for use in the National Pipeline Mapping System or data in a format that can be readily converted to geospatial data.

“(2) The name and address of the person with primary operational control to be identified as its operator for purposes of this chapter.

“(3) A means for a member of the public to contact the operator for additional information about the pipeline facilities it operates.

“(b) UPDATES.—A person providing information under subsection (a) shall provide to the Secretary updates of the information to reflect changes in the pipeline facility owned or operated by the person and as otherwise required by the Secretary.

"(c) Technical Assistance To Improve Local Response Capabilities.—The Secretary may provide technical assistance to State and local officials to improve local response capabilities for pipeline emergencies by adapting information available through the National Pipeline Mapping System to software used by emergency response personnel responding to pipeline emergencies.".

(b) Conforming Amendment.—The analysis for chapter 601 is amended by adding at the end the following:

"60132. National pipeline mapping system.".

SEC. 16. COORDINATION OF ENVIRONMENTAL REVIEWS.

(a) In General.—Chapter 601 is further amended by adding at the end the following:

"§60133. Coordination of environmental reviews

"(a) Interagency Committee.—

"(1) Establishment and purpose.—Not later than 30 days after the date of enactment of this section, the President shall establish an Interagency Committee to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary.

"(2) Membership.—The Chairman of the Council on Environmental Quality (or a designee of the Chairman) shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects, including each of the following persons (or a designee thereof):

"(A) The Secretary of Transportation.

"(B) The Administrator of the Environmental Protection Agency.

"(C) The Director of the United States Fish and Wildlife Service.

"(D) The Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

"(E) The Director of the Bureau of Land Management.

"(F) The Director of the Minerals Management Service.

"(G) The Assistant Secretary of the Army for Civil Works.

"(H) The Chairman of the Federal Energy Regulatory Commission.

"(3) Evaluation.—The Interagency Committee shall evaluate Federal permitting requirements to which access, excavation, and restoration activities in connection with pipeline repairs described in paragraph (1) may be subject. As part of its evaluation, the Interagency Committee shall examine the access, excavation, and restoration practices of the pipeline industry in connection with such pipeline repairs, and may develop a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair.

"(4) Memorandum of understanding.—Based upon the evaluation required under paragraph (3) and not later than 1 year after the date of enactment of this section, the members of the Interagency Committee shall enter into a memorandum of understanding to provide for a coordinated and expedited pipeline repair permit review process to carry out the purpose set forth in paragraph (1). The Interagency Committee shall include provisions in the memorandum of understanding identifying those repairs or categories of repairs described in paragraph (1) for which the best practices identified under paragraph (3), when properly employed by a pipeline operator, would result in no more than minimal adverse effects on the environment and for which discretionary administrative reviews may therefore be minimized or eliminated. With respect to pipeline repairs described in paragraph (1) to which the preceding sentence would not be applicable, the Interagency Committee shall include provisions to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary. The Interagency Committee shall include in the memorandum of understanding criteria under which permits required for such pipeline repair activities should be prioritized over other less urgent agency permit application reviews. The Interagency Committee shall not enter into a memorandum of understanding under this paragraph except by unanimous agreement of the members of the Interagency Committee.

"(5) State and local consultation.—In carrying out this subsection, the Interagency Committee shall consult with appropriate State and local environmental, pipeline safety, and emergency response officials, and such other officials as the Interagency Committee considers appropriate.

"(b) Implementation.—Not later than 180 days after the completion of the memorandum of understanding required under subsection (a)(4), each agency represented on the Interagency Committee shall revise its regulations as necessary to implement the provisions of the memorandum of understanding.

"(c) Savings Provisions; No Preemption.—Nothing in this section shall be construed—

"(1) to require a pipeline operator to obtain a Federal permit, if no Federal permit would otherwise have been required under Federal law; or

"(2) to preempt applicable Federal, State, or local environmental law.

"(d) Interim Operational Alternatives.—

"(1) In general.—Not later than 30 days after the date of enactment of this section, and subject to the limitations in paragraph (2), the Secretary of Transportation shall revise the regulations of the Department, to the extent necessary, to permit a pipeline operator subject to time periods for repair specified by rule by the Secretary to implement alternative mitigation measures until all applicable permits have been granted.

"(2) Limitations.—The regulations issued by the Secretary pursuant to this subsection shall not allow an operator to implement alternative mitigation measures pursuant to paragraph (1) unless—

"(A) allowing the operator to implement such measures would be consistent with the protection of human health, public safety, and the environment;

"(B) the operator, with respect to a particular repair project, has applied for and is pursuing diligently and in good faith all required Federal, State, and local permits to carry out the project; and

"(C) the proposed alternative mitigation measures are not incompatible with pipeline safety.

"(e) Ombudsman.—The Secretary shall designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, State, and local permitting agencies and the pipeline operator during agency review of any pipeline repair activity, consistent with protection of human health, public safety, and the environment.

"(f) State and Local Permitting Processes.—The Secretary shall encourage States and local governments to consolidate their respective permitting processes for pipeline repair projects subject to any time periods for repair specified by rule by the Secretary. The Secretary may request other relevant Federal agencies to provide technical assistance to States and local governments for the purpose of encouraging such consolidation.".

(b) Conforming Amendment.—The analysis for chapter 601 is amended by adding at the end the following:

"60133. Coordination of environmental reviews.".

SEC. 17. NATIONWIDE TOLL-FREE NUMBER SYSTEM.

Within 1 year after the date of the enactment of this Act, the Secretary of Transportation shall, in conjunction with the Federal Communications Commission, facility operators, excavators, and one-call notification system operators, provide for the establishment of a 3-digit nationwide toll-free telephone number system to be used by State one-call notification systems.

SEC. 18. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.

(a) In General.—Except as otherwise required by this Act, the Secretary of Transportation shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General's Report (RT–2000–069).

(b) Reports by the Secretary.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until each of the recommendations referred to in subsection (a) has been implemented, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report on the specific actions taken to implement such recommendations.

(c) Reports by the Inspector General.—The Inspector General shall periodically transmit to the committees referred to in subsection (b) a report assessing the Secretary's progress in implementing the recommendations referred to in subsection (a) and identifying options for the Secretary to consider in accelerating recommendation implementation.

SEC. 19. NTSB SAFETY RECOMMENDATIONS.

(a) In General.—The Secretary of Transportation, the Administrator of Research and Special Program Administration, and the Director of the Office of Pipeline Safety shall fully comply with section 1135 of title 49, United States Code, to ensure timely responsiveness to National Transportation Safety Board recommendations about pipeline safety.

(b) Public Availability.—The Secretary, Administrator, or Director, respectively, shall make a copy of each recommendation on pipeline safety and response, as described in subsections (a) and (b) of section 1135, title 49, United States Code.

(c) Reports to Congress.—The Secretary, Administrator, or Director, respectively, shall submit to Congress by January 1 of each year a report containing each recommendation on pipeline safety made by the Board during the prior year and a copy of the response to each such recommendation.

SEC. 20. MISCELLANEOUS AMENDMENTS.

(a) General Authority and Purpose.—

(1) In general.—Section 60102(a) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by striking "(a)(1)" and all that follows through "The Secretary of Transportation" and inserting the following:

"(a) Purpose and Minimum Safety Standards.—

"(1) Purpose.—The purpose of this chapter is to provide adequate protection against risks to life and property posed by pipeline transportation and pipeline facilities by improving the regulatory and enforcement authority of the Secretary of Transportation.

"(2) Minimum safety standards.—The Secretary";

(C) by moving the remainder of the text of paragraph (2) (as so redesignated), including subparagraphs (A) and (B) but excluding subparagraph (C), 2 ems to the right; and

(D) in paragraph (3) (as so redesignated) by inserting "QUALIFICATIONS OF PIPELINE OPERATORS.—" before "The qualifications".

(2) CONFORMING AMENDMENTS.—Chapter 601 is amended—

(A) by striking the heading for section 60102 and inserting the following:

"§ 60102. Purpose and general authority"; and

(B) in the analysis for such chapter by striking the item relating to section 60102 and inserting the following:

"60102. Purpose and general authority.".

(b) CONFLICTS OF INTEREST.—Section 60115(b)(4) is amended by adding at the end the following:

"(D) None of the individuals selected for a committee under paragraph (3)(C) may have a significant financial interest in the pipeline, petroleum, or gas industry.".

SEC. 21. TECHNICAL AMENDMENTS.

Chapter 601 is amended—

(1) in section 60110(b) by striking "circumstances" and all that follows through "operator" and inserting the following: "circumstances, if any, under which an operator";

(2) in section 60114 by redesignating subsection (d) as subsection (c);

(3) in section 60122(a)(1) by striking "section 60114(c)" and inserting "section 60114(b)"; and

(4) in section 60123(a) by striking "60114(c)" and inserting "60114(b)".

SEC. 22. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.—Section 60125(a) is amended to read as follows:

"(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for section 60107) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Department of Transportation:

"(1) $45,800,000 for fiscal year 2003, of which $31,900,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

"(2) $46,800,000 for fiscal year 2004, of which $35,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

"(3) $47,100,000 for fiscal year 2005, of which $41,100,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

"(4) $50,000,000 for fiscal year 2006, of which $45,000,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.".

(b) STATE GRANTS.—Section 60125 is amended—

(1) by striking subsections (b), (d), and (f) and redesignating subsection (c) as subsection (b); and

(2) in subsection (b)(1) (as so redesignated) by striking subparagraphs (A) through (H) and inserting the following:

"(A) $19,800,000 for fiscal year 2003, of which $14,800,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

"(B) $21,700,000 for fiscal year 2004, of which $16,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

"(C) $24,600,000 for fiscal year 2005, of which $19,600,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

"(D) $26,500,000 for fiscal year 2006, of which $21,500,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.".

(c) OIL SPILLS; EMERGENCY RESPONSE GRANTS.—Section 60125 is amended by inserting after subsection (b) (as redesignated by subsection (b)(1) of this section) the following:

"(c) OIL SPILL LIABILITY TRUST FUND.—Of the amounts available in the Oil Spill Liability Trust Fund, $8,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs authorized in this chapter for each of fiscal years 2003 through 2006.

"(d) EMERGENCY RESPONSE GRANTS.—

"(1) IN GENERAL.—The Secretary may establish a program for making grants to State, county, and local governments in high consequence areas, as defined by the Secretary, for emergency response management, training, and technical assistance.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $6,000,000 for each of fiscal years 2003 through 2006 to carry out this subsection.".

(d) CONFORMING AMENDMENT.—Section 60125(e) is amended by striking "or (b) of this section".

SEC. 23. INSPECTIONS BY DIRECT ASSESSMENT.

Section 60102, as amended by this Act, is further amended by adding at the end the following:

"(m) INSPECTIONS BY DIRECT ASSESSMENT.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing standards for inspection of a pipeline facility by direct assessment.".

SEC. 24. STATE PIPELINE SAFETY ADVISORY COMMITTEES.

Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the Governor of any State, the Secretary of Transportation shall respond in writing to the committee setting forth what action, if any, the Secretary will take on those recommendations and the Secretary's reasons for acting or not acting upon any of the recommendations.

SEC. 25. PIPELINE BRIDGE RISK STUDY.

(a) IN GENERAL.—The Secretary of Transportation shall conduct a study to determine whether cable-suspension pipeline bridges pose structural or other risks warranting particularized attention in connection with pipeline operators risk assessment programs and whether particularized inspection standards need to be developed by the Department of Transportation to recognize the peculiar risks posed by such bridges.

(b) PUBLIC PARTICIPATION AND COMMENTS.—In conducting the study, the Secretary shall provide, to the maximum extent practicable, for public participation and comment and shall solicit views and comments from the public and interested persons, including participants in the pipeline industry with knowledge and experience in inspection of pipeline facilities.

(c) COMPLETION AND REPORT.—Within 2 years after the date of enactment of this Act, the Secretary shall complete the study and transmit to Congress a report detailing the results of the study.

(d) FUNDING.—The Secretary may carry out this section using only amounts that are specifically appropriated to carry out this section.

SEC. 26. STUDY AND REPORT ON NATURAL GAS PIPELINE AND STORAGE FACILITIES IN NEW ENGLAND.

(a) STUDY.—The Federal Energy Regulatory Commission, in consultation with the Department of Energy, shall conduct a study on the natural gas pipeline transmission network in New England and natural gas storage facilities associated with that network.

(b) CONSIDERATION.—In carrying out the study, the Commission shall consider the ability of natural gas pipeline and storage facilities in New England to meet current and projected demand by gas-fired power generation plants and other consumers.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Federal Energy Regulatory Commission shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report containing the results of the study conducted under subsection (a), including recommendations for addressing potential natural gas transmission and storage capacity problems in New England.

Attest:

Secretary.

Mr. DINGELL. Mr. Speaker, I rise in strong support of the Senate amendment to H.R. 3609. The Senate passed this bill yesterday by unanimous consent. The text is based upon bipartisan, bicameral agreements reached during the conference consideration of H.R. 4, the energy bill.

I am truly pleased to be here to mark a very important event: for the first time in a decade, we are on the verge of enacting pipeline safety legislation that would actually enhance the safety of our Nation's pipelines. I want to commend Chairman TAUZIN, Chairman YOUNG, Ranking Member OBERSTAR, and our Senate colleagues on both sides of the aisle for making this possible.

There is a mounting body of evidence that our system of pipeline safety regulation is wholly inadequate. Unfortunately, until now, Congress has failed to move on any meaningful reforms. During the last Congress, the House considered legislation that was more about public relations than public safety. Because that legislation did little more than restate existing law and provide cover for maintaining the deadly status quo, Mr. OBERSTAR and I—along with many of our colleagues—successfully opposed enactment of that legislation.

The legislation we are considering today is largely based on the legislation that passed the House overwhelmingly in July, while incorporating many of the provisions of previously passed Senate legislation. It is the result of a good faith, sincere effort to do what is doable for the sake of safety, rather than hold out for everything that every stakeholder ever wanted. I know it is not a perfect product, but it is a distinct improvement over the Senate legislation and current law. Let me just detail a few of the improvements.

H.R. 3609, as amended, requires that a pipeline facility be inspected within ten years or less and re-inspected at least once every seven years. Facilities may be inspected more frequently and the Secretary is required to determine under what circumstances more frequent inspections are required. I certainly hope Secretary Mineta requires more frequent inspections, but currently, there are no time limits or rules for inspection of gas pipelines in high consequence areas, so this is a major improvement over current law.

The bill before us also adopts the more stringent House inspection provisions, spelling out very specifically the minimum requirements of an operators integrity management plan. It requires the Secretary of Transportation to establish specific criteria for judging the adequacy of an operator's plan and establishes a specific process for the Secretary to review and assess the adequacy of an operator's inspection plans and amendments to the plan, requiring the Secretary to order revisions to inadequate plans. Also, while it allows some inspections to be conducted by direct assessment, the legislation requires the Secretary to define "direct assessment" by rules rather than leave the term undefined.

Because the Department of Transportation (DOT) has a terrible history of compliance with Congressional directives, the language provides a "fail-safe" to ensure pipelines get inspected by placing the obligation to conduct inspections directly on the pipeline operator if the Secretary fails to undertake a rulemaking.

The bill before us also includes the language on operator qualifications based upon the House-passed legislation. As with the inspection language, the House provision on operator qualifications is much more stringent and detailed. It requires the development of standards and criteria, the verification of operators' plans, and it contains a mechanism to ensure that operators develop and implement qualification plans even if the DOT never completes a rulemaking procedure. And, it begins to move toward licensing of pipeline operators by establishing a pilot program on licensing of pipeline computer control room operators.

This bill authorizes far more money for pipeline safety than the original Senate language. It authorizes new technical assistance grants to communities and a new research program. Most importantly, this legislation contains the House language assuring that most of the money authorized by this legislation will be spent on the regulation of pipelines, not on less important matters.

Other improvements to current law include new authority to issue Safety Orders, allowing the Secretary to take quick, meaningful action when there is a potentially unsafe condition; the establishment of a toll-free national three-digit "call before you dig" or "one-call" phone system; increased emphasis on environmental protection; and more enforcement tools to make it easier for both DOT and the Department of Justice to go after bad actors.

This is a good piece of legislation and I again want to express my appreciation to those in the environmental community and organized labor who have worked with me over the years on these matters. They, along with the industry stakeholders who have chosen to play a constructive role in this process, deserve to be recognized for helping us make it possible to go forward with the support of every Member of our Committee and hopefully today with support of the entire House of Representatives.

Mr. Speaker, I urge passage of the bill.

Mr. OBERSTAR. Mr. Speaker, I rise in support of the Senate amendment to H.R. 3609, the Pipeline Safety and Improvement Act of 2002. This evening, the House finally will be able to enact pipeline safety legislation that is worthy of the name. It is has been a long and difficult journey to reach this point. Energy and Commerce Committee Ranking Member DINGELL and I introduced strong pipeline safety legislation in this and the last Congress, while at the same time we fought to forestall the passage of much weaker legislation. Although it has required two more years of difficult negotiations on pipeline safety, I am pleased to say that nearly all the areas that Congressman DINGELL and I wanted to address are covered in the bill.

Is this bill perfect? No, but it has come a long way from the version that was introduced last December. My primary criticism of this compromise bill is that it does not go far enough in giving citizens information about the status of pipelines serving their communities—the so-called community right-to-know issue. However, in the current security-focused environment, we were unable to arrive at language that a majority of our colleagues could agree upon. Notwithstanding that limitation, this is a very good bill deserving of your support. Let me share with you some highlights of the Pipeline Safety Improvement Act of 2002.

First and foremost, this bill establishes specific timeframes for inspecting all natural gas transmission pipelines serving high consequence areas (e.g., high population areas). These pipelines must all be inspected within ten years of enactment of this legislation. Moreover, at least 50 percent of these pipelines must be inspected within the first five years. Pipeline operators must prioritize their facilities based on risk factors and ensure that assessments with the highest risks are given priority and inspections are completed within this first five-year period. Subsequently, these pipelines must be re-inspected no less frequently than every seven years. At first, the natural gas pipeline industry strenuously opposed any periodic inspection requirements. When it became apparent that they couldn't win that position, they suggested inspection timeframes of up to 20 years and the Office of Pipeline Safety (OPS) appeared to agree with them. Fortunately, the interests of safety prevailed over the interests of the bottom line.

The bill also includes a requirement that pipeline operators provide training to ensure that individuals have the necessary knowledge and skills to perform their tasks in a safe manner. The bill specifically excludes the mere observation of an employee's on-the-job performance to decide whether or not he or she is qualified to perform the task to which he is assigned. The bill also requires OPS to establish a pilot program to certify pipeline employees who operate computer systems for controlling pipelines. This pilot program will help us determine whether we should require pipeline operators to certify all pipeline employees in safety-sensitive positions.

In addition, the bill raises the civil penalties for each violation from $25,000 to $100,000, and the maximum civil penalty from $500,000 to $1 million. These penalties are significantly higher than the penalties included in H.R. 3609, as reported. The bill also contains meaningful protections for employees who provide information about violations of Federal law governing pipeline safety or refuse to participate in any illegal practices relating to pipeline safety.

The bill allows for the coordination of environmental reviews for pipeline repair projects. It limits the instances where discretionary administrative environmental reviews might be minimized or eliminated to repair projects that would result in no more than minimal adverse effects on the environment and requires that an Interagency Committee of Federal agencies with responsibilities relating to pipeline repair projects unanimously agree that the environmental impact would be minimal.

This bill contains a number of other provisions that also should greatly advance the goal of improving pipeline safety. However, I must offer a word of caution. Simply because we enact a good, strong pipeline safety bill is no guarantee that its provisions will be vigorously carried out. In 1988 and 1992, Congress passed pipeline safety laws that required significant pipeline safety improvements, only to watch OPS basically ignore the law. Likewise, the Office of Pipeline Safety has been unresponsive, or slow to act, on safety recommendations made by the Department of Transportation's Office of Inspector General, the General Accounting Office, and the National Transportation Safety Board. The current leadership at OPS and at its parent agency, the Research and Special Programs Administration, has promised to do a better job. Nevertheless, the Administration needs to know that we in the Congress are watching to make certain that the provisions of this pipeline safety act are being carried out faithfully.

Two years ago, I helped lead the effort in the House to defeat a Senate-passed, pipeline safety bill. That bill was too weak, especially in light of the then-recent tragedies in Bellingham, Washington and Carlsbad, New Mexico. We defeated that bill, believing that no bill was better than a weak one. That was the right thing to do. Now, we finally have a strong bill—one that will significantly improve pipeline safety and protect those who live near them or work on them. It is sad that it took so long to do the right thing for the American people.

I urge my colleagues to support the Senate amendment to H.R. 3609, the Pipeline Safety Improvement Act of 2002.

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to submit the accompanying Joint Explanatory Statement of the Pipeline Safety Improvement Act of 2002.

To expedite enactment of the significant pipeline safety reforms included in this bill, the leadership of the House Transportation and Infrastructure and Energy and Commerce Committees has worked with the Senate Commerce, Science, and Transportation Committee in developing the bill. This Joint Explanatory Statement therefore represents the views of the Chairmen and Ranking Members of the Transportation and Infrastructure Committee and the Energy and Commerce Committee, along with the Chairman and Ranking Member of the Senate Commerce Committee.

This Joint Explanatory Statement will provide legislative history for interpreting this important pipeline safety legislation.

JOINT EXPLANATORY STATEMENT OF THE HONORABLE DON YOUNG, THE HONORABLE JAMES L. OBERSTAR, THE HONORABLE W.J. (BILLY) TAUZIN, THE HONORABLE JOHN D. DINGELL, THE HONORABLE ERNEST HOLLINGS AND THE HONORABLE JOHN MCCAIN

November 14, 2002

SECTION-BY-SECTION ANALYSIS OF H.R. 3609 PIPELINE SAFETY IMPROVEMENT ACT OF 2002

Section 1. Short title; amendment of title 49, United States Code.

This section designates the act as the "Pipeline Safety Improvement Act of 2002."

Section 2. One-call notification programs.

This section requires that state one-call notification programs provide for the participation of government operators and contact excavators. Section 2 also requires that state one-call notification programs document enumerated items set forth in the statute. Additionally, the requirement that the Secretary of Transportation include certain information in reports submitted under section 60124 of Title 49 is made permanent. Authorizations for appropriations for grants to states for fiscal years 2003 through 2006 are provided at $1,000,000 per year, and grants for administration in section 6107(b) are updated for fiscal years 2003 through 2006. This section also amends section 6105 of Title 49 by requiring the Secretary of Transportation to encourage the states, operators of one-cell notification programs, operators of underground facilities, and excavators (including government and contract excavators) to use the practices set forth in the best practices report entitled "Common Ground," as periodically updated, and requires the Secretary of Transportation to provide technical assistance to a non-profit organization specifically established for the purpose of reducing construction-related damage to underground facilities. Authorizations for appropriations for fiscal years 2003 through 2006 are provided at $500,000 per year, but would not be derived from user fees collected under section 60301 of title 49.

Section 3. One-call notification of pipeline operators.

This section provides for the enforcement of one-call notification programs by a state authority if the state's program meets the requirements set forth in the statute. The application of the term "person" who intends to engage in an activity necessitating the use of the one-call system is expanded to include government employees or contractors.

This section amends section 60123(d) of Title 49 by rearranging the phrase "knowingly and willfully" to address the problem raised when a court interpreted existing law to require a knowing and willful standard to, not only engaging in an excavation activity, but also to subsequently damaging a pipeline facility. The consequence of the court's interpretation makes prosecutions more difficult by requiring the government to show the defendant knew subsequent damages would result from excavation activity and that the defendant's conduct was willful. This section of the bill corrects the court's interpretation by now requiring that the "knowingly and willfully" standard apply only to engaging in an excavation activity.

This section also provides that penalties under the criminal penalties section can be reduced if the violator promptly reports a violation.

Section 4. State oversight role.

This section amends section 60106 of Title 49 to allow the Secretary of Transportation to make an agreement with a state authority authorizing the state authority to participate in the oversight of interestate pipeline transportation including incident investigation, new construction, and other inspection and investigatory duties. However the Secretary shall not delegate the enforcement of safety standards for interstate pipeline facilities to a state authority. This section further provides that the Secretary may terminate agreements with the State authorities if a gap results in the State authority's oversight responsibilities of intrastate pipeline transportation, the State authority fails to meet requirements set forth in this section, or continued participation in the oversight of interstate pipeline transportation would not promote pipeline safety. Existing state agreements shall continue until a new agreement between the state and the DOT is executed or December 31, 2003, whichever is sooner.

Section 5. Public education programs.

Section 5 amends section 60116 of Title 49 to include hazardous liquid pipeline facilities in this section requiring a continuing program to educate the public on the use of one-call notification systems, the possible hazards associated with unintended releases, and how to tell if an unintended release occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event. This section also requires owners and operators to review existing public education programs for effectiveness and to modify their programs as necessary. In addition, the section allows the Secretary to issue standards prescribing the elements of public education programs and develop materials for use in such programs.

Previous versions of Senate-passed pipeline safety legislation also included a provision calling for the coordination of emergency preparedness between operators of pipeline facilities and state and local officials, as well as to provide for public access to certain safety information. Agreement was not reached on how safety information could be accessed by the public in a manner that would protect security-sensitive information from distribution. The managers agreed that this issue would be better dealt with in the context of the pending homeland security legislation.

Section 6. Protection of employees providing pipeline safety information.

This section adds provisions for the protection of employees who are discharged or otherwise discriminated against with respect to compensation, terms, conditions, or privileges of employment for (1) providing information to the Federal Government about alleged violations of Federal law relating to pipeline safety; (2) refusing to participate in any practice made illegal by Federal law relating to pipeline safety; or (3) assisting or participating in any proceeding to carry out the purposes of pipeline safety legislation. This section establishes the procedural framework in which complaints are handled by the Secretary of Labor and the remedies available to the prevailing party.

This section contains a provision that essentially says if a preliminary order provides that an employee must be allowed to return to work, the filing of any objection by the employer "shall not operate to stay any reinstatement remedy contained in the preliminary order." The intention of this language is to assure that the mere filing of an objection would not work as an automatic stay, thus precluding an employee from returning to work pending the outcome of the matter. However, this language would not preclude an employer from filing an independent motion for a stay if sufficient grounds exist for the filing of such a motion.

Section 7. Safety orders.

Section 7 adds a paragraph to section 60117 of Title 49 to give the Secretary of Transportation authority to order an operator of a facility to take corrective action if the Secretary decides that a potential safety-related condition exists. The office of Pipeline Safety (OPS) requested this provision so that corrective action could be taken immediately rather than waiting until a facility is classified as "hazardous" prior to requiring corrective action.

Section 8. Penalties.

This section modifies the existing penalties provisions set forth in section 60112 of Title 49 to allow the Secretary of Transportation to decide if the operation of a pipeline facility, is "or would be" hazardous to life, property, or the environment. The purpose of the modification is to give the Secretary authority to take action prior to the facility, the construction of the facility, or any component of the facility actually becoming hazardous, thereby establishing a framework of preventative actions, rather than actions only in response to an imminent hazard.

In subsection (a)(1) of section 60122, the amounts of the penalties have been increased. The per day, per incident, amount has been increased from $25,000 to $100,000. The maximum civil penalty for a related series of violations has been increased from $500,000 to $1,000,000. The section of the bill also provides that, in determining the amount of a civil penalty, the Secretary of Transportation shall consider as an additional consideration in section 60122(b) of Title 49, the adverse impact on the environment. The Secretary of Transportation may consider the economic benefit gained from the violation without reduction because of subsequent damages.

This section also modifies the enforcement section of the statute (section 60120(a)(1) of Title 49) by specifically providing that the court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and the assessment of civil penalties. The current statutory language specifying that the Attorney General may proceed only at the request of the Secretary of Transportation remains in effect.

Section 8 also requires that the Comptroller General conduct a study of the actions, policies, and procedures of the Secretary of Transportation for assessing and collecting fines and penalties.

Section 9. Pipeline safety information grants to communities.

Section 9 requires the Secretary of Transportation to make grants for technical assistance to local communities and groups of individuals (not including for-profit entities) relating to the safety of pipelines in local communities. The purpose of this provision is to provide grants to communities for technical assistance such as engineering or scientific analysis of pipeline safety issues. Applicants must compete for the grants in a procedure established by the Secretary of Transportation, who shall also establish the criteria for the recipients. Additionally, the Secretary must establish procedures to ensure that the funds have been properly accounted for and spent in a manner consistent with the purpose of the grants. Any one-grant recipient may not receive more than $50,000. The grant funds cannot be used for lobbying or in direct support of litigation. This section authorizes the appropriation of $1,000,000 for each of the fiscal years 2003 through 2006.

Section 10. Operator assistance in investigations.

This section requires the operator of a pipeline facility to make available information and records to the Secretary of Transportation or the National Safety Transportation Board (NTSB) in the event of an accident, subject to constitutional protections for operators and employees. Actions taken by an operator pursuant to this section shall be in accordance with the terms and conditions of any applicable collective bargaining agreement.

Section 11. Population encroachment and rights-of-way.

This section requires the Secretary of Transportation, along with the Federal Energy Regulatory Commission (FERC) and other federal agencies and state and local governments, to study land use practices and zoning ordinances, as well as the preservation of environmental resources, with regard to pipeline rights-of-way. Based upon the purposes set forth in this section, a report is to be written that identifies successful practices, ordinances, and laws addressing population encroachment on pipeline rights-of-way, being mindful of protecting the public safety, pipeline workers, and the environment. The report must be completed within one year from the date of enactment and provided to Congress, appropriate federal agencies, and the States for further distribution to the appropriate local authorities.

Section 12. Pipeline integrity, safety, and reliability research and development.

This section requires the heads of the participating agencies to carry out a program of research, development, demonstration, and standardization to ensure the integrity of pipelines. The Secretary of Energy, Secretary of Transportation, and the Director of the National Institute of Standards and Technology (NIST) each have defined roles. The Secretary of Transportation, in coordination with the Secretary of Energy and the Director of the National Institute of Standards and Technology, shall prepare and submit to Congress a 5-year plan to guide the activities under this section. The plan shall also be submitted to the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee for review. The section authorizes appropriations for the fiscal years 2003 through 2006 in the following amounts: Secretary of Energy: $10,000,000; the Secretary of Transportation: $10,000,000; and the National Institute of Standards and Technology: $5,000,000. Any sums authorized pursuant to this section shall not be derived from user fees. In addition $3,000,000 from the Oil Spill Liability Trust Fund shall be transferred to the Secretary of Transportation, as provided in appropriations Acts, to carry out programs for detection, prevention, and mitigation of oil spills for each of the fiscal years 2003 through 2006.

Even though the Secretary of Transportation does not regulate gathering lines, the participating agencies are encouraged to include such lines in their research, development, demonstration, and standardization efforts on the integrity of gathering lines.

Section 13. Pipeline qualification programs.

This section requires the Secretary of Transportation to require operators of pipeline facilities to develop qualification programs for their personnel who perform covered tasks (as defined in the Code of Federal Regulations). This section also requires the Secretary to have in place standards and criteria for such qualification programs, including a method for examining or testing the qualifications of individuals who perform covered tasks. Such method may include written examination, oral examination, on-the-job training, simulations, observation during on-the-job performance, and other forms of assessment. The method may not be limited to observation of on-the-job performance, except with respect to tasks where the Secretary has determined specifically that such observation is the best method of examining or testing qualifications. Further, the Secretary must ensure that the results of any such on-the-job performance observations are documented in writing. The Secretary may waive or modify requirements if not inconsistent with pipeline safety. The Secretary is required to verify each operator's qualification program, including modifications to previously verified programs. In the event the Secretary fails to establish standards and criteria as set forth in this section, pipeline facility operators are required to develop and implement qualification programs based on the requirements of this section. The Secretary is required to report to Congress within 5 years on the status and results of personnel qualification regulations. A pilot program is established for the certification of individuals who operate computer-based systems for controlling the operations of pipelines. The pilot program seeks the participation of 3 pipeline facilities.

Section 14. Risk analysis and integrity management programs for gas pipelines.

This section requires operators of pipeline facilities subject to section 60109 of Title 49 to adopt and implement a written integrity management program to reduce risks to each facility. Within 12 months of the enactment of the bill, this section requires the Secretary of Transportation to prescribe standards to direct each operator's conduct of a risk analysis and adoption and implementation of an integrity management program, which must occur within 24 months from the enactment of the section. Minimum requirements are set forth in this section for integrity management programs and for the rule regulating the same, which include a baseline integrity assessment of each of an operator's facilities which must be completed within 10 years after the enactment of the section (at least 50 percent of such facilities shall be assessed no later than 5 years after the date of enactment of this section), and a reassessment of each facility at a minimum of once every 7 years, with prioritization being based on all relevant risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures.

The Secretary of Transportation is required to issue a rule on integrity management programs, and each operator of a pipeline facility subject to section 60109 of Title 49 is required to adopt and implement an integrity management program, even if the Secretary does not issue a rule. This section does not apply to natural gas distribution lines because section 60109 of Title 49 does not, nor was it intended to, apply to natural gas distribution lines.

Section 14 authorizes the Secretary of Transportation to grant waivers and modifications pursuant to section 60118(c) of Title 49 for any requirement for reassessment of a facility for reasons that may include the need to maintain local product supply or the lack of internal inspection devices. The waivers or modifications shall not be inconsistent with pipelines safety.

This section also requires that the Comptroller General conduct a study to evaluate the 7-year reassessment interval required by this section. The study is to be completed and transmitted to Congress no later than 4 years from the date of enactment.

In this section, each operator of a gas pipeline facility is required to conduct a risk analysis for facilities located in high consequence areas and to adopt and implement an integrity management program for each such facility to reduce associated risks. This section requires each operator to prioritize facilities for integrity assessment based on all risk factors, including any history of leaks, repairs, or failures, and directs the operator to give priority to facilities with the highest risks.

The Department of Transportation's Research and Special Programs Administration (RSPA) issued a final rule defining "high consequence areas" on August 6, 2002. The managers strongly support RSPA's regulation defining high consequence areas, although recognize that the definition could be subject to alteration by future regulatory action by RSPA.

Pipeline safety regulations have long required gas operators to survey and patrol along their pipeline rights-of-way to classify areas of population. The new definition of high consequence areas builds on the existing classification of areas where the potential consequences of a gas pipeline accident may be significant or may do considerable harm to people and their property, and includes current class 3 and 4 locations, facilities with persons who are mobility impaired, confined, or hard to evacuate, and places where people gather for recreational and other purposes.

In the July 2002 Technical Pipeline Safety Standards Committee meeting to consider the proposed definition, RSPA made clear its intent to include in its definition known areas where people gather, such as the Pecos River pipeline crossing near Carlsbad, New Mexico, which was commonly used by campers and fishermen and was the location of a pipeline rupture in August 2000 that resulted in 12 fatalities. The managers support is expressed for this new definition of high consequence areas and expect RSPA to further clarify the application of the definition in the substantive rule to be issued on integrity management programs.

Section 15. National Pipeline Mapping System.

Section 15 requires operators of pipeline facilities, except distribution lines and gathering lines, to provide to the Secretary of Transportation geospatial data appropriate for use in the National Mapping System, the name and address of the person with primary operational control, and a means for a member for the public to contact the operator for additional information about the facilities. There is a requirement to update the information as necessary.

Section 16. Coordination of environmental reviews.

Section 16 requires the President to establish an interagency committee for the purpose of developing and ensuring the implementation of a coordinated environmental review and permitting process in order for pipeline operators to complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary of Transportation.

The chairman of the Council on Environmental Quality shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects. The Interagency Committee shall evaluate Federal permitting requirements and shall examine the access, excavation, and restoration practices of the pipeline industry for the purpose of developing a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair. Based upon the evaluation conducted, the members of the Interagency Committee shall enter into, by unanimous consent, a memorandum of understanding to provide for the coordinated and expedited pipeline repair permit review process so that pipeline operators may commence and complete pipeline repairs within any time periods imposed on the repair projects by rules promulgated by the Secretary of Transportation. Each agency represented on the Interagency Committee is required to revise its regulations to implement the provisions of the memorandum of understanding.

This section also provides for the implementation of alternative mitigation measures to be used by operators of pipeline facilities until all applicable permits have been granted. To the extent necessary, the Secretary of Transportation is required to revise the regulations of the Department to accommodate such implementation. However, such revisions shall not allow an operator of a pipeline facility to implement alternate mitigation measures unless to do so would be consistent with the protection of human health, public safety, and the environment; the operator has applied for and is diligently and in good faith pursuing all required Federal, state, and local permits necessary to carry out the repair project; and is compatible with pipeline safety.

The Secretary of Transportation is required to designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, state, and local permitting agencies and the operator of a pipeline facility. The actions of the ombudsman must be consistent with the protection of human health, public safety, and the environment.

The Secretary of Transportation is required to encourage states and local governments to consolidate their respective permitting processes for pipeline repair projects that are subject to any time periods for repairs specified by rule by the Secretary of Transportation.

Section 17. Nationwide toll-free number system.

Section 17 requires the Secretary of Transportation to work in conjunction with the Federal Communications Commission (FCC), facility operators, excavators, and one-call notification system operators for the establishment of a nationwide toll-free 3-digit telephone number system to be used by state one-call notification systems.

Section 18. Implementation of Inspector General recommendations.

Section 18 requires the Secretary of Transportation to respond to each of the recommendations of the Department of Transportation Inspector General contained in RT–2000–069 every 90 days and to submit the responses to the appropriate committees of Congress.

Section 19. NTSB safety recommendations.

Section 19 requires RSPA and OPS to respond to recommendations received from the NTSB within 90 days from receipt of such recommendations. Such responses shall state the intentions of the OPS with respect to the recommendations and shall state the timetable for completing the procedures and reasons for refusals to do so. The responses shall be made available to the public. The OPS is required to submit an annual report describing each recommendation received and the OPS response to each recommendation for the previous year.

Section 20. Miscellaneous amendments.

Section 20 amends section 60102(a) of Title 49 by adding language expressing that the purpose of the chapter is to provide adequate protection against risks to life and property posed by pipeline transportation pipeline facilities by improving the regulatory and enforcement authority of the Secretary of Transportation.

This section also modifies the qualifications of the individuals selected to serve on the Technical Safety Standards Committees pursuant to section 60115 of Title 49 so that none of the individuals selected for committee membership from the general public "may have a significant financial interest in the pipeline, petroleum, or gas industry." The intent of this provision is to prevent industry employees and individuals with a sizable stake in the pipeline industry from serving as representatives from the general public, not prevent service from individuals who have pipeline, petroleum, or gas industry stock interests in their retirement plans.

Section 21. Technical amendments.

Section 21 makes technical amendments to correct previous drafting errors in the existing legislation.

Section 22. Authorization of appropriations.

Section 22 authorizes appropriations for the Department of Transportation and state grants for safety programs for the fiscal years 2003 through 2006.

Section 23. Inspections by direct assessment.

Section 23 requires the Secretary of Transportation to issue regulations prescribing standards for inspections of a pipeline facility by direct assessment.

Section 24. State pipeline safety advisory committees.

Section 24 requires the Secretary of Transportation to respond within 90 days after receiving recommendations from advisory committees appointed by the Governor of any state.

Section 25. Pipeline bridge risk study.

Section 25 requires the Secretary of Transportation to conduct a study to determine whether cable-suspension pipeline bridges pose structural or other risks. The Secretary may only use funds specifically appropriated to carry this section.

Section 26. Study and Report on Natural Gas Pipeline and Storage Facilities in New England.

Section 26 requires the Federal Energy Regulatory Commission, in consultation with the Department of Energy, to conduct a study on the natural gas pipeline transmission network in New England and natural gas storage facilities associated with that network and report back to the relevant House and Senate Committees within a year of the date of enactment.

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TAKEN FROM THE SPEAKER'S TABLE AND CONCURRED IN SENATE AMENDMENT

H.R. 5469, to amend title 17, United States Code, with respect to the statutory license for webcasting, and for other purposes.

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Webcaster Settlement Act of 2002".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Some small webcasters who did not participate in the copyright arbitration royalty panel proceeding leading to the July 8, 2002 order of the Librarian of Congress establishing rates and terms for certain digital performances and ephemeral reproductions of sound recordings, as provided in part 261 of the Code of Federal Regulations (published in the Federal Register on July 8, 2002) (referred to in this section as "small webcasters"), have expressed reservations about the fee structure set forth in such order, and have expressed their desire for a fee based on a percentage of revenue.

(2) Congress has strongly encouraged representatives of copyright owners of sound recordings and representatives of the small webcasters to engage in negotiations to arrive at an agreement that would include a fee based on a percentage of revenue.

(3) The representatives have arrived at an agreement that they can accept in the extraordinary and unique circumstances here presented, specifically as to the small webcasters, their belief in their inability to pay the fees due pursuant to the July 8 order, and as to the copyright owners of sound recordings and performers, the strong encouragement of Congress to reach an accommodation with the small webcasters on an expedited basis.

(4) The representatives have indicated that they do not believe the agreement provides for or in any way approximates fair or reasonable royalty rates and terms, or rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller.

(5) Congress has made no determination as to whether the agreement provides for or in any way approximates fair or reasonable fees and terms, or rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller.

(6) Congress likewise has made no determination as to whether the July 8 order is reasonable or arbitrary, and nothing in this Act shall be taken into account by the United States Court of Appeals for the District of Columbia Circuit in its review of such order.

(7) It is, nevertheless, in the public interest for the parties to be able to enter into such an agreement without fear of liability for deviating from the fees and terms of the July 8 order, if it is clear that the agreement will not be admissible as evidence or otherwise taken into account in any government proceeding involving the setting or adjustment of the royalties payable to copyright owners of sound recordings for the public performance or reproduction in ephemeral phonorecords or copies of such works, the determination of terms or conditions related thereto, or the establishment of notice or recordkeeping requirements.

SEC. 3. SUSPENSION OF CERTAIN PAYMENTS.

(a) NONCOMMERCIAL WEBCASTERS.—

(1) IN GENERAL.—The payments to be made by noncommercial webcasters for the digital performance of sound recordings under section 114 of title 17, United States Code, and the making of ephemeral phonorecords under section 112 of title 17, United States Code, during the period beginning on October 28, 1998, and ending on May 31, 2003, which have not already been paid, shall not be due until June 20, 2003.

(2) DEFINITION.—In this subsection, the term "noncommercial webcaster" has the meaning given that term in section 114(f)(5)(E)(i) of title 17, United States Code, as added by section 4 of this Act.

(b) SMALL COMMERCIAL WEBCASTERS.—

(1) IN GENERAL.—The receiving agent may, in a writing signed by an authorized representative thereof, delay the obligation of any 1 or more small commercial webcasters to make payments pursuant to sections 112 and 114 of title 17, United States Code, for a period determined by such entity to allow negotiations as permitted in section 4 of this Act, except that any such period shall end no later than December 15, 2002. The duration and terms of any such delay shall be as set forth in such writing.

(2) DEFINITIONS.—In this subsection—

(A) the term "webcaster" has the meaning given that term in section 114(f)(5)(E)(iii) of title 17, United States Code, as added by section 4 of this Act; and

(B) the term "receiving agent" shall have the meaning given that term in section 261.2 of title 37, Code of Federal Regulations, as published in the Federal Register on July 8, 2002.

SEC. 4. AUTHORIZATION FOR SETTLEMENTS.

Section 114(f) of title 17, United States Code, is amended by adding after paragraph (4) the following:

"(5)(A) Notwithstanding section 112(e) and the other provisions of this subsection, the receiving agent may enter into agreements for the reproduction and performance of sound recordings under section 112(e) and this section by any 1 or more small commercial webcasters or noncommercial webcasters during the period beginning on October 28, 1998, and ending on December 31, 2004, that, once published in the Federal Register pursuant to subparagraph (B), shall be binding on all copyright owners of sound recordings and other persons entitled to payment under this section, in lieu of any determination by a copyright arbitration royalty panel or decision by the Librarian of Congress. Any such agreement for small commercial webcasters shall include provisions for payment of royalties on the basis of a percentage of revenue or expenses, or both, and include a minimum fee. Any such agreement may include other terms and conditions, including requirements by which copyright owners may receive notice of the use of their sound recordings and under which records of such use shall be kept and made available by small commercial webcasters or noncommercial webcasters. The receiving agent shall be under no obligation to negotiate any such agreement. The receiving agent shall have no obligation to any copyright owner of sound recordings or any other person entitled to payment under this section in negotiating any such agreement, and no liability to any copyright owner of sound recordings or any other person entitled to payment under this section for having entered into such agreement.

"(B) The Copyright Office shall cause to be published in the Federal Register any agreement entered into pursuant to subparagraph (A). Such publication shall include a statement containing the substance of subparagraph (C). Such agreements shall not be included in the Code of Federal Regulations. Thereafter, the terms of such agreement shall be available, as an option, to any small commercial webcaster or noncommercial webcaster meeting the eligibility conditions of such agreement.

"(C) Neither subparagraph (A) nor any provisions of any agreement entered into pursuant to subparagraph (A), including any rate structure, fees, terms, conditions, or notice and recordkeeping requirements set forth therein, shall be admissible as evidence or otherwise taken into account in any administrative, judicial, or other government proceeding involving the setting or adjustment of the royalties payable for the public performance or reproduction in ephemeral phonorecords or copies of sound recordings, the determination of terms or conditions related thereto, or the establishment of notice or recordkeeping requirements by the Librarian of Congress under paragraph (4) or section 112(e)(4). It is the intent of Congress that any royalty rates, rate structure, definitions, terms, conditions, or notice and recordkeeping requirements, included in such agreements shall be considered as a compromise motivated by the unique business, economic and political circumstances of small webcasters, copyright owners, and performers rather than as matters that would have been negotiated in the marketplace between a willing buyer and a willing seller, or otherwise meet the objectives set forth in section 801(b).

"(D) Nothing in the Small Webcaster Settlement Act of 2002 or any agreement entered into pursuant to subparagraph (A) shall be taken into account by the United States Court of Appeals for the District of Columbia Circuit in its review of the determination by the Librarian of Congress of July 8, 2002, of rates and terms for the digital performance of sound recordings and ephemeral recordings, pursuant to sections 112 and 114.

"(E) As used in this paragraph—

"(i) the term 'noncommercial webcaster' means a webcaster that—

"(I) is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501);

"(II) has applied in good faith to the Internal Revenue Service for exemption from taxation under section 501 of the Internal Revenue Code and has a commercially reasonable expectation that such exemption shall be granted; or

"(III) is operated by a State or possession or any governmental entity or subordinate thereof, or by the United States or District of Columbia, for exclusively public purposes;

"(ii) the term 'receiving agent' shall have the meaning given that term in section 261.2 of title 37, Code of Federal Regulations, as published in the Federal Register on July 8, 2002; and

"(iii) the term 'webcaster' means a person or entity that has obtained a compulsory license under section 112 or 114 and the implementing regulations therefor to make eligible nonsubscription transmissions and ephemeral recordings.

"(F) The authority to make settlements pursuant to subparagraph (A) shall expire December 15, 2002, except with respect to noncommercial webcasters for whom the authority shall expire May 31, 2003.".

SEC. 5. DEDUCTIBILITY OF COSTS AND EXPENSES OF AGENTS AND DIRECT PAYMENT TO ARTISTS OF ROYALTIES FOR DIGITAL PERFORMANCES OF SOUND RECORDINGS.

(a) FINDINGS.—Congress finds that—

(1) in the case of royalty payments from the licensing of digital transmissions of sound recordings under subsection (f) of section 114 of title 17, United States Code, the parties have voluntarily negotiated arrangements under which payments shall be made directly to featured recording artists and the administrators of the accounts provided in subsection (g)(2) of that section;

(2) such voluntarily negotiated payment arrangements have been codified in regulations issued by the Librarian of Congress, currently found in section 261.4 of title 37, Code of Federal Regulations, as published in the Federal Register on July 8, 2002;

(3) other regulations issued by the Librarian of Congress were inconsistent with the voluntarily negotiated arrangements by such parties concerning the deductibility of certain costs incurred for licensing and arbitration, and Congress is therefore restoring those terms as originally negotiated among the parties; and

(4) in light of the special circumstances described in this subsection, the uncertainty created by the regulations issued by the Librarian of Congress, and the fact that all of the interested parties have reached agreement, the voluntarily negotiated arrangements agreed to among the parties are being codified.

(b) DEDUCTIBILITY.—Section 114(g) of title 17, United States Code, is amended by adding after paragraph (2) the following:

"(3) A nonprofit agent designated to distribute receipts from the licensing of transmissions in accordance with subsection (f) may deduct from any of its receipts, prior to the distribution of such receipts to any person or entity entitled thereto other than copyright owners and performers who have elected to receive royalties from another designated agent and have notified such nonprofit agent in writing of such election, the reasonable costs of such agent incurred after November 1, 1995, in—

"(A) the administration of the collection, distribution, and calculation of the royalties;

"(B) the settlement of disputes relating to the collection and calculation of the royalties; and

"(C) the licensing and enforcement of rights with respect to the making of ephemeral recordings and performances subject to licensing under section 112 and this section, including those incurred in participating in negotiations or arbitration proceedings under section 112 and this section, except that all costs incurred relating to the section 112 ephemeral recordings right may only be deducted from the royalties received pursuant to section 112.

"(4) Notwithstanding paragraph (3), any designated agent designated to distribute receipts from the licensing of transmissions in accordance with subsection (f) may deduct from any of its receipts, prior to the distribution of such receipts, the reasonable costs identified in paragraph (3) of such agent incurred after November 1, 1995, with respect to such copyright owners and performers who have entered with such agent a contractual relationship that specifies that such costs may be deducted from such royalty receipts.".

(c) DIRECT PAYMENT TO ARTISTS.—Section 114(g)(2) of title 17, United States Code, is amended to read as follows:

"(2) An agent designated to distribute receipts from the licensing of transmissions in accordance with subsection (f) shall distribute such receipts as follows:

"(A) 50 percent of the receipts shall be paid to the copyright owner of the exclusive right under section 106(6) of this title to publicly perform a sound recording by means of a digital audio transmission.

"(B) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians) who have performed on sound recordings.

"(C) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the American Federation of Television and Radio Artists) who have performed on sound recordings.

"(D) 45 percent of the receipts shall be paid, on a per sound recording basis, to the recording artist or artists featured on such sound recording (or the persons conveying rights in the artists' performance in the sound recordings).".

SEC. 6. REPORT TO CONGRESS.

By not later than June 1, 2004, the Comptroller General of the United States, in consultation with the Register of Copyrights, shall conduct and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a study concerning the economic arrangements among small commercial webcasters covered by agreements entered into pursuant to section 114(f)(5)(A) of title 17, United States Code, as added by section 4 of this Act, and third parties, and the effect of those arrangements on royalty fees payable on a percentage of revenue or expense basis.

Mr. BERMAN. Mr. Speaker, I rise to support House adoption of the Senate substitute amendment to H.R. 5649. This legislation provides important assistance to noncommercial webcasters, small commercial webcasters, recording artists, and owners of sound recording copyrights.

Early last month, the House passed H.R. 5469 on voice vote under suspension of the rules. As passed by the House, H.R. 5469 provided small commercial webcasters with a discount on the webcasting royalties they owed. The House-passed bill actually specified the rates and terms of the discount these webcasters would receive.

Unfortunately, H.R. 5469 was stalled in the Senate. Certain broadcasters expressed concern that the terms of the discount specified in H.R. 5469 would have a precedential effect in future webcasting royalty-setting proceedings. Noncommercial webcasters expressed the concern that H.R. 5469 did not give them a discount on webcasting royalties, as it did for small commercial webcasters. The Senate decided to amend H.R. 5469 to address these concerns, and the bill before us today reflects those accommodations.

The Senate substitute delays the webcasting royalty obligations of noncommercial webcasters, which came due late last month, until June 20, 2003. The bill also allows the collecting agent to delay the royalty obligation owed by any 1 or more small commercial webcaster until December 15, 2002.

Instead of specifying the rates and terms of the discount for noncommercial and small commercial webcasters, the Senate substitute delegates the ability to establish an industry-wide discount to the collecting agent for copyright owners and recording artists. The understanding and expectation of both the House and the Senate is that the collecting agent will offer noncommercial and small commercial webcasters a royalty discount based on the terms and conditions set in the House-passed version of H.R. 5469. In other words, Congress expects that the collecting agent will offer noncommercial and small commercial webcasters the same deal represented by H.R. 5469.

There is no doubt that this approach is unusual. Unlike the typical statutory license rate-setting process, this approach does not involve any governmental entity in the rate-setting process, except for the Copyright Office's ministerial task of publishing those agreements in the Federal Register. This should not be considered a precedent or model for future legislation. It is a response to the unique circumstances surrounding the reaction to the rates set by the Librarian of Congress, the ensuing negotiations between copyright owners and webcasters, and the opposition H.R. 5469 generated in the Senate.

Again, I ask my colleagues to support the Senate substitute to H.R. 5469.

Mr. SENSENBRENNER. Mr. Speaker, on October 7, 2002, the House passed H.R. 5469, the "Small Webcaster Amendments Act of 2002," under suspension of the Rules. Earlier this evening, the Senate passed a substitute version of the bill, which I urge the House to adopt by unanimous consent.

By way of background, H.R. 5469 as originally drafted suspended the implementation of the Librarian of Congress's decision regarding royalty rates that webcasters must pay to copyright owners for the performance of copyrighted works for six months beginning on October 20. At the time, the purpose of this delay was to ensure that all parties would receive the judicial process to which they are entitled under the law before the rate took effect.

H.R. 5469 placed a burr under the saddle of both the copyright holders and the small webcasters to conclude negotiations on these matters that began last summer. The parties negotiated around the clock and arrived at a deal that set new rates and payment terms, obviating the need for further legal or administrative intervention.

Following House passage of H.R. 5469, Senator HELMS expressed concerns regarding the potential effect of codifying the actual agreement in the statute on future rate proceedings. As a result, and after further negotiations in the past two days, the parties have developed the Helms substitute before us which makes the following changes:

It contains a "findings" section which explains the need for the legislation.

It suspends the obligation of non-commercial webcasters, such as college radio stations, to pay copyright holders royalties owed until June 20, 2003. This will give both sides extra time to negotiate a new deal.

Under H.R. 5469 as originally passed by the House, SoundExchange, the non-profit entity which collects and distributes royalties owed copyright holders, is permitted to deduct its operating and legal expenses from collected fees. The substitute retains this feature and also permits any other for-profit entity designated as an agent by the affected copyright holders to deduct its expenses in the same manner.

SoundExchange is authorized to negotiate an agreement on behalf of all copyright owners and performers with small webcasters. Affected small commercial webcasters will not pay royalties through December 15, 2002, which is intended to facilitate the implementation of a settlement identical to the terms set forth in H.R. 5469 as passed by the House.

The Comptroller General and the Register of Copyrights will develop a joint report for the House and Senate Committees on the Judiciary regarding the effect of "economic arrangements among small webcasters and third parties" on royalty fees owed copyright holders.

Finally, Mr. Speaker, I would like to commend both the small webcasters and the copyright owners for their diligent efforts to reach an agreement. I understand that this is a complex and controversial issue and both sides met the challenge by continuing to negotiate in good faith.

H.R. 5469, as amended, is a good bill. It will ultimately accomplish the same goal as H.R. 5469 as passed by the House, only in a different way. I urge my colleagues to support the bill.

TAKEN FROM THE SPEAKER'S TABLE AND CONCURRED IN SENATE AMENDMENT

H.R. 3833, to facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes.

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dot Kids Implementation and Efficiency Act of 2002".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the World Wide Web presents a stimulating and entertaining opportunity for children to learn, grow, and develop educationally and intellectually;

(2) Internet technology also makes available an extensive amount of information that is harmful to children, as studies indicate that a significant portion of all material available on the Internet is related to pornography;

(3) young children, when trying to use the World Wide Web for positive purposes, are often presented—either mistakenly or intentionally—with material that is inappropriate for their age, which can be extremely frustrating for children, parents, and educators;

(4) exposure of children to material that is inappropriate for them, including pornography, can distort the education and development of the Nation's youth and represents a serious harm to American families that can lead to a host of other problems for children, including inappropriate use of chat rooms, physical molestation, harassment, and legal and financial difficulties;

(5) young boys and girls, older teens, troubled youth, frequent Internet users, chat room participants, online risk takers, and those who communicate online with strangers are at greater risk for receiving unwanted sexual solicitation on the Internet;

(6) studies have shown that 19 percent of youth (ages 10 to 17) who used the Internet regularly were the targets of unwanted sexual solicitation, but less than 10 percent of the solicitations were reported to the police;

(7) children who come across illegal content should report it to the congressionally authorized CyberTipline, an online mechanism developed by the National Center for Missing and Exploited Children, for citizens to report sexual crimes against children;

(8) the CyberTipline has received more than 64,400 reports, including reports of child pornography, online enticement for sexual acts, child molestation (outside the family), and child prostitution;

(9) although the computer software and hardware industries, and other related industries, have developed innovative ways to help parents and educators restrict material that is harmful to minors through parental control protections and self-regulation, to date such efforts have not provided a national solution to the problem of minors accessing harmful material on the World Wide Web;

(10) the creation of a "green-light" area within the United States country code Internet domain, that will contain only content that is appropriate for children under the age of 13, is analogous to the creation of a children's section within a library and will promote the positive experiences of children and families in the United States; and

(11) while custody, care, and nurture of the child reside first with the parent, the protection of the physical and psychological well-being of minors by shielding them from material that is harmful to them is a compelling governmental interest.

(b) PURPOSES.—The purposes of this Act are—

(1) to facilitate the creation of a second-level domain within the United States country code Internet domain for the location of material that is suitable for minors and not harmful to minors; and

(2) to ensure that the National Telecommunications and Information Administration oversees the creation of such a second-level domain and ensures the effective and efficient establishment and operation of the new domain.

SEC. 3. NTIA AUTHORITY.

Section 103(b)(3) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 902(b)(3)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) shall assign to the NTIA responsibility for providing for the establishment, and overseeing operation, of a second-level Internet domain within the United States country code domain in accordance with section 157.".

SEC. 4. CHILD-FRIENDLY SECOND-LEVEL INTERNET DOMAIN.

The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended in part C by adding at the end the following new section:

"SEC. 157. CHILD-FRIENDLY SECOND-LEVEL INTERNET DOMAIN.

"(a) RESPONSIBILITIES.—The NTIA shall require the registry selected to operate and maintain the United States country code Internet domain to establish, operate, and maintain a second-level domain within the United States country code domain that provides access only to material that is suitable for minors and not harmful to minors (in this section referred to as the 'new domain').

"(b) CONDITIONS OF CONTRACTS.—

"(1) INITIAL REGISTRY.—The NTIA shall not exercise any option periods under any contract between the NTIA and the initial registry to operate and maintain the United States country code Internet domain unless the initial registry agrees, during the 90-day period beginning upon the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002, to carry out, and to operate the new domain in accordance with, the requirements under subsection (c). Nothing in this subsection shall be construed to prevent the initial registry of the United States country code Internet domain from participating in the NTIA's process for selecting a successor registry or to prevent the NTIA from awarding, to the initial registry, the contract to be successor registry subject to the requirements of paragraph (2).

"(2) SUCCESSOR REGISTRIES.—The NTIA shall not enter into any contract for operating and maintaining the United States country code Internet domain with any successor registry unless such registry enters into an agreement with the NTIA, during the 90-day period after selection of such registry, that provides for the registry to carry out, and the new domain to operate in accordance with, the requirements under subsection (c).

"(c) REQUIREMENTS OF NEW DOMAIN.—The registry and new domain shall be subject to the following requirements:

"(1) Written content standards for the new domain, except that the NTIA shall not have any authority to establish such standards.

"(2) Written agreements with each registrar for the new domain that require that use of the new domain is in accordance with the standards and requirements of the registry.

"(3) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to use the new domain in accordance with the standards and requirements of the registry.

"(4) Rules and procedures for enforcement and oversight that minimize the possibility that the new domain provides access to content that is not in accordance with the standards and requirements of the registry.

"(5) A process for removing from the new domain any content that is not in accordance with the standards and requirements of the registry.

"(6) A process to provide registrants to the new domain with an opportunity for a prompt, expeditious, and impartial dispute resolution process regarding any material of the registrant excluded from the new domain.

"(7) Continuous and uninterrupted service for the new domain during any transition to a new registry selected to operate and maintain new domain or the United States country code domain.

"(8) Procedures and mechanisms to promote the accuracy of contact information submitted by registrants and retained by registrars in the new domain.

"(9) Operationality of the new domain not later than one year after the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002.

"(10) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to prohibit two-way and multiuser interactive services in the new domain, unless the registrant certifies to the registrar that such service will be offered in compliance with the content standards established pursuant to paragraph (1) and is designed to reduce the risk of exploitation of minors using such two-way and multiuser interactive services.

"(11) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to prohibit hyperlinks in the new domain that take new domain users outside of the new domain.

"(12) Any other action that the NTIA considers necessary to establish, operate, or maintain the new domain in accordance with the purposes of this section.

"(d) OPTION PERIODS FOR INITIAL REGISTRY.—The NTIA shall grant the initial registry the option periods available under the contract between the NTIA and the initial registry to operate and maintain the United States country code Internet domain if, and may not grant such option periods unless, the NTIA finds that the initial registry has satisfactorily performed its obligations under this Act and under the contract. Nothing in this section shall preempt or alter the NTIA's authority to terminate such contract for the operation of the United States country code Internet domain for cause or for convenience.

"(e) TREATMENT OF REGISTRY AND OTHER ENTITIES.—

"(1) IN GENERAL.—Only to the extent that such entities carry out functions under this section, the following entities are deemed to be interactive computer services for purposes of section 230(c) of the Communications Act of 1934 (47 U.S.C. 230(c)):

"(A) The registry that operates and maintains the new domain.

"(B) Any entity that contracts with such registry to carry out functions to ensure that content accessed through the new domain complies with the limitations applicable to the new domain.

"(C) Any registrar for the registry of the new domain that is operating in compliance with its agreement with the registry.

"(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall be construed to affect the applicability of any other provision of title II of the Communications Act of 1934 to the entities covered by subparagraph (A), (B), or (C) of paragraph (1).

"(f) EDUCATION.—The NTIA shall carry out a program to publicize the availability of the new domain and to educate the parents of minors regarding the process for utilizing the new domain in combination and coordination with hardware and software technologies that provide for filtering or blocking. The program under this subsection shall be commenced not later than 30 days after the date that the new domain first becomes operational and accessible by the public.

"(g) COORDINATION WITH FEDERAL GOVERNMENT.—The registry selected to operate and maintain the new domain shall—

"(1) consult with appropriate agencies of the Federal Government regarding procedures and actions to prevent minors and families who use the new domain from being targeted by adults and other children for predatory behavior, exploitation, or illegal actions; and

"(2) based upon the consultations conducted pursuant to paragraph (1), establish such procedures and take such actions as the registry may deem necessary to prevent such targeting.

The consultations, procedures, and actions required under this subsection shall be commenced not later than 30 days after the date that the new domain first becomes operational and accessible by the public.

"(h) COMPLIANCE REPORT.—The registry shall prepare, on an annual basis, a report on the registry's monitoring and enforcement procedures for the new domain. The registry shall submit each such report, setting forth the results of the review of its monitoring and enforcement procedures for the new domain, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(i) SUSPENSION OF NEW DOMAIN.—If the NTIA finds, pursuant to its own review or upon a good faith petition by the registry, that the new domain is not serving its intended purpose, the NTIA shall instruct the registry to suspend operation of the new domain until such time as the NTIA determines that the new domain can be operated as intended.

"(j) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) HARMFUL TO MINORS.—The term 'harmful to minors' means, with respect to material, that—

"(A) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, that it is designed to appeal to, or is designed to pander to, the prurient interest;

"(B) the material depicts, describes, or represents, in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals or post-pubescent female breast; and

"(C) taken as a whole, the material lacks serious, literary, artistic, political, or scientific value for minors.

"(2) MINOR.—The term 'minor' means any person under 13 years of age.

"(3) REGISTRY.—The term 'registry' means the registry selected to operate and maintain the United States country code Internet domain.

"(4) SUCCESSOR REGISTRY.—The term 'successor registry' means any entity that enters into a contract with the NTIA to operate and maintain the United States country code Internet domain that covers any period after the termination or expiration of the contract to operate and maintain the United States country code Internet domain, and any option periods under such contract, that was signed on October 26, 2001.

"(5) SUITABLE FOR MINORS.—The term 'suitable for minors' means, with respect to material, that it—

"(A) is not psychologically or intellectually inappropriate for minors; and

"(B) serves—

"(i) the educational, informational, intellectual, or cognitive needs of minors; or

"(ii) the social, emotional, or entertainment needs of minors.".

Mr. SHIMKUS. Mr. Speaker, it is with great pride that I rise today upon the passage of H.R. 3833, The "Dot Kids Implementation and Efficiency Act of 2002." This bill creates a subdomain on the ".us" country-code that will store only child-friendly sites.

I would like to thank Senators ENSIGN and DORGAN as the Senate sponsors of this bill, and I give special recognition to the coauthors, Congressman ED MARKEY and the Telecommunications Subcommittee Chairman FRED UPTON, for their tireless effort and leadership on this project.

In addition to the members, I would also like to thank the talented and hard-working staff involved: Kelly Zerzan, Will Nordwind, Collin Crowell, Brendan Kelsay, Tim Kurth, and my staffer, Courtney Andersen. I would also like to thank Bryan Cunningham and Emmett O'Keefe for navigating this bill through the Senate. Hundreds of hours, a great deal of research, thought, patience, compromise and perseverance went into this legislation. It has truly been a labor of love for us all and I thank you.

I must not forget the organizations that supported this vision. H.R. 3833 was endorsed by the National Center for Missing and Exploited Children, the National Law Center for Children and Families, a Safer America for Everyone (SAFE) as well as by the Family Research Council. I thank these groups for taking a stand to help keep children safe on the Internet.

Mr. Speaker, this is a good day for children in America. Soon, kids will have their own playground on the Internet. When surfing on the "kid.us" domain, parents can rest assured that their children are gaining the educational and entertainment benefits of the Internet, without exposure to predators or inappropriate content.

We have all heard the horror stories about the harm that can come to unsupervised children online. I will sleep better at night knowing that we, as a body of representatives, took this positive step to help safeguard our children against the dangers that lurk on the World Wide Web.

I thank my colleagues for once again voting to pass H.R. 3833, the "Dot Kids Act." This is a good piece of legislation, which demonstrates to our children that we care.

Mr. MARKEY. Mr. Speaker, I rise in support of this bill. I am an original cosponsor of the bill along with Mr. SHIMKUS, Chairman UPTON, as well as many other members. I want to commend Chairman TAUZIN, Ranking Member DINGELL and everyone involved for the excellent process on this bill that has led to a consensus, bipartisan proposal. This bill was approved unanimously by the House Energy and Commerce Committee, and was approved by the House back in May by a vote of 406 to 2.

The Senate has slightly altered the House-passed version and I support approving this amended version and sending it to President Bush for his signature. This is a consensus bill and a model of how legislative proposals can achieve success in a closely divided Congress. There is a reason that this is the sole telecommunications bill of any significance for ordinary people that we will enact in the 107th Congress. And that's because it was a bill that we worked together on—Republicans and Democrats—from the start. When we encountered issues, we resolved them by working together, and we sought out bipartisan support on the other side of the Capitol as well. Senator DORGAN and Senator ENSIGN also deserve tremendous credit for this achievement.

As many parents today know, the Internet often appears to be a veritable jungle of web sites. When a child logs on to search for games, stories, or educational material, search engines often turn up pages for the kids laden with pornography, violence or other content that is simply not appropriate for young children. To give children their own playground on the Internet, and to facilitate the easier browsing and filtering of content that many parents desire, we are poised now to enact H.R. 3833, the "Dot Kids Implementation and Efficiency Act."

This bill directs the Department of Commerce, through the National Telecommunications and Information Administration (NTIA) to accelerate the creation of a "dot kids" domain by making it a secondary domain under our nation's country code top level domain, which is "dot us." The Department of Commerce awarded a free contract last October to authorize private sector management and commercialization of "dot U.S."

I opposed the awarding of a free contract to a company to essentially manage and profit from a public asset. We only have one country code and the Department of Commerce should have ensured that the broader public interest was incorporated in any contract to manage the dot U.S. domain, or, as I indicated in a letter to the Department of Commerce in the summer of 2001, the contract should have been auctioned to the highest qualified bidder. We should be long past the time in this country of giving away public assets to private companies to profit from for free. Nevertheless, the DoC awarded the dot U.S. contract to NeuStar in October of 2001, and Congress must now subsequently ensure that future contract awards or extensions incorporate public interest conditions in such contract awards and "dot.kids" is clearly in the public interest.

What is essentially being proposed in the creation of a place on the Internet for websites that end in "dot kids-dot U.S." (e.g., www.example.kids.us) The proposed "dot kids" domain will be a cyberspace sanctuary for content that is suitable for kids and will be an area devoted of content that is harmful to such minors.

I want to address at this point, very briefly, some of the free speech concerns that any endeavor of this type will inevitably raise. First let me emphasize how this approach departs from previous Congressional activity in this policy area. First, the proposed legislation will not subject all of the Internet communications to "harmful to minors" standard. If you're in Tennessee, Taiwan, or Timbuktu you can publish or speak any content you want on the Internet. This proposal doesn't affect you're ability to do so on a "dot com," "dot net," "dot org," or anywhere else. This proposal now only addresses a subset of Internet commerce—the "dot us" space.

Moreover, it doesn't even curtail speech throughout the entirety of the "dot U.S." country code domain. If you're in Providence, Rhode Island or Provo, Utah under this bill you are free to exercise your constitutional rights and this legislation contains no proposal that would subject anyone utilizing the "dot us" space to a standard suitable only for kids. Speech more appropriate for adults or teenagers will not be affected by this bill and can appear elsewhere in the "dot U.S." domain.

The bill solely stipulates that if you want to operate in the "dot kids-dot U.S." area—in other words, a mere subset of the "dot us" country code domain—you have entered a kid-friendly zone—a green light district if you will—where the content is suitable for children 12 and under. The "dot kids" proposal is not aimed at censoring Internet content per se. Rather, it is crafted to help organize content more appropriate for kids in a safe and secure cyber-zone, where the risk of young children clicking outside of that zone to unsuitable content, or being preyed upon or exploited online by adults posing as kids, is vastly diminished. Organizing kid-friendly content in this manner will enhance the effectiveness of filtering software and may better enable parents to set their children's browsers so that their kids only surf within the "dot kids" domain.

And I also want to emphasize that use of the "dot kids" domain is not compulsory. Signing up for a "dot kids" domain—or parents sending their kids to websites in that location—remains completely voluntary and the free choice of both content speakers and parents. Finally, I want to note that this bill is not meant in any way to diminish or thwart the many laudable private sector efforts to create new and alternative ways for kids to have a safe and educational online experience. Our efforts here today are meant to supplement, not supplant, initiatives underway elsewhere by ensuring that our "dot us" country code reflects our public interest goals as a society in a way that hopefully can harness the best of advance technology for kids across the country.

Mr. Speaker, I again want to thank Mr. SHIMKUS, Chairman TAUZIN, Mr. DINGELL, and Chairman UPTON for their work on the bill.

TAKEN FROM THE SPEAKER'S TABLE AND AMENDED

S. 2237, to amend Title 38, United States Code, to modify and improve authorities relating to compensation and pension benefits, education benefits, housing benefits, and other benefits for veterans, to improve the administration of benefits for veterans, and for other purposes.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ``Veterans Benefits Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—COMPENSATION AND BENEFITS IMPROVEMENTS

Sec. 101. Retention of CHAMPVA for surviving spouses remarrying after age 55.
Sec. 102. Clarification of entitlement to special monthly compensation for women veterans who have service-connected loss of breast tissue.

Sec. 103. Specification of hearing loss required for compensation for hearing loss in paired organs.
Sec. 104. Assessment of acoustic trauma associated with military service from World War II to present.

TITLE II—MEMORIAL AFFAIRS

Sec. 201. Prohibition on certain additional benefits for persons committing capital crimes.
Sec. 202. Procedures for disqualification of persons committing capital crimes for interment or memorialization in national cemeteries.
Sec. 203. Application of Department of Veterans Affairs benefit for Government markers for marked graves of veterans at private cemeteries to veterans dying on or after September 11, 2001.
Sec. 204. Authorization of placement of a memorial in Arlington National Cemetery honoring World War II veterans who fought in the Battle of the Bulge.

TITLE III—OTHER MATTERS

Sec. 301. Increase in aggregate annual amount available for State approving agencies for administrative expenses for fiscal years 2003 through 2007.
Sec. 302. Authority for Veterans' Mortgage Life Insurance to be carried beyond age 70.
Sec. 303. Authority to guarantee hybrid adjustable rate mortgages.
Sec. 304. Increase in amount payable as Medal of Honor special pension.
Sec. 305. Extension of protections under the Soldiers' and Sailors' Civil Relief Act of 1940 to National Guard members called to active duty under title 32, United States Code.
Sec. 306. Extension of income verification authority.
Sec. 307. Fee for loan assumption.
Sec. 308. Technical and clarifying amendments.
Sec. 309. Codification of cost-of-living adjustment provided in Public Law 107–247.

TITLE IV—JUDICIAL MATTERS

Sec. 401. Standard for reversal by Court of Appeals for Veterans Claims of erroneous finding of fact by Board of Veterans' Appeals.
Sec. 402. Review by Court of Appeals for the Federal Circuit of decisions of law of Court of Appeals for Veterans Claims.
Sec. 403. Authority of Court of Appeals for Veterans Claims to award fees under Equal Access to Justice Act for non-attorney practitioners.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND BENEFITS IMPROVEMENTS

SEC. 101. RETENTION OF CHAMPVA FOR SURVIVING SPOUSES REMARRYING AFTER AGE 55.

(a) EXCEPTION TO TERMINATION OF BENEFITS UPON REMARRIAGE.—Paragraph (2) of section 103(d) is amended—

(1) by inserting "(A) after "(2)"; and

(2) by adding at the end the following:

"(B) The remarriage after age 55 of the surviving spouse of a veteran shall not bar the furnishing of benefits under section 1781 of this title to such person as the surviving spouse of the veteran.".

(b) APPLICATION FOR BENEFITS.—In the case of an individual who but for having remarried would be eligible for medical care under section 1781 of title 38, United States Code, and whose remarriage was before the date of the enactment of this Act and after the individual had attained age 55, the individual shall be eligible for such medical care by reason of the amendments made by subsection (a) only if an application for such medical care is received by the Secretary of Veterans Affairs during the one-year period ending on the effective date specified in subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 60 days after the date of the enactment of this Act.

SEC. 102. CLARIFICATION OF ENTITLEMENT TO SPECIAL MONTHLY COMPENSATION FOR WOMEN VETERANS WHO HAVE SERVICE-CONNECTED LOSS OF BREAST TISSUE.

Section 1114(k) is amended by striking "one or both breasts (including loss by mastectomy)" and inserting "25 percent or more of tissue from a single breast or both breasts in combination (including loss by mastectomy or partial mastectomy) or has received radiation treatment of breast tissue".

SEC. 103. SPECIFICATION OF HEARING LOSS REQUIRED FOR COMPENSATION FOR HEARING LOSS IN PAIRED ORGANS.

Section 1160(a)(3) is amended—

(1) by striking "total deafness" the first place it appears and inserting "deafness compensable to a degree of 10 percent or more"; and

(2) by striking "total deafness" the second place it appears and inserting "deafness".

SEC. 104. ASSESSMENT OF ACOUSTIC TRAUMA ASSOCIATED WITH MILITARY SERVICE FROM WORLD WAR II TO PRESENT.

(a) ASSESSMENT BY NATIONAL ACADEMY OF SCIENCES.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences for the Academy to perform the activities specified in this section. The Secretary shall seek to enter into the agreement not later than 60 days after the date of the enactment of this Act.

(b) DUTIES UNDER AGREEMENT.—Under the agreement under subsection (a), the National Academy of Sciences shall do the following:

(1) Review and assess available data on hearing loss that could reasonably be expected to have been incurred by members of the Armed Forces during the period from the beginning of World War II to the date of the enactment of this Act.

(2) Identify the different sources of acoustic trauma that members of the Armed Forces could reasonably be expected to have been exposed to during the period from the beginning of World War II to the date of the enactment of this Act.

(3) Determine how much exposure to each source of acoustic trauma identified under paragraph (2) is required to cause or contribute to hearing loss, hearing threshold shift, or tinnitus, as the case may be, and at what noise level.

(4) Determine whether or not such hearing loss, hearing threshold shift, or tinnitus, as the case may be, is—

(A) immediate or delayed onset;

(B) cumulative;

(C) progressive; or

(D) any combination of subparagraph (A), (B), and (C).

(5) Identify age, occupational history, and other factors which contribute to an individual's noise-induced hearing loss.

(6) Identify—

(A) the period of time at which audiometric measures used by the Armed Forces became adequate to evaluate individual hearing threshold shift; and

(B) the period of time at which hearing conservation measures to prevent individual hearing threshold shift were available to members of the Armed Forces, shown separately for each of the Army, Navy, Air Force, Marine Corps, and Coast Guard, and, for each such service, shown separately for members exposed to different sources of acoustic trauma identified under paragraph (2).

(c) REPORT.—Not later than 180 days after the date of the entry into the agreement referred to in subsection (a), the National Academy of Sciences shall submit to the Secretary a report on the activities of the National Academy of Sciences under the agreement, including the results of the activities required by subsection (b).

(d) REPORT ON ADMINISTRATION OF BENEFITS FOR HEARING LOSS AND TINNITUS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the claims submitted to the Secretary for disability compensation or health care for hearing loss or tinnitus.

(2) The report under paragraph (1) shall include the following:

(A) The number of decisions issued by the Secretary in each of fiscal years 2000, 2001, and 2002 on claims for disability compensation for hearing loss, tinnitus, or both.

(B) Of the decisions referred to in subparagraph (A)—

(i) the number in which compensation was awarded, and the number in which compensation was denied, set forth by fiscal year; and

(ii) the total amount of disability compensation paid on such claims during each such fiscal year.

(C) The total cost to the Department of Veterans Affairs of adjudicating the claims referred to in subparagraph (A), set forth in terms of full-time employee equivalents (FTEEs).

(D) The total number of veterans who sought treatment in Department of Veterans Affairs health care facilities during fiscal years specified in subparagraph (A) for hearing-related disorders, set forth by the number of veterans per year.

(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans furnished hearing aids and the cost of furnishing such hearing aids.

TITLE II—MEMORIAL AFFAIRS

SEC. 201. PROHIBITION ON CERTAIN ADDITIONAL BENEFITS FOR PERSONS COMMITTING CAPITAL CRIMES.

(a) PRESIDENTIAL MEMORIAL CERTIFICATE.—Section 112 is amended by adding at the end the following new subsection:

"(c) A certificate may not be furnished under the program under subsection (a) on behalf of a deceased person described in section 2411(b) of this title.".

(b) FLAG TO DRAPE CASKET.—Section 2301 is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) A flag may not be furnished under this section in the case of a person described in section 2411(b) of this title.".

(c) HEADSTONE OR MARKER FOR GRAVE.—Section 2306 is amended by adding at the end the following new subsection:

"(g)(1) A headstone or marker may not be furnished under subsection (a) for the unmarked grave of a person described in section 2411(b) of this title.

"(2) A memorial headstone or marker may not be furnished under subsection (b) for the purpose of commemorating a person described in section 2411(b) of this title.

"(3) A marker may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring on or after the date of the enactment of this Act.

SEC. 202. PROCEDURES FOR DISQUALIFICATION OF PERSONS COMMITTING CAPITAL CRIMES FOR INTERMENT OR MEMORIALIZATION IN NATIONAL CEMETERIES.

Section 2411(a)(2) is amended—

(1) by striking "The prohibition" and inserting "In the case of a person described in subsection (b)(1) or (b)(2), the prohibition"; and

(2) by striking "or finding under subsection (b)" and inserting "referred to in subsection (b)(1) or (b)(2), as the case may be,".

SEC. 203. APPLICATION OF DEPARTMENT OF VETERANS AFFAIRS BENEFIT FOR GOVERNMENT MARKERS FOR MARKED GRAVES OF VETERANS AT PRIVATE CEMETERIES TO VETERANS DYING ON OR AFTER SEPTEMBER 11, 2001.

(a) IN GENERAL.—Subsection (d) of section 502 of the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107–103; 115 Stat. 995; 38 U.S.C. 2306 note) is amended by striking "the date of the enactment of this Act" and inserting "September 11, 2001".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of such section 502.

SEC. 204. AUTHORIZATION OF PLACEMENT OF A MEMORIAL IN ARLINGTON NATIONAL CEMETERY HONORING WORLD WAR II VETERANS WHO FOUGHT IN THE BATTLE OF THE BULGE.

The Secretary of the Army is authorized to place in Arlington National Cemetery a memorial marker honoring veterans who fought in the battle in the European theater of operations during World War II known as the Battle of the Bulge.

TITLE III—OTHER MATTERS

SEC. 301. INCREASE IN AGGREGATE ANNUAL AMOUNT AVAILABLE FOR STATE APPROVING AGENCIES FOR ADMINISTRATIVE EXPENSES FOR FISCAL YEARS 2003 THROUGH 2007.

The first sentence of section 3674(a)(4) is amended by inserting before the period at the end the following: ", for fiscal year 2003, $14,000,000, for fiscal year 2004, $18,000,000, for fiscal year 2005, $18,000,000, for fiscal year 2006, $19,000,000, and for fiscal year 2007, $19,000,000".

SEC. 302. AUTHORITY FOR VETERANS' MORTGAGE LIFE INSURANCE TO BE CARRIED BEYOND AGE 70.

Section 2106 is amended—

(1) in subsection (a), by inserting "age 69 or younger" after "any eligible veteran"; and

(2) in subsection (i), by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 303. AUTHORITY TO GUARANTEE HYBRID ADJUSTABLE RATE MORTGAGES.

(a) TWO-YEAR DEMONSTRATION PROJECT TO GUARANTEE CERTAIN ADJUSTABLE RATE MORTGAGES.—Chapter 37 is amended by inserting after section 3707 the following new section:

"§ 3707A. Hybrid adjustable rate mortgages

"(a) The Secretary shall carry out a demonstration project under this section during fiscal years 2004 and 2005 for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act in accordance with the provisions of this section with respect to hybrid adjustable rate mortgages described in subsection (b).

"(b) Adjustable rate mortgages that are guaranteed under this section shall be adjustable rate mortgages (commonly referred to as 'hybrid adjustable rate mortgages') having interest rate adjustment provisions that—

"(1) specify an initial rate of interest that is fixed for a period of not less than the first three years of the mortgage term;

"(2) provide for an initial adjustment in the rate of interest by the mortgagee at the end of the period described in paragraph (1); and

"(3) comply in such initial adjustment, and any subsequent adjustment, with subsection (c).

"(c) Interest rate adjustment provisions of a mortgage guaranteed under this section shall—

"(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

"(2) be made by adjusting the monthly payment on an annual basis;

"(3) be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and

"(4) be limited, over the term of the mortgage, to a maximum increase of 5 percentage points above the initial contract interest rate.

"(d) The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account—

"(1) the status of the interest rate index referred to in subsection (c)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

"(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

"(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

"(4) such other factors as the Secretary finds appropriate.

"(e) The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first five years of the mortgage term.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 37 is amended by inserting after the item relating to section 3707 the following new item:

"3707A. Hybrid adjustable rate mortgages.".

SEC. 304. INCREASE IN AMOUNT PAYABLE AS MEDAL OF HONOR SPECIAL PENSION.

(a) INCREASE IN AMOUNT.—Subsection (a) of section 1562 is amended by striking "$600" and inserting "$1,000, as adjusted from time to time under subsection (e)".

(b) ANNUAL ADJUSTMENT.—That section is further amended by adding at the end the following new subsection:

"(e) Effective as of December 1 each year, the Secretary shall increase the amount of monthly special pension payable under subsection (a) as of November 30 of such year by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1 of such year as a result of a determination under section 215(i) of that Act (42 U.S.C. 415(i)).".

(c) PAYMENT OF LUMP SUM FOR PERIOD BETWEEN ACT OF VALOR AND COMMENCEMENT OF SPECIAL PENSION.—That section is further amended by adding after subsection (e), as added by subsection (b) of this section, the following new subsection:

"(f)(1) The Secretary shall pay, in a lump sum, to each person who is in receipt of special pension payable under this section an amount equal to the total amount of special pension that the person would have received during the period beginning on the first day of the first month beginning after the date of the act for which the person was awarded the Medal of Honor and ending on the last day of the month preceding the month in which the person's special pension in fact commenced.

"(2) For each month of a period referred to in paragraph (1), the amount of special pension payable to a person shall be determined using the rate of special pension that was in effect for such month, and shall be payable only if the person would have been entitled to payment of special pension for such month under laws for eligibility for special pension (with the exception of the eligibility law requiring a person to have been awarded a Medal of Honor) in effect at the beginning of such month.".

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on September 1, 2003. No payment may be made pursuant to subsection (f) of section 1562 of title 38, United States Code, as added by subsection (c) of this section, before October 1, 2003.

(2) The Secretary of Veterans Affairs shall not make any adjustment under subsection (e) of section 1562 of title 38, United States Code, as added by subsection (b) of this section, in 2003.

SEC. 305. EXTENSION OF PROTECTIONS UNDER THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940 TO NATIONAL GUARD MEMBERS CALLED TO ACTIVE DUTY UNDER TITLE 32, UNITED STATES CODE.

Section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 511(1)) is amended—

(1) in the first sentence—

(A) by striking "and all" and inserting "all"; and

(B) by inserting before the period the following: ", and all members of the National Guard on service described in the following sentence"; and

(2) in the second sentence, by inserting before the period the following: ", and, in the case of a member of the National Guard, shall include service under a call to active service authorized by the President or the Secretary of Defense for a period of more

than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds''.

SEC. 306. EXTENSION OF INCOME VERIFICATION AUTHORITY.

Section 6103(*l*)(7)(D) of the Internal Revenue Code of 1986 is amended by striking ''September 30, 2003'' in the second sentence after clause (ix) and inserting ''September 30, 2008''.

SEC. 307. FEE FOR LOAN ASSUMPTION.

(a) IN GENERAL.—For the period described in subsection (b), the Secretary of Veterans Affairs shall apply section 3729(b)(2)(I) of title 38, United States Code, by substituting ''1.00'' for ''0.50'' each place it appears.

(b) PERIOD DESCRIBED.—The period referred to in subsection (a) is the period that begins on the date that is 7 days after the date of the enactment of this Act and ends on September 30, 2003.

SEC. 308. TECHNICAL AND CLARIFYING AMENDMENTS.

(a) ELIGIBILITY OF CERTAIN ADDITIONAL VIETNAM ERA VETERANS FOR EDUCATION BENEFITS.—Section 3011(a)(1)(C)(ii) is amended by striking ''on or''.

(b) ACCELERATED PAYMENT OF ASSISTANCE FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY.—(1) Subsection (b)(1) of section 3014A is amended by striking ''employment in a high technology industry'' and inserting ''employment in a high technology occupation in a high technology industry''.

(2)(A) The heading for section 3014A is amended to read as follows:

''§ 3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry''.

(B) The table of sections at the beginning of chapter 30 is amended by striking the item relating to section 3014A and inserting the following new item:

''3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry.''.

(c) SOURCE OF FUNDS FOR INCREASED USAGE OF MONTGOMERY GI BILL ENTITLEMENT UNDER ENTITLEMENT TRANSFER AUTHORITY.—(1) Section 3035(b) is amended—

(A) in paragraph (1), by striking ''paragraphs (2) and (3) of this subsection,'' and inserting ''paragraphs (2), (3), and (4),''; and

(B) by adding at the end the following new paragraph:

''(4) Payments attributable to the increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of this title shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.''.

(2) The amendments made by this subsection shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107), to which such amendments relate.

(d) LICENSING OR CERTIFICATION TESTS.—Section 3689(c)(1)(B) is amended by striking ''the test'' and inserting ''such test, or a test to certify or license in a similar or related occupation,''.

(e) PERIOD OF ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' ASSISTANCE EDUCATION BENEFITS.—(1) Section 3512(a) is amended—

(A) in paragraph (3)—

(i) by striking ''paragraph (4)'' in the matter preceding subparagraph (A) and inserting ''paragraph (4) or (5)''; and

(ii) by striking ''subsection (d)'' in subparagraph (C)(i) and inserting ''subsection (d), or any date between the two dates described in subsection (d)'';

(B) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

(C) by inserting after paragraph (3) the following new paragraph (4):

''(4) if the person otherwise eligible under paragraph (3) fails to elect a beginning date of entitlement in accordance with that paragraph, the beginning date of the person's entitlement shall be the date of the Secretary's decision that the parent has a service-connected total disability permanent in nature, or that the parent's death was service-connected, whichever is applicable;''; and

(D) in paragraph (6), as so redesignated, by striking ''paragraph (4)'' and inserting ''paragraph (5)''.

(2) The amendments made by this subsection shall take effect November 1, 2000.

(f) LOAN FEES.—(1) Section 3703(e)(2)(A) is amended by striking ''3729(b)'' and inserting ''3729(b)(2)(I)''.

(2) The amendment made by paragraph (1) shall take effect as if included in the enactment of section 402 of the Veterans Benefits and Health Care Improvement Act of 2000 (Public Law 106–419; 114 Stat. 1861).

(g) ADDITIONAL MISCELLANEOUS TECHNICAL AMENDMENTS TO TITLE 38, UNITED STATES CODE.—(1)(A) The tables of chapters preceding part I and at the beginning of part IV are each amended by striking ''5101'' in the item relating to chapter 51 and inserting ''5100''.

(B) The table of parts preceding part I is amended by striking ''5101'' in the item relating to part IV and inserting ''5100''.

(2) Section 107(d)(2) is amended by striking ''the date of the enactment of this subsection'' and inserting ''November 1, 2000,''.

(3) Section 1701(10)(A) is amended by striking ''the date of the enactment of the Veterans' Millennium Health Care and Benefits Act'' and inserting ''November 30, 1999,''.

(4) Section 1705(c)(1) is amended by striking ''Effective on October 1, 1998, the Secretary'' and inserting ''The Secretary''.

(5) Section 1707(a) is amended by inserting ''(42 U.S.C. 14401 et seq.)'' before the period at the end.

(6) Section 1710(e)(1)(D) is amended by striking ''the date of the enactment of this subparagraph'' and inserting ''November 11, 1998''.

(7) Section 1729B(b) is amended by striking ''the date of the enactment of this section'' and inserting ''November 30, 1999,''.

(8) Section 1781(d) is amended—

(A) in paragraph (1)(B)(i), by striking ''as of the date'' and all that follows through ''of 2001'' and inserting ''as of June 5, 2001''; and

(B) in paragraph (4), by striking ''paragraph'' and inserting ''subsection''.

(9) Section 3018C(e)(2)(B) is amended by striking the comma after ''April''.

(10) Section 3031(a)(3) is amended by striking ''the date of the enactment of this paragraph'' and inserting ''December 27, 2001''.

(11) Section 3485(a)(4) is amended in subparagraphs (A), (C), and (F), by striking ''the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001'' and inserting ''the period preceding December 27, 2006''.

(12) Section 3734(b)(2) is amended—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B) (C), (D), and (E), respectively.

(13) Section 7315(a) is amended by inserting ''Veterans Health'' in the first sentence after ''in the''.

(h) PUBLIC LAW 107–103.—Effective as of December 27, 2001, and as if included therein as originally enacted, section 103(c) of the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107–103; 115 Stat. 979) is amended by inserting closing quotation marks at the end of the text inserted by the amendment made by paragraph (2).

(i) PUBLIC LAW 102–86.—Section 403(e) of the Veterans' Benefits Programs Improvement Act of 1991 (Public Law 102–86; 105 Stat. 424) is amended by striking ''section 321'' and all that follows through ''and 484)'' and inserting ''subchapter II of chapter 5 of title 40, United States Code, sections 541 through 555 and 1302 of title 40, United States Code''.

SEC. 309. CODIFICATION OF COST-OF-LIVING ADJUSTMENT PROVIDED IN PUBLIC LAW 107–247.

(a) VETERANS' DISABILITY COMPENSATION.—Section 1114 is amended—

(1) by striking ''$103'' in subsection (a) and inserting ''$104'';

(2) by striking ''$199'' in subsection (b) and inserting ''$201'';

(3) by striking ''$306'' in subsection (c) and inserting ''$310'';

(4) by striking ''$439'' in subsection (d) and inserting ''$445'';

(5) by striking ''$625'' in subsection (e) and inserting ''$633'';

(6) by striking ''$790'' in subsection (f) and inserting ''$801'';

(7) by striking ''$995'' in subsection (g) and inserting ''$1,008'';

(8) by striking ''$1,155'' in subsection (h) and inserting ''$1,171'';

(9) by striking ''$1,299'' in subsection (i) and inserting ''$1,317'';

(10) by striking ''$2,163'' in subsection (j) and inserting ''$2,193'';

(11) in subsection (k)—

(A) by striking ''$80'' both places it appears and inserting ''$81''; and

(B) by striking ''$2,691'' and ''$3,775'' and inserting ''$2,728'' and ''$3,827'', respectively;

(12) by striking ''$2,691'' in subsection (l) and inserting ''$2,728'';

(13) by striking ''$2,969'' in subsection (m) and inserting ''$3,010'';

(14) by striking ''$3,378'' in subsection (n) and inserting ''$3,425'';

(15) by striking ''$3,775'' each place it appears in subsections (o) and (p) and inserting ''$3,827'';

(16) by striking ''$1,621'' and ''$2,413'' in subsection (r) and inserting ''$1,643'' and ''$2,446'', respectively; and

(17) by striking ''$2,422'' in subsection (s) and inserting ''$2,455''.

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) is amended—

(1) by striking ''$124'' in subparagraph (A) and inserting ''$125'';

(2) by striking ''$213'' in subparagraph (B) and inserting ''$215'';

(3) by striking ''$84'' in subparagraph (C) and inserting ''$85'';

(4) by striking ''$100'' in subparagraph (D) and inserting ''$101'';

(5) by striking ''$234'' in subparagraph (E) and inserting ''$237''; and

(6) by striking ''$196'' in subparagraph (F) and inserting ''$198''.

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 is amended by striking ''$580'' and inserting ''$588''.

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—(1) Section 1311(a) is amended—

(A) by striking "$935" in paragraph (1) and inserting "$948"; and

(B) by striking "$202" in paragraph (2) and inserting "$204".

(2) The table in section 1311(a)(3) is amended to read as follows:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E–1	$948	W–4	$1,134
E–2	948	O–1	1,001
E–3	948	O–2	1,035
E–4	948	O–3	1,107
E–5	948	O–4	1,171
E–6	948	O–5	1,289
E–7	980	O–6	1,453
E–8	1,035	O–7	1,570
E–9	[1]1,080	O–8	1,722
W–1	1,001	O–9	1,843
W–2	1,042	O–10 ...	[2]2,021
W–3	1,072		

"[1]If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,165.

"[2]If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,168.".

(3) Section 1311(b) is amended by striking "$234" and inserting "$237".

(4) Section 1311(c) is amended by striking "$234" and inserting "$237".

(5) Section 1311(d) is amended by striking "$112" and inserting "$113".

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—(1) Section 1313(a) is amended—

(A) by striking "$397" in paragraph (1) and inserting "$402";

(B) by striking "$571" in paragraph (2) and inserting "$578";

(C) by striking "$742" in paragraph (3) and inserting "$752"; and

(D) by striking "$742" and "$143" in paragraph (4) and inserting "$752" and "$145", respectively.

(2) Section 1314 is amended—

(A) by striking "$234" in subsection (a) and inserting "$237";

(B) by striking "$397" in subsection (b) and inserting "$402"; and

(C) by striking "$199" in subsection (c) and inserting "$201".

TITLE IV—JUDICIAL MATTERS

SEC. 401. STANDARD FOR REVERSAL BY COURT OF APPEALS FOR VETERANS CLAIMS OF ERRONEOUS FINDING OF FACT BY BOARD OF VETERANS' APPEALS.

(a) STANDARD FOR REVERSAL.—Paragraph (4) of subsection (a) of section 7261 is amended—

(1) by inserting "adverse to the claimant" after "material fact"; and

(2) by inserting "or reverse" after "and set aside".

(b) REQUIREMENTS FOR REVIEW.—Subsection (b) of that section is amended to read as follows:

"(b) In making the determinations under subsection (a), the Court shall review the record of proceedings before the Secretary and the Board of Veterans' Appeals pursuant to section 7252(b) of this title and shall—

"(1) take due account of the Secretary's application of section 5107(b) of this title; and

"(2) take due account of the rule of prejudicial error.".

(c) APPLICABILITY.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall apply with respect to any case pending for decision before the United States Court of Appeals for Veterans Claims other than a case in which a decision has been entered before the date of the enactment of this Act.

SEC. 402. REVIEW BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT OF DECISIONS OF LAW OF COURT OF APPEALS FOR VETERANS CLAIMS.

(a) REVIEW.—Section 7292(a) is amended by inserting "a decision of the Court on a rule of law or of" in the first sentence after "the validity of".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to any appeal—

(1) filed with the United States Court of Appeals for the Federal Circuit on or after the date of the enactment of this Act; or

(2) pending with the United States Court of Appeals for the Federal Circuit as of the date of the enactment of this Act in which a decision has not been rendered as of that date.

SEC. 403. AUTHORITY OF COURT OF APPEALS FOR VETERANS CLAIMS TO AWARD FEES UNDER EQUAL ACCESS TO JUSTICE ACT FOR NON-ATTORNEY PRACTITIONERS.

The authority of the United States Court of Appeals for Veterans Claims to award reasonable fees and expenses of attorneys under section 2412(d) of title 28, United States Code, shall include authority to award fees and expenses, in an amount determined appropriate by the United States Court of Appeals for Veterans Claims, of individuals admitted to practice before the Court as non-attorney practitioners under subsection (b) or (c) of Rule 46 of the Rules of Practice and Procedure of the United States Court of Appeals for Veterans Claims.

Amendment to the title of S. 2237

Amend the title so as to read: "An Act to amend title 38, United States Code, to improve authorities of the Department of Veterans Affairs relating to veterans' compensation, dependency and indemnity compensation, and pension benefits, education benefits, housing benefits, memorial affairs benefits, life insurance benefits, and certain other benefits for veterans, to improve the administration of benefits for veterans, to make improvements in procedures relating to judicial review of veterans' claims for benefits, and for other purposes.".

Mr. SIMPSON. Mr. Speaker, I rise in strong support for S. 2237, the Veterans Benefits Act of 2002. This sweeping measure encompasses enhancements to veterans' compensation, pension, insurance and home loan benefits, among other matters.

The Veterans Benefits Act of 2002 compromises provisions included in S. 2237 and five House bills previously considered in this body. I will highlight a few of the provisions:

I am especially pleased that we are able to extend VA health care eligibility to surviving spouses who remarry after age 55. Under current law, a surviving spouse is not entitled to this benefit while married. As I explained to Ms. Blackwell following her testimony before our subcommittee, I wish we had the means at this time to be more generous to these deserving spouses. However, as the chairman has indicated, this is a first step in restoring entitlement to the host of benefits these women and men must give up when they remarry later in life. I thank MIKE BILIRAKIS for his leadership on this issue.

The bill also includes modest increases in funding for State approving agencies given the additional statutory duties SAAs now perform in maintaining the integrity of servicemember and veterans' education and training programs. These new funding levels are $14 million for fiscal year 2003, $18 million for fiscal year 2004, $18 million for fiscal year 2005, $19 million for fiscal year 2006, and $19 million for fiscal year 2007.

I especially look forward to an aggressive initiative by SAAs in seeking out and approving for veterans' training, employer-based on-job training, and apprenticeship opportunities across the country. Our veterans use of VA educational assistance programs for OJT and apprenticeship is very limited. Lastly, I agree with Chairman SMITH; VA's OJT apprenticeship program largely is still based on the original World War II model. Congress has some serious work to do in updating this program next year.

S. 2237, as amended, provides coverage under the Soldiers' and Sailors' Civil Relief Act to members of the National Guard who are called to active service for more than 30 consecutive days to respond to a national emergency. I recognize LANE EVANS for his work on this proposal.

The bill also increases the Medal of Honor special pension from $600 to $1,000 per month. I am pleased we are able to recognize, albeit in a small way, our nation's real heroes.

S. 2237, as amended, authorizes the Secretary of the Army to place a new memorial at Arlington National cemetery in honor of veterans who fought in the Battle of the Bulge of World War II, one of the greatest land battles of that war.

In addition, S. 2237 provides enhancements to existing authorities which provide compensation to women veterans and veterans with hearing loss.

Mr. Speaker, we have worked with the Senate on this bill for many months, and I'm proud of the outcome. Many veterans and their survivors will indeed benefit.

I must give due recognition to the Chairman and Ranking Member, CHRIS SMITH and LANE EVANS, respectively, for their unwavering leadership. During the 107th Congress, this committee has brought to the floor 23 bills, all of which passed the House overwhelmingly. I must also thank my good friend, the Ranking Member of the Benefits Subcommittee, SILVESTRE REYES.

Mr. Speaker, I urge my colleagues to support S. 2237, this final veterans package of the 107th Congress.

Mr. EVANS. Mr. Speaker, I rise in strong support of the bill, S. 2237, as agreed to by both the House and the Senate. This bill improves compensation benefits for hearing disabled veterans and for women veterans, extends protection under the Soldiers' and Sailors' Civil Relief Act to members of the National Guard and provides improvements to the judicial review of claims for veterans benefits.

The agreement before the House is the result of the efforts of many people on both sides of the aisle. I thank our Chairman, CHRIS SMITH, for his determined and effective leadership. I also thank other Members of our House Committee; the leadership of the Veterans Affairs Committee in the other body and, of course, the staff of our House Committee who have worked long and hard on this legislation. In particular, I thank Mary Ellen McCarthy and Geoffrey Collver for their untiring efforts.

S. 2237 incorporates provisions from a number of bills passed by the House. The Veterans Benefits Act of 2002 will allow surviving spouses who remarry after age 55 to retain CHAMPVA health insurance benefits. Mr. Speaker, I was honored by the Gold Star Wives of America for my advocacy on behalf of surviving spouses of veterans. While I am pleased that these spouses, like civil service surviving spouses will be able to retain health insurance benefits, I am extremely disappointed that the provision allowing Dependency and Indemnity Compensation (DIC) recipients to remarry after age 65 and retain those benefits was not included in the final bill. I hope that in the next Congress, these surviving spouses will be able to receive full comparability with federal civil service survivors who are allowed to remarry at age 55 without loss of benefits.

The bill also includes provisions similar to those contained in H.R. 4017, which I introduced, in order to provide members of the National Guard who serve for at least 30 consecutive days with protections under the Soldiers' and Sailors' Civil Relief Act (SSCRA). The SSCRA protects those who are serving our country from civil actions and reduces the rate of interest on certain obligations entered into prior to being activated for military service. When we ask the men and women of the National Guard to respond to a national emergency, such as the services required following the tragedies of September 11th, we have a responsibility to assure that their service to our country will not place them in unnecessary financial jeopardy.

Mr. Speaker, the bill expands the jurisdiction of the Court of Appeals for the Federal Circuit over cases appealed from the Court of Appeals for Veterans Claims to cover all questions of law and not merely interpretations of statutes and regulations. It clarifies the authority of the Court of Appeals for Veterans Claims to reverse decisions of the Board of Veterans Appeals in appropriate cases and requires the decisions be based upon the record as a whole, taking into account the pro-veteran rule known as "benefit of the doubt." Under the bill, non-attorneys who are permitted to practice before the Court of Veterans Appeals will be able to qualify for fees under the Equal Access to Justice Act even if they are not supervised by an attorney. Under current law, these practitioners are eligible for these fees only if their work is supervised by an attorney. I hope these changes will provide fairer and more efficient decisions on veterans' claims.

In addition to these benefit provisions, S. 2237 also:

Authorizes a study by the National Academy of Science concerning the relationship of military hearing loss and acoustic trauma to military service.

Authorizes the placement of a memorial to the World War II Battle of the Bulge at Arlington National Cemetery.

Allows severely disabled service-connected veterans who qualify for Veterans Mortgage Life Insurance to retain their coverage regardless of age.

Authorizes a two-year program of hybrid adjustable rate mortgages under the VA home loan program.

Provides for an increase to $1000 per month in special pension benefits payable to persons who have been awarded the Medal of Honor.

Sets forth the amounts of benefits to be paid as service-connected compensation and DIC benefits effective December 1, 2002.

S. 2237 will now be considered by the Senate. If S. 2237 is passed by the Senate as approved by the House, it will be sent to the White House to be signed into law by President Bush.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. SMITH of New Jersey. Mr. Speaker, the bill which is before the House represents a compromise measure that has been worked out with the Senate on a number of benefit-related measures considered this year.

In May of this year, the House considered and passed H.R. 4085, the Veterans and Survivors Benefits Expansion Act. There were three major provisions in that bill: (1) the annual cost-of-living adjustment for disabled veterans and the survivors eligible for dependency and indemnity compensation; (2) a revision to the eligibility for survivor benefits so that surviving spouses of veterans who died of service-related causes could retain their eligibility for veterans' benefit even if they remarried after age 65; and (3) a reduction in the loan fees payable by reservists who use the VA home loan program.

The Senate stripped all but the COLA from H.R. 4085 at the end of September and returned it to the House. We agreed to the clean COLA bill, which was signed by President Bush and is Public Law 107–247.

The Senate also sent us a benefits bill, S. 2237, which has become the vehicle for the compromises worked out by the two committees for the provisions previously contained in H.R. 4085 and a number of provisions contained in the Senate bill passed last month.

Because of an evolving budget situation, the committees found themselves forced to offset virtually all of the PAYGO costs associated with the bill. The Senate bill had basically none of the provisions originally contained in H.R. 4085. Instead, it proposed to expand eligibility for service-connected hearing loss and allow veterans to obtain a "hybrid" adjustable rate mortgage using their VA home loan eligibility.

The compromise includes modified versions of these important Senate provisions. It does not include the DIC change proposed by the House, although it provides eligibility for CHAMPVA for surviving spouses who remarried after age 55. They must apply for this benefit within one year of the date the President signs this legislation. This and other changes were made in order to keep the bill within strict budget guidelines governing direct spending, or PAYGO.

The compromise includes a House-passed provision authorizing the placement of a memorial at Arlington National Cemetery honoring veterans of the Battle of the Bulge. It includes as well a provision which originated in the House to raise the Medal of Honor pension to $1,000 monthly and to make retroactive payments for those who were awarded this medal.

A provision is also included to extend coverage under the Soldiers' and Sailors' Civil Relief Act to members of the National Guard who are called to active service for more than 30 consecutive days to respond to a national emergency. Many members expressed an interest in this particular provision, and I commend Mr. EVANS for a similar proposal in H.R. 4017. Senator Wellstone was the author of a Senate proposal, and I am pleased that our compromise agreement on this is built upon their work.

For the benefit of my colleagues, I include at this point in the RECORD a joint explanatory statement describing the compromise agreement we have reached with the other body.

Mr. Speaker, I urge all Members to support this bipartisan measure for our Nation's veterans.

EXPLANATORY STATEMENT ON HOUSE AMENDMENT TO SENATE BILL, S. 2237

S. 2237, as amended, the "Veterans Benefits Act of 2002," reflects a Compromise Agreement the Senate and House Committees on Veterans' Affairs have reached on the following bills considered in the House and Senate during the 107th Congress: S. 2237 ("Senate Bill"), H.R. 2561, H.R. 3423, H.R. 4085, H.R. 4940, and H.R. 5055 ("House Bills"). S. 2237, as amended, passed the Senate on September 26, 2002; H.R. 2561 and H.R. 3423, as amended, passed the House on December 20, 2001; H.R. 4085, as amended, passed the House on May 21, 2002; and H.R. 4940, as amended, and H.R. 5055 passed the House on July 22, 2002.

The Senate and House Committees on Veterans' Affairs have prepared the following explanation of S. 2237, as amended, ("Compromise Agreement"). Differences between the provisions contained in the Compromise Agreement and the related provisions of S. 2237, H.R. 2561, H.R. 3423, H.R. 4085, H.R. 4940, H.R. 5055, are noted in this document, except for clerical corrections, conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

TITLE I—COMPENSATION AND BENEFITS IMPROVEMENTS

Retention of Civilian Health and Medical Program of the Department of Veterans Affairs for Surviving Spouses Remarrying After Age 55

Current law

Section 103(d) of title 38, United States Code, prohibits a surviving spouse who has remarried from receiving dependency and indemnity compensation ("DIC"), VA health insurance under the Civilian Health and Medical Program of the Department of Veterans Affairs ("CHAMPVA"), home loan, and education benefits. These benefits may be reinstated in the event the subsequent remarriage is terminated.

House bill

Section 3 of H.R. 4085 would allow a surviving spouse who remarries after attaining age 65 to retain DIC, CHAMPVA health insurance, home loan, and education benefits. Spouses who remarried at age 65 or older prior to enactment of the bill would have one year from the date of enactment to apply for reinstatement of DIC and related benefits.

The amount of DIC would be paid with no reduction of certain other benefits to which the surviving spouse might be entitled.

Senate bill

The Senate Bill contains no comparable provision.

Compromise agreement

Section 101 of the Compromise Agreement would provide that a surviving spouse, upon remarriage after attaining age 55, would retain CHAMPVA eligibility. Surviving spouses who remarried after attaining age 55 but prior to enactment of this Act would have one year to apply for reinstatement of this benefit. The Committees expect the Secretary will maintain data concerning the number of surviving spouses who become eligible or retain eligibility under this provision.

The Committees intend in the 108th Congress to consider full restoration of benefits for surviving spouses who remarry after attaining age 55.

Clarification of Entitlement to Special Monthly Compensation for Women Veterans Who Have Service-connected Loss of Breast Tissue

Current law

Section 1114(k) of title 38, United States Code, authorizes the Department of Veterans Affairs ("VA") to provide special monthly compensation to any woman veteran who "has suffered the anatomical loss of one or both breasts (including loss by mastectomy)" as a result of military service. Regulations published at section 4.116 of title 38, Code of Federal Regulations, have limited this compensation to "Anatomical loss of a breast exists when there is complete surgical removal of breast tissue (or the equivalent loss of breast tissue due to injury). As defined under this section, radical mastectomy, modified radical mastectomy, and simple (or total) mastectomy result in anatomical loss of a breast, but wide local excision, with or without significant alteration of size or form, does not."

Senate bill

Section 101 of S. 2237 would amend section 1114(k) of title 38, United States Code, to specify that women veterans who have suffered the anatomical loss of half of the tissue of one or both breasts in or as a result of military service may be eligible for special monthly compensation.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 102 of the Compromise Agreement follows the Senate language, and would amend it to extend eligibility to women veterans who have suffered the anatomical loss of 25 percent or more of tissue from one or both breasts (including loss by mastectomy or partial mastectomy) or who received radiation treatment of breast tissue. The Committees intend that this change should extend eligibility for special monthly compensation to women veterans whose medical treatments (other than "cosmetic surgery") or injuries have resulted in a significant change in size, form, function, or appearance of one or both breasts.

Specification of Hearing Loss Required for Compensation For Hearing Loss in Paired Organs

Current Law

Under section 1160 of title 38, United States Code, special consideration is extended to a veteran's service-connected disabilities in "paired organs or extremities," such as kidneys, lungs, feet, or hands. For these paired organs or extremities, VA is authorized when rating disability to consider any degree of damage to both organs, even if only one resulted from military service. Total impairment is not a requirement for kidneys, hands, feet, or lungs. Proportional impairment, such as "the loss or loss of use of one kidney as a result of service-connected disability and involvement of the other kidney as a result of non-service-connected disability," is specifically provided for in subsections (2), (4), and (5) of section 1160(a) of title 38, United States Code. However, total deafness in both ears is required under section 1160(a)(3) of title 38, United States Code, for special consideration of hearing loss.

Senate bill

Section 102 of S. 2237 would eliminate the word "total" from section 1160(a)(3) of title 38, United States Code, and allow VA to consider partial non-service-connected hearing loss in one ear when rating disability for veterans with compensable service-connected hearing loss in the other ear.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 103 of the Compromise Agreement follows the Senate language.

Assessment of Acoustic Trauma Associated With Military Service From World War II to Present

Current law

There is no applicable current law.

SENATE BILL

Section 103(a) of S. 2237 would authorize the Secretary to establish a presumption of service connection for hearing loss or tinnitus in veterans who served in certain military occupational specialties during specific periods of time if VA finds that evidence warrants such a presumption. Section 103(b) would extend presumption rebuttal provisions in title 38, United States Code, to cover service-connected hearing loss, should such a presumption be established.

Section 103(c) of the Senate Bill would require VA to enter into a contract with the National Academy of Sciences ("NAS") or an equivalent scientific organization to review scientific evidence on forms of acoustic trauma that could contribute to hearing disorders for personnel serving in specific military occupational specialties. Section 103(c)(2)(B) of the Senate Bill would direct NAS to identify forms of acoustic trauma likely to cause hearing damage in servicemembers, and, in section 103(c)(2)(C), to determine whether such damage would be immediate, cumulative, or delayed. Section 103(c)(2)(D) of the Senate Bill would require NAS to assess when audiometric data collected by the military services became adequate to allow an objective assessment of individual exposure by VA, examining a representative sample of records from World War II to present by period of service. Section 103(c)(2)(E) of the Senate Bill would require NAS to identify military occupational specialties in which servicemembers are likely to be exposed to sufficient acoustic trauma to cause hearing disorders.

Section 103(d) of S. 2237 would require VA to report on medical care provided to veterans for hearing disorders from fiscal years 1999–2001; on the number of disability compensation claims received and granted for hearing loss, tinnitus, or both during those years; and an estimate of the total cost to VA of adjudicating those claims in full-time employee equivalents.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 104 of the Compromise Agreement would strike sections 103(a) and 103(b) of the Senate Bill authorizing a presumption of service connection. The Compromise Agreement follows the Senate language requiring VA to enter into a contract with NAS, but would change the focus of the study to assessment of acoustic trauma associated with military service from World War II to present.

The Compromise Agreement would strike sections 103(c)(2)(B), 103(c)(2)(D), 103(c)(2)(E), and all references to military occupational specialties. The Compromise Agreement follows the Senate language requiring NAS to determine how much exposure to acoustic trauma or noise damage during military service might cause or contribute to hearing loss, hearing threshold shift, or tinnitus, and whether this damage may be immediate- or delayed-onset, cumulative, progressive, or a combination of these.

The Compromise Agreement would preserve provisions requiring NAS to assess when audiometric measures became adequate to assess individual hearing threshold shift reliably and when sufficiently protective hearing conservation measures became available. It would also add a third provision requiring NAS to identify age, occupational history, and other factors which could contribute to an individual's noise-induced hearing loss.

In assessing when audiometric data collected by the military became adequate for VA to evaluate if a veteran's hearing threshold shift could be detected at or prior to separation, the Committees intend for NAS to review and report on a representative sample of individual records. This should reflect not only an appropriate distribution of individuals among the various Armed Forces, but within each military service branch so that these records represent servicemembers who might reasonably be expected to have different levels of noise exposure in the course of their duties. The representative sample should also include records of servicemembers discharged during or after distinct periods of war or conflict and consider the environment in which they served in order to gauge how adequately each branch collected audiometric data following World War II, the Korean conflict, the Vietnam era, and during and following the Persian Gulf War.

The Compromise Agreement would generally follow the Senate language requiring VA to report on hearing loss claims and medical treatment for hearing disorders. The Compromise Agreement would amend this language to refer to the number of decisions issued and their results, rather than claims submitted in fiscal years 2000 through 2002, and would remove references to military occupational specialties.

TITLE II—MEMORIAL AFFAIRS

Prohibition on Certain Additional Benefits For Persons Committing Capital Crimes

Current law

Sections 2411 and 2408(d) of title 38, United States Code, prohibit persons who are convicted of capital crimes from interment or memorialization in National Cemetery Administration cemeteries, Arlington National

Cemetery ("ANC"), or a State cemetery that receives VA grant funding. Section 5313 of title 38, United States Code, further limits VA benefits available to veterans who die while fleeing prosecution or after being convicted of a capital crime.

Senate bill

Section 402 of S. 2237 would prohibit the issuance of Presidential Memorial Certificates, flags, and memorial headstones or grave markers to veterans convicted of or fleeing from prosecution for a State or Federal capital crime.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 201 of the Compromise Agreement follows the Senate language.

Procedures for Disqualification of Persons Committing Capital Crimes For Interment or Memorialization in National Cemeteries

Current law

Section 2411 of title 38, United States Code, prohibits interment or memorialization in National Cemetery Administration cemeteries or in Arlington National Cemetery ("ANC") of any person convicted of a capital crime. This section further prohibits interment or memorialization of persons found by the Secretary of Veterans Affairs or the Secretary of the Army to have committed capital crimes but who avoided conviction of the crime through flight or death preceding prosecution. In such cases, the Secretary of Veterans Affairs or the Secretary of the Army must receive notice from the Attorney General of the United States, or the appropriate State official, of the Secretary's own finding before the prohibition shall apply.

Senate bill

Section 403 of S. 2237 would eliminate the requirement that the Secretary of Veterans Affairs or the Secretary of the Army be notified of a finding by the Attorney General or the appropriate State official in cases of persons who are found to have committed capital crimes but who avoided conviction of the crime through flight or death preceding prosecution.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 202 of the Compromise Agreement follows the Senate language.

Application of Department of Veterans Affairs Benefit for Government Markers for Marked Graves of Veterans at Private Cemeteries to Veterans Dying on or After September 11, 2001

Current law

Section 2306(d)(1) provides that the Secretary shall furnish a government marker to those families who request one for the marked grave of a veteran buried at a private cemetery, who died on or after December 27, 2001.

House Bill

Section 6 of H.R. 4940 would make section 2306(d)(1) retroactive to veterans who died on or after September 11, 2001.

Senate Bill

The Senate Bill contains no comparable provision.

Compromise agreement

Section 203 of the Compromise Agreement follows the House language.

Authorization of Placement of Memorial in Arlington National Cemetery Honoring World War II Veterans Who Fought in the Battle of the Bulge

Current law

Section 2409 of title 38, United States Code, authorizes the Secretary of Army to erect appropriate memorials or markers in Arlington National Cemetery to honor the memory of members of the Armed Forces.

House bill

H.R. 5055 would authorize the Secretary of the Army to place in ANC a new memorial marker honoring veterans who fought in the Battle of the Bulge during World War II. The Secretary of the Army would have exclusive authority to approve an appropriate design and site within ANC for the memorial.

Senate bill

The Senate Bill contains no comparable provision.

Compromise agreement

Section 204 of the Compromise Agreement would authorize the Secretary of the Army to place in ANC a new memorial marker honoring veterans who fought in the Battle of the Bulge.

TITLE III—OTHER MATTERS

Increase in Aggregate Annual Amount Available for State Approving Agencies for Administrative Expenses for Fiscal Years 2003, 2004, 2005, 2006, and 2007

Current law

Section 3674(a)(4) of title 38, United States Code, funds State approving agencies. From fiscal years 1995 to 2000, State approving agency ("SAA") funding was capped, with no annual increase, at $13 million. Public Law 106–419 increased SAA funding to $14 million for fiscal years 2001 and 2002. Under current law, the authorization amount was reduced to $13 million as of October 1, 2002. SAAs are the agencies that determine which schools, courses, and training programs qualify as eligible for veterans seeking to use their GI Bill benefits.

Senate bill

Section 201 of S. 2237 would restore SAA funding to $14 million per year and would increase it to $18 million per year during fiscal years 2003, 2004, and 2005.

House bill

Section 6 of H.R. 4085 contains an identical provision.

Compromise agreement

Section 301 of the Compromise Agreement would restore SAA funding at $14 million for fiscal year 2003, $18 million for fiscal year 2004, $18 million for fiscal year 2005, $19 million for fiscal year 2006, and $19 million for fiscal year 2007.

Authority for Veterans' Mortgage Life Insurance To Be Carried Beyond Age 70

Current law

Section 2106(i)(2) of title 38, United States Code, provides that Veterans' Mortgage Life Insurance ("VMLI") shall be terminated on the veteran's seventieth birthday. VMLI is designed to provide financial protection to cover eligible veterans' home mortgages in the event of death. VMLI is issued only to those severely disabled veterans who have received grants for Specially Adapted Housing from the Department of Veterans Affairs.

House bill

Section 5(b) of H.R. 4085 would permit veterans eligible for specially-adapted housing grants to continue their VMLI coverage beyond age 70. No new policies would be issued after age 70.

Senate bill

The Senate Bill contains no comparable provision.

Compromise agreement

Section 302 of the Compromise Agreement follows the House language.

Authority To Guarantee Hybrid Adjustable Rate Mortgages

Current law

There is no authorization in current law for VA to guarantee adjustable rate mortgages ("ARMs") and hybrid adjustable rate mortgages ("hybrid ARMs"). A hybrid ARM combines features of fixed rate mortgages and adjustable rate mortgages. A hybrid ARM has a fixed rate of interest for at least the first 3 years of the loan, with an annual interest rate adjustment after the fixed rate has expired.

Senate bill

Section 301 of S. 2237 would authorize VA to establish a three-year pilot program to guarantee hybrid ARMs and reauthorize a fiscal year-1993 to 1995 pilot program to guarantee conventional ARMs. This authority would begin in fiscal year 2003 and expire at the end of fiscal year 2005.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 303 of the Compromise Agreement would authorize VA to guarantee hybrid ARMs for a period of two years. The effective date of this provision would be October 1, 2003.

Increase in the Amount Payable as Medal of Honor Special Pension

Current law

Section 1562 of title 38, United States Code, provides a special pension of $600 per month to recipients of the Medal of Honor. Eligibility to receive the Medal of Honor special pension is contingent upon having first been awarded the Medal of Honor.

Senate bill

Section 104 of S. 2237 would increase the Medal of Honor special pension from $600 to $1,000 per month. Beginning in January 2003, the pension amount would be adjusted annually to maintain the value of the pension in the face of the rising cost of living. The amount of this adjustment would match the percentage of the cost-of-living adjustment paid to Social Security recipients. The Senate Bill would also provide for a one-time, lump-sum payment in the amount of special pension the recipient would have received between the date of the act of valor and the date that the recipient's pension actually commenced.

House bill

H.R. 2561 would increase the special pension payable to Medal of Honor recipients from $600 to $1,000 per month, and provide a lump sum payment for existing Medal of Honor recipients in an amount equal to the total amount of special pension that the person would have received had the person received special pension during the period beginning the first day of the month that began after the act giving rise to the receipt of the Medal of Honor, and ending with the last day of the month preceding the month that such person's special compensation commenced. H.R. 2561 also would provide criminal penalties for the unauthorized purchase or possession of the Medal and for making a false representation as a Medal recipient.

Compromise agreement

Section 304 of the Compromise Agreement follows the Senate language, but would modify the effective date of the provision to September 1, 2003. It is the Committee's understanding that the first month a Medal of Honor recipient would receive special pension is October 2003.

It is the Committees' intent that the lump sum payment of special pension be determined using the rates of special pension and the laws of eligibility in effect (including applicable age requirements) for months beginning after an individual's act of gallantry. Excluded from this rule would be the law of eligibility requiring an individual to have been awarded a Medal of Honor.

Extension of Protections Under Soldiers' and Sailors' Civil Relief Act of 1940 to National Guard Members Called to Active Duty Under Title 32, United States Code

Current law

The Soldiers' and Sailors' Civil Relief Act of 1940 ("SSCRA"), sections 510 et seq., of title 50, United States Code Appendix, suspends enforcement of certain civil liabilities and provides certain rights and legal protections to servicemembers who have been called up to active duty under title 10, United States Code. However, these protections do not extend to National Guard members called to duty under section 502(f) of title 32, United States Code, "to perform training or other duty." Certain homeland security duties performed under title 32, United States Code, such as protecting the nation's airports, have been carried out at the request and expense of the Federal government with National Guard members under the command of their state governors.

Senate bill

Section 401 of S. 2237 would expand SSCRA protections to include those National Guard members serving full-time, upon an order of the Governor of a State at the request of the head of a Federal law enforcement agency and with the concurrence of the Secretary of Defense, under 502(f) of title 32, United States Code for homeland security purposes.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 305 of the Compromise Agreement would provide that when members of the National Guard are called to active service for more than 30 consecutive days under section 502(f) of title 32, United States Code, to respond to a national emergency declared by the President, coverage under the provisions of the SSCRA would be available. The Committees note that this provision is intended to extend protections of the SSCRA to members of the National Guard when called to duty under circumstances similar to those following the terrorist attacks of September 11, 2001.

EXTENSION OF INCOME VERIFICATION AUTHORITY

Current law

Section 6103(*l*)(7)(D) of the Internal Revenue Code gives the Internal Revenue Service ("IRS") authority to furnish income information to the VA from IRS records so that VA might determine eligibility for VA need-based pension, parents dependency and indemnity compensation, and priority for VA health-care services. This provision currently expires on September 30, 2003, pursuant to Public Law 105–33.

Section 5317 of title 38, United States Code, provides parallel authority for VA to use IRS information and requires VA to notify applicants for needs-based benefits that income information furnished by the applicant may be compared with the information obtained from the Departments of Health and Human Services and Treasury under section 6103(*l*)(7)(D). This parallel authority is scheduled to expire on September 30, 2008, pursuant to Public Law 106–409.

Senate bill

Section 106(a) of S. 2237 would extend section 6103(*l*)(7)(D) of the Internal Revenue Code through September 30, 2011. Section 106(b) would extend section 5317 of title 38, United States Code, through September 30, 2011.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 306 of the Compromise Agreement would extend section 6103(*l*)(7)(D) of the Internal Revenue Code through September 30, 2008.

Fee for Loan Assumption

Current law

Section 3729(b)(2)(I) of title 38, United States Code, requires a 0.50 percent loan fee for active-duty servicemembers, veterans, Reservists, and others participating in loan assumptions under section 3714.

Senate bill

The Senate Bill contains no comparable language.

House bill

The House Bills contain no comparable language.

Compromise agreement

Section 307 of the Compromise Agreement would increase the loan fee for assumptions for loans closed more than 7 days after enactment in fiscal year 2003 from 0.50 percent to 1.0 percent. The Committees intend this fee increase to expire at the end of fiscal year 2003.

TITLE IV—JUDICIAL MATTERS

The U.S Court of Appeals for Veterans Claims ("CAVC") is an Article I Court of limited jurisdiction. It has come to the Committees' attention that the Administration has disregarded Congressional intent in interpreting the CAVC to be part of the Executive Branch and subject to rescissions of Executive Branch agency budgets, pursuant to section 1403 of Public Law 107–206. The Committees note that while the budget for the Court is included in the President's budget, the Executive Branch has no authority to review it. Public Law 100–687, section 4082(a). It is the Committees' intent to clarify that the CAVC is not part of the Executive Branch. The Committees have so stated on other occasions, *e.g.*, "The Court, established by the Congress under Article I of the Constitution to exercise judicial power, has unusual status as an independent tribunal that is not subject to the control of the President or the executive branch." House of Representatives Report 107–156, July 24, 2001, and Senate Report 107–86, October 15, 2001.

Standard for Reversal by Court of Appeals for Veterans Claims of Erroneous Finding of Fact by Board of Veterans' Appeals

Current law

Under section 7261(a)(4) of title 38, United States Code, the Court of Appeals for Veterans Claims applies a "clearly erroneous" standard of review to findings of fact made by the Board of Veterans' Appeals ("BVA"). The "clearly erroneous" standard has been defined as requiring CAVC to uphold BVA findings of fact if the findings are supported by "a plausible basis in the record . . . even if [CAVC] might not have reached the same factual determinations." *Wensch* v. *Principi*, 15 Vet. App. 362, 366–68 (2001). The recent U.S. Court of Appeals for the Federal Circuit decision of *Hensley* v. *West*, 212 F.3d 1255 (Fed. Cir. 2000) emphasized that CAVC should perform only limited, deferential review of BVA decisions, and stated that BVA fact-finding "is entitled on review to substantial deference." *Id.* at 1263.

Section 5107(b) of title 38, United States Code, provides that VA must find for the claimant when, in considering the evidence of record, there is an approximate balance of positive and negative evidence regarding any material issue including the ultimate merits of the claim. This "benefit of the doubt" standard applicable to proceedings before VA is unique in administrative law. Under the benefit of the doubt rule, unless the preponderance of the evidence is against the claimant, the claim is granted. *Gilbert* v. Derwinski, 1 Vet. App. 49 (1990) and Forshey v. Principi, 284 F.3d 1335 (Fed. Cir. 2002).

Senate bill

Section 501 of S. 2237 would amend section 7261(a)(4) of title 38 to change the standard of review CAVC applies to BVA findings of fact from "clearly erroneous" to "unsupported by substantial evidence." Section 502 would also cross-reference section 5107(b) in order to emphasize that the Secretary's application of the "benefit of the doubt" to an appellant's claim would be considered by CAVC on appeal.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 401 of the Compromise Agreement follows the Senate language with the following amendments.

The Compromise Agreement would modify the standard of review in the Senate bill in subsection (a) by deleting the change to a "substantial evidence" standard. It would modify the requirements of the review the Court must perform when it is making determinations under section 7261(a) of title 38, United States Code. Since the Secretary is precluded from seeking judicial review of decisions of the Board of Veterans Appeals, the addition of the words "adverse to the claimant" in subsection (a) is intended to clarify that findings of fact favorable to the claimant may not be reviewed by the Court. Further, the addition of the words "or reverse" after "and set aside" is intended to emphasize that the Committees expect the Court to reverse clearly erroneous findings when appropriate, rather than remand the case.

New subsection (b) would maintain language from the Senate bill that would require the Court to examine the record of proceedings before the Secretary and BVA and the special emphasis during the judicial process on the benefit of the doubt provisions of section 5107 (b) as it makes findings of fact in reviewing BVA decisions. This would not alter the formula of the standard of review on the Court, with the uncertainty of interpretation of its application that would accompany such a change. The combination of these changes is intended to provide for more searching appellate review of BVA decisions, and thus give full force to the "benefit of doubt" provision.

The Compromise Agreement would also modify the effective date of this provision to apply to cases that have not been decided prior to the enactment of this Act. This provision would not apply to cases in which a decision has been made, but are not final because the time to request panel review or to appeal to the U.S. Court of Appeals for the Federal Circuit ("Federal Circuit") has not expired.

Review by Court of Appeals for the Federal Circuit of Decisions of Law

Current law

Under section 7292(a) of title 38, United States Code, the Federal Circuit may only review CAVC decisions involving questions of law "with respect to the validity of any statute or regulation." It does not explicitly have the authority to hear appeals of CAVC decisions that are not clearly legal interpretations of statutes or regulations.

Senate bill

Section 502 of S. 2237 would amend sections 7292(a) and (c) of title 38, United States Code, to specifically provide for appellate review of a CAVC decision on any rule of law.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 402 of the Compromise Agreement follows the Senate language.

Authority of Court of Appeals for Veterans Claims to Award Fees Under Equal Access to Justice Act to Non-Attorney Practitioners

Current law

Currently, section 2412(d) of title 28, United States Code, the Equal Access to Justice Act ("EAJA"), shifts the burden of attorney fees from the citizen to the government in cases where the government's litigation position is not substantially justified and the citizen qualifies under certain income and asset criteria. Qualified non-attorneys admitted to practice before the CAVC may only receive fees if the EAJA application is signed by an attorney.

Senate bill

Section 503 of S. 2237 would allow qualified non-attorneys admitted to practice before the CAVC to be awarded fees under EAJA for representation provided to VA claimants without the requirement that an attorney sign the EAJA application.

House bill

The House Bills contain no comparable provision.

Compromise agreement

Section 403 of the Compromise Agreement follows the Senate language.

The Committees expect that in determining the amount of reasonable fees payable to non-attorney practitioners, the Court will apply the usual rules applicable to fees for the work of other non-attorneys such as paralegals and law students based upon prevailing market rates for the kind and quality of the services furnished. 28 U.S.C. §2412(d)(2)(A). See, Sandoval v. Brown, 9 Vet. App. 177, 181 (1996).

LEGISLATIVE PROVISIONS NOT ADOPTED

ARLINGTON NATIONAL CEMETERY

Current law

Eligibility for burial at Arlington National Cemetery is governed by federal regulations at section 553.15 of title 32, Code of Federal Regulations. The following categories of persons are eligible for in-ground burial: active duty members of the Armed Forces, except those members serving on active duty for training; retired members of the Armed Forces who have served on active duty, are on a retired list and are entitled to receive retirement pay; former members of the Armed Forces discharged for disability before October 1, 1949, who served on active duty and would have been eligible for retirement under 10 U.S.C. 1202 had the statute been in effect on the date of separation; honorably discharged members of the Armed Forces awarded the Medal of Honor, Distinguished Service Cross, Air Force Cross or Navy Cross, Distinguished Service Medal, Silver Star, or Purple Heart; former prisoners of war who served honorably and who died on or after November 30, 1993; provided they were honorably discharged from the Armed Forces, elected federal officials (the President, Vice President, and Members of Congress), federal cabinet secretaries and deputies, agency directors and certain other high federal officials (level I and II executives), Supreme Court Justices, and chiefs of certain diplomatic missions; the spouse, widow or widower, minor child (under 21 years of age) and, at the discretion of the Secretary of the Army, certain unmarried adult children, and certain surviving spouses.

House bill

H.R. 4940 would codify eligibility criteria for in-ground burial at Arlington National Cemetery: members of the Armed Forces who die on active duty; retired members of the Armed Forces, including reservists who served on active duty; members or former members of a reserve component who, but for age, would have been eligible for retired pay; members of a reserve component who die in the performance of duty while on active duty training or inactive duty training; former members of the Armed Forces who have been awarded the Medal of Honor, Distinguished Service Cross (Air Force Cross or Navy Cross), Distinguished Service Medal, Silver Star, or Purple Heart; former prisoners of war who die on or after November 30, 1993; the President or any former President; members of the Guard or Reserves who served on active duty, who are eligible for retirement, but who have not yet retired; the spouse, surviving spouse, minor child and at the discretion of the Superintendent of Arlington, and certain unmarried adult children. Veterans who do not meet these requirements might qualify for the placement of their cremated remains in Arlington's columbarium.

H.R. 4940 would also provide the President the authority to grant a waiver for burial at Arlington in the case of an individual not otherwise eligible for burial under the criteria outlined above but whose acts, service, or contributions to the Armed Forces were so extraordinary as to justify burial at Arlington. The President would be allowed to delegate the waiver authority only to the Secretary of the Army.

H.R. 4940 would codify existing regulatory eligibility for interment of cremated remains in the columbarium at Arlington (generally, this includes all veterans with honorable service and their dependents), clarify that only memorials honoring military service may be placed at Arlington and set a 25-year waiting period for such memorials, and clarify that in the case of individuals buried in Arlington before the date of enactment, the surviving spouse is deemed to be eligible if buried in the same gravesite.

Senate bill

The Senate Bill contains no comparable provision.

Increase of Veterans' Mortgage Life Insurance ("VMLI") Coverage to $150,000

Current law

Section 2106(b) of title 38, United States Code, provides that VMLI may not exceed $90,000.

House bill

Section 5(a) of H.R. 4085 would increase the maximum amount of coverage available under Veterans' Mortgage Life Insurance from $90,000 to $150,000. This would increase the amount of the outstanding mortgage, which would be payable if the veteran were to die before the mortgage is paid in full.

Senate bill

The Senate Bill contains no comparable provision.

Uniform Home Loan Guaranty Fees for Qualifying Members of the Selected Reserve and Active Duty Veterans

Current law

Section 3729(b) of title 38, United States Code, provides the amounts in fees to be collected from each person participating in VA's Home Loan Guaranty Program. Currently, members of the Selected Reserve pay a 0.75 percent higher funding fee under the home loan program than other eligible veterans.

House bill

Section 4 of H.R. 4085 would amend the Loan Fee Table in section 3729(b) of title 38, United States Code, to provide for uniformity in the funding fees charged to members of the Selected Reserve and active duty veterans for VA home loans. The fee would be reduced for the period beginning on October 1, 2002, and ending on September 30, 2005.

Senate bill

The Senate Bill contains no comparable provision.

Prohibit Assignment of Monthly Veterans Benefits and Create an Education and Outreach Campaign About Financial Services Available to Veterans

Current law

Section 5301 of title 38, United States Code, currently prohibits the assignment or attachment of a veteran's disability compensation or pension benefits. In recent years, private companies have offered contracts to veterans that exchange up-front lump sums for future benefits.

Senate bill

Section 105 of S. 2237 would clarify the applicability of the prohibition on assignment of veterans benefits through agreements regarding future receipt of compensation, pension, or dependency and indemnity compensation. This provision would make violation of this prohibition punishable by a fine and up to one year in jail.

This provision would also require VA to create a five-year education and outreach campaign to inform veterans about available financial services.

House bill

The House Bills contain no comparable provision.

Clarification of Retroactive Application of Provisions of the Veterans Claims Assistance Act

Current law

Public Law 106–475, the Veterans Claims Assistance Act of 2000 ("VCAA"), restored and enhanced VA's duty to assist claimants in developing their claims for veterans benefits. Specifically, section 3(a) of the VCAA requires VA to take certain steps to assist claimants.

Two recent decisions by the U.S. Court of Appeals for the Federal Circuit have found that the provisions in the VCAA pertaining to VA's duty to assist cannot be applied retroactively to claims pending at the time of its enactment. In Dyment v. Principi, 287 F.3d 1377 (Fed. Cir. 2002), the Federal Circuit stated: "The Supreme Court has held that a federal statute will not be given retroactive effect unless Congress has made its contrary intention clear. There is nothing in the VCAA to suggest that section 3(a) was intended to applied [sic] retroactively." In Bernklau v. Principi, 291 F.3d 795, 806 (Fed. Cir. 2002), the Court again concluded: "[S]ection 3(a) of the VCAA does not apply retroactively to require that proceedings that were complete before the Department of Veterans Affairs and were on appeal to the Court of Appeals for Veterans Claims or this court be remanded for readjudication under the new statute."

Senate bill

Section 504 of S. 2237 would apply section 3 of VCAA retroactively to cases that were ongoing either at various adjudication levels within VA or pending at the applicable Federal courts prior to the date of VCAA's enactment. Section 505 of the Senate Bill would provide for claims decided between the handing down of the Dyment case and enactment of this provision to receive the full notice, assistance, and protection afforded under the VCAA.

House bill

The House Bills contain no comparable provision.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Without objection, the various titles are amended.

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF VARIOUS LEGISLATIVE MEASURES

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that, in the engrossment of the measures just passed, the Clerk be authorized to correct spelling, punctuation, numbering, and cross references, and to make such other changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. ARMEY. Mr. Speaker, I ask unanimious consent that all Members may have 5 legislative days within which to revise and extend their remarks on the measures just passed and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills and concurrent resolution of the House of the following titles:

H.R. 3758. An act for the relief of So Hyun Jun.

H.R. 3988. An act to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

H.R. 4727. An act to reauthorize the national dam safety program, and for other purposes.

H.R. 5590. An act to amend title 10, United States Code, to provide for the enforcement and effectiveness of civilian orders of protection on military installations.

H. Con. Res. 487. concurrent resolution authorizing the printing as a House document of a volume consisting of the transcripts of the ceremonial meeting of the House of Representatives and Senate in New York City on September 6, 2002, and a collection of statements by Members of the House of Representatives and Senate from the Congressional Record on the terrorist attacks of September 11, 2001.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3908. An act to reauthorize the North American Wetlands Conservation Act, and for other purposes.

H.R. 5557. An act to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services and Foreign Service in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

The message also announced that the Senate has passed bills and joint resolution and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 2520. An act to amend title 18, United States Code, with respect to the sexual exploitation of children.

S. 2934. An act to amend title 36, United States Code, to clarify the requirements for eligibility in the American Legion.

S. J. Res. 42. Joint resolution commending Sail Boston for its continuing advancement of the maritime heritage of nations, its commemoration of the nautical history of the United States, and its promotion, encouragement, and support of young cadets through training.

S. Con. Res. 155. Concurrent resolution affirming the importance of a national day of prayer and fasting, and expressing the sense of Congress that November 27, 2002, should be designated as a national day of prayer and fasting.

PROVIDING FOR PRINTING AND BINDING OF REVISED EDITION OF RULES AND MANUAL OF HOUSE OF REPRESENTATIVES

Mr. ARMEY. Mr. Speaker, I offer a resolution (H. Res. 614) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 614

Resolved, That a revised edition of the Rules and Manual of the House of Representatives for the One Hundred Eighth Congress be printed as a House document, and that three thousand additional copies shall be printed and bound for the use of the House of Representatives, of which nine hundred copies shall be bound in leather with thumb index and delivered as may be directed by the Parliamentarian of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF COMMITTEE OF TWO MEMBERS TO INFORM THE PRESIDENT THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS OF THE SESSION

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 615) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 615

Resolved, that a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session and are ready to adjourn, unless the President has some other communication to make to them.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF THE COMMITTEE TO INFORM THE PRESIDENT THAT THE TWO HOUSES HAVE COMPLETED THEIR BUSINESS OF THE SESSION AND ARE READY TO ADJOURN

The SPEAKER pro tempore. Pursuant to House Resolution 615, the Chair appoints the following Members of the House to the Committee to notify the President:

The gentleman from Texas, Mr. ARMEY;

The gentleman from Missouri, Mr. GEPHARDT.

AUTHORIZING SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO MAKE APPOINTMENTS AUTHORIZED BY LAW OR BY THE HOUSE NOT WITHSTANDING SINE DIE ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the second session of the 107th Congress, the Speaker, the majority leader, and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING CHAIRMAN AND RANKING MINORITY MEMBER OF EACH STANDING COMMITTEE AND SUBCOMMITTEE TO EXTEND REMARKS IN RECORD

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the chairman and ranking minority member of each standing committee and each subcommittee be permitted to extend their remarks in the RECORD, up to and including the RECORD'S LAST PUBLICATION, AND TO INCLUDE A SUMMARY OF THE WORK OF THAT COMMITTEE OR SUBCOMMITTEE.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO REVISE AND EXTEND REMARKS IN CONGRESSIONAL RECORD UNTIL LAST EDITION IS PUBLISHED

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that Members may have until publication of the last edition of the CONGRESSIONAL RECORD authorized for the second session of the 107th Congress by the Joint Committee on Printing to revise and extend their remarks and to include brief, related extraneous material on any matter occurring before the adjournment of the second session sine die.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONVENING OF FIRST SESSION OF THE 108TH CONGRESS

Mr. ARMEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 53) and ask for its immediate consideration in the House.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 53

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the One Hundred Eighth Congress begin at noon on Tuesday, January 7, 2003.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HOUR OF MEETING ON TUESDAY, NOVEMBER 19, 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Tuesday, November 19, 2002.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF HONORABLE WAYNE T. GILCHREST AND THE HONORABLE TOM DAVIS TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH REMAINDER OF THE SECOND SESSION OF 107TH CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 14, 2002.

I hereby appoint the Honorable WAYNE T. GILCHREST or, if not available to perform this duty, the Honorable TOM DAVIS to act as Speaker pro tempore to sign enrolled bills and joint resolutions through the remainder of the second session of the One Hundred Seventh Congress.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

☐ 0300

INVESTING IN AMERICA'S FUTURE ACT OF 2002

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the bill (H.R. 4664) to authorize appropriations for fiscal years 2003, 2004, and 2005 for the National Science Foundation, and for other purposes, be considered to have been taken from the Speaker's table and the Senate amendments concurred in.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Science Foundation Authorization Act of 2002".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The National Science Foundation has made major contributions for more than 50 years to strengthen and sustain the Nation's academic research enterprise that is the envy of the world.

(2) The economic strength and national security of the United States and the quality of life of all Americans are grounded in the Nation's scientific and technological capabilities.

(3) The National Science Foundation carries out important functions in supporting basic research in all science and engineering disciplines and in supporting science, mathematics, engineering, and technology education at all levels.

(4) The research and education activities of the National Science Foundation promote the discovery, integration, dissemination, and application of new knowledge in service to society and prepare future generations of scientists, mathematicians, and engineers who will be necessary to ensure America's leadership in the global marketplace.

(5) The National Science Foundation must be provided with sufficient resources to enable it to carry out its responsibilities to develop intellectual capital, strengthen the scientific infrastructure, integrate research and education, enhance the delivery of mathematics and science education in the United States, and improve the technological literacy of all people in the United States.

(6) The emerging global economic, scientific, and technical environment challenges long-standing assumptions about domestic and international policy, requiring the National Science Foundation to play a more proactive role in sustaining the competitive advantage of the United States through superior research capabilities.

(7) Commercial application of the results of Federal investment in basic and computing science is consistent with longstanding United States technology transfer policy and is a critical national priority, particularly with regard to cybersecurity and other homeland security applications, because of the urgent needs of commercial, academic, and individual users as well as the Federal and State Governments.

SEC. 3. POLICY OBJECTIVES.

In allocating resources made available under section 5, the Foundation shall have the following policy objectives:

(1) To strengthen the Nation's lead in science and technology by—

(A) increasing the national investment in general scientific research and increasing investment in strategic areas;

(B) balancing the Nation's research portfolio among the life sciences, mathematics, the physical sciences, computer and information science, geoscience, engineering, and social, behavioral, and economic sciences, all of which are important for the continued development of enabling technologies necessary for sustained international competitiveness;

(C) expanding the pool of scientists and engineers in the United States;

(D) modernizing the Nation's research infrastructure; and

(E) establishing and maintaining cooperative international relationships with premier research institutions, with the goal of such relationships being the exchange of personnel, data, and information in an effort to alleviate problems common to the global community.

(2) To increase overall workforce skills by—

(A) improving the quality of mathematics and science education, particularly in kindergarten through grade 12;

(B) promoting access to information technology for all students;

(C) raising postsecondary enrollment rates in science, mathematics, engineering, and technology disciplines for individuals identified in

section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b);

(D) increasing access to higher education in science, mathematics, engineering, and technology fields for students from low-income households; and

(E) expanding science, mathematics, engineering, and technology training opportunities at institutions of higher education.

(3) To strengthen innovation by expanding the focus of competitiveness and innovation policy at the regional and local level.

SEC. 4. DEFINITIONS.

In this Act:

(1) ACADEMIC UNIT.—The term "academic unit" means a department, division, institute, school, college, or other subcomponent of an institution of higher education.

(2) BOARD.—The term "Board" means the National Science Board established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(3) COMMUNITY COLLEGE.—The term "community college" has the meaning given such term in section 3301(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7011(3)).

(4) DIRECTOR.—The term "Director" means the Director of the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(5) ELEMENTARY SCHOOL.—The term "elementary school" has the meaning given that term by section 9101(18) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(18)).

(6) ELIGIBLE NONPROFIT ORGANIZATION.—The term "eligible nonprofit organization" means a nonprofit research institute, or a nonprofit professional association, with demonstrated experience and effectiveness in mathematics or science education as determined by the Director.

(7) FOUNDATION.—The term "Foundation" means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(8) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term "high-need local educational agency" means a local educational agency that meets one or more of the following criteria:

(A) It has at least one school in which 50 percent or more of the enrolled students are eligible for participation in the free and reduced price lunch program established by the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(B) It has at least one school in which—

(i) more than 34 percent of the academic classroom teachers at the secondary level (across all academic subjects) do not have an undergraduate degree with a major or minor in, or a graduate degree in, the academic field in which they teach the largest percentage of their classes; or

(ii) more than 34 percent of the teachers in two of the academic departments do not have an undergraduate degree with a major or minor in, or a graduate degree in, the academic field in which they teach the largest percentage of their classes.

(C) It has at least one school whose teacher attrition rate has been 15 percent or more over the last three school years.

(9) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(10) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given such term by section 9101(26) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(26)).

(11) MASTER TEACHER.—The term "master teacher" means a mathematics or science teacher who works to improve the instruction of mathematics or science in kindergarten through grade 12 through—

(A) participating in the development or revision of science, mathematics, engineering, or technology curricula;

(B) serving as a mentor to mathematics or science teachers;

(C) coordinating and assisting teachers in the use of hands-on inquiry materials, equipment, and supplies, and when appropriate, supervising acquisition and repair of such materials;

(D) providing in-classroom teaching assistance to mathematics or science teachers; and

(E) providing professional development, including for the purposes of training other master teachers, to mathematics and science teachers.

(12) NATIONAL RESEARCH FACILITY.—The term "national research facility" means a research facility funded by the Foundation which is available, subject to appropriate policies allocating access, for use by all scientists and engineers affiliated with research institutions located in the United States.

(13) SECONDARY SCHOOL.—The term "secondary school" has the meaning given that term by section 9101(38) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(38)).

(14) STATE.—Except with respect to the Experimental Program to Stimulate Competitive Research, the term "State" means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

(15) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the meaning given such term by section 9101(41) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(41)).

(16) UNITED STATES.—The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2003.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $5,536,390,000 for fiscal year 2003.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $4,155,690,000 shall be made available to carry out research and related activities, of which $704,000,000 shall be for information technology research described in paragraph (1) of section 8 and $301,000,000 shall be for nanoscale science and engineering described in paragraph (2) of section 8;

(B) $1,006,250,000 shall be made available for education and human resources, of which—

(i) $200,000,000 shall be for mathematics and science education partnerships described in section 9;

(ii) $20,000,000 shall be for the Robert Noyce Scholarship Program described in section 10; and

(iii) $25,000,000 shall be for the science, mathematics, engineering, and technology talent expansion program described in paragraph (7) of section 8;

(C) $172,050,000 shall be made available for major research equipment and facilities construction;

(D) $191,200,000 shall be made available for salaries and expenses;

(E) $3,500,000 shall be made available for the Office of the National Science Board, including salaries and compensation for members of the Board and staff appointed under section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863), travel and training costs for members of the Board and such staff, general and Board operating expenses, representational expenses for the Board, honorary awards made by the Board, Board reports (other than the report entitled "Science and Engineering Indicators"), and contracts; and

(F) $7,700,000 shall be made available for the Office of Inspector General.

(b) FISCAL YEAR 2004.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $6,390,832,000 for fiscal year 2004.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $4,799,822,000 shall be made available to carry out research and related activities, of which $774,000,000 shall be for information technology research described in paragraph (1) of section 8 and $350,000,000 shall be for nanoscale science and engineering described in paragraph (2) of section 8;

(B) $1,157,188,000 shall be made available for education and human resources, of which—

(i) $300,000,000 shall be for mathematics and science education partnerships described in section 9;

(ii) $20,000,000 shall be for the Robert Noyce Scholarship Program described in section 10; and

(iii) $30,000,000 shall be for the science, mathematics, engineering, and technology talent expansion program described in paragraph (7) of section 8;

(C) $211,182,000 shall be made available for major research equipment and facilities construction;

(D) $210,320,000 shall be made available for salaries and expenses;

(E) $3,850,000 shall be made available for the Office of the National Science Board for the purposes described in subsection (a)(2)(E); and

(F) $8,470,000 shall be made available for the Office of Inspector General.

(c) FISCAL YEAR 2005.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $7,378,343,000 for fiscal year 2005.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $5,543,794,000 shall be made available to carry out research and related activities;

(B) $1,330,766,000 shall be made available to carry out education and human resources, of which—

(i) $400,000,000 shall be for mathematics and science education partnerships described in section 9;

(ii) $20,000,000 shall be for the Robert Noyce Scholarship Program described in section 10; and

(iii) $35,000,000 shall be for the science, mathematics, engineering, and technology talent expansion program described in paragraph (7) of section 8;

(C) $258,879,000 shall be made available for major research equipment and facilities construction;

(D) $231,337,000 shall be made available for salaries and expenses;

(E) $4,250,000 shall be made available for the Office of the National Science Board for the purposes described in subsection (a)(2)(E); and

(F) $9,317,000 shall be made available for the Office of Inspector General.

(d) FISCAL YEAR 2006.—There are authorized to be appropriated to the Foundation $8,519,776,000 for fiscal year 2006.

(e) FISCAL YEAR 2007.—There are authorized to be appropriated to the Foundation $9,839,262,000 for fiscal year 2007.

(f) CONTINGENT AUTHORIZATION.—

(1) IN GENERAL.—Funds are authorized to be appropriated under subsections (d) and (e), contingent on a determination by Congress that the Foundation has made successful progress toward meeting management goals consisting of—

(A) strategic management of human capital;

(B) competitive sourcing;

(C) improved financial performance;

(D) expanded electronic government; and

(E) budget and performance integration.

(2) CONSIDERATION.—In making that determination, Congress shall take into consideration whether or not the Director of the Office of Management and Budget has certified that the Foundation has, overall, made successful progress toward meeting those goals.

SEC. 6. OBLIGATION OF MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION FUNDS.

(a) FISCAL YEAR 2003.—None of the funds authorized under section 5(a)(2)(C) may be obligated until 30 days after the first report required under section 14(a)(2) is transmitted to the Congress.

(b) FISCAL YEAR 2004.—None of the funds authorized under section 5(b)(2)(C) may be obligated until 30 days after the report required by June 15, 2003, under section 14(a)(2) is transmitted to the Congress.

(c) FISCAL YEAR 2005.—None of the funds authorized under section 5(c)(2)(C) may be obligated until 30 days after the report required by June 15, 2004, under section 14(a)(2) is transmitted to the Congress.

(d) FISCAL YEAR 2006.—None of the funds authorized under section 5(d) may be obligated for major research equipment and facilities construction until 30 days after the report required by June 15, 2005, under section 14(a)(2) is transmitted to the Congress.

(e) FISCAL YEAR 2007.—None of the funds authorized under section 5(e) may be obligated for major research equipment and facilities construction until 30 days after the report required by June 15, 2006, under section 14(a)(2) is transmitted to the Congress.

SEC. 7. ANNUAL PLAN FOR ALLOCATION OF FUNDING.

Not later than 60 days after the date of enactment of legislation providing for the annual appropriation of funds for the Foundation, the Director shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate, a plan for the allocation of funds authorized by this Act for the corresponding fiscal year. The portion of the plan pertaining to Research and Related Activities shall include a description of how the allocation of funding—

(1) will affect the average size and duration of research grants supported by the Foundation by field of science, mathematics, and engineering;

(2) will affect trends in research support for major fields and subfields of science, mathematics, and engineering, including for emerging multidisciplinary research areas; and

(3) is designed to achieve an appropriate balance among major fields and subfields of science, mathematics, and engineering.

SEC. 8. SPECIFIC PROGRAM AUTHORIZATIONS.

From amounts authorized to be appropriated under section 5, the Director shall carry out the Foundation's research and education programs, including the following initiatives in accordance with this section:

(1) INFORMATION TECHNOLOGY.—An information technology research program to support competitive, merit-reviewed proposals for research, education, and infrastructure support in areas related to cybersecurity, terascale computing systems, software, networking, scalability, communications, data management, and remote sensing and geospatial information technologies.

(2) NANOSCALE SCIENCE AND ENGINEERING.—A nanoscale science and engineering research and education program to support competitive, merit-reviewed proposals that emphasize—

(A) research aimed at discovering novel phenomena, processes, materials, and tools that address grand challenges in materials, electronics, optoelectronics and magnetics, manufacturing, the environment, and health care; and

(B) supporting new research and interdisciplinary centers and networks of excellence, including shared national user facilities, infrastructure, research, and education activities on the societal implications of advances in nanoscale science and engineering.

(3) PLANT GENOME RESEARCH.—(A) A plant genome research program to support competitive, merit-reviewed proposals—

(i) that advance the understanding of the structure, organization, and function of plant genomes; and

(ii) that accelerate the use of new knowledge and innovative technologies toward a more complete understanding of basic biological processes in plants, especially in economically important plants such as corn and soybeans.

(B) Regional plant genome and gene expression research centers to conduct research and dissemination activities that may include—

(i) basic plant genomics research and genomics applications, including those related to cultivation of crops in extreme environments and to cultivation of crops with reduced reliance on fertilizer, herbicides, and pesticides;

(ii) basic research that will contribute to the development or use of innovative plant-derived products;

(iii) basic research on alternative uses for plants and plant materials, including the use of plants as renewable feedstock for alternative energy production and nonpetroleum-based industrial chemicals and precursors; and

(iv) basic research and dissemination of information on the ecological and other consequences of genetically engineered plants.

Competitive, merit-based awards for centers under this subparagraph shall be to consortia of institutions of higher education or nonprofit organizations. The Director shall, to the extent practicable, ensure that research centers established under this subparagraph collectively examine as many different agricultural environments as possible, enhance the excellence of existing Foundation programs, and focus on plants of economic importance.

(C) Research partnerships to focus on—

(i) basic genomic research on crops grown in the developing world;

(ii) basic plant genome research that will advance and expedite the development of improved cultivars, including those that are pest-resistant, produce increased yield, reduce the need for fertilizers, herbicides, or pesticides, or have increased tolerance to stress;

(iii) basic research that could lead to the development of technologies to produce pharmaceutical compounds such as vaccines and medications in plants that can be grown in the developing world; and

(iv) research on the impact of plant biotechnology on the social, political, economic, health, and environmental conditions in countries in the developing world.

Competitive, merit-based awards for partnerships under this subparagraph shall be to institutions of higher education, nonprofit organizations, or consortia of such entities that enter into a partnership that shall include one or more research institutions in one or more developing nations, and that may also include for-profit companies involved in plant biotechnology. The Director, by means of outreach, shall encourage inclusion of historically Black colleges and universities, Hispanic-serving institutions, tribally controlled colleges and universities, Alaska Native-serving institutions, and Native Hawaiian-serving institutions in consortia that enter into such partnerships.

(4) INNOVATION PARTNERSHIPS.—An innovation partnerships program to support competitive, merit-reviewed proposals that seek to stimulate innovation at the regional level through new partnerships involving States, regional governmental entities, local governmental entities, industry, academic institutions, and other related organizations in strategically important fields of science and technology.

(5) MATHEMATICS AND SCIENCE EDUCATION PARTNERSHIPS.—The mathematics and science education partnerships program described in section 9.

(6) ROBERT NOYCE SCHOLARSHIP PROGRAM.—The Robert Noyce Scholarship Program described in section 10.

(7) SCIENCE, MATHEMATICS, ENGINEERING, AND TECHNOLOGY TALENT EXPANSION PROGRAM.—(A) A program of competitive, merit-based, multiyear grants for eligible applicants to increase the number of students studying toward and completing associate's or bachelor's degrees in science, mathematics, engineering, and technology, particularly in fields that have faced declining enrollment in recent years.

(B) In selecting projects under this paragraph, the Director shall strive to increase the number of students studying toward and completing baccalaureate degrees, concentrations, or certificates in science, mathematics, engineering, or technology who are individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(C) The types of projects the Foundation may support under this paragraph include those that promote high quality—

(i) interdisciplinary teaching;

(ii) undergraduate-conducted research;

(iii) mentor relationships for students;

(iv) bridge programs that enable students at community colleges to matriculate directly into baccalaureate science, mathematics, engineering, or technology programs;

(v) internships carried out in partnership with industry; and

(vi) innovative uses of digital technologies, particularly at institutions of higher education that serve high numbers or percentages of economically disadvantaged students.

(D)(i) In order to receive a grant under this paragraph, an eligible applicant shall establish targets to increase the number of students studying toward and completing associate's or bachelor's degrees in science, mathematics, engineering, or technology.

(ii) A grant under this paragraph shall be awarded for a period of 5 years, with the final 2 years of funding contingent on the Director's determination that satisfactory progress has been made by the grantee toward meeting the targets established under clause (i).

(iii) In the case of community colleges, a student who transfers to a baccalaureate program, or receives a certificate under an established certificate program, in science, mathematics, engineering, or technology shall be counted toward meeting a target established under clause (i).

(E) For each grant awarded under this paragraph to an institution of higher education, at least 1 principal investigator shall be in a position of administrative leadership at the institution of higher education, and at least 1 principal investigator shall be a faculty member from an academic department included in the *work of the project. For each grant awarded to a consortium or partnership, at each institution of higher education participating in the consortium or partnership, at least 1 of the individuals responsible for carrying out activities authorized under this paragraph at that institution shall be in a position of administrative leadership at the institution, and at least 1 shall be a faculty member from an academic department included in the work of the project at that institution.*

(F) In this paragraph, the term "eligible applicant" means—

(i) an institution of higher education;

(ii) a consortium of institutions of higher education; or

(iii) a partnership between—

(I) an institution of higher education or a consortium of such institutions; and

(II) a nonprofit organization, a State or local government, or a private company, with demonstrated experience and effectiveness in science, mathematics, engineering, or technology education.

(8) SECONDARY SCHOOL SYSTEMIC INITIATIVE.—A program of competitive, merit-based grants for State educational agencies or local educational agencies that supports the planning and implementation of agency-wide secondary school reform initiatives designed to promote scientific and technological literacy, meet the mathematics and science education needs of students at risk of not achieving State student academic achievement standards, reduce the need for basic skill training by employers, and heighten college completion rates through activities, such as—

(A) systemic alignment of secondary school curricula and higher education freshman placement requirements;

(B) development of materials and curricula that support small, theme-oriented schools and learning communities;

(C) implementation of enriched mathematics and science curricula for all secondary school students;

(D) strengthened teacher training in mathematics, science, and reading as it relates to technical and specialized texts;

(E) laboratory improvement and provision of instrumentation as part of a comprehensive program to enhance the quality of mathematics, science, engineering, and technology instruction; or

(F) other secondary school systemic initiatives that enable grantees to leverage private sector funding for mathematics, science, engineering, and technology scholarships.

In awarding grants under this paragraph, the Director shall give priority to agencies that serve high poverty communities.

(9) EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.—The Experimental Program to Stimulate Competitive Research, established under section 113 of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1862g), that is designed to enhance—

(A) research in mathematics, science, and engineering throughout the States eligible to participate in the program and the Commonwealth of Puerto Rico;

(B) research infrastructure in the States eligible to participate in the program and the Commonwealth of Puerto Rico; and

(C) the geographic distribution of Federal research and development support.

(10) THE SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT.—A comprehensive program designed to advance the goals of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885 et seq.), including programs to—

(A) provide support to minority-serving institutions; and

(B) ensure that reports required under sections 36 and 37 of such Act are submitted to the—

(i) Committee on Science of the House of Representatives;

(ii) Committee on Health, Education, Labor, and Pensions of the Senate; and

(iii) Committee on Commerce, Science, and Transportation of the Senate.

(11) ASTRONOMICAL RESEARCH AND INSTRUMENTATION.—An astronomical research program to support competitive, merit-reviewed proposals that—

(A) will advance understanding of—

(i) the origins and characteristics of planets, the Sun, other stars, the Milky Way Galaxy, and extragalactic objects (such as clusters of galaxies and quasars); and

(ii) the structure and origin of the universe; and

(B) support related activities such as developing advanced technologies and instrumentation, funding undergraduate and graduate students, and satisfying other instrumentation and research needs.

SEC. 9. MATHEMATICS AND SCIENCE EDUCATION PARTNERSHIPS.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—(A) The Director shall carry out a program to award grants to institutions of higher education or eligible nonprofit organizations (or consortia of such institutions or organizations) to establish mathematics and science education partnership programs to improve elementary and secondary mathematics and science instruction.

(B) Grants shall be awarded under this subsection on a competitive, merit-reviewed basis.

(2) PARTNERSHIPS.—(A) In order to be eligible to receive a grant under this subsection, an institution of higher education or eligible nonprofit organization (or consortium of such institutions or organizations) shall enter into a partnership with one or more local educational agencies that may also include a State educational agency or one or more businesses.

(B) A participating institution of higher education shall include mathematics, science, or engineering departments in the programs carried out through a partnership under this paragraph.

(3) USES OF FUNDS.—Grants awarded under this subsection shall be used for activities that draw upon the expertise of the partners to improve elementary or secondary education in mathematics or science and that are consistent with State mathematics and science student academic achievement standards, including—

(A) recruiting and preparing students for careers in elementary or secondary mathematics or science education;

(B) offering professional development programs, including summer or academic year institutes or workshops, designed to strengthen the capabilities of mathematics and science teachers;

(C) offering innovative preservice and inservice programs that instruct teachers on using technology more effectively in teaching mathematics and science, including programs that recruit and train undergraduate and graduate students to provide technical support to teachers;

(D) developing distance learning programs for teachers or students, including developing courses, curricular materials, and other resources for the in-service professional development of teachers that are made available to teachers through the Internet;

(E) developing a cadre of master teachers who will promote reform and improvement in schools;

(F) offering teacher preparation and certification programs for professional mathematicians, scientists, and engineers who wish to begin a career in teaching;

(G) developing tools to evaluate activities conducted under this subsection;

(H) developing or adapting elementary school and secondary school mathematics and science curricular materials that incorporate contemporary research on the science of learning;

(I) developing initiatives to increase and sustain the number, quality, and diversity of prekindergarten through grade 12 teachers of mathematics and science, especially in underserved areas;

(J) using mathematicians, scientists, and engineers employed by private businesses to help recruit and train mathematics and science teachers;

(K) developing and offering mathematics or science enrichment programs for students, including after-school and summer programs;

(L) providing research opportunities in business or academia for students and teachers;

(M) bringing mathematicians, scientists, and engineers from business and academia into elementary school and secondary school classrooms; and

(N) any other activities the Director determines will accomplish the goals of this subsection.

(4) MASTER TEACHERS.—Activities carried out in accordance with paragraph (3)(E) shall—

(A) emphasize the training of master teachers who will improve the instruction of mathematics or science in kindergarten through grade 12;

(B) include training in both content and pedagogy; and

(C) provide training only to teachers who will be granted sufficient nonclassroom time to serve as master teachers, as demonstrated by assurances their employing school has provided to the Director, in such time and such manner as the Director may require.

(5) SCIENCE ENRICHMENT PROGRAMS FOR GIRLS.—Activities carried out in accordance with paragraph (3)(K) and (L) shall include elementary school and secondary school programs to encourage the ongoing interest of girls in science, mathematics, engineering, and technology and to prepare girls to pursue undergraduate and graduate degrees and careers in science, mathematics, engineering, or technology. Funds made available through awards to partnerships for the purposes of this paragraph may support programs for—

(A) encouraging girls to pursue studies in science, mathematics, engineering, and technology and to major in such fields in postsecondary education;

(B) tutoring girls in science, mathematics, engineering, and technology;

(C) providing mentors for girls in person and through the Internet to support such girls in pursuing studies in science, mathematics, engineering, and technology;

(D) educating the parents of girls about the difficulties faced by girls to maintain an interest and desire to achieve in science, mathematics, engineering, and technology, and enlisting the help of parents in overcoming these difficulties; and

(E) acquainting girls with careers in science, mathematics, engineering, and technology and encouraging girls to plan for careers in such fields.

(6) RESEARCH IN SECONDARY SCHOOLS.—Activities carried out in accordance with paragraph (3)(K) may include support for research projects performed by students at secondary schools. Uses of funds made available through awards to partnerships for purposes of this paragraph may include—

(A) training secondary school mathematics and science teachers in the design of research projects for students;

(B) establishing a system for students and teachers involved in research projects funded under this subsection to exchange information about their projects and research results; and

(C) assessing the educational value of the student research projects by such means as tracking the academic performance and choice of academic majors of students conducting research.

(7) Stipends.—Grants awarded under this subsection may be used to provide stipends for teachers or students participating in training or research activities that would not be part of their typical classroom activities.

(b) Selection Process.—

(1) Application.—An institution of higher education or an eligible nonprofit organization (or a consortium of such institutions or organizations) seeking funding under subsection (a) shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the partnership and the role that each member will play in implementing the proposal;

(B) a description of each of the activities to be carried out, including—

(i) how such activities will be aligned with State mathematics and science student academic achievement standards and with other activities that promote student achievement in mathematics and science;

(ii) how such activities will be based on a review of relevant research;

(iii) why such activities are expected to improve student performance and strengthen the quality of mathematics and science instruction; and

(iv) any activities that will encourage the interest of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in mathematics, science, engineering, and technology and will help prepare such individuals to pursue postsecondary studies in these fields;

(C) a description of the number, size, and nature of any stipends that will be provided to students or teachers and the reasons such stipends are needed;

(D) a description of how the partnership will serve as a catalyst for reform of mathematics and science education programs;

(E) a description of how the partnership will assess its success;

(F) a description of how the partnership will collaborate with the State educational agency to ensure that successful partnership activities may be replicated throughout the State; and

(G) a description of the manner in which the partnership will be continued after assistance under this section ends.

(2) Review of applications.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the partnership to carry out effectively the proposed programs;

(B) the extent to which the members of the partnership are committed to making the partnership a central organizational focus;

(C) the degree to which activities carried out by the partnership are based on relevant research and are likely to result in increased student achievement;

(D) the degree to which such activities are aligned with State mathematics and science student academic achievement standards;

(E) the likelihood that the partnership will demonstrate activities that can be widely implemented as part of larger scale reform efforts; and

(F) the extent to which the activities will encourage the interest of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in mathematics, science, engineering, and technology and will help prepare such individuals to pursue postsecondary studies in these fields.

(3) Awards.—In awarding grants under this section, the Director shall—

(A) give priority to applications in which the partnership includes a high-need local educational agency or a high-need local educational agency in which at least one school does not make adequate yearly progress, as determined pursuant to part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.); and

(B) ensure that, to the extent practicable, a substantial number of the partnerships funded under this section include businesses.

(c) Accountability and Dissemination.—

(1) Assessment required.—The Director shall evaluate the program established under subsection (a). At a minimum, such evaluation shall—

(A) use a common set of benchmarks and assessment tools to identify best practices and materials developed and demonstrated by the partnerships; and

(B) to the extent practicable, compare the effectiveness of practices and materials developed and demonstrated by the partnerships authorized under this section with those of partnerships funded by other State or Federal agencies.

(2) Dissemination of results.—(A) The results of the evaluation required under paragraph (1) shall be made available to the public and shall be provided to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(B) Materials developed under the program established under subsection (a) that are demonstrated to be effective shall be made widely available to the public.

(3) Annual meeting.—The Director, in consultation with the Secretary of Education, shall convene an annual meeting of the partnerships participating under this section to foster greater national collaboration.

(4) Report on coordination.—The Director, in consultation with the Secretary of Education, shall provide an annual report to the Committee on Science of the House of Representatives, the Committee on Education and the Workforce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate describing how the program authorized under this section has been and will be coordinated with the program authorized under part B of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.). The report under this paragraph shall be submitted along with the President's annual budget request.

(5) Technical assistance.—At the request of an eligible partnership or a State educational agency, the Director shall provide the partnership or agency with technical assistance in meeting any requirements of this section, including providing advice from experts on how to develop—

(A) a quality application for a grant; and

(B) quality activities from funds received from a grant under this section.

SEC. 10. ROBERT NOYCE SCHOLARSHIP PROGRAM.

(a) Scholarship Program.—

(1) In general.—The Director shall carry out a program to award grants to institutions of higher education (or consortia of such institutions) to provide scholarships, stipends, and programming designed to recruit and train mathematics and science teachers. Such program shall be known as the "Robert Noyce Scholarship Program".

(2) Merit review.—Grants shall be provided under this subsection on a competitive, merit-reviewed basis.

(3) Use of grants.—Grants provided under this section shall be used by institutions of higher education or consortia—

(A) to develop and implement a program to encourage top college juniors and seniors majoring in mathematics, science, and engineering at the grantee's institution to become mathematics and science teachers, through—

(i) administering scholarships in accordance with subsection (c);

(ii) offering programs to help scholarship recipients to teach in elementary schools and secondary schools, including programs that will result in teacher certification or licensing; and

(iii) offering programs to scholarship recipients, both before and after they receive their baccalaureate degree, to enable the recipients to become better mathematics and science teachers, to fulfill the service requirements of this section, and to exchange ideas with others in their fields; or

(B) to develop and implement a program to encourage science, mathematics, or engineering professionals to become mathematics and science teachers, through—

(i) administering stipends in accordance with subsection (d);

(ii) offering programs to help stipend recipients obtain teacher certification or licensing; and

(iii) offering programs to stipend recipients, both during and after matriculation in the program for which the stipend is received, to enable recipients to become better mathematics and science teachers, to fulfill the service requirements of this section, and to exchange ideas with others in their fields.

(b) Selection Process.—

(1) Application.—An institution of higher education or consortium seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the scholarship or stipend program that the applicant intends to operate, including the number of scholarships or the size and number of stipends the applicant intends to award, and the selection process that will be used in awarding the scholarships or stipends;

(B) evidence that the applicant has the capability to administer the scholarship or stipend program in accordance with the provisions of this section; and

(C) a description of the programming that will be offered to scholarship or stipend recipients during and after their matriculation in the program for which the scholarship or stipend is received.

(2) Review of applications.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the applicant to effectively carry out the program;

(B) the extent to which the applicant is committed to making the program a central organizational focus;

(C) the degree to which the proposed programming will enable scholarship or stipend recipients to become successful mathematics and science teachers;

(D) the number and quality of the students that will be served by the program; and

(E) the ability of the applicant to recruit students who would otherwise not pursue a career in teaching.

(c) Scholarship Requirements.—

(1) In general.—Scholarships under this section shall be available only to students who are—

(A) majoring in science, mathematics, or engineering; and

(B) in the last 2 years of a baccalaureate degree program.

(2) SELECTION.—Individuals shall be selected to receive scholarships primarily on the basis of academic merit, with consideration given to financial need and to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(3) AMOUNT.—The Director shall establish for each year the amount to be awarded for scholarships under this section for that year, which shall be not less than $7,500 per year, except that no individual shall receive for any year more than the cost of attendance at that individual's institution. Individuals may receive a maximum of 2 years of scholarship support.

(4) SERVICE OBLIGATION.—If an individual receives a scholarship, that individual shall be required to complete, within 6 years after graduation from the baccalaureate degree program for which the scholarship was awarded, 2 years of service as a mathematics or science teacher for each year a scholarship was received. Service required under this paragraph shall be performed in a high-need local educational agency.

(d) STIPENDS.—

(1) IN GENERAL.—Stipends under this section shall be available only to mathematics, science, and engineering professionals who, while receiving the stipend, are enrolled in a program to receive certification or licensing to teach.

(2) SELECTION.—Individuals shall be selected to receive stipends under this section primarily on the basis of academic merit, with consideration given to financial need and to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(3) DURATION.—Individuals may receive a maximum of 1 year of stipend support.

(4) SERVICE OBLIGATION.—If an individual receives a stipend under this section, that individual shall be required to complete, within 6 years after graduation from the program for which the stipend was awarded, 2 years of service as a mathematics or science teacher for each year a stipend was received. Service required under this paragraph shall be performed in a high-need local educational agency.

(e) CONDITIONS OF SUPPORT.—As a condition of acceptance of a scholarship or stipend under this section, a recipient shall enter into an agreement with the institution of higher education—

(1) accepting the terms of the scholarship or stipend pursuant to subsections (c) and (g), or subsection (d);

(2) agreeing to provide the awarding institution of higher education with annual certification of employment and up-to-date contact information and to participate in surveys provided by the institution of higher education as part of an ongoing assessment program; and

(3) establishing that any scholarship recipient shall be liable to the United States for any amount that is required to be repaid in accordance with the provisions of subsection (g).

(f) COLLECTION FOR NONCOMPLIANCE.—

(1) MONITORING COMPLIANCE.—An institution of higher education (or consortium thereof) receiving a grant under this section shall, as a condition of participating in the program, enter into an agreement with the Director to monitor the compliance of scholarship and stipend recipients with their respective service requirements.

(2) COLLECTION OF REPAYMENT.—(A) In the event that a scholarship recipient is required to repay the scholarship under subsection (g), the institution shall be responsible for collecting the repayment amounts.

(B) Except as provided in subparagraph (C), any such repayment shall be returned to the Treasury of the United States.

(C) A grantee may retain a percentage of any repayment it collects to defray administrative costs associated with the collection. The Director shall establish a single, fixed percentage that will apply to all grantees.

(g) FAILURE TO COMPLETE SERVICE OBLIGATION.—

(1) GENERAL RULE.—If an individual who has received a scholarship under this section—

(A) fails to maintain an acceptable level of academic standing in the educational institution in which the individual is enrolled, as determined by the Director;

(B) is dismissed from such educational institution for disciplinary reasons;

(C) withdraws from the baccalaureate degree program for which the award was made before the completion of such program;

(D) declares that the individual does not intend to fulfill the service obligation under this section; or

(E) fails to fulfill the service obligation of the individual under this section,

such individual shall be liable to the United States as provided in paragraph (2).

(2) AMOUNT OF REPAYMENT.—(A) If a circumstance described in paragraph (1) occurs before the completion of one year of a service obligation under this section, the United States shall be entitled to recover from the individual, within one year after the date of the occurrence of such circumstance, an amount equal to—

(i) the total amount of awards received by such individual under this section; plus

(ii) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 2.

(B) If a circumstance described in paragraph (1)(D) or (E) occurs after the completion of one year of a service obligation under this section, the United States shall be entitled to recover from the individual, within one year after the date of the occurrence of such circumstance, an amount equal to the total amount of awards received by such individual under this section minus ½ of the amount of the award received per year for each full year of service completed, plus the interest on such amounts which would be payable if at the time the amounts were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

(3) EXCEPTIONS.—The Director may provide for the partial or total waiver or suspension of any service or payment obligation by an individual under this section whenever compliance by the individual with the obligation is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be unconscionable.

(h) DATA COLLECTION.—Institutions or consortia receiving grants under this section shall supply to the Director any relevant statistical and demographic data on scholarship recipients and stipend recipients the Director may request, including information on employment required by subsection (e).

(i) DEFINITIONS.—In this section—

(1) the term "cost of attendance" has the meaning given such term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll);

(2) the term "mathematics and science teacher" means a mathematics, science, or technology teacher at the elementary school or secondary school level;

(3) the term "mathematics, science, or engineering professional" means a person who holds a baccalaureate, masters, or doctoral degree in science, mathematics, or engineering and is working in that field or a related area;

(4) the term "scholarship" means an award under subsection (c); and

(5) the term "stipend" means an award under subsection (d).

SEC. 11. ESTABLISHMENT OF CENTERS FOR RESEARCH ON MATHEMATICS AND SCIENCE LEARNING AND EDUCATION IMPROVEMENT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—(A) The Director shall award grants to institutions of higher education (or consortia thereof) to establish multidisciplinary Centers for Research on Learning and Education Improvement.

(B) Grants shall be awarded under this paragraph on a competitive, merit-reviewed basis.

(2) PURPOSE.—The purpose of the Centers shall be to conduct and evaluate research in cognitive science, education, and related fields and to develop ways in which the results of such research can be applied in elementary school and secondary school classrooms to improve the teaching of mathematics and science.

(3) FOCUS.—(A) Each Center shall be focused on a different challenge faced by elementary school or secondary school teachers of mathematics and science. In determining the research focus of the Centers, the Director shall consult with the National Academy of Sciences and the Secretary of Education and take into account the extent to which other Federal programs support research on similar questions.

(B) The proposal solicitation issued by the Director shall state the focus of each Center and applicants shall apply for designation as a specific Center.

(C) At least one Center shall focus on developing ways in which the results of research described in paragraph (2) can be applied, duplicated, and scaled up for use in low-performing elementary schools and secondary schools to improve the teaching and student achievement levels in mathematics and science.

(D) To the extent practicable and relevant to its focus, every Center shall include, as part of its research, work designed to quantitatively assess and improve the ways that information technology is used in the teaching of mathematics and science.

(b) SELECTION PROCESS.—

(1) APPLICATION.—An institution of higher education (or a consortium of such institutions) seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the initial research projects that will be undertaken by the Center and the process by which new projects will be identified;

(B) how the Center will work with other research institutions and schools to broaden the national research agenda on learning and teaching;

(C) how the Center will promote active collaboration among physical, biological, and social science researchers;

(D) how the Center will promote active participation by elementary and secondary mathematics and science teachers and administrators; and

(E) how the results of the Center's research can be incorporated into educational practices, and how the Center will assess the success of those practices.

(2) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the applicant to effectively carry out the research program, including the activities described in paragraph (1)(E);

(B) the experience of the applicant in conducting research on the science of teaching and learning and the capacity of the applicant to foster new multidisciplinary collaborations;

(C) the capacity of the applicant to attract elementary school and secondary school teachers from a diverse array of schools, and with diverse professional experiences, for participation in Center activities; and

(D) the capacity of the applicant to attract and provide adequate support for graduate students to pursue research at the intersection of educational practice and basic research on human cognition and learning.

(3) AWARDS.—The Director shall ensure, to the extent practicable, that the Centers funded under this section conduct research and develop educational practices designed to improve the educational performance of a broad range of students, including individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(c) ANNUAL CONFERENCE.—The Director shall convene an annual meeting of the Centers to foster collaboration among the Centers and to further disseminate the results of the Centers' activities.

(d) COORDINATION.—The Director shall coordinate with the Secretary of Education in—

(1) disseminating the results of the research conducted pursuant to grants awarded under this section to elementary school teachers and secondary school teachers; and

(2) providing programming, guidance, and support to ensure that such teachers—

(A) understand the implications of the research disseminated under paragraph (1) for classroom practice; and

(B) can use the research to improve such teachers' performance in the classroom.

SEC. 12. DUPLICATION OF PROGRAMS.

(a) IN GENERAL.—The Director shall review the education programs of the Foundation that are in operation as of the date of enactment of this Act to determine whether any of such programs duplicate the programs authorized under this Act.

(b) IMPLEMENTATION.—As programs authorized under this Act are implemented, the Director shall—

(1) terminate any duplicative program being carried out by the Foundation or merge the duplicative program into a program authorized under this Act; and

(2) not establish any new program that duplicates a program that has been implemented pursuant to this Act.

(c) REPORT.—

(1) REVIEW.—The Director of the Office of Science and Technology Policy shall review the education programs of the Foundation to ensure compliance with the provisions of this section.

(2) SUBMISSION.—Not later than 1 year after the date of enactment of this Act, and annually thereafter as part of the annual Office of Science and Technology Policy's budget submission to Congress, the Director of the Office of Science and Technology Policy shall complete a report on the review carried out under this subsection and shall submit the report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate.

SEC. 13. MAJOR RESEARCH INSTRUMENTATION.

(a) REVIEW AND ASSESSMENT.—The Director shall conduct a review and assessment of the major research instrumentation program and, not later than 1 year after the date of enactment of this Act, submit a report of findings and recommendations to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate. The report shall include—

(1) estimates of the needs, by major field of science and engineering and by types of institutions of higher education, for the types of research instrumentation that are eligible for acquisition under the guidelines of the major research instrumentation program;

(2) a description of the distribution of awards and funding levels by year, by major field of science and engineering, and by type of institution of higher education for the program, since the inception of the major research instrumentation program; and

(3) an analysis of the impact of the major research instrumentation program on the research instrumentation needs that were documented in the Foundation's 1994 survey of academic research instrumentation needs.

(b) NATIONAL ACADEMY OF SCIENCES ASSESSMENT ON INTERDISCIPLINARY RESEARCH AND ADVANCED INSTRUMENTATION CENTERS.—

(1) ASSESSMENT.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an arrangement with the National Academy of Sciences to assess the need for an interagency program to establish and support fully equipped, state-of-the-art university-based centers for interdisciplinary research and advanced instrumentation development.

(2) TRANSMITTAL TO CONGRESS.—Not later than 15 months after the date of the enactment of this Act, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate the assessment conducted by the National Academy of Sciences together with the Foundation's reaction to the assessment authorized under paragraph (1).

SEC. 14. MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION PLAN.

(a) PRIORITIZATION OF PROPOSED MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION.—

(1) DEVELOPMENT OF PRIORITIES.—(A) The Director shall—

(i) develop a list indicating by number the relative priority for funding under the major research equipment and facilities construction account that the Director assigns to each project the Board has approved for inclusion in a future budget request; and

(ii) submit the list described in clause (i) to the Board for approval.

(B) The Director shall update the list prepared under subparagraph (A) each time the Board approves a new project that would receive funding under the major research equipment and facilities construction account, as necessary to prepare reports under paragraph (2), and, from time to time, submit any updated list to the Board for approval.

(2) ANNUAL REPORT.—Not later than 90 days after the date of enactment of this Act, and not later than each June 15 thereafter, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing—

(A) the most recent Board-approved priority list developed under paragraph (1)(A);

(B) a description of the criteria used to develop such list; and

(C) a description of the major factors for each project that determined the ranking of such project on the list, based on the application of the criteria described pursuant to subparagraph (B).

(3) CRITERIA.—The criteria described pursuant to paragraph (2)(B) shall include, at a minimum—

(A) scientific merit;

(B) broad societal need and probable impact;

(C) consideration of the results of formal prioritization efforts by the scientific community;

(D) readiness of plans for construction and operation;

(E) the applicant's management and administrative capacity of large research facilities;

(F) international and interagency commitments; and

(G) the order in which projects were approved by the Board for inclusion in a future budget request.

(b) FACILITIES PLAN.—

(1) IN GENERAL.—Section 201(a)(1) of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862l(a)(1)) is amended to read as follows:

"(1) IN GENERAL.—The Director shall prepare, and include as part of the Foundation's annual budget request to Congress, a plan for the proposed construction of, and repair and upgrades to, national research facilities, including full life-cycle cost information.".

(2) CONTENTS OF PLAN.—Section 201(a)(2) of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862l(a)(2)) is amended—

(A) in subparagraph (A), by striking "(1);" and inserting "(1), including costs for instrumentation development;";

(B) in subparagraph (B), by striking "and" after the semicolon;

(C) in subparagraph (C), by striking "construction." and inserting "construction;"; and

(D) by adding at the end the following:

"(D) for each project funded under the major research equipment and facilities construction account—

"(i) estimates of the total project cost (from planning to commissioning); and

"(ii) the source of funds, including Federal funding identified by appropriations category and non-Federal funding;

"(E) estimates of the full life-cycle cost of each national research facility;

"(F) information on any plans to retire national research facilities; and

"(G) estimates of funding levels for grants supporting research that will be conducted using each national research facility.".

(3) DEFINITION.—Section 2 of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862k note) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively; and

(B) by inserting after paragraph (2) the following:

"(3) FULL LIFE-CYCLE COST.—The term 'full life-cycle cost' means all costs of planning, development, procurement, construction, operations and support, and shut-down costs, without regard to funding source and without regard to what entity manages the project or facility involved.".

(c) PROJECT MANAGEMENT.—No national research facility project funded under the major research equipment and facilities construction account shall be managed by an individual whose appointment to the Foundation is temporary.

(d) BOARD APPROVAL OF MAJOR RESEARCH EQUIPMENT AND FACILITIES PROJECTS.—

(1) IN GENERAL.—The Board shall explicitly approve any project to be funded out of the major research equipment and facilities construction account before any funds may be obligated from such account for such project.

(2) REPORT.—Not later than September 15 of each fiscal year, the Board shall report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Science of the House of

Representatives on the conditions of any delegation of authority under section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) that relates to funds appropriated for any project in the major research equipment and facilities construction account.

(e) National Academy of Sciences Study on Major Research Equipment and Facilities Construction.—

(1) Study.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an arrangement with the National Academy of Sciences to perform a study on setting priorities for a diverse array of disciplinary and interdisciplinary Foundation-sponsored large research facility projects.

(2) Transmittal to congress.—Not later than 15 months after the date of the enactment of this Act, the Director shall transmit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate, the study conducted by the National Academy of Sciences together with the Foundation's reaction to the study authorized under paragraph (1).

SEC. 15. ADMINISTRATIVE AMENDMENTS.

(a) Board Meetings.—

(1) In general.—Section 4(e) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(e)) is amended by striking the second and third sentences and inserting "The Board shall adopt procedures governing the conduct of its meetings, including delivery of notice and a definition of a quorum, which in no case shall be less than one-half plus one of the confirmed members of the Board.".

(2) Open meetings.—The Board and all of its committees, subcommittees, and task forces (and any other entity consisting of members of the Board and reporting to the Board) shall be subject to section 552b of title 5, United States Code.

(3) Compliance audit.—The Inspector General of the Foundation shall conduct an annual audit of the compliance by the Board with the requirements described in paragraph (2). The audit shall examine the proposed and actual content of closed meetings and determine whether the closure of the meetings was consistent with section 552b of title 5, United States Code.

(4) Report.—Not later than February 15 of each year, the Inspector General of the Foundation shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate the audit required under paragraph (3) along with recommendations for corrective actions that need to be taken to achieve fuller compliance with the requirements described in paragraph (2), and recommendations on how to ensure public access to the Board's deliberations.

(b) Confidentiality of Certain Information.—Section 14(i) of the National Science Foundation Act of 1950 (42 U.S.C. 1873(i)) is amended to read as follows:

"(i)(1)(A) Information supplied to the Foundation or a contractor of the Foundation in survey forms, questionnaires, or similar instruments for purposes of section 3(a)(5) or (6) by an individual, an industrial or commercial organization, or an educational, academic, or other nonprofit institution when the institution has received a pledge of confidentiality from the Foundation, shall not be disclosed to the public unless the information has been transformed into statistical or abstract formats that do not allow for the identification of the supplier.

"(B) Information that has not been transformed into formats described in subparagraph (A) may be used only for statistical or research purposes.

"(C) The identities of individuals, organizations, and institutions supplying information described in subparagraph (A) may not be disclosed to the public.

"(2) In support of functions authorized by section 3(a)(5) or (6), the Foundation may designate, at its discretion, authorized persons, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies) and employees of private organizations, to have access, for statistical or research purposes only, to information collected pursuant to section 3(a)(5) or (6) that allows for the identification of the supplier. No such person may—

"(A) publish information collected pursuant to section 3(a)(5) or (6) in such a manner that either an individual, an industrial or commercial organization, or an educational, academic, or other nonprofit institution that has received a pledge of confidentiality from the Foundation can be specifically identified;

"(B) permit anyone other than individuals authorized by the Foundation to examine data that allows for such identification relating to an individual, an industrial or commercial organization, or an academic, educational, or other nonprofit institution that has received a pledge of confidentiality from the Foundation; or

"(C) knowingly and willfully request or obtain any nondisclosable information described in paragraph (1) from the Foundation under false pretenses.

"(3) Violation of this subsection is punishable by a fine of not more than $10,000, imprisonment for not more than 5 years, or both.".

(c) Appointment.—Section 4(g) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(g)) is amended by striking the second sentence and inserting "Such staff shall be appointed by the Chairman and assigned at the direction of the Board.".

(d) Scholarship Eligibility.—The Director shall not exclude part-time students from eligibility for scholarships under the Computer Science, Engineering, and Mathematics Scholarship program.

SEC. 16. SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT AMENDMENTS.

Section 32 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885) is amended—

(1) in subsection (a), by striking "backgrounds." and inserting "backgrounds, including persons with disabilities."; and

(2) in subsection (b)—

(A) by inserting ", including persons with disabilities," after "backgrounds"; and

(B) by striking "and minorities" each place the term appears and inserting ", minorities, and persons with disabilities".

SEC. 17. UNDERGRADUATE EDUCATION REFORM.

(a) In General.—The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education to expand previously implemented reforms of undergraduate science, mathematics, engineering, or technology education that have been demonstrated to have been successful in increasing the number and quality of students studying toward and completing associate's or baccalaureate degrees in science, mathematics, engineering, or technology.

(b) Uses of Funds.—Activities supported by grants under this section may include—

(1) expansion of successful reform efforts beyond a single course or group of courses to achieve reform within an entire academic unit;

(2) expansion of successful reform efforts beyond a single academic unit to other science, mathematics, engineering, or technology academic units within an institution;

(3) creation of multidisciplinary courses or programs that formalize collaborations for the purpose of improved student instruction and research in science, mathematics, engineering, and technology;

(4) expansion of undergraduate research opportunities beyond a particular laboratory, course, or academic unit to engage multiple academic units in providing multidisciplinary research opportunities for undergraduate students;

(5) expansion of innovative tutoring or mentoring programs proven to enhance student recruitment or persistence to degree completion in science, mathematics, engineering, or technology;

(6) improvement of undergraduate science, mathematics, engineering, and technology education for nonmajors, including education majors; and

(7) implementation of technology-driven reform efforts, including the installation of technology to facilitate such reform, that directly impact undergraduate science, mathematics, engineering, or technology instruction or research experiences.

(c) Selection Process.—

(1) Applications.—An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the proposed reform effort;

(B) a description of the previously implemented reform effort that will serve as the basis for the proposed reform effort and evidence of success of that previous effort, including data on student recruitment, persistence to degree completion, and academic achievement;

(C) evidence of active participation in the proposed project by individuals who were central to the success of the previously implemented reform effort; and

(D) evidence of institutional support for, and commitment to, the proposed reform effort, including a description of existing or planned institutional policies and practices regarding faculty hiring, promotion, tenure, and teaching assignment that reward faculty contributions to undergraduate education equal to, or greater than, scholarly scientific research.

(2) Review of applications.—In evaluating applications submitted under paragraph (1), the Director shall consider at a minimum—

(A) the evidence of past success in implementing undergraduate education reform and the likelihood of success in undertaking the proposed expanded effort;

(B) the extent to which the faculty, staff, and administrators of the institution are committed to making the proposed institutional reform a priority of the participating academic unit;

(C) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on faculty engagement in undergraduate education, as evidenced through promotion and tenure policies; and

(D) the likelihood that the institution will sustain or expand the reform beyond the period of the grant.

(3) Grant distribution.—The Director shall ensure, to the extent practicable, that grants awarded under this section are made to a variety of types of institutions of higher education.

SEC. 18. REPORTS.

(a) Grant Size and Duration.—Not later than 6 months after the date of enactment of this Act, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and

Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report describing the impact that increasing the average grant size and duration would have on minority-serving institutions and on institutions located in States where the Foundation's Experimental Program to Stimulate Competitive Research (established under section 113 of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1862g)) is carrying out activities.

(b) FACULTY.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an arrangement with the National Academy of Sciences to assess gender differences in the careers of science and engineering faculty. This study shall build on the Academy's work on gender differences in the carriers of doctoral scientists and engineers and examine issues such as faculty hiring, promotion, tenure, and allocation of resources including laboratory space. Upon completion, the results of this study shall be transmitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(c) GRANT FUNDING.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an agreement with an appropriate party to assess gender differences in the distribution of external Federal research and development funding. This study shall examine differences in amounts requested and awarded, by gender, in major Federal external grant programs. Upon completion, the results of this study shall be transmitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(d) STUDY OF BROADBAND NETWORK ACCESS FOR SCHOOLS AND LIBRARIES.—

(1) REPORT TO CONGRESS.—The Director shall conduct a study of the issues described in paragraph (3), and not later than 1 year after the date of the enactment of this Act, transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report including recommendations to address those issues. Such report shall be updated annually for 4 additional years.

(2) CONSULTATION.—In preparing the reports under paragraph (1), the Director shall consult with Federal agencies and educational entities as the Director considers appropriate.

(3) ISSUES TO BE ADDRESSED.—The reports shall—

(A) identify the availability of high-speed, large bandwidth capacity access to different demographic groups served by elementary schools, secondary schools, and libraries in the United States;

(B) identify how the provision of high-speed, large bandwidth capacity access to the Internet to such schools and libraries can be effectively utilized within each school and library;

(C) consider the effect that specific or regional circumstances may have on the ability of such institutions to acquire high-speed, large bandwidth capacity access to achieve universal connectivity as an effective tool in the education process; and

(D) include options and recommendations to address the challenges and issues identified in the reports.

(e) MINORITY-SERVING INSTITUTION FUNDING.—

(1) ANNUAL REPORTING REQUIRED.—The Director shall submit an annual report, along with the President's annual budget request, to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on the amount of funding awarded by the Foundation to minority-serving institutions, including funding received as members of consortia. The report shall include information on such funding to minority-serving institutions—

(A) expressed as a percentage of funding to all institutions of higher education for each appropriations account within the Foundation's budget; and

(B) for the preceding 10 years.

(2) REPORT ON WAYS TO IMPROVE FUNDING.—Within one year after the date of enactment of this Act, the Director shall submit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report on recommendations on how the Foundation can improve funding to minority-serving institutions.

SEC. 19. EVALUATIONS.

(a) EDUCATION.—

(1) IN GENERAL.—The Director, through the Research, Evaluation and Communication Division of the Education and Human Resources Directorate of the Foundation, shall evaluate the effectiveness of all undergraduate science, mathematics, engineering, or technology education activities supported by the Foundation in increasing the number and quality of students, including individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) studying toward and completing associate's or baccalaureate degrees in science, mathematics, engineering, and technology. In conducting the evaluation, the Director shall consider information on—

(A) the number of students enrolled in undergraduate science, mathematics, engineering, and technology programs;

(B) student academic achievement, including quantifiable measurements of students' mastery of content and skills;

(C) persistence to degree completion, including students who transfer from science, mathematics, engineering, and technology programs to programs in other academic disciplines; and

(D) placement during the first year after degree completion in post-graduate education or career pathways.

(2) ASSESSMENT BENCHMARKS AND TOOLS.—The Director, through the Research, Evaluation and Communication Division of the Education and Human Resources Directorate of the Foundation, shall establish a common set of assessment benchmarks and tools, and shall enable every Foundation-sponsored project to incorporate the use of these benchmarks and tools in their project-based assessment activities.

(3) REPORTS TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, and once every 3 years thereafter, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing the results of evaluations under paragraph (1).

(b) AWARDS.—Notwithstanding any other provision of this Act, the Director shall annually evaluate a random sample of grants, contracts, or other awards made pursuant to this Act.

(c) DISSEMINATION.—The Director shall—

(1) provide for the dissemination of the results of the evaluations conducted pursuant to this section to the public; and

(2) provide notice to the public that such evaluations are available.

SEC. 20. REPORT BY COMMITTEE ON EQUAL OPPORTUNITIES IN SCIENCE AND ENGINEERING.

As part of the first report required by section 36(e) of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885c(e)) transmitted to Congress after the date of enactment of this Act, the Committee on Equal Opportunities in Science and Engineering shall include—

(1) a summary of its findings over the previous 10 years;

(2) a description of past and present policies and activities of the Foundation to encourage full participation of women, minorities, and persons with disabilities in science, mathematics, and engineering fields, including activities in support of minority-serving institutions; and

(3) an assessment of the trends in participation in Foundation activities, and an assessment of the success of Foundation policies and activities, along with proposals for new strategies or the broadening of existing successful strategies toward facilitating the goals of that Act.

SEC. 21. ADVANCED TECHNOLOGICAL EDUCATION PROGRAM.

(a) CORE SCIENCE AND MATHEMATICS COURSES.—Section 3(a) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(a)) is amended—

(1) by inserting ", and to improve the quality of their core education courses in science and mathematics" after "education in advanced-technology fields";

(2) in paragraph (1) by inserting "and in core science and mathematics courses" after "advanced-technology fields"; and

(3) in paragraph (2) by striking "in advanced-technology fields" and inserting "who provide instruction in science, mathematics, and advanced-technology fields".

(b) ARTICULATION PARTNERSHIPS.—Section 3(c)(1)(B) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(c)(1)(B)) is amended—

(1) by striking "and" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting a semicolon; and

(3) by adding after clause (ii) the following new clauses:

"(iii) provide students with research experiences at bachelor's-degree-granting institutions participating in the partnership, including stipend support for students participating in summer programs; and

"(iv) provide faculty mentors for students participating in activities under clause (iii), including summer salary support for faculty mentors.".

(c) NATIONAL SCIENCE FOUNDATION REPORT.—Within 6 months after the date of the enactment of this Act, the Director shall transmit a report to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on—

(1) efforts by the Foundation and awardees under the program carried out under section 3 of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i) to disseminate information about the results of projects;

(2) the effectiveness of national centers of scientific and technical education established under section 3(b) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(b)) in serving as national and regional clearinghouses of information and models for best practices in undergraduate science, mathematics, and technology education; and

(3) efforts to satisfy the requirement of section 3(f)(4) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(f)(4)).

SEC. 22. REPORT ON FOUNDATION BUDGETARY AND PROGRAMMATIC EXPANSION.

The Board shall prepare a report to address and examine the Foundation's budgetary and programmatic growth provided for by this Act. The report shall be submitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate within one year after the date of the enactment of this Act and shall include—

(1) recommendations on how the increased funding should be utilized;

(2) an examination of the projected impact that the budgetary increases will have on the Nation's scientific and technological workforce;

(3) a description of new or expanded programs that will enable institutions of higher education to expand their participation in Foundation-funded activities;

(4) an estimate of the national scientific and technological research infrastructure needed to adequately support the Foundation's increased funding and additional programs; and

(5) a description of the impact the budgetary increases provided under this Act will have on the size and duration of grants awarded by the Foundation.

SEC. 23. ASTRONOMY AND ASTROPHYSICS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Foundation and the National Aeronautics and Space Administration shall jointly establish an Astronomy and Astrophysics Advisory Committee (in this section referred to as the "Advisory Committee").

(b) DUTIES.—The Advisory Committee shall—

(1) assess, and make recommendations regarding, the coordination of astronomy and astrophysics programs of the Foundation and the National Aeronautics and Space Administration;

(2) assess, and make recommendations regarding, the status of the activities of the Foundation and the National Aeronautics and Space Administration as they relate to the recommendations contained in the National Research Council's 2001 report entitled "Astronomy and Astrophysics in the New Millennium", and the recommendations contained in subsequent National Research Council reports of a similar nature; and

(3) not later than March 15 of each year, transmit a report to the Director, the Administrator of the National Aeronautics and Space Administration, and the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on the Advisory Committee's findings and recommendations under paragraphs (1) and (2).

(c) MEMBERSHIP.—The Advisory Committee shall consist of 13 members, none of whom shall be a Federal employee, including—

(1) 5 members selected by the Director;

(2) 5 members selected by the Administrator of the National Aeronautics and Space Administration; and

(3) 3 members selected by the Director of the Office of Science and Technology Policy.

(d) SELECTION PROCESS.—Initial selections under subsection (c) shall be made within 3 months after the date of the enactment of this Act. Vacancies shall be filled in the same manner as provided in subsection (c).

(e) CHAIRPERSON.—The Advisory Committee shall select a chairperson from among its members.

(f) COORDINATION.—The Advisory Committee shall coordinate with the advisory bodies of other Federal agencies, such as the Department of Energy, which may engage in related research activities.

(g) COMPENSATION.—The members of the Advisory Committee shall serve without compensation, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) MEETINGS.—The Advisory Committee shall convene, in person or by electronic means, at least 4 times a year.

(i) QUORUM.—A majority of the members serving on the Advisory Committee shall constitute a quorum for purposes of conducting the business of the Advisory Committee.

(j) DURATION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee.

SEC. 24. MINORITY-SERVING INSTITUTIONS UNDERGRADUATE PROGRAM.

(a) IN GENERAL.—The Director is authorized to establish a new program to award grants on a competitive, merit-reviewed basis to Hispanic-serving institutions, Alaska Native-serving institutions, Native Hawaiian-serving institutions, and other institutions of higher education serving a substantial number of minority students to enhance the quality of undergraduate science, mathematics, and engineering education at such institutions and to increase the retention and graduation rates of students pursuing associate's or baccalaureate degrees in science, mathematics, engineering, or technology.

(b) PROGRAM COMPONENTS.—Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in science, mathematics, and engineering;

(2) faculty development;

(3) stipends for undergraduate students participating in research; and

(4) other activities consistent with subsection (a), as determined by the Director.

(c) PROGRAM COORDINATION.—This program shall be coordinated with and in addition to the ongoing Historically Black Colleges and Universities Undergraduate Program and the Tribal Colleges and Universities Program.

(d) INSTRUMENTATION.—Funding for instrumentation is an allowed use of grants awarded under this section and under the ongoing Historically Black Colleges and Universities Undergraduate Program and the Tribal Colleges and Universities Program.

SEC. 25. STUDY ON RESEARCH AND DEVELOPMENT FUNDING DATA DISCREPANCIES.

(a) STUDY.—The Director, in consultation with the Director of the Office of Management and Budget and the heads of other Federal agencies, shall enter into agreement with the National Academy of Sciences to conduct a comprehensive study to determine the source of discrepancies in Federal reports on obligations and actual expenditures of Federal research and development funding.

(b) CONTENTS.—The study shall—

(1) examine the relevance and accuracy of reporting classifications and definitions used in the reports described in subsection (a);

(2) examine whether the classifications and definitions are used consistently across Federal agencies for data gathering;

(3) examine whether and how Federal agencies use reports described in subsection (a), and describe any other sources of similar data used by those agencies;

(4) recommend alternatives for modifications to the current reporting process and system that would—

(A) accommodate emerging fields of science and changing practices in the conduct of research and development;

(B) minimize, to the extent possible, the burden imposed on the reporters of these data;

(C) increase the consistency of application of the system across the Federal agencies including the Office of Management and Budget and the Foundation;

(D) encourage the use of new technologies to increase accuracy, timeliness, and consistency of the reported data between the agencies and the research performers; and

(E) overcome systemic shortfalls; and

(5) recommend an implementation timeline for the modifications recommended under paragraph (4), and recommend specific responsibilities for the program and budget offices in the agencies, taking into consideration required changes to the current computer systems and processes used by the agencies.

(c) SUBMISSION.—The Director shall submit a report on the results of the study to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate within one year after the date of enactment of this Act.

(d) IMPLEMENTATION.—Within 6 months after the completion of the study required by subsection (a), the Director of the Office of Science and Technology Policy shall submit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a plan for implementation of the recommendations of the study.

SEC. 26. PLANNING GRANTS.

The Director is authorized to accept planning proposals from applicants who are within .075 percentage points of the current eligibility level for the Experimental Program to Stimulate Competitive Research. Such proposals shall be reviewed by the Foundation to determine their merit for support under the Experimental Program to Stimulate Competitive Research or any other appropriate program.

Amend the title so as to read: "An Act to authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007 for the National Science Foundation, and for other purposes.".

Mr. ARMEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

NORTH AMERICAN WETLANDS CONSERVATION REAUTHORIZATION ACT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3908) to reauthorize the North American Wetlands Conservation Act, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

(1)Page 2, line 19, strike out all after "inserting" down to and including "birds" in line 21 and insert: "*and habitats associated with wetland ecosystems*

(2)Page 2, lines 22 and 23, strike out [dependent] and insert: *associated*

(3)Page 2, line 25, strike out [dependent] and insert: *associated*

(4)Page 4, line 3, strike out all after "inserting" down to and including "thereof)" in line 4 and insert: *"(but at least 30 percent and not more than 60 percent)*

(5)Page 4, line 9, strike out all after "inserting" down to and including "thereof)" in line 10 and insert: *"(but at least 40 percent and not more than 70 percent)*

(6)Page 5, after line 11, insert:

(2) In section 2(a)(12) (16 U.S.C. 4401(a)(12)), by inserting "and in 1994 by the Secretary of Sedesol for Mexico" after "United States".

(7)Page 5, line 12, strike out [(2)] and insert: *(3)*

(8)Page 5, line 17, strike out [(3)] and insert: *(4)*

(9)Page 5, after line 18, insert:

(5) In section 3(6) (16 U.S.C. 4402(6)), by inserting after "1986" the following: ", and by the Secretary of Sedesol for Mexico in 1994, and subsequent dates".

(10)Page 5, line 19, strike out [(4)] and insert: *(6)*

(11)Page 5, line 22, strike out [(5)] and insert: *(7)*

(12)Page 6, line 1, strike out [(6)] and insert: *(8)*

(13)Page 6, after line 2, insert:

(9) In section 5(b) (16 U.S.C. 4404(b)), by striking "by January 1 of each year," and inserting "each year".

(10) In section 5(d) (16 U.S.C. 4404(d)), by striking "one Council member" and inserting "2 Council members".

(14)Page 6, line 3, strike out [(7)] and insert: *(11)*

(15)Page 6, line 6, strike out [(8)] and insert: *(12)*

(16)Page 6, line 10, strike out [(9)] and insert: *(13)*

(17)Page 6, line 13, strike out [(10)] and insert: *(14)*

(18)Page 7, after line 3, insert:

SEC. 9. CHESAPEAKE BAY INITIATIVE.

Section 502(c) of the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; Public Law 105–312) is amended by striking "2003" and inserting "2008".

Mr. ARMEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BOYD (at the request of Mr. GEPHARDT) for today on account of family business.

Mr. SAWYER (at the request of Mr. GEPHARDT) for today after 8:15 p.m. on account of an official congressional delegation event.

Mr. WATT of North Carolina (at the request of Mr. GEPHARDT) for today after 9:00 p.m. on account of an official congressional delegation event.

Mr. WYNN (at the request of Mr. GEPHARDT) for today after 8:00 p.m. on account of an official congressional delegation event.

Mr. YOUNG of Florida (at the request of Mr. ARMEY) for today after 7:30 p.m. on account of illness in the family.

Mr. DIAZ-BALART (at the request of Mr. ARMEY) for today and the balance of the week on account of a family emergency.

Mr. GILMAN (at the request of Mr. ARMEY) for today after 8:35 p.m. and the balance of the week on account of attending the Trans-Atlantic Legislators Dialogue Conference.

Mr. HYDE (at the request of Mr. ARMEY) for today after 8:35 p.m. and the balance of the week on account of attending the Trans-Atlantic Legislators Dialogue Conference.

Mr. ISSA (at the request of Mr. ARMEY) for today after 8:35 p.m. and the balance of the week on account of attending the Trans-Atlantic Legislators Dialogue Conference.

Mr. TOOMEY (at the request of Mr. ARMEY) for today on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. TURNER) to revise and extend their remarks and include extraneous material:

Mr. HOYER, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. SHERMAN, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. VISCLOSKY, for 5 minutes, today.

Mr. HILL, for 5 minutes, today.

Ms. CARSON of Indiana, for 5 minutes, today.

Mr. MCGOVERN, for 5 minutes, today.

Mr. SKELTON, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. GORDON, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

The following Members (at the request of Mr. ARMEY) to revise and extend their remarks and include extraneous material:

Mr. JONES of North Carolina, for 5 minutes, today.

Mr. KIRK, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. BILIRAKIS, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. COX, for 5 minutes, today.

Mr. CANNON, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, today.

Mr. SHAW, for 5 minutes, today.

Mr. DREIER, for 5 minutes, today.

Mr. LATOURETTE, for 5 minutes, today.

Mr. ROYCE, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 958. An act to provide for the use and distribution of the funds awarded to the Western Shoshone identifiable group under Indian Claims Committee Docket Numbers 326–A–1, 326–A–3, 326–K, and for other purposes; to the Committee on Resources.

S. 1742. An act to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes; to the Committee on the Judiciary in addition to the Committee on Financial Services for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. 2845. An act to extend for one year procedural relief provided under the USA PATRIOT Act for individuals who were or are victims or survivors of victims of a terrorist attack on the United States on September 11, 2000; to the Committee on the Judiciary.

S. 3067. An act to amend title 44, United States Code, to extend certain Government information security reform for one year, and for other purposes; to the Committee on Government Reform.

S.J. Res. 42. Joint resolution commending Sail Boston for its continuing advancement of the maritime heritage of nations, its commemoration of the nautical history of the United States, and its promotion, encouragement, and support of young cadets through training; to the Committee on Transportation and Infrastructure in addition to the Committee on International Relations for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1070. An act to amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to carry out projects and conduct research for remediation of sediment contamination in areas of concern in the Great Lakes, and for other purposes.

H.R. 2546. An act to amend title 49, United States Code, to prohibit States from requiring a license or fee on account of the fact that a motor vehicle is providing interstate pre-arranged ground transportation service, and for other purposes.

H.R. 3340. An act to amend title 5, United States Code, to allow certain catch-up contributions to the Thrift Savings Plan to be made by participants age 50 or over; to reauthorize the Merit Systems Protection Board and the Office of Special Counsel; and for other purposes.

H.R. 3389. An act to reauthorize the National Sea Grant College Program Act, and for other purposes.

H.R. 3394. An act to authorize funding for computer and network security research and development and research fellowship programs, and for other purposes.

H.R. 4878. An act to provide for estimates and reports of improper payments by Federal agencies.

H.R. 5349. An act to facilitate the use of a portion of the former O'Reilly General Hospital in Springfield, Missouri, by the local Boys and Girls Club through the release of the reversionary interest and other interests retained by the United States in 1955 when the land was conveyed to the State of Missouri.

ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I promised myself I would stay until the last dog died, and it turns out I am the last dog.

Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 5 minutes a.m.), under its previous order, the House adjourned until Tuesday, November 19, 2002, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9973. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Canadian Border Ports; Blaine and Lynden, WA [Docket No. 02-064-1] received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9974. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Mediterranean Fruit Fly; Removal of Quarantined Area [Docket No. 01-093-3] received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9975. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Gypsy Moth Generally Infested Areas [Docket No. 02-053-2] received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9976. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Low Pathogenic Avian Influenza; Payment of Indeminity [Docket No. 02-048-1] (RIN: 0579-AB46) received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9977. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Change in Disease Status of Israel Because of BSE [Docket No. 02-072-2] received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9978. A communication from the President of the United States, transmitting his requests for FY 2003 budget amendments for the Department of Justice and the National Aeronautics and Space Administration; (H. Doc. No. 107—281); to the Committee on Appropriations and ordered to be printed.

9979. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 98-02, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

9980. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Housing Choice Voucher Program Homeownership Option: Eligibility of Units Owned or Controlled by a Public Housing Agency [Docket No. FR-4759-I-01] (RIN: 2577-AC39) received November 6, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9981. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Testimony of Employees in Legal Proceedings [Docket No. FR-4783-F-01] (RIN: 2501-AC90) received November 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9982. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-P-7612] received November 6, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9983. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule — Final Flood Elevation Determinations — received November 6, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9984. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Special Supplemental Nutrition Progam for Women, Infants and Children: Exclusion of Military Housing Payments (RIN: 0584-AD34) received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9985. A letter from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Department of Education, transmitting the Department's final rule — Student Assistance General Provisions — received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9986. A letter from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Department of Education, transmitting the Department's final rule — Federal Student Aid Programs (RIN: 1845-AA2 3) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9987. A letter from the Director, OSHA Standards and Guidance, Department of Labor, transmitting the Department's final rule — Exit Routes, Emergency Action Plans, and Fire Prevention Plans (RIN: 1218-AB82) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9988. A letter from the Attorney Advisor, NHTSA, Department of Transportation, transmitting the Department's final rule — Consumer Information; Safety Rating Program for Child Restraint Systems [Docket No. NHTSA-02-10053] (RIN: 2127-AI65) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9989. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Notice of Halting the Sanctions Clocks for the Commonwealth of Virginia's Failure to Submit Required State Implementation Plan for the NOX SIP Call [FRL-7249-5] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9990. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standard Benzene Waste Operations [FRL-7405-6] (RIN: 2060-AJ87) received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9991. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plan for Designated Facilities and Pollutants; State of Mississippi [MS-200302(a); FRL-7404-2] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9992. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District [CA242-0373a; FRL-395-8] received November 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9993. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Designation of Areas for Air Quality Planning Purposes; Redesignation of Particulate Matter Unclassifiable Areas; Redesignation of Hydrographic Area 61 for Particulate Matter, Sulfur Dioxide, and Nitrogen Dioxide; State of Nevada [FRL-7408-2] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9994. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Texas; Environmental Speed Limit Revision; and Voluntary Mobile Emission Reduction Program Commitment for the Houston/Galveston (HG) Ozone Nonattainment Area [TX-144-1-7581; FRL-7407-1] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9995. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; South Carolina; Adoption of Revision Governing Credible Evidence and Removal of Standard 3 [SC-041, 046-200211(a); FRL-7406-7] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9996. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to Allegheny County Articles XX and XXI [PA134-138-4193a; FRL-7391-6] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9997. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans;

Designation of Areas for Air Quality Planning Purposes; Pennsylvania; Redesignation of the Allegheny County Carbon Monoxide Nonattainment Area and Approval of Miscellaneous Revisions [PA181-4181a; FRL-7399-4] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9998. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the Arizona State Implementation Plan, Pinal County Air Quality Control District [AZ 080-0060; FRL-7261-6] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9999. A letter from the Acting Principal Deputy Associate Administrator, Environnmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production [FRL-7406-6] (RIN: 2060-AE78) received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10000. A letter from the Chair, State Energy Advisory Board, transmitting the Board's tenth annual report, pursuant to 42 U.S.C. 6325; to the Committee on Energy and Commerce.

10001. A letter from the Director of Government Affairs, Commission on International Religious Freedom, transmitting a report on human rights conditions in Afghanistan; to the Committee on International Relations.

10002. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — Amendments of the United States Munitions List — received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

10003. A letter from the Chairman, Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting the combined report for the Inspector General Act and the Federal Fiancial Manager's Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

10004. A letter from the Chairman, Consumer Product Safety Commission, transmitting the Commission's 2002 Fair Act Inventory Report; to the Committee on Government Reform.

10005. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revised Freedom of Information Act Regulations [OEI-2002-0005; FRL-7404-4] (RIN: 2025-AA04) received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

10006. A letter from the Executive Director, Office of Navajo and Hopi Indian Relocation, transmitting the FY 2002 report pursuant to the Federal Managers' Financial Integrity Act and the 1988 Amendments to the Inspector General Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

10007. A letter from the Chair, United States Access Board, transmitting the Board's consolidated report for the Inspector General Act and the Federal Fiancial Manager's Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

10008. A letter from the Chairman, United States Merit Systems Protection Board, transmitting the FY 2002 combined report pursuant to the Federal Managers' Financial Integrity Act and the 1988 Amendments to the Inspector General Act, pursuant to 31 U.S.C. 3512(c)(3)and Public Law 100—504; to the Committee on Government Reform.

10009. A letter from the Chairman, Office of the General Counsel, Federal Election Commission, transmitting the Commission's final rule — Contribution Limitations and Prohibitions [Notice 2002-22] received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

10010. A letter from the Deputy Assistant Secretary, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Eriodictyon capitatum (Lompoc yerba santa) and Deinandra increscens ssp. villosa (Gaviota tarplant) (RIN: 1018-AG88) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10011. A letter from the Assitant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Final Rule to Establish Thirteen Additional Manatee Protection Areas in Florida (RIN: 1018-AH80) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10012. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Experimental Setnet Sablefish Landings To Qualify Limited Entry Sablefish-Endorsed Permits for Tier Assignment [Docket No. 020606142-2234-02; I.D. 041802F] (RIN: 0648-AP39) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10013. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area [Docket No. 011218304-1304; I.D. 102802E] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10014. A letter from the Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Atlantic Highly Migratory Species (HMS): NOAA Information Collection Requirements: Technical Amendment [Docket No. 020925233-2223-01; I.D. 0910021] (RIN: 0648-AP89) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10015. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fraser River Sockeye and Pink Salmon Fisheries; Inseason Orders [I.D. 101102B] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10016. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic [Docket No. 001005281-0369-02; I.D. 102302A] received November 6, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10017. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 4 — Adjustment of the Commercial Fishery from the U.S.-Canada Border to Cape Falcon, OR [Docket No. 020430101-2101-01; I.D. 072402D] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10018. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action No. 9 — Closure and Reopening of the Recreational Fishery from Cape Falcon to Humbug Mountain, OR [Docket No. 020430101-2101-01; I.D. 082802B] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10019. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 13--Adjustment of the Commercial Fishery from the U.S.-Canada Border to Cape Falcon, OR [Docket No. 020430101-2101-01; I.D. 092602A] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10020. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 14--Adjustment of the Recreational Fishery from Leadbetter Point, WA to Cape Falcon, OR (Columbia River Area) [Docket No. 020430101-2101-01; I.D. 101102C] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10021. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 17--Adjustment of the Ceremonial and Subsistence Harvest Regulations for the Ocean Salmon Fisheries of the Quileute Tribe [Docket No. 020430101-2101-01; I.D. 101102G] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10022. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 16--Adjustment of the Commerical Fishery from the Oregon-California Border to the Humboldt South Jetty [Docket No. 020430101-2101-01; I.D. 101102F] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10023. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon

Fisheries; Inseason Action 15--Closure of the Commercial Fishery from Humbug Mountain, OR to the Oregon-California Border [Docket No. 020430101-2101-01; I.D. 101102D] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10024. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 8 — Closure of the Commercial Fishery from Humbug Mountain, OR, to the Oregon-California Border [Docket No. 020430101-2101-01; I.D. 082802A] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10025. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 11 — Adjustment of the Recreational Fishery from the U.S.-Canada Border to Cape Falcon, OR [Docket No. 020430101-2101-01; I.D. 082802D] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10026. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 12--Adjustment of the Recreational Fishery from the Queets River to Leadbetter Point, WA (Westport Area) [Docket No. 020430101-2101-01; I.D. 092502H] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10027. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 10 — Adjustment of the Commercial Fishery from the U.S.-Canada Border to Cape Falcon, OR [Docket No. 020430101-2101-01; I.D. 082802C] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10028. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Trip Limit Adjustments; Correction [Docket No. 011231309-2090-03; I.D. 092602B] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10029. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zones; Captain of the Port Detroit Zone, Selfridge Air National Guard Base, Lake St Clair [CGD09-02-523] .(RIN: 2115-AA97) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10030. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Anchorages and Security Zones; Oahu, Maui, Hawaii, and Kauai, HI [CGD14-02-001] (RIN: 2115-AA97) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10031. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Agusta S.p.A. Model A119 Helicopters [Docket No. 2002-SW-46-AD; Amendment 39-12910; AD 2002-21-04] (RIN: 2120-AA64) received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10032. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cirrus Design Corporation Model SR20 and SR22 Airplanes [Docket No. 2002-CE-41-AD; Amendment 39-12908; AD 2002-21-02] (RIN: 2120-AA64) received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10033. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rockwell Collins, Inc. AFD-3010 Adaptive Flight Display Units [Docket No. 2002-CE-39-AD; Amendment 39-12906; AD 2002-20-09] (RIN: 2120-AA64) received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10034. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier-Rotax GmbH Type 912 F, 912 S, and 914 F Series Reciprocating Engines [Docket No. 2002-NE-17-AD; Amendment 39-12846; AD 2002-16-07] (RIN: 2120-AA64) received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10035. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; MD Helicopters, Inc., Model MD900 Helicopters [Docket No. 2001-SE-25-AD; Amendment 39-12837; AD 2002-15-07] (RIN: 2120-AA64) received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10036. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D Airspace; Henderson Airport; Las Vegas, NV [Airspace Docket No. 02-AWP-4] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10037. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace, Matawan, NJ [Airspace Docket No. 02-AEA-16] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10038. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E5 Airspace; Morganton, NC [Airspace Docket No. 02-ASO-17] received october 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10039. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E5 Airspace; Marion, NC [Airspace Docket No. 02-ASO-13] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10040. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E5 Airspace; Andrews — Murphy, NC [Airspace Docket No. 02-ASO-16] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10041. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E5 Airspace; Highlands, NC [Airspace Docket No. 02-ASO-12] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10042. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E5 Airspace; Sylva, NC [Airspace Docket No. 02-ASO-15] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10043. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E5 Airspace; Franklin, NC [Airspace Docket No. 02-ASO-10] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10044. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E5 Airspace; Prestonburg, KY [Airspace Docket No. 02-ASO-9] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10045. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E5 Airspace; Asheville, NC [Airspace Docket No. 02-ASO-11] received October 29, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10046. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bell Helicopter Textron Canada Limited Canada Limited Model 407 Helicopters [Docket No. 2002-SW-38-AD; Amendment 39-12935; AD 2002-22-10] (RIN: 2120-AA64) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10047. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30337; Amdt. No. 3029] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10048. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS332C, L, and L1 Helicopters [Docket No. 2002-SW-36-AD; Amendment 39-12934; AD 2002-22-09] (RIN: 2120-AA64) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10049. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Agusta S.p.A. Model A109E Helicopters [Docket No. 2002-SW-42-AD; Amendment 39-12936; AD 2002-17-51] (RIN: 2120-AA64) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the

Committee on Transportation and Infrastructure.

10050. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737 Series Airplanes [Docket No. 2001-NM-251-AD; Amendment 39-12940; AD 2002-20-07 R1] (RIN: 2120-AA64) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10051. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rockwell Collins, Inc. FMC-4200, FMC-5000, and FMC-6000 Flight Management Computers [Docket No. 2000-CE-13-AD; Amendment 39-12939; AD 2002-22-13] (RIN: 2120-AA64) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10052. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operating Regulations; Illinois Waterway, Joliet, IL [CGD08-02-025] (RIN: 2115-AE47) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10053. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Security Zone; San Juan, Puerto Rico [CGD 07-02-132] (RIN: 2115-AA97) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10054. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Anchorage Grounds; Frenchman Bay, Bar Harbor, ME [CGD 01-02-027] (RIN: 2115-AA98) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10055. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations; Shrewsbury River, NJ [CGD01-02-122] (RIN: 2115-AE47) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10056. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulation; Illinois Waterway, Joliet, IL [CGD08-02-024] (RIN: 2115-AE47) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10057. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations: Connecticut River, CT [CGD01-02-100] (RIN: 2115-AE47) received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10058. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Drawbridge Operation Regulations: Danvers River, MA [CGD01-02-118] received October 31, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10059. A letter from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Notice of Request for Initial Proposals (IPs) for Projects to be Funded from the Water Quality Cooperative Agreement Allocation (CFDA 66.463 — Water Quality Cooperative Agreements) [FRL-7402-9] received November 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10060. A letter from the Acting Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Small Business Investment Companies (RIN: 3245-AE88) received November 6, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

10061. A letter from the Acting Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Small Business Size Standards; Inflation Adjustment to Size Standards (RIN: 3245-AE56) received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

10062. A letter from the Chief, Regulations Branch, Department of the Treasury, transmitting the Department's final rule — General Order Warehouses [T.D. 02-65] (RIN: 1515-AC57) received November 4, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10063. A letter from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting the Department's final rule — Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds; Reporting of Net Long Position and Application of the 35 Percent Limit [Department of the Treasury Circular, Public Debt Series No. 1-93] received November 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10064. A letter from the United States Trade Representative, Executive Office of the President, transmitting notification that the President intends to initiate negotiations for a free trade agreement with the five members countries of the Southern African Customs Union; to the Committee on Ways and Means.

10065. A letter from the United States Trade Representative, Executive Office of the President, transmitting notification that the President is engaged in negotiations to strengthen, and extend, as well as establish new trade agreements under the auspices of the World Trade Organizations; to the Committee on Ways and Means.

10066. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rate Update [Notice 2002-74] received November 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10067. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Last in, First-out Inventories (Rev. Rul. 2002-77) received October 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10068. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Changes in Annual Accounting Period [Notice 2002-72] received October 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10069. A letter from the Chief, Regulations, Internal Revenue Service, transmitting the Service's final rule — Eligible basis reduced by federal grants (Rev. Rul. 2002-65) received October 30, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10070. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Definition of Real Estate Investment Trust (Rev. Rul. 2002-38) received November 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10071. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Department's final rule — Charitable, etc., contributions and gifts; allowance of deduction (Rev. Rul. 2002-67) received November 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10072. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Low-Income Housing Credit (Rev. Rul. 2002-72) received November 7, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10073. A letter from the Secretary, Department of Energy, transmitting a report regarding programs for the protection, control and accounting of fissile materials in the countries of the former Soviet Union, second half of FY 2002, pursuant to 22 U.S.C. 5952 nt.; jointly to the Committees on Armed Services and International Relations.

10074. A letter from the Regulations Coordinator, CMM, Department of Health and Human Services, transmitting the Department's final rule — Medicare Program; Correction of Certain Calendar Year 2002 Payment Rates Under the Hospital Outpatient Prospective Payment System and the Pro Rata Reduction on Transitional Pass-Though Payments; Correction of Technical and Typographical Errors [CMS-1159-F4] (RIN: 0938-AK54) received October 21, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

10075. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Presidential Determination No. 2003-03 regarding waiver and certification of statutory provisions regarding the Palestine Liberation Organization; jointly to the Committees on International Relations and Appropriations.

10076. A letter from the FAA and NASA Administrators, Department of Transportation, transmitting the final report entitled, "Subsonic Noise Reduction Technology," pursuant to 49 U.S.C. app. 1353 note; jointly to the Committees on Transportation and Infrastructure and Science.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 1452. A bill to amend the Immigration and Nationality Act to permit certain long-term permanent resident aliens to seek cancellation of removal under such Act, and for other purposes; with an amendment (Rept. 107-785). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 5334. A bill to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits (Rept. 107–786). Referred to the Committee of the Whole House on the state of the Union.

Mr. SAXTON: Joint Economic Committee. Report of the Joint Economic Committee on the 2002 Economic Report of the President (Rept. 107–788). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOSS: Committee of Conference. Conference report on H.R. 4628. A bill to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United states Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 107–789). Ordered to be printed.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. BURTON: Committee on Government Reform. H.R. 2458. A bill to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by reestablishing a broad framework of measurers that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes, with an amendment; referred to the Committee on Judiciary for a period ending not later than November 14, 2002, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X (Rept. 107–787, Pt. 1).

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. THOMAS:

H.R. 5728. A bill to amend the Internal Revenue Code of 1986 to provide fairness in tax collection procedures and improved administrative efficiency and confidentiality and to reform its penalty and interest provisions; to the Committee on Ways and Means. Considered and agreed to.

By Mr. TANNER (for himself, Mr. BERRY, Mr. MATHESON, Mr. ROSS, Mr. STENHOLM, Mr. HILL, Mr. MOORE, Mr. PETERSON of Minnesota, Mr. TURNER, and Mr. FORD):

H.R. 5729. A bill to amend title XVIII of the Social Security Act to revise and improve payments to providers of services under the Medicare Program, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska:

H.R. 5730. A bill to relocate the drydock vessel EX-COMPETENT; to the Committee on Armed Services, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WU:

H.R. 5731. A bill to provide for additional benefits under the Temporary Extended Unemployment Compensation Act of 2002; to the Committee on Ways and Means.

By Mr. BRADY of Texas:

H.R. 5732. A bill to amend the Clean Air Act regarding the conformity of transportation projects to implementation plans, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SCHIFF:

H.R. 5733. A bill to amend the Foreign Assistance Act of 1961 to ensure that projects and activities carried out with United States assistance are appropriately identified overseas as "American Aid", and for other purposes; to the Committee on International Relations.

By Mr. SMITH of Michigan:

H.R. 5734. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1986 to provide prospectively for personalized retirement security through personal retirement savings accounts to allow for more control by individuals over their Social Security retirement income, to amend such title and the Balanced Budget and Emergency Deficit Control Act of 1985 to protect social security surpluses, and to provide other reforms relating to benefits under such title II; to the Committee on Ways and Means.

By Mr. HINCHEY:

H.R. 5735. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for Social Security taxes paid on up to $25,000 of wages; to the Committee on Ways and Means.

By Ms. ROS-LEHTINEN (for herself and Mr. DEUTSCH):

H.R. 5736. A bill to provide for the conveyance of certain real property by the Administrator of General Services; to the Committee on Government Reform.

By Ms. ROS-LEHTINEN (for herself, Mr. DIAZ-BALART, Mr. FOLEY, Mr. SMITH of New Jersey, Mr. WEXLER, Mr. TANCREDO, Mr. GILMAN, Mr. BURTON of Indiana, and Mr. ENGEL):

H.R. 5737. A bill to posthumously revoke the naturalization of Eriberto Mederos; to the Committee on the Judiciary.

By Mr. SHIMKUS (for himself, Mr. HASTERT, Mr. NETHERCUTT, Mr. HAYWORTH, and Ms. DEGETTE):

H.R. 5738. A bill to amend the Public Health Service Act with respect to special diabetes programs for Type I diabetes and Indians; to the Committee on Energy and Commerce. Considered and agreed to.

By Mr. HONDA (for himself, Mr. PAYNE, Mrs. CLAYTON, Mr. PALLONE, Mr. STARK, Mr. KENNEDY of Rhode Island, Ms. LEE, Mr. CONYERS, Mr. ACEVEDO-VILÁ, Mr. LIPINSKI, Mrs. CHRISTENSEN, Mr. WYNN, and Mr. POMBO):

H.R. 5739. A bill to protect children from foods that pose a significant choking hazard; to the Committee on Energy and Commerce.

By Mr. TAUZIN (for himself, Mr. DINGELL, Mr. BILIRAKIS, and Mr. BROWN of Ohio):

H.R. 5740. A bill to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program (SCHIP); to the Committee on Energy and Commerce.

By Mrs. WILSON of New Mexico:

H.R. 5741. A bill to establish the T'uf Shur Bien Preservation Trust Area in the Cibola National Forest, and for other purposes; to the Committee on Resources.

By Mr. FRELINGHUYSEN (for himself, Mr. FERGUSON, Mr. PALLONE, and Mr. HOLT):

H.R. 5742. A bill to prohibit a State from imposing a discriminatory commuter tax on nonresidents, and for other purposes; to the Committee on the Judiciary.

By Mr. FOLEY:

H.R. 5743. A bill to improve funeral home, cemetery, and crematory inspection systems, to establish consumer protections relating to funeral service contracts, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GEKAS:

H.R. 5744. A bill to amend title 11 of the United States Code, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEKAS:

H.R. 5745. A bill to amend title 11 of the United States Code, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAMPSON:

H.R. 5746. A bill to provide that the State and local income tax withholding provisions of section 11502 of title 49, United States Code, shall not apply to the Metro-North Railroad or its employees; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY (for herself, Mr. WAXMAN, Mr. BROWN of Ohio, Ms. DELAURO, Mr. SMITH of Washington, Ms. LEE, Mr. HOLT, Mr. HINCHEY, Mr. DEFAZIO, Ms. ROYBAL-ALLARD, Mr. LANGEVIN, Ms. RIVERS, Mr. LEVIN, Ms. NORTON, Mr. PRICE of North Carolina, Mr. NADLER, Mr. FROST, Mr. PALLONE, Mr. ROTHMAN, Mr. RANGEL, and Mr. GEORGE MILLER of California):

H.R. 5747. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish labeling requirements regarding allergenic substances in food, and for other purposes; to the Committee on Energy and Commerce.

By Ms. MCKINNEY:

H.R. 5748. A bill to protect public assets, natural heritage, and native biodiversity on Federal public lands by banning all further degradation, development, and extraction on such lands, and for other purposes; to the Committee on Resources, and in addition to the Committees on Agriculture, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MEEHAN:

H.R. 5749. A bill to create a 4-year pilot program that makes small, non-profit child care businesses eligible for SBA 504 loans; to the Committee on Small Business.

By Mrs. MEEK of Florida:

H.R. 5750. A bill to amend the Immigration and Nationality Act to eliminate the restriction on judicial review of detention and release determinations and to provide a right to a bond hearing before an immigration judge to all aliens in removal and summary removal proceedings; to the Committee on the Judiciary.

By Mrs. MEEK of Florida:

H.R. 5751. A bill to provide the same immigration adjustment rights for Haitians as is provided for Cubans; to the Committee on the Judiciary.

By Mr. OBERSTAR:

H.R. 5752. A bill to provide for the use or distribution of the funds awarded to the Minnesota Chippewa Tribe in Minnesota Chippewa Tribe v. United States, Docket Nos. 19 and 188, United States Court of Federal Claims; to the Committee on Resources.

By Mr. PASTOR:

H.R. 5753. A bill to authorize the Secretary of the Interior to participate in the Yuma East Wetlands Project in the vicinity of Yuma, Arizona; to the Committee on Resources.

By Mr. RAMSTAD:

H.R. 5754. A bill to amend the Internal Revenue Code of 1986 to provide that the foreign tax credit not be redetermined with respect to refunds of unlawful foreign taxes to taxpayers who successfully challenge those taxes; to the Committee on Ways and Means.

By Mr. ROEMER:

H.R. 5755. A bill to authorize the establishment of a commemorative work on Federal land in the District of Columbia and its environs to honor James Madison in recognition of his distinguished career in public service; to the Committee on Resources.

By Mr. UDALL of New Mexico:

H.R. 5756. A bill to amend title VI of the Public Utility Regulatory Policies Act of 1978 to establish a Federal renewable energy portfolio standard for certain retail electric utilities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WU (for himself, Mr. Blumenauer, Mr. Oberstar, Ms. McCollum, and Mr. DeFazio):

H.R. 5757. A bill to extend temporarily waivers granted to States with respect to programs of aid to families with dependent children; to the Committee on Ways and Means.

By Mr. HONDA (for himself, Mr. Hastings of Florida, Mr. McDermott, Mr. Towns, Mr. Gonzalez, Mr. Frost, Mr. Underwood, Mr. Abercrombie, Mr. Baca, Ms. Pelosi, Mr. DeFazio, Ms. Norton, Ms. Woolsey, Mr. Wu, Ms. Lofgren, Mr. Capuano, Ms. Carson of Indiana, Ms. Eddie Bernice Johnson of Texas, Mr. George Miller of California, Mr. Davis of Illinois, Mr. Meeks of New York, Mr. Filner, Ms. Brown of Florida, Ms. Lee, Mr. Radanovich, and Mr. Pitts):

H.J. Res. 125. A joint resolution posthumously proclaiming soldiers of Asian descent who fought in the Civil War to be honorary citizens of the United States; to the Committee on the Judiciary.

By Ms. CARSON of Indiana:

H. Con. Res. 518. Concurrent resolution expressing the sense of Congress that the deployment of United States Armed Forces against Iraq without prior specific authorization by the United Nations Security Council and specific congressional authorization pursuant to a declaration of war would constitute a violation of the obligations of the United States under the United Nations Charter and a violation of the United States Constitution, respectively; to the Committee on International Relations.

By Mr. CHABOT (for himself and Mr. Portman):

H. Con. Res. 519. Concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month", and for other purposes; to the Committee on Government Reform.

By Mr. GRAVES:

H. Con. Res. 520. Concurrent resolution expressing the sense of Congress that the Secretary of Agriculture should reexamine the authorities governing the Conservation Reserve Program and adjust the program to the maximum extent practicable to assist agricultural producers adversely affected by severe drought conditions; to the Committee on Agriculture.

By Mr. HONDA (for himself, Mr. Sherman, Mr. Matsui, Mr. Wu, Mr. Schiff, Ms. Lee, Ms. Lofgren, Mr. Stark, Mr. Filner, Mr. Waxman, and Mrs. Napolitano):

H. Res. 613. A resolution honoring the life of Dr. Chang-Lin Tien, model educator, diplomat, and mentor; to the Committee on Government Reform.

By Mr. ARMEY:

H. Res. 614. A resolution providing for the printing of a revised edition of the Rules and Manual of the House of Representatives for the One Hundred Eighth Congress; considered and agreed to.

By Mr. ARMEY:

H. Res. 615. A resolution providing for a committee of two Members to be appointed by the House to inform the President; considered and agreed to.

By Mr. ROEMER (for himself, Mr. Wynn, Mr. Honda, and Mr. Buyer):

H. Res. 616. A resolution recognizing the 2002 United States Professors of the Year; to the Committee on Education and the Workforce.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

422. The SPEAKER presented a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 47 memorializing the President and Congress of the United States to stand firm in their resolve to uphold the intent and substance of the current provision of Title IX of the Education Amendments of 1972; to the Committee on Education and the Workforce.

423. Also, a memorial of the Senate of the State of New Jersey, relative to Senate Resolution No. 62 memorializing the Congress of the United States to reconsider the deregulation of the cable television industry and permit the states to fully regulate the cable television industry; to the Committee on Energy and Commerce.

424. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 63 memorializing the Congress of the United States that the extradition from Mexico of all criminals who face life sentences is a matter of urgent and enduring importance to the State of California; to the Committee on International Relations.

425. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 48 memorializing the Congress of the United States and the President of the United States to increase the administration's efforts to encourage initiatives that will help promote and achieve reunification, reconciliation, stability, and prosperity in Cyprus within the context of the ongoing efforts under the United Nations Secretary General's auspices and on the basis of the relevant United Nations Security Council Resolutions; to the Committee on International Relations.

426. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 44 memorializing the Congress of the United States that the Legislature of the State of California hereby designates April 24, 2002, as "California Day of Remembrance for the Armenian Genocide of 1915-1923"; to the Committee on Government Reform.

427. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 244 memorializing the Congress of the United States that the legislature commemorate October 2002 as Respect Month and October 30, 2002, as Respect Your Neighborhood Day on a permanent basis in the state of Michigan; to the Committee on Government Reform.

428. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 685 memorializing the Congress of the United States to declare September 11 as "National Day of Life Appreciation and Freedom"; to the Committee on Government Reform.

429. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 52 memorializing the Congress and President of the United States to enact H.R. 3917 to designate a National Memorial at the crash site of Flight 93 in Somerset County, Pennsylvania to pay tribute to and honor the true heroes of this nation; to the Committee on Resources.

430. Also, a memorial of the Legislature of the State of Utah, relative to House Joint Resolution No. 17 memorializing the United States Congress that the Legislature of the state of Utah approves the closure of the district court within the municipal boundaries of Murray City, Utah; to the Committee on the Judiciary.

431. Also, a memorial of the Legislature of the State of Utah, relative to House Joint Resolution No. 14 memorializing the United States Congress that the Legislature proposes to amend the Utah Constitution to modify language relating to an additional debt limit for certain municipalities; to the Committee on the Judiciary.

432. Also, a memorial of the Legislature of the State of California, relative to House Joint Resolution No. 11 memorializing the United States Congress that the Legislature proposes to amend the Utah Constitution to require advance notice of legislative business in a special session, with certain exceptions; to the Committee on the Judiciary.

433. Also, a memorial of the Legislature of the State of Utah, relative to Senate Joint Resolution No. 4 memorializing the United States Congress that the Legislature proposes to amend the Utah Constitution to allow counties sharing a common boundary to adjust the boundary; to the Committee on the Judiciary.

434. Also, a memorial of the Legislature of the State of Utah, relative to Senate Joint Resolution No. 16 memorializing the United States Congress that the Legislature recognizes the service and sacrifices of the public safety and security personnel whose many hours of labor ensured the safety and security of athletes and spectators at the 2002 Olympic Winter Games; to the Committee on the Judiciary.

435. Also, a memorial of the Legislature of the State of Utah, relative to Senate Joint Resolution No. 2 memorializing the United States Congress that the Legislature proposes to amend the Education Article of the

Utah Constitution; to the Committee on the Judiciary.

436. Also, a memorial of the Legislature of the State of Utah, relative to Senate Joint Resolution No. 6 memorializing the United States Congress that the Legislature urges the Tax Review Commission to conduct a two-year study of certain tax exemptions, suggests the scope of the study, and requests the Commission ot make annual reports to the Revenue and Taxation Interin Committee; to the Committee on the Judiciary.

437. Also, a memorial of the Legislature of the State of Utah, relative to Senate Joint Resolution No. 10 memorializing the United States Congress that the Legislature proposes to amend the Revenue and Taxation Article of the Utah Constitution; to the Committee on the Judiciary.

438. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 242 memorializing the Congress of the United States that the legislature condemns the decision of the Ninth United States Circuit Court of Appeals that ruled that the Pledge of Allegiance is unconstitutional; to the Committee on the Judiciary.

439. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 39 memorializing the President and the Congress of the United States to suspend or eliminate the requirement that security screeners be citizens of the United States, and instead provide that those individuals must meet the same immigration requirements as persons who serve in the National Guard; to the Committee on Transportation and Infrastructure.

440. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 50 memorializing the Congress of the United States and the President to support and enact legislation that would establish a federal/state partnership to use the knowledge and skills of the local county veterans service officers to assist the United States Department of Veterans Affairs in eliminating the veterans claims processing backlog in order that America's veterans can take advantage of the benefits that the United States has authorized for them for their faithful and loyal service to a grateful nation; to the Committee on Veterans' Affairs.

441. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 34 memorializing the Congress and the President of the United States to fund the National Defense Authorization Act For Fiscal Year of 2002, to eliminate the penalty imposed against disabled military retirees for concurrent receipt of retirement and disability compensation; jointly to the Committees on Armed Services and Veterans' Affairs.

442. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 37 memorializing the Congress that the Legislature of the State of California opposes any action by the President and the administration that would impose a Taft-Hartley injunction against waterfront unions, would remove union workers from coverage by the National Labor Relations Act, or would send military personnel to the West Coast docks to assist in a lockout of waterfront union workers; jointly to the Committees on Education and the Workforce and Armed Services.

443. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 25 memorializing the Congress of the United States that the Legislature of the State of California recognizes the important role that sustainably managed forests and products from those forests will continue to play in meeting the needs of the citizens of California; jointly to the Committees on Resources and Agriculture.

444. Also, a memorial of the Senate of the State of Delaware, relative to Senate Resolution No. 21 memorializing the Congress of the United States to enact legislation extending coverage under the Medicare program for oral as well as injected anticancer drugs; jointly to the Committees on Ways and Means and Energy and Commerce.

445. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 668 memorializing the Congress of the United States to adopt legislation requiring the Medicare program to cover all oral anticancer drugs; jointly to the Committees on Ways and Means and Energy and Commerce.

446. Also, a memorial of the Senate of the State of New Jersey, relative to Senate Resolution No. 65 memorializing the Congress of the United States to adopt legislation requiring the Medicare program to cover all oral anti-cancer drugs; jointly to the Committees on Ways and Means and Energy and Commerce.

447. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 26 memorializing President and Congress of the United States to stand firm in protecting the financial interest of military reserve personnel and to enact new legislation that strengthens the provisions of the Soldiers and Sailors Relief Act of 1940; jointly to the Committees on Veterans' Affairs, Financial Services, and the Judiciary.

448. Also, a memorial of the Legislature of the State of California, relative to Assembly Joint Resolution No. 6 memorializing the President of the United States and the Congress of the United States to enact legislation containing provisions similar to the Retirement Security and Savings Act of 2000; jointly to the Committees on Ways and Means, Education and the Workforce, and Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 175: Mr. Jeff Miller of Florida.

H.R. 408: Ms. Eddie Bernice Johnson of Texas

H.R. 422: Mr. Conyers and Mr. Meehan.

H.R. 440: Mr. McNulty.

H.R. 647: Mr. Bartlett of Maryland.

H.R. 826: Mr. McInnis, Mr. Wilson of South Carolina, and Mr. Rogers of Kentucky

H.R. 912: Mr. Andrews, Mr. Schiff, and Mr. Lynch.

H.R. 914: Mr. Rogers of Kentucky.

H.R. 1520: Mr. Shuster and Mr. Lewis of Georgia.

H.R. 1555: Mr. Farr of California

H.R. 1774: Mr. Goodlatte.

H.R. 2157: Mr. Wynn.

H.R. 2770: Mr. Deal of Georgia, Mrs. Biggert, and Mr. Whitefield

H.R. 2820: Mr. Rogers of Kentucky.

H.R. 3041: Mrs. Myrick.

H.R. 3132: Mr. Lampson and Mr. Kennedy of Rhode Island.

H.R. 3183: Mr. Aderholt.

H.R. 3505: Ms. Norton and Ms. Woolsey.

H.R. 3567: Mr. Cantor.

H.R. 3665: Mr. Meehan.

H.R. 3710: Mr. Camp.

H.R. 3733: Mr. Frost.

H.R. 3752: Mr. Gutierrez.

H.R. 3781: Mr. Kildee.

H.R. 3782: Mr. Rogers of Kentucky.

H.R. 3834: Mr. Payne.

H.R. 3956: Ms. Hart.

H.R. 4018: Mr. Andrews and Mr. Mollohan.

H.R. 4113: Ms. Berkley.

H.R. 4579: Mr. Simmons.

H.R. 4707: Ms. Jackson-Lee of Texas.

H.R. 4799: Mr. Deutsch.

H.R. 4943: Mr. Frank and Ms. Jackson-Lee of Texas.

H.R. 4979: Mr. Sweeney.

H.R. 5031: Mr. Goodlatte.

H.R. 5036: Mr. Filner.

H.R. 5085: Ms. Harman.

H.R. 5089: Mr. Watt of North Carolina.

H.R. 5252: Mr. Clay.

H.R. 5270: Mr. Pastor and Ms. DeLauro.

H.R. 5285: Mr. Borski.

H.R. 5337: Ms. Eshoo.

H.R. 5383: Mrs. Kelly.

H.R. 5395: Mr. Visclosky.

H.R. 5396: Mr. Visclosky.

H.R. 5398: Mr. Ramstad.

H.R. 5411: Mr. Wolf, Mr. Wexler, Mr. DeFazio, Mr. Boehlert, Ms. Jackson-Lee of Texas, and Mr. Ackerman.

H.R. 5414: Mr. Hinojosa and Mr. Gary G. Miller of California.

H.R. 5416: Mr. Kennedy of Rhode Island.

H.R. 5458: Mr. Hinchey, Mr. Holt, Mr. Price of North Carolina, Ms. Lee, Ms. Lofgren, Mr. Inslee, Ms. Schakowsky, Mr. Simmons, Mr. Boucher, Mr. Ackerman, Ms. Brown of Florida, and Mr. Wexler.

H.R. 5479: Mr. Souder and Mr. Deutsch.

H.R. 5487: Mr. Honda.

H.R. 5489: Mr. Honda.

H.R. 5490: Mr. Honda.

H.R. 5600: Mr. Crowley.

H.R. 5624: Mrs. Lowey.

H.R. 5644: Mr. McGovern.

H.R. 5655: Mr. DeLay, Mr. Sam Johnson of Texas, Ms. Granger, Mr. Edwards, Mr. Rodriguez, Mr. Gonzalez, Ms. Eddie Bernice Johnson of Texas, Mr. Lampson, Mr. Green of Texas, Mr. Ortiz, Mr. Hinojosa, Mr. Reyes, Mr. Thornberry, Mr. Culberson, Mr. Sessions, Mr. Paul, and Mr. Sandlin.

H.R. 5663: Mr. Waxman, Mr. McGovern, and Ms. Eddie Bernice Johnson of Texas.

H.R. 5669: Ms. Norton, Mrs. Tauscher, Mr. Etheridge, Mr. Filner, Ms. Lofgren, Mr. Frost, Ms. Jackson-Lee of Texas, and Mr. Watt of North Carolina.

H.R. 5684: Mr. Frank.

H.R. 5685: Mr. Jeff Miller of Florida.

H.J. Res. 97: Mr. Nadler.

H. Con. Res. 181: Mr. Carson of Oklahoma.

H. Con. Res. 362: Mr. Goodlatte, Mr. Souder, and Mr. Wolf.

H. Con. Res. 445: Mr. Manzullo.

H. Con. Res. 454: Mr. Blunt, Mr. Dooley of California, Mr. Gary G. Miller of California, Mr. Ramstad, Mr. Ehrlich, Mr. Frost, Mrs. Kelly, Mr. Lampson, Mr. Price of North Carolina, and Mr. Souder.

H. Con. Res. 477: Mr. McGovern.

H. Con. Res. 515: Mr. Wynn.

H. Res. 105: Mr. Wynn.

H. Res. 454: Mr. Brown of Ohio.

H. Res. 484: Mr. Moran of Virginia and Mr. Isakson.

H. Res. 504: Mr. Burton of Indiana.

H. Res. 505: Mr. Hobson.

H. Res. 554: Mr. Filner

H. Res. 560: Mr. LaTourette, Mr. Kirk, Mr. Sawyer, and Mr. McHugh.

H. Res. 594: Ms. Granger and Mr. Houghton.

H. Res. 604: Mr. Stark.

H. Res. 610: Mr. WYNN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 507: Mrs. JONES of Ohio.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

82. The SPEAKER presented a petition of the Faichuk Commission for Statehood, Faichuk Islands, relative to FCR No. 77 petitioning the United States Congress that the Faichuk region is an ideal military provisioning site and now open for United States Armed Forces use open completion of a feasibility study; to the Committee on Armed Services.

83. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 650 petitioning the United States Congress to enact the Younger Americans Act; to the Committee on Education and the Workforce.

84. Also, a petition of the Board of Trustees of the Utah School and Trust Lands, relative to a Resolution petitioning the United States Congress that the Board endorses and supports the Action Plan for Public Lands and Education; to the Committee on Education and the Workforce.

85. Also, a petition of the Wyoming County Board of Supervisors, New York, relative to Resolution No. 02-298 petitioning the United States Congress to support an increase in the federal medical assistance percentage (FMAP); to the Committee on Energy and Commerce.

86. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 602 petitioning the United States Congress that the legislature expresses its support for a joint resolution authorizing the use of force by the United States Armed Forces against Iraq before such force is deployed against Iraq; to the Committee on International Relations.

87. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 651 petitioning the United States Congress to support ratification of the United Nations Convention on the Rights of the Child; to the Committee on International Relations.

88. Also, a petition of the City of Miami Commission, Florida, relative to Resolution No. 02-860 petitioning the United States Congress to review the "Position Statement/Paper" of the City of Miami Commission on the status of women and children in Afghanistan and Pakistan; to the Committee on International Relations.

89. Also, a petition of the City Commission of the City of Hollywood, Florida, relative to Resolution No. R-2002-366 petitioning the United States Congress to finalize immediately 2003 funding for homeland security; to the Committee on Government Reform.

90. Also, a petition of the City Council of Douglasville, Georgia, relative to Resolution No. 02-130 petitioning the United States Congress that the Mayor and City Council stand firm in support of the Pledge of Allegiance we have known, recited, and affirmed; to the Committee on the Judiciary.

91. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 594 petitioning the United States Congress to enact the Education Works Act of 2002; jointly to the Committees on Ways and Means and Education and the Workforce.

CONFERENCE REPORT (H. REPT. 107–789)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4628), to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met after full and free conference, having agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same and with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

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TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The National Reconnaissance Office.

(11) The National Imagery and Mapping Agency.

(12) The Coast Guard.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2003, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on H.R. 4628 of the One Hundred Seventh Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2003 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall notify promptly the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of Central Intelligence for fiscal year 2003 the sum of $158,254,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for advanced research and development shall remain available until September 30, 2004.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Intelligence Community Management Account of the Director of Central Intelligence are authorized 322 full-time personnel as of September 30, 2003. Personnel serving in such elements may be permanent employees of the Intelligence Community Management Account or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are also authorized to be appropriated for the Intelligence Community Management Account for fiscal year 2003 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts for research and development shall remain available until September 30, 2004.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2003, there are hereby authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2003 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Intelligence Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) NATIONAL DRUG INTELLIGENCE CENTER.—

(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), $34,100,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2004, and funds provided for procurement purposes shall remain available until September 30, 2005.

(2) TRANSFER OF FUNDS.—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) LIMITATION.—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403-3(d)(1)).

(4) AUTHORITY.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

SEC. 105. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2002.

(a) AUTHORIZATION.—Amounts authorized to be appropriated for fiscal year 2002 under section 101 of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107–108) for the conduct of the intelligence activities of elements of the United States Government listed in such section are hereby increased, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased by the following:

(1) The Emergency Supplemental Act, 2002 (contained in division B of Public Law 107–117), including section 304 of such Act (115 Stat. 2300).

(2) The 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States (Public Law 107–206), for such amounts as are designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

(b) RATIFICATION.—For purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414), any obligation or expenditure of those

amounts deemed to have been specifically authorized by the Acts referred to in subsection (a) is hereby ratified and confirmed.

SEC. 106. ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FOR INTELLIGENCE FOR THE WAR ON TERRORISM.

(a) IN GENERAL.—Subject to subsection (b), the amounts requested in the letter dated July 3, 2002, of the President to the Speaker of the House of Representatives, related to the Defense Emergency Response Fund and that are designated for the incremental costs of intelligence and intelligence-related activities for the war on terrorism are authorized.

(b) LIMITATIONS.—The amounts referred to in subsection (a)—

(1) are authorized only for activities directly related to identifying, responding to, or protecting against acts or threatened acts of terrorism;

(2) are not authorized to correct programmatic or fiscal deficiencies in major acquisition programs which will not achieve initial operational capabilities within two years of the date of the enactment of this Act; and

(3) are not available until the end of the 10-day period that begins on the date written notice is provided to the Select Committee on Intelligence and the Committee on Appropriations of the Senate and the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives.

SEC. 107. SPECIFIC AUTHORIZATION OF FUNDS FOR INTELLIGENCE OR INTELLIGENCE-RELATED ACTIVITIES FOR WHICH FISCAL YEAR 2003 APPROPRIATIONS EXCEED AMOUNTS AUTHORIZED.

Funds appropriated for an intelligence or intelligence-related activity for fiscal year 2003 in excess of the amount specified for such activity in the classified Schedule of Authorizations prepared to accompany this Act shall be deemed to be specifically authorized by Congress for purposes of section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)).

SEC. 108. INCORPORATION OF REPORTING REQUIREMENTS.

(a) IN GENERAL.—Each requirement to submit a report to the congressional intelligence committees that is included in the joint explanatory statement to accompany the conference report on the bill H.R. 4628 of the One Hundred Seventh Congress, or in the classified annex to this Act, is hereby incorporated into this Act, and is hereby made a requirement in law.

(b) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 109. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO INTELLIGENCE ACTIVITIES OF DEPARTMENT OF DEFENSE OR DEPARTMENT OF ENERGY.

(a) CONSULTATION IN PREPARATION.—(1) The Director of Central Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act, including a provision of the classified Schedule of Authorizations referred to in section 102(a) or the classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense or the Department of Energy is prepared or conducted in consultation with the Secretary of Defense or the Secretary of Energy, as appropriate.

(2) The Secretary of Defense or the Secretary of Energy may carry out any consultation required by this subsection through an official of the Department of Defense or the Department of Energy, as the case may be, designated by such Secretary for that purpose.

(b) SUBMITTAL.—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees of Congress:

(1) The Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate.

(2) The Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2003 the sum of $222,500,000.

TITLE III—GENERAL PROVISIONS

Subtitle A—Recurring General Provisions

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should competitively award contracts in a manner that maximizes the procurement of products properly designated as having been made in the United States.

Subtitle B—Intelligence

SEC. 311. SPECIFICITY OF NATIONAL FOREIGN INTELLIGENCE PROGRAM BUDGET AMOUNTS FOR COUNTERTERRORISM, COUNTERPROLIFERATION, COUNTERNARCOTICS, AND COUNTERINTELLIGENCE.

(a) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by adding at the end the following new section:

"SPECIFICITY OF NATIONAL FOREIGN INTELLIGENCE PROGRAM BUDGET AMOUNTS FOR COUNTERTERRORISM, COUNTERPROLIFERATION, COUNTERNARCOTICS, AND COUNTERINTELLIGENCE

"SEC. 506. (a) IN GENERAL.—The budget justification materials submitted to Congress in support of the budget of the President for a fiscal year that is submitted to Congress under section 1105(a) of title 31, United States Code, shall set forth separately the aggregate amount requested for that fiscal year for the National Foreign Intelligence Program for each of the following:

"(1) Counterterrorism.

"(2) Counterproliferation.

"(3) Counternarcotics.

"(4) Counterintelligence.

"(b) ELECTION OF CLASSIFIED OR UNCLASSIFIED FORM.—Amounts set forth under subsection (a) may be set forth in unclassified form or classified form, at the election of the Director of Central Intelligence.".

(b) CLERICAL AMENDMENT.—The table of sections for that Act is amended by inserting after the item relating to section 505 the following new item:

"Sec. 506. Specificity of National Foreign Intelligence Program budget amounts for counterterrorism, counterproliferation, counternarcotics, and counterintelligence.".

SEC. 312. PROHIBITION ON COMPLIANCE WITH REQUESTS FOR INFORMATION SUBMITTED BY FOREIGN GOVERNMENTS.

Section 552(a)(3) of title 5, United States Code, is amended—

(1) in subparagraph (A) by inserting "and except as provided in subparagraph (E)," after "of this subsection,"; and

(2) by adding at the end the following:

"(E) An agency, or part of an agency, that is an element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) shall not make any record available under this paragraph to—

"(i) any government entity, other than a State, territory, commonwealth, or district of the United States, or any subdivision thereof; or

"(ii) a representative of a government entity described in clause (i).".

SEC. 313. NATIONAL VIRTUAL TRANSLATION CENTER.

(a) ESTABLISHMENT.—The Director of Central Intelligence, acting as the head of the intelligence community, shall establish in the intelligence community an element with the function of connecting the elements of the intelligence community engaged in the acquisition, storage, translation, or analysis of voice or data in digital form.

(b) DESIGNATION.—The element established under subsection (a) shall be known as the National Virtual Translation Center.

(c) ADMINISTRATIVE MATTERS.—(1) The Director shall retain direct supervision and control over the element established under subsection (a).

(2) The element established under subsection (a) shall connect elements of the intelligence community utilizing the most current available information technology that is applicable to the function of the element.

(d) DEADLINE FOR ESTABLISHMENT.—The element required by subsection (a) shall be established as soon as practicable after the date of the enactment of this Act, but not later than 90 days after that date.

Subtitle C—Personnel

SEC. 321. STANDARDS AND QUALIFICATIONS FOR THE PERFORMANCE OF INTELLIGENCE ACTIVITIES.

Section 104 of the National Security Act of 1947 (50 U.S.C. 403–4) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) STANDARDS AND QUALIFICATIONS FOR PERFORMANCE OF INTELLIGENCE ACTIVITIES.—The Director, acting as the head of the intelligence community, shall, in consultation with the heads of effected agencies, develop standards and qualifications for persons engaged in the performance of intelligence activities within the intelligence community.".

SEC. 322. MODIFICATION OF EXCEPTED AGENCY VOLUNTARY LEAVE TRANSFER AUTHORITY.

(a) IN .GENERAL.—Section 6339 of title 5, United States Code, is amended—

(1) by striking subsection (b);

(2) by redesignating subsection (c) as subsection (b); and

(3) by inserting after subsection (b) (as so redesignated by paragraph (2)) the following:

"(c)(1) Notwithstanding any provision of subsection (b), the head of an excepted agency may, at his sole discretion, by regulation establish a program under which an individual employed in or under such excepted agency may participate in a leave transfer program established under the provisions of this subchapter outside of this section, including provisions permitting the transfer of annual leave accrued or accumulated by such employee to, or permitting such employee to receive transferred leave from, an employee of any other agency (including another excepted agency having a program under this subsection).

"(2) To the extent practicable and consistent with the protection of intelligence sources and methods, any program established under paragraph (1) shall be consistent with the provisions of this subchapter outside of this section and with any regulations issued by the Office of Personnel Management implementing this subchapter.".

(b) CONFORMING AMENDMENTS.—Section 6339 of such title is amended—

(1) in paragraph (2) of subsection (b) (as so redesignated by subsection (a)(2)), by striking "under this section" and inserting "under this subsection"; and

(2) in subsection (d), by striking "of Personnel Management".

SEC. 323. SENSE OF CONGRESS ON DIVERSITY IN THE WORKFORCE OF INTELLIGENCE COMMUNITY AGENCIES.

(a) FINDINGS.—Congress finds the following:

(1) The United States is engaged in a war against terrorism that requires the active participation of the intelligence community.

(2) Certain intelligence agencies, among them the Federal Bureau of Investigation and the Central Intelligence Agency, have announced that they will be hiring several hundred new agents to help conduct the war on terrorism.

(3) Former Directors of the Federal Bureau of Investigation, the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency have stated that a more diverse intelligence community would be better equipped to gather and analyze information on diverse communities.

(4) The Central Intelligence Agency and the National Security Agency were authorized to establish an undergraduate training program for the purpose of recruiting and training minority operatives in 1987.

(5) The Defense Intelligence Agency was authorized to establish an undergraduate training program for the purpose of recruiting and training minority operatives in 1988.

(6) The National Imagery and Mapping Agency was authorized to establish an undergraduate training program for the purpose of recruiting and training minority operatives in 2000.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Director of the Federal Bureau of Investigation (with respect to the intelligence and intelligence-related activities of the Bureau), the Director of Central Intelligence, the Director of the National Security Agency, and the Director of the Defense Intelligence Agency should make the creation of a more diverse workforce a priority in hiring decisions; and

(2) the Director of Central Intelligence, the Director of the National Security Agency, the Director of the Defense Intelligence Agency, and the Director of the National Imagery and Mapping Agency should increase their minority recruitment efforts through the undergraduate training program provided for under law.

SEC. 324. ANNUAL REPORT ON HIRING AND RETENTION OF MINORITY EMPLOYEES IN THE INTELLIGENCE COMMUNITY.

Section 114 of the National Security Act of 1947 (50 U.S.C. 404i) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) ANNUAL REPORT ON HIRING AND RETENTION OF MINORITY EMPLOYEES.—(1) The Director of Central Intelligence shall, on an annual basis, submit to Congress a report on the employment of covered persons within each element of the intelligence community for the preceding fiscal year.

"(2) Each such report shall include disaggregated data by category of covered person from each element of the intelligence community on the following:

"(A) Of all individuals employed in the element during the fiscal year involved, the aggregate percentage of such individuals who are covered persons.

"(B) Of all individuals employed in the element during the fiscal year involved at the levels referred to in clauses (i) and (ii), the percentage of covered persons employed at such levels:

"(i) Positions at levels 1 through 15 of the General Schedule.

"(ii) Positions at levels above GS–15.

"(C) Of all individuals hired by the element involved during the fiscal year involved, the percentage of such individuals who are covered persons.

"(3) Each such report shall be submitted in unclassified form, but may contain a classified annex.

"(4) Nothing in this subsection shall be construed as providing for the substitution of any similar report required under another provision of law.

"(5) In this subsection, the term 'covered persons' means—

"(A) racial and ethnic minorities;

"(B) women; and

"(C) individuals with disabilities.".

SEC. 325. REPORT ON ESTABLISHMENT OF A CIVILIAN LINGUIST RESERVE CORPS.

(a) REPORT.—The Secretary of Defense, acting through the Director of the National Security Education Program, shall prepare a report on the feasibility of establishing a Civilian Linguist Reserve Corps comprised of individuals with advanced levels of proficiency in foreign languages who are United States citizens who would be available upon a call of the President to perform such service or duties with respect to such foreign languages in the Federal Government as the President may specify. In preparing the report, the Secretary shall consult with such organizations having expertise in training in foreign languages as the Secretary determines appropriate.

(b) MATTERS CONSIDERED.—

(1) IN GENERAL.—In conducting the study, the Secretary shall develop a proposal for the structure and operations of the Civilian Linguist Reserve Corps. The proposal shall establish requirements for performance of duties and levels of proficiency in foreign languages of the members of the Civilian Linguist Reserve Corps, including maintenance of language skills and specific training required for performance of duties as a linguist of the Federal Government, and shall include recommendations on such other matters as the Secretary determines appropriate.

(2) CONSIDERATION OF USE OF DEFENSE LANGUAGE INSTITUTE AND LANGUAGE REGISTRIES.—In developing the proposal under paragraph (1), the Secretary shall consider the appropriateness of using—

(A) the Defense Language Institute to conduct testing for language skills proficiency and performance, and to provide language refresher courses; and

(B) foreign language skill registries of the Department of Defense or of other agencies or departments of the United States to identify individuals with sufficient proficiency in foreign languages.

(3) CONSIDERATION OF THE MODEL OF THE RESERVE COMPONENTS OF THE ARMED FORCES.—In developing the proposal under paragraph (1), the Secretary shall consider the provisions of title 10, United States Code, establishing and governing service in the Reserve Components of the Armed Forces, as a model for the Civilian Linguist Reserve Corps.

(c) COMPLETION OF REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the report prepared under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Defense $300,000 to carry out this section.

Subtitle D—Education

SEC. 331. SCHOLARSHIPS AND WORK-STUDY FOR PURSUIT OF GRADUATE DEGREES IN SCIENCE AND TECHNOLOGY.

(a) PROGRAM AUTHORIZED.—The National Security Act of 1947 is amended—

(1) by redesignating title X as title XI;

(2) by redesignating section 1001 as section 1101; and

(3) by inserting after title IX the following new title X:

"TITLE X—EDUCATION IN SUPPORT OF NATIONAL INTELLIGENCE

"SCHOLARSHIPS AND WORK-STUDY FOR PURSUIT OF GRADUATE DEGREES IN SCIENCE AND TECHNOLOGY

"SEC. 1001. (a) PROGRAM AUTHORIZED.—The Director of Central Intelligence may carry out a program to provide scholarships and work-study for individuals who are pursuing graduate degrees in fields of study in science and technology that are identified by the Director as appropriate to meet the future needs of the intelligence community for qualified scientists and engineers.

"(b) ADMINISTRATION.—If the Director carries out the program under subsection (a), the Director shall administer the program through the Assistant Director of Central Intelligence for Administration.

"(c) IDENTIFICATION OF FIELDS OF STUDY.—If the Director carries out the program under subsection (a), the Director shall identify fields of study under subsection (a) in consultation with the other heads of the elements of the intelligence community.

"(d) ELIGIBILITY FOR PARTICIPATION.—An individual eligible to participate in the program is any individual who—

"(1) either—

"(A) is an employee of the intelligence community; or

"(B) meets criteria for eligibility for employment in the intelligence community that are established by the Director;

"(2) is accepted in a graduate degree program in a field of study in science or technology identified under subsection (a); and

"(3) is eligible for a security clearance at the level of Secret or above.

"(e) REGULATIONS.—If the Director carries out the program under subsection (a), the Director shall prescribe regulations for purposes of the administration of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for the National Security Act of 1947 is amended by striking the items relating to title X and section 1001 and inserting the following new items:

"TITLE X—EDUCATION IN SUPPORT OF NATIONAL INTELLIGENCE

"Sec. 1001. Scholarships and work-study for pursuit of graduate degrees in science and technology.

"TITLE XI—OTHER PROVISIONS

"Sec. 1101. Applicability to United States intelligence activities of Federal laws implementing international treaties and agreements.".

SEC. 332. COOPERATIVE RELATIONSHIP BETWEEN THE NATIONAL SECURITY EDUCATION PROGRAM AND THE FOREIGN LANGUAGE CENTER OF THE DEFENSE LANGUAGE INSTITUTE.

Section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended by adding at the end the following new subsection:

"(h) Use of Awards To Attend the Foreign Language Center of the Defense Language Institute.—(1) The Secretary shall provide for the admission of award recipients to the Foreign Language Center of the Defense Language Institute (hereinafter in this subsection referred to as the 'Center'). An award recipient may apply a portion of the applicable scholarship or fellowship award for instruction at the Center on a space-available basis as a Department of Defense sponsored program to defray the additive instructional costs.

"(2) Except as the Secretary determines necessary, an award recipient who receives instruction at the Center shall be subject to the same regulations with respect to attendance, discipline, discharge, and dismissal as apply to other persons attending the Center.

"(3) In this subsection, the term 'award recipient' means an undergraduate student who has been awarded a scholarship under subsection (a)(1)(A) or a graduate student who has been awarded a fellowship under subsection (a)(1)(B) who—

"(A) is in good standing;

"(B) has completed all academic study in a foreign country, as provided for under the scholarship or fellowship; and

"(C) would benefit from instruction provided at the Center.".

SEC. 333. ESTABLISHMENT OF NATIONAL FLAGSHIP LANGUAGE INITIATIVE WITHIN THE NATIONAL SECURITY EDUCATION PROGRAM.

(a) National Flagship Language Initiative.—

(1) Expansion of grant program authority.—Subsection (a)(1) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(A) by striking "and" at the end of subparagraph (B)(ii);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) awarding grants to institutions of higher education to carry out activities under the National Flagship Language Initiative (described in subsection (i)).".

(2) Provisions of national flagship language initiative.—Such section, as amended by section 332, is further amended by adding at the end the following new subsection:

"(i) National Flagship Language Initiative.—(1) Under the National Flagship Language Initiative, institutions of higher education shall establish, operate, or improve activities designed to train students in programs in a range of disciplines to achieve advanced levels of proficiency in those foreign languages that the Secretary identifies as being the most critical in the interests of the national security of the United States.

"(2) An undergraduate student who has been awarded a scholarship under subsection (a)(1)(A) or a graduate student who has been awarded a fellowship under subsection (a)(1)(B) may participate in the activities carried out under the National Flagship Language Initiative.

"(3) An institution of higher education that receives a grant pursuant to subsection (a)(1)(D) shall give special consideration to applicants who are employees of the Federal Government.

"(4) For purposes of this subsection, the Foreign Language Center of the Defense Language Institute and any other educational institution that provides training in foreign languages operated by the Department of Defense or an agency in the intelligence community is deemed to be an institution of higher education, and may carry out the types of activities permitted under the National Flagship Language Initiative.".

(3) Inapplicability of funding allocation rules.—Subsection (a)(2) of such section is amended by adding at the end the following flush sentences:

"The funding allocation under this paragraph shall not apply to grants under paragraph (1)(D) for the National Flagship Language Initiative described in subsection (i). For the authorization of appropriations for the National Flagship Language Initiative, see section 811.".

(4) Board requirement.—Section 803(d)(4) of such Act (50 U.S.C. 1903(d)(4)) is amended—

(A) by striking "and" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(E) which foreign languages are critical to the national security interests of the United States for purposes of section 802(a)(1)(D) (relating to grants for the National Flagship Language Initiative).".

(b) Funding.—The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended by adding at the end the following new section:

"SEC. 811. ADDITIONAL ANNUAL AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—In addition to amounts that may be made available to the Secretary under the Fund for a fiscal year, there is authorized to be appropriated to the Secretary for each fiscal year, beginning with fiscal year 2003, $10,000,000, to carry out the grant program for the National Flagship Language Initiative under section 802(a)(1)(D).

"(b) Availability of Appropriated Funds.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) shall remain available until expended.".

(c) Effective Date.—The amendments made by this section shall take effect on the date the Secretary of Defense submits the report required under section 334 of this Act and notifies the appropriate committees of Congress (as defined in subsection (c) of that section) that the programs carried out under the David L. Boren National Security Education Act of 1991 are being managed in a fiscally and programmatically sound manner.

(d) Construction.—Nothing in this section shall be construed as affecting any program or project carried out under the David L. Boren National Security Education Act of 1991 as in effect on the date that precedes the date of the enactment of this Act.

SEC. 334. REPORT ON THE NATIONAL SECURITY EDUCATION PROGRAM.

(a) In General.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the matters described in subsection (b) with respect to the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.).

(b) Covered Matters.—The matters described in this subsection are as follows:

(1) Effectiveness of program.—An evaluation of the National Security Education Program, including an assessment of the effectiveness of the program in meeting its goals and an assessment of the administrative costs of the program in relation to the amounts of scholarships, fellowships, and grants awarded.

(2) Conversion of funding.—An assessment of the advisability of converting funding of the National Security Education Program from funding through the National Security Education Trust Fund under section 804 of that Act (50 U.S.C. 1904) to funding through appropriations.

(3) Recommendations.—On any matter covered by paragraph (1) or (2), such recommendations for legislation with respect to such matter as the Secretary considers appropriate.

(c) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence and the Committees on Armed Services and Appropriations of the Senate; and

(2) the Permanent Select Committee on Intelligence and the Committees on Armed Services and Appropriations of the House of Representatives.

Subtitle E—Terrorism

SEC. 341. FOREIGN TERRORIST ASSET TRACKING CENTER.

(a) Establishment.—The Director of Central Intelligence, acting as the head of the intelligence community, shall establish in the Central Intelligence Agency an element responsible for conducting all-source intelligence analysis of information relating to the financial capabilities, practices, and activities of individuals, groups, and nations associated with international terrorism in their activities relating to international terrorism.

(b) Designation.—The element established under subsection (a) shall be known as the Foreign Terrorist Asset Tracking Center.

(c) Deadline for Establishment.—The element required by subsection (a) shall be established as soon as practicable after the date of the enactment of this Act, but not later than 90 days after that date.

SEC. 342. SEMIANNUAL REPORT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS (FITA).

(a) Semiannual Report.—

(1) In general.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding at the end the following new section:

"SEMIANNUAL REPORT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS

"Sec. 118. (a) Semiannual Report.—On a semiannual basis, the Secretary of the Treasury (acting through the head of the Office of Intelligence Support) shall submit a report to the appropriate congressional committees that fully informs the committees concerning operations against terrorist financial networks. Each such report shall include with respect to the preceding six-month period—

"(1) the total number of asset seizures, designations, and other actions against individuals or entities found to have engaged in financial support of terrorism;

"(2) the total number of applications for asset seizure and designations of individuals or entities suspected of having engaged in financial support of terrorist activities that were granted, modified, or denied;

"(3) the total number of physical searches of offices, residences, or financial records of individuals or entities suspected of having engaged in financial support for terrorist activity; and

"(4) whether the financial intelligence information seized in these cases has been shared on a full and timely basis with the all departments, agencies, and other entities of the United States Government involved in intelligence activities

participating in the Foreign Terrorist Asset Tracking Center.

"(b) IMMEDIATE NOTIFICATION FOR EMERGENCY DESIGNATION.—In the case of a designation of an individual or entity, or the assets of an individual or entity, as having been found to have engaged in terrorist activities, the Secretary of the Treasury shall report such designation within 24 hours of such a designation to the appropriate congressional committees.

"(c) SUBMITTAL DATE OF REPORTS TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—In the case of the reports required to be submitted under subsection (a) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 507.

"(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means the following:

"(1) The Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Financial Services of the House of Representatives.

"(2) The Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs of the Senate.".

(2) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act is amended by inserting after the item relating to section 117 the following new item:

"Sec. 118. Semiannual report on financial intelligence on terrorist assets.".

(b) CONFORMING AMENDMENT.—Section 501(f) of the National Security Act of 1947 (50 U.S.C. 413(f)) is amended by inserting before the period the following: ", and includes financial intelligence activities".

SEC. 343. TERRORIST IDENTIFICATION CLASSIFICATION SYSTEM.

(a) REQUIREMENT.—(1) The Director of Central Intelligence, acting as head of the Intelligence Community, shall—

(A) establish and maintain a list of individuals who are known or suspected international terrorists, and of organizations that are known or suspected international terrorist organizations; and

(B) ensure that pertinent information on the list is shared with the departments, agencies, and organizations described by subsection (c).

(2) The list under paragraph (1), and the mechanisms for sharing information on the list, shall be known as the "Terrorist Identification Classification System".

(b) ADMINISTRATION.—(1) The Director shall prescribe requirements for the inclusion of an individual or organization on the list required by subsection (a), and for the deletion or omission from the list of an individual or organization currently on the list.

(2) The Director shall ensure that the information utilized to determine the inclusion, or deletion or omission, of an individual or organization on or from the list is derived from all-source intelligence.

(3) The Director shall ensure that the list is maintained in accordance with existing law and regulations governing the collection, storage, and dissemination of intelligence concerning United States persons.

(c) INFORMATION SHARING.—Subject to section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(6)), relating to the protection of intelligence sources and methods, the Director shall provide for the sharing of the list, and information on the list, with such departments and agencies of the Federal Government, State and local government agencies, and entities of foreign governments and international organizations as the Director considers appropriate.

(d) REPORTING AND CERTIFICATION.—(1) The Director shall review on an annual basis the information provided by various departments and agencies for purposes of the list under subsection (a) in order to determine whether or not the information so provided is derived from the widest possible range of intelligence available to such departments and agencies.

(2) The Director shall, as a result of each review under paragraph (1), certify whether or not the elements of the intelligence community responsible for the collection of intelligence related to the list have provided information for purposes of the list that is derived from the widest possible range of intelligence available to such department and agencies.

(e) REPORT ON CRITERIA FOR INFORMATION SHARING.—(1) Not later then March 1, 2003, the Director shall submit to the congressional intelligence committees a report describing the criteria used to determine which types of information on the list required by subsection (a) are to be shared, and which types of information are not to be shared, with various departments and agencies of the Federal Government, State and local government agencies, and entities of foreign governments and international organizations.

(2) The report shall include a description of the circumstances in which the Director has determined that sharing information on the list with the departments and agencies of the Federal Government, and of State and local governments, described by subsection (c) would be inappropriate due to the concerns addressed by section 103(c)(6) of the National Security Act of 1947, relating to the protection of sources and methods, and any instance in which the sharing of information on the list has been inappropriate in light of such concerns.

(f) SYSTEM ADMINISTRATION REQUIREMENTS.—(1) The Director shall, to the maximum extent practicable, ensure the interoperability of the Terrorist Identification Classification System with relevant information systems of the departments and agencies of the Federal Government, and of State and local governments, described by subsection (c).

(2) The Director shall ensure that the System utilizes technologies that are effective in aiding the identification of individuals in the field.

(g) REPORT ON STATUS OF SYSTEM.—(1) Not later than one year after the date of the enactment of this Act, the Director shall, in consultation with the Director of Homeland Security, submit to the congressional intelligence committees a report on the status of the Terrorist Identification Classification System. The report shall contain a certification on the following:

(A) Whether the System contains the intelligence information necessary to facilitate the contribution of the System to the domestic security of the United States.

(B) Whether the departments and agencies having access to the System have access in a manner that permits such departments and agencies to carry out appropriately their domestic security responsibilities.

(C) Whether the System is operating in a manner that maximizes its contribution to the domestic security of the United States.

(D) If a certification under subparagraph (A), (B), or (C) is in the negative, the modifications or enhancements of the System necessary to ensure a future certification in the positive.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

(h) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

Subtitle F—Other Matters

SEC. 351. ADDITIONAL ONE-YEAR SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

Section 311 of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108; 22 U.S.C. 7301 note; 115 Stat. 1401) is amended—

*(1) in the heading, by striking "***ONE-YEAR***" and inserting "***TWO-YEAR***"; and*

(2) in the text, by striking "October 1, 2002" and inserting "October 1, 2003".

SEC. 352. STANDARDIZED TRANSLITERATION OF NAMES INTO THE ROMAN ALPHABET.

(a) METHOD OF TRANSLITERATION REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Director of Central Intelligence shall provide for a standardized method for transliterating into the Roman alphabet personal and place names originally rendered in any language that uses an alphabet other than the Roman alphabet.

(b) USE BY INTELLIGENCE COMMUNITY.—The Director shall ensure the use of the method established under subsection (a) in—

(1) all communications among the elements of the intelligence community; and

(2) all intelligence products of the intelligence community.

SEC. 353. DEFINITION OF CONGRESSIONAL INTELLIGENCE COMMITTEES IN NATIONAL SECURITY ACT OF 1947.

(a) IN GENERAL.—Section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended by adding at the end the following new paragraph:

"(7) The term 'congressional intelligence committees' means—

"(A) the Select Committee on Intelligence of the Senate; and

"(B) the Permanent Select Committee on Intelligence of the House of Representatives.".

(b) CONFORMING AMENDMENTS.—(1) That Act is further amended by striking "Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives" and inserting "congressional intelligence committees" in each of the following provisions:

(A) Section 104(d)(4) (50 U.S.C. 403-4(d)(4)).

(B) Section 603(a) (50 U.S.C. 423(a)).

(2) That Act is further amended by striking "Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate" and inserting "congressional intelligence committees" in each of the following provisions:

(A) Section 301(j) (50 U.S.C. 409a(j)).

(B) Section 801(b)(2) (50 U.S.C. 435(b)(2)).

(C) Section 903 (50 U.S.C. 441b).

(3) That Act is further amended by striking "intelligence committees" and inserting "congressional intelligence committees" each place it appears in each of the following provisions:

(A) Section 501 (50 U.S.C. 413).

(B) Section 502 (50 U.S.C. 413a).

(C) Section 503 (50 U.S.C. 413b).

(D) Section 504(d)(2) (50 U.S.C. 414(d)(2)).

(4) Section 104(d)(5) of that Act (50 U.S.C. 403-4(d)(5)) is amended by striking "Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives" and inserting "congressional intelligence committees".

(5) Section 105C(a)(3)(C) of that Act (50 U.S.C. 403-5c(a)(3)(C)) is amended—

(A) by striking clauses (i) and (ii) and inserting the following new clause (i):

"(i) The congressional intelligence committees."; and

(B) by redesignating clauses (iii), (iv), (v), and (vi) as clauses (ii), (iii), (iv), and (v), respectively.

(6) Section 114 of that Act (50 U.S.C. 404i), as amended by section 324, is amended by striking

subsection (d), as so redesignated, and inserting the following new subsection (d):

"(d) CONGRESSIONAL LEADERSHIP DEFINED.—In this section, the term 'congressional leadership' means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.".

(7) Section 501(a) of that Act (50 U.S.C. 413(a)), as amended by paragraph (3) of this subsection, is further amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

(8) Section 503(c)(4) of that Act (50 U.S.C. 413b(c)(4)) is amended by striking "intelligence committee" and inserting "congressional intelligence committee".

(9) Section 602(c) of that Act (50 U.S.C. 422(c)) is amended by striking "the Select Committee on Intelligence of the Senate or to the Permanent Select Committee on Intelligence of the House of Representatives" and inserting "either congressional intelligence committee".

(10) Section 701(c)(3) of that Act (50 U.S.C. 431(c)(3)) is amended by striking "intelligence committees of the Congress" and inserting "congressional intelligence committees".

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. TWO-YEAR EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT.

Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403-4 note) is amended—

(1) in subsection (f), by striking "September 30, 2003" and inserting "September 30, 2005"; and

(2) in subsection (i), by striking "or 2003" and inserting "2003, 2004, or 2005".

SEC. 402. IMPLEMENTATION OF COMPENSATION REFORM PLAN.

(a) DELAY ON IMPLEMENTATION ON COMPENSATION REFORM PLAN.—(1) The Director of Central Intelligence may not implement before the implementation date (described in paragraph (2)) a plan for the compensation of employees of the Central Intelligence Agency that differs from the plan in effect on October 1, 2002.

(2) The implementation date referred to in paragraph (1) is February 1, 2004, or the date on which the Director submits to the congressional intelligence committees a report on the pilot project conducted under subsection (b), whichever is later.

(3) It is the sense of Congress that an employee performance evaluation mechanism with evaluation training for managers and employees of the Central Intelligence Agency should be phased in before the implementation of any new compensation plan.

(b) PILOT PROJECT.—(1) The Director shall conduct a pilot project to test the efficacy and fairness of a plan for the compensation of employees of the Central Intelligence Agency that differs from the plan in effect on October 1, 2002, within any one component of the Central Intelligence Agency selected by the Director, other than a component for which a pilot project on employee compensation has been previously conducted.

(2) The pilot project under paragraph (1) shall be conducted for a period of at least 1 year.

(3) Not later than the date that is 45 days after the completion of the pilot project under paragraph (1), the Director shall submit to the congressional intelligence committees a report that contains an evaluation of the project and such recommendations as the Director considers appropriate for the modification of the plans for the compensation of employees throughout the Agency which are in effect on such date.

(c) SENSE OF CONGRESS ON IMPLEMENTATION OF COMPENSATION REFORM PLAN FOR THE NATIONAL SECURITY AGENCY.—It is the sense of Congress that—

(1) the Director of the National Security Agency should not implement before February 1, 2004, a plan for the compensation of employees of the National Security Agency that differs from the plan in effect on October 1, 2002; and

(2) an employee performance evaluation mechanism with evaluation training for managers and employees of the National Security Agency should be phased in before the implementation of any new compensation plan.

(d) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. USE OF FUNDS FOR COUNTERDRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.

(a) AUTHORITY.—Funds designated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counterdrug activities for fiscal years 2002 and 2003, and any unobligated funds available to any element of the intelligence community for such activities for a prior fiscal year, shall be available to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) REQUIREMENT FOR CERTIFICATION.—(1) The authorities provided in subsection (a) shall not be exercised until the Secretary of Defense certifies to the Congress that the provisions of paragraph (2) have been complied with.

(2) In order to ensure the effectiveness of United States support for such a unified campaign, prior to the exercise of the authority contained in subsection (a), the Secretary of State shall report to the appropriate committees of Congress that the newly elected President of Colombia has—

(A) committed, in writing, to establish comprehensive policies to combat illicit drug cultivation, manufacturing, and trafficking (particularly with respect to providing economic opportunities that offer viable alternatives to illicit crops) and to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations;

(B) committed, in writing, to implement significant budgetary and personnel reforms of the Colombian Armed Forces; and

(C) committed, in writing, to support substantial additional Colombian financial and other resources to implement such policies and reforms, particularly to meet the country's previous commitments under "Plan Colombia".

In this paragraph, the term "appropriate committees of Congress" means the Permanent Select Committee on Intelligence and the Committees on Appropriations and Armed Services of the House of Representatives and the Select Committee on Intelligence and the Committees on Appropriations and Armed Services of the Senate.

(c) TERMINATION OF AUTHORITY.—The authority provided in subsection (a) shall cease to be effective if the Secretary of Defense has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(d) APPLICATION OF CERTAIN PROVISIONS OF LAW.—Sections 556, 567, and 568 of Public Law 107–115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106–246 shall be applicable to funds made available pursuant to the authority contained in subsection (a).

(e) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting in self defense or rescuing any United States citizen to include United States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.

SEC. 502. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 105C (50 U.S.C. 403–5c) the following new section:

"PROTECTION OF OPERATIONAL FILES OF THE NATIONAL RECONNAISSANCE OFFICE

"SEC. 105D. (a) EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—(1) The Director of the National Reconnaissance Office, with the coordination of the Director of Central Intelligence, may exempt operational files of the National Reconnaissance Office from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

"(2)(A) Subject to subparagraph (B), for the purposes of this section, the term 'operational files' means files of the National Reconnaissance Office (hereafter in this section referred to as 'NRO') that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

"(B) Files which are the sole repository of disseminated intelligence are not operational files.

"(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

"(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

"(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

"(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

"(i) The Permanent Select Committee on Intelligence of the House of Representatives.

"(ii) The Select Committee on Intelligence of the Senate.

"(iii) The Intelligence Oversight Board.

"(iv) The Department of Justice.

"(v) The Office of General Counsel of NRO.

"(vi) The Office of the Director of NRO.

"(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

"(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

"(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

"(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.

"(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of this section, and which specifically cites and repeals or modifies its provisions.

"(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NRO has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

"(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

"(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NRO, such information shall be examined ex parte, in camera by the court.

"(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

"(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

"(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NRO shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).

"(II) The court may not order NRO to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NRO's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

"(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

"(vi) If the court finds under this paragraph that NRO has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NRO to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

"(vii) If at any time following the filing of a complaint pursuant to this paragraph NRO agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

"(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence prior to submission to the court.

"(b) Decennial Review of Exempted Operational Files.—(1) Not less than once every 10 years, the Director of the National Reconnaissance Office and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

"(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

"(3) A complainant that alleges that NRO has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

"(A) Whether NRO has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

"(B) Whether NRO, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.".

(b) Clerical Amendment.—The table of sections for that Act is amended by inserting after the item relating to section 105C the following new item:

"Sec. 105D. Protection of operational files of the National Reconnaissance Office.".

SEC. 503. ELIGIBILITY OF EMPLOYEES IN INTELLIGENCE SENIOR LEVEL POSITIONS FOR PRESIDENTIAL RANK AWARDS.

Section 1607 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Award of Rank to Employees in Intelligence Senior Level Positions.—The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507a of title 5 to employees in Intelligence Senior Level positions designated under subsection (a). The award of such rank shall be made in a manner consistent with the provisions of that section.".

TITLE VI—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SEC. 601. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the "Commission").

SEC. 602. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York, in Somerset County, Pennsylvania, and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001, (hereinafter in this title referred to as the "Joint Inquiry"); and

(B) other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally;

(4) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and immediate response to, the attacks; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 603. COMPOSITION OF COMMISSION.

(a) Members.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the leader of the Senate (majority or minority leader, as the case may be) of the Democratic Party, in consultation with the leader of the House of Representatives (majority or minority leader, as the case may be) of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party;

(5) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) Qualifications; Initial Meeting.—

(1) Political Party Affiliation.—Not more than 5 members of the Commission shall be from the same political party.

(2) Nongovernmental Appointees.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) Other Qualifications.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, law, public administration, intelligence gathering, commerce (including aviation matters), and foreign affairs.

(4) Deadline for Appointment.—All members of the Commission shall be appointed on or before December 15, 2002.

(5) Initial Meeting.—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(c) Quorum; Vacancies.—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 604. FUNCTIONS OF COMMISSION.

(a) In General.—The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive Order, regulation, plan, policy, practice, or procedure; and

(B) may include relevant facts and circumstances relating to—

(i) intelligence agencies;

(ii) law enforcement agencies;

(iii) diplomacy;

(iv) immigration, nonimmigrant visas, and border control;

(v) the flow of assets to terrorist organizations;

(vi) commercial aviation;

(vii) the role of congressional oversight and resource allocation; and

(viii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(b) RELATIONSHIP TO INTELLIGENCE COMMITTEES' INQUIRY.—When investigating facts and circumstances relating to the intelligence community, the Commission shall—

(1) first review the information compiled by, and the findings, conclusions, and recommendations of, the Joint Inquiry; and

(2) after that review pursue any appropriate area of inquiry if the Commission determines that—

(A) the Joint Inquiry had not investigated that area;

(B) the Joint Inquiry's investigation of that area had not been complete; or

(C) new information not reviewed by the Joint Inquiry had become available with respect to that area.

SEC. 605. POWERS OF COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only—

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive Orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 606. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section 610 (a) and (b).

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive Order.

SEC. 607. STAFF OF COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in consultation with vice chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 608. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 609. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. 610. REPORTS OF COMMISSION; TERMINATION.

(a) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

SEC. 611. FUNDING.

(a) TRANSFER FROM THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.—Of the amounts authorized to be appropriated by this Act and made available in public law 107–248 (Department of Defense Appropriations Act, 2003) for the National Foreign Intelligence Program, not to exceed $3,000,000 shall be available for transfer to the Commission for purposes of the activities of the Commission under this title.

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

TITLE VII—INFORMATION SHARING

SEC. 701. SHORT TITLE.

This title may be cited as the "Homeland Security Information Sharing Act".

SEC. 702. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—The Congress finds the following:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes defense against terrorist attacks.

(2) The Federal Government relies on State and local personnel to protect against terrorist attacks.

(3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland security.

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attacks.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected status of such information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without the need for granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal, State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SEC. 703. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.

(a) PROCEDURES FOR DETERMINING EXTENT OF SHARING OF HOMELAND SECURITY INFORMATION.—(1) The President shall prescribe and implement procedures under which relevant Federal agencies determine—

(A) whether, how, and to what extent homeland security information may be shared with appropriate State and local personnel, and with which such personnel it may be shared;

(B) how to identify and safeguard homeland security information that is sensitive but unclassified; and

(C) to the extent such information is in classified form, whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(b) PROCEDURES FOR SHARING OF HOMELAND SECURITY INFORMATION.—(1) Under procedures prescribed by the President, all appropriate agencies, including the intelligence community, shall, through information sharing systems, share homeland security information with appropriate State and local personnel to the extent such information may be shared, as determined in accordance with subsection (a), together with assessments of the credibility of such information.

(2) Each information sharing system through which information is shared under paragraph (1) shall—

(A) have the capability to transmit unclassified or classified information, though the procedures and recipients for each capability may differ;

(B) have the capability to restrict delivery of information to specified subgroups by geographic location, type of organization, position of a recipient within an organization, or a recipient's need to know such information;

(C) be configured to allow the efficient and effective sharing of information; and

(D) be accessible to appropriate State and local personnel.

(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1)—

(A) to limit the redissemination of such information to ensure that such information is not used for an unauthorized purpose;

(B) to ensure the security and confidentiality of such information;

(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(D) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

(4) The procedures prescribed under paragraph (1) shall ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(5) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.

(6) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.

(c) SHARING OF CLASSIFIED INFORMATION AND SENSITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND LOCAL PERSONNEL.—(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include one or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into nondisclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Terrorism Early Warning Groups.

(d) RESPONSIBLE OFFICIALS.—For each affected Federal agency, the head of such agency shall designate an official to administer this title with respect to such agency.

(e) FEDERAL CONTROL OF INFORMATION.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.

(f) DEFINITIONS.—As used in this section:

(1) The term "homeland security information" means any information (other than information that includes individually identifiable information collected solely for statistical purposes) possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization; or

(D) would improve the response to a terrorist act.

(2) The term "intelligence community" has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term "State and local personnel" means any of the following persons involved in prevention, preparation, or response for terrorist attacks:

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private sector entities that affect critical infrastructure, cyber, economic, or public health security, as designated by the Federal Government in procedures developed pursuant to this section.

(4) The term "State" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

SEC. 704. REPORT.

(a) Report Required.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to the congressional committees specified in subsection (b) a report on the implementation of section 703. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements of section 703, to increase the effectiveness of sharing of information between and among Federal, State, and local entities.

(b) Specified Congressional Committees.—The congressional committees referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 705. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out section 703.

SEC. 706. COORDINATION PROVISION.

(a) Prior Enactment.—If this Act is enacted before the Homeland Security Act of 2002, then upon the date of the enactment of the Homeland Security Act of 2002, this title shall be deemed for all purposes not to have taken effect and shall cease to be in effect.

(b) Subsequent Enactment.—If the Homeland Security Act of 2002 is enacted before this Act, then this title shall not take effect.

TITLE VIII—REPORTING REQUIREMENTS

Subtitle A—Overdue Reports

SEC. 801. DEADLINE FOR SUBMITTAL OF VARIOUS OVERDUE REPORTS.

(a) Deadline.—The reports described in subsection (c) shall be submitted to Congress not later than 180 days after the date of the enactment of this Act.

(b) Noncompliance.—(1) If all the reports described in subsection (c) are not submitted to Congress by the date specified in subsection (a), amounts available to be obligated or expended after that date to carry out the functions or duties of the Office of the Director of Central Intelligence shall be reduced by $^1/_3$.

(2) The reduction applicable under paragraph (1) shall not apply if the Director of Central Intelligence certifies to Congress by the date referred to in subsection (a) that all reports referred to in subsection (c) have been submitted to Congress.

(c) Reports Described.—The reports referred to in subsection (a) are reports mandated by law for which the Director of Central Intelligence has sole or primary responsibility to prepare, coordinate, and submit to Congress which, as of the date of the enactment of this Act, have not been submitted to Congress.

Subtitle B—Submittal of Reports to Intelligence Committees

SEC. 811. DATES FOR SUBMITTAL OF VARIOUS ANNUAL AND SEMIANNUAL REPORTS TO THE CONGRESSIONAL INTELLIGENCE COMMITTEES.

(a) In General.—(1) Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 311 of this Act, is further amended by adding at the end the following new section:

"DATES FOR SUBMITTAL OF VARIOUS ANNUAL AND SEMIANNUAL REPORTS TO THE CONGRESSIONAL INTELLIGENCE COMMITTEES

"Sec. 507. (a) Annual Reports.—(1) The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(A):

"(A) The annual evaluation of the performance and responsiveness of certain elements of the intelligence community required by section 105(d).

"(B) The annual report on intelligence required by section 109.

"(C) The annual report on intelligence community cooperation with Federal law enforcement agencies required by section 114(a)(2).

"(D) The annual report on the protection of the identities of covert agents required by section 603.

"(E) The annual report of the Inspectors Generals of the intelligence community on proposed resources and activities of their offices required by section 8H(g) of the Inspector General Act of 1978.

"(F) The annual report on commercial activities as security for intelligence collection required by section 437(c) of title 10, United States Code.

"(G) The annual report on expenditures for postemployment assistance for terminated intelligence employees required by section 1611(e)(2) of title 10, United States Code.

"(H) The annual update on foreign industrial espionage required by section 809(b) of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103–359; 50 U.S.C. App. 2170b(b)).

"(I) The annual report on coordination of counterintelligence matters with the Federal Bureau of Investigation required by section 811(c)(6) of the Counterintelligence and Security Enhancements Act of 1994 (50 U.S.C. 402a(c)(6)).

"(J) The annual report on foreign companies involved in the proliferation of weapons of mass destruction that raise funds in the United States capital markets required by section 827 of the Intelligence Authorization Act for Fiscal Year 2003.

"(K) The annual report on certifications for immunity in interdiction of aircraft engaged in illicit drug trafficking required by section 1012(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2291–4(c)(2)).

"(L) The annual report on exceptions to consumer disclosure requirements for national security investigations under section 604(b)(4)(E) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(4)(E)).

"(M) The annual report on activities under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1901 et seq.) required by section 806(a) of that Act (50 U.S.C. 1906(a)).

"(N) The annual report on hiring and retention of minority employees in the intelligence community required by section 114(c).

"(2) The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(B):

"(A) The annual report on the safety and security of Russian nuclear facilities and nuclear military forces required by section 114(b).

"(B) The annual report on the threat of attack on the United States from weapons of mass destruction required by section 114(d).

"(C) The annual report on covert leases required by section 114(e).

"(D) The annual report on improvements of the financial statements of the intelligence community for auditing purposes required by section 114A.

"(E) The annual report on activities of personnel of the Federal Bureau of Investigation outside the United States required by section 540C(c)(2) of title 28, United States Code.

"(F) The annual report on intelligence activities of the People's Republic of China required by section 308(c) of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105–107; 50 U.S.C. 402a note).

"(G) The annual report on counterdrug intelligence matters required by section 826 of the Intelligence Authorization Act for Fiscal Year 2003.

"(b) Semiannual Reports.—The dates for the submittal to the congressional intelligence committees of the following semiannual reports shall be the dates each year provided in subsection (c)(2):

"(1) The periodic reports on intelligence provided to the United Nations required by section 112(b).

"(2) The semiannual reports on the Office of the Inspector General of the Central Intelligence Agency required by section 17(d)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)(1)).

"(3) The semiannual reports on decisions not to prosecute certain violations of law under the Classified Information Procedures Act (18 U.S.C. App.) as required by section 13 of that Act.

"(4) The semiannual reports on the acquisition of technology relating to weapons of mass destruction and advanced conventional munitions required by section 721(b) of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104–293; 50 U.S.C. 2366(b)).

"(5) The semiannual reports on the activities of the Diplomatic Telecommunications Service Program Office (DTS–PO) required by section 322(a)(6)(D)(ii) of the Intelligence Authorization Act for Fiscal Year 2001 (22 U.S.C. 7302(a)(6)(D)(ii)).

"(6) The semiannual reports on the disclosure of information and consumer reports to the Federal Bureau of Investigation for counterintelligence purposes required by section 624(h)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681u(h)(2)).

"(7) The semiannual provision of information on requests for financial information for foreign counterintelligence purposes required by section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(C)).

"(8) The semiannual report on financial intelligence on terrorist assets required by section 118.

"(c) Submittal Dates for Reports.—(1)(A) Except as provided in subsection (d), each annual report listed in subsection (a)(1) shall be submitted not later than February 1.

"(B) Except as provided in subsection (d), each annual report listed in subsection (a)(2) shall be submitted not later than December 1.

"(2) Except as provided in subsection (d), each semiannual report listed in subsection (b) shall be submitted not later than February 1 and August 1.

"(d) Postponement of Submittal.—(1) Subject to paragraph (3), the date for the submittal of—

"(A) an annual report listed in subsection (a)(1) may be postponed until March 1;

"(B) an annual report listed in subsection (a)(2) may be postponed until January 1; and

"(C) a semiannual report listed in subsection (b) may be postponed until March 1 or September 1, as the case may be,

if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

"(2)(A) Notwithstanding any other provision of law and subject to paragraph (3), the date for the submittal to the congressional intelligence committees of any report described in subparagraph (B) may be postponed by not more than 30 days from the date otherwise specified in the provision of law for the submittal of such report if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

"(B) A report described in this subparagraph is any report on intelligence or intelligence-related activities of the United States Government that is submitted under a provision of law requiring the submittal of only a single report.

"(3)(A) The date for the submittal of a report whose submittal is postponed under paragraph (1) or (2) may be postponed beyond the time provided for the submittal of such report under such paragraph if the official required to submit such report submits to the congressional intelligence committees a written certification that preparation and submittal of such report at such time will impede the work of officers or employees of the intelligence community in a manner that will be detrimental to the national security of the United States.

"(B) A certification with respect to a report under subparagraph (A) shall include a proposed submittal date for such report, and such report shall be submitted not later than that date.".

(2) The table of sections for the National Security Act of 1947, as amended by section 311 of this Act, is further amended by inserting after the item relating to section 506 the following new item:

"Sec. 507. Dates for submittal of various annual and semiannual reports to the congressional intelligence committees.".

(b) CONFORMING AMENDMENTS TO EXISTING REPORTING REQUIREMENTS.—

(1) NATIONAL SECURITY ACT OF 1947.—(A) Subsection (d) of section 105 of the National Security Act of 1947 (50 U.S.C. 403–5) is amended to read as follows:

"(d) ANNUAL EVALUATION OF PERFORMANCE AND RESPONSIVENESS OF CERTAIN ELEMENTS OF INTELLIGENCE COMMUNITY.—(1) Not later each year than the date provided in section 507, the Director shall submit to the congressional intelligence committees the evaluation described in paragraph (3).

"(2) The Director shall submit each year to the Committee on Foreign Intelligence of the National Security Council, and to the Committees on Armed Services and Appropriations of the Senate and House of Representatives, the evaluation described in paragraph (3).

"(3) An evaluation described in this paragraph is an evaluation of the performance and responsiveness of the National Security Agency, the National Reconnaissance Office, and the National Imagery and Mapping Agency in meeting their respective national missions.

"(4) The Director shall submit each evaluation under this subsection in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff.".

(B) Section 109 of that Act (50 U.S.C. 404d) is amended—

(i) in subsection (a), by striking paragraph (1) and inserting the following new paragraph (1):

"(1)(A) Not later each year than the date provided in section 507, the President shall submit to the congressional intelligence committees a report on the requirements of the United States for intelligence and the activities of the intelligence community.

"(B) Not later than January 31 each year, and included with the budget of the President for the next fiscal year under section 1105(a) of title 31, United States Code, the President shall submit to the appropriate congressional committees the report described in subparagraph (A).";

(ii) in subsection (c), as amended by section 803(a) of the Intelligence Renewal and Reform Act of 1996 (title VIII of Public Law 104–293; 110 Stat. 3475)—

(I) in paragraph (1), by striking "The Select Committee on Intelligence, the Committee on Appropriations," and inserting "The Committee on Appropriations"; and

(II) in paragraph (2), by striking "The Permanent Select Committee on Intelligence, the Committee on Appropriations," and inserting "The Committee on Appropriations"; and

(iii) by striking subsection (c), as added by section 304(a) of the Intelligence Authorization Act for Fiscal Year 1994 (Public Law 103–178; 107 Stat. 2034).

(C) Section 112(b) of that Act (50 U.S.C. 404g(b)) is amended by adding at the end the following new paragraph:

"(3) In the case of periodic reports required to be submitted under the first sentence of paragraph (1) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 507.".

(D) Section 114 of that Act (50 U.S.C. 404i) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "the congressional intelligence committees and";

(II) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(III) by inserting after paragraph (1) the following new paragraph (2):

"(2) Not later each year than the date provided in section 507, the Director shall submit to the congressional intelligence committees the report required to be submitted under paragraph (1) during the preceding year."; and

(ii) in subsection (b)(1), by striking ", on an annual basis" and all that follows through "leadership" and inserting "submit to the congressional leadership on an annual basis, and to the congressional intelligence committees on the date each year provided in section 507,".

(E) Section 603 of that Act (50 U.S.C. 423) is amended—

(i) in subsection (a), by adding at the end the following new sentence: "The date for the submittal of the report shall be the date provided in section 507."; and

(ii) in subsection (b), by striking the second sentence.

(2) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—Section 17(d)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)(1)) is amended in the second sentence by striking "Within thirty days of receipt of such reports," and inserting "Not later than the dates each year provided for the transmittal of such reports in section 507 of the National Security Act of 1947,".

(3) CLASSIFIED INFORMATION PROCEDURES ACT.—Section 13 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(A) by redesignating subsection (b) as subsection (c); and

(B) by inserting after subsection (a) the following new subsection (b):

"(b) In the case of the semiannual reports (whether oral or written) required to be submitted under subsection (a) to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, the submittal dates for such reports shall be as provided in section 507 of the National Security Act of 1947.".

(4) TITLE 10, UNITED STATES CODE.—(A) Section 437 of title 10, United States Code, is amended—

(i) in subsection (c), by striking "Not later than" and all that follows through "of Congress" and inserting "Not later each year than the date provided in section 507 of the National Security Act of 1947, the Secretary shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a))"; and

(ii) by striking subsection (d).

(B) Section 1611(e) of that title is amended—

(i) in paragraph (1), by striking "paragraph (2)" and inserting "paragraph (3)";

(ii) by redesignating paragraph (2) as paragraph (3); and

(iii) by inserting after paragraph (1) the following new paragraph (2):

"(2) In the case of a report required to be submitted under paragraph (1) to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, the date for the submittal of such report shall be as provided in section 507 of the National Security Act of 1947.".

(5) INTELLIGENCE AUTHORIZATION ACTS.—(A) Section 809 of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103–359; 108 Stat. 3454; 50 U.S.C. App. 2170b) is amended by striking subsection (b) and inserting the following new subsection (b):

"(b) ANNUAL UPDATE.—

"(1) SUBMITTAL TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—Not later each year than the date provided in section 507 of the National Security Act of 1947, the President shall submit to the congressional intelligence committees a report updating the information referred to in subsection (a)(1)(D).

"(2) SUBMITTAL TO CONGRESSIONAL LEADERSHIP.—Not later than April 14 each year, the President shall submit to the congressional leadership a report updating the information referred to in subsection (a)(1)(D).

"(3) DEFINITIONS.—In this subsection:

"(A) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

"(B) CONGRESSIONAL LEADERSHIP.—The term 'congressional leadership' means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.".

(B) Paragraph (6) of section 811(c) of that Act (50 U.S.C. 402a(c)) is amended to read as follows:

"(6)(A) Not later each year than the date provided in section 507 of the National Security Act of 1947, the Director of the Federal Bureau of Investigation shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a)) a report with respect to compliance with paragraphs (1) and (2) during the previous calendar year.

"(B) Not later than February 1 each year, the Director shall, in accordance with applicable security procedures, submit to the Committees on the Judiciary of the Senate and House of Representatives a report with respect to compliance with paragraphs (1) and (2) during the previous calendar year.

"(C) The Director of the Federal Bureau of Investigation shall submit each report under this paragraph in consultation with the Director of Central Intelligence and the Secretary of Defense.".

(C) Section 721 of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104–293; 110 Stat. 3474; 50 U.S.C. 2366) is amended—

(i) in subsection (a), by striking "Not later than" and all that follows through "the Director" and inserting "The Director";

(ii) by redesignating subsection (b) as subsection (c);

(iii) by inserting after subsection (a) the following new subsection (b):

"(b) SUBMITTAL DATES.—(1) The report required by subsection (a) shall be submitted each year to the congressional intelligence committees and the congressional leadership on a semiannual basis on the dates provided in section 507 of the National Security Act of 1947.

"(2) In this subsection:

"(A) The term 'congressional intelligence committees' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

"(B) The term 'congressional leadership' means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate."; and

(iv) in subsection (c), as so redesignated, by striking "The reports" and inserting "Each report".

(D) Section 308 of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105–107; 111 Stat. 2253; 50 U.S.C. 402a note) is amended—

(i) in subsection (a)—

(I) by striking "Not later than" and all that follows through "the Director of Central Intelligence" and inserting "The Director of Central Intelligence"; and

(II) by inserting "on an annual basis" after "to Congress"; and

(ii) by adding at the end the end the following new subsection (c):

"(c) SUBMITTAL DATE OF REPORT TO LEADERSHIP OF CONGRESSIONAL INTELLIGENCE COMMITTEES.—The date each year for the submittal to the Chairman and Ranking Member of the Permanent Select Committee on Intelligence of the House of Representatives and the Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate of the report required by subsection (a) shall be the date provided in section 507 of the National Security Act of 1947.".

(E) Section 322(a)(6)(D) of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106–567; 114 Stat. 2844; 22 U.S.C. 7302(a)(6)(D)) is amended—

(i) in clause (i), by striking "Beginning on" and inserting "Except as provided in clause (ii), beginning on";

(ii) by redesignating clause (ii) as clause (iii);

(iii) by inserting after clause (i) the following new clause (ii):

"(ii) SUBMITTAL DATE OF REPORTS TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—In the case of reports required to be submitted under clause (i) to the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), the submittal dates for such reports shall be as provided in section 507 of that Act."; and

(iv) in clause (iii), as so redesignated, by striking "report" and inserting "reports".

(6) PUBLIC LAW 103–337.—Section 1012(c) of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2291–4(c)) is amended—

(A) in paragraph (1), by striking "Not later than" and inserting "Except as provided in paragraph (2), not later than";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph (2):

"(2) In the case of a report required to be submitted under paragraph (1) to the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), the submittal date for such report shall be as provided in section 507 of that Act.".

(7) DAVID L. BOREN NATIONAL SECURITY EDUCATION ACT OF 1991.—The David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1901 et seq.) is amended—

(A) in section 806(a) (50 U.S.C. 1906(a))—

(i) by inserting "(1)" before "The Secretary";

(ii) in paragraph (1), as so designated, by striking "the Congress" and inserting "the congressional intelligence committees";

(iii) by designating the second sentence as paragraph (2) and by aligning such paragraph with the paragraph added by clause (v);

(iv) in paragraph (2), as so designated, by inserting "submitted to the President" after "The report"; and

(v) by adding at the end the following new paragraph (3):

"(3) The report submitted to the congressional intelligence committees shall be submitted on the date provided in section 507 of the National Security Act of 1947."; and

(B) in section 808 (50 U.S.C. 1908), by adding at the end the following new paragraph (5):

"(5) The term 'congressional intelligence committees' means—

"(A) the Select Committee on Intelligence of the Senate; and

"(B) the Permanent Select Committee on Intelligence of the House of Representatives.".

(8) FAIR CREDIT REPORTING ACT.—(A) Section 604(b)(4) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(4)) is amended—

(i) in subparagraph (D), by striking "Not later than" and inserting "Except as provided in subparagraph (E), not later than";

(ii) by redesignating subparagraph (E) as subparagraph (F); and

(iii) by inserting after subparagraph (D) the following new subparagraph (E):

"(E) REPORTS TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—In the case of a report to be submitted under subparagraph (D) to the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), the submittal date for such report shall be as provided in section 507 of that Act.".

(B) Section 625(h) of that Act (15 U.S.C. 1681u(h)) is amended—

(i) by inserting "(1)" before "On a semiannual basis,"; and

(ii) by adding at the end the following new paragraph:

"(2) In the case of the semiannual reports required to be submitted under paragraph (1) to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, the submittal dates for such reports shall be as provided in section 507 of the National Security Act of 1947.".

(9) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(C)) is amended by striking "On a semiannual" and all that follows through "the Senate" and inserting "On the dates provided in section 507 of the National Security Act of 1947, the Attorney General shall fully inform the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a))".

Subtitle C—Recurring Annual Reports

SEC. 821. ANNUAL REPORT ON THREAT OF ATTACK ON THE UNITED STATES USING WEAPONS OF MASS DESTRUCTION.

Section 114 of the National Security Act of 1947, as amended by section 353(b)(6) of this Act, is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) ANNUAL REPORT ON THREAT OF ATTACK ON THE UNITED STATES USING WEAPONS OF MASS DESTRUCTION.—(1) Not later each year than the date provided in section 507, the Director shall submit to the congressional committees specified in paragraph (3) a report assessing the following:

"(A) The current threat of attack on the United States using ballistic missiles or cruise missiles.

"(B) The current threat of attack on the United States using a chemical, biological, or nuclear weapon delivered by a system other than a ballistic missile or cruise missile.

"(2) Each report under paragraph (1) shall be a national intelligence estimate, or have the formality of a national intelligence estimate.

"(3) The congressional committees referred to in paragraph (1) are the following:

"(A) The congressional intelligence committees.

"(B) The Committees on Foreign Relations and Armed Services of the Senate.

"(C) The Committees on International Relations and Armed Services of the House of Representatives.".

SEC. 822. ANNUAL REPORT ON COVERT LEASES.

Section 114 of the National Security Act of 1947, as amended by section 821 of this Act, is further amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

"(e) ANNUAL REPORT ON COVERT LEASES.—(1) Not later each year than the date provided in section 507, the Director shall submit to the congressional intelligence committees a report on each covert lease of an element of the intelligence community that is in force as of the end of the preceding year.

"(2) Each report under paragraph (1) shall include the following:

"(A) A list of each lease described by that paragraph.

"(B) For each lease—

"(i) the cost of such lease;

"(ii) the duration of such lease;

"(iii) the purpose of such lease; and

"(iv) the directorate or office that controls such lease.".

SEC. 823. ANNUAL REPORT ON IMPROVEMENT OF FINANCIAL STATEMENTS OF CERTAIN ELEMENTS OF THE INTELLIGENCE COMMUNITY FOR AUDITING PURPOSES.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 114 the following new section:

"ANNUAL REPORT ON IMPROVEMENT OF FINANCIAL STATEMENTS FOR AUDITING PURPOSES

"SEC. 114A. Not later each year than the date provided in section 507, the Director of Central Intelligence, the Director of the National Security Agency, the Director of the Defense Intelligence Agency, and the Director of the National Imagery and Mapping Agency shall each submit to the congressional intelligence committees a report describing the activities being undertaken by such official to ensure that the financial statements of such agency can be audited in accordance with applicable law and requirements of the Office of Management and Budget.".

(b) CLERICAL AMENDMENT.—The table of sections for the National Security Act of 1947 is amended by inserting after the item relating to section 114 the following new item:

"Sec. 114A. Annual report on improvement of financial statements for auditing purposes.".

SEC. 824. ANNUAL REPORT ON ACTIVITIES OF FEDERAL BUREAU OF INVESTIGATION PERSONNEL OUTSIDE THE UNITED STATES.

(a) ANNUAL REPORT.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following new section:

"§540C. Annual report on activities of Federal Bureau of Investigation personnel outside the United States

"(a) The Director of the Federal Bureau of Investigation shall submit to the appropriate committees of Congress each year a report on the activities of personnel of the Federal Bureau of Investigation outside the United States.

"(b) The report under subsection (a) shall include the following:

"(1) For the year preceding the year in which the report is required to be submitted—

"(A) the number of personnel of the Bureau posted or detailed outside the United States during the year;

"(B) a description of the coordination of the investigations, asset handling, liaison, and operational activities of the Bureau during the year with other elements of the intelligence community; and

"(C) a description of the extent to which information derived from activities described in subparagraph (B) was shared with other elements of the intelligence community.

"(2) For the year in which the report is required to be submitted—

"(A) a description of the plans, if any, of the Director—

"(i) to modify the number of personnel of the Bureau posted or detailed outside the United States; or

"(ii) to modify the scope of the activities of personnel of the Bureau posted or detailed outside the United States; and

"(B) a description of the manner and extent to which information derived from activities of the Bureau described in paragraph (1)(B) during the year will be shared with other elements of the intelligence community.

"(c) The date of the submittal each year of the report required by subsection (a) shall be the date provided in section 507 of the National Security Act of 1947.

"(d) In this section, the term 'appropriate committees of Congress' means—

"(1) the Committees on the Judiciary of the Senate and House of Representatives; and

"(2) the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C, 401a)).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of that title is amended by inserting after the item relating to section 540B the following new item:

"540C. Annual report on activities of Federal Bureau of Investigation personnel outside the United States.".

SEC. 825. ANNUAL REPORTS OF INSPECTORS GENERAL OF THE INTELLIGENCE COMMUNITY ON PROPOSED RESOURCES AND ACTIVITIES OF THEIR OFFICES.

Section 8H of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (f), by striking "this section" and inserting "subsections (a) through (e)";

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following new subsection (g):

"(g)(1) The Inspector General of the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, and the National Security Agency shall each submit to the congressional intelligence committees each year a report that sets forth the following:

"(A) The personnel and funds requested by such Inspector General for the fiscal year beginning in such year for the activities of the office of such Inspector General in such fiscal year.

"(B) The plan of such Inspector General for such activities, including the programs and activities scheduled for review by the office of such Inspector General during such fiscal year.

"(C) An assessment of the current ability of such Inspector General to hire and retain qualified personnel for the office of such Inspector General.

"(D) Any matters that such Inspector General considers appropriate regarding the independence and effectiveness of the office of such Inspector General.

"(2) The submittal date for a report under paragraph (1) each year shall be the date provided in section 507 of the National Security Act of 1947.

"(3) In this subsection, the term 'congressional intelligence committees' shall have the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).".

SEC. 826. ANNUAL REPORT ON COUNTERDRUG INTELLIGENCE MATTERS.

(a) ANNUAL REPORT.—The Counterdrug Intelligence Coordinating Group shall submit to the appropriate committees of Congress each year a report on current counterdrug intelligence matters. The report shall include the recommendations of the Counterdrug Intelligence Coordinating Group on the appropriate number of permanent staff, and of detailed personnel, for the staff of the Counterdrug Intelligence Executive Secretariat.

(b) SUBMITTAL DATE.—The date of the submittal each year of the report required by subsection (a) shall be the date provided in section 507 of the National Security Act of 1947, as added by section 811 of this Act.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Appropriations of the Senate and House of Representatives; and

(2) the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)).

SEC. 827. ANNUAL REPORT ON FOREIGN COMPANIES INVOLVED IN THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION THAT RAISE FUNDS IN THE UNITED STATES CAPITAL MARKETS.

(a) ANNUAL REPORT REQUIRED.—The Director of Central Intelligence shall submit to the appropriate committees of Congress on an annual basis a report setting forth each foreign company described in subsection (b) that raised or attempted to raise funds in the United States capital markets during the preceding year.

(b) COVERED FOREIGN COMPANIES.—A foreign company described in this subsection is any foreign company determined by the Director to be engaged or involved in the proliferation of weapons of mass destruction (including nuclear, biological, or chemical weapons) or the means to deliver such weapons.

(c) SUBMITTAL DATE.—The date each year for the submittal of the report required by subsection (a) shall be the date provided in section 507 of the National Security Act of 1947, as added by section 811 of this Act.

(d) FORM OF REPORTS.—Each report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives;

(2) the Committees on Armed Services, Banking, Housing, and Urban Affairs, Governmental Affairs, and Foreign Relations of the Senate; and

(3) the Committees on Armed Services, Financial Services, Government Reform, and International Relations of the House of Representatives.

Subtitle D—Other Reports

SEC. 831. REPORT ON EFFECT OF COUNTRY-RELEASE RESTRICTIONS ON ALLIED INTELLIGENCE-SHARING RELATIONSHIPS.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Director of Central Intelligence shall, in consultation with the Secretary of Defense, submit to the congressional intelligence committees a report containing an assessment of the effect of the use of "NOFORN" classifications, and of other country-release policies, procedures, and classification restrictions, on intelligence-sharing relationships and coordinated intelligence operations and military operations between the United States and its allies. The report shall include an assessment of the effect of the use of such classifications, and of such policies, procedures, and restrictions, on counterterrorism operations in Afghanistan and elsewhere.

(b) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committee" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 832. EVALUATION OF POLICIES AND PROCEDURES OF DEPARTMENT OF STATE ON PROTECTION OF CLASSIFIED INFORMATION AT DEPARTMENT HEADQUARTERS.

(a) EVALUATION REQUIRED.—Not later than December 31 of 2002, 2003, and 2004, the Inspector General of the Department of State shall conduct an evaluation of the policies and procedures of the Department on the protection of classified information at the Headquarters of the Department, including compliance with the directives of the Director of Central Intelligence (DCIDs) regarding the storage and handling of Sensitive Compartmented Information (SCI) material.

(b) ANNUAL REPORT.—Except as provided in subsection (c), not later than February 1 of 2003, 2004, and 2005, the Inspector General shall submit to the following committees a report on the evaluation conducted under subsection (a) during the preceding year:

(1) The congressional intelligence committees.

(2) The Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(c) EXCEPTION.—The date each year for the submittal of a report under subsection (b) may be postponed in accordance with section 507(d) of the National Security Act of 1947, as added by section 811 of this Act.

(d) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

Subtitle E—Repeal of Certain Report Requirements

SEC. 841. REPEAL OF CERTAIN REPORT REQUIREMENTS.

(a) ANNUAL REPORT ON THE DETAIL OF INTELLIGENCE COMMUNITY PERSONNEL.—Section 113 of the National Security Act of 1947 (50 U.S.C. 404h) is amended by striking subsection (c).

(b) ANNUAL REPORT ON EXERCISE OF NATIONAL SECURITY AGENCY VOLUNTARY SEPARATION PAY AUTHORITY.—Section 301(j) of the National Security Act of 1947 (50 U.S.C. 409a(j)), as *amended by section 353(b)(2)(A) of this Act, is further amended—*

(1) by striking "REPORTING REQUIREMENTS.—" and all that follows through "The Director may" and inserting "NOTIFICATION OF EXERCISE OF AUTHORITY.—The Director may"; and

(2) by striking paragraph (2).

(c) ANNUAL REPORT ON TRANSFERS OF AMOUNTS FOR ACQUISITION OF LAND BY THE CENTRAL INTELLIGENCE AGENCY.—Section 5(c)(2) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(c)(2)) is amended by striking "an annual report on the transfers of sums described in paragraph (1)." and inserting "a report on the transfer of sums described in paragraph (1) each time that authority is exercised.".

(d) ANNUAL REPORT ON USE OF CIA PERSONNEL AS SPECIAL POLICEMEN.—Section 15(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403o(a)) is amended by striking paragraph (5).

(e) ANNUAL AUDIT OF THE CENTRAL SERVICES PROGRAM OF THE CENTRAL INTELLIGENCE AGENCY.—Section 21 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u) is amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

(f) ANNUAL REPORT ON SPECIAL POLICE AUTHORITY FOR THE NATIONAL SECURITY AGENCY.—Section 11(a)(5) of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by inserting "through 2004" after "Not later than July 1 each year".

TITLE IX—COUNTERINTELLIGENCE ACTIVITIES

SEC. 901. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the "Counterintelligence Enhancement Act of 2002".

(b) PURPOSE.—The purpose of this title is to facilitate the enhancement of the counterintelligence activities of the United States Government by—

(1) enabling the counterintelligence community of the United States Government to fulfill better its mission of identifying, assessing, prioritizing, and countering the intelligence threats to the United States;

(2) ensuring that the counterintelligence community of the United States Government acts in an efficient and effective manner; and

(3) providing for the integration of all the counterintelligence activities of the United States Government.

SEC. 902. NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) ESTABLISHMENT.—(1) There shall be a National Counterintelligence Executive, who shall be appointed by the President.

(2) It is the sense of Congress that the President should seek the views of the Attorney General, Secretary of Defense, and Director of Central Intelligence in selecting an individual for appointment as the Executive.

(b) MISSION.—The mission of the National Counterintelligence Executive shall be to serve as the head of national counterintelligence for the United States Government.

(c) DUTIES.—Subject to the direction and control of the President, the duties of the National Counterintelligence Executive are as follows:

(1) To carry out the mission referred to in subsection (b).

(2) To act as chairperson of the National Counterintelligence Policy Board under section 811 of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103–359; 50 U.S.C. 402a), as amended by section 903 of this Act.

(3) To act as head of the Office of the National Counterintelligence Executive under section 904.

(4) To participate as an observer on such boards, committees, and entities of the executive branch as the President considers appropriate for the discharge of the mission and functions of the Executive and the Office of the National Counterintelligence Executive under section 904.

SEC. 903. NATIONAL COUNTERINTELLIGENCE POLICY BOARD.

(a) CHAIRPERSON.—Section 811 of the Counterintelligence and Security Enhancements Act of 1994 (title VII of Public Law 103–359; 50 U.S.C. 402a), as amended by section 811(b)(5)(B) of this Act, is further amended—

(1) by striking subsection (b);

(2) by redesignating subsection (c) as subsection (e); and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) CHAIRPERSON.—The National Counterintelligence Executive under section 902 of the Counterintelligence Enhancement Act of 2002 shall serve as the chairperson of the Board.".

(b) MEMBERSHIP.—That section is further amended by inserting after subsection (b), as amended by subsection (a)(3) of this section, the following new subsection (c):

"(c) MEMBERSHIP.—The membership of the National Counterintelligence Policy Board shall consist of the following:

"(1) The National Counterintelligence Executive.

"(2) Senior personnel of departments and elements of the United States Government, appointed by the head of the department or element concerned, as follows:

"(A) The Department of Justice, including the Federal Bureau of Investigation.

"(B) The Department of Defense, including the Joint Chiefs of Staff.

"(C) The Department of State.

"(D) The Department of Energy.

"(E) The Central Intelligence Agency.

"(F) Any other department, agency, or element of the United States Government specified by the President.".

(c) FUNCTIONS AND DISCHARGE OF FUNCTIONS.—That section is further amended by inserting after subsection (c), as amended by subsection (b) of this section, the following new subsection:

"(d) FUNCTIONS AND DISCHARGE OF FUNCTIONS.—(1) The Board shall—

"(A) serve as the principal mechanism for—

"(i) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

"(ii) upon the direction of the President, resolving conflicts that arise between elements of the Government conducting such activities; and

"(B) act as an interagency working group to—

"(i) ensure the discussion and review of matters relating to the implementation of the Counterintelligence Enhancement Act of 2002; and

"(ii) provide advice to the National Counterintelligence Executive on priorities in the implementation of the National Counterintelligence Strategy produced by the Office of the National Counterintelligence Executive under section 904(e)(2) of that Act.

"(2) The Board may, for purposes of carrying out its functions under this section, establish such interagency boards and working groups as the Board considers appropriate.".

SEC. 904. OFFICE OF THE NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) ESTABLISHMENT.—There shall be an Office of the National Counterintelligence Executive.

(b) HEAD OF OFFICE.—The National Counterintelligence Executive shall be the head of the Office of the National Counterintelligence Executive.

(c) LOCATION OF OFFICE.—The Office of the National Counterintelligence Executive shall be located in the Office of the Director of Central Intelligence.

(d) GENERAL COUNSEL.—(1) There shall be in the Office of the National Counterintelligence Executive a general counsel who shall serve as principal legal advisor to the National Counterintelligence Executive.

(2) The general counsel shall—

(A) provide legal advice and counsel to the Executive on matters relating to functions of the Office;

(B) ensure that the Office complies with all applicable laws, regulations, Executive orders, and guidelines; and

(C) carry out such other duties as the Executive may specify.

(e) FUNCTIONS.—Subject to the direction and control of the National Counterintelligence Executive, the functions of the Office of the National Counterintelligence Executive shall be as follows:

(1) NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENT.—Subject to subsection (f), in consultation with appropriate department and agencies of the United States Government, and private sector entities, to produce on an annual basis a strategic planning assessment of the counterintelligence requirements of the United States to be known as the National Threat Identification and Prioritization Assessment.

(2) NATIONAL COUNTERINTELLIGENCE STRATEGY.—Subject to subsection (f), in consultation with appropriate department and agencies of the United States Government, and private sector entities, and based on the most current National Threat Identification and Prioritization Assessment under paragraph (1), to produce on an annual basis a strategy for the counterintelligence programs and activities of the United States Government to be known as the National Counterintelligence Strategy.

(3) IMPLEMENTATION OF NATIONAL COUNTERINTELLIGENCE STRATEGY.—To evaluate on an ongoing basis the implementation of the National Counterintelligence Strategy and to submit to the President periodic reports on such evaluation, including a discussion of any shortfalls in the implementation of the Strategy and recommendations for remedies for such shortfalls.

(4) NATIONAL COUNTERINTELLIGENCE STRATEGIC ANALYSES.—As directed by the Director of Central Intelligence and in consultation with appropriate elements of the departments and agencies of the United States Government, to oversee and coordinate the production of strategic analyses of counterintelligence matters, including the production of counterintelligence damage assessments and assessments of lessons learned from counterintelligence activities.

(5) NATIONAL COUNTERINTELLIGENCE PROGRAM BUDGET.—In consultation with the Director of Central Intelligence—

(A) to coordinate the development of budgets and resource allocation plans for the counterintelligence programs and activities of the Department of Defense, the Federal Bureau of Investigation, the Central Intelligence Agency, and other appropriate elements of the United States Government;

(B) to ensure that the budgets and resource allocation plans developed under subparagraph (A) address the objectives and priorities for counterintelligence under the National Counterintelligence Strategy; and

(C) to submit to the National Security Council periodic reports on the activities undertaken by the Office under subparagraphs (A) and (B).

(6) NATIONAL COUNTERINTELLIGENCE COLLECTION AND TARGETING COORDINATION.—To develop priorities for counterintelligence investigations and operations, and for collection of counterintelligence, for purposes of the National Counterintelligence Strategy, except that the Office may not—

(A) carry out any counterintelligence investigations or operations; or

(B) establish its own contacts, or carry out its own activities, with foreign intelligence services.

(7) NATIONAL COUNTERINTELLIGENCE OUTREACH, WATCH, AND WARNING.—

(A) COUNTERINTELLIGENCE VULNERABILITY SURVEYS.—To carry out and coordinate surveys of the vulnerability of the United States Government, and the private sector, to intelligence threats in order to identify the areas, programs, and activities that require protection from such threats.

(B) OUTREACH.—To carry out and coordinate outreach programs and activities on counterintelligence to other elements of the United States Government, and the private sector, and to coordinate the dissemination to the public of warnings on intelligence threats to the United States.

(C) RESEARCH AND DEVELOPMENT.—To ensure that research and development programs and activities of the United States Government, and the private sector, direct attention to the needs of the counterintelligence community for technologies, products, and services.

(D) TRAINING AND PROFESSIONAL DEVELOPMENT.—To develop policies and standards for training and professional development of individuals engaged in counterintelligence activities and to manage the conduct of joint training exercises for such personnel.

(f) ADDITIONAL REQUIREMENTS REGARDING NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENT AND NATIONAL COUNTERINTELLIGENCE STRATEGY.—(1) A National Threat Identification and Prioritization Assessment under subsection (e)(1), and any modification of such assessment, shall not go into effect until approved by the President.

(2) A National Counterintelligence Strategy under subsection (e)(2), and any modification of such strategy, shall not go into effect until approved by the President.

(3) The National Counterintelligence Executive shall submit to the congressional intelligence committees each National Threat Identification and Prioritization Assessment, or modification thereof, and each National Counterintelligence Strategy, or modification thereof, approved under this section.

(4) In this subsection, the term "congressional intelligence committees" means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

(g) PERSONNEL.—(1) Personnel of the Office of the National Counterintelligence Executive may consist of personnel employed by the Office or personnel on detail from any other department, agency, or element of the Federal Government. Any such detail may be on a reimbursable or nonreimbursable basis, at the election of the head of the agency detailing such personnel.

(2) Notwithstanding section 104(d) or any other provision of law limiting the period of the detail of personnel on a nonreimbursable basis, the detail of an officer or employee of United States or a member of the Armed Forces under paragraph (1) on a nonreimbursable basis may be for any period in excess of one year that the National Counterintelligence Executive and the head of the department, agency, or element concerned consider appropriate.

(3) The employment of personnel by the Office, including the appointment, compensation and benefits, management, and separation of such personnel, shall be governed by the provisions of law on such matters with respect to the personnel of the Central Intelligence Agency, except that, for purposes of the applicability of such provisions of law to personnel of the Office, the National Counterintelligence Executive shall be treated as the head of the Office.

(4) Positions in the Office shall be excepted service positions for purposes of title 5, United States Code.

(h) SUPPORT.—(1) The Attorney General, Secretary of Defense, and Director of Central Intelligence may each provide the Office of the National Counterintelligence Executive such support as may be necessary to permit the Office to carry out its functions under this section.

(2) Subject to any terms and conditions specified by the Director of Central Intelligence, the Director may provide administrative and contract support to the Office as if the Office were an element of the Central Intelligence Agency.

(3) Support provided under this subsection may be provided on a reimbursable or nonreimbursable basis, at the election of the official providing such support.

(i) AVAILABILITY OF FUNDS FOR REIMBURSEMENT.—The National Counterintelligence Executive may, from amounts available for the Office, transfer to a department or agency detailing personnel under subsection (g), or providing support under subsection (h), on a reimbursable basis amounts appropriate to reimburse such department or agency for the detail of such personnel or the provision of such support, as the case may be.

(j) CONTRACTS.—(1) Subject to paragraph (2), the National Counterintelligence Executive may enter into any contract, lease, cooperative agreement, or other transaction that the Executive considers appropriate to carry out the functions of the Office of the National Counterintelligence Executive under this section.

(2) The authority under paragraph (1) to enter into contracts, leases, cooperative agreements, and other transactions shall be subject to any terms, conditions, and limitations applicable to the Central Intelligence Agency under law with respect to similar contracts, leases, cooperative agreements, and other transactions.

(k) TREATMENT OF ACTIVITIES UNDER CERTAIN ADMINISTRATIVE LAWS.—The files of the Office shall be treated as operational files of the Central Intelligence Agency for purposes of section 701 of the National Security Act of 1947 (50 U.S.C. 431) to the extent such files meet criteria under subsection (b) of that section for treatment of files as operational files of an element of the Agency.

(l) OVERSIGHT BY CONGRESS.—The location of the Office of the National Counterintelligence Executive within the Office of the Director of Central Intelligence shall not be construed as affecting access by Congress, or any committee of Congress, to—

(1) any information, document, record, or paper in the possession of the Office; or

(2) any personnel of the Office.

(m) CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of the Director of Central Intelligence, the Secretary of Defense, the Secretary of State, the Attorney General, or the Director of the Federal Bureau of Investigation as provided or specified under the National Security Act of 1947 or under other provisions of law.

TITLE X—NATIONAL COMMISSION FOR REVIEW OF RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY

SEC. 1001. FINDINGS.

Congress makes the following findings:

(1) Research and development efforts under the purview of the intelligence community are vitally important to the national security of the United States.

(2) The intelligence community must operate in a dynamic, highly-challenging environment, characterized by rapid technological growth, against a growing number of hostile, technically-sophisticated threats. Research and development programs under the purview of the intelligence community are critical to ensuring that intelligence agencies, and their personnel, are provided with important technological capabilities to detect, characterize, assess, and ultimately counter the full range of threats to the national security of the United States.

(3) There is a need to review the full range of current research and development programs under the purview of the intelligence community, evaluate such programs against the scientific and technological fields judged to be of most importance, and articulate program and resource priorities for future research and development activities to ensure a unified and coherent research and development program across the entire intelligence community.

SEC. 1002. NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission for the Review of the Research and Development Programs of the United States Intelligence Community" (in this title referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed of 12 members, as follows:

(1) The Deputy Director of Central Intelligence for Community Management.

(2) A senior intelligence official of the Office of the Secretary of Defense, as designated by the Secretary of Defense.

(3) Three members appointed by the majority leader of the Senate, in consultation with the Chairman of the Select Committee on Intelligence of the Senate, one from Members of the Senate and two from private life.

(4) Two members appointed by the minority leader of the Senate, in consultation with the Vice Chairman of the Select Committee on Intelligence of the Senate, one from Members of the Senate and one from private life.

(5) Three members appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, one from Members of the House of Representatives and two from private life.

(6) Two members appointed by the minority leader of the House of Representatives, in consultation with the ranking member of the Permanent Select Committee on Intelligence of the House of Representatives, one from Members of the House of Representatives and one from private life.

(c) MEMBERSHIP.—(1) The individuals appointed from private life as members of the Commission shall be individuals who are nationally recognized for expertise, knowledge, or experience in—

(A) research and development programs;

(B) technology discovery and insertion;

(C) use of intelligence information by national policymakers and military leaders; or

(D) the implementation, funding, or oversight of the national security policies of the United States.

(2) An official who appoints members of the Commission may not appoint an individual as a member of the Commission if, in the judgment of the official, such individual possesses any personal or financial interest in the discharge of any of the duties of the Commission.

(3) All members of the Commission appointed from private life shall possess an appropriate security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

(d) CO-CHAIRS.—(1) The Commission shall have two co-chairs, selected from among the members of the Commission.

(2) One co-chair of the Commission shall be a member of the Democratic Party, and one co-

chair shall be a member of the Republican Party.

(3) The individuals who serve as the co-chairs of the Commission shall be jointly agreed upon by the President, the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives.

(e) APPOINTMENT; INITIAL MEETING.—(1) Members of the Commission shall be appointed not later than 45 days after the date of the enactment of this Act.

(2) The Commission shall hold its initial meeting on the date that is 60 days after the date of the enactment of this Act.

(f) MEETINGS; QUORUM; VACANCIES.—(1) After its initial meeting, the Commission shall meet upon the call of the co-chairs of the Commission.

(2) Six members of the Commission shall constitute a quorum for purposes of conducting business, except that two members of the Commission shall constitute a quorum for purposes of receiving testimony.

(3) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(4) If vacancies in the Commission occur on any day after 45 days after the date of the enactment of this Act, a quorum shall consist of a majority of the members of the Commission as of such day.

(g) ACTIONS OF COMMISSION.—(1) The Commission shall act by resolution agreed to by a majority of the members of the Commission voting and present.

(2) The Commission may establish panels composed of less than the full membership of the Commission for purposes of carrying out the duties of the Commission under this title. The actions of any such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(3) Any member, agent, or staff of the Commission may, if authorized by the co-chairs of the Commission, take any action which the Commission is authorized to take pursuant to this title.

(h) DUTIES.—The duties of the Commission shall be—

(1) to conduct, until not later than the date on which the Commission submits the report under section 1007(a), the review described in subsection (i); and

(2) to submit to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense a final report on the results of the review.

(i) REVIEW.—The Commission shall review the status of research and development programs and activities within the intelligence community, including—

(1) an assessment of the advisability of modifying the scope of research and development for purposes of such programs and activities;

(2) a review of the particular individual research and development activities under such programs;

(3) an evaluation of the current allocation of resources for research and development, including whether the allocation of such resources for that purpose should be modified;

(4) an identification of the scientific and technological fields judged to be of most importance to the intelligence community;

(5) an evaluation of the relationship between the research and development programs and activities of the intelligence community and the research and development programs and activities of other departments and agencies of the Federal Government; and

(6) an evaluation of the relationship between the research and development programs and activities of the intelligence community and the research and development programs and activities of the private sector.

SEC. 1003. POWERS OF COMMISSION.

(a) IN GENERAL.—(1) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member considers necessary.

(2) Subpoenas may be issued under subparagraph (1)(B) under the signature of the co-chairs of the Commission, and may be served by any person designated by such co-chairs.

(3) The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192–194) shall apply in the case of any failure of a witness to comply with any subpoena or to testify when summoned under authority of this section.

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in advance in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each such department, agency, bureau, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request of the co-chairs of the Commission. The Commission shall handle and protect all classified information provided to it under this section in accordance with applicable statutes and regulations.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—(1) The Director of Central Intelligence shall provide to the Commission, on a nonreimbursable basis, such administrative services, funds, staff, facilities, and other support services as are necessary for the performance of the Commission's duties under this title.

(2) The Secretary of Defense may provide the Commission, on a nonreimbursable basis, with such administrative services, staff, and other support services as the Commission may request.

(3) In addition to the assistance set forth in paragraphs (1) and (2), other departments and agencies of the United States may provide the Commission such services, funds, facilities, staff, and other support as such departments and agencies consider advisable and as may be authorized by law.

(4) The Commission shall receive the full and timely cooperation of any official, department, or agency of the United States Government whose assistance is necessary for the fulfillment of the duties of the Commission under this title, including the provision of full and current briefings and analyses.

(e) PROHIBITION ON WITHHOLDING INFORMATION.—No department or agency of the Government may withhold information from the Commission on the grounds that providing the information to the Commission would constitute the unauthorized disclosure of classified information or information relating to intelligence sources or methods.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

(g) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property in carrying out its duties under this title.

SEC. 1004. STAFF OF COMMISSION.

(a) IN GENERAL.—(1) The co-chairs of the Commission, in accordance with rules agreed upon by the Commission, shall appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its duties, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of such title.

(2) Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(3) All staff of the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

(b) CONSULTANT SERVICES.—(1) The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

(2) All experts and consultants employed by the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

SEC. 1005. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—(1) Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission under this title.

(2) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay by reason of their service on the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

SEC. 1006. TREATMENT OF INFORMATION RELATING TO NATIONAL SECURITY.

(a) IN GENERAL.—(1) The Director of Central Intelligence shall assume responsibility for the handling and disposition of any information related to the national security of the United States that is received, considered, or used by the Commission under this title.

(2) Any information related to the national security of the United States that is provided to the Commission by a congressional intelligence committee may not be further provided or released without the approval of the chairman of such committee.

(b) Access After Termination of Commission.—Notwithstanding any other provision of law, after the termination of the Commission under section 1007, only the Members and designated staff of the congressional intelligence committees, the Director of Central Intelligence (and the designees of the Director), and such other officials of the executive branch as the President may designate shall have access to information related to the national security of the United States that is received, considered, or used by the Commission.

SEC. 1007. FINAL REPORT; TERMINATION.

(a) Final Report.—Not later than September 1, 2003, the Commission shall submit to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense a final report as required by section 1002(h)(2).

(b) Termination.—(1) The Commission, and all the authorities of this title, shall terminate at the end of the 120-day period beginning on the date on which the final report under subsection (a) is transmitted to the congressional intelligence committees.

(2) The Commission may use the 120-day period referred to in paragraph (1) for the purposes of concluding its activities, including providing testimony to Congress concerning the final report referred to in that paragraph and disseminating the report.

SEC. 1008. ASSESSMENTS OF FINAL REPORT.

Not later than 60 days after receipt of the final report under section 1007(a), the Director of Central Intelligence and the Secretary of Defense shall each submit to the congressional intelligence committees an assessment by the Director or the Secretary, as the case may be, of the final report. Each assessment shall include such comments on the findings and recommendations contained in the final report as the Director or Secretary, as the case may be, considers appropriate.

SEC. 1009. INAPPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS.

(a) Federal Advisory Committee Act.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission under this title.

(b) Freedom of Information Act.—The provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), shall not apply to the activities, records, and proceedings of the Commission under this title.

SEC. 1010. FUNDING.

(a) Transfer From the Community Management Account.—Of the amounts authorized to be appropriated by this Act for the Intelligence Technology Innovation Center of the Community Management Account, the Deputy Director of Central Intelligence for Community Management shall transfer to the Director of Central Intelligence $2,000,000 for purposes of the activities of the Commission under this title.

(b) Availability in General.—The Director of Central Intelligence shall make available to the Commission, from the amount transferred to the Director under subsection (a), such amounts as the Commission may require for purposes of the activities of the Commission under this title.

(c) Duration of Availability.—Amounts made available to the Commission under subsection (b) shall remain available until expended.

SEC. 1011. DEFINITIONS.

In this title:

(1) Congressional intelligence committees.—The term "congressional intelligence committees" means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

(2) Intelligence community.—The term "intelligence community" has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

And the Senate agree to the same.

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

PORTER J. GOSS,
DOUG BEREUTER,
MICHAEL N. CASTLE,
SHERWOOD BOEHLERT,
JIM GIBBONS,
RANDY "DUKE" CUNNINGHAM,
PETE HOEKSTRA,
RICHARD BURR,
SAXBY CHAMBLISS,
TERRY EVERETT,
NANCY PELOSI,
SANFORD D. BISHOP, Jr.,
JANE HARMAN,
TIM ROEMER,
SILVESTRE REYES,
LEONARD L. BOSWELL,
COLLIN C. PETERSON,

From the Committee on Armed Services, for consideration of defense tactical intelligence and related activities:

ROBERT STUMP,
DUNCAN HUNTER,
Managers on the Part of the House.

BOB GRAHAM,
JAY ROCKEFELLER,
DIANNE FEINSTEIN,
RON WYDEN,
DICK DURBIN,
JOHN EDWARDS,
RICHARD SHELBY,
JON KYL,
MIKE DEWINE,
FRED THOMPSON,
DICK LUGAR,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4628), to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

THE NATION'S INTELLIGENCE CAPABILITIES—A NEW PERSPECTIVE

The conferees note that, in the wake of the September 11, 2001 terrorist attacks, the fiscal year 2003 budget submitted by the President includes the most substantial increase for programs funded in the National Foreign Intelligence Program in history. This authorization bill supports that investment by focusing on authorizations that enhance programs and information sharing across the various Intelligence Community (IC) agencies. Further, the President's funding increase appears to respond to congressional exhortations to develop a long-term funding program to correct serious IC deficiencies that have developed over the past decade. The conferees recognize that these deficiencies existed prior to September 11 and, indeed, the intelligence committees have been consistently highlighting these shortfalls for the past eight years. Put simply, although the end of the Cold War warranted a reordering of national priorities, the steady decline in intelligence funding since the mid-1990s left the nation with a diminished ability to address emerging threats—such as global terrorism—and the technical challenges of the 21st Century. Further, the IC's lack of a corporate approach to addressing enduring intelligence problems helped to create a culture that hindered data collection (especially human intelligence collection), data sharing, and collaborative analysis.

In this budget, the conferees seek to highlight four priority areas that must received significant, sustained attention beginning immediately if intelligence is to fulfill its role in our national security strategy. Those are: (1) improving information sharing and all-source analysis; (2) improving IC professional training with a major emphasis on developing language skills; (3) ensuring national imagery collection program viability and effectiveness; and (4) correcting enduring systemic problems, deficiencies in human intelligence, and rebuilding a robust research and development program.

The conferees' top priority last year was the revitalization of the NSA. Although this continues to be one of the conferees' priority concerns, the focus this year must be on information sharing and cross-community analysis. The conferees note that the individual intelligence agencies and, moreover, their extremely talented and dedicated people, labor continuously to provide the absolute best intelligence products possible in defense of the nation. These efforts are, however, generally conducted in isolation from one another, and, most disturbingly, existing rules and procedures often restrict information from the community's depth and breadth of analytic talent. Therefore, those individual efforts can usually only piece together fragments of the overall intelligence puzzle. What is critical in the post-9/11 era is having a community that is, to the maximum extent possible, devoid of information sharing restrictions and one that fosters a greater culture focused on collaborative analysis. The conferees have included detailed language on the need for the IC to breakdown information sharing barriers and the need to cease the practice of allowing agencies to routinely restrict "their data" from other agencies, including law enforcement.

In order to maximize the IC's analytic effectiveness and output further, we must ensure that the dedicated professionals of the IC are properly trained and provided the skills necessary for the tasks that are required to fight the global war on terrorism and other emerging threats. For a number of years, the House and Senate Intelligence Committees, separately and jointly, have stated specific concerns about the dearth of language skills throughout the IC. The lack of depth in the so-called 'low density' languages was acutely experienced during operations in Afghanistan. The conferees believe this is unacceptable and have put a great deal of emphasis in training efforts, particularly on foreign language training.

With respect to the nation's imagery architecture, the conferees are very concerned about the viability and effectiveness of a future overhead architecture, given the apparent lack of a comprehensive architectural plan for the overhead system of systems, specifically in the area of imagery. For example, the conferees believe the administration is facing a major challenge in addressing technical and funding problems with the Future Imagery Architecture (FIA) program that could force untenable trades between critical future capabilities and legacy systems. In this conference report, the conferees have addressed the known FIA problems as well as the need to develop imagery alternatives if developmental problems exist or persist. The conferees note, however, a continuing pattern by which many individual programs have been justified and provided resources with little or no regard to the entire set of IC collection capabilities, including space-based and airborne. The conferees believe that, although individual systems may have specific merit, the real measure of merit is in what the overall collective mix brings to bear against the range of threats to U.S. national security. Moreover, the ability to fund all legacy, developmental, and desired systems has a finite limit. Therefore, there is a critical need to review each program in the context of the others, so that viable trades can be made based on substance, and long-term funding of healthy programs can be provided.

Finally, the conferees have focused their attention for a number of years on a number of enduring IC challenges. Once again, the Conferees have addressed in this bill such issues as the need to improve NSA acquisition efforts, the need to improve the depth and breadth of HUMINT, and improving research and development (R&D). With respect to the NSA, the conferees are pleased with the Director's attempts to baseline current capabilities so that future needs can be properly identified and resulting acquisition decisions made. The conferees have provided incentives to complete these later two efforts. In terms of improving HUMINT, the conferees have focused on improving training, providing technical resources to operations, and properly funding analytic efforts. All of these capabilities are supported by R&D efforts. Therefore, the conferees have supported the administration's increases to agencies' basic R&D programs. The conferees note that this funding support is based on the perspective that the IC must continue to renew itself of the ever-changing world. The new perspective on national security is that intelligence is the first line of defense against an illusive and unstructured threat that uses asymmetric means to harm America. It is from that perspective that the conferees have made the decision contained herein.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations

Section 101 of the conference report lists the departments, agencies, and other elements of the United States Government for whose intelligence and intelligence-related activities the Act authorizes appropriations for fiscal year 2003.

Sec. 102. Classified schedule of authorizations

Section 102 of the conference report makes clear that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and applicable personnel ceilings covered under this title for fiscal year 2003 are contained in a classified Schedule of Authorizations. The classified Schedule of Authorizations is incorporated into the Act by this section. The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The classified annex provides details of the Schedule. Section 102 is identical to section 102 of the House bill.

Sec. 103. Personnel Ceiling Adjustments

Section 103 of the conference report authorizes the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, in fiscal year 2003 to authorize employment of civilian personnel in excess of the personnel ceilings applicable to the components of the Intelligence Community under section 102 by an amount not to exceed two percent of the total of the ceilings applicable under section 102. The Director of Central Intelligence may exercise this authority only if necessary to the performance of important intelligence functions. Any exercise of this authority must be reported to the intelligence committees of the Congress.

The managers emphasize that the authority conferred by section 103 is not intended to permit wholesale increase in personnel strength in any intelligence component. Rather, the section provides the Director of Central Intelligence with flexibility top adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring new employees and attrition of current employees. The managers do not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed levels set in the Schedule of Authorizations except for the satisfaction of clearly identified hiring needs that are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this bill. Section 103 is identical to section 103 of the House bill and section 103 of the Senate amendment.

Sec. 104. Intelligence Community Management Account

Section 104 of the conference report authorizes appropriations for the Intelligence Community Management Account (CMA) of the Director of Central Intelligence (DCI) and sets the personnel end-strength for the Intelligence Community management staff for fiscal year 2003.

Subsection (a) authorizes appropriations of $158,254,000 for fiscal year 2003 for the activities of the CMA of the DCI.

Subsection (b) authorizes 322 full-time personnel for the Intelligence Community Management Staff for fiscal year 2003 and provides that such personnel may be permanent employees of the Staff or detailed from various elements of the United States government.

Subsection (c) authorizes additional appropriations and personnel for the CMA as specified in the classified Schedule of Authorizations and permits these additional amounts to remain available through September 30, 2004.

Subsection (d) requires that, except as provided in Section 113 of the National Security Act of 1947, personnel from another element of the United States Government be detailed to an element of the CMA on a reimbursable basis, or for temporary situations of less than one year on a non-reimbursable basis.

Subsection (e) authorizes $34,100,000 of the amount authorized in subsection (a) to be made available for the National Drug Intelligence Center (NDIC). Subsection (e) requires to DCI to transfer these funds to the Department of Justice to be used for NDIC activities under the authority of the Attorney General and subject to section 103(d)(1) of the National Security Act. Subsection (e) is similar to subsection (e) of the House bill.

Sec. 105. Authorization of emergency supplemental appropriations for fiscal year 2002

Section 105 is identical to Section 105 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

Sec. 106. Additional authorizations of appropriations for intelligence for the war on terrorism

Section 106 is identical to Section 106 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

Sec. 107. Specific authorization of funds for intelligence or intelligence-related activities for which fiscal year 2003 appropriations exceed amounts authorized

Section 107 authorizes, solely for the purposes of reprogramming under Section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) those funds appropriated for an intelligence or intelligence-related activity in fiscal year 2003 in excess of the amount specified for such activity in the classified Schedule of Authorizations to accompany this conference report.

Sec. 108. Incorporation of reporting requirements

Section 108 is similar to Section 105 of the Senate amendment. The House bill had no similar provision. Section 107 incorporates into the Act each requirement to submit a report contained in the joint explanatory statement to accompany the conference report or in the classified annex to the Act.

Sec. 109. Preparation and submittal of reports, reviews, studies, and plans relating to intelligence activities of Department of Defense or Department of Energy

Section 109 is identical to Section 106 of the Senate amendment. The House bill had no similar provision. The House recedes.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations

Section 201 authorizes appropriations of $225,500,000 for the Central Intelligence Agency Retirement and Disability Fund.

TITLE III—GENERAL PROVISIONS

Subtitle A—Intelligence Community

Sec. 301. Increase in employee compensation and benefits authorized by law

Section 301 is identical to Section 301 of the Senate amendment and Section 301 of the House bill.

Sec. 302. Restriction of conduct of intelligence activities

Section 302 is identical to Section 302 of the Senate amendment and Section 302 of the House bill.

Sec. 303. Sense of Congress on Intelligence Community contracting

Section 303 is identical to Section 303 of the Senate amendment. The House bill had no similar provision. The Senate recedes.

Subtitle B—Intelligence

Sec. 311. Specificity of National Foreign Intelligence Program budget amounts for counterterrorism, counterproliferation, counternarcotices, and counterintelligence

Section 311 is identical to section 304 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 312. Prohibition on compliance with request for information submitted by foreign governments

Section 312 is identical to Section 307 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

Sec. 313. National Virtual Translation Center

Section 313 is identical to Section 311 of the Senate amendment. The House bill had no similar provision. The House recedes.

Subtitle C—Personnel

Sec. 321. Standards and qualifications for the performance of intelligence activities

Section 321 is similar to Section 308 of the Senate amendment. The House bill had no similar provisions. The House recedes.

Sec. 322. Modification of accepted agency voluntary leave transfer authority

Section 322 is similar of Section 305 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

Sec. 323. Sense of Congress on diversity in the workforce of intelligence community agencies

Section 323 is identical of Section 312 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

Sec. 324. Annual report on hiring and retention of minority employees in the intelligence community

Section 324 is identical to Section 313 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

Sec. 325. Report on establishment of a civilian linguist reserve corps

Section 325 is identical 311 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

Subtitle D—Education

Sec. 331. Scholarships and work study for pursuit of graduate degrees in science and technology

Section 331 is identical to Section 310 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 332. Cooperative relationship between the national security education program and the foreign language center of the defense language institute

Section 332 is identical to Section 308 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

Sec. 333. Establishment of a national flagship language initiative within the National Security Education Program

Section 333 includes Section 309 of the House bill. Section 309 of the Senate amendment also created a national foreign language initiative. The Senate recedes.

Sec. 334. Report on the National Security Education Program

Section 334 is similar to the reporting requirement of Section 309 of the Senate amendment. Section 334 requires the Secretary of Defense to submit a report in 180 days after enactment of the program of scholarship, fellowships, and grants under the David L. Boren National Security Education Act of 1991, including an assessment of the effectiveness of the program in meeting its goals and its administrative costs, and the advisability of converting funding of the program from funding through the National Security Education Trust Fund to funding through appropriations.

Subtitle E—Terrorism

Sec. 341. Foreign Terrorist Asset Tracking Center

Section 341 is identical to Section 312 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 342. Semiannual Report on Financial Intelligence on Terrorist Assets (FITA)

Section 342 is identical to Section 304 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

Sec. 343. Terrorist Identification Classification System

Section 343 is identical to Section 313 of the Senate amendment. The House bill had no similar provision. The House recedes.

Subtitle F—Other Matters

Sec. 351. Additional one-year suspension of reorganization of Diplomatic Telecommunications Service Program Office

Section 351 is identical to Section 306 of the House bill and similar to Section 316 of the Senate amendment. The Senate recedes.

Sec. 352. Standardized transliteration of names into the roman alphabet

Section 352 is similar to Section 307 of the Senate amendment. The House bill had no similar provision. The House recedes with modifications.

Sec. 353. Definition of congressional intelligence committees in National Security Act of 1947

Section 353 is similar to Section 303 of the Senate amendment. The House bill had no similar provision. The House recedes with modifications.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Two-year extension of Central Intelligence Agency Voluntary Separation Pay Act

Section 401 is identical to Section 401 of the House bill and Section 315 of the Senate amendment.

Sec. 402. Implementation of compensation reform plan

Section 402 is similar to Section 402 of the House bill. The Senate amendment had no similar provision. Section 402 delays implementation of the Central Intelligence Agency's proposed compensation reform plan until February 1, 2004 or the submission of a report on a compensation pilot project, whichever is later. The Director of Central Intelligence shall conduct the pilot project to assess the efficacy and fairness of a revised personnel compensation plan, and report to the congressional intelligence committees 45 days after completion of the pilot project. Section 402 includes a sense of the Congress that an employee personnel evaluation mechanism with evaluation training for managers and employees of the CIA and the National Security Agency should be phased in first, and then followed by the introduction of a new compensation plans.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 501. Use of funds for counterdrug and counterterrorism activities for Colombia

Section 501 is similar to Section 501 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

Sec. 502. Protection of operational files of the National Reconnaissance Office

Section 502 is identical to Section 502 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

Sec. 502. Eligibility of employees in intelligence senior level positions for Presidential rank awards.

Section 503 is identical to Section 503 of the House bill. The Senate amendment had no similar provision. The Senate recedes.

TITLE VI—NATIONAL COMMISSION ON TERRORIST ATTACKS

Title VI is substantially similar to Title VI of the House bill as well as language found in Senate amendment 4694 to H.R. 5005, a bill to establish the Department of Homeland Security

TITLE VII—INFORMATION SHARING

Title VII is similar to Title VII of the House bill and H.R. 4598, the Homeland Security Information Sharing Act, which passed the House on June 26, 2002 in a 422–2 vote. Title VII is also similar to sections 891–894 of H.R. 5710, establishing the Department of Homeland Security, which passed the House on November 13, 2002. Section 706 has been add by the conferees to coordinate the different versions of the Homeland Information Sharing Act, which are found in this bill and in H.R. 5710.

The Senate amendment had no similar provision. The Senate recedes.

TITLE VIII—REPORTING REQUIREMENTS

Subtitle A—Overdue Reports

Sec. 801. Deadline for submittal of various overdue reports

Section Section 801 is similar to Section 310 of the House bill. Section 801 reduces by one-third the amounts available to be obligated or expended by the Office of the Director of Central Intelligence if certain reports are not submitted to the Congress 180 days after enactment. The reports referred to in this section are reports mandated by law for which the DCI has sole or primary responsibility to prepare or coordinate and submit to Congress, which, as of the date of enactment, have not been submitted to Congress if mandated to be submitted prior to the date of enactment. The fence will not be imposed if the DCI certifies in writing to the intelligence committees that all overdue reports specified in Section 801 are completed. The Senate amendment had no similar provision. The Senate recedes.

Subtitle B—Submittal of Reports to Intelligence Committees

Sec. 811. Dates for submittal of various annual and semi-annual reports to the congressional intelligence committees

Section 811 is similar to Section 401 of the Senate amendment. The House bill had no similar provision. The House recedes with modifications.

Subtitle C—Recurring Annual Reports

Sec. 821. Annual report on threat of attack on the United States using weapons of mass destruction

Section 821 is identical to Section 412 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 822. Annual report on convert leases

Section 822 is identical to Section 413 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 823. Annual report on improvement of financial statements of certain elements of the Intelligence Community for auditing purposes

Section 823 is identical to Section 414 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 824. Annual report on activities of Federal Bureau of Investigation personnel outside the United States

Section 824 is identical to Section 415 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 825. Annual reports of Inspectors General of the Intelligence Community on proposed resources and activities of their offices

Section 825 is identical to Section 416 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 826. Annual report on counterdrug intelligence matters

Section 826 is identical to Section 417 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 827. Annual report on foreign companies involved in the proliferation of weapons of mass destruction that raise funds in the United States capital markets

Section 827 is identical to Section 314 of the Senate amendment. The House bill had no similar provision. The House recedes.

Subtitle D—Other Reports

Sec. 831. Report on effect of country-release restrictions on allied intelligence-sharing relationships

Section 831 is identical to Section 431 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 832. Evaluation of policies and procedures of Department of State on protection of classified information at department headquarters

Section 832 is identical to Section 432 of the Senate amendment. The House bill had no similar provision. The House recedes.

Subtitle E—Repeal of Certain Report Requirements

Sec. 841. Repeal of certain report requirements

Section 841 is substantially similar to Section 441 of the Senate amendment, although the conferees have agreed to repeal certain additional Intelligence Community reporting requirements. The House bill had no similar provision. The House recedes with modifications.

TITLE IX—COUNTERINTELLIGENCE ACTIVITIES

Sec. 901. Short title; purpose

Section 901 is identical to Section 501 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 902. National counterintelligence executive

Section 902 is identical to Section 502 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 903. National Counterintelligence Policy Board

Section 903 is identical to Section 503 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 904. Office of the National Counterintelligence Executive

Section 904 is similar to Section 504 of the Senate amendment. The House bill had no similar provision. The conferees agree to place the Office of the National Counterintelligence Executive within the Office of the Director of Central Intelligence. Further, the provision makes clear that nothing in this section shall be construed as affecting the authority of the Director of Central Intelligence, the Secretary of Defense, the Secretary of State, the Attorney General, or the Director of the FBI as provided or specified under the National Security Act of 1947 or under other provisions of law. The House recedes with modifications.

TITLE X—NATIONAL COMMISSION FOR REVIEW OF RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY

Sec. 1001. Findings

Section 1001 is identical to Section 601 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 1002. National Commission for review of research and development programs of the United States Intelligence Community

Section 1002 is identical to Section 602 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 1003. Powers of Commission

Section 1003 is identical to Section 603 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 1004. Staff of Commission

Section 1004 is identical to Section 604 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 1005. Compensation and travel expenses

Section 1005 is identical to Section 605 of the Senate amendment. The House bill had no similar provision. The House recedes.

Sec. 1006. Treatment of information relating to national security

Section 1006 is identical to Section 606 of the Senate amendment. The House bill has no similar provision. The House recedes.

Sec. 1007. Final report; termination

Section 1007 is identical to Section 607 of the Senate amendment. The House bill has no similar provision. The House recedes.

Sec. 1008. Assessments of final report

Section 1008 is identical to Section 608 of the Senate amendment. The House bill has no similar provision. The House recedes.

Sec. 1009. Inapplicability of certain administrative provisions

Section 1009 is identical to Section 609 of the Senate amendment. The House bill has no similar provision. The House recedes.

Sec. 1010. Funding

Section 1010 is identical to Section 610 of the Senate amendment. The House bill has no similar provision. The House recedes.

Sec. 1011. Definitions

Section 1011 is identical to Section 611 of the Senate amendment. The House bill had no similar provision. The House recedes.

ITEMS NOT INCLUDED

Section 305 of the Senate amendment contained a provision to clarify Section 504 of the National Security Act of 1947 with respect to the reprogramming of funds from one intelligence activity to another. The House bill had no similar provisions. The Senate recedes.

Section 306 of the Senate amendment required disclosure to Congress of information regarding pending criminal investigations and prosecutions that is currently subject to statutory and other disclosure prohibitions, such as grand jury matters under Rule 6(e) of the Federal Rules of Criminal Procedure, communications intercepted under Title III domestic wiretap provisions, and other sensitive law enforcement information. The House bill had no similar provisions. The Senate recedes.

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Porter J. Goss,
Doug Bereuter,
Michael N. Castle,
Sherwood Boehlert,
Jim Gibbons,
Randy "Duke" Cunningham,
Pete Hoekstra,
Richard Burr,
Saxby Chambliss,
Terry Everett,
Nancy Pelosi,
Sanford D. Bishop, Jr.,
Jane Harman,
Tim Roemer,
Silvestre, Reyes,
Leonard L. Boswell,
Collin C. Peterson,

From the Committee on Armed Services, for consideration of defense tactical intelligence and related activities:

Robert Stump,
Duncan Hunter,
Managers on the Part of the House.

Bob Graham,
Jay Rockefeller,
Dianne Feinstein,
Ron Wyden
Dick Durbin,
John Edwards,
Richard Shelby,
Jon Kyl,
Mike DeWine,
Fred Thompson,
Dick Lugar,
Managers on the Part of the Senate.

EXTENSIONS OF REMARKS

A PROCLAMATION RECOGNIZING RAYMOND GRUBBS

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. NEY. Mr. Speaker, whereas Raymond Grubbs is a professional truck driver for Yellow Transportation; and

Whereas, Raymond Grubbs has successfully driven one million miles without a preventable accident; and

Whereas, Raymond Grubbs should be commended for reaching this safety milestone; and

Whereas, Raymond Grubbs has demon[chyph]strated a steadfast commitment to the safety of our nation's highways;

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Raymond Grubbs for his outstanding accomplishment.

PAYING TRIBUTE TO CHRISTINA TOOLEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. McINNIS. Mr. Speaker, it is with great pride that I recognize Christina Tooley of Pueblo, Colorado for her hard work, courage and determination in the face of some of life's most challenging circumstances. Christina graduated from Pueblo Community College last spring and, as she celebrates this accomplishment, I would like to pay tribute to her incredible story before this body of Congress.

Throughout her life, Christina has had the courage to confront and overcome challenges that to many would seem impossible. Christina has been diagnosed with Bartlett-Bidell syndrome, a genetic disorder that can cause organs to improperly function and shut down. Due to the syndrome, Christina began having eyesight problems and, by her junior year of high school, she could barely see. Although the loss of her eyesight must have been devastating to Christina, she remained determined to maintain a full and productive lifestyle.

Soon after her diagnosis, Christina enrolled in the Colorado School for the Deaf and Blind and began vigorous courses to learn Braille, later enrolling in Pueblo Community College. Throughout college, Christina and her mother would sit down and work diligently on her studies. Christina was able to do all of her computer assignments on her own, but needed her mother's assistance with reading notes and questions.

Initially, Christina confronted the challenge of getting around town by learning to use a cane to guide herself. Today, Christina has a guide dog named Natasha who has become a loyal friend and companion, helping to navigate her way around the campus. Last May, Christina received her degree in Internet Business and Communications, and Natasha was right there by her side as she received her diploma.

Mr. Speaker, it is with great pride and admiration that I recognize Christina Tooley of Pueblo, Colorado before this body of Congress and this nation. Christina has shown an extraordinary determination to overcome unparalleled challenges and has made incredible strides through her efforts. Her courage and resilience are a testimony to her character and should serve as an inspiration to us all. I wish Christina all the best in her future, I am proud to represent such an extraordinary individual.

SITUATION IN BELARUS CONTINUES TO DETERIORATE

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. SMITH of New Jersey. Mr. Speaker, I want to bring to the attention of my colleagues the latest outrage perpetrated by the regime of Belarusian dictator Alexander Lukashenka.

Last week, immediately after leaving the U.S. Embassy in Minsk, the Chairman of the opposition United Civic Party, Anatoly Lebedka, was picked up by plainclothes police officers and driven to KGB headquarters for interrogation. Anatoly had been at the Embassy to pick up the invitation for a conference on Belarus to be held this week here in Washington. In a clear effort at intimidation, Lukashenka's KGB thugs accused him of maintaining ties with supposed "intelligence agents" and other foreigners, purportedly for the purpose of undermining Belarus.

Mr. Speaker, this accusation is patently absurd. I know Anatoly Lebedka, having met with him in Washington and at several meetings of the OSCE Parliamentary Assembly, most recently this past July in Berlin. It is clear to me that Mr. Lebedka is an honorable man committed to his country's development as an independent, democratic nation in which respect for human rights and the rule of law is the norm. There is no doubt in my mind that the real reason for the harassment of Anatoly—and this is not the first time—is his opposition to Lukashenka, to whom democracy and human rights are anathema.

Sadly, this is only the latest in a long list of human rights assaults by Lukashenka. Just within the last few months, we have seen the passage of a repressive law on religion, the bulldozing of a newly built church, the jailings of three leading independent journalists, the continued and persistent harassment of the political opposition, independent media and non-governmental organizations, and the effective expulsion of the OSCE presence there. These tactics are in keeping with the climate of fear which Lukashenka has sought to create.

Moreover, we have seen no progress on the investigation of the missing and presumed dead political opponents—perhaps not surprisingly, as credible evidence links the Lukashenka regime with these murders, and growing evidence also indicates Belarus has been supplying weapons and military training to Iraq. Both in Berlin and in Washington, I have had the honor of meeting with the wives of the disappeared.

Mr. Speaker, the state of human rights and democracy in Belarus is abysmal, and the manifest culprit is Lukashenka and his minions. The longsuffering Belarusian people deserve to live in a country in which human rights are not flouted. Those in Belarus, like Anatoly Lebedka, who struggle for human rights and democracy deserve better. The Belarusian people deserve better.

WORLD POPULATION GROWTH

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. MORAN of Virginia. Mr. Speaker, I rise today to submit a recent speech delivered by the President of the Population Institute, Mr. Werner Fornos, at the Unitarian Universalist Church of Arlington, Virginia on October 1, 2002. Mr. Fornos spoke to the rapidly growing economic and environmental pressures created by our burgeoning world population, especially in third world countries. These concerns represent a pressing issue for congressional debate and I offer these remarks to that end.

REMARKS BY WERNER FORNOS, PRESIDENT OF THE POPULATION INSTITUTE, AT THE UNITARIAN UNIVERSALIST CHURCH OF ARLINGTON, VA. OCTOBER 1, 2002

World population stands today at more than 6.2 billion and increases by more than 75 million each year. An incredible 97 per cent of this growth occurs in the developing world, by definition the poorest countries of the world—those where for far too many daily living is a struggle for mere survival. These are the very countries least able to afford such massive influxes of people, countries where demographic pressures already place unbelievable burdens on schools, hospitals, transportation and virtually all facets of the economic and social infrastructure.

Yet our soaring human numbers are projected to exceed 9 billion by the year 2050. While the wealthiest countries on our planet are estimated to account for only 52 million of this increase, the developing world is expected to account for 2.7 billion.

But world population does not need to continue to grow at this dizzying pace.

First though, I must tell you that no matter what corrective course we may steer, the earth's population will reach 8 billion. The reason is our built-in demographic momentum: there are one billion people today between the ages of 15 and 24, the largest number of people entering their reproductive years at the same time than at any other time in the history of the world.

How can we hold the number of people on earth down to approximately 8 billion? The answer to that question lies with providing access to voluntary family planning for the more than 300 million couples in the world who today want to make their own decisions about when and if they will have children—couples who in many cases did not want their last child and do not want another.

Accommodating these couples, however, is another matter that has been complicated by the anti-abortion movement. Let me say here that the Population Institute is passionately dedicated to providing access to family planning information, means and services; we do not consider abortion to be a method of family planning. As a matter of fact, abortion is a procedure to which many women resort who lack access to family planning.

However, a sizable contingent of those who have the audacity to label themselves "prolife" because they oppose abortion have become perhaps the single greatest obstacle to those 300 million-plus women obtaining family planning.

If you want to prevent abortion, the first line of defense is preventing pregnancy. And that is what family planning is about: preventing pregnancies, not terminating them.

And if the Bush administration is serious about being "prolife," it should be promoting family planning—not signing executive orders that cut off the congressionally approved $34 million United States contribution to the United Nations Population Fund, the largest multilateral provider of international population assistance, as the President has.

But the obstacles to universal access to family planning are not solely within the anti-abortion movement. Population policy today is a matter of failure, ignorance, and timidity.

Last month I was in Johannesburg, South Africa, attending the World Summit on Sustainable Development—the most important global meeting on environment and development since the 1992 Earth Summit in Rio de Janeiro. Oddly, population growth had no place on the official agenda. But there can be no doubt that population and sustainable development are inexorably linked.

After all, we live in a world where 70 percent of all families are dependent on firewood as their primary source of heating and cooking fuel. A world where 600,000 square miles of forest have been cut down worldwide, just over the past 10 years. A world where forestland equivalent to three times the size of Belgium is annually cut down in the Congo Basin alone.

Though there were some achievements at the Johannesburg summit, it was seriously flawed by the neglect to link human growth with environmental well being in the face of economic growth.

The Johannesburg summit succeeded in establishing clearly important time-tables for pressing matters, such as: halving the number of people living in poverty who lack access to clean water and adequate sanitation by 2015; restoring depleted fish stocks by 2015; and significantly reducing the extinction rate of the world's plant and animal life by 2010.

I seriously question, however, how any one of these obviously significant and desirable targets can be reached until we, first and foremost, establish a crystal clear accelerated target for providing voluntary family planning and reproductive health care to those more than 300 million who need and want fewer children but lack the information, education and the affordable means to control their own fertility. The Johannesburg summit was not a failure; I believe that so long as nations of the world continue to discuss relevant issues at very least it achieves the opportunity for mutual understanding and mutual respect. But I also believe that much more could have been accomplished had the meeting not been bogged down in coddling the comfortable and ignoring the afflicted.

Considering the political climate, especially in the United States, at the time of the WSSD, many feel that population stabilization advocates should count themselves fortunate that the summit reaffirmed the 1994 International Conference on Population and Development (ICPD) Plan of Action, as well as the results of the 1999 ICPD+5 meeting and the Millennium Development Goals—all of which had important population policy and program recommendations. In hindsight, this appears to be true enough. Yet while reaffirmations are not insignificant, in my view summit meetings should be about more than acknowledgments of what already has been approved. They should focus on progress: developing new strategies to attain established goals and objectives, where they are needed, and accelerating efforts to reach these goals and objectives, where it is applicable. It is in these areas where, as far as world population issues are concerned, the WSSD was disappointing.

In addition to squandering an opportunity to accelerate progress on universal access to family planning, the Johannesburg summit failed to establish a target for vastly reducing the carbon emissions responsible for global warming and increasing reliance on renewable energy sources such as solar and wind power.

We know that the planet in many respects has an impressive capacity for resilience. Some years back British scientists reported that the ozone layer—the protective shield that prevents ultra-violet B rays from devastating the earth with skin cancer—was thinning in the southern hemisphere and had virtually disappeared over Antarctica, the world. For years, industries producing chlorofluorocarbons influenced industrialized countries responsible for most of the emissions to forego becoming involved in an effort to prevent such emissions. But with new and compelling scientific evidence before the world, nations hastened to approve the Montreal Protocol, phasing out CFCs and other ozone-depleting chemicals by 1996. Within recent weeks, it has been reported that the shield is thickening at a pace that might close the 10,000 square mile hole in the layer over Antarctica within 50 years.

I am convinced we can have similar success in overall sustainable development, if we have the foresight and the courage to establish rational and effective timetables. The timetable for reducing world population growth to a figure closer to 8 billion rather than 9 billion would specifying dates for:

Widening women's educational opportunities—at all levels, primary, secondary and higher education. In country after country studies, show that the more education a woman has the more likely she is to have only the number of children she can nurture and educate;

Increasing employment opportunities for women. Studies also show that when women have income-generating employment, they are likely to have fewer children;

Reduction of infant and child mortality. A major factor contributing to larger family size in many developing countries is that infant and child survival is precarious at best. Couples frequently have six, seven or eight children in the hope that one, two, or three will survive. With adequate prenatal and postnatal care, infant and child mortality can be vastly reduced.

Universal access to family planning information, education, and the affordable means to practice it.

Some years back, World Bank President Robert McNamara said in a celebrated speech at Notre Dame University that time lost in the effort to reduce rampant population growth can never be recovered. I believe that rapid population growth is a problem the entire world must address. Failure to do so would be the ultimate global blunder, one from which there is no recovery.

IN HONOR OF GREATER ASTORIA HISTORICAL SOCIETY'S SELECTION OF DENIS BUTLER AS 2002 HONORARY MAYOR OF LONG ISLAND CITY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mrs. MALONEY of New York. Mrs. Speaker, I rise to pay tribute to the Greater Astoria Historical Society and Denis Butler, who has been named 2003 Honorary Mayor of Long Island City.

Long Island City, just across the East River from Manhattan, is the largest community in Queens with 250,000 residents. The history of Long Island City spans more than 360 years from its humble beginning as Dutch farmland in the 1640s to its present incarnation as a residential and commercial hub.

Chartered in 1870, Long Island City was the consolidation of several villages and areas, which included Astoria, Steinway, Ravens[chyph]wood and Hunters Point. Long Island City existed independently from New York City for 28 years. The new city government encouraged industry, which spread northward with gas plants and chemical and glass factories lining the East River waterfront. By the end of the 19th century, the city had the highest concentration of industry in the United States. Long Island City was incorporated by the City of New York in the consolidation of 1898.

Long Island City was transformed in 1909 by the opening of Queensborough Bridge, immediately changing the community from a remote suburb to the destination minutes from Manhattan. Today Long Island City is connected with the rest of New York City by six tunnels and five bridges.

The Greater Astoria Historical Society, chartered in 1985, is a non-profit cultural and community oriented organization dedicated to preserving the past and promoting Long Island

City's future. The Society hosts field trips, walking tours, slide presentations, and guest lectures to schools and the public.

The Society believes that history is the most powerful tool that a society processes. It tells us why the things we value are the things we should value, and it tells us the things that should be ignored. That is true power, a profound power—the power to define a whole society.

Denis Butler, who was an outstanding Assemblyman for Astoria and Long Island City for 24 years, is an outstanding choice for honorary Mayor. An active legislator and a caring civic leader, Assemblyman Butler exemplifies the strength and creativity of Long Island City.

Assemblyman Butler was a champion of the aging, disabled, and underprivileged, and has worked tirelessly for the working men and women of his district. With the support of the Assembly leadership, Assemblyman Butler created SCRIE (Senior Citizens Rent Increase Exemption), which has helped low income seniors remain in their homes. Additionally, he was a prime sponsor of EPIC, New York's prescription drug buy plan, which has helped thousands of elderly new Yorkers pay for necessary medication.

Assemblyman Butler has been extremely active in civic affairs and has worked alongside local community activists on a wide range of issues, working to improve educational and youth programs, and increase local police presence. His caring guidance and enthusiasm have truly made this neighborhood a more pleasant place to live and work.

I ask my colleagues to join me in honoring the Greater Astoria Historical Society and saluting them for selecting Denis Butler as the 2003 Honorary Mayor of Long Island City.

TRIBUTE TO EPWORTH UNITED METHODIST CHURCH

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Epworth United Methodist Church, a treasured Bronx institution and a historic house of worship that celebrated its Centennial anniversary November 10, 2002. Appropriately, the theme of their celebration was "We've Come This Far By Faith."

Mr. Speaker, Epworth United Methodist Church was founded at the turn of the century in the heart of the South Bronx. People from all walks of life have filled its pews throughout the past century and as a result, it has become an invaluable part of the Bronx's history. Located on Concourse Village East, the church stands as a beacon of faith and rich history.

Throughout its 100 years of existence, Epworth United has been a model of excellence with its numerous and far-reaching community programs. Not only are Bronx residents able to come to Epworth United for spiritual enrichment and fellowship, they can come to the church for assistance with life's daily trials. The church is especially proud of its large and active youth congregation.

Mr. Speaker, Epworth United provides food and clothing to anyone who may need them. Its dedicated staff and clergy also run an afterschool tutorial and a summer day camp for young people. The church also awards college scholarships to outstanding youth throughout the city.

For the past century, countless Bronx residents have found solace and aid within the walls of Epworth United Methodist Church. I hope that all of my esteemed colleagues will join me in honoring this sacred and historic institution on its centennial anniversary.

CONGRATULATING JACK STONE AS 2002 AGRICULTURIST OF THE YEAR

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Jack Stone for receiving the 2002 Agriculturist of the Year Award at the Greater Fresno Area Chamber of Commerce Awards Luncheon in Fresno, California on November 13, 2002. This lifetime achievement award is given annually to an individual who exemplifies leadership and integrity in the Central Valley's agricultural business community.

Jack Stone graduated from the University of California, Davis. In 1940, he began farming and later sold his farm in order to serve his country for four years as a Captain in the Army Corps of Engineers. In 1946, Jack began to farm again on undeveloped Central Valley land and then organized the J.G. Stone Land Company two years later. Jack has served as President of the Westlands Water District, the National Cotton Council, the Western Cotton Growers Association, and formerly served as chairman of the Producers Steering Committee of the National Cotton Council. He currently serves as a California Farm Water Coalition Board Member.

Jack is a second-generation farmer specializing in cotton, grains, and a half dozen other field crops on 6,000 acres in the Stratford and Lemoore areas in Central California. He has always worked for the interests of young farmers by supporting the development of the agriculture program at Coalinga's West Hills College, and by being a steadfast supporter of the cotton program and judging contests at the California State University, Fresno campus. Jack has also consistently fought for development of an adequate, reliable, and affordable water supply for California. Today, much of J.G. Stone Land Company's daily activities are run by Jack's son, Bill, and his grandchildren, though Jack remains the patriarch of the four-generation farming operation.

Mr. Speaker, I rise today to congratulate Jack Stone for earning the 2002 Agriculturist of the Year Award. I urge my colleagues to join me in wishing Jack Stone many years of continued success.

A PROCLAMATION RECOGNIZING TAMMY SANDERSON

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. NEY. Mr. Speaker, whereas, Tammy Sanderson has devoted herself to serving others through her work at the Carroll County Department of Human Services; and

Whereas, Tammy Sanderson has shared her time and talent with the community in which she resides; and

Whereas, Tammy Sanderson has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Tammy Sanderson must be commended for the hard work and dedication she put forth in her 30 year career of service with the county;

Therefore, I join with the Department of job and Family Services and the entire 18th Congressional District in congratulating Tammy Sanderson on her retirement.

PAYING TRIBUTE TO SERENA JANE SWENK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. MCINNIS. Mr. Speaker, it is deep sadness that I recognize the life and passing of Serena Jane Swenk of Dolores, Colorado. Mrs. Swenk passed away in October, and as her family mourns her loss, I would like to pay tribute to her life and the wonderful memories she has left behind.

Serena was born in Dolores, Colorado on October 3, 1916. The granddaughter of one of Colorado's original pioneering families, her great-grandparents were among the first that came to settle in the area known today as Montezuma County. Serena loved the land and took full advantage of her rural upbringing, spending her childhood afternoons riding and herding sheep.

Serena attended school in the lower valley of Montezuma County and in Dolores, where she graduated from high school in 1934. She was an avid reader, scholar and artist, never missing an opportunity to open a book, research historical events, or paint a majestic Colorado landscape. Serena was also a very capable homemaker and loved to arrange holiday get togethers where she would cook for the entire family.

Despite a busy life on the ranch, Serena still found the time to remain active in her community. She spent countless hours serving in many community clubs and organizations, including the Order of Eastern Star, Southwestern Colorado Cowbelles, Daughters of the American Revolution, and the 4–H. It was for these efforts that Serena received many awards throughout her life including, 4–H Leader of the Year, Southwestern Colorado Cowbelle of the Year, and Mancos Days Pioneer Queen.

Mr. Speaker, it is with great respect that I recognize the life and passing of Serena Jane Swenk before this body of Congress and this nation. I extend my sincere condolences to her two sons David and Larry, and her many grandchildren. Serena was one of our state's true pioneers; she lived her life with great enthusiasm, courage and compassion, and was an inspiration to all who knew her.

TRIBUTE TO JOE WARNER

HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. JOHNSON of Illinois. Mr. Speaker, I rise today to pay tribute to the life of a dear, close friend of mine Joe Warner, who tragically passed away in a plane crash shortly after takeoff on July 22, 2002.

Many of our nation's greatest servants silently and humbly transform communities out of the goodness of their hearts, selfless generosity, and a dedication to improving the welfare of loved ones and those whom they have never met. Joe Warner was one of these servants, and he serves as an inspiration to us all.

Joe was born on July 3, 1942 in DeKalb, Illinois to Paul and Doris Walkey Warner. He attended Northern Illinois University and received his NMA from the University of Illinois. Joe then went on to become President and CEO of Heritage Enterprises, a longterm care corporation, located in Bloomington, Illinois.

The elderly of Illinois have greatly benefited from the leadership and dedication that Joe continuously displayed throughout his life. Whether it was in his capacity as President and CEO of Heritage Enterprises or the President of the Illinois Health Care Association, Joe tirelessly advocated on behalf of Illinois' seniors to ensure they were afforded the highest quality of care.

Not only have Illinois' elderly lost a friend and advocate, but our youth have as well. Prior to his passing, Joe had taken on the role of planner and fundraiser for the $3 Million Challenger Learning Center, which will be an educational site for children to focus on studying math and science.

Joe Warner was involved in scores of organizations and knew the importance of investment in his community. He also knew the importance of investing in his family, and was a great husband and father to his wife, Rose Stadel, and their two children Jeff and Jennifer. The memory of Joe Warner will continue through his numerous contributions to his community. On July 22nd, Illinois lost a respected and admired friend. He will be missed. I ask you, my colleagues, to rise today in salute of the rich legacy Joe Warner has left behind.

TRIBUTE TO FRANK MATTAROCCI

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. McINNIS. Mr. Speaker, it is with great enthusiasm that I rise today to pay tribute to Frank Mattarocci of Pueblo, Colorado. Mr. Mattarocci is the proud owner of LaTronica's, an Italian restaurant that remains very popular among locals throughout the Pueblo community for its delicious food and distinctive atmosphere. Today, I would like to recognize the success which Frank and his family have achieved in making LaTronica's an invaluable part of the life and culture of southern Colorado.

LaTronica's has remained in Frank's family for four generations. The restaurant was first opened by Frank's great grandfather, Liberto "Chief" LaTronica, in 1943. Despite a few modifications, the restaurant still looks almost exactly the same as when it first opened sixty years ago. Over the years, the restaurant changed hands from one generation to the next, preserving within its walls a rich family legacy that still remains constant today. Since the restaurant opened in 1943, it has largely been a family endeavor. Frank began working in the restaurant at age ten, cleaning glasses for his father behind the bar. Today, Frank has the help of his brother Mark, sister Tari, and cousin Maggie to ensure that the business runs smoothly.

Mr. Speaker, it is with great pride that I recognize Frank Mattarocci before this body of Congress and this nation for his enduring commitment to such a wonderful family restaurant. Small businesses like LaTronica's are the backbone of our economy, and the heart of our neighborhoods. Over the years, LaTronica's has become a living example of history and culture, providing the community of Pueblo with great food, seasoned atmosphere, and many wonderful memories. I wish Frank and the rest of the family at LaTronica's all the best and good luck in all of their future endeavors.

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF THE HONORABLE PAUL D. WELLSTONE, SENATOR FROM THE STATE OF MINNESOTA

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Ms. LEE. Mr. Speaker, I rise in strong support of the resolution honoring my colleague and friend, Senator Paul Wellstone of Minnesota.

Senator Wellstone was not only a friend of mine, but also he was a special friend of my district, the 9th Congressional District of California. In fact, he had visited my district not long before the tragic accident. People in my community embraced Paul for the same reasons so many across country did.

Paul Wellstone was a progressive champion who truly personified the personal, populist approach to politics. He was an organizer who never lost touch with his grass-roots. In fact, he proved that the support of everyday Americans, not huge sums of corporate cash, could still win elections. He proved that you don't have to compromise your beliefs to be successful. He proved that passion for beliefs earns the respect of even one's biggest opponent.

Paul Wellstone showed no fear and incredible energy in his approach to fighting for our shared progressive agenda. He stood alone as the sole member of the Progressive Caucus in the Senate. He worked tirelessly for the least among us; often against incredible odds. Paul was never afraid to speak up and to fight for his beliefs.

Despite the often-long odds he faced, Senator Wellstone was an extremely effective and accomplished Senator. His work on mental health parity legislation is widely recognized, and I sincerely hope to have the opportunity to vote yes on the Wellstone mental health parity legislation in the very near future. He, along with the help of his wife Sheila, passed several pieces of legislation to prevent domestic violence and to help its victims.

He worked tirelessly to end the scourge of homelessness among our nations' veterans and to ensure those who served this country received the health care they were promised and deserve. As a former educator, he fought for increases in Head Start, higher education funding, and better schools for all children in America, regardless of income. He fought for seniors and to alleviate the absurd cost of prescription medication. In short: he fought for us all.

The people of Minnesota, the United States Congress, the progressive movement, and all Americans were fortunate to have such a strong, effective, tireless, and accomplished leader serving us in the United State Senate. We will miss him dearly.

And though he is no longer with us, we will always remember and thank him for his incredible service. Now we must honor his memory by continuing our collective fight to make his vision of America a reality.

Mr. Speaker, I have attached for the RECORD a copy of remarks I made in introducing Paul Wellstone at an event last year.

REPRESENTATIVE LEE'S INTRODUCTION OF SENATOR WELLSTONE (D-MN) AT 21ST CENTURY DEMOCRATS DINNER WEDNESDAY, MARCH 28, 2001

As we come together tonight to honor some amazing populists with Democrats 2000, now known as 21st Century Democrats, I am extremely proud to introduce one of the greatest progressives in Congress—the phenomenal Paul Wellstone.

As many of you know, after more than 20 years of teaching, Paul Wellstone jumped into the 1990 Minnesota Senate race. He rallied a huge grassroots network of supporters, got a Green Bus to tour the state, and won his election. When you are trying to rally the troops in your state for an election, it's easy when you have an amazing, inspirational, progressive leader like Paul Wellstone. He personifies the personal, populist approach to winning elections. He proves you need the support of everyday Americans, not huge sums of corporate cash, to get elected.

During his tenure in Congress, Senator Wellstone has been a real leader in progressive causes and has held true to his beliefs. He is our one and only Congressional Progressive Caucus member in the Senate. He proves that you don't have to compromise your beliefs to be successful. He proves that your passion for your issues make even your opponents respect you. Senator Wellstone is one of the most effective members of the United States Congress, which is no easy feat these days and he champions issues few members will dare to discuss.

Senator Wellstone has been so active and successful in dealing with so many issues, but let me take a moment just to commend him on a few.

He is a tireless supporter of legislation to ensure mental health parity. He has passed several pieces of legislation with the help of his wife Sheila to prevent domestic violence and to help its victims. His work helping homeless veterans and on veterans' health care has earned him recognition of numerous veterans' organizations. As a former educator, his devotion to education and children's issues has led him to fight for increases in Head Start, higher education funding, and better schools for all children in America, regardless of income. He has partnered with Minnesota seniors to talk about the international disparities in prescription drug pricing and to pass legislation to correct this problem.

And these are just a tiny fraction of his successes. In short, the people of Minnesota, the United States Congress, the progressive movement, and all Americans are so fortunate to have a strong, effective, tireless, accomplished leader serving them in Paul Wellstone.

Senator Wellstone, welcome, and congratulations on this award you are receiving tonight.

A TIME TO RE-THINK CYPRUS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. BURTON of Indiana. Mr. Speaker, on 15 November 2002, Turkish Cypriots are celebrating the 19th Anniversary of the proclamation of the Turkish Republic of Northern Cyprus.

The historic decision by the Turkish Cypriots to declare independence was not a separatist endeavor, but an act of self-defense undertaken 20 years after being forced out of the binational partnership State of 1960 by the Greek Cypriot partner; and having been physically driven from their homes and properties in 103 villages across the island in a campaign of violence and ethnic cleansing that had started in 1963. Terrorized, displaced and disenfranchised, the Turkish Cypriots had no choice but to reorganize themselves in the areas or "enclaves" under their control, in a collective act of survival, and to start running their own affairs.

As to what happened afterwards, let us hear it from Mr. Glafcos Clerides, the Greek Cypriot leader, as candidly recounted in his memoirs entitled "Cyprus: My Deposition." (Vol. 111, pp. 236–237):

> In the years that followed a steady, stage-by-stage development is noted in the Turkish administration, with the separation in its legislative, executive and judicial powers. An administrative organization is created, as well as police force and army. The increase of the financial resources of the Turkish Cypriots through economic aid from Turkey permitted the functioning of their administration on a more permanent basis, a fact which they made clear, by renaming their "Temporary Turkish Cypriot Administration" to "Turkish Cypriot Administration." Thus there exist today in Cyprus two poles of power on a separate geographical basis; i.e., the Government of the Cyprus Republic, controlling the largest section of the territory of the state and internationally recognized, and the Turkish Cypriot Administration, which controls a very limited area and is not internationally recognized, but has already taken almost all the characteristics of a small state.

This State is now the Turkish Republic of Northern Cyprus, which is a product of the exercise, by the Turkish Cypriot people, of their inalienable right to self-determination on 15 November 1983.

The Turkish Cypriot Independence Declaration contains all the principles and ideals that are universal to mankind, and are very familiar to the American people, such as "that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness" and that "Governments derive their just Powers from the Consent of the governed." In this Declaration, the Turkish Cypriots also extended a hand of friendship to the Greek Cypriots and called for the peaceful resolution of all their differences. That hand of peace and friendship remains extended today.

It should be clear from the above brief history that the Turkish Cypriot people never owed any allegiance to the Greek Cypriot administration of Southern Cyprus, which has no legal or moral right to claim to represent anyone other than the Greek Cypriot people. The said administration, under the pretentious title of the "Government of Cyprus," has no jurisdiction to represent or act on behalf of the Turkish Cypriot people, whose sole legitimate representatives are those elected under the Constitution of the Turkish Republic of Northern Cyprus. The fact that the Turkish Cypriot and Greek Cypriot sides are political equals and that neither of the parties can represent the other has been underlined by the UN Secretary-General on 12 September, 2000 as follows:

> I have ascertained that the parties share a common desire to bring about, through negotiations in which each represents its side—and no-one else—as the political equal of the other, a comprehensive settlement enshrining a new partnership . . .

This fact has also been expressed by other foreign dignitaries, such as Ambassador Richard Holbrooke, former U.S. Presidential Special Emissary for Cyprus, who, at a press conference held on 4 May 1998 in Cyprus, stated the following:

> I think it is very clear and no one has disputed that Glafcos Clerides does not represent or have control over the people of Northern Cyprus.

The former Italian Foreign Minister, Mr. Lamberto Dini, expressed the reality of the existence of two independent and sovereign States representing the two peoples of the island in his statement of 26 August 1997, even in clearer terms:

> It has to be recognized that there are two republics in Cyprus, two entities, two governments . . . and therefore, if the European Union does not recognize this basic fact, in conducting negotiations for membership, then you bump into the problem . . . that one of the parties would not accept negotiations, going on with only what, in effect, is the Greek Republic of Cyprus.

The way to the future in Cyprus must be based on this reality, rather than the myth that there is only one government in the island and that this is the Greek Cypriot administration. The Turkish Cypriot side has again demonstrated its good will in regard to a settlement by initiating the face-to-face talks between the two parties which started in December 2001 and are still continuing. However, these talks, already facing great difficulty because of the unilateral and unlawful EU aspirations of the Greek Cypriot side, face even a greater threat by the prospect of a positive decision on this matter by the European Union at its approaching summit in Copenhagen in early December 2002.

It is sincerely hoped that the EU will act in full awareness of the fact that such a decision before a settlement can only perpetuate the division in Cyprus and will refrain from doing so. The decades-long negotiating process in Cyprus should have demonstrated to all concerned that worn-out clich[eacute]s and tried-and-failed formulas have not worked in Cyprus, and a bold new approach is needed. With its democratic system of government, respect for rule of law and human rights, the Turkish Republic of Northern Cyprus deserves to be treated on a par with the Greek Cypriot State in the South. The two States can then come together to forge a common future on the basis of equality and a new partnership, also serving as a bridge of cooperation between Turkey and Greece, two allies the United States, which have direct interests and responsibilities vis-[agrave]-vis Cyprus. This is the way to lasting, peace and reconciliation in the island as well as the eastern Mediterranean region.

Is it not time for all concerned to rethink their approach to the Cyprus issue and bring it in line with the realities on the island?

TRIBUTE TO CHARLES EMERSON BATES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. McINNIS. Mr. Speaker, it is with deep sadness that I recognize the life and passing of Charles Emerson Bates of Pueblo, Colorado. Mr. Bates passed away this October and, as his family mourns his loss, I would like to pay tribute to his life and the wonderful memories that he has left behind.

Charles was born on December 1, 1946 in Granada Hills, California. He graduated from Valparaiso University in 1968, got his Master of Urban Education from Loyola University and received his Master of Arts in Information Science from Dominican University, Chicago in 1973. After finishing his education, Charles held a variety of library and teaching positions in Illinois and Wisconsin, including administrator of the Fond du Lac Public Library, a position that he held until 1976. In 1981, Chuck and his family relocated to Pueblo, where he became the director of the Pueblo City-County Library District, a position he held for 21 years. –

During his tenure as library director, Charles proved to be an outstanding leader and dedicated his time and energy to the improvement of Pueblo's libraries. Under his leadership, the library board passed two mill levy referendums and a $14 million bond issue toward the construction of the new Robert Hoag Rawlings Public Library. In 1997, Charles received the Colorado Library Lifetime Achievement Award in recognition of his tireless efforts toward advancing library facilities throughout the county.

Mr. Speaker, it is with great pride that I recognize the life of Charles Emerson Bates before this body of Congress and this nation. I extend my sincere condolences to his wife Mary, brother Robert, and his sons Chris, Noah, Colin. Charles lived his life with great passion and enthusiasm, contributing greatly to the betterment of the Pueblo community by promoting literacy and education through the expansion of public libraries throughout Southern Colorado. His loss will be deeply felt and the contributions he made will never be forgotten.

HONORING BILL SWENSON

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise today to honor Bill Swenson for his eight years of dedicated service to the Colorado General Assembly.

Before being elected to the Colorado House of Representatives, Bill Swenson had already established a long and distinguished career in public service. He was elected to the Longmont City Council in 1977 and served as the City's Mayor from 1981–1985. He also served as the Boulder County Republican Chairman from 1993–1994.

I had the good fortune to serve with Bill in the Colorado State House. I found him to be an affable, effective policy maker willing to reach across policy lines to act in the best interest of Colorado. Most important of all, Bill had a reputation for basing his votes on principle, and not on party or politics. At a time when voters seem to feel increasingly disenfranchised by what they view as partisan dogmatism, Bill Swenson represents public service that transcends partisanship.

He is a recognized leader on transportation and served as the Chairman of the Transportation and Energy Committee. His values of practicality and fiscal responsibility helped shape the tone for the entire transportation debate. In addition, he has worked to find common sense ways to encourage investment in renewable energy resources and enhance the diversification of energy resources in Colorado. These efforts may not result in colorful political sound-bites, but they will inevitably lead to a stronger economy and future generations of Coloradans will took back on Bill's service with gratitude.

I am proud to have served with Bill Swenson and proud to call him my friend. I ask my colleagues to join with me in honoring him for his exceptional service, I thank him for his good work, and I wish him continued good health and success in the future.

CELEBRATING 25 YEARS OF SERVICE BY REVEREND D. MICHAEL TOBY

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. EDWARDS. Mr. Speaker, on Sunday, October 27th, the congregation and community of Woodway, Texas honored Reverend D. Michael Toby for twenty-five years of dedicated service as Pastor of the First Baptist Church of Woodway.

Reverend Toby graduated from the Southwestern Baptist Theological Seminary in 1974, where he won the H.C. Brown Jr. Award as the seminary's outstanding preaching student. On October 30, 1977, Reverend Toby joined the First Baptist Church of Woodway. Under his ministry, the church membership has grown to nearly four thousand people, requiring a new campus and larger facilities in 1990.

Under Reverend Toby's leadership, education programs in the church have been greatly expanded, winning First Baptist Woodway the "Fastest Growing Sunday School Award" three times between 1996 and 2000. Ministries within the church have been enriched with the addition of youth and adult discipleship groups, outreach efforts, prayer warrior and prayer room ministries, ministries for seniors, singles and college students, a church school, Bible Drill, Awana, Mother's Day Out, Young Women's Fellowship, Angel Tree, all age choirs and a Vacation Bible school that serves over 850 children each summer.

Reverend Toby has led his church in mission efforts both at home and abroad. In 1988, the First Baptist Midway became a Key Church in the Mission Texas campaign, supporting the creation of churches like Brazos Meadows and West Robinson Baptist Church in Waco. Reverend Toby additionally encouraged members to lead mission trips to Russia, China, Africa, Mexico, the Philippines, Morocco, Turkey and other countries. Because of the financial commitment to these and other ministries, the church has been honored as one of the top 100 churches in the Baptist General Convention of Texas in Cooperative Program giving.

During his ministry, Reverend Toby continued his education and his role in public service. Presently, he is a candidate for the Doctorate of Ministry degree from the Golden Gate Baptist Seminary. He has served on the executive board of the Baptist General Convention of Texas, and its human welfare board and public relations advisory committee. Within the community, Reverend Toby has served on the boards of Central Texas Good Will Industries and Special Wish, as president of the Rotary Service Club of Waco and as moderator and executive board member of the Waco Baptist Association.

I ask all of my colleagues to join me in honoring and celebrating the leadership and commitment of Reverend D. Michael Toby, and congratulating Reverend Toby and his wife Jackie on 25 years of dedication to the spiritual life and health of the community of Woodway and to Central Texas.

IN RECOGNITION OF THE 23RD STREET ASSOCIATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mrs. MALONEY of New York. Mr. Speaker, I would like to pay tribute to The 23rd Street Association on the occasion of their Annual Award Luncheon. This year, the 23rd Street Association is honoring North Fork Bank and Carolyn Drexel for their outstanding community involvement. In addition, the owners and management of the Flatiron building are being recognized on this, the building's centennial anniversary, for their dedication to the buildings restoration and modernization.

Ranked number one by the leading industry publication U.S. Banker in their annual survey, North Fork Bancorp is considered one of the nation's top bank and thrift companies. North Fork was also ranked fourth among the top 100 banking companies that include all types of financial services companies. Organized in 1980, today, the total assets of the Bank are approximately $19 billion with over 165 branch locations that provide a wide range of personal and commercial banking services throughout New York.

Carolyn Drexel joined North Fork Bank as part of a new Management Training Program in 1979. After landing a position in the Speonk office as the Assistant Branch Manager, she continued to advance her career, and in 1993 became a Senior Vice President in charge of the Branch Network. In April 1997, Ms. Drexel's professionalism and skill led her to take on the responsibilities of managing the entire Retail Division which includes the Branch Network, Marketing, Sales, Retail Operations and the Cash Management Department. Ms. Drexel was promoted to Executive Vice President in January of 1998. As Vice President, she leads more than 2,300 employees of the Bank with 168 branches located from Eastern Long Island to Upstate New York. Ms. Drexel has also been a tenacious community activist, and has volunteered her time at various organizations including the Epilepsy Foundation, Salvation Army, Suffolk County Special Olympics, Yeshiva of South Shore. Most recently, Ms. Drexel was appointed to the Board of Directors of Safe Horizon.

The legendary three-sided structure at the intersection of Broadway, Fifth Avenue and 23rd Street, The Flatiron Building, is one of New York's oldest surviving skyscrapers. Opened in 1902, the building's unique architecture in the form of a geometrically perfect, straight-edged right triangle, separates it from the New York City streetscape. Now, thanks to a recent refurbishment under new owners and last year's $5 million reconstruction of the six-acre oasis of Madison Square Park, the building continues to be the flagship of the reborn Flatiron district.

I would also like to commend the 23rd Street Association in their mission of enhancing the quality of life for families and businesses in the area bounded by the Hudson and East Rivers from 17th to 28th Street. Incorporated in 1929 by 22 local business people, today's 23rd Street Association has approximately 300 members. Their efforts have included conducting business-training programs in local junior high schools, mobilizing the community to bring about a $2.5 million renovation of Madison Square Park, working with the local police to combat drug dealing and other crime, and developing annual summertime concert programming and children's entertainment in the community.

The Association is fortunate to represent individuals and organizations that are so committed to the advancement of their community. In recognition of the invaluable contributions and the selfless efforts of tonight's honorees, I ask that my colleagues join me in saluting the 23rd Street Association on their annual award luncheon.

TRIBUTE TO THE CHURCH OF THE BLESSED SACRAMENT

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to the Church of the Blessed Sacrament, a treasured Bronx institution and a historic house of worship that celebrated its seventy-fifth anniversary on November 1, 2002 at a dinner-dance and will commemorate the event at an anniversary Mass on November 24th.

Mr. Speaker, the Church of the Blessed Sacrament was established in July of 1927 per a request by Patrick Cardinal Hayes, Third Cardinal of New York. Cardinal Hayes asked Father Edward A. Loehr to establish a new Parish of Blessed Sacrament to serve South Bronx residents. More than seventy years later, Blessed Sacrament Parish is still thriving and serving a devoted congregation.

Throughout its 75 years of existence, Blessed Sacrament Parish has been a model of excellence as a house of God, with open doors to everyone. Not only are Bronx residents able to come to Blessed Sacrament Parish for spiritual enrichment and fellowship, they can come to the church for assistance with life's daily trials.

Mr. Speaker, many of the structures that make up Blessed Sacrament Parish are historical landmarks, rich with history. The Parish is in the progress of restoring these valuable structures so as to preserve the spirit from which the church was founded.

For nearly a century, hundreds of thousands of Bronx residents have found solace and aid within the walls of Blessed Sacrament Parish, I hope that all of my esteemed colleagues will join me in honoring this sacred and historic institution on this notable anniversary.

CONGRATULATING P–R FARMS AS AGRICULTURE BUSINESS OF THE YEAR

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate P–R Farms of Clovis, California, for receiving the 2002 Baker, Peterson, and Franklin Agriculture Business of the Year Award at the Greater Fresno Area Chamber of Commerce Awards Luncheon in Fresno, California on November 13, 2002. This annual award is given to an agricultural organization whose achievements and impact have significantly contributed to the industry and the local community.

Vincenzo Bicchiuti, father of the founder of P–R Farms, arrived in America as an immigrant in 1914 and planted the seeds of a small family business in grapes and figs. Benefiting from his father's wisdom, Pat Ricchiuti learned that diversification would be the key to long-term success. Pat and his wife, Frances, began to plant plums and cotton which was the beginning of their farm's expansion. The goal for the newly-founded P–R Farms was growth while maintaining quality at every juncture.

Today, the philosophy and dedication of father and son is continued by grandson, Patrick Ricchiuti. Known worldwide for premium quality and excellence, P–R Farms' products are locally grown, packed, and shipped from their production facility in Clovis, California. P–R Farms has been an innovator in agriculture, developing many new techniques in Ag production, shipping, storage, and marketing.

The Ricchiuti family has been active in leading California State University, Fresno's Ag One Foundation, College of Agricultural Sciences, and Technology, Alumni Association, and Bulldog Foundation. They developed fundraising programs for Clovis schools, and have served on the governing board of the Clovis School District. In addition to agriculture and education, the Ricchiutis have been very involved in local healthcare serving on boards and councils for both Central California Children's Hospital and Clovis Community Hospital.

Mr. Speaker, I rise today to congratulate P–R Farms for earning the 2002 Baker, Peterson, and Franklin Agriculture Business of the Year Award. I urge my colleagues to join me in wishing P–R Farms many years of continued success.

A PROCLAMATION HONORING MR. AND MRS. ANNMARIE AND KEVIN O'GRADY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. NEY. Mr. Speaker, whereas, Annmarie and Kevin are celebrating their marriage today, October 19, 2002; and

Whereas, Annemarie and Kevin have a deep and abiding love for one another; and

Whereas, Annemarie and Kevin have demonstrated a firm, loving commitment to each other; and

Whereas, Annemarie and Kevin will share a life together of generosity, joy, accomplishment and fulfillment;

Therefore, I join with the residents of the entire 18th Congressional District in congratulating Mr. and Mrs. O'Grady as they begin their marriage.

TRIBUTE TO DONALD AND FLORINE MEINHART

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. McINNIS. Mr. Speaker, it is with great admiration that I rise to pay tribute to Donald and Florine Meinhart of Glade Park, Colorado. Today, I would like to highlight the Meinharts for the wonderful contribution they have made toward protecting Colorado's most treasured natural resource: our environment.

The Meinhart Ranch is located in an area that is highly regarded for its ecological importance. By recently agreeing to an easement, Donald and Florine have promised to restrict development on their ranch, which will help protect the natural habitat of an area that is home to many of Colorado's wildlife species, including the Gunnison Sage Grouse, elk, and mule deer. The Gunnison Sage Grouse has become so rare in recent years that the US Fish and Wildlife Service has considered placing the animal on the endangered species list. By agreeing to an easement on their ranch, Donald and Florine are helping to guard the sage grouse's natural habitat and ensure the protection of the species.

The Meinhart Ranch also provides a popular migration corridor for elk and mule deer. The ranch is surrounded by national forests and provides an avenue for the animals to move between their summer and winter grazing areas. The easement will benefit these species as well because it provides them with an open place to move, protected from encroaching homes and motor vehicles.

Mr. Speaker, it with great respect that I recognize Donald and Florine Meinhart before this body of Congress and this nation for the generous and responsible management of their property. Donald and Florine have agreed to protect their property from future development and ensure that their land remains free and open. I commend them both on their decision and wish the Meinhart ranch a rich and happy future.

TRIBUTE TO DR. DONALD A. HOLT

HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. JOHNSON of Illinois. Mr. Speaker, I rise today to honor Dr. Donald A. Holt, a highly respected citizen of Champaign, Illinois, who is retiring from his position as Senior Associate

Dean of the College of Agricultural, Consumer, and Environmental Sciences at the University of Illinois at Urbana-Champaign. Dr. Holt's positive influence in biotechnology, systems modeling, computers in agriculture, organization of agricultural research, and development of funding strategies, continues to be strongly felt on the University of Illinois campus, as well as throughout the state of Illinois and the nation.

As a student in the University of Illinois Department of Agronomy in the 1950's, as a manager of his family farm near Minooka, Illinois, from 1956 to 1964, and as a cuttingedge researcher and teacher at Purdue University from 1964 to 1982, Don Holt honed his skills to serve science and society as an enlightened, visionary leader of agricultural research in Illinois.

In his pioneering research and teaching activities at Purdue, Dr. Holt built his programs with a "systems perspective" that he began developing while operating his family farm in northern Illinois. There he developed a comprehensive research program in forage physiology and management that contributed to increasing crop production. Dr. Holt also pioneered the use of anhydrous ammonia and organic acids as hay preservatives. He was an early implementer of computer modeling and used it to develop and commercialize software for crop yield forecasting.

When Dr. Holt returned to the University of Illinois in 1982, he quickly began to leave his imprint on the college's research and teaching systems by improving the college's resource base and infrastructure and building a partnership between the college and its stakeholders in the food and agricultural sectors throughout the state.

Since his return to the University of Illinois, Dr. Holt has made great contributions to enhancing Illinois' food and agriculture sectors. His leadership in the college as a department head, associate dean, director of the Illinois Agriculture Experiment Station, and senior associate dean is unparalleled.

Dr. Holt led the effort to mold the college into a leader in biotechnology research by securing funding for the Center of Excellence in Crop Molecular Genetics and Genetic Engineering and for the Edward R. Madigan Laboratory. He also led the effort to improve the state and national investment in value-added research for Illinois producers. This led the remodeling of the Agricultural Bioprocess Laboratory and the establishment of the National Soybean Research Center.

Dr. Holt laid much of the groundwork to redesign public agricultural research in Illinois through landmark legislation called the Illinois Food and Agricultural Research Act of 1995 leading to the creation and funding of the Illinois Council for Food and Agricultural Research (C–FAR). He subsequently promoted public involvement in research priority setting through C–FAR representation, a move that attracted national attention as a model for reenergizing land-grant universities and empowering their constituents.

Dr. Holt's past contributions to Illinois and U.S. Agriculture have brought about a firestorm of progressive change. With his unique but clear vision of the future, he is able to see the changing nature of agriculture beyond the horizon and can anticipate how educational and research institutions can best prepare to meet the needs of individuals who will conduct business in the changing environment.

Mr. Speaker, Dr. Donald A. Holt has had a long and distinguished career that will have an impact on agriculture far into the future. I ask my colleagues to join me in honoring this distinguished gentleman for all he has done for agriculture and for the country.

A TRIBUTE TO LIEUTENANT GENERAL RUSSELL C. DAVIS

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Ms. LEE. Mr. Speaker, I rise to recognize Lieutenant General Russell C. Davis, who is retiring from the National Guard after forty-four years of exemplary service, as a member of the US Air Force and National Guard of the United States.

General Davis has had a distinguished career of service to our nation's defense. He began his military career in the US Air Force in 1958 as an aviation cadet. While on active duty, he served as a B–47 strategic bombardment pilot at Lincoln Air Force Base, Nebraska. He then joined the Iowa Air National Guard, where he transitioned to fighter pilot, and served in numerous command and staff positions, from squadron pilot to Director of Operations. He commanded the 113th Tactical Fighter Wing prior to being appointed the Commanding General of the District of Columbia National Guard.

General Davis is retiring from his current position as Chief, National Guard Bureau (NGB). The President appointed him Chief, NGB, in 1998. As Chief, NGB, he served as the senior uniformed National Guard officer responsible for formulating, developing and coordinating all policies, programs and plans affecting more than half million Army and Air National Guard personnel. As Chief, NGB, General Davis has served as the Army and Air Forces' official channel of communication with the governors and the Adjutants General of the states, commonwealths, territories and the District of Columbia.

General Davis epitomizes the citizen-soldier. His career has reflected his unswerving integrity and high moral principles. He retires with over four thousand seven hundred flying hours in bomber and fighter aircraft. His numerous awards and decorations serve as a testament to his dedication, commitment, contributions, and sacrifice.

It is our hope that you will join us as we salute Lieutenant General Russell C. Davis on the occasion of his retirement from the National Guard and wish him continued high flight.

ELLIS ISLAND MEDALS OF HONOR AWARDS CEREMONY—NECO CHAIRMAN WILLIAM DENIS FUGAZY LEADS DRAMATIC CEREMONY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. BURTON of Indiana. Mr. Speaker, On behalf of Ellis Island Medals of Honor Ceremonies, I am submitting the following statement for the RECORD.

Standing on the hallowed grounds of Ellis Island—the portal through which 17 million immigrants entered the United States—a cast of ethnic Americans who have made significant contributions to the life of this nation were presented with the coveted Ellis Island Medal of Honor at an emotionally uplifting ceremony. This year's event was dedicated to the memory of those individuals whose lives were lost on September 11, 2001.

NECO's annual medal ceremony and reception on Ellis Island in New York Harbor is the Nation's largest celebration of ethnic pride. Representing a rainbow of ethnic origins, this year's recipients received their awards in the shadow of the historic Great Hall, where the first footsteps were taken by the millions of immigrants who entered the U.S. in the latter part of the nineteenth century. "Today we honor great ethnic Americans who, through their achievements and contributions, and in the spirit of their ethnic origins, have enriched this country and have become role models for future generations," said NECO Chairman William Denis Fugazy. "In addition, we honor the immigrant experience—those who passed through this Great Hall decades ago, and the new immigrants who arrive on American soil seeking opportunity."

Mr. Fugazy added, "it doesn't matter how you got here or if you already were here. Ellis Island is a symbol of the freedom, diversity and opportunity ingredients inherent in the fabric of this nation. Although many recipients have no familial ties to Ellis Island, their ancestors share similar histories of struggle and hope for a better life here."

Established in 1986 by NECO, the Ellis Island Medals of Honor pay tribute to the ancestry groups that comprise America's unique cultural mosaic. To date, approximately 1500 American citizens have received medals.

NECO is the largest organization of its kind in the U.S. serving as an umbrella group for over 250 ethnic organizations and whose mandate is to preserve ethnic diversity, promote ethnic and religious equality, tolerance and harmony, and to combat injustice, hatred and bigotry. NECO has a new goal in its humanitarian mission: saving the lives of children with life-threatening medical conditions. NECO has founded The Forum's Children Foundation, which brings children from developing nations needing life-saving surgery to the United States for treatment.

Ellis Island Medals of Honor recipients are selected each year through a national nomination process. Screening committees from NECO's member organizations select the final nominees, who are then considered by the Board Directors.

Past Ellis Island Medals of Honor recipients have included several U.S. Presidents, entertainers, athletes, entrepreneurs, religious leaders and business executives, such as William Clinton, Ronald Reagan, Jimmy Carter, Gerald Ford, George Bush, Richard Nixon, George Pataki, Mario Cuomo, Bob Hope, Frank Sinatra, Michael Douglas, Gloria Estefan, Coretta Scott King, Rosa Parks, Elie Wiesel, Muhammad Ali, Mickey Mantle, General Norman Schwarzkopf, Barbara Walters, Terry Anderson, Dr. Michael DeBakey, Senator John McCain, Rudy Giuliani and Attorney General Janet Reno.

Congratulations to the 2002 Ellis Island Medals of Honor Recipients:

Abel Abrahamsen, Chairman Emeritus/Co-Founder, Norwegian Immigration Assoc., Norwegian; William Achenbaum, President, S/A Associates, Russian; Elias S. Adamopoulos, M.D., President, Piraeus Realty Corp., Hellenic; Hector Alcalde, Chairman & CEO, Alcalde & Fay, Spanish; Kurt Aschermann, Sr. Vice President, Boys & Girls Clubs of America, German/Austrian/Italian; Lawrence Auriana, Chairman, Federated Kaufman Fund, Italian; Kenneth E. Behring, CEO & Founder, Wheelchair Foundation, German; Hon. Cornelius Blackshear, Judge, U.S. Bankruptcy Court, African; Barbara Blair, CEO, Cyberstaff, Russian; Michael J. Brescia, M.D., Sr. V.P. & Exec. Med. Dir., Calvary Hospital, Italian; Lt. Gen. Bryan D. Brown, Commanding General, US Army Special Operations Command, Irish; Jeanette Grasselli Brown, Chair, Ohio Board of Regents, Hungarian; Maurice A. Buckley, President & CEO, Irish Chamber of Commerce in the USA, English/Irish; Preston C. Caruthers, General Partner, Carfam II Associates, L.P., Scottish/English; Steven W. Casteel, Assist. Admin. For Intelligence, US Dept of Justice, Dutch; Peter Castellana, Jr., President & CEO, Western Beef, Inc., Irish/Italian; Joseph R. Cerrell, Chairman & CEO, Cerrell Associates, Inc., Italian/French; Stephen Cherpelis, CEO, Stephen Cherpelis Enterprises, Inc., Hellenic; Hon. Michael Chertoff, Assistant Attorney General, U.S. Department of Justice, Criminal Division, Russian/Polish; Stanley M. Chesley, Attorney, Waite, Schneider, Bayless & Chesley Co., Ukrainian; Michael V. Ciresi, Partner & Chairman, Robins, Kaplan, Miller & Ciresi L.L.P., Italian; Anthony S. Colavita, Esq., Attorney and Councilman, Italian/Irish; William J. Collis, M.D., Founder & Ophthalmic Surgeon, Kentucky Eye Institute, Hellenic; Martin E. Cooperman, Managing Partner, Grant Thornton, Russian/Polish; Salvatore J. Cumella, M.D., Executive Producer/President "Women to Women" Radio Show, Cumella Professional Services Inc., Italian; John C. Cushman III, Chairman, Cushman & Wakefield, Inc., English/Dutch.

Lucia Grieco Danzi, 100 years old, Italian; Oscar Davis, Chairman, Hayward Industries, Inc., Hungarian; Gen. Raymond G. Davis, USMC, United States Marine Corps, Scottish/German; Joseph J. DePaolo, President & CEO, Signature Bank, Italian; Thomas B. Doolan, President & CEO, TBD & Associates Inc., Irish; Harry A. Dorian Esq., Armenian; Thomas C. Eakin, President, Ohio Baseball Hall of Fame, Scottish/Irish/English; Marvin E. Eisenstadt, President, Cumberland Packing Corp., Russian; Terrence A. Elkes, Principal, Apollo Partners LLC, Russian/Polish; Eugene C. Enlow, Chairman & CEO, Atlantic Detroit Diesel-Allison, German; Joseph Anthony Esposito, President & CEO, eResearch Technology, Italian; John H. Eyler, Jr., Chairman & CEO, Toys 'R' Us, Inc., English/German/Irish; John Joseph Fareri, President, Fareri Associates, L.P., Italian; George N. Faris, Chairman & CEO, American International, Petroleum Corporation, Lebanese; John P. Ferguson, President & CEO, Hackensack University Medical Center, Irish/Italian, Scottish; John Fitzpatrick, CEO, Fitzpatrick Hotel Group N.A., Irish; Dewey Fong, Deputy Chief, New York City Police Department, Chinese; Hon. Vito J. Fossella, Member of Congress, U.S. House of Representatives, Italian/Irish; Daniel Frasca, Executive Director of Finance & Administration, New York State United Teachers, Italian; Louis J. Freeh, Sr. Vice Chairman, MBNA, America, Italian/Irish/German; Clifford H. Friedman, Senior Managing Director, Constellation Ventures, Russian.

Andre P. Gambucci, Consultant to the President, The Acordia Cos Wells Fargo, Italian; Joe Garagiola, Former Baseball Player, TV Announcer, Joe G. Enterprises, Italian; Michael Gewitz, M.D., Professor & Director. Dept. of Pediatrics, Children's Hospital At Westchester Med. Center, Russian/Austrian/Slovakian; George Gialamas, President & CEO, Gialamas Company, Hellenic; Matthew Goldstein, Chancellor, CUNY, Romanian/Polish/Austrian; John B. Goodman, Chairman, The Goodman Group, Russian/Romanian/Lithuanian; C. Flemming Heilmann, Principal, Banyan Projects, Danish; Werner F. Hiller, Founder & President, The Hiller Family Foundation, German; John H. Hong, President, Hanmi Realty, Korean; Myung Mike Hong, Chairman & CEO, Dura Coat Products, Inc., South Korean; Professor James Jacobson, Associate Professor of Education, Saint Peter's College, Finnish; Eugenia Janke, Chairman, Tolstoy Foundation, Russian; Kaija R. Kalervo, President, American Finnish Community Club, Inc., Finnish; Professor Andrew G. Kampiziones, Professor of Philosophy, Francis Marion State University, Hellenic; Hon. Marcy Kaptur, Member of Congress-9th District U.S. House of Representatives, Polish; James G. Kennedy, President, James G. Kennedy & Co., Inc., Irish/French; Joseph Kisup Kim, President, Kim's Jewelers, Korean; William C. Korner, President & CEO, Prinexus, Scottish/English; Gust C. Kraras, President & CEO, KCK & GCM, Inc., Hellenic; Kent Kresa, Chairman & CEO, Northrop Grumman Corp., German; Robert I. Kuperman, Chairman & CEO, DDB/New York, Russian.

Joseph R. Lagana, President & CEO, United States Information Systems, Inc., Italian; Joseph J. Lagano, President & Founder, J. Lagano Family Foundation, Italian; Louis E. Lataif, Dean—School of Management, Boston University, Lebanese; Br. Robert E. Lavelle, C.S.C, Headmaster, Gilmore Academy, Irish; Josephine LeBeau, Executive Director Vice President, AFSCME International, French/Creole; Professor Heo-Peh Lee, President & CEO, Shie-Jie Enterprises Group, Chinese; Joe (McCoy) Lenti, Vice President/Program Director, WCBS–FM Radio, Italian; Mark M. Lii, President, Ten Ren Tea & Ginseng Co., Inc., Chinese; Dr. Johnny M.J. Lu, President, Lucoral Co., Inc., Chinese; William Lucy, International Secretary-Treasurer, AFSCME, African; Martin J. Maddaloni, General President, United Association of Plumbers & Pipefitters, Italian; Farah B. Majidzadeh, CEO & Chairperson, Resource International, Inc., Iranian; Lt. Gen. Dan K. McNeill, Commanding General United States Army, XVIII Airborne Corps & Ft. Bragg, Scottish; Frank Meehan, International Vice President & President, UFCW—Local 1500, Irish; John R. Miller, Vice Chairman, KPMG, Welsh/English; Matthew Mirones, Assemblyman, Hellenic; Alfred T. Mockett, Chairman & CEO, AMS, English; Ralph Salvatore Mosca, M.D., Director of Pediatric Cardiac Surgery, Children's Hospital of New York, Italian/Irish/German; John P. Moses, Esq., Moses and Gelso, Lebanese; Murlan J. Murphy, Jr., Principal, JTM Company, Irish; Mike Mehmet Mustafoglu, Chairman & CEO, Transglobal Financial Corporation, Turkish; A. Maurice Myers, Chairman, President & CEO, Waste Management, Danish/Austrian.

Nicholas Andrew Natsios, Retired-Senior C.I.A. Official, Central Intelligence Agency, Hellenic; ADM. Robert J. Natter, USN, Commander-in-Chief, U.S. Atlantic Fleet, Austrian/Scottish/Irish; Albert G. Nickel, President, Chairman & CEO, Lyons Lavey Nickel Swift, German; Louis Nicozisis, President, NICO Properties Group, Hellenic; Hon. Lyndon L. Olson, Jr., Senior Advisor, Citigroup, Swedish; Harry C. Orbelian, Conductor & Musical Director, Moscow Chamber Orchestra, Armenian/Ukrainian; Vasilia (Bess) Pappas, Director Hellenic Cardiac Fund for Children, Children's Hospital Boston, Hellenic; Michael F. Parlamis, President & CEO, Frank Parlamis Inc., Hellenic; Santo Petrocelli, CEO, Petrocelli Electric Company, Inc., Italian; John George Poles, Senior Partner, Poles, Tublin, Patestides & Stratakis LLP, Hellenic; Albert T. Primo, President & CEO, Eyewitness News Service, Inc., Italian; Hon. A. Gail Prudenti, Presiding Justice, State of New York, Italian/German; Anthony R. Pustorino, Professor Emeritus, Pace University, Italian; Robert C. Radice, Chairman & CEO (retired), Radice Corporation, Italian; John C. Rakkou, President & CEO, Interbank of New York, Hellenic; George Randazzo, Founder and Chairman of the Board, National Italian American Sports Hall of Fame, Italian; Hon. Edward D. Re, Chief Judge Emeritus, US Court of International Trade, Italian; Dr. Arthur Lachlan Reed, Lachlan International, Scottish; Mona Romain, Assistant Treasurer, United Federation of Teachers, West Indian; Michael L. Royce, Acting President, Pennsylvania Station Redevelopment Corp., Polish/Russian;

Charles J. Santelli, Director of Policy & Program Development, New York State United Teachers, Italian; Chief Michael Scagnelli, Chief of Transportation, N.Y.P.D., Italian; Hon. Chris Victor Semos, Former Governmental Consultant, Hellenic; Phillip J. Shapiro, President & CEO, Liberty Maritime Corp., Russian/Polish; Rhona Hope Silver, CEO, Rhona Silver's Huntington Townhouse, Russian/Polish; James L. Singleton, President, The Cypress Group LLC, Irish/Portuguese; Hon. Dean G. Skelos, Senator, New York State Senate Deputy Majority Leader, Hellenic; Edward D. Soma, M.D., Lebanese; Hon. Michael Sotirhos, US Ambassador (Retired), Hellenic; George W. Souvall, President, Leisure Management Corporation, Hellenic; Dean A. Spanos, President, San Diego Chargers, Hellenic; Daniel J. "Rusty" Staub, Chairman, NYP & Firefighters' Widow & Childrens Benefit Fund, German/Irish; Hon. Joseph A. Suozzi, Senior Partner, Meyer, Suozzi, English & Klein, P.C., Italian; Laurence M. Traub, President, Intermetal Corporation, Russian/Lithuanian/Byelorussia; Savey Tufenkian, Executive Vice President (Retired), Western Waste Industries, Armenian; Rajendra B. Vattikuti, Founder & Co-Chairman, Covansys, Asian Indian; Antonio "Nino" Vendome, CEO, Vendome Group, Italian; Hon. James T. Walsh, Member of Congress N.Y. 25, Irish; David Walters, Former Governor of Oklahoma/President, Walters Power International, German/French/Swiss; Dr. Ruth Westheimer, Professor/Author/Therapist, German; Major General George N. Williams, Commander, 21st U.S. Air Force, Hellenic; George C. Zoley, Vice Chairman & CEO, Wackenhut Corrections Corporation, Hellenic.

PAYING TRIBUTE TO ERIC AUTOBEE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. McINNIS. Mr. Speaker, it is with deep sadness that I recognize the life and passing of Corrections Officer Eric Autobee of Pueblo, Colorado. Eric lost his life in October and, as his family mourns his loss, I would like to pay tribute to his life and the wonderful memories he has left behind.

Eric attended Pueblo County High School and went on to graduate from Pueblo Community College in 2000. It was his life's ambition to pursue a career in law enforcement, a goal that became a reality when he was hired as a corrections officer the by Colorado Department of Corrections in 2001. Tragically, Eric lost his life while on duty at the Limon Correctional facility in October.

Throughout his 23 years, Eric lived his life with a genuine happiness and compassion for those who had the privilege to know him. Eric displayed a distinct fondness for the outdoors and was an avid sportsman who loved the land and enjoyed the vast Colorado mountains. He lived his life with honor and integrity, and always displayed genuine respect and courtesy to his fellow citizens and the inmates that he protected.

As a former law enforcement officer, I am well aware of the dangers and hazards our police officers face today. These individuals work long hours, weekends, and holidays to gurantee the safety of their fellow citizens. They work tirelessly with great sacrifice to their personal and family lives to ensure our freedoms remain strong in our homes and communities. Their service and dedication deserves our recognition and thanks, and that is why I pay tribute to the life and service of officer Eric Autobee here today.

Mr. Speaker, it is with heartfelt respect that I stand today to recognize Eric Autobee before this body of Congress and this nation. I extend my sincere condolences to his parents, Bob and Lola, grandparents, Benito and Grace, brother Scott, sister Bernadette and girlfriend Michelle. Eric lived his life with honor and served the community of Pueblo with distinction. His loss will be deeply felt, and a grateful nation will be forever in his debt.

HONORING DAPHNE JEFFERSON

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise today to recognize Daphne Jefferson for her dedication and diligence in my office over the past year.

An employee of the Federal Aviation Administration, Daphne was selected for a legislative fellowship under the auspices of the Brookings Institution, and I have had the benefit of her assignment to my office.

In 1996 Daphne started at the FAA as a Supervisory Air Traffic Control Specialist in Miami, Florida. Her career with the FAA has lasted more than fifteen years. During that time she has worked as Associate Program Manager for Requirements in Washington, DC, an Air Traffic Manager in Dayton, OH and most recently served as a Branch Manager for FAA in Washington, DC. Before joining the FAA Daphne was the assistant to the Vice President at a small minority owned bank and also was responsible for managing the student loan profile.

Daphne was born in Chicago, IL, but grew up in Jacksonville, FL and thinks of Florida as her home. She recently received her Masters in Public Administration in the Key Executive Program from the American University, and was awarded her Bachelor of Science from Embry-Riddle Aeronautical University in Miami, FL.

While working in my office Daphne has been primarily responsible for covering transportation, federal employment, and banking and housing issues. Her analysis of issues is always thorough and professional. Daphne's years of experience at the FAA have provided invaluable insight regarding the real-world effect of transportation legislation. Her understanding of transportation has been especially important and helpful this year, as the Congress and Administration have been working to make air transportation more secure in the wake of the terrorist attacks.

From her first day, Daphne exhibited a friendly demeanor and professional attitude. In her short time in my office she has made an inestimable contribution to the Udall team. She is appreciated and respected by the entire office as a highly professional and dependable colleague and friend. Daphne has been a great asset to my office and I am sorry to see her move on. However, I am confident that she will continue to contribute immensely to our nation as she continues her career.

TRIBUTE TO AIDA ROSA

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to a great educational activist and humanitarian. Ms. Aida Rosa, an innovative educator and leader is retiring as principal of Public School 30 in the South Bronx after many years of leadership and service.

Born in Rio Piedras, Puerto Rico, Ms. Rosa came to New York in 1949 as a young child. She attended New York City public schools and went on to earn advanced degrees from New York City universities. She is a dissertation away from earning a PhD from the esteemed Fordham University. Ms. Rosa began her career as an advocate for education and young people early in life and has never taken a break. Her tenacity and passion have not ebbed in all these years and many would argue that they have only grown more intense.

Mr. Speaker, Ms. Rosa strongly believes in community coalitions, in which various actors in the community pool their resources so that endeavors are multilateral and more effective. She has always emphasized the importance of parents, educators, the community, and the students themselves working together to ensure that young people receive quality education and attain their goals.

As the principal of P.S. 30, Ms. Rosa secured numerous services to assist her students, their families, and the nearby community. She accessed national and local organizations to address the needs of her students and staff. As an innovator, Ms. Rosa understands the need for smaller learning communities and restructured P.S. 30 into a number of small academies within one school. These smaller communities allow for individual attention to students as well as time for teachers to develop and implement more effective teaching methods. Teachers from P.S. 30 describe Ms. Rosa as a nurturing and strong leader. Her faith in her teachers allows them to perform at their highest capacity and to grow as educators.

Mr. Speaker, beyond running a huge public elementary school at a high-performing level and serving on a number of community planning boards, Ms. Rosa was a loving wife for many years and a mother and grandmother. She has also been a devoted friend to many.

It is rare to encounter people with as much genuine compassion and leadership acumen as Ms. Aida Rosa, and I am grateful to have had her as a school leader in my district and as a comrade for so many years. I ask my colleagues to join me in wishing her rest and relaxation upon her retirement from an exceptional career.

RECOGNIZING DAVE L. McDONALD

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today in recognition of Dave McDonald upon his receipt of Central Valley Muscular Dystrophy Association's "Humanitarian of the Year" award in Fresno, California on November 7, 2002. Mr. McDonald is being recognized for his leadership, humanitarian efforts, and dedication to the community.

Mr. McDonald is the President and CEO of PELCO, the world's largest producer of video security systems, as well as Central California's largest manufacturing employer. PELCO produces 3,500 different products which are sold through 5,000 authorized dealers in the United States and abroad. Since its beginning, the company has gown thirty-fold under Mr. McDonald's supervision.

Following the disastrous events of September 11, 2001, Mr. McDonald and PELCO assisted the NYPD in its recovery efforts at the World Trade Center site by donating specialized camera equipment and personnel. Additionally, the company's warehouse in Orangeburg, New York was converted into a distribution center for relief supplies. In November of 2001, PELCO created the California

Memorial in Clovis as a permanent tribute to the victims and fallen heroes from September 11. The memorial contains hundreds of items donated by the city of New York in remembrance of the events of September 11.

In March of 2002, Mr. McDonald was honored by the New York City Fire Department as the Grand Marshall for the St. Patrick's Day Parade. In May of 2002, Mr. McDonald also received the Excellence in Business Award for the Fresno Hall of Fame in recognition of his dedication to local businesses and his community.

Mr. Speaker, I want to congratulate Dave McDonald for his contributions to the many people in need, not only locally but nationally as well. I urge my colleagues to Join me in wishing Dave McDonald many more years of continued success.

A PROCLAMATION HONORING MR. AND MRS. FELLABAUM ON THEIR 50TH WEDDING ANNIVERSARY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. NEY. Mr. Speaker, whereas, Eddie and Betty Fellabaum were united in marriage November 16, 1952, and are celebrating their 50th anniversary this year; and

Whereas, Eddie and Betty have demonstrated a firm commitment to each other; and

Whereas, Eddie and Betty must be commended for their loyalty and dedication to their family; and

Whereas, Eddie and Betty have proven, by their example, to be a model for all married couples.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in congratulating Eddie and Betty Fellabaum as they celebrate their 50th Wedding Anniversary.

TRIBUTE TO CENTENNIAL JUNIOR HIGH SCHOOL NINTH GRADE CLASS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. McINNIS. Mr. Speaker, it is with sincere enthusiasm that I recognize the ninth grade class of Centennial Junior High School in Montrose, Colorado. The ninth grade class is currently producing a documentary video to help educate homeowners on ways to protect their homes from forest fires. Today, I would like to recognize the ninth grade class for the outstanding service they are providing to the State of Colorado and all those in danger of forest fires.

In June of last year, Colorado was devastated by some of the worst forest fires in our state's history. The Missionary Ridge and Hayman fires not only destroyed several of Colorado's wilderness areas but also valuable private property. Today, the ninth grade class from Centennial Junior High School, with the help of their film crew, representatives from Bureau of Land Management and Montrose County firefighters, are making a movie to demonstrate steps that citizens can take to protect their homes from forest fires.

Along with producing the documentary, the ninth grade class is also learning valuable lessons in fire ecology and resource management. The students are being taught about forest fuel reduction of the many different types of fire resistant building materials that can help protect homes in the event of a forest fire. By taking what they have learned in their classes and using it to educate others throughout the country, the ninth graders at Centennial Junior High School are making an incredible difference in the effort to reduce the destructiveness of forest fires. —

Mr. Speaker, it is with great pride that I recognize the Centennial Junior High School ninth grade class before this body of Congress and this nation for their outstanding service to the State of Colorado and this country. The documentary video they are producing will be distributed nationwide, providing indispensable guidance to a countless number of Americans. There is no telling how many homes and lives their efforts will save in the years ahead. I thank them for their dedication to their community and our environment.

TRIBUTE TO THE NATIONAL RENEWABLE ENERGY LABORATORY

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise to call attention to another achievement of the National Renewable Energy Laboratory, based in Golden, Colorado. It is appropriate that on its 25th anniversary, the National Renewable Energy Laboratory (NREL) has garnered yet another award recognizing its contributions to the development of clean energy technologies.

In its December issue, Scientific American magazine has named NREL one of the Scientific American 50—the magazine's first list recognizing annual contributions to science and technology that provide a vision of a better future.

NREL, along with Spectrolab Inc., was selected by the magazine for its work in increasing the efficiency of photovoltaic solar cells. NREL's research into multi-junction solar cells for more than a decade has led the way to ever more efficient cells, offering the potential of cheaper electricity from the sun.

The magazine noted that all the recipients of the Scientific American 50 have "demonstrated clear, progressive views of what our technological future could be, as well as the leadership, knowledge and expertise essential to realizing those visions."

I continue to be proud of the tremendous contributions that the National Renewable Energy Laboratory has made—to Colorado, our country, and our world. Congratulations to all at NREL on this important award.

IN HONOR OF THE JOINT PUBLIC AFFAIRS COMMITTEE FOR OLDER ADULTS

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. NADLER. Mr. Speaker, I rise today to honor the Joint Public Affairs Committee for Older Adults on the occasion of its 25th anniversary. Since 1977, JPAC has been committed to ensuring a voice for older New Yorkers in community change and the policy-making processes that affect their lives. I have been proud to stand with JPAC many times through the years, and it is my great pleasure to congratulate JPAC on this occasion and to join their celebration.

For 25 years, JPAC's citizen leaders have worked tirelessly to improve the lives of all New Yorkers by empowering older adults to advocate on their own behalf. JPAC educates older adults on legislative and consumer issues, in addition to providing them with important information on benefits and entitlements for which they may be eligible. JPAC has enabled a growing number of older people to participate in efforts to influence public policy while leading senior centers around the city to incorporate education and advocacy into its programs in innovative ways. Over the years, JPAC has come to play a significant role in promoting cooperation within the aging community around issues of shared concern.

Among the programs I find most valuable is JPAC's ten-week intensive leadership training program, known as the Institute for Senior Action. For eight years, the Institute for Senior Action has given seniors the skills necessary to become more effective advocates in our community. Having had the opportunity to join JPAC at several of the Institute's graduation ceremonies, I have seen firsthand the pride, enthusiasm, and commitment to the community that JPAC's programs instill in participants.

From consumer protection, to community safety, to health care and coverage, JPAC has contributed to the quality of life of all New Yorkers. I congratulate JPAC's staff, leadership and volunteers on a quarter century of success, and I wish them the very best for the future.

TRIBUTE TO DR. LURA POWELL

HON. DOC HASTINGS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. HASTINGS of Washington. Mr. Speaker, two years ago, Battelle selected a new leader for the Pacific Northwest National Laboratory in my home community of the Tri-Cities, Washington. She came to our Washington from a distinguished government career in the "other" Washington, the Nation's Capitol, as director of the Department of Commerce's Advanced Technology Program. Her tenure there, and her training as an analytical chemist, brought unique talent to serve this laboratory. She is also the first woman selected to serve as director of the Pacific Northwest National Laboratory. I am, of course, speaking about Dr. Lura Powell. Dr. Powell announced recently that she will step down as director at the end of this year, and I want to thank her for her commitment and leadership in the community.

Among her accomplishments, Lura will be remembered for her commitment to leverage the capabilities of the Laboratory to develop academic partnerships in the region. While Director, she signed Memorandums of Understanding with the University of Washington for the Institute for Nanoscience, the Joint Institute for Cell Signaling, and the Center for Global Security; a Northwest Bioproducts Research Institute with Washington State University, University of Idaho, and the Idaho National Engineering and Environmental Laboratory; and The Collaborative Research and Education program with Oregon State Universities and the Oregon Health Sciences University.

Dr. Powell's commitment to the Tri-Cities community and the state of Washington is evidenced by her many activities and board memberships. At home, she has been a tireless promoter of economic growth and science education. She helped create and advocate a vision for the Tri-Cities that calls on everyone to stretch the limits of what is possible. She serves on the board of directors of the Kadlec Medical Center, the United Way of the Benton-Franklin Counties, the Tri-City Industrial Development Council and the Three Rivers Community Roundtable and the Junior Achievement of the Greater Tri-Cities. For the State of Washington, she is a member of the Washington Roundtable and serves on the Washington Technology Alliance Board.

I want to thank Lura for her leadership these past two and a half years and to wish her, her husband, Art, and her daughters much happiness and good health. I hope they will make their home in the Tri-Cities so that we may all continue to benefit from their involvement.

INTRODUCTION OF H.R. 5712

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. BORSKI. Mr. Speaker, I am very pleased to introduce today H.R. 5712, a bill to improve roadway safety for motorists, bicyclists, pedestrians and workers in proximity to vehicular traffic.

In this Congress we have spent, and likely for years to come will spend, a great amount of time trying to secure our homeland from terrorist threats. But, we will never be truly secure, if our families and communities continue to face daily the risk of disabling or life threatening motor vehicle crashes—today's leading killer of American young people. Motor vehicle crashes kill more than 42,000 people and injure more than 3 million people every year. These crashes cost our economy more than $230.6 billion a year or an average of $820 for every person living in the United States.

We have learned a great deal about making our roadways safer for the traveling public, since we began the national Interstate construction program nearly fifty years ago. Among the most successful federal safety programs is the Section 130 Railway-Highway Grade Crossings program. The U. S. Secretary of Transportation's "1996 Annual Report to Congress" found that this single program prevented 8,500 fatalities and 38,900 non-fatal injuries since 1974. This Report also stated that fatal, nonfatal-injury, and combined fatal-plus-nonfatal-injury accident rates have been reduced by 87, 64 and 68 percent, respectively. The Department of Transportation no longer compiles this data, but the program continues to save lives everyday.

We have much work ahead of us to improve further roadway safety in America. This bill that I am introducing today will expedite the use of proven solutions to reduce the likelihood of crashes, injuries, and fatalities and I urge its rapid adoption.

Since their inceptions, the Section 130 program and the Section 152 Hazard Elimination program have made available to States significant funding to reduce risks on dangerous roadways. Increasing State flexibility and reallocating, funding; clarifying and expanding project eligibility, and improving data collection, analysis, and reporting will further enhance their effectiveness.

This legislation will improve the safety of workers whose duties place them on or near a federal-aid highway and will maintain the free flow of vehicular traffic. Workers who wear high visibility garments in such risky environments greatly reduce the chance of a vehicle collision and subsequent serious injury. Vehicle collisions are one of the most frequent causes of traffic congestion and place large demands on scarce police, fire, and emergency response personnel. Actions that reduce the likelihood of crashes also reduce congestion and these resource demands.

The major provisions of the legislation are funding provisions, program eligibility, data collection and analysis, and worker protection.

To increase State flexibility and reallocate funding, the bill eliminates the confusing 1991 reference that annually sets Section 130 at $155 million and Section 152 at $162 million. Some viewed the provision as a limit of funds available for important safety improvements, rather than as a minimum as intended. The bill eliminates the "Optional Safety" category and splits funding equally for the two programs. Also, the legislation changes the minimum Section 130 funding level for protective devices, such as grade crossing gates and signals, from a floating 50 percent to a fixed $150 million per year. This provision increases options for the States, because $150 million is less than the current 50 percent share.

I want to emphasize that the funding provisions in this bill maintain the flexibility States currently have to transfer up to 25 percent of the difference between the fiscal year 1997 funding level and the current funding level out of the Sections 130 and 152 programs to other projects States want to give higher priority. Transferred funds are available for Interstate Maintenance, Congestion Mitigation and Air Quality (CMAQ), National Highway System (NHS), Highway Bridge Replacement and Rehabilitation Program (Bridge), and Recreational Trails. For example, in fiscal year 2002, States collectively could transfer up to $92 million. If my bill had been enacted, States would still have been able to transfer that same $92 million as they see fit.

This legislation makes several improvements related to the eligibility of projects for funding under Sections 130 and 152. First, in the definition of a safety improvement project, I include, as another option for States, installation and maintenance of fluorescent yellow-green signs at pedestrian and bicycle crossings and school zones. The current "*Manual on Uniform Traffic Control Devices*" permits either yellow or fluorescent yellow-green pedestrian, school, and bicycle crossing signs. Federal, State, and local government studies indicate that fluorescent yellow-green signs, compared to yellow signs, increase motorists' awareness of highway crossings and allow motorists to recognize the crossing signs with greater accuracy at up to 40 percent greater distances. Any signs installed under this amendment would have to comply with the "*Manual on Uniform Traffic Control Devices.*"

The bill further builds on the Section 130 program's success to date in increasing the number of at-grade railway-highway crossings with protective devices and signage by including maintenance of protective devices as an eligible use of funds.

To curb overly expansive interpretations of the current Section 152 program, the bill clarifies that this money is reserved for projects that target real safety problems and produce real safety benefits. Under the bill, Section 152 projects must reduce the likelihood of the most frequent types of crashes and risk factors—road departures, intersections, pedestrians, bicycles, older drivers, or construction work zones.

Another new State optional use of Section 152 funds in the bill is police assistance for traffic and speed management in construction work zones. Experience around the country shows that the presence of even one marked police vehicle greatly increases motorists' compliance with construction work zone traffic patterns and speed limits, thereby increasing safety for both workers and motorists and improving mobility.

No program can run efficiently and effectively without accurate and timely data and analysis. This bill replaces the annual report referenced above that Congress terminated with a new biennial report about both the Section 130 and Section 152 programs, without creating, an unfunded mandate. With these amendments, States can use these funds to fulfill all data compilation, analysis, and reporting requirements. The Secretary of Transportation will summarize State projects and spending, analyze the effectiveness of the projects in achieving program goals, assess the adequacy of funding and spending relative to the need for safety improvement projects, and recommend funding and program improvements to continue reducing the number of high hazard locations.

Finally, the bill directs the Secretary of Transportation to issue a rule requiring workers who work on or near a federal-aid highway to wear high visibility garments. The Secretary may also require other worker safety-related items deemed appropriate.

Roadway construction zone crashes killed 1,079 people in 2001, up from less than 800 in 1995, according to the U.S. Department of Transportation. Factors contributing to the increase in fatalities include construction work being done in traffic and on compressed schedules requiring more night work, In just five years (from 1995 to 1999), work zone crashes injured about 39,000 people.

This rulemaking provision levels the playing field for contractors bidding on projects on or near federal-aid highways. Contractors will no longer have an incentive to skimp on the availability of workers' high-visibility garments so they can underbid other contractors.

The bill also recognizes that not only construction workers are at risk from vehicular traffic. Roadway and roadside maintenance workers, as well as some utility workers and others, frequently perform duties that put them at high risk of injury from passing motorists. High visibility garments, such as retroreflective vests, help motorists see these workers while drivers can still take precautions to avoid collisions.

Mr. Speaker, I urge my colleagues to move quickly to improve the safety of America's roadways.

IN HONOR OF THE LATE SERGEANT JAMES P. CONNOR, DELAWARE MEDAL OF HONOR RECIPIENT

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. CASTLE. Mr. Speaker, I rise today to pay tribute to the late Sergeant James P. Connor, Delaware's 14th Medal of Honor winner and the only Medal of Honor recipient to be buried at the Delaware Veterans Memorial Cemetery in Summit, Delaware.

This medal was presented to Sergeant Connor, in honor of his distinguished service to this country during WWII. The Medal of Honor, since its inception after the Civil War, remains the country's highest military decoration.

Sergeant Connor was Delaware's only living Medal of Honor recipient, having received the medal for his dedication and leadership to his men on a campaign to protect an Allied landing during WWII. After being seriously wounded by a hanging mine, Sergeant Connor continued to lead his troops onto a French beach, in order to knock out the German positions. In the midst of additional assaults, Sergeant Connor's troops achieved their objective and captured 40 prisoners. Following his retirement from the military, Sergeant Connor continued to be very active in helping to ensure that other Delaware veterans would be remembered.

On November 13, 2002, the Delaware Commission of Veterans Affairs will hold a ceremony to dedicate the circular drive and unveiling of a historical marker at the Delaware Veterans Memorial Cemetery, in honor of Sergeant James P. Connor.

Mr. Speaker, allow me to recognize today, Sergeant James P. Connor, for his valor and commitment to his Country and as an outstanding United States citizen and Delaware resident.

At a time when our Country is facing the possibility of war, it is very fitting for us to remember Sergeant James P. Connor, a soldier who was tremendously dedicated to preserving our Country's freedoms. His commitment to the United States during World War 11 has earned him a permanent place in Delaware's and our Country's history, and I want to commend and thank his family for sharing his tale of heroism with us.

TRIBUTE TO SHERIFF RIECKE CLAUSSEN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. McINNIS. Mr. Speaker, it is my privilege to take this opportunity to honor Sheriff Riecke Claussen of Mesa County, Colorado on the occasion of his retirement from the Mesa County Sheriff's Office. Sheriff Claussen has given countless hours of service to the communities of Mesa County over the years and I am honored to pay tribute to him today before this body of Congress and this nation.

Riecke is a homegrown leader, growing up in the Grand Valley, graduating from Mesa State College, and working his way up the ranks of the Mesa County Sheriff's Office. After obtaining his certification from the Colorado Peace Officers Standards and Training Board, Riecke began working for the Sheriff's Office in 1971 as a Patrol Deputy. In 1974, Riecke was promoted to Sergeant and then to Investigator in 1976. After eight years in that position, Riecke was tapped to become the Lieutenant in charge of Investigations. Then, in 1990, he was elected to Sheriff and began his twelve distinctive years in that post. With over 30 years of service to the residents of Mesa County, Sheriff Claussen's positive impact on the Grand Valley is immeasurable.

Riecke has always been highly active in the community and state, and with the help of his wife, Nancy, has raised their daughter Lisa in the Grand Valley. He has also contributed to several professional organizations and serves as a board member of the Peace Officers Standards and Training Board, the Rocky Mountain High Intensity Drug Trafficking Area Executive Board, the Colorado Attorney General's Victim Assistance Project Board, and the County Sheriff's of Colorado Board.

Mr. Speaker, it is an honor to recognize Sheriff Riecke Claussen before this body of Congress and this nation for his outstanding leadership and impeccable character. The citizens of Mesa County have certainly been honored by the service of Sheriff Claussen and, as he moves into retirement, I look forward to seeing Riecke continue as an important asset to Colorado and the communities of the Western Slope.

TRIBUTE TO MICHAEL J. BUCKLEY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. NEY. Mr. Speaker, on the occasion of his retirement at the end of this year, we rise to thank Mr. Michael J. Buckley for his outstanding service to the U.S. House of Representatives over the past 26 years.

Over the years, Mike has made significant improvements to the financial management of the U.S. House of Representatives. He began his career with the House on January 18, 1977, and served this great institution in numerous capacities, most notably in financial positions within the offices of the Clerk of the House and the Chief Administrative Officer. During the past six years, Mike has served as the Budget Director for the Office of Finance. In this position, he has provided financial guidance to every entity of the House, assisting with such critical functions as projecting annual budgetary requirements and monitoring House expenditures to ensure compliance with laws and regulations. Mike's financial expertise has enabled House entities to maximize the availability of funds to support critical House operations.

On behalf of the entire House community, we extend congratulations to Mike for his many years of dedication and outstanding contributions to the financial management of the House. We wish Mike and his wife Robin many wonderful years in fulfilling their retirement dreams.

TRIBUTE TO "DESTINATION DETROIT" MAGAZINE, EDITED BY DIANE EDGECOMB

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. SMITH of Michigan. Mr. Speaker, I'd like to bring to the attention of my colleagues the Fall 2002 issue of "Destination Detroit," which is edited by a friend with much wisdon, Diane Edgecomb. Diane was the editor in chief of this issue, which focuses on water quality and water availability and the challenges that we will face in coming decades.

One of the themes of this publication that I'd like to touch on briefly is the idea that we need to work worldwide, if we are to help ensure that everyone has access to a sustainable supply of fresh water. The importance that water has in our lives and the complications that arise when there are shortages dictates that we find a solution that transcends borders. I believe that if there is additional action that we as Americans can take to help educate and make this goal a reality it will better serve us in the long run.

Also included in the magazine is an interesting article about how Geographic Information Systems (GIS) have improved our ability to manage water resources. GIS is a comprehensive mapping tool that allows us, among other things, to assess the volume of a region's water supply and locate the source(s) of that water. Using this tool we can anticipate problems and develop innovative solutions before there is a crisis.

I would encourage every member of Congress to take the time to review the Fall 2002 issue of "Destination Detroit" for themselves. I have sent copies to the relevant committees and there are copies available in both the Republican and Democratic Cloakrooms.

PROCLAMATION HONORING BRENT LANER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. NEY. Mr. Speaker, whereas, Brent Laner has exemplified leadership for the Ohio Highway Patrol as a state trooper for 25 years, serving with distinction at the New Philadelphia post for 15 years; and

Whereas, Brent Laner was chosen five times by his fellow officers to receive their post Trooper of the Year award and is to be commended for his hard work, devotion to duty, and willingness to serve our community; and

Whereas, Brent Laner has been an enthusiastic and loyal public servant in the Ohio Highway Patrol for Ohio's citizens;

Therefore, I join with the residents of the entire 18th Congressional District in congratulating Brent Laner on his retirement after 25 years of public service to the Ohio community.

PAYING TRIBUTE TO DURANGO/LA PLATA COUNTY AIRPORT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to recognize the men and women of Durango/La Plata County Airport for their service and dedication during one of Colorado's most formidable fire seasons. Last summer, the men and women of the Durango/La Plata County Airport played an integral role in containing the Missionary Ridge forest fire that burned over 70,000 acres in Southwestern Colorado. Today, I would like to pay tribute to their heroic efforts before this body of Congress and this nation.

When the Missionary Ridge fire first erupted last June, the citizens of Durango, Bayfield and the surrounding communities called upon the Durango/La Plata County Airport to protect their loved ones, homes, and communities from what would become the worst fire in area history. The fire began in a ditch beside Missionary Ridge Road just 15 miles northeast of Durango and grew to consume more than 70,000 acres, 56 residences, and 27 outbuildings.

Although the Missionary Ridge fire was a devastating reminder of how destructive forest fires can be, it also served to remind us of the men and women who risk their lives to protect their fellow citizens on a daily basis. The Durango/La Plata County Airport aided firefighters with slurry bombings to help contain fires that were too severe to contain from the ground. They also provided valuable medical supplies to fire fighters who had been injured during the event.

Mr. Speaker, it is with sincere admiration that I recognize the men and women of Durango/La Plata County Airport before this body of Congress and this nation. I want to commend everyone at the Durango/La Plata Airport for their determination, courage, and resolve during last summer's efforts on Missionary Ridge. Without the help of the men and women of the Durango/La Plata Airport and others, the added devastation to our community, environment, and quality of life would have been unimaginable. Their tireless commitment throughout the last summer's fire season has served as an inspiration to us all and it is an honor to represent such an outstanding group of Americans in this Congress.

GREAT LAKES AND LAKE CHAMPLAIN ACT OF 2002

SPEECH OF

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. DUNCAN. Mr. Speaker, included in Title III of the Senate Amendment to H.R. 1070 is an authorization of $1 million for the Administrator of the Environmental Protection Agency to establish a center for Brownfields Excellence.

The purpose of this center is to demonstrate opportunities for public-private partnerships and regional cooperation to facilitate the redevelopment of closed Federal facilities, the transfer of technology from the public sector to the private sector, and the return of such property and technology to productive use.

A prime example of this activity can be found in East Tennessee. The closure of major portions of Oak Ridge stranded a very skilled workforce and abandoned a great deal of infrastructure. Working together on a regional basis, local governments, businesses and members of the community have been able to return parts of Oak Ridge to productive use, and facilitate the transfer of technology to the private sector, bringing back jobs and investment to the region.

These efforts in East Tennessee should serve as a national model to promote new opportunities for brownfields redevelopment around the country.

REMEMBERING NEW MEXICO'S RICHARD ROCCO

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. UDALL of New Mexico. Mr. Speaker, last month New Mexico lost a real hero. Richard Rocco, an Army Medic in the Vietnam War who received the Medal of Honor for rescuing severely wounded fellow crewmen from the wreckage of a downed helicopter under enemy fire, died of cancer on October 31 at his home in San Antonio, Texas. He was 63.

On May 24, 1970, Mr. Rocco, a sergeant, was aboard a medical evacuation helicopter that was shot down on a mission to remove wounded South Vietnamese troops besieged near the village of Katum. Mr. Rocco suffered back injuries, a broken hip and a broken wrist, and the other four crew members were shot. Brave and determined, Mr. Rocco went back to the helicopter and carried the co-pilot, the crew chief and another medic to cover, one at a time, crossing 20 yards of open ground under a hail of fire, his hands and face burned by flames engulfing the helicopter. The next day, two American helicopters were shot down trying to evacuate the crewmen, who had called in artillery and air strikes on their own position to turn back an assault by North Vietnamese troops. However, all five crew members were rescued on that second day.

The commander of the First Cavalry Division visited Mr. Rocco at the hospital and told him he had been recommended for the Medal of Honor. He heard nothing else about it until 1974, when he was stationed at Fort Campbell, Kentucky, and was told he would receive the medal, the nation's highest award for valor.

Mr. Rocco had not known that the co-pilot he saved, Lt. Lee Caubarreaux, had been lobbying in his behalf. In March 1971, while Mr. Caubarreaux was preparing for a medical retirement in Texas, the Medal of Honor recommendation was mailed to him by a warrant officer in the First Cavalry Division awards office in South Vietnam who had found it in a desk drawer.

Mr. Caubarreaux appealed to Army authorities to approve the award, and then recounted Mr. Rocco's efforts to Senator Russell Long of Louisiana, Mr. Caubarreaux's home state. Those efforts finally prevailed when President Gerald R. Ford presented the Medal of Honor to Mr. Rocco on December 12, 1974. The medal requires even generals to salute its recipients.

Louis Richard Rocco, a native of the Barelas neighborhood of Albuquerque, retired from the Army as a chief warrant officer in 1978 after 22 years of military service. He reenlisted in 1991, in the Persian Gulf War, and spent six months at Fort Sam Houston, Texas, recruiting military personnel.

Mr. Rocco worked extensively as a veterans counselor. In 1978 he started the Vet Center on Fourth Street which created a host of services and programs for veterans. Besides the Vet Center, Mr. Rocco started a shelter for homeless veterans, a nursing home in Truth or Consequences and tuition waivers for veterans attending state-run colleges. During the administration of New Mexico Governor Toney Anaya he was named the director of the Veterans Service Commission. In recent years, even as his health failed, he also spoke to schoolchildren about drug abuse on behalf of Vietnam Veterans of America.

As a testament to the impact that Mr. Rocco has had on his fellow New Mexicans, on October 12 of this year a South Valley Park next to the Westside Community Center was named after him: The Richard Rocco Medal of Honor Park and a stone monument placed there in his honor. Plans are also underway for a bronze bust of Mr. Rocco to be made and placed inside the old Armijo School near the park—where he went to school growing up. Although seriously ill, Mr. Rocco came to the ceremony organized by veterans throughout New Mexico. He called the naming of the park "an honor that I hold above presidents and legislators, because these are my people. For them to honor me, it makes me feel so good."

In addition to his wife, Maria, three children, five grandchildren, his mother, one brother and four sisters survive Mr. Rocco. I extend my deep condolences to the Rocco family and all who knew him. My thoughts and prayers are with them.

Mr. Speaker, as the only member of the New Mexico congressional delegation serving on the Veterans Affairs Committee, I wanted to inform my colleagues about this heroic and extraordinary man. Richard Rocco's historic and noble acts have given New Mexicans reason to hope, reason to be proud, and reason to champion the veteran. I ask my colleagues to join with me to pay tribute to Richard Rocco for his courageous actions, on that day so long ago.

HONORING IOWA VOLUNTEER

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. NUSSLE. Mr. Speaker, I rise to recognize the achievements of Alyssa Hall from Epworth, Iowa. A high school student, Alyssa attended my 2001 Youth Summit in Dubuque.

During the youth summit each year, spending a full day with young Iowans encourages me about the future of our state and nation. Alyssa Hall is part of an outstanding group of students who have an enormous amount of ability and potential to make the world that surrounds them a better place.

I challenged those students attending the summit in Dubuque to become active in their local areas and to let me know about their experiences. I asked them to perform some sort of service to enhance the communities they call home.

I was very pleased to hear recently from Alyssa about her volunteer experiences with the Epworth Gateway Gardeners, a nonprofit organization dedicated to making their hometown a more beautiful place to live.

Alyssa embraced my challenge and took action. Throughout the spring and summer months Alyssa joined the Gateway Gardeners in creating a butterfly garden near a new town walking path. She worked hard, got a little dirt under her nails and especially enjoyed tending to an area with pink petunias, Epworth's official flower.

It is clear that Alyssa found the time she spent with the Epworth Gateway Gardeners to be both enjoyable and rewarding. I am sure her friends, neighbors and fellow volunteers are very appreciative of her time and effort.

I want to publicly thank Alyssa for her hard work. I hope she will continue her dedication to community service in the future. She is an outstanding young American, and I am especially proud of her efforts to make Iowa a better place.

HONORING EMMIT J. SMITH

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to honor a legendary athlete, philanthropist and role model, Dallas Cowboys running back Emmitt J. Smith III, for his exceptional achievements on and off the playing field.

On Sunday, October 27, 2002, Smith made history by becoming the National Football League's all-time leading rusher, surpassing late Chicago Bears great Walter Payton. With a powerful, 11-yard carry against the Seattle Seahawks, Smith pushed his career total in rushing yardage to the 16,728 mark, moving him two yards ahead of the record that Payton (16,726) set in 1987.

However, his achievement as the NFL's all-time top rusher is just one of many accomplishments that Smith can boast. Throughout his 13-year career in professional football, he has compiled an outstanding resume of accomplishments as a star running back and valued teammate. He has led the Dallas Cowboys to three Super Bowl titles while also claiming Super Bowl MVP honors. In 1993, he won the National Football League Most Valuable Player Award.

Smith is the winner of four NFL rushing titles and is the first player in NFL history to rush for over 1,000 yards in 11 consecutive seasons. He is also the NFL's career rushing touchdown leader. What's more, he has accomplished all of these goals while wearing a Dallas Cowboys uniform, making him a hometown hero for the Thirtieth Congressional District of Texas and the entire Dallas-Fort Worth area.

His performances on the field are only overshadowed by one thing: his incredible public service off the field. Smith has become Dallas's goodwill ambassador to the world through his dedication to improving the lives of young people everywhere.

His work to aid programs for youth and children in a range of areas from student mentoring to anti-drug education to physical fitness is impressive. Among the numerous activities Smith has championed throughout his career, he has served as the Cowboys' United Way spokesman and supported Big Brothers/Big Sisters, The Kidney Foundation, Oak Cliff (TX) Little League, Buckner Children's Home of Texas, The Salvation Army, American Lung Association, the Battered and Abused Children's Foundation, B.A.D (Boxers Against Drugs) and Theater Arts for Youth. He has also worked with children through the Make-A-Wish Foundation, hosting many visits at the Cowboys' Valley Ranch practice facility during the season.

Smith also co-founded the Open Doors Foundation, a not-for-profit that supports organizations and faith-based programs to provide educational, motivational and financial services to today's youth, with a special emphasis on narrowing the digital divide. In June 2002, he was appointed by President Bush to serve on the President's Council on Physical Fitness and Sports and educate millions of American children about the importance of staying healthy.

Mr. Speaker, for all of his record-breaking, awe-inspiring athletic achievements, for all his selfless work in the community to serve as a role model for youth and to help those less fortunate, and for his time spent as an outstanding husband, father, and citizen, I rise to salute Emmitt Smith. He is a Texas treasure and a national icon, and I join the legions of Dallas Cowboy fans in congratulating him and his family on this momentous occasion. Go Cowboys!

HONORING TED MALIARIS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. GORDON. Mr. Speaker, I rise today to commend Ted Maliaris for his efforts to promote patriotism around the Nation through music.

Ted Maliaris is now touring the United States performing "A Tribute to America—A 21st Century Anthem" which was composed by his mother, Ann S. Miller in response to the tragic events of September 11, 2001. The Anthem is dedicated to our Armed Forces, to our men and women in uniform, and all Americans who need to carry on in this time of crisis. By performing the Anthem with children's groups across America, Ted Maliaris hopes to inspire and promote patriotism for our great nation through song.

Please join me in congratulating Ted Malaris for his service to America through the arts.

PAYING TRIBUTE TO CORTEZ FIRE PROTECTION DISTRICT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to recognize the Cortez Fire Protection District based in Cortez, Colorado for their service and dedication during one of Colorado's most formidable fire seasons. Last summer, the Fire Protection District played an integral role in containing the Missionary Ridge forest fire that burned over 70,000 acres in Southwestern Colorado. Today, I would like to pay tribute to their heroic efforts before this body of Congress and this nation.

When the Missionary Ridge fire first erupted last June, the citizens of Durango, Bayfield and the surrounding communities called upon the Cortez Fire Protection District to protect their loved ones, homes, and communities from what would become the worst fire in area history. The fire began in a ditch beside Missionary Ridge Road just 15 miles northeast of

Durango and grew to consume more than 70,000 acres, 56 residences, and 27 outbuildings.

Although the Missionary Ridge fire was a devastating reminder of how destructive forest fires can be, it also served to remind us of the men and women who risk their lives to protect their fellow citizens on a daily basis. The Cortez Fire Protection District has served the citizens of Cortez since 1886 and operates from three fire stations. The district relies on a fulltime Fire Marshall and 36 volunteer firefighters, prepared to fight fires or provide medical assistance on a moment's notice.

Mr. Speaker, it is with sincere admiration that I recognize the Cortez Fire Protection District before this body of Congress and this nation. I want to commend the Cortez volunteer firefighters and their support staff for their determination, courage, and resolve during last summer's efforts on Missionary Ridge. Without the help of the Cortez Fire Protection District and others, the added devastation to our community, environment, and quality of life would have been unimaginable. Their tireless commitment throughout the fire season has served as an inspiration to us all and it is an honor to represent such an outstanding group of Americans in this Congress.

CONGRATULATIONS TO ST. SAVA SERBIAN ORTHODOX CHURCH IN MERRILLVILLE, IN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and enthusiasm that I congratulate the members of St. Sava Serbian Orthodox Church in Merrillville, Indiana as they celebrate their 88th anniversary, as well as the 11th anniversary of their present sanctuary's consecration. The festivities will begin on Sunday, November 17, 2002 with a special service, followed by a banquet to celebrate this momentous occasion.

Beckoning visitors who are traveling on Interstate 65, the golden domes of St. Sava offer an amazing spectacle. However, it is the interior of the church that the parishioners hold sacred. Built from Indiana limestone in a five-year construction project, the present sanctuary located at 9191 Mississippi Street in Merrillville replaced the original St. Sava Church, built in 1914 in Gary, Indiana, after that church was destroyed by fire. The dedicated members of the church came together to worship at the St. Sava "small hall" in Hobart Indiana while plans were made for their new sanctuary. Undeterred by the loss of their church building, the congregation demonstrated their commitment to each other and to their faith by carrying on with their services at the "small hall" for 13 years.

Mr. Speaker, St. Sava Serbian Orthodox Church is led by the Very Reverend Jovan Todorovich. The Very Reverend Todorovich has been the priest at the church for 33 years, and the parishioners are thankful for the spiritual and emotional leadership he has provided during that time. Church President Michael Galich has attended St. Sava since 1946 and is proud that the church has been able to maintain the Serbian traditions and customs that make their church unique. Because the congregation has been blessed with tremendous leadership and good fortune throughout its history, it is appropriate that the celebration of the church's anniversary will be held near the Thanksgiving holiday.

The Very Reverend Todorovich, along with his Grace Bishop Longin, and Father Irinej Dobrijevich will serve the Holy Hierarchical Liturgy the morning of November 17, which will be followed by a memorial service to be conducted by representatives of a local American Legion at the adjacent Memorial Park to commemorate the fallen soldiers of all wars. The celebration banquet will conclude the festivities, led by keynote speaker Scott Taylor, a former soldier, and author of a book detailing the military action in Yugoslavia and Macedonia following the NATO occupation of Kosovo.

Mr. Speaker, at this time I ask that you and my other distinguished colleagues join me in congratulating the congregation of St. Sava Serbian Orthodox Church as they celebrate the 88th anniversary of their parish. Blessed with outstanding leadership and unwavering faith, the congregation of St. Sava has enriched Northwest Indiana by bringing the proud and historic Serbian traditions to our community. May God continue to bless the parishioners and the church leaders for many years to come.

A TRIBUTE TO THE 100TH ANNIVERSARY OF THE PAN AMERICAN HEALTH ORGANIZATION

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. RODRIGUEZ. Mr. Speaker, I rise today to pay tribute to the Pan American Health Organization, which celebrates its 100th anniversary this year. PAHO is the oldest international health organization in the world, and serves as the Regional Office of the Americas for the World Health Organization. It is headquartered in Washington, D.C. and has a U.S.-Mexico Border Field Office in El Paso, Texas, as well as country offices in 27 nations throughout the Americas and nine scientific and technical centers.

This year, as we celebrate the Centennial of the Pan American Health Organization, we also celebrate the notable health achievements of the countries of the Americas, with the support of PAHO.

One hundred years ago, public health in the Americas was an uncoordinated jumble, as individual countries made separate efforts to protect themselves and their people against the threat of "imported" diseases. Yet over the next century, through coordinated action, health progress unrivaled in history swept the Western Hemisphere as health leaders joined together to fight disease and to bring water, sanitation, and health services to millions.

The achievements of the countries of the Americas, led by the Pan American Health Organization over the last century, tell a story of ongoing progress: Measles, smallpox and polio have been eradicated from the Americas.

In the wake of the terrorist attacks on the United States in 2001 and with the threat of bioterrorism, the countries of the Americas are enhancing their emergency preparedness capabilities, improving their surveillance and response to outbreaks of infections, and expanding their laboratory capacity to diagnose agents used in bio-terrorism. Disaster and public health experts are being trained to prepare for and manage biological, chemical and radiological incidents.

A new "Building Blocks Model for HIV/AIDS Comprehensive Care" program is improving care for the 2.6 million people in the Americas who are infected with HIV.

Life expectancy at birth rose from less than 50 years at the start of the last century to 69.8 years in Latin America and the Caribbean, and to 76.9 years in North America today.

Efforts to promote quality control in blood services in the region have reduced the risk of diseases transmitted by blood transfusion by one-half.

Water supply and waste disposal services have improved significantly in many countries, with coverage exceeding 90 percent in some of them.

Progress is on track toward elimination of onchocerciasis, targeted for 2007.

Regional information systems have been developed for epidemiological surveillance of food borne diseases and for food legislation and regulations that both protect and favor international trade.

Progress toward the eradication of foot-and-mouth disease has been stepped up, and the original date for achieving eradication, 2013, has been advanced to 2007.

There has been a 65 percent reduction in leprosy in the region since 1992.

A health information system now enables front-line health workers to analyze health trends and health inequities between and within countries and, on the basis of that analysis, to target the most needy.

Laws have been passed on a broad spectrum of health issues, including health of the elderly, mental health, adolescent health, safe motherhood, vaccination, blood banks, and health insurance.

Intense work in emergency preparedness enabled countries to prepare for and mitigate the effects of many natural disasters, including Hurricane Mitch and the deadly floods in Venezuela.

Eighteen countries of the region have established national plans to fortify food with micronutrients such as iron, iodine, and vitamin A.

I would like to commend Sir George A.O. Alleyne of Barbados, for his eight years of exemplary service as the Director of the Pan American Health Organization. The reputation that PAHO now enjoys with the U.S. Congress and the Executive branch is a direct attribute to the steadfast efforts by Dr. Alleyne and the excellent work by the entire organization.

I would also like to acknowledge Dr. Mirta Roses Periago of Argentina on recently being elected to be the new Executive Director of PAHO. She will be the first woman and first Argentine to lead the world's oldest international health organization.

As PAHO enters its second century of service, I hope we can continue the path of achievement. The region certainly faces numerous ongoing challenges, but together, across regional and national lines, we can join in this great effort to improve the lives of everyone living in the Americas.

A PROCLAMATION RECOGNIZING AUTUMN FRONTZ

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. NEY. Mr. Speaker, whereas, Autumn Frontz is a heroine who saved her baby sister, Samantha Lynn, from choking; and

Whereas, Autumn Frontz acted quickly, without hesitation, proving herself to be remarkably responsible and caring; and

Whereas, Autumn Frontz is an asset to her family and the entire New Philadelphia community in her willingness to help others;

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Autumn Frontz for her selflessness and heroism.

IN HONOR OF JOHN C. BANUELOS FOR HIS SERVICE AND DEDICATION TO OUR NATION

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Ms. SANCHEZ. Mr. Speaker, today I rise to pay tribute to John C. Banuelos, in memory of his service to the community as a loyal citizen and as a proud member of our Armed Services during World War II.

Mr. Banuelos was born on January 26, 1921. He and his three brothers were Pioneer Farmers from Orange County. The four brothers went on to serve together in the Army during World War II. John served in the South Pacific theatre of operation where he led reconnaissance missions in the jungles of the Philippines and Japan. Some of his most notable experiences included personally meeting General Douglas MacArthur and befriending his family. Toward the end of the War, he participated in the guarding and transportation of gold and currency shipments seized from Japan. As ground force squad leader "761," John led a group of 12 men who escorted generals from Tokyo to camps, inspected quarters for families of military personnel, and made reports on inspections.

Always proud but reserved and modest about his military experiences, John was awarded the expert M–1 classification in February of 1945, later receiving a personal letter on behalf of the United States from President Harry Truman. In addition, Staff Sergeant Banuelos' meritorious achievements included receiving the Victory Medal of Honor, the Asiatic Campaign medal, and a Good Conduct medal. Mr. Banuelos and his family are truly a distinguished part of our nation's military history.

Mr. Banuelos will be remembered for his service to our country and the community. As his Representative in Congress and as a member of the Armed Services Committee, I am proud to recognize John C. Banuelos for his contributions to our nation.

CONFERENCE REPORT ON H.R. 4546, BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

SPEECH OF

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. DINGELL. Mr. Speaker, while there may be many worthwhile provisions in this bill, I strongly oppose the unnecessary and unwarranted exemption contained in Section 315 for the Department of Defense (DOD) from the Migratory Bird Treaty Act of 1918, our Nation's oldest conservation law. The Migratory Bird Treaty Act provides protection for over 850 species of migratory birds, including many that are threatened or endangered. The Act also sets forth U.S. obligations under four separate treaties to protect migratory birds and guide cooperative conservation management with Canada, Mexico, Japan, and Russia.

The provision which was inserted at the Bush Administration's request will effectively give the Defense Department license to bomb and destroy at will the natural habitats of migratory birds, endangering more than one million birds and curtailing the enjoyment of more than 50 million bird enthusiasts in this country. The provision will also provide an exclusive legal immunity from third-party lawsuits which challenge DOD non-compliance with the Act.

I have dealt with the military for years and they constantly seek to get out from under environmental laws. It is despicable that they are now using the threat of September 11 and al Qaeda to get unprecedented environmental immunity. We have fought two World Wars, the Korean War, Vietnam, and the Persian Gulf War with this law in place, and there is no demonstrated need to exempt the Department of Defense now.

I raised concerns about this provision when H.R. 2456 was being considered and passed by the House. This environmental exemption was rushed through without significant public scrutiny. No hearings were held on the specifics of the proposal. Only one hearing was held in the House Armed Services Committee on the general issue and only the DOD and Federal government agencies were allowed to testify. Other stakeholders, such as state and local governments, industry representatives, tribal governments, and citizen groups did not have a full opportunity to participate in hearings on the bill. This provision falls under the jurisdiction of the Committee on Resources and that is where the reviews and debate of this issue should have taken place.

Mr. Speaker, the Secretary of the Interior already has the authority under current law to issue permits for actions that might kill, harm or injure migratory birds in the course of government activities. In addition, the U.S. Fish and Wildlife Service and DOD have been developing regulations pursuant to Executive Order 13186 to resolve migratory bird disputes. And, in March 2002, a U.S. court recognized for the first time the DOD must comply with MBTA and ordered the military to apply for the administrative remedy already available. The DOD has chosen to fight this court ruling in the case of Center for Biological Diversity vs Robert B. Pirie, Jr., Acting Secretary of the Navy; Donald H. Rumsfeld, Secretary of Defense, (U.S. District Court for the District of Columbia).

The members of this body should also be aware of the ridiculous arguments that the DOD was making in court to support its efforts to exempt itself.

In the above-mentioned case, the DOD claimed:

> . . . plaintiffs have suffered insufficient injury because the more birds that the defendants (DoD) kill, the more enjoyment Mr. Frew (a plaintiff) will get from seeing the ones that remain: "bird watchers get more enjoyment spotting a rare bird than they do spotting a common one."

Let me also quote Judge Sullivan's finding with respect to DoD's argument (on page 17 of his opinion):

> Suffice it to say, there is absolutely no support in the law for the view that environmentalists should get enjoyment out of the destruction of natural resources because that destruction makes the remaining resources more scarce and therefore valuable. The Court hopes that the federal government will refrain from making or adopting such frivolous arguments in the future.

I also oppose the bill's provisions concerning the Price-Anderson Act, which are incomplete, insufficient, and fail to protect the public interest.

First, let me make clear that I am a strong supporter of the Act's reauthorization, and believe the best course at this late date would be for the other body to approve H.R. 2983, the Price-Anderson reauthorization passed by the House last November on suspension. Second, it is highly regrettable that this issue has been allowed to languish and, as a consequence, the Act lapsed in August. It is equally regrettable, however, that when my colleagues on the Armed Services Committee chose to address the Department of Energy (DOE) contractor issue in this bill, they did not take the logical step of including reforms from H.R. 2983 to make contractors accountable for irresponsible actions that harm the public.

Under current law, DOE contractors are completely indemnified for accidents involving nuclear materials, even if the accident resulted from willful misconduct or gross negligence. This means that the taxpayer actually is required to reimburse a contractor for the cost of public harm caused by its own misconduct.

No other government contractor enjoys the right to unconditional indemnification, even those engaged in nuclear or other hazardous work for the defense agencies. When the House passed its version of Price-Anderson reauthorization, that bill included a bipartisan provision which prohibited indemnification of contractors for "conduct which constitutes intentional misconduct." The DOE claims that despite the current law's safety disincentive, it is necessary to secure contractors' services. I cannot imagine why the Department should even wish to hire a contractor who is not willing to be held accountable for its intentional misconduct.

Finally, it is my understanding that several contractors have signed contracts with DOE since the Act lapsed in August, under alternate statutory authority which can continue to fill the gap until Congress has an opportunity to address this issue thoroughly next year. In other words, there is no emergency that needs to be addressed in this bill, and in any event no reason for Congress to continue the unjustifiable policy of unconditionally indemnifying DOE contractors for intentional misconduct.

Mr. Speaker, in adopting the Migratory Bird Treaty Act exemption for DOD one of our Nation's most important environmental laws has been undermined. And by providing total indemnification for DOE contractors, even when they engage in intentional misconduct, we reduce public safety. Therefore, I rise in opposition to this conference report.

HONORING CORPORAL ANTONIO SLEDD

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. DAVIS of Florida. Mr. Speaker, I would like to take a moment to honor Corporal Antonio Sledd for his courage and sacrifice for our country. On October 8, 2002, Tony was killed when two Kuwaiti terrorists opened fire on members of the 11th Marine Expeditionary Unit training in the Persian Gulf.

Tony was born in San Juan, Puerto Rico, but grew up in Tampa, where he attended Gaither High School. After graduating in 2000, Tony joined the Marines and earned the National Defense Service medal for serving during a time of conflict and a Deployment Ribbon for serving abroad for more than 90 days. At his funeral, he was awarded the Purple Heart and promoted from Lance Corporal to Corporal.

Friends and family remember Tony for his enthusiasm and devotion to his country. It was Tony who encouraged his twin brother, Michael, to join the Marines. Tony was planning a lifetime of service—after serving in the military he hoped to earn a degree in criminology, so he could pursue a career in the FBI.

Tony's friends call him a hero and remember his sense of humor and how he went out of his way to take care of others. In honor of Tony, the community created a Gaither High School Education/Scholarship Fund to help future students who share Tony's dreams.

On behalf of the Tampa Bay community, I would like to extend my deepest sympathies to Tony's family. He was an American hero who will be remembered for his courage and sacrifice.

TUBERCULOSIS AND TUCKER HIGH SCHOOL

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Ms. MCKINNEY. Mr. Speaker, I rise today to call attention to a forgotten disease, which is anything but forgotten right now in my congressional district. A number of students and administrators at Tucker High School in DeKalb County, Georgia are learning more than they care to know about tuberculosis.

Last week, about 200 Tucker High School students and staff had to be tested and treated after someone at the high school tested positive for tuberculosis. Tuberculosis is the forgotten disease, and as history continues to show us every time we forget and ignore TB, we are doomed to repeat history with continued outbreaks of tuberculosis as well as stronger strains of the disease such as multidrug resistant tuberculosis. Every time government agencies are forced to cut back on funding for tuberculosis programs the rate of infection increases in populations who need our help the most.

Tuberculosis is truly a global disease, with more than 2 billion people around the world carrying the infection. Right here in the United States, the South has one of the highest rates of TB infection because of the vast health disparities between blacks and whites. African Americans have higher rates of TB in the United States because of poverty conditions in the South and in urban areas. Because of that poverty, African American also have a difficult time accessing tuberculosis medications and primary care treatment for the disease.

That is why I am a co-sponsor of H.R. 1167: The Comprehensive Tuberculosis Elimination Act of 2001 and H.R. 1168: The Stop TB Now Act. This legislation effectively implements recommendations listed in an Institute of Medicine report entitled "Ending Neglect: The Elimination of Tuberculosis in the United States". These recommendations attack tuberculosis on a national and international level. The legislation does so by increasing the authorized funding levels for both the Centers for Disease Control and Prevention (CDC) as well as the National Institutes of Health (NIH), giving them more ammunition to fight this treacherous disease here in the United States and abroad.

We in the Congress have an unprecedented opportunity to eliminate tuberculosis in the United States and reduce this scourge, so other high schools do not have to go through the same trauma and interruption of their daily lives as the students, staff, and faculty have faced at Tucker High School. I urge the House of Representatives to pass H.R. 1167: The Comprehensive Tuberculosis Elimination Act of 2001 and H.R. 1168: The Stop TB Now Act.

REGARDING THE RETIREMENT OF GEORGE O. WITHERS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. SKELTON. Mr. Speaker, this is the time of year that we say farewell to some old friends. That's never easy. But it is even harder when the friend in question spent considerable time and energy helping make us all look good.

George Withers, who is leaving the Armed Services Committee staff at the end of this year, came to Capitol Hill in 1978. He had served his country in the Navy during Vietnam. But he has spent twenty-four years proving that national service doesn't end when you take off the uniform. As legislative director on a personal staff, then press secretary and a professional staff member of the committee, George has made America better every day.

A lot of young go-getters come to work on the Hill, Mr. Speaker. But George proved that you don't have to be obnoxious to get things done. His real sense of decency and values have provided a reference and example for not only the Armed Services Committee staff, but all of us who worked with him.

George has been the conscience of the committee staff. He is a devoted advocate for those Americans who most need and deserve Congress's protection. Discussions of national security can get pretty esoteric,, but George makes sure that we keep our focus on people, both those in uniform and those our military exists to protect. As a former enlisted man and NCO, he never lets the former officers on the staff forget who the real troops are.

Mr. Speaker, while our staff works in a nonpartisan way, George is a determined, thoroughgoing, old-school Democrat. But look at the pictures on his office walls. Yes, he has photos of himself with our former colleagues Ron Dellums and Silvio Conte. But there's John Kasich, too, and President Bush. All of which speaks to the fairness and openmindedness with which George approached his job. He lets his political beliefs inform his work, but never get in the way of doing what was right for the country.

To my way of thinking, George has only one flaw. The B–2 bomber is the pride of Whiteman Air Force Base, in my district. George led the fight at the staff level against the B–2, and succeeded for quite some time. In gratitude for George's exemplary service, I promise not to have one named for him.

In recent years, George's primary duties have concerned the military construction budget. Every member of this body whose district has received military construction funds—and that's most of us—has George Withers to thank.

But he was also our committee's driving force on policies concerning Latin America. Whether the question was the naval bombing on Vieques or the United States' role in Colombia, George fought for a sensible, humble foreign policy.

George's decency doesn't stop at the Capitol door, either. When he isn't here—during the few hours each year we let the staff out—

George actively supports charities. He loves riding his bike, and he loves it even more when he's getting contributions for every mile he rides.

While he will tell you that he loves his work here, just ask him about his children, Sam and Lizzie. You'll see what love really means by the sparkle in his eyes. And we were all thrilled when George married Donna earlier this year. His departure from our little world means that he will have even more opportunities to love and care for them, and even his cat, Tom. But I warn you, George, cats don't always love you back.

I will miss George Withers cheerful counsel personally. The Congress will be poorer for his departure. But the real accolade is that people around the world who will never know his name have better lives today because George Withers was part of this House.

HONORING HERBERT D. AND ELEANOR MEYERHOFF KATZ

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. DEUTSCH. Mr. Speaker, it is with great pride that I rise today to honor community leaders, Herbert D. and Eleanor Meyerhoff Katz, for their strong commitment to the Jewish community on a local, national, and international level. Their dedication and distinguished leadership has enabled many communities to be stronger and more vibrant while maintaining a deep connection to their Jewish roots and culture.

As a couple, Herbert and Eleanor have served as a model for the concept of charity. However, each has taken on numerous leadership roles on their own. The United Jewish Community of Broward County was formed under the direction and guidance of Mr. Katz. He is a past-president of the Jewish Federation and was an integral leader in the creation of the UJCBC, which combined two existing federations and now serves the 3rd largest Jewish community in America. Mr. Katz's other posts include: President of American Friends of the Hebrew University of Jerusalem; Vice Chair of the United Jewish Appeal; recipient of a Presidential Appointment to Board member of the United States Holocaust Memorial Council; Secretary/Treasurer of the American Israel Public Affairs Committee; University of Pennsylvania Associate Trustee and Chairman of the Board of Overseers for the Center for Advanced Judaic Studies.

Eleanor Meyerhoff Katz is a graduate of Wellesley College, and has been heavily involved in education. Mrs. Katz is a longstanding Board member of the Jack and Rose Orloff Central Agency for Jewish Education. She is also a member of the Executive Committee of Hillel, The Foundation for Jewish Campus Life, Chairman of the Board for Curry College, a Board member for the Washington Institute for Jewish Leadership and Values, a past president of the Beth Shalom Day School and the Jewish High School of South Florida, and a committee member for the Jewish Federation of South Broward.

Mr. and Mrs. Katz were also instrumental in establishing the Chair for the Joseph Meyerhoff Professor of Modern Jewish History at the University of Pennsylvania.

The Katzs have played an integral part of life in South Florida. Their commitment and love for their community has led them to take a leadership role in the Community Capital Campaign for the United Jewish Community of Broward County, with the new Eleanor M. and Herbert D. Katz Building, which will house many religious organizations and serve as a focal point for Jewish life.

Mr. Speaker, it is indeed a truly special occasion that I stand here today and commend these fine individuals for their outstanding achievements and service to the world community. Their unparalleled dedication to the ideas of community serve as an example for us all.

COMMEMORATING THE 50-YEAR ANNIVERSARY OF THE WESTLANDS WATER DISTRICT

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. DOOLEY. Mr. Speaker, I rise today to pay tribute to the Westlands Water District, which celebrates its 50-year anniversary on November 17, 2002. I have the privilege of representing many Westlands water users in Congress.

The Westlands Water District encompasses over 600,000 acres, of which 560,000 acres are applicable for irrigated agricultural production in Fresno and Kings counties. Westlands is comprised by approximately 600 family-owned farms and 2,400 landowners, making Westlands the largest water district in the world.

For 50 years, the Westlands Water District has been a leader in innovative irrigated agriculture and water resource utilization in the Western United States. Through its irrigation practices, Westlands and its farmers have helped develop the west side of the San Joaquin Valley into one of the leading agricultural producing regions in the world.

Farming in the area known as Westlands began during California's Gold Rush era. Irrigated agricultural production began around 1915 and by 1942, landowners organized to develop a water supply system.

Westlands Water District itself was formed in 1952 and began delivering contracted water from the U.S. Bureau of Reclamation to farms on the west side of the San Joaquin Valley in 1968.

The leadership that has characterized the first 50 years of the Westlands Water District has helped to make the west side of the San Joaquin Valley a unique place of opportunity for families and small businesses.

Today the farmers of Westlands produce over 60 different commercial food and fiber crops sold for fresh, dry, canned and frozen food markets, both domestic and for export. The estimated annual production value of agricultural commodities produced in Westlands is $1 billion, which generates approximately $3.5 billion in related economic activity for Fresno and Kings Counties.

Mr. Speaker, I ask my colleagues to join me today in congratulating the Westlands Water District for fifty years of valuable service to the residents of the west side of the San Joaquin Valley and in wishing them continued success in the future.

HONORING AND REMEMBERING JUDGE LOYS CRISWELL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Judge Loys Criswell, soldier of justice in the State of Oklahoma, farmer, beloved husband, father, and friend to many.

A life-long resident of Oklahoma, Judge Criswell grew up in the town of Duke during the difficult years of the Great Depression. During his formative years, violence and shoot-outs were commonplace along the streets of Duke, and justice and accountability were non-existent. Judge Criswell lost several relatives and friends in these conflicts. So impactful were the events of his youth that Mr. Criswell dedicated his entire adult life to administering justice, and offering hope and rehabilitation to offenders.

Judge Criswell was also committed to social justice issues and equal opportunity for everyone. When he learned of the plight of the babies of Mexican migrant workers dying from dysentery, Judge Criswell sprung into action and assisted the Southwest Oklahoma Migrant Ministry in developing better housing and improved conditions for migrant workers.

As a highly effective prosecutor and later a juvenile and family judge for many years, Judge Criswell's keen understanding of the history and nuances of our intricate legal system, along with his strong sense of justice—tempered by compassion and his belief in redemption for offenders—profoundly impacted the lives of thousands of individuals and families, and helped improve the overall quality of life for everyone within his region of Oklahoma. As county attorney in Altus, Mr. Criswell eliminated close to twenty illegal operations in the county, and in other rural parts of the area. His intelligence and unwavering belief in the American judicial system were unmatched by none, as was his deep sense of compassion for everyone who stood before him within the walls of his courtroom. Personally and professionally, Judge Criswell was a man of integrity, character, kindness and ideals. He was a brilliant man with an ever-hopeful heart, and an ever-humble spirit. Judge Criswell was bestowed with many awards and accolades for his brilliant work, yet he always shied away from praise and accolades.

Mr. Speaker and Colleagues, please join me in honor and remembrance of my friend and mentor, Judge Loys Criswell, who will be deeply missed by all who knew him. He was a man of vision, a scholar, a farmer and seeker of truth. And above all else, Judge Criswell was a man who possessed a heart as expansive and true as the rolling farms of Oklahoma. Judge Criswell dedicated his life to justice and positive change and consistently reached out to members of his community. I extend my deepest condolences to Judge Criswell's beloved wife Edna, and beloved daughter, Beverly. Judge Loys Criswell's life has made a true and significant difference in the lives of many—in Oklahoma, and in places beyond, and his spirit and legacy will live on forever.

SERVICE FOR THE PEOPLE OF THE 7TH DISTRICT OF ALABAMA

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. HILLIARD. Mr. Speaker, I rise to give honor to this great body, which I shall leave at the end of this term. This is the most Democratic body in the Federal government, turning to the American people in our districts every other year for reinstruction and rededication, as well as reelection.

We are the representatives who most directly represent America, and I am proud to have been elected by the people of the 7th District of Alabama to serve them for a decade. It is my hope that these good Americans believe that I have represented them well—I know that I have tried with all my mind, my soul and my body to do so.

I feel good that I was able to maintain a 100% voting record for the working men and women of Alabama, the consumers and the constituency I represented in the U.S. Congress.

It has been a special burden and a special honor to represent one of the poorest districts in the richest nation in the world.

It has been a special burden and special honor to represent a district mostly comprised of a minority not long ago enslaved by the very nation in which they are now citizens.

It has been a special burden and a special honor to represent the victorious battleground of the civil rights movement, a battleground that gave America nonviolent resistance, and gave the world a more honorable way to struggle for human rights.

As I leave this body, it is my prayer that America will make as its first priority the ending of poverty in the richest nation in the world. To have poverty in the midst of riches is unconscionable and we must move immediately to end this most destructive condition from the American people forever.

It is my prayer that America will finally move beyond the ignominious history of racism that has eaten at our nation's heart since the conception of this nation. The racism which has historically oppressed Blacks such as myself in this nation too easily turns against others, against Arabs, Asians, and may well turn again against Jews.

It is my prayer that America will find a way to place human values before monetary ones. Today, money is the engine of everything in this nation. People matter less and less in the face of monetarism, both in this nation and in the world. Globalization is not the high-minded internationalism we have dreamed of—it is instead the take-over of the world by transnational corporations which may have been born in America but which are loyal only to wealth. We have to put people before profits before the people are nothing but products.

It is my prayer that America will find a way to achieve international peace. We cannot continue to use cheap nationalism to reduce people to less than human, religious arrogance to call others evil, or media blitzkriegs to whip the American people into imperialist cheerleaders.

For this intertangled world, there is only one way to survive and that is to survive together. However many nations exist, there is only one human race. It is neither good nor evil—it is human. I for one find it deeply lovable. I place myself in its service, in the service of the people of the world.

HONORING PAUL MARTIN OF PETALUMA, CA

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Paul Martin of Petaluma, California, who has just received the Award of Distinction from the College of Agricultural and Environmental Sciences at the University of California at Davis. This highly competitive award recognizes alumni who have demonstrated leadership and achievement or brought distinction to the College through their careers.

During the ten years I have been in the U.S. Congress, Mr. Martin's in-depth knowledge of agricultural issues has been invaluable as a resource to me and my office. Paul has given unsparingly of his time to educate me and my staff on the needs of the dairy industry as it relates to federal legislation and the Sixth Congressional District. We have also worked together on our shared goals to preserve family farms. In fact, although he typically votes Republican, his campaigning on my behalf is a reflection of his commitment to those goals.

Paul Martin graduated from UC Davis in 1965 and from the California Agricultural Leadership Program in 1980. Next year he will receive an MA in Public Policy from Sonoma State University. In addition to operating two dairy ranches and working for Western United Dairymen as coordinator of Environmental Services and Field Representative, Mr. Martin has been a leader in a wide range of agricultural, environmental, and community causes. Some of these include service with the California Air Resources Board, State Water Resources Control Board, USDA Sonoma-Marin Diary and Range Belt, Chief of Two Rock Volunteer Fire Department, Petaluma American Little League, Two Rock 4–H, Sonoma County Farm Bureau, and Petaluma High School District Facilities Committee. He also served as a First Lieutenant, USAR in Viet Nam and received a Bronze Star.

A third generation dairyman on his family's ranch, Mr. Martin has lived in Petaluma his entire life. His son John now raises heifers and beef cattle on the dairy while his daughter Betsy and daughter-in-law, Natalie use the ranch to raise dairy cattle for showing and sales.

Mr. Speaker, Mr. Martin is respected as a leader within the agricultural community whose advice and knowledge I value highly. I am proud of his award and his many contributions to his community and to the diary industry. And I am especially proud to call Paul Martin my friend.

ALCOA 50TH ANNIVERSARY

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. COYNE. Mr. Speaker, I rise today to recognize the 50th anniversary of the Alcoa Foundation.

The Alcoa Foundation, located in Pittsburgh, was founded in 1952 with an endowment from Alcoa, the company that has been a very successful producer of aluminum in this country for decades. Alcoa has its headquarters in Pittsburgh.

Since its founding, the Alcoa Foundation has made more than $339 million in awards around the world, including the $21 million it gave to more than 2,000 organizations in 26 countries last year. The foundation targets its giving to promote the goals of conservation and sustainability; safe and healthy children and families; global education in business, engineering, science, and technology; skills for the future; and business and community partnerships. The foundation also concentrates its efforts in communities in which it operates.

One of those communities is Pittsburgh, Pennsylvania. The Alcoa Foundation has established a five-year "Allegheny Works Initiative", for example, in Pittsburgh. The foundation has committed $1 million through this program to programs that enhance literacy and employment opportunities on the City's Northside. The initiative relies upon local leaders to determine the community's most pressing needs and suggest the most appropriate responses to those needs. Grant awards through the initiative have included after-school programs to improve young people's study skills and discourage drug and alcohol abuse. Other programs have increased access to the Internet for Northside residents and promoted reading among at-risk students at a local school.

Among its many other activities, the Alcoa Foundation funds scholarships for the children of Alcoa employees in the United States. These scholarships are awarded based on achievement, potential, leadership, community service and character. They are judged by a national panel of college and university professionals. This year, 91 students received scholarships totaling $534,000.

Mr. Speaker, I want to commend the Alcoa Foundation for its many good works and congratulate its staff and donors on the 50th anniversary of this worthy institution.

HONORING ALFRED CAHN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. ACKERMAN. Mr. Speaker, I rise today to honor Mr. Alfred Cahn, upon celebrating his 90th birthday.

Al Cahn has worked with the Coler-Goldwater Memorial Hospital on Roosevelt Island for nearly thirty years. He has been a passionate member of the Patient Care Committee, fighting to help improve the lives of patients. Al and his devoted wife, Lee, took the time to create a family council to work with hospital administration to help make Coler-Goldwater an even better place. Al's dedication led him to serve as both president of the council and vice-president of the Community Advisory Board at the hospital.

Al's extensive interaction with the patients at Coler-Goldwater is remarkable. Al not only visits patients, he brings out those that are able and serves as a feeder for those that are less fortunate. Al and his wife are also known for their annual barbecue which they host at their Whitestone home. With homemade food and fresh fish, caught by the Cahn's themselves, the outing has been a truly uplifting time for all of the attendees.

I ask my colleagues to join me in honoring Mr. Alfred Cahn on this truly special occasion as he celebrates his 90th birthday. Al is an honorable man who has spent such a large portion of his life aiding and honoring, the lives of others. May he continue to celebrate throughout this year and for many more to come.

HONORING ROBERT C. STEWART

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Mariposa County District III Supervisor Robert "Bob" Stewart for his years of dedicated service to the community.

Bob has shown his commitment to the community through a career of public service. He is a veteran who served on the California Highway Patrol for twenty-eight years, protecting Mariposa County for twenty. As an elected official, Bob continued supporting emergency responders by advocating newer equipment for public safety employees and volunteer fire departments.

Bob was first elected to the Mariposa County Board of Supervisors in 1994 and reelected for his second term in 1998, serving as Chair in 1997 and 2002. He acted as Board liaison member to the General Government and the Health and Human Services areas.

Bob's contributions to the community spread beyond the numerous County projects he has chaired. For the last twenty years he has also served as deacon to the First Baptist Church of Mariposa. In all of his varied activities, Bob is known foremost for his honesty and integrity.

Mr. Speaker, I rise to pay tribute to Bob Stewart for his active and dedicated community involvement. I urge my colleagues to join me in thanking Bob and wishing him many more years of success.

HONORING AND RECOGNIZING PETER YARROW AND AVERY COHEN

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Peter Yarrow and Avery Cohen, as they are honored by the Hattie Larlham Foundation on November 13th for their significant work on behalf of individual rights.

For the past forty years, the Hattie Larlham Foundation has been a source of hope, support and care for thousands of children and adolescents with disabilities and their families, in northeast Ohio. The vast and vital work of both Peter Yarrow and Avery Cohen on behalf of the Foundation, reflects the true spirit of this exceptional agency—a spirit of helping and caring, a spirit of empowerment; and a spirit of dedication to social justice—one child at a time; one family at a time.

The vital work of Peter Yarrow and Avery Cohen is the work of heroes who speak for those whose voice is small—they are the messengers for our most vulnerable citizens—our children, our poor, and our mentally and physically challenged. Their message speaks of local and national change. Their message speaks of improved services for children and adults with disabilities. Their message speak of research to seek improvements, to find cures, to give support, to give hope.

Peter Yarrow carries the message through his gift of song, crossing the continent to raise funds and raise awareness, with projects like the creation of "Operation Respect, " a program that advocates nurturing environments for children.

Avery Cohen, President of the Hattie Larlham Care Group, and Vice President of the Hattie Larlham Research Institute and Foundation, has carried the message through his tenacity, integrity, compassion and expertise for the past thirty-six years. Considered a "founding member," Avery joined the Board of Directors of the Hattie Larlham Foundation in 1966. His unwavering commitment remains focused on assisting and improving the lives of the children and families of our community.

Mr. Speaker and Colleagues, please join me in honoring every staff and member of the Hattie Larlham Foundation, and please also join me in honoring my dear friends, Peter Yarrow and Avery Cohen. I honor your dedication and significant work in helping, empowering, inspiring, and bringing hope to children and families facing a challenging road. Your work and activism brings us light, guidance and strength, and gives us hope for a better tomorrow.

IN RECOGNITION OF NATIONAL ADOPTION AWARENESS MONTH

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. WALSH. Mr. Speaker, each year in November American families across the country gather together in thanksgiving to recognize the variety of blessings they have received. It is fitting that we also choose this month to recognize the importance of adoption in our society.

Currently, thousands of children across the country, freed for adoption, are waiting to be a part of a loving and caring family with a stable home and attentive parents. Many of these children have special physical, mental, or emotional needs and require special nurturing from devoted parents and families. Let it be known that their adoption by special people who elect to take full responsibility for their care, their upbringing, and their overall well-being is an important service not only to these children, but to our country at large.

Adoption not only provides obvious benefits to the affected child, but it has proven to be one of the most rewarding experiences for many adoptive parents. We all benefit when a needy child is adopted.

The County of Onondaga in New York's 25th Congressional District will be recognizing the importance of adoption on Friday, November 22nd in ceremonies at Onondaga County Family Court. It is my privilege to recognize and thank all those families, case workers, and staff gathered for this important event who have dedicated themselves to improving the welfare of our community's children. It is my hope that this recognition further promotes the importance and benefits of adoption for all those involved. I thank all those responsible for organizing this special local observance of National Adoption Awareness Month.

25TH ANNIVERSARY OF THE INDIAN ROCK NATURE PRESERVE, BRISTOL, CT

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise to recognize an outstanding organization, Environmental Learning Centers of Connecticut. I join them in celebrating a special milestone, the 25th anniversary of their Indian Rock Preserve located in Bristol, Connecticut.

The Environmental Learning Centers of Connecticut has been a leader in Environmental Education and open space land preservation. They reach over 30,000 students a year from more than 180 schools in Connecticut. They currently own and manage over 525 acres of open space in Connecticut and are adding more land each year.

The organization was founded in 1969 as a not-for-profit charitable organization for land preservation and environmental education with the original purchase of 40 acres of land on

Shrub Road, Bristol. Shortly thereafter they completed construction of the Harry C. Barnes Memorial Nature Center on Shrub Road and began educational programs dealing with the environment. Today, the Barnes Nature Center provides the public with many exhibits and a library. This facility is open to the public without charge.

In 1977, they received the 150 acre Indian Rock Nature Preserve and enlarged their educational programs with the opening of the farm life program for elementary schools and a summer day camp for youth. In 1986, the organization constructed a 3,300 square foot building on the preserve to accommodate growing educational programs and the summer camp. Just recently, they completed construction of 1,200 square foot addition to accommodate their continued growth. The Center provides over 130 different educational subject topics for organized schools and groups throughout the year.

Mr. Speaker, it is clear that Environmental Learning Centers of Connecticut is an organization of great dedication and commitment to their mission and to the citizens of Connecticut. Their success is well earned and I am honored to share their accomplishments with the House of Representatives and the nation. The accomplishments of this organization are many and it is my privilege to congratulate them on the 25th anniversary of the Indian Rock Nature Preserve. Environmental Learning Centers of Connecticut, congratulations, and all the best to you in your future endeavors.

CHINA'S MILITARY THREAT AGAINST TAIWAN

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. HILLIARD. Mr. Speaker, it seems Beijing is applying a two-pronged Taiwan policy. On one hand, Beijing talks peace about Taiwan. It demands Taiwan accept their "one country, two systems" formula of unification. This is their soft prong. If Taiwan is unwilling to negotiate peace under this formula, there is the hard prong—Beijing continuing to conduct military exercises around Taiwan. In fact, in recent months, Beijing has deployed 400 tactical guided missiles on China's eastern coast, less than 200 miles from Taiwan. As sophisticated weapons, these missiles can hit targets in Taiwan easily.

Beijing's undisguised military intimidations against Taiwan pose a serious threat to the well-being of the 23 million people on Taiwan. After all, Republic of China President Chen Shui-bian has assured Chinese leaders that he wants a structured, constructive cross-strait relationship, setting no preconditions for resumption of talks. He has continued to express his good will, exercising utmost restraint to avoid provoking China while liberalizing restrictions on socioeconomic ties between Taiwan and China.

Unfortunately China has chosen to ignore President Chen's overtures, continued its efforts to interfere with democratic elections on Taiwan, suppressed Taiwan's activities in the international community and threatened Taiwan with military force.

I, however, hope that China will realize that it is good for people on both sides of the Taiwan Strait to live in peace, that China should allow Taiwan to be an equal partner in trade and commerce to China, since both China and Taiwan are now members of the World Trade Organization and that any military action against Taiwan will lead to chaos and destruction for many countries in the region.

For peace and stability in the Asia-Pacific region, I urge China to withdraw its missiles and reduce its stockpile. This is a constructive step to avert an arms race and military confrontation. I am pleased to see that the European Parliament has taken steps to urge China to de-escalate tension in the Taiwan Strait, and I hope other countries and other members of Congress will issue similar pleas to China.

LOS ANGELES COUNTY DRAINAGE AREA PROJECT RECOGNIZED WITH TWO AWARDS

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. HORN. Mr. Speaker, I rise today to recognize the Los Angeles County Drainage Area Project (LACDA) for recently receiving the Golden Eagle Award at the County of Los Angeles Quality and Productivity Commission's 16th Annual Productivity and Quality Awards Program. The national award follows an earlier honor, when the project was named one of the American Public Works Association's Public Works Projects of the Year.

Since entering Congress, completion of this project has been one of my highest priorities. I was pleased that Congress appropriated $157 million during the past seven years for this work to be completed five years ahead of schedule. The bipartisan commitment to this project by area members of Congress and the hard work and extraordinary cooperation between the U.S. Army Corps of Engineers and the Los Angeles County Public Works Department ensured that construction of LACDA proceeded on an efficient and rapid timetable.

Completion of the LACDA project—which began in 1996—restores flood protection to nearly 500,000 people living in the flood plains of the Los Angeles and Rio Hondo Rivers. Due to the danger of severe flooding, in 1998 the Federal Emergency Management Agency (FEMA) mandated that area residents and businesses carry flood insurance at an average cost of $400 per year. Now that the requirement has been lifted, the County of Los Angeles estimates that property owners will save a collective $22 million in annual insurance premiums.

The successful completion of this project has been a model for any major public works project. The federal, state, and local agencies involved should be proud of a job well done. Along with flood protection, residents also will enjoy a cleaner, safer environment and more recreational opportunities. As part of the LACDA project, 22 miles of bike and equestrian trails along the Los Angeles River have been improved and enhanced with landscaping, rest stops, and safer signage.

Receiving the American Public Works Association's Public Works Projects of the Year award and being honored with the Golden Eagle Award from the County of Los Angeles is a tribute to the many men and women who envisioned, planned, and finally constructed this important project. I tip my hat to all of them for their fine work and congratulate them on being chosen for these distinguished awards.

TRIBUTE TO CECIL WILLIAMS, JR.

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. BERRY. Mr. Speaker, I rise today to honor one of Arkansas's finest citizens, Cecil Williams, Jr. I am proud to recognize Mr. Williams in the United States Congress for his invaluable contributions to his profession, his family, his state and his nation.

Mr. Williams was born in Tyronza, Arkansas on October 17, 1932. He grew up working in the fertile cotton fields of Eastern Arkansas before graduating from Wilson High School in 1950. He spent one year at Arkansas State University in Jonesboro and joined the United States Air Force in 1952. As a weather observer in the Air Force, Mr. Williams lived in Alabama, Texas, Illinois and Alaska.

After serving his country in the military, Mr. Williams enrolled at Louisiana State University, where he received a degree in agricultural economics in 1960. After graduation, he spent five years working as a field representative for the National Cotton Council in Louisiana and south Arkansas. While living in Louisiana, Mr. Williams married Barbara Lee Rodgers, They have three sons and currently are the proud grandparents of one granddaughter with a second grandchild on the way.

In 1965, Mr. Williams became executive vice president of the Agricultural Council of Arkansas [ACA] and has now served the members of the ACA for more than 37 years. He has used his experience and expertise to help readers of the ACA newsletter stay informed about the rules and regulations pertaining to farm, environmental and occupational safety and health policy. His influence has assisted policymakers in creating a sound farm policy and farmers in accessing the farm programs available to help them.

He is active in many professional organizations and has served as president of Memphis Agricultural Club and Memphis Society of Association Executives. He was named "Man of the Year" by the Memphis Agricultural Club in 1980. In 1986, Mr. Williams received the prestigious "Man of the Year in Service to Arkansas Agriculture".

On behalf of Congress, I offer my friend, Cecil Williams, Jr., my deepest appreciation and gratitude for his tireless dedication and honorable service to the people of Arkansas and the field of agriculture.

MAURICE DEAN HENNESSEE: AN EXTRAORDINARY AMERICAN

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to Maurice Hennessee of Clio, Michigan. Maurice has used his retirement years to make a difference in the world in which we all live and he has become an important component in spreading democracy and assisting in the infrastructure and educational development of the African nation of Nigeria.

Maurice first served his country while serving as an enlisted man with the United States Air Force's 328th Air Fighter Air Defense Group during the Korean War. Following his tour of duty, he served four years in the Air Force Reserve. He then returned home and began his 38-year career with General Motors Corporation, Buick Motor Division in Flint, Michigan.

However, it was after his retirement from General Motors and during his recovery from experimental surgery to repair a seriously injured foot that Maurice found the path that would lead him to Nigeria. Although he had no experience in missionary work or fund-raising, Maurice joined Dr. Moses Akpanado's effort to use education to improve the lives of impoverished and disadvantaged Nigerians. Today, there are more than 1000 students who attend the Obong Christian Education System deep in the jungle of Nigeria thanks to those efforts.

Moreover, Maurice and others have expanded their work to include infrastructure improvements and other advancements to provide a healthier and more civilized environment for those living in remote Nigerian communities. There are untold thousands of villagers who now enjoy clean, fresh water as a result of Maurice's determination to dig deep wells. Villages now have power lines, electrical generators, libraries and dormitories all because Maurice and others helped persuade fellow Americans to offer their financial support.

In villages throughout Nigeria, Maurice Hennessee has received many honors. Important buildings on a college campus in that nation bear his name. He has been named Honorary Chief in several villages. In addition, his family has shown him their love and support by becoming involved in his efforts, traveling with him on multiple occasions to Africa, as well as supporting other mission activities in Kenya and Central America with their personal involvement. We owe a debt of gratitude to Maurice, his wife, Earline, and their children, Trina; Gary and Larry, for setting such a fine example of American goodwill.

Finally, Mr. Speaker, I ask my colleagues to join me in paying tribute to Maurice and the entire Hennessee family for their dedication in spreading democracy and Christian charity throughout the world and for exemplifying how otherwise ordinary Americans can achieve extraordinary results.

TRIBUTE TO ELBERTA ERIKSSON

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Ms. WOOLSEY. Mr. Speaker, we rise today to recognize Elberta Eriksson, who is retiring as the Director of the Family Service Agency of Marin's Multi-cultural Outreach Program after thirty years of dedicated service to her community.

Through the years, Elberta has been committed to community service, dedicated to strengthening families and children and advancing human rights. In the early 1970's, as a professional social worker, Ms. Eriksson was one of the first to bring mental health services to Marin City. Through Operation Give a Damn, a grassroots organization that brought a unique mentoring program to the youth of Marin City, Elberta developed a cultural competency program for professional and paraprofessional mental health providers.

Under Ms. Eriksson's visionary leadership, the Multi-Cultural Outreach Program, sponsored by the Family Service Agency of Marin, was launched. Through this esteemed program, Elberta personally provided hundreds of hours of family counseling as well as supervised graduate students from San Francisco State University during their internship, adding a rich, multi-cultural counseling program for the entire county.

In addition to working full-time and raising her young family, Elberta made time in the evening to work as one of the first hot line volunteers at the Marin Suicide Prevention Center. Always generous with her skills and time, Ms. Eriksson has served on many boards and committees, including the Marin County Human Rights Commission, the Marin County Women's Commission, ISOJI of Marin City, America's Angel Campaign, and the Marin City Community Services District.

Ms. Eriksson has contributed her leadership and commitment to provide a model of the importance of community service with the highest ideals for the benefit of many. Therefore, Mr. Speaker, it is fitting for us to rise today to honor Elberta Eriksson and wish her well in her next adventure.

TRIBUTE TO BUD BROWN

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to Bud Brown for his dedicated efforts to improve the quality of life in our community. His commitment and service to the San Fernando Valley is immeasurable. Throughout his life he has contributed countless hours of community service by supporting various organizations and acting as an effective leader for several groups.

Since his retirement from GTE in 1993, Bud Brown has been a driving force in cultivating relations between the private and public sectors in Los Angeles. His 22 years of experience in the corporate world have been instrumental, in establishing relationships with numerous non-profit organizations throughout the Valley. Bud has found ways to utilize his professional and volunteer talents by serving on the boards of many institutions. Despite his retirement he just recently completed his eighth year as Community Relations Manager at Hamer Toyota in Mission Hills.

During his career in public service he has served as founder and leader of a variety of local organizations. His commitment includes serving as President of New Directions for Youth, Board member of the Fernando Award Foundation, and Major Gifts Committee for the North Valley Family YMCA. He is also a strong supporter of the Holy Cross Medical Center, Mission Hills Chamber of Commerce, and the Los Angeles Mission College Foundation. More recently, he has expanded his efforts to serve as Commissioner for the City of San Fernando

Bud Brown has been honored with a number of awards in recognition of his accomplishments as a community leader, including the City of Los Angeles Volunteerism Award and KNX Citizen of the Week. Other groups that have noted his tremendous achievements include the San Fernando Valley Girl Scout Council, Encino-Sherman Oaks Optimist Club, Valley Interfaith Council, Heaven on Earth Ranch and the Black American Political Association. Lastly, in 1995 he was one of the first recipients of the prestigious Fernando Award.

Mr. Speaker, please join me in recognizing Bud Brown, an amazing individual who has dedicated his life for the betterment of the San Fernando Valley.

MARTIN WALZER HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. KANJORSKI. Mr. Speaker, I rise today to call the attention of the House of Representatives to the service to the community of Martin Walzer, who will receive the Robert N. Pursel Distinguished Community Achievement Award. The Danville, Pennsylvania, Chapter of the American Red Cross will present this award to him on November 16 in recognition of his lifetime of service to the community.

Mr. Walzer was born in 1942 in Bethlehem, Pennsylvania, the third child of Martin Shubert and Mary Flexer Walzer. He graduated from the Hill School in Pottstown and graduated from Cornell University with a degree in agricultural economics. His connection to the Danville area began when he went to work in sales for his father's wholesale food distribution company.

One of his customers in the Danville area was the owner of the Pine Barn Inn, Margaret Bush, and when she decided to get out of that business, he bought it and has become known as Danville's "goodwill ambassador." He has also grown the business over the years and it now has more than twice as many rooms as it did when he bought it.

Mr. Walzer is a member of the Danville Area Community Center board of directors and a founding member of the Danville Area Community Foundation executive board. He has participated in numerous additional community organizations over the years, including the Danville Chamber of Commerce, Iron Heritage Festival, Montour County Recreation Authority and the Greater Danville Industrial Development Corporation.

He has also made large-scale contributions to the community, such as donating the land that Geisinger Medical Center used to create its main entrance as well as donating approximately $6,000 to the Danville Area Community Center by covering the cost of its 15th anniversary fundraising dinner.

"Just as generous, though, are the many smaller kindnesses," as the Danville News stated in the article announcing Mr. Walzer had been chosen for this award.

Because his inn is next to the busy Geisinger Medical Center, Mr. Walzer has taken advantage of many opportunities to put his generosity and caring into action, whether that simply means being supportive to families with a loved one in the hospital with a serious illness or injury or going further to loan them clothes and give them rides to Williamsport or Scranton.

Mr. Speaker, I am pleased to call to the attention of the House of Representatives the long record of service to the community of Martin Walzer, and I congratulate him on this well-deserved award.

TRIBUTE TO BEN C. ANDERSON, PRESIDENT, BUILDING INDUSTRY ASSOCIATION OF SOUTHERN CALIFORNIA

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to Southern California are exceptional. Southern California has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give time and talent to making their communities a better place to live and work. Bob Anderson is one of these individuals. At the end of the year, Ben will be stepping down as President of the Building Industry Association of Southern California after many years of dedicated service.

Ben has worked through BIA/SC, the California Building Industry Association (CBIA) and the National Association of Home Builders (NAHB) to promote the building industry's contributions to the communities that it serves, to advocate on behalf of his colleagues and to create new home-ownership opportunities. Ben has exemplified leadership and dedicated service to the building industry as a CBIA and NAHB director, as BIA/SC Secretary/Treasurer, Second Vice President, First Vice President and President.

Ben has also served as a member of the Board of Directors for the Boys and Girls Club in the City of Fontana and continues to be active in several business organizations both in the Inland Empire and Orange County.

Ben has worked tirelessly to ensure that all Southern Californians have the opportunity to achieve the American Dream of home ownership, and to promote housing as a community asset which strengthens the fabric of our many neighborhoods in Southern California. Ben has been a dedicated, strong and effective voice for the principles and ideals of California's building community during his years as a member and leader of the Building Industry Association of Southern California.

Ben's diligent work as the President of Building Industry Association of Southern California has contributed immeasurably to the betterment of Southern California. His involvement in community organizations makes me proud to call him a fellow community member, American and friend. I know that all of the residents and homeowners of Southern California are grateful for his service and salute him as his term comes to an end. I look forward to working with him in the future for the good of our community.

IN OPPOSITION TO H.R. 2155, SOBER BORDERS ACT

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Ms. McCOLLUM. Mr. Speaker, I rise today in opposition to H.R. 2155, the Sober Borders Act.

While I support the intent of this legislation, I am concerned H.R. 2155 unnecessarily fails to balance our need for safe driving on the borders with the interests of a safe and legal flow of people across the borders too and from the United States.

At a time when our border patrol officers and Immigration and Naturalization Service (INS) inspectors face heavy workloads, H.R. 2155 would impose new duties unrelated to terrorism that could potentially overwhelm the resources and personnel available at our borders. In the wake of the September 11th tragedies, it is important that we allow INS agents and officials do to their jobs correctly and efficiently, without burdening them with new responsibilities normally assigned to state law enforcement agencies. We must be careful not to stretch the limited resources beyond INS's immigration and anti-terrorism functions.

I am also concerned that H.R. 2155 could be improperly used to target persons on the basis of race, ethnicity or national origin unless safeguards are added to prevent racial profiling. During mark-up of H.R. 2155, a sensible amendment was offered to monitor whether law enforcement uses their authority in a discriminatory manner to detain, test and arrest persons suspected of driving under the influence of drugs or alcohol. Unfortunately, this amendment was defeated and the bill brought before the full House contained no accountability measures to prevent racial profiling and provided no opportunity to address this issue further.

I believe this amendment was a modest request that would have made the underlying bill stronger. New authority (such as the new authority granted in H.R. 2155) that creates a risk of racial profiling should be accompanied by accountability mechanisms that measure whether profiling has occurred. It is important that in our pursuit for greater safety we do not violate the rights of certain individuals based merely on race, ethnicity or national origin.

I support measures that seek to reduce drinking and driving in America's communities and neighborhoods. But in these efforts we must be careful not to weaken existing law enforcement functions or violate the rights of the American people. Regrettably, H.R. 2155 does not meet these goals.

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF THE HONORABLE PAUL D. WELLSTONE, SENATOR FROM THE STATE OF MINNESOTA

SPEECH OF

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. CUMMINGS. Mr. Speaker, I rise today to honor a great American and a great man—Senator PAUL WELLSTONE. The passing of Senator PAUL WELLSTONE creates a void that is impossible to fill—it is a tragedy for this nation and a personal tragedy for me.

PAUL WELLSTONE was a tireless fighter for what he believed in. He was a man whose honor is unquestioned, whose energy was infectious, and whose dedication to his country—and those ideals upon which it was built—was obvious in everything he did. PAUL WELLSTONE's passing robs voiceless Americans—the poor and disenfranchised—of one of their greatest advocates. And it leaves those of us bent on furthering a progressive agenda without one of our greatest leaders.

Mr. Speaker, I also rise today to mourn the loss of one of the hardest-working people I have ever known. PAUL WELLSTONE earned himself a scholarship to the University of North Carolina as a student and an athlete. Four years after graduation he was awarded a Ph.D. in political science and began a 21-year teaching career in which he became increasingly involved in community organizing. In 1990, PAUL WELLSTONE—an under-funded underdog—ran a long-shot campaign for the United States Senate, which he won by energizing ordinary Minnesotans. 12 years later, his political legacy stands as testament to him keeping his promises.

Unlike many politicians, there was no disconnecting between PAUL WELLSTONE's political ideology and the way he lived his life. PAUL was the Senator who knew the names of the elevator operators and waiters in the Senate Dining Room. He was the Senator who, according to James W. Ziglar, a Republican who was Sergeant-at-Arms of the Senate from 1998 to 2001, returned late one evening to his office to tell the cleaning staff how much he appreciated their work. PAUL WELLSTONE's unique authenticity, and his ability to remain true to his roots distinguished him here in Washington and, as many Minnesotans will tell you, back in his home state.

PAUL WELLSTONE was an unabashed liberal. He believed that every American should have access to affordable health care and good public schools, that our foreign policy should be based first and foremost on the sanctity of all human life—American or otherwise. And he knew that coming down on the right side of an issue—keeping in-line with his morals and ethics—was always more important than voting with the majority or in a politically-motivated way. PAUL WELLSTONE voted against the Persian Gulf War as one of his first acts as a Senator, and just recently was the only Senator facing re-election who voted against giving President Bush authority to conduct preemptive and unauthorized military strikes on Iraq. PAUL was a man who did not compromise his ideals.

Mr. Speaker, I rise today in honor of Senator PAUL WELLSTONE. In an era where the difference between talk and action is often enormous, PAUL WELLSTONE was a man who lived as he spoke. I believe that America is better for it.

HONORING THE FIRST CONGREGATIONAL CHURCH OF SHREWSBURY, MA

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. McGOVERN. Mr. Speaker, I rise today to pay tribute to the men and women of the First Congregational Church of Shrewsbury, Massachusetts for receiving the Harry S. Cutting, Jr. Award for community service in the town of Shrewsbury.

The Harry S. Cutting Award is given out by Shrewsbury Community Services to recognize members of the community who, through their support and commitment, have made an outstanding contribution to Shrewsbury Community Services, as well as to the residents of Shrewsbury.

The First Congregational Church is a member of the Shrewsbury Ecumenical Council and is active in a wide range of local and international community service. The Church devotes its time to support food donations, clothing drives, academic scholarships, among many other worthy causes.

On the international level, the Church has been active in the Caribbean by providing medical and dental care free of charge to those in need of help. Additionally, the Church has worked on the HEFFA Project, an international organization that helps countries become self-sufficient.

Mr. Speaker, it is a pleasure to inform the U.S. House of Representatives about the hard work that the First Congregational Church of Shrewsbury, Massachusetts has done over the past few years. It is always important to have citizens join together to help others. I am confident that the entire U.S. House of Representatives joins me in congratulating the First Congregational Church for receiving the Harry S. Cutting, Jr. Award.

HONORING THE RETIREMENT OF OAKLAND CITY COUNCILMEMBER DICK SPEES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. STARK. Mr. Speaker, I rise today to recognize Oakland City Councilmember Dick Spees on his retirement after 24 years of distinguished service.

Dick Spees is a leader on issues of economic development, marketing, finance, quality of life, public safety, and regional planning. Throughout his tenure on the City Council, he has remained committed to providing top-notch service and programs to his constituents.

Bolstering Oakland's economy and creating new recreational and educational facilities are top priorities for Dick Spees. He has led efforts to found the Chabot Space and Science Center, Oakland-Sharing the Vision, Oakland Tours, Bay Area Economic Forum, Bay Area World Trade Center, and Bay Area Bioscience Center.

With his support, Oakland has purchased open space, built new recreation centers, libraries, and cultural facilities, and upgraded emergency response facilities and equipment. The Oakland Fire Assessment District and an incentive program that encourages property owners to make seismic improvements to their homes were formed under his leadership.

As Chair of the City Council's Rules Committee, Dick Spees has overseen campaign finance reform, the sunshine ordinance, the lobbyist registration ordinance, and the formation of the public ethics commission.

A true civic leader, Dick Spees has represented Oakland on many Bay Area regional agencies, including the Association of Bay Area Governments, the Bay Area Economic Forum, the Regional Airport Planning Committee, the Bay Area World Trade Center, Oakland Base Reuse Authority, the City-Port Liaison Committee, and the BART-Oakland Airport Connector Stakeholders Committee.

I am honored to congratulate Dick Spees on all of his remarkable accomplishments. The people of Oakland will lose a true leader with Dick Spees' retirement, but his legacy of tireless dedication to improving lives will endure.

HONORING CATHLEEN BARNIER OF SONOMA COUNTY, CA

HON. MIKE THOMPSON

OF CALIFORNIA

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. THOMPSON of California. Mr. Speaker, we rise today to honor Cathleen Barnier of Sonoma County, California, upon her retirement from 30 years of leadership in the management of community-based non-profit organizations.

For the last 10 years, Cathleen has been the President and CEO of Goodwill Industries of the Redwood Empire (GIRE), an agency providing employment and training programs, retails stores, business services, and recycling programs in six northern California counties. During her tenure, GIRE has been an active partner in community employment and education initiatives.

Prior to her work at GIRE, Cathleen served as Executive Director of the Family Service Agency of Sonoma County and Service Director of the American Cancer Society of Northern California. She also worked at Sonoma State Hospital, Sonoma County Adoption Agency, and North Bay Regional Center.

Cathleen's community involvement includes active roles with the Workforce Investment Board, Santa Rosa Chamber of Commerce, Business Education Round Table, Economic Vitality Project, Santa Rosa Rotary, and School to Career. She was also appointed by the Governor to the State Department of Rehabilitation Advisory Council.

Mr. Speaker, Cathleen Barnier has provided exemplary service to the community for over 30 years, demonstrating that compassion and commitment combined with leadership and ability result in success. We are proud to honor Cathleen for her achievements and to wish her well in her future life traveling and spending time with family and friends.

TRIBUTE TO COMANCHE ELEMENTARY SCHOOL OF SHAWNEE MISSION, KS

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. MOORE. Mr. Speaker, I want to take this opportunity to recognize and commend the students of Marilyn Tieszen, a kindergarten teacher at Comanche Elementary School of Shawnee Mission, KS, which is located in the Third Congressional District of Kansas.

Following the tragic terrorist attacks of September 11, 2001, Ms. Tieszen had her students create an American flag, using a white sheet, and dipping their hands in red and blue paint to make the stripes and the blue background for the stars. The flag was presented to U.S. Army Captain John Townsend, who has two children who are students at the school. Captain Townsend is the Executive Officer for the School of Advanced Military Studies at Fort Leavenworth's United States Army Command and General Staff College.

After receiving the flag, Captain Townsend hung it in Eisenhower Hall at Fort Leavenworth, Kansas, for a few weeks, where, in his words, "it got rave reviews and many people commented that it was unfortunate that all service members would not be able to appreciate it." As a result of the very positive reception it received at the Fort, the flag was then mailed to an Army infantry unit conducting a peacekeeping mission in Kosovo. It arrived a few days before Christmas and hung at several of their sites through the new year. From there, it was taken to an Airborne unit that "jumped" it into Tunisia, North Africa. Next it was displayed on the aircraft carrier USS *John*

C. Stennis, which was supporting Operation Enduring Freedom in the Persian Gulf.

Following the display on the USS *Stennis*, the Comanche Elementary School flag was flown to an Army Explosive Ordnance unit in Afghanistan, which had just lost two soldiers, one being from Kansas. After that, the flag went to the Pentagon, where it hung for three weeks in the reconstructed part of the building that had been attacked on September 11th. As Captain Townsend told me, "few people could pass it without stopping and appreciating the spirit and patriotism it displayed." The flag then was displayed at the U.S. Supreme Court and the U.S. Capitol, before briefly being returned home to Comanche Elementary School, where it is now being displayed.

Mr. Speaker, a book that logged its travels accompanied the flag everywhere it went. At each stop the unit took pictures of its visit and then sent them on with the flag so its travels are well documented. In most cases the unit sent a letter or e-mail praising the students' patriotism. At Comanche Elementary School the students and faculty have created a large display in the foyer just inside the front door so that everyone who comes into the building can see it: a large map with the visited areas highlighted, including pictures from those locations.

As Captain Townsend told me, "I receive e-mails almost daily from soldiers and civilians around the world that have seen this flag and were thankful that they got to see it. In most cases it brought tears to their eyes. In some cases it brought a ray of hope to people that were down from losing friends/comrades and for others it was a sign of support from a community half way around the world."

I am very proud of the patriotism and creativity of Marilyn Tieszen's kindergarten class at Comanche Elementary School, who worked together to create a wonderful symbol of America during our ongoing time of great challenge. Mr. Speaker, I hope that you and all Members of this House will Join with me in commending their spirit and thanking them for the inspirational symbol they created for display around the world.

TAIWANESE VICE PRESIDENT LU'S NATIONAL DAY ADDRESS TO THE PRC

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. GILMAN. Mr. Speaker, on October 1st, 2002, Taiwanese Vice President Annette Lu delivered a congratulatory speech marking the 53rd anniversary of the foundation of the People's Republic of China. For the attention of my colleagues, I am submitting the full text of Vice President Lu's speech into the CONGRESSIONAL RECORD:

NEW CENTURY, NEW THINKING, NEW CROSS-STRAIT PERSPECTIVES

(By H.E. Vice President Annette Lu)

1. CONGRATULATIONS ON THE NATIONAL DAY OF THE PEOPLE'S CHINA

Today is the National Day of the People's Republic of China. I presume that the whole country is joyfully celebrating this occasion. Via broadcast of the Voice of America, on behalf of the people of Taiwan, I want to wish prosperity to your country. Since its foundation, the PRC has made great strides, especially in the areas of economic and infrastructure development following twenty-years of open door and reform policies. These accomplishments are truly admirable,

Besides congratulations to all of you, I also have some expectations and suggestions on this day. China should not forget its responsibility to contribute to peace and development in the Asia-Pacific region. We should seek to become good neighbors and not resort to force, but seek peaceful co-existence and cooperation.

2. "ONE CHINA" AND "THREE CHINESES" (THREE ZHONGHUAS)

The Beijing regime has long proclaimed that Taiwan must accept its "One China" principle that Taiwan is a part of China and that only the PRC can represent China. The people of Taiwan cannot accept this, the biggest obstacle to normalization of cross-Strait relations at present. Since its establishment in 1949, the PRC has never exercised jurisdiction on Taiwan, while Taiwan has its own government, land and people. It is an undisputable fact that for half a century; neither side belonged to the other. Asking Taiwan to accept the "One China" principle is tantamount to asking Taiwan to surrender, which is totally unacceptable.

We believe that a different "Chinese" concept may be in line with New-Era thinking. Facing the impact of globalization, from the so-called "Chinese" have already emerged three categories or totally different concepts: these are "Political Chinese", "Economic Chinese" and "Cultural Chinese".

"Political Chinese" refers to the political structure of ethnic Chinese at the present historical stage, which includes "The People's Republic of China" under communist rule and Taiwan's "Republic of China" under free democratic rule. "Economic Chinese" is the "Greater Chinese Economy" advocated by various scholars, it includes economies composed of ethnic Chinese in China, Hong Kong, Macau, Taiwan, and Singapore. "Cultural Chinese" comprises culturally related Chinese societies and groups as well as Chinese benevolent associations all over the world.

Obviously, these three "Chineses" occupy different areas and are essentially different.

Pursuit of economic gains may have enhanced trade and exchanges of human resources and capital between Taiwan and China, enabling growing economic interdependence between them. However, politically, Mainland China still adheres to communism, and also deploys missiles aimed at free and democratic Taiwan.

Both sides of the Taiwan Strait share origins but are politically different and even nervously against each other. This is because they hold different views over values of human rights, democracy and freedom. While both sides share economic interests, it would be impractical and inhumane to talk about political integration if the gap in the human values we believe in cannot be narrowed.

3. CHINA VS TAIWAN

Among the 192 countries in the world, China ranks as the 6th largest trading nation. Taiwan is the 16th. However, Taiwan has 23 million people and is small in size, and China has 1.3 billion people. Taiwan's democracy is well developed, and people have many channels to participate in politics. They have the right to run for all elected offices, including that of president and heads of township. However, because of Beijing's unrelenting suppression attempts, Taiwan has been excluded from the international stage, which greatly alienates the people of Taiwan. Many countries want to establish diplomatic relations with Taiwan, but dare not to do so due to China's pressure. The ROC was one of the founding members of the United Nations and a permanent member of its Security Council, but both memberships were taken over by the PRC in 1971. Beijing's authorities have barred Taiwan efforts to participate in the UN ever since and does its best to insult Taiwan in the international community at every turn. May I ask how can the people of Taiwan like China if the PRC persists in its attempts to suppress Taiwan?

Although we advocate that Taiwan does not belong to the PRC, we think that our two peoples across the Taiwan Straits can work together. In recent years, many Taiwanese business people have made wide-range investments in China creating employment opportunities, foreign exchange reserves, and introducing know-how and management skills. This helps energize the economic development of China and upgrade its quality control. 70% of IC products in Mainland China are actually manufactured by Taiwanese. The people of Taiwan are willing to help you, but your government has never ceased to attempt to suppress Taiwan and deployed missiles along your Southeast coast to intimidate Taiwan. How do Taiwanese people think of this odd behavior?

4. NEW THINKING ON CROSS-STRAIT RELATIONS

Some say that time is on China's side in relation to enduring cross-Strait issues. However, I still think that the matter regarding Taiwan and China is not a matter of time, nor a matter of unification or independence. China and Taiwan are like a lion and a kitten. How to turn the claws-brandishing lion into a gentle and auspicious lion that can make the kitten (Taiwan) want to embrace it takes great wisdom and kindness on both sides across the Taiwan Strait. In short, to co-exist peacefully, we need to help each other while maintaining a safe distance at the same time. Consequentially, the lion and the kitten can each live their own lives without provoking each other, and they can also help each other at times.

It is my belief that if cross-Strait relations are to develop properly, the relations between Taiwan and China cannot be considered merely economic. Taiwan is a democratic island nation, while China is a one-party authoritarian inland nation. We believe that there should be more ideology deconstruction and better communication between two sides, then and only then may we find some common ground. So, how should the two sides treat each other? President Chen Shui-bian openly announced that the interaction between the two sides must be based on three premises of "peace, equality and democracy", among which peace across the Taiwan Strait is the most important. Leaders across the Strait should first put aside the political dispute and start with seeking peaceful co-existence and mutual interest, and use this kind of new thinking to begin a new era in cross-Strait relations.

As to how to resolve the cross-Strait impasse regarding sovereignties, leaders of both sides should realize that in the new century, where globalization and the emphasis on knowledge are the mainstream, people all over the world are realizing that overly stressing territory and sovereignty has become out-dated, and that a country should be ruled by its people rather than its government.

Since May 20, 2000, President Chen has on many occasions expressed goodwill toward the Chinese government as well as his sincerity to reopen negotiations. Nevertheless, Beijing is still not willing to face reality, and even further attempts to suffocate Taiwan's international living space. In the meantime, it continues to use the "One China" principle as a premise to boycott cross-Strait negotiations and create barriers in cross-Strait communications. This is indeed a pity.

The new century has arrived. Looking toward the future, human rights, democracy, peace, love land technological development are universal values in the 21st century. Governments and people across the Strait should adopt the new thinking to be able to think globally and act first in the Asia-Pacific region. We should jointly seek co-existence, prosperity and sustainable development across the Taiwan Strait.

Today, as 13 billion people in China happily celebrate the 53rd anniversary of the founding of the PRC, I sincerely wish prosperity to the country and wellbeing to all its people. I would also like to urge leaders across the Strait to jointly work on creating peace for the world.

COMMEMORATING THE 150TH ANNIVERSARY OF THE BAHÁ'Í FAITH

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. KIRK. Mr. Speaker, the American Bahá'í community, which has its national headquarters in Illinois, is commemorating the 150th Anniversary of the beginnings of the Bahá'í Faith in Iran. The Bahá'í Faith is a world religion with more than 5 million adherents in some 230 countries and territories including more than 140,000 members here in the United States. The Bahá'í House of Worship in my district of Illinois is registered as a national historic site that has drawn more than five million visitors to enjoy its unique architecture and serene gardens since its completion in 1953.

This is a special time for the American Bahá'í community because it was during the autumn 150 years ago that the founder of the Bahá'í Faith, Baháúlláh, was first overwhelmed with the Bahá'í message of love and unity while unjustly imprisoned in one of Persia's (now Iran's) worst dungeons, the Síyah Çhál. After his release from this dungeon, Bahá'u'lláh promoted this message despite being banished from Baghdad to Istanbul, from Istanbul to Edirne, and eventually from Edirne to the prison city of Acre where he died in 1892 after having lived in exile for forty years for his belief in the oneness of humanity.

The Bahá'í Faith is based on the principles of cooperation and peace outlined by Baháúlláh. He taught that there is only one God, that the conscience of man is sacred and to be respected, that racial diversity contributes to the overall beauty of mankind, and that women and men are equals in God's sight. He taught that a spiritual solution is required to address the disparities of wealth distribution and that religion and science must agree. He was among the first to express the need for an international auxiliary language, emphasize the importance of universal education, and advise that a commonwealth of nations was needed for establishing global peace and security. The significance of these principles could not be overemphasized in today's volatile world.

It is astounding to think how advanced these concepts were 150 years ago not only in an ancient Persian culture, but also in the United States. Slavery and persecution based on race were widely accepted facts of life at that time. Women in the United States were still 70 years away from getting the vote. Global literacy was low and universal education was unheard of in most places. Colonial exploitation was on the rise and workers enjoyed few protections.

Unfortunately, just as the Bahd'i message was met with hostility in Persia in 1852, it still faces persecution in that region today. The Islamic Republic of Iran regards Bahd'is as heretics who, according to Islamic law, should be executed. Bahá'ís, along with Iran's other religious minorities, are prevented from exercising their right to religious freedom. They are excluded from institutions of higher education, denied jobs, and have had many of their holy places, cemeteries and properties seized or destroyed. They are denied their most basic human rights.

Since 1982, Congress has adopted eight resolutions condemning Iran's treatment of the Bahá'ís, its largest religious minority. With the support of the U.S. government, the UN General Assembly has adopted annual resolutions condemning these human rights abuses. Yet, Bahá'ís is still awaiting the religious freedom called for in those UN resolutions and promised in Iran's constitution. The Bahá'í community remains an oppressed religious minority and is denied rights to organize, elect leaders, and to conduct freely its religious activities.

On the 150th anniversary of Bahá'u'lláh's imprisonment and the founding of the Bahá'í Faith, we salute along with the American Bahá'í community the ideals of universal brotherhood, peace, cooperation, and understanding espoused by Bahá'u'lláh. These are Bahá'í values, they are American values, and they are universal values. I also would like to recognize the immense sacrifices that many around the world have made striving to ensure that true liberty and justice for all becomes not just an American dream, but also a global reality.

TRIBUTE TO CHIP PRATHER

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. GARY MILLER of California. Mr. Speaker, I rise to commend Chip Prather, Fire Chief of Orange County, California.

Chip Prather became Fire Chief for the Orange County Fire Authority on October 1, 1997. In this capacity he is responsible for the daily operation of one of the largest fire organizations in California. Under his direction are 1,300 career firefighters, reserve firefighters and support staff. The OCFA serves 22 cities and unincorporated areas of Orange County, with a total population of more than 1.3 million, from 59 fire stations.

Prior to becoming Fire Chief, Mr. Prather served as Assistant Director of Fire Services/Operations. He was selected by the Orange County Firemen's Association as the 1995 "Firefighter of the Year." In 1998, as a battalion chief, he was assigned to the Authority's first master plan. He was promoted to Division Chief in 1989 and a year later to Assistant Director of Fire Services.

Chief Prather served as Incident Commander for the 1993 Laguna Fire and was responsible for the after-action report that has resulted in numerous changes in policies and procedures to improve fire safety in Southern California. His report provides a case study for unified command operations and disaster management.

Chief Prather holds a Bachelor of Arts Degree in Management and has completed the Harvard University John F. Kennedy School of Government Program for Senior Executives in state and local government. He has also attended the United States Fire Administration National Fire Academy, completing the Executive Fire Officer Program.

Chief Prather has dedicated his life to protecting our community and is noted for his favorite saying, "Be tough, be tender, be safe."

CONFERENCE REPORT ON H.R. 4546, BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

SPEECH OF

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. LANGEVIN. Mr. Speaker, last night the House approved the conference report for H.R. 4546, the Bob Stump National Defense Authorization Act for Fiscal Year 2003. Passage of that legislation represents an important commitment by Congress to a strong national defense and to the men and women who provide it.

As the United States continues to prosecute the war against terrorism, it is essential that our armed forces are appropriately equipped. The conference report provides vital support for homeland counterterrorism programs, increased weapons capability, and military research and development. Additionally, it recognizes the important role of our men and women in uniform by providing a 4.1 percent pay raise and authorizing a force increase of 40,000 people.

I am particularly pleased that the conference agreement includes language prohibiting the military from requiring or strongly encouraging U.S. servicewomen in Saudi Arabia to wear the abaya—a long black garment required for women under Islamic law. I have been working with the gentleman from Indiana, Mr. HOSTETTLER, and the gentlewoman from New Mexico, Mrs. WILSON, to remove this unnecessary and degrading mandate. The Defense

Authorization conference report ends this double standard and guarantees that our servicewomen are not treated as second-class citizens.

Additionally, the legislation breaks new ground by establishing a concurrent receipt program. For too long, our disabled military retirees have witnessed their military retirement pay reduced by the amount they receive in disability compensation. I have fought against this injustice since arriving in Congress and am pleased that this legislation will provide greater assistance to many of those who have made sacrifices for our nation.

The National Defense Authorization Act is a great achievement and an appropriate recognition of Chairman BOB STUMP's dedicated leadership. I appreciate having had the opportunity to serve with Chairman STUMP on the House Armed Services Committee and commend him for his deft handling of the complex matters arising from the international war on terrorism. Together with Ranking Member IKE SKELTON, Chairman STUMP helped foster a collegial and thoughtful atmosphere in the committee, thus ensuring that Congress's approach to the war on terrorism was bipartisan and well considered. I wish him well in the future and thank him again for his leadership.

As the House prepares to recess for the year, I am disappointed that we were not able to claim greater progress on appropriations bills and other important legislation. Nevertheless, passage of the Defense Authorization Act, coupled with the final agreement reached on the Department of Homeland Security, demonstrates Congress's commitment to ensuring the safety of the American people, and I am proud of the work we have accomplished in these fields.

CONCURRENT RECEIPT

HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. PUTNAM. Mr. Speaker, as we enter the waning days of the 107 Congress, action has finally been taken on the issue of concurrent receipt for America's military retirees. The National Defense Authorization Act for FY 2003 Conference Report that has come before this body does include language to provide concurrent receipt for some of our military retirees. Unfortunately, it falls far short of the proposal I supported in the House Budget Committee, and which passed this body by a vote of 221 to 209.

On March 20 of this year the House Budget Committee, of which I am a Member, took the initiative to include funding for concurrent receipt in its budget for FY 2003. This budget, H. Con. Res. 353, A Wartime Budget to Secure America's Future, was endorsed by the Administration, and included over a half a billion dollars for partial repeal of the dollar-for-dollar offset of military retired pay and VA disability compensation. Specifically, H. Con. Res. 353 earmarked over $500 million as a first step in FY 2003, with increasing amounts over the next five years, providing a cumulative total of $5.8 billion to fund concurrent receipt for America's most severely disabled military retirees.

Just over one month ago, on October 10, 2002, the House reiterated its dedication to righting this long-standing injustice. We passed, by a vote of 391–0, instructions to the conferees to retain the concurrent receipt language during their negotiations with the Senate. Unfortunately, that was not enough to bring the conference to closure and give our military retirees what they deserve.

I would like to thank Rep. MIKE BILIRAKIS for his vigorous work on this issue. And I would like to thank the 402 members of this House, who in addition to myself, cosponsored his bill, H.R. 303 to provide full concurrent receipt for our veterans. Over 400 Members were committed to ending this unfair penalization of our military retirees who were disabled during their military service.

I am disappointed that despite strong support for this initiative, and budget neutral funding for the program, the conferees were unable to keep the promise made to our military retirees. I will continue to work for just treatment for all disabled military retirees and I will continue to support legislation that will provide full funding of concurrent receipt for disabled military retirees.

I have the highest respect for our departing friend Chairman BOB STUMP, and it is because of my great admiration for him, that I will vote to send this legislation to the President.

A TRIBUTE TO THOMAS SCHILTGEN, DIRECTOR OF INS LOS ANGELES DISTRICT

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. LEWIS of California. Mr. Speaker, I would like today to pay tribute to Thomas J. Schiltgen, who has performed a near-miracle in the past three years as District Director for the Los Angeles District of the Immigration and Naturalization Service. Coming into the busiest—and most troubled—office in our immigration system, Mr. Schiltgen turned the Los Angeles District into one of the most efficient in the nation.

Thomas Schiltgen joined the INS out of college in 1975 as a Criminal Investigator in Chicago. He moved up through the ranks, and served in a wide range of positions that included Deputy Director in the agency's Bangkok office. Before taking over the Los Angeles office, he served for four years as Director of the INS San Francisco District.

When he was assigned to take over the Los Angeles District, the office was known throughout the country for crowds lining up every day in a desperate attempt to work through the immigration process. The office averaged 24 months to process routine citizenship and legal immigration cases. More than 400,000 cases awaited resolution.

Winning the respect of his own staff and the immigration support community, Mr. Schiltgen has managed to virtually eliminate the backlog and has reduced the waiting time to as little as six months for most naturalization and adjustment of status cases. The efficiency of the office was shown dramatically this year when nearly 5,000 applications were handled in a single day at the end of a family reunification program.

Mr. Speaker, although the Los Angeles District serves all of Southern California, I want to pay special tribute to Mr. Schiltgen on behalf of the Inland Empire. Under his leadership, the INS has opened a wonderful new office in San Bernardino, and provided a much wider range of services closer to home for thousands of immigrants who live and work in my district. The new INS office is an asset to the downtown of my home town, and provides a warm and professional face for the federal government in the city.

Mr. Schiltgen has also opened an expanded service center in Orange County, and has helped redesign the main INS facility in Los Angeles to provide heightened privacy, convenience and service for those who have come to our nation seeking the American dream.

Mr. Speaker, after 27 years with the INS, Thomas Schiltgen has decided to retire and pursue opportunities in the private sector. I ask you and my colleagues to please join me in thanking him for providing such high-quality public service, and wish him and his wife Brenda well in their future endeavors.

CONDEMNING NORTH KOREA FOR ITS FAILURE TO COMPLY WITH THE NON-PROLIFERATION TREATY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to discuss a very serious issue—the failure of North Korea to comply with a number of non-proliferation treaties, agreements, and resolutions, and the absence of any well-defined U.S. policy with that country.

The history of nuclear weapons proliferation in North Korea is a lengthy one, going back over a decade and a half when North Korea signed the Non-Proliferation Treaty. When it signed that treaty in 1985, North Korea agreed not to manufacture or acquire nuclear weapons, and also agreed that the International Atomic Energy Agency could conduct inspections to verify fulfillment of those obligations.

When that Agency discovered anomalies in North Korea's nuclear facilities in 1993, inspectors were no longer allowed into the country.

Seeking to end the stalemate, the U.S. and North Korea signed the Agreed Framework in October, 1994. Under the terms of the Agreed Framework, the U.S. created an international consortium, which would provide North Korea with alternative sources of energy in the form of heavy fuel oil and a modern nuclear power plant. In return, North Korea pledged to freeze its existing nuclear program and allow inspectors back into the country.

Shortly after the Framework was signed, the consortium, the Korean Peninsula Energy Development Organization, was created. Despite the fact that the U.S. and its allies have spent over $1.3 billion to finance reactor construction and provide heavy fuel oil to North Korea annually, they have consistently failed to allow inspections of its nuclear facilities.

Then last month, North Korea admitted that it has been operating a covert nuclear weapons program.

The existence of a North Korean nuclear weapons program poses a real and imminent threat to the populations of South Korea, Japan, and North Korea, and to the U.S. Armed Forces stationed in that region.

The time has come for the U.S. to establish an effective policy regarding U.N. member states and their obligations towards world peace and disarmament.

Today, I am introducing a resolution, condemning the government of North Korea for its failure to comply with the non-proliferation treaty and the Agreed Framework.

First, my resolution calls on North Korea to honor its commitments under the Non-Proliferation Treaty and the Agreed Framework. Those commitments include freezing its nuclear programs and allowing the IAEA to carry out inspections.

It also commends the members of the KEDO international consortium for honoring and upholding their commitments to advance the implementation of the Agreed Framework.

Second, my resolution calls on the IAEA to report to the U.N. General Assembly, one year from the date of the Resolution, on the status of North Korea's compliance with inspections.

If the IAEA report indicates that North Korea has still not allowed inspections, members of KEDO are called on to suspend all funding for construction, suspend construction of the light water reactor, and suspend shipment of heavy fuel oil.

And finally, the Resolution calls on the leaders of Russia, China, Japan, South Korea, and other concerned nations to support that potential suspension.

I believe that this Resolution is an important first step in achieving the non-proliferation treaty goal of nuclear disarmament.

I do not recommend, as many have suggested, simply declaring the Agreed Framework null and void. I believe that "suspending" our participation until North Korea complies with its obligations sends an important message. That message is—we honor our commitments, we expect you to honor yours, and we believe that diplomatic and peaceful solutions, with the full support of other concerned nations, are the optimum means for attaining the objectives outlined in the Non-Proliferation Treaty.

Realize, this is only the first step on what will be a long and arduous path. This Resolution allows diplomatic discussions and negotiations to continue, it also allows our Secretary of State to garner support from members of the U.N. Security Council and other concerned nations to join in commitments to the non-proliferation treaty.

I have specifically not included any language in the Resolution on actions that might be taken after one year if inspectors are still not allowed into North Korea. It is more appropriate to leave that decision to the member nations on the U.N. Security Council.

There are nearly 38,000 U.S. Armed Forces currently stationed on the Korean peninsula, and another 40,000 stationed in Japan. We have a lot at stake as a nation in ensuring a peaceful solution to this issue. At the same time, we must take steps to overcome this impasse. It is not reasonable for the United States to continue unilateral compliance with a bilateral Agreement.

I urge my colleagues to support this resolution.

I believe this resolution will guide our Nation towards implementing a policy that is achievable, and attainable, and supportable.

WORLD POPULATION AWARENESS WEEK

HON. JAMES C. GREENWOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. GREENWOOD. Mr. Speaker, the world's population is currently growing at a rate of 77 million people per year. By 2050, the United Nations estimates that the world's population will reach 9.3 billion. While the impact of this population growth will be felt throughout the world, it is the lesser-developed nations that will bear the greatest burden unless poverty alleviation and long-term economic and environmental sustainability become a priority for the international community. Without a higher standard of living in these impoverished areas, one-fifth of the world's population, including children, will continue to suffer malnutrition, disease, and illiteracy.

It is without question that young people all over the world are the potential of a country's future, and if their needs and demands of today are not addressed, they are in danger of jeopardizing that future. Risks of dying from complications of pregnancy or childbirth are 25 times higher for girls under the age of 15 and two times higher for women aged 15–19, yet 17 million women between the ages of 15 and 19 give birth every year.

It is impossible to tackle the issue of overpopulation without addressing the devastating burden this growth would have on the environment. It is evident that overpopulation can result in water shortages, soil degradation and air and water pollution. As a responsible society, we cannot afford to allow the erosion of our precious natural resources to continue any further.

It is therefore important for us to recognize the problems associated with rapid population growth amongst young people. Governor Schweiker has proclaimed the week of October 20–26 of this year as World Population Awareness Week in the Commonwealth of Pennsylvania, and I would like to support the Governor in this effort by entering his proclamation into the CONGRESSIONAL RECORD.

COMMONWEALTH OF PENNSYLVANIA,
GOVERNOR'S OFFICE

PROCLAMATION—WORLD POPULATION AWARENESS WEEK

October 20–26, 2002

Whereas, the 21st century offers enormous environmental and societal challenges for governments at all levels; and

Whereas, these challenges call for innovative leadership to ensure resource conservation, protection of open space, waste prevention, sanitation management to provide quality of life. These challenges are inextricably linked to patterns of considerable demographic change; and

Whereas, world population is projected to increase by almost 80 million per year with 98 percent of population growth projected to occur in the least developed countries of the world. This growth can lead to disease, hunger and starvation; and

Whereas, demographic problems are not limited to the under developed nations. These problems are also a reality in the United States and other industrialized nations.

Therefore, I, Mark S. Schweiker, Governor of the Commonwealth of Pennsylvania, do hereby proclaim October 20–26, 2002, as World Population Awareness Week In Pennsylvania. I encourage all citizens to reflect upon these challenges and seek rational, humanitarian and community-based solutions.

Given under my hand and the Seal of the Governor, at the City of Harrisburg on this twenty-fourth day of July in the year of our Lord two thousand and two and of the Commonwealth the two hundred and twenty-seventh.

MARK S. SCHWEIKER,
Governor.

PROSPECTS FOR CHANGE IN TURKEY

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. SMITH of New Jersey. Mr. Speaker, I wish to extend my congratulations to the people of Turkey for their elections held on November 3. Witnessing the peaceful change of government is a change that is significant for both Turkey's citizens and for their neighborhood. Many of Turkey's neighbors need to see that such a transfer of power is possible, for the people of these countries have for too long suffered under the illusion that they must live with their repressive regimes that maintain power through undemocratic means.

It is also important to keep in mind that the Turks, seen by some as a model for the countries of Central Asia, are not new kids on the block—former President Demirel was an original signer of the 1975 Helsinki Final Act. As Co-Chairman of the Commission on Security and Cooperation in Europe (the Helsinki Commission), I have followed closely the developments in Turkey. With a particularly keen interest in the protection of human rights which has such an impact on the lives of individual men, women and children, I continue to be concerned about the ongoing use of torture, violations of religious freedom and threats to civil society.

Through the ballot box, the Justice and Development Party, known as the AKP, received 34.3 percent of the vote, giving them a clear majority of 363 seats in the 550-seat Turkish Grand National Assembly. This entitles the AKP, led by former Istanbul Mayor Recep Tayyip Erdogan, to govern without sharing political power. He will not be without challenges to his authority though.

On November 8, the anniversary of the death of the Turkish reformer Kemal Ataturk, General Hilmi, Ozkok issued a statement vowing "to protect the republic against all types of threats, especially fundamentalism and separatist activities," reiterating strongly the military's view of itself as the historical guarantor of Turkey's secular system. Mr. Speaker, while the transition appears peaceful, it is not without its strains and stresses, even with the potential of the military stepping in like it has done repeatedly in the past. We can only hope that is not the outcome of this transition.

As an original participating State of the Organization for Security and Cooperation in Europe (OSCE), Turkey has accepted a broad range of human rights obligations. As head of the U.S. delegation to the OSCE Parliamentary Assembly, I have worked with my parliamentary colleagues from Turkey to encourage protection for these commitments. With a new government not obligated to continue the ways of the old, there is a welcome opportunity for such initiatives to be undertaken.

There are a few specific matters that I urge the incoming government to address without delay. Four Kurdish members of the Grand National Assembly have been in prison since March 1994. I call upon the new government to free Layla Zana, Hatip Dicle, Orhan Dogan, and Selim Sadak and remove the trumped-up charges from their records. They were convicted for, among other things, speaking their mother tongue in and out of the parliament building. As Mr. Erdogan himself has said, such convictions should not stand.

Also, past efforts to return the hundreds of thousands of internally displaced Kurds to their homes in southeastern Turkey have proven ineffectual. The government should take concrete steps to ensure that refugees are allowed to return to their own homes in safety and dignity, which may well require the clearing of land mines and repairing of villages.

Mr. Speaker, without reciting the lengthy list of Turkey's human rights violations, including the use of torture, it is fair to say that Turkey's record of implementation of OSCE human dimension commitments remains poor. While progress has been made, the authority of police officials must be checked by the rule of law. All claims of torture must be seriously investigated, no matter where the investigation leads. It is important that anyone who commits torture—especially police, the security forces or other agents of the state—must be taken to court and tried for high crimes. The Forensic Medical Association should be allowed to carry out its professional responsibilities and act without fear in its attempts to document torture. Victims of torture should be paid due recompense by the state.

I am very concerned about the continuing difficulty no-governmental organizations face throughout Turkey, particularly the Human Rights Foundation of Turkey. The Human Rights Foundation exists in an uncertain environment, with arbitrary shutdowns and having its officials harassed, intimidated or arrested. Property has been seized and not returned.

Religious freedom in Turkey, whether for Muslims or other religious communities, had suffered from heavy-handed government involvement and control. The government allows Turkish Muslims to only attend state-approved mosques, listen to state-funded Imams, and receive religious education from state-funded schools. The Directorate of Religious Affairs, which regulates all of Turkey's 75,000 mosques and employs Imams, has been criticized for only promoting Sunni branch of Islam. I would encourage the new government to bring to a close its regulation of all religious institutions.

The wearing of headscarves has also been regarded as quite controversial since it is seen as a religious totem in a secular state. Women who choose this expression of religious conviction are denied the ability to attend state-run universities and work in public building, including schools and hospitals. The public sharing of religious belief in Turkey with the intent to persuade the listener to another point of view is severely curbed for both Muslims and Christians. A number of evangelical Protestant groups throughout Turkey have reported being targeted because of their religious free speech, which contradicts OSCE commitments on religious liberty and freedom of expression.

Turkey's Office of Foundations has contributed its own difficulties for faith communities, as it has closed and seized properties of "official" minority religious groups and unrecognized faith communities. Several religious groups, most notably the Armenian Apostolic and Greek Orthodox churches report difficulties, particularly on the local level, in repairing and maintaining existing buildings or purchasing new buildings. The continued closure of the Orthodox seminary on Halki Island remains a concern.

Furthermore, religious groups not considered "official minorities" under the Lausanne Treaty are provided no legal route to purchase or rent buildings to meet, and are thereby forced to hold meetings in private apartments. In response, provincial governorships, after receiving a letter from the Ministry of Internal Affairs last year, have initiated efforts to close these meeting places, leaving the smaller Protestant communities without any options. The lack of official recognition is an insurmountable hurdle for minority religious groups wishing to practice their faith as a community.

Turkey is at a critical crossroads. I am hopeful that the new government will take this opportunity to move forward, and craft policies which are consistent with OSCE commitments and protective of all peoples living in Turkey.

IN HONOR OF LINDA PAUWELS FOR HER ACHIEVEMENTS IN THE FIELD OF AVIATION

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Ms. SANCHEZ. Mr. Speaker, I rise to pay tribute to American Airlines pilot Linda Pauwels, a mother, a Latina, and a pioneer on behalf of female pilots throughout the world. Linda is an immigrant from Argentina who came to the U.S. when she was 6 with her 2 year-old brother and widowed mother. Through hard work and dedication, she began her flying career at the young age of 17. By age 25 she had become the youngest female jet pilot ever.

Since then, she has flown most major jets including huge C–130 transports and 707s. Just last year, she diverted tragedy when the MD–80 she was flying with 128 passengers experienced engine failure on its way to Chicago. Because of her experience and her ability to handle difficult situations, she was able to successfully perform an emergency landing in Sioux City, Iowa.

Linda is a dedicated wife and mother of two. She is also the only woman spokesperson for the Allied Pilots Association, and dedicates much of her free time to promoting women in aviation and encouraging Hispanics to work hard to fulfill their dreams.

Linda Pauwels is a striking example of the many hardworking pilots who are dedicated to making sure that the skies are safe for all airline passengers.

MAURICE A. AND RITA A. LUTZE: FORGING THEIR GOLDEN ANNIVERSARY

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. BARCIA. Mr. Speaker, I rise today to honor two very special friends, Maurice and Rita Lutze of Otter Lake, Michigan, as they celebrate fifty years of marriage and a loving commitment to each other and their three children. The Barcia family has known the Lutze family for many years. It has been especially heartwarming over the years to get to know such a loving couple and their children.

With Rita's brother Cliff and his wife Pat serving as witnesses, Maurice and Rita eloped and were married in Angola, Indiana, on September 13, 1952. Choosing to elope somehow seems appropriate for two people who have never been afraid of life's challenges.

Maurice served as a Marine in the Korean War, was wounded and received the Purple Heart. He later worked as a toolmaker at Northern Tool and Die and as a foreman at General Motors Corporation's Fisher Turnstead plant. He also served as a volunteer firefighter for the Beecher Fire Department, where he rose to the rank of Assistant Chief. Meanwhile, Rita worked to create a loving and nurturing home environment in which to raise their daughters, Carrie and Charlotte, and son, Kim. After the children were grown, Maurice and Rita literally put their house on a trailer and moved it to a 10-acre parcel in Otter Lake where they raised horses and cows.

From the day Maurice and Rita first met at the Red Lion restaurant in Bay City, they shared a special bond and a like-minded sense of humor. Friends and family are familiar with the story of that day at the Red Lion when Maurice and Rita couldn't stop laughing about a customer whose bald head was so shiny that Rita tried to fix her hair in the reflection. It was their mutual ability to find humor in everyday events that brought them together and that has kept them together through good times and more difficult circumstances.

Finally, Mr. Speaker, I ask my colleagues to join me in congratulating Maurice and Rita

Lutze for achieving a rarely reached milestone of fifty years of marriage. I am confident they will enjoy many more years of love and happiness.

CONFERENCE REPORT ON H.R. 4546, BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

SPEECH OF

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. JEFF MILLER of Florida. Mr. Speaker, I rise reluctantly today on the Conference Committee report for the Fiscal Year 2003 Defense Authorization.

The House of Representatives sent to the Conference concurrent receipt provisions that were a solution to the problem of the nearly 15 million veterans and their families in this Nation. Last night, after 40 minutes of debate, the House adopted a version of the report that will aid merely 33,500 of our military retirees who suffer from a combat-related disability.

While I appreciate Chairman HUNTER's efforts to keep some language in the conference report, I am left to wonder: what have we done for the other 14,966,500 servicemen and women who have stood behind this great Nation?

We had the support and votes of over 400 Members of this House and funding in this year's budget to solve this seemingly unsolvable problem. When are we going to put our money where our mouths are?

Adding insult to injury, the concurrent receipt provisions are confusing and complicated. Deserving or not, approved or not, claimants will innundate the Department of Defense, causing further delays and postponements in an already backlogged system. We may very well end up losing more Federal dollars in a drawn-out claims process than will reach our retirees in payments due to these vague eligibility provisions.

I have the greatest respect for BOB STUMP, for whom this legislation is appropriately named. he has been a tireless advocate for America's Uniformed Services, and an invaluable mentor to me. And while this is a first step on the road to improved compensation for our veterans, I was unable to sign this conference report. We have just sent a message to the men and women that defend our freedoms that I cannot support. That message is this: 20 years or more of honorable military service is enough to warrant receipt of military retirement pay only if you are injured in combat.

Mr. Speaker, we must pledge now to provide for the welfare of veterans who have contributed in every capacity to the defense of our Nation.

The remainder of this legislation is a cumulative statement on how this Congress views its armed forces. Our vote sends a clear message to our men and women in uniform that we support your efforts and appreciate your sacrifice to defend this great Nation.

Of the total $355.1 billion, $93.6 billion ($11.5 billion over fiscal year 2002) supports the budget request for 1.4 million active duty and 864,558 guard and reserve personnel; it fully funds the pay raise of 4.1 percent and adds $110 million over the budget for enhanced force structure for B-52 squadrons, and Guard and Reserve full time support personnel.

The Navy, of particular interest to Northwest Florida, will receive $3.2 billion for 46 Navy F/A-18 E/F fighters, including an additional $120 million over the budget request for 2 additional aircraft. The appropriation will also provide $4.0 billion for 23 F-22 fighters and $3.5 billion for continued development of the multiservice Joint Strike Fighter.

Defense health programs are funded at $14.8 billion with $7.7 billion going towards Tricare for Life, post-65 military retirement medical care.

Additionally, I am happy to see $26 million for the Joint Primary Aircraft Training System or JPATS. JPATS brings Naval aviation training into the 21st century by providing student aviators with glass cockpits and ejection seats, a more realistic training, for a more realistic age of war fighting.

Mr. Speaker, this bill is progressive, reflective of Congress and goes a long way in supporting our men and women in uniform.

CONFERENCE REPORT ON H.R. 4546, BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

SPEECH OF

HON. HOWARD. P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. MCKEON Mr. Speaker, I would like to first thank House Armed Services Committee Chairman BOB STUMP for whom this bill is named. It has been a great privilege to serve on the committee with Chairman STUMP. He has served his country with distinction in a number of capacities. From the time he concealed his age to be eligible to join the fight during World War II to his patriotic leadership in the HASC, Chairman STUMP had exemplified bravery, integrity and honor. Truly, he has been a role model for all Americans.

Post September 11, Americans are painfully aware of the need to equip our military with not only the tools, but also the training vital to securing and preserving freedom at home and abroad. I strongly support H.R. 4546 because this bill is an aggressive plan to provide our men and women in uniform with the best in both training and equipment.

Furthermore, H.R. 4546 honors those who protect our freedoms each day. It is unfair and unpatriotic to ask the men and women of the armed services to perform one of the most difficult and more important jobs without compensating them fairly. I am extremely pleased that the defense reauthorization act includes a 4.1 percent military pay raise.

This legislation marks a critical point for the United States in the war on terror. For over a decade the U.S. military has suffered the blows of defense budget cuts. I support H.R. 4546, which including the President's goal to increase funding and to repair the damage caused by these cutbacks.

IN HONOR OF ZLAKET FAMILY BUSINESS

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Ms. SANCHEZ. Mr. Speaker, I rise today to recognize the Zlaket Family of Garden Grove for 75 years of service to their community.

In 1927, Leo and Mary Zlaket decided to open a general store, selling bulk items to farm housewives, like flour and sugar, as well as fabric to sew clothes for heir families. Chickens were sold whole, without the modern day pre-packaging.

Today, the Zlaket market caters to the fast-paced and busy community of Garden Grove by selling specialty and gourmet items. However, they still maintain their old world charm by selling "Moms Cakes" baked by 81-year-old mom Kay Roman, who wakes up early each morning to bake her delicious creations.

I am very proud of the Zlaket family for sustaining a business over 75 years through events like World War II and the Great Depression. Their dedication to their community, their business, and their family is to be commended.

IN RECOGNITION OF DOUGLAS H. DITTRICK

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mrs. ROUKEMA. Mr. Speaker, I rise today to recognize and congratulate an outstanding member of our community and northern New Jersey—Douglas H. Dittrick, who on November 18, 2002, will be honored by the Northern New Jersey Council of the Boy Scouts of America as one of 2002's "Good Scouts." I am privileged to know Doug as a constituent, a counselor, and, most important, a valued friend.

Mr. Speaker, it is impossible to list all of the contributions Doug has made to New Jersey as a businessman, as a civic leader, and as a philanthropist. Doug is an outstanding example of the type of person who makes Bergen County, our State, and our Nation such a wonderful place.

As President and CEO of Douglas Communications Corporation II, Doug has been a leader and pioneer in the telecommunications industry for more than twenty-five years. He has served as Chairman of the National Cable Television Association, and has been honored as Executive of the Year by Cable Television Business magazine. Doug is a recipient of the NCTA's Vanguard Award for outstanding contribution to cable television, and has been a champion of the telecommunications industry for decades.

Equally important, Doug has been a leader in innumerable charities and civic institutions within and outside of New Jersey. In my own district, be has chaired the Valley Health System and served as chairman of the board of the Valley Hospital's Board of Trustees. He has been actively involved in the leadership of the American and National Red Cross on both the state and national level. In my hometown of Ridgewood, Doug served with distinction on the town's Board of Education for almost a decade, and as President of the Board for five years. At the same time, Doug has shown deep devotion to his alma mater, Ohio Wesleyan University, having served as President and as an active member of the University's Alumni Association, and currently serving as Chairman of the University's Board of Trustees.

Above all, Doug has shown a keen interest in Scouting, and the values it instills in our young people. Doug has served as Chair of the Ridgewood-Glen Rock District of the Boy Scouts of America, and presently serves both as Vice President-Finance for the Northern New Jersey Council of the Boy Scouts, and Executive Vice President of the Northeastern Region. In 1997, Doug was the recipient of the BSA's prestigious Silver Beaver award in recognition of all that he has contributed to Scouting.

In gratitude for all that Doug has given to the Boy Scouts of America, the Northern New Jersey Council of the Boy Scouts this year will honor Doug with its "Good Scout" award. Doug's well-justified pride in this honor is shared by his wife Barbara, their three daughters, and indeed, all of the New Jersey Scouting community.

Mr. Speaker, through his good works, Douglas H. Dittrick exemplifies the American values that have made our country great, and truly gives meaning to the term "pillar of the community." I ask my colleagues in the House of Representatives to join me in congratulating Doug on his achievements, and thanking and saluting him for his dedication and contribution to so many members of our New Jersey community.

HONORING SIDNEY "SID" M. OMAN ON HIS TEN YEARS OF SERVICE AS HOST OF WCTV-48'S SOUNDING BOARD PROGRAM

HON. J. RANDY FORBES

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. FORBES. Mr. Speaker, I would like to take this opportunity to honor a patriot and pioneer in public television. Sidney "Sid" M. Oman has given ten years of service as host of the weekly public affairs talk show, "Sounding Board", on the City of Chesapeake's cable channel, WCTV–48.

Each week, Sid highlights hot topics in politics, current events, and other news that impact the residents of the Chesapeake community. He invites state and local leaders to talk about important issues, and share their thoughts with the community in an objective forum.

Sid and his "Sounding Board" have a long history together. From 1960–1964, he hosted the original "Sounding Board" on WAVY TV–10 in Hampton Roads, Virginia. From the beginning, the show featured people in local, state, and national politics and government, as well as those in the arts and media.

Sid has been serving his community in a variety of capacities for many decades. He began his career of service as public relations chief for the City of Norfolk, and served five years as executive director of the Norfolk's International Azalea Festival, an annual celebration that salutes NATO member nations.

Sid's love of politics eventually persuaded him into public office. Sid served as a three-time mayor of Chesapeake, Virginia, and a one-time mayor of Elizabeth City, North Carolina. During these years of service, Sid continued to host weekly public television segments and call-in radio programs where citizens phoned in with questions and comments.

After ten years with WCTV, Sid Oman still holds a strong commitment to educating and providing information to the public. He and his wife, Lillian, are both well-respected and much-loved members of the Chesapeake community.

When not hosting "Sounding Board", Sid oversees his successful funeral business. In spring of 1964, Sid himself planned and coordinated the funeral of General Douglas MacArthur. Again—Sid's commitment to serving and honoring others has been an outstanding and lifelong pursuit.

Mr. Speaker, please join me in honoring Sid Oman, for his years of service to WCTV, to Chesapeake, and to the Commonwealth of Virginia.

CONGRATULATING KATARZYNA SZOTYNSKA, SAILING CHAMPION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. LAFALCE. Mr. Speaker, I rise today to pay tribute to Katarzyna Szotynska, a young woman from Warsaw, Poland, who was the recent winner of the World Laser Radial championships which was held in the greater Buffalo area at the Buffalo Canoe Club in nearby Ontario, Canada.

Ms. Szotynska is also the 2002 Silver medalist in the 3rd World Sailing Games in Marseille, France, and was the Gold Medal winner in the World Laser Radial Championships in Spain and Turkey in 2001 and 2000, respectively.

Katarzyna Szotynska was born in Poland and is studying culture at Warsaw University. She has been sailing Laser Radials for eight years. Ms. Szotynska is the first woman in the world to win three consecutive world championships in Laser Radials class. She is the most accomplished woman sailor in Polish history.

I ask the House of Representatives to join me in congratulating Katarzyna Szotynska on her accomplishments.

IN HONOR OF ANDREW SAAVEDRA FOR HIS SERVICE TO THE CITY OF SANTA ANA

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Ms. SANCHEZ. Mr. Speaker, I rise today to honor Andrew Saavedra for his service to the city of Santa Ana. Andrew was recently awarded the Rosita Diaz "love in Action" award from the Loyola Institute for Spirituality for his hard work and dedication to the community.

Sixteen years ago, Andrew started a soup kitchen at St. Joseph Catholic Church. When it first opened, the kitchen served only a handful of people. Today, the kitchen has expanded and now serves over 600 each week.

Andrew has also helped to establish citizenship and English classes in Santa Ana to help immigrants in the community to become a part of the Democratic process.

I am very proud of Andrew and appreciate his service to the citizens of Santa Ana.

DEAN STRATTON: A HUNTER'S LIFE

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. BARCIA. Mr. Speaker, I rise today to honor my good friend and fellow bow hunter, Dean Stratton of Rhodes, Michigan, in acknowledgment and appreciation for his entrepreneurial spirit and long-time commitment to promoting advanced hunting techniques in Michigan and nationwide.

Dean and I share a love of hunting and the great outdoors. I have enormous respect and admiration for him as a hunter and as a businessman who turned his $100 investment into the biggest commercial game call business in the state. His family-owned business, Stratton Outdoor Products, along with Stratton Deer Farm, stand as models for other small business owners pursuing their own versions of the American Dream.

Over the years, Dean has used his own passion for hunting to help countless others discover the thrills and satisfaction on the sport. A native of Bay City, Dean pioneered the development of deer calls and was the first businessman in the state to sell deer and game calls commercially. He made his discovery by observing how deer communicate. He then used that knowledge to transform a duck call into a prototype for luring deer. Dean's deer calls are now widely used by hunters throughout the country.

In addition to marketing his innovative, hand-made products to hunters and hunting outlets across the country, Dean also has successfully harvested trophy-class whitetail deer and wild turkey for many years. Always willing to share his expertise on deer and turkey behavior and on some of the advanced hunting techniques he has developed, Dean has conducted seminars and clinics to pass on his knowledge to others. He also is an accomplished author, photographer and radio talk show host. Dean credits his wife, Cheryl Ann, and their sons, Christopher, Jason and Adam, with allowing him to pursue and achieve his dreams.

Mr. Speaker, I ask my colleagues to join me in honoring Dean Stratton for his many contributions to hunting. He is indeed a straight shooter and a strong advocate for hunters and outdoor enthusiasts across this great land and throughout the world.

TRIBUTE TO BALDWIN-WALLACE COLLEGE

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. KUCINICH. Mr. Speaker, I rise today to commend Baldwin-Wallace College in Berea, OH, for their innovative program to assist single, teen mothers in obtaining a college education. Baldwin-Wallace College's commitment to assisting underrepresented populations with obtaining a higher education degree dates back to the founding of the institution in 1845. In keeping with that tradition, Baldwin-Wallace developed the Single Parents Reaching Out for Unassisted Tomorrows, or SPROUT, program in 1990 to recruit and retain students from "at risk" populations, knowing that education is the door to a future free from poverty, dependency, and oppression.

The College created the comprehensive developmental program for single parents and their children when it became clear that single parents drop out of college when the competing demands of child care, academics, and finances become overwhelming. Without a college degree, most single parents, primarily women, are unable to break the cycle of welfare and subsistence living. Given the availability of campus housing, day care, academic tutoring, counseling services, mentoring, and educational developmental programming, this cycle can be broken.

SPROUT provides single parents the opportunity to complete a college education consistent with their career and personal goals. Because of the continuing need across the State and the Nation for establishing an educational environment conducive and supportive of the parenting skills, home management skills, personal management demands, and financial resource requirements of single parents, the SPROUT program can serve as a demonstration project for a more extensive effort at developing education programs which offer academic options and opportunities encouraging academic and individual development of single parents and their children.

Students are selected to participate in the SPROUT program based on their financial need, past academic achievement, academic promise, and ability to adapt to community living. They must also be accepted to Baldwin-Wallace through the regular admissions program. Each participant is expected to complete full-time course work each semester while meeting the College's grade point average requirements.

Current welfare regulations requiring participants to engage in 35 hours of classroom study, work, educational programming, and counseling, or vocational training weekly and limiting participants to a total of 36 months force the SPROUT parent to take courses in the summer in order to graduate on time. Even in the face of these requirements, 70 percent of the students who enter the program will graduate. The students work no less than 12 hours per week at work study or off-campus jobs.

Each individual in the program receives career, academic, and personal counseling through the developmental programs that SPROUT offers including mentoring and internship programs. The College provides support services such as tutors, a learning center, a writing laboratory, and a computer center to help ensure the success of these students. Each mother and her child are provided with on-campus housing in a group living environment shared with three other families. Baldwin-Wallace College assists each woman with obtaining child care and additional living expenses.

Despite these strict requirements, the SPROUT parents are achieving academic success. In fact, the overall grade point average of the students in the SPROUT program is over 3.0.

Mr. Speaker, before I close I would like to tell you the story of one young woman who some of you may know. Lar'Mara O'Neal is a shining example of the success of the SPROUT program. She transferred to Baldwin-Wallace College in January 1998 with a newborn son. After graduating from Baldwin-Wallace in 1999, Lar'Mara went on to earn a graduate degree from the Mandel School of Applied Social Sciences at Case Western Reserve in 2001. She currently lives in Washington with her son, Steven, and has a fellowship through the Presidential Management Intern (PMI) program. Today, Lar'Mara is a Legislative Assistant with Representative STEPHANIE TUBBS JONES. This would not have been possible without the opportunity to attend college while raising her son through the SPROUT program.

I would also like to mention my friend, Julie Candela, the director of the SPROUT program, and praise her for her dedication and hard work. Mr. Speaker, I am not only impressed with Lar'Mara and her achievements but with the SPROUT Program because it is an ideal model of a successful Welfare-to-Work program.

Baldwin-Wallace College is dedicated to assisting these young student mothers as they face the many challenges on the path to self-sufficiency, personal responsibility, and academic success. I commend both the College and the SPROUT participants for their commitment and resolve to assure these young women have the opportunity for a better future.

TRIBUTE TO JOHN H. APPLEYARD

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. JEFF MILLER of Florida. Mr. Speaker, I rise today to honor one of Pensacola's most cherished and dedicated citizens, whom over the course of his life has given an immeasurable amount of time and effort to the community that he has worked so hard to build. He has given nearly 1,000 speeches, written over 75 books, and taught over 500 lessons and classes tracing Northwest Florida history. A prolific writer and local historian, John H. Appleyard has dedicated his life to the Pensacola community and has become one of Pensacola's greatest assets.

Actively involved in the Pensacola community for the past half-century, Mr. Appleyard committed himself to the improvement of Northwest Florida. He served as president of the Pensacola Historical Society, the Downtown Rotary Club, and the PJC Foundation. In addition, he has given his time to such positions as director of the Home Builders Association of West Florida, the Lions Club, and the United Way Foundation. In 1959 Mr. Appleyard founded the John Appleyard Agency, a Pensacola advertising and public relations firm, for which he has actively been a part of since its inception.

Over the past 50 years, this distinguished gentleman has received numerous honors and awards for his contributions to the Pensacola area. In 1955, Mr. Appleyard was recognized as the Jaycees Northwest Florida Young Man of the Year for his service with a variety of community organizations including the University of West Florida, Boy Scouts of America, and the YMCA, just to name a few. Continuing his efforts for the next 30 years, Mr. Appleyard was honored as the Chamber of Commerce-News Journal Pioneer Businessman of the Year in 1986 and awarded the Heritage Award of the Pensacola Historical Society in 1988. These are simply a few of the overwhelming number of awards and honors Mr. Appleyard has received, a true testament to his dedication and commitment to the Pensacola community.

As well has being firmly entrenched in the activities of the Pensacola community, Mr. Appleyard has become one the foremost historians on the Pensacola area. He has penned a variety of books, both fictional and non-fictional, including classics such as "The Second Great Document" and "The Spanish-French Confrontation." Mr. Appleyard has also written several radio enactment plays and playlets.

Mr. Speaker, on Thursday, November 14, 2002, John H. Appleyard, along with the Pensacola community, will celebrate his 80th birthday. On this such occasion, we honor a great historian, businessman, and neighbor; one of Pensacola's greatest citizens.

IN HONOR OF LUCY SANTANA FOR HER APPOINTMENT AS EXECUTIVE DIRECTOR OF GIRLS INCORPORATED OF ORANGE COUNTY

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Ms. SANCHEZ. Mr. Speaker, I rise today to honor Lucy Santana of Santa Ana. On September 1, Lucy was appointed as Executive Director of Girls Incorporated of Orange County, an organization that strives to help girls and young women develop the values and skills they need to become productive and successful adults. She is the first Latina to head the local chapter of the national organization.

Her desire to help young Latinas in Orange County comes from her experiences in school as a young girl. Noticing that the boys were called on more frequently and received better opportunities in school, she learned from an early age the barriers young women face in getting an education.

Lucy refused to believe the message she was taught. She worked hard and became the first college graduate in her family. Her desire to help other young women in her community is truly an inspiration.

BRAVO ZULU TO COMMANDER DANIEL F. VERHEUL, USN

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. HOSTETTLER. Mr. Speaker, I rise today to pay tribute to Commander Daniel F. Verheul, United States Navy. CDR Verheul has distinguished himself by exceptional service as the Defense Intelligence Agency's Liaison Officer to the House and Senate Armed Services and Appropriations Committees from February 2000 to December 2002. Commander Verheul brought his wealth of tactical through strategic-level operations and operational experiences to bear in supporting the various defense committee's requirements for intelligence briefings and hearings.

Some of these briefing and hearings involved intelligence support for the Iraqi resolution authorizing U.S. forces into combat, Operation Enduring Freedom in Afghanistan, inquiries into the attack on the USS *Cole*, operations in the Balkans, Plan Colombia, "Desert Fox" attacks on Iraq, joint targeting and battle damage assessments for Operation Northern and Southern Watch, and organizing and coordinating a series of weekly classified intelligence briefs.

Commander Verheul is an outstanding action officer whose promotion of intelligence capabilities at all levels gained support in the Congress for increased intelligence capabilities and resources. Through his initiative, he organized a myriad of one-on-one briefs to inform key Congressional Members and Staff, enabling them to gain a better understanding of world crises, global threats, weapons and technology proliferation, foreign military capabilities, and support for administration policies and objectives.

Commander Verheul made numerous significant contributions to national-level military and civilian policymakers in support of funding and policy for intelligence operations and support activities. His contributions to the Congress, the Defense Intelligence Agency, and the Defense Intelligence Community are extensive and invaluable. His willingness to take on any task, and succeed, promoting camaraderie and purpose in every endeavor, reflects great credit upon himself, the Navy, the Defense Intelligence Agency, the Department of Defense, and the United States Congress.

In closing, I am proud to recognize CDR Verheul and his wife, LDCDR Karen Verheul, U.S. Navy, Nurse Corps for their honorable service to our Nation. I join my colleagues in the House today in wishing them and their children Daniel and Jenny continued success and the traditional naval wish of "Fair winds and Following seas" as they transfer to their next assignments on the West Coast.

HOMELAND SECURITY ACT OF 2002

SPEECH OF

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Ms. KILPATRICK. Mr. Speaker, when this Chamber considered predecessor legislation, H.R. 5005, last July, I voted against its passage. As I have looked over the conference agreement reached with the other body, I do not see where this bill represents a significant difference over the original product. Therefore, I voted against the conference agreement for similar reasons that justified my vote on the bill.

Let me say to my colleagues that I support the concept of a Department of Homeland Security. But the concept as transformed into H.R. 5005 is a good idea turned into a really bad legislation.

This bill divides the government from those who serve it—government employees. The 170,000 employees who will be incorporated into this new Department will be denied job protections that cover most all federal employees, even those under the Department of Defense. Under this bill, the President can strip employees of their union representation if the agency's mission or division they work for material changes, or if a majority of the employees within that unit work primarily with intelligence, counterintelligence or investigations related to terrorism. The Department would also be free to totally ignore employee or bargaining representative grievances of proposed changes in pay systems and personnel rules.

The personnel rules do not promote good management; they do not promote good government practices. In Election 2000, President Bush campaigned on the promise that he was a "uniter, not a divider." Now we see what an empty promise he has made of that campaign pledge. This bill will do much to divide government from its own federal workforce.

Another shortcoming of the bill is that it exempts manufacturers of anti-terrorism technology from liability. Proponents of this provision say it will make America safer. I say it only rewards corporate irresponsibility—a policy that our President and the loyal opposition seems to embrace.

Mr. Speaker, this is seriously flawed legislation, and that is why I cast my vote against the bill's passage.

HONORING HENRY LEE PLAGE

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. STEARNS. Mr. Speaker, I appreciate this opportunity to share with my colleagues a story of heroism and to honor the bravery of Lt. Commander Henry Lee Plage who lives in my hometown of Ocala, FL. During World War II, he and his crew saved dozens of men from the water of the Pacific after a raging typhoon sunk three ships.

Henry Lee Plage started his military career as a member of ROTC at Georgia Tech and he joined the Navy in 1937 after his graduation. Following the attack on Pearl Harbor, Lt. Commander Plage immediately requested sea duty. His first assignment was commanding a submarine chaser. With only 4 days to get ready, he assumed command of a crew of 55.

On February 18, 1944, the USS *Tabberer* (DE–418) was launched. She was commissioned on May 23, 1944, with Plage in command. By October the ship had joined Admiral Halsey's 3rd Fleet, helping to supply crucial air cover for General MacArthur's Land troops. On December 17, 1944, the USS *Tabberer* was east of the Phillippine Islands along with the 3rd Fleet, scheduled to refuel, when the weather began to deteriorate rapidly. The reason, Typhoon Cobra was heading directly toward them.

The high winds and choppy seas prevented the USS *Tabberer* from refueling and by the evening of December 17th, the full force of the typhoon was upon them. The *Tabberer* had to fight extremely rough seas—and by the 18th sustained winds had reached about 145 miles per hour, with wind gusts up to 185 miles an hour. Before the Typhoon had moved through, the USS *Tabberer* had lost its mast and radio antenna. Three destroyers from the fleet, the USS *Hull* (DD–350), the USS *Spence* (DD–512) and the USS *Monaghan* (DD–354), had gone down.

About 9:30 p.m. on December 18th, the *Tabberer* rescued its first survivor from the water. It was then that Lt. Commander Plage learned that the USS *Hull* had capsized. Plage and the *Tabberer* immediately began an intensive search and rescue effort. These efforts continued for 3 days and nights. In all, the USS *Tabberer* pulled 55 men from the Pacific Ocean. All were from the USS *Hull* and the USS *Spence*.

Typhoon Cobra claimed nearly 800 lives. Only 92 survived, 55 of these rescued by the crew of the USS *Tabberer*. Lt. Commander Plage remained on sea duty after the war and gave the Navy 14 years of service before retiring in 1954.

It is an honor for me to share this story of heroism and survival and I ask you all to join me in commending Lt. Commander Henry Lee Plage and the crew of the USS *Tabberer* for their dedication in saving the lives of 55 men from that terrible storm.

A PROCLAMATION RECOGNIZING THE RETIREMENT OF RICHARD H. FINAN

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. NEY. Mr. Speaker, Whereas, Richard Finan served the people of Ohio as a member of the Ohio State Senate for 30 years; and

Whereas, Richard Finan has served as President of the Ohio State Senate; and

Whereas, Richard Finan worked to restore and preserve the Statehouse and its annex; and

Whereas, Richard Finan has used his position within the Ohio Senate to help better the lives of thousands of people; and

Whereas, Richard Finan must be commended for his professionalism and his ability to motivate those around him by establishing a superb example; and

Whereas, Richard Finan's dedication and service will be missed by the entire state of Ohio.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in celebrating Richard Finan's years of service and retirement from the Ohio State Senate.

CELEBRATING 40 YEARS OF LOCAL BROADCASTING FOR PUBLIC STATION KVCR

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. LEWIS of California. Mr. Speaker, the residents of San Bernardino and Riverside Counties in Southern California are in a very unique position when it comes to television stations. The Los Angeles broadcasters are close enough to provide all the local coverage we can receive. But they consider most of our news too far away to cover.

For the past 40 years, the only broadcaster that has continuously served the people of San Bernardino and Riverside counties has been KVCR, the public television station operated by the San Bernardino Valley Community College District. They have provided news, focus documentaries, features and creative programming that have often been the only source of local broadcasting for an area that includes nearly 2 million people.

Forty years of providing the only public broadcasting to such a large area would be worth celebrating even if this was the only service provided by KVCR and the community college district. But the station's other role may be even more important: It is an access point to the world of broadcasting for a student body that is among the most diverse and hard-working in Southern California. The graduates of this program have moved on to many of the commercial and cable broadcasters throughout our region and the nation, and they in turn have served as role models and mentors for other minority communities and other cities.

In fact, Mr. Speaker, KVCR was the first TV station in the nation to be owned and operated by a public community college, and it has instructed tens of thousands of students via educational broadcasts and remains an essential component of the college district. The station is a national pioneer in the use of television for direct instruction intended for viewing in the area's classrooms, in the workplace, or conveniently in the homes of students.

Mr. Speaker, KVCR–TV is a vital link in educating the new and existing workforce for tomorrow's business needs. And it remains the only broadcaster providing local news and public interest reports, as well as serving the diverse needs of our community. I ask you and my colleagues to join me in congratulating General Manager Lew Warren and the San Bernardino Community College District board for continuing to provide this valuable public service.

COMMEMORATING THE 69TH ANNIVERSARY OF THE UKRAINIAN FAMINE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. LEVIN. Mr. Speaker, I rise today to commemorate the 69th anniversary of the Ukrainian Famine of 1932 to 1933.

The Famine was engineered as part of Stalin's genocidal policy toward the Ukrainian people, and resulted in the deaths of at least 7 million innocent men, women, and children. Though these deaths were covered up and denied for decades by the government of the former Soviet Union, the truth surrounding these tragic events have been documented by witnesses and survivors, as well as investigative works like Robert Conquest's Harvest of Sorrow and the report of the Congressional Commission on the Ukraine Famine.

I recently received a letter from Dr. Walter Lyzohub from Redford Township, MI. He wrote to tell me that he was a survivor of the Famine, but that the Famine took the lives of his sister, Wira, as well as his brother, Iwan. His sister and brother were age 10 and 9, respectively. Dr. Lyzohub also enclosed a family photograph taken in 1929, just 3 years before the onset of the Famine.

For Dr. Lyzohub and other survivors of the Famine, these tragic events are not just a footnote in history. They are as real as the faces in this photograph of two children who died so needlessly. We honor the memory of Wira and Iwan Lyzohub, and all the victims of the Ukrainian Famine of 1932 and 1933. It is important that we remember their lives and their deaths, and work to ensure that food is never again used as a weapon.

Mr. Speaker, as we commemorate the anniversary of this man-made tragedy, we join with Ukrainian-Americans and Ukrainians around the world in always remembering the victims of the Famine.

HONORING GORDON HASKELL

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. FARR of California. Mr. Speaker, I rise today to remember a very special man, Mr. Gordon Haskell, a resident of Santa Cruz, CA, who passed away on October 4, 2002. Gordon dedicated his life to community service, promoting social justice, and advocating for democratic principles. It is my honor to stand in this House and acknowledge Gordon's life and his legacy to California's 17th Congressional District.

Mr. Gordon Haskell was born the youngest of 10 children August 15, 1917, in Plovdiv, Bulgaria to Edward Haskell, a second generation American Protestant Missionary, and Elisabeth Frolich Haskell of Enenda, Switzerland. At the age of 16, Gordon settled in California where he attended Voorhee's School for Boys, Occidental College, and later graduated from the University of California at Berkeley. Gordon worked for 9 years as a locomotive fireman on the Southern Pacific Railroad while active as a union organizer in the Independent Socialist League. He later moved to New York to serve as editor of the ISL's newspaper, Labor Action. After a number of years with the ISL, Gordon moved on to become Director of development for the American Civil Liberties Union in New York. In 1969, Gordon met his future wife, Rachel, as she stirred lemonade at a peace rally in St. Louis. Gordon and Rachel spent much of their 32 years of marriage in Santa Cruz, CA.

Gordon devoted his life,both personally and professionally, to social and economic justice and equality. His early dedication to social justice evolved into a dogged determination to work in his own communities for obtainable and sustainable political and social change. Gordon was a tireless petitioner of his local, State, and Federal Government. He was a frequent, and always welcome, visitor to my Santa Cruz office, often dropping by to deliver mailings, news articles, or simply to make sure I was aware of the latest concerns of our local community. His experience as a writer and editor was frequently put to good use, as Gordon was often chosen to pen letters and resolutions on behalf of local democratic clubs and the Santa Cruz County Democratic Central Committee. In fact, just weeks before his passing, Gordon contributed to a passionately written resolution condemning the possible war in Iraq.

I could always count on Gordon to attend every town hall and public meeting I held. He consistently asked the tough questions, sometimes praising his elected representatives, but never shy about voicing his concerns. Gordon's life-long dedication to participating and petitioning his government should be commended and celebrated. Though I, and countless others, will surely miss Gordon, his unflagging pursuit of justice and equality will be a lasting tribute to the Santa Cruz community, and an example for us all.

Gordon is survived by two children, Guy Haskell of Bloomington, IN, and Elisabeth Haskell of Sacramento, CA; 3 stepchildren, Garry Fathman, Anthony Fathman, and Mary Fathman-Thomas; 10 grandchildren; 2 great-grandchildren; and his wife, Rachel. Mr. Speaker, it is truly my honor to recognize the life and accomplishments of Mr. Gordon Haskell.

IN HONOR OF PROFESSOR DAVID PAGNI FOR HIS CONTRIBUTIONS AND DEDICATION TO THE STUDENTS OF ORANGE COUNTY

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Ms. SANCHEZ. Mr. Speaker, I rise today to honor Professor David Pagni from California State University, Fullerton. David, a math professor from Cal State Fullerton received a grant in the amount of $6.5 million from the National Science Foundation. It is the largest grant ever awarded to a Cal State faculty member.

David will be using the funds from this grant to head a team of professors and teaching coaches to show teachers how to teach advanced math at Orange County high schools and their middle school counterparts over the next 5 years. The hope is that better math instruction in middle school will better prepare students for advanced math classes in high school.

I am very proud of David for his achievement and dedication.

TIM SCHMIG: AN ADVOCATE WITH INTEGRITY

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. BARCIA. Mr. Speaker, I rise today to honor Tim Schmig of Burton, MI, for his work on behalf of the Michigan Association of Christian Schools, Inc., and for his years of service representing the interests of Michigan with elected officials throughout the State and nationwide. I have worked closely with Tim during my tenure in Congress and have greatly appreciated his input on a wide range of issues.

I first met Tim in 1993 when he stopped in to see me while I was meeting with constituents at the courthouse in Bad Axe, MI. As I recall, Tim had some issues on his mind and we had a worthwhile discussion that provided me with some additional information to consider. Since that time, I have kept in contact with Tim, often soliciting his perspective as I pondered legislative matters and public policy decisions. Likewise, Tim often called on me at my office in Washington, DC, or back at home to give me his views. In addition, I have always been impressed with Tim's conveyance of his opinions in Op-Ed pieces and in Letters to the Editor.

As the executive director of the Michigan Association of Christian Schools and during his previous job with the National Right Your Congressman organization, Tim has earned respect and garnered influence on both sides of the political aisle. Lawmakers have come to trust Tim and rely on his knowledge of the issues and his well-informed advocacy on a variety of issues. He truly has earned both the respect and influence he has in the halls of Congress and in the Michigan Legislature.

A 1984 graduate of Bob Jones University, Tim has made a personal and professional commitment to our Lord and Savior, Jesus Christ. He and his wife have been married for 22 years and they have three daughters, Sarah, Rebekah and Hannah.

Finally, Mr. Speaker, I ask my colleagues to join me in praising Tim Schmig for his dedication and commitment to promoting Christian schools. He is truly doing the Lord's work and should be commended. I am confident that Tim's reputation for integrity and hard work will win him influence with elected leaders for many years to come.

IN HONOR OF SAM COOKE, LEGENDARY SINGER AND SONGWRITER

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. HILLIARD. Mr. Speaker, I rise today to honor and pay tribute to the late Sam Cooke, a gospel and soul music performer whose vocal delivery laid the foundations for the rise of soul music today. He utilized his talents as a performer, business entrepreneur, and civil rights activist to break down the color lines of segregation.

Born in Clarksdale, Mississippi on January 22, 1931, Sam Cooke was one of eight sons of a Baptist minister. As a young teen, Cooke joined the church choir and performed with a gospel group called the Highway QC's. During the 1950's, Cooke toured with the group Soul Stirrers and achieved significant success with gospel songs including Touch the Hem of His Garment and Nearer to Thee.

Cooke crossed over in 1956 and made his secular debut single, Loveable. The single, You Send Me, sold two million copies and made him a star. A series of notable hits followed over a span of seven years—Wonderful World, Only Sixteen, Everybody Likes a Cha Cha, Chain Gang, Cupid, Sad Mood, Bring It on Home to Me, Twisting The Night Away, and A Change Gonna Come.

Cooke died at the peak of his career in December of 1964. The music pioneer still remains a major presence today as his legacy lives in the hearts of fans.

Today, I ask my colleagues to join me in honoring and celebrating the legendary Sam Cooke for his tremendous contributions as a soul and gospel artist, entrepreneur, and freedom fighter.

TRIBUTE TO MAJOR JOSE RAMON BACA

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. BACA. Mr. Speaker, I would like to pay tribute to Major Jose Ramon Baca, who is a very special individual to me. He was truly appreciated and loved by all who were fortunate enough to know him.

Jose "Ray" Baca was born in Las Nutrias, New Mexico, to Alberto and Josefita Peralta Baca on March 19, 1940, and grew up in Albuquerque's South Broadway neighborhood. Ray graduated Albuquerque High School in 1958, and continued his education at the University of New Mexico. He graduated from the University in 1962 with a B.S. in chemical engineering and was a member of the Tau Beta Pi National Engineering Honor Society. After graduating, Ray married Victoria Morales in San Antonio, Texas on July 16, 1966. Together they raised their two sons, Rafael and Arthur.

Once joining the Air Force, Ray's ambition, brilliance, and passion poised him for success. During his 20-year career in the Air Force, he worked as a launch officer for the Atlas Missile Project in Roswell and in Turkey. He received a Masters of Science degree in 1968 in nuclear engineering from the Air Force Institute of Technology (AFIT) at Wright Patterson Air Force Base, Ohio. He also worked as a staff scientist at McClellan Air Force Base in California and later at the Air Force Missile Command in Washington, D.C.

His yearning for knowledge led him to return to the University of New Mexico. In 1987 he received a M.A. in History and Southwestern Studies and was a doctoral candidate in history. His dream was to continue to research and write about his native state.

Ray passed away on June 6, 2002 surrounded by his loving family. He was preceded in death by his father, Alberto Baca and sister, Viola Baca, and is survived by his wife of 35 years Victoria Baca; sons Rafael and Arthur; mother Josefita Baca; and sisters Dolores Padilla, Priscilla and Anna Mae Baca. His family, innumerable friends and community will miss him greatly.

He will be remembered as a loving and generous husband, father, son, brother, and friend. He valued his family above all things, and supported and encouraged them in all stages of their lives. He instilled in his children a strong sense of family, love, and respect, and he encouraged them to excel in their education. He was an exceptional, compassionate and motivating individual.

And so Mr. Speaker, I submit this loving memorial to be included in the archives of the history of this great nation.

HOMELAND SECURITY ACT OF 2002

SPEECH OF

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. ORTIZ. Mr. Speaker, I rise in support of the bill to create a Department of Homeland Security (DHS). I was one of the first members of Congress to call for a Department of Homeland Security and a reorganization of the various elements of the government that provide our nation's security—from national defense to border defense.

I support this bill because of the overwhelming need for our nation to recognize our challenges in the new defense environment of the 21st Century. We were vulnerable to a degree we did not anticipate on September 11, and it is incumbent upon Congress and other government leaders to stand up to the challenge and find ways to make our country safer.

I wish Congress had seen fit to take more control of the personnel decisions to be made in the labor sections of the bill. Whenever we vest all authority in one person we weaken our democracy. We are also weakening this department from the beginning by asking its employees to adhere to rules separate from those rules that govern other government employees.

Despite its shortcomings, however, we are well past the time to re-focus our energies on a new organization for our government to protect our borders and our citizens.

I thank the leaders of the House and Senate for their hard work on this bill. I also thank the Democratic Caucus for recognizing the importance of this issues and forming the Democratic Caucus Task Force on Homeland Security. This task force paved the way for nearly all the good ideas incorporated in this bill.

TRIBUTE TO RETIRED COLONEL GROVER F. HEIMAN, JR., RETIRED LIEUTENANT COLONEL ROY E. KADEN, RETIRED MAJOR EARL L. SCHUREMAN, AND RETIRED SENIOR MASTER SERGEANT JOHN D. GOOLSBEE

HON. ELTON GALLEGLY

OF CALIFORNIA

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. GALLEGLY. Mr. Speaker, it gives us great pleasure to pay tribute to retired Colonel Grover F. Heiman, Jr., retired Lieutenant Colonel Roy E. Kaden, retired Major Earl L. Schureman, and retired Senior Master Sergeant John D. Goolsbee for their brave dedication to their country.

On September 17, 1952, these four American heroes and the rest of their RB–50 crew, took off from an airbase in Greenland on a Top Secret reconnaissance mission over the "Ice Islands" of the Soviet Franz Josef Land Archipelago.

This crew was personally selected and highly trained to fly this mission. They were told if they were shot down or captured, there would be no rescue operation. Despite this, the crew risked their own lives to gather information on a possible new Soviet air base being built in Franz Joseph archipelago.

If there was a base being built, Soviet TU–4 bombers would be capable of attacking the East Coast of the United States with nuclear weapons.

The crew departed in the early morning for their 15-hour mission. The fog on the field was so thick that they had to follow a vehicle to the runway.

After doing a thorough check of all aircraft systems, the RB–50 lifted off for the Soviet Union. Since this mission was Top Secret, there was complete radio silence for the entire 15-hour flight; the crew did not talk to anyone on the radios.

This mission was at such a northern latitude that the crew had to navigate using a system known as "Grid Navigation." This system is used to solve problems with direction posed by flying so close to the North Pole.

To simplify the navigation problems, the crew took two navigators. One navigator maintained a dead reckoning plot of position, computing air speed, wind direction, velocity and ground speed; the other navigator provided frequent astro compass readings of the azimuth of the sun.

Once the flight entered the area they were to reconnaissance, they planned to fly at 20,000 feet and use the onboard photography systems to survey the area.

Unfortunately, at 20,000 feet, the RB–50 was above a solid cloud layer, rendering the onboard photography system useless. The aircraft descended to 12,000 feet hoping to get below the weather, but there was still another layer of clouds below them. In an attempt to salvage what they could from this mission, the crew descended through several cloud layers until leveling off below the clouds, 2,500 feet above the ground.

The aircraft passed over numerous small, ice covered, barren islands looking for any signs of a Soviet military presence.

Due to the altitude they were flying at, the aircraft used the onboard tri-met and oblique cameras as well as visual observation to search for any Soviet airbases.

After flying in that area for a considerable amount of time, the crew saw no sign of any Soviet military presence and departed.

The crew maintained radio silence for the entire flight back until they were directly over their base in Greenland. Once over the airbase, they broke radio silence, and since the weather had gotten slightly better, they were able to land and complete their mission.

They spent several days after this flight debriefing United States Intelligence members on what they saw.

The selfless sacrifice of these American heroes has made our nation a safer place.

CONGRATULATING THE PARTNERSHIP BETWEEN THE ALLSTATE FOUNDATION AND THE NATIONAL CRIME PREVENTION COUNCIL

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. KIRK. Mr. Speaker, today I want to recognize the long-standing public-private partnership between the Allstate Foundation and the National Crime Prevention Council, a model collaboration that will strengthen each organization's commitment to building healthier and safer communities.

The Allstate Foundation is an independent, charitable organization made possible by the Allstate Corporation, the nation's largest publicly held personal lines insurer based in my congressional district. The Allstate Foundation sponsors community initiatives that promote safe and vital communities; tolerance, inclusion, and diversity; and economic empowerment. As the nation's focal point for crime prevention, the National Crime Prevention Council works to enable people to create safer more caring communities by addressing the causes of crime and violence and reducing the opportunities for crime to occur. The partnership between the Allstate Foundation and the National Crime Prevention Council provides a model for how responsible corporate citizens can work with leading national nonprofit organizations to help improve communities at home and around the nation.

The Allstate Foundation has worked with and supported the National Crime Prevention Council since 1991. Sponsoring programs including Students Mobilized Against Drugs, the 10th Annual Youth Crime Prevention Conference and the Teens, Crime and Community program. The Allstate Foundation continues to take an active role in the dissemination of crime prevention information and materials by providing seed money for the development of crime prevention web-sites including, www.McGruff.org and www.ncpc.org.

The Allstate Foundation recently awarded a grant of $200,000 to the National Crime Prevention Council to support the Be Safe & Sound campaign, a new initiative that will equip parents and caregivers with information about prevention programs and security measures so that they can be the best advocates for their children's safety while at school. This campaign will enable the National Crime Prevention Council to disseminate information to parents through print material, Web-based information, public service advertising, and through a partnership with the National Safety and Security Council, a consortium of businesses and organizations committed to promoting environments that are safe and secure from the threat of crime, violence and drug abuse.

I am pleased to direct my colleague's attention to the valuable partnership between the Allstate Foundation and the National Crime Prevention Council. I applaud these organizations for this leadership in working to prevent crime and improve the quality of life for all Americans.

TRIBUTE TO COLONEL THOMAS D. WEBSTER

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. WALSH. Mr. Speaker, on 2 June 2002, Colonel Thomas Webster retired as the Commander of the 152nd Air Operations Group, New York Air National Guard in Syracuse, NY. He assumed this position in February 1998. The Air Operations Group was established at this time as the first ever within the Air National Guard.

He was assigned as the Director of the Minimum Essential Airfield in Rome, New York from October 1995 to February 1998, earning a USAF Meritorious Service Medal for his expert leadership and command excellence.

Colonel Webster was born on October 19, 1946, in Rochester, Minnesota, and graduated from Lourdes High School. He earned a Bachelor of Arts degree in liberal arts from the University of Minnesota in 1969. He has completed many career-related schools during his military career. This includes the Army War College at Carlisle Pennsylvania in July 1992.

Colonel Webster completed Officer Training School in May 1972, and joined the 174th Fighter Wing in January 1975. He attended undergraduate pilot training at Williams AFB, Arizona and spend several years as a traditional guardsman pilot in Ohio and New York while continuing his civilian career. He began his full-time military career with the 174th Fighter Wing as a Quality Control Officer, and then became the Maintenance Squadron Commander in 1985. Colonel Webster was assigned as the Maintenance Squadron Commander for the 138th Fighter Squadron, 4th Tactical Fighter Wing (Provisional) at Al Kharj Air Base in Saudi Arabia during Operation Desert Shield/Storm. He returned to the 174th Fighter Wing as the Maintenance Squadron Commander in May 1991. In 1992 he became Vice Wing Commander of the 174th Fighter Wing and Air Commander of the full-time force.

Colonel Webster is a command pilot with more than 2,500 flying hours in fighter aircraft, including the A–10 and F–16. His military awards include the Legion of Merit, the Bronze Star Medal for his service in Saudi Arabia, the Air Force Commendation Medal, the Air Force Outstanding Unit Award with V and four devices, the Combat Readiness Medal with two devices, the National Defense Service Medal, the Southwest Asia Service Medal with three devices, the Air Force Longevity Service Award Ribbon with four devices, the Armed Forces Reserve Medal with one device, the Small Arms Expert Marksmanship Ribbon, the Air Force Training Ribbon, and the Kuwait Liberation Medal.

Colonel Webster is married to the former Denise Schwartz. They live in Baldwinsville, New York and have two sons, Paul and Nicholas.

TRIBUTE TO CHRIS LEAK

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mrs. MYRICK. Mr. Speaker, I rise today to offer congratulations to a young man in my congressional district that truly deserves recognition. Chris Leak, a senior at Independence High School in Charlotte, N.C. set the national record for high school football touchdown passes. This past weekend, Chris threw his 171st touchdown to break the previous record of 170. In breaking the record, Chris displayed the same natural ability that has generated national attention by throwing for 457 yards, 5 touchdowns and securing Independence High School's 41st straight win. Chris is considered by many football analysts to be the top quarterback prospect in the country, and he is being actively recruited by major universities. I am proud to recognize his achievement today and wish him the best of luck in the future.

THE CONTINUITY OF CONGRESS WORKING GROUP

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. COX. Mr. Speaker, I submit the following letter by myself and the gentleman from Texas, Mr. FROST, and the accompanying information on the continuity of Congress Working Group for the perusal of my colleagues.

HOUSE OF REPRESENTATIVES,
WASHINGTON, DC,
November 12, 2002.

Hon. DAVID DREIER,
Chairman, House Rules Committee,
Washington, DC.

DEAR CHAIRMAN DREIER: In May 2002, the Speaker and Minority Leader asked us to co-chair a bipartisan Continuity of Congress Working Group, of which you are a member, to study ways to ensure that the legislative branch continues to function in the event that a terrorist attack or other catastrophe kills or incapacitates a large number of Members. Because the Constitution permits the House to "determine the Rules of its Proceedings" and to judge the "Qualifications of its own members," the Working Group has been studying pertinent rules changes to remedy some of the problems that could be created under such circumstances.

As you know, during the past six months, the Working Group has held eight meetings, drafted new House Rules, drafted a House Resolution—which the House passed on October 2, 2002 by a vote of 414–0—urging states to review their special election laws, drafted amendments to the Presidential Succession Act of 1947, and reviewed three constitutional amendments related to congressional continuity. Accompanying this letter are three draft Rules, developed by the Working Group, which we are requesting be included in the final rules package to be voted on by the House at the beginning of the next session.

The Working Group has identified three areas with respect to congressional continuity that the Working Group believes can be addressed through changes to the House Rules:

Codifying the process by which the Speaker certifies the death of a House Member in order to reduce the whole number of the House for purposes of establishing a quorum;

Allowing the Speaker to accelerate or postpone the reconvening of the House in the event of a declared emergency; and

Authorizing an individual other than the Speaker to reconvene the House in the event of a catastrophe resulting in the death of the Speaker.

Death Rule: Presently, no House rule codifies the process by which the Speaker certifies the death of a House Member in order to reduce the whole number of the House for purposes of establishing a quorum. When a Representative dies in office, the House and the Speaker take cognizance of the vacancy by adopting a House Resolution expressing the sorrow of all House Members. The whole number of the House is adjusted accordingly. However, because the preceding determination of the whole number of the House is the number that must be used to establish a quorum until a new whole number is established, in the event that a large number of Members are killed, a quorum could not be established for the purpose of establishing a new whole number.

To remedy this potential problem, the Working Group has drafted a rule which would allow the Speaker to announce the adjustment of the whole number of the House upon notification of the death, resignation, expulsion, disqualification, or removal of a Member. The Speaker's announcement would not be subject to appeal.

Emergency Recess Rule: In a time of national emergency, such as that seen on September 11th when the Capitol building was a target of the terrorists, the Speaker may need to accelerate the reconvening of the House or postpone House action in order to protect the lives of House Members and staff.

Accordingly, the Working Group has drafted an Emergency Recess Rule. Under this Rule, the Speaker, if informed by the Sergeant-at-Arms of an imminent threat to the safety of the Members and after obtaining the concurrence of the Minority Leader of the House, could notify Members that the House would not convene at the time stipulated when the House previously adjourned but would instead convene at another time during the next three days in accordance with the Constitution. The Rule would also allow the Speaker, with the concurrent of the Minority Leader, to reconvene the House earlier than stipulated for the sole purpose of declaring a further postponement.

Speaker Succession Rule: Current House rules do not explicitly address who would preside over the House in the event that there is a vacancy in the Office of the Speaker. Therefore, if the Speaker and the Clerk of the House die during a catastrophic attack, there would be no living individual authorized to reconvene the House, or call the House into session.

To remedy this potential problem, the Working Group has crafted a rule which would allow the Speaker to establish a line of succession for a Speaker pro tempore whose duty would be to preside over the election of a new Speaker or Speaker pro tempore.

Conclusion: During the past six months, the Working Group has explored a variety of possible solutions to the many problems surrounding congressional continuity. The Working Group began with an examination of the least constitutionally intrusive solution—changes to the House Rules. We request that the House Rules Committee consider these three rules and include them in the rules package to be voted on by the House in January. These simple changes to the House Rules will help to ensure the continuity of this great institution—the United States Congress.

Sincerely,

CHRISTOPHER COX,
Chairman, House Policy Committee.
MARTIN FROST,
Chairman, House Democratic Caucus.

PROPOSED AMENDMENT TO CLAUSE 5, RULE XX (VOTING AND QUORUM CALLS) OF THE HOUSE RULES

(Proposed Amendment in bold)

5. (a) In the absence of a quorum, a majority comprising at least 15 Members, which may include the Speaker, may compel the attendance of absent Members.

(b) Subject to clause 7(b) a majority of those present may order the Sergeant-at-Arms to send officers appointed by him to arrest those Members for whom no sufficient excuse is made and shall secure and retain their attendance. The House shall determine on what condition they shall be discharged. Unless the House otherwise directs, the Members who voluntarily appear shall be admitted immediately to the Hall of the House and shall report their names to the Clerk to be entered on the Journal as present.

(c) Upon the death, resignation, expulsion, disqualification or removal of a Member, the whole number of the House shall be adjusted accordingly. The Speaker shall announce the adjustment to the House. Such an announcement shall not be subject to appeal. In the case of a death, the Speaker may lay before the House such documentation from federal, state, or local officials as he deems pertinent.

PROPOSED AMENDMENT TO CLAUSE 12, RULE I (DECLARATION OF RECESS) OF THE HOUSE RULES

(Proposed Amendment in bold)

12. (a) To suspend the business of the House for a short time when no question is pending before the House, the Speaker may declare a recess subject to the call of the Chair.

(b) To suspend the business of the House when notified by the Sergeant-at-Arms of an imminent threat to its safety, the Speaker may declare an emergency recess subject to the call of the Chair.

(c) During any recess or adjournment of fewer than three days, if the Speaker is notified by the Sergeant-at-Arms of an imminent impairment of egress at the place of reconvening at the time previously appointed, then he may, with the concurrence of the Minority Leader—

(1) postpone the time for reconvening within the limits of clause 4, section 5, article I of the Constitution and notify Members accordingly; or

(2) reconvene the House before the time previously appointed solely to declare the House in recess within the limits of clause 4, section 5, article I of the Constitution and notify Members accordingly.

PROPOSED AMENDMENT TO CLAUSE 8(b), RULE I (SPEAKER PRO TEMPORE) OF THE HOUSE RULES

(Proposed Amendment in bold)

8. (a) The Speaker may appoint a Member to perform the duties of the Chair. Except as specified in paragraph (b), such an appointment may not extend beyond three legislative days.

(b)(1) In the case of his illness, the Speaker may appoint a Member to perform the duties of the Chair for a period not exceeding 10 days, subject to the approval of the House. If the Speaker is absent and has omitted to make such an appointment, then the House shall elect a Speaker pro tempore to act during the absence of the Speaker.

(2) With the approval of the House, the Speaker may appoint a Member to act as Speaker pro tempore only to sign enrolled bills and joint resolutions for a specified period of time.

(3)(A) In the case of a vacancy in the office of Speaker, the next Member on the list described in subdivision (B) shall act as Speaker pro tempore until the election of a Speaker or a Speaker pro tempore. Pending such election the Member acting as Speaker pro tempore may exercise such authorities of the Office of Speaker as may be necessary and appropriate to that end.

(B) As soon as practicable after his election and whenever he deems appropriate thereafter, the Speaker shall lay before the House a complete list of the Members of the House in the order in which each shall act as Speaker pro tempore under subdivision (A).

HOMELAND SECURITY ACT OF 2002

SPEECH OF

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. SOUDER. Mr. Speaker, I rise in support of this important legislation, which I believe takes historic and long overdue steps to improve the coordination of Federal agencies in protecting the United States against catastrophic terrorism and our borders against many other diverse threats.

I rise as the Chairman of the Drug Policy Subcommittee and one of the co-chairs of the Speaker's Task Force on a Drug Free America to specifically address Section 878 of this legislation, which is a provision to create a Counternarcotics Officer. I originally included this provision as an amendment in the Government Reform Committee with bipartisan support from the Gentleman from Maryland (Mr. CUMMINGS) and the Gentleman from Illinois (Mr. DAVIS). I also would like to thank Speaker HASTERT, Chairman ARMEY, and Senator GRASSLEY, who sponsored a nearly identical provision in the other body, for their strong support of this concept as the legislation has moved ahead.

Many of the agencies that will be transferred to the new Department of Homeland Security are also our Nation's preeminent agencies for the interdiction of illegal drugs. The creation of the new Department, therefore, provides a unique opportunity to greatly enhance the operational coordination between these agencies and our efforts to keep drugs out of the United States. It also presents the risk, however, that these critical missions will be made of lesser importance and that resources will be allocated away from drug interdiction to deal with catastrophic terrorism. While some flexibility in this regard is appropriate, we cannot allow our efforts at drug interdiction to falter when almost 20,000 Americans die each year of drug-related causes and as we have increasingly seen the ties between the drug trade and financing for catastrophic terrorism.

To address these concerns, Section 878 of the bill will establish a counternarcotics officer at a senior level to coordinate policy and operations within the Department and between the Department and other agencies on drug interdiction. The officer will also be charged with ensuring the adequacy of resources within the Department for drug interdiction, and tracking and severing connections between terrorism and the drug trade for the purposes of the Department of Homeland Security.

As the author of this provision, I want to address two important points of legislative intent. First I want to reiterate, as I said in the earlier floor debate on this legislation, that it is my intention that the person appointed to this position must be a senior official within the Department with the authority to ensure the efficient conduct of the interdiction mission. We had originally designated this position as an Assistant Secretary position. After discussion with the Administration that designation was removed, but I want to make clear my intention that the appointee to this position should have a similar level of seniority and authority in order to make and enforce effective policy between the diverse agencies that will be headquartered in the new Department. I would also like to make clear my intention that the official designated under this provision should not be a "dual-hatted" appointee who has other responsibilities or obligations within the Department, nor should they be affiliated with any of the component organizations of the new Department. The clear intention of this provision is to provide a single, neutral, official who will concentrate solely on ensuring effective drug interdiction and acting as a broker and arbiter between different agencies within the Department.

Second, I would like to briefly address a couple of concerns that were raised today by the Office of National Drug Control Policy with respect to the provision that the Counternarcotics Officer will serve as the United States Interdiction Coordinator for the Director of the Office of National Drug Control Policy. That position is an advisory position to the Director with respect to national coordination of drug interdiction activities. The USIC is appointed by the Director, but in the past the job customarily has been filled by the Commandant of the Coast Guard. This provision of the bill was necessary in order to provide the "clear lines of authority" which the President just yesterday said were so important to have in Homeland Security matters.

Within the Department of Homeland Security, the official provided for in Section 878 of the bill will be responsible for coordinating the activities of all department agencies on drug interdiction, including the Coast Guard. The

USIC position needed to be addressed to ensure consistency and harmony on drug interdiction issues. It would have been completely illogical to have the Commandant report to the narcotics coordinator within the Department, but then have the coordinator report to the Commandant for the purposes of the National Drug Control Strategy. Because the counternarcotics officer is intended to have broad and more sweeping responsibilities in this area, the intention is simply to have the counternarcotics official assume the role as USIC, and I believe this is the only sensible outcome.

I want to stress that this is in no way intended as any reflection on the Coast Guard, for which I have extremely high regard both in this particular area and in general, or the current or past Commandants, who have provided outstanding service as USICs. It is necessary incident to the reorganization of the interdiction agencies within the new Department, which I believe provides us with a significant opportunity to enhance our overall national effort. President Bush has clearly stated that Homeland Security should not be about "turf" or the prerogatives of individual agencies or government officials but instead about improving how we keep Americans safe. This provision was included in that spirit, and I believe that it ought to be embraced in that spirit by the Coast Guard and will be embraced in the finest traditions of "Semper Paratus".

Director Walters made me aware, however, of some concerns which I agree merit careful consideration in the future. The USIC has been a senior advisor to the Director and ONDCP, and the statutory designation of the Homeland Security counternarcotics officer in that role within ONDCP removes the prerogative of the Drug Czar to appoint his own senior advisor. I am sensitive to this concern. I did not consider it in drafting the amendment simply because the Director has customarily and routinely named the Commandant of the Coast Guard to the position in the past, and my intention was to make a direct substitution. I want to make clear as the author of this amendment and as Chairman of the authorizing Subcommittee for ONDCP that it is not intended in any way to diminish the Director's authority over his office. I also continue to believe, however, that the USIC post must adapt to reflect the structure that has now been created within the Department of Homeland Security, and thus will not attempt at this late hour to revise the language in the bill. I will, however, revisit this issue as we consider reauthorization of ONDCP in the next Congress to try to develop a better formulation that will address each of these concerns.

NELSON MARTINEZ DEPARTS KOAT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to pay tribute to an outstanding New Mexican, journalist and entertainer, Nelson Martinez. He will be leaving KOAT–TV, where he has worked for nearly two decades, to pursue other professional opportunities in early December.

Born in Chimay[oacute] and raised in northern New Mexico, Mr. Martinez has enjoyed a multi-faceted career of more than 35 years in the broadcast business, as a radio disc jockey, worldwide videotape editor, reporter and news anchor. New Mexicans are always so proud to see one of their own scale grand heights, as he has.

His announcing skills began in New Mexico in 1964 with a Spanish radio show on Espa[ntilde]ola's KDCE Radio, when he was a Los Alamos High School Senior. He later worked for KABQ Radio in Albuquerque, and KVSF in Santa Fe, before serving in the U.S. Navy between 1967 and 1969. In Cleveland, Ohio, he earned a First-Class Federal Communications Commission License in Engineering. In 1971, he joined Cleveland's local NBC affiliate, WKYC, where he grew in experience for six years.

In 1977, NBC Network News employed him for three years from the Latin American News Bureau based in Miami. In Florida, he covered assignments to India, Belgium, Teheran, as well as throughout Latin American countries, including Costa Rica, Panama, Nicaragua, Cuba, Peru, Columbia and many more.

During his seven years with NBC, Mr. Martinez also worked in the San Francisco and Boston NBC bureaus covering news events from the Pacific Northwest to Canada.

Mr. Martinez returned to New Mexico in 1985. He began working for the local ABC affiliate, KOAT–TV, as a reporter and weekday morning news anchor. In 1987, Mr. Martinez left for a weekend news anchor position with ABC affiliate WTNB–TV in New Haven, Connecticut. One year later he returned to New Mexico to become one of the principal weekday anchors on KOAT–TV. The rest, as they say, is history.

Throughout his years with the station, Mr. Martinez has helped Channel 7 build on its reputation as a station for credible and informative journalism. He insisted on the highest standards for the station. I know that he has also taken many younger reporters at the station under his wing and mentored them. He has offered advice and criticism to these KOAT. I know how much his colleagues and thousands of loyal KOAT viewers who invited him into their home daily will miss him.

On a personal note, I was touched by the emotion that Mr. Martinez displayed during the devastating Cerro Grande fire in 2000. He watched with disbelief as his old stomping grounds, filled with rich memories, burned to the ground. Trees turned to ash and homes vanished in the blink of an eye. He even wrote a beautiful poem about the travesty that comforted many of my constituents that had to endure the blaze.

What makes Mr. Martinez unique as a television journalist is the entertainment career he has managed to shepherd on the side. He is the singer on six mariachi CDs he has completed, and has appeared in some movies. He also served as host on a recent documentary exploring churches and missions throughout the nation. He also intends to work on a book about his memories of growing up in Chimay[oacute] that will offer advice for young people at the crossroads of life. As he told a reporter in July, "I thought, when I was growing up, that I was poor. As I look back, I choke up to think how rich I really was."

Mr. Speaker, I ask that my colleagues join me in wishing Nelson and his family luck in all their future endeavors. His contributions to New Mexico cannot be understated and I am pleased to have been able to honor him here today. While Nelson and his lovely wife, Gina, embark on a new chapter in their life, I want them to know that New Mexico is and always will be their home. Nelson, thank you for your service and professionalism to New Mexico.

IN PRAISE OF THE LUTHERAN FELLOWSHIP ASSOCIATION OF THE SAGINAW VALLEY

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. BARCIA. Mr. Speaker, I rise today to honor the Lutheran Fellowship Association of the Saginaw Valley as it celebrates 45 years of dedicated service. Over the years, members have made numerous and significant contributions to Lutheran families and to the citizens of many communities in Bay County and elsewhere. They deserve our gratitude and praise.

In Bay County, the Lutheran Fellowship Association began when a handful of faithful Lutherans with a vision of creating a gathering place for families and friends joined together to open a fellowship hall. Since then, the group has grown to include more than 250 members and their families, serving the needs of thousands of Lutherans and others.

The LFA Hall has been a center of Lutheran life in our community for generations. Under the guidance of President Earl Wegener and other leaders past and present, it has continued to fulfill its mission as a venue for individuals, families, groups and organizations to enjoy fraternal, social, educational, recreational and family events of all kinds at a reasonable cost.

It is not a stretch to say that a large percentage of mid-Michigan's Lutheran community has likely attended one or more events at the hall during their lifetime, including wedding receptions, confirmation celebrations, anniversaries and a host of other activities. Many marriages have gotten off to a beautiful start with a reception at the LFA Hall and years later an untold number of couples have returned to the hall to commemorate their anniversary with family and friends.

In addition, LFA members have always put a high premium on charitable donations. Last year, they pooled financial resources to make a contribution to the victims of the September 11, 2001 terrorist attack in New York City. In other years, they have provided assistance to disadvantaged children or those afflicted with serious illnesses.

Finally, Mr. Speaker, I ask my colleagues to join me in praising the members of the Lutheran Fellowship Association for all that they do to meet the needs of the Lutheran community. Fellowship is an integral element in the

Lutheran faith and the LFA has served a useful and vital role in fulfilling that need in Bay County. I am confident the LFA will continue to serve its members, their families, our community and our Lord well into the future.

HONORING ROY KIDD, LEGENDARY EASTERN KENTUCKY UNIVERSITY HEAD FOOTBALL COACH

HON. ERNIE FLETCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. FLETCHER. Mr. Speaker, Eastern Kentucky University head football coach Roy Kidd is retiring at the end of the 2002 season. Kidd, who is serving his 39th year as the Colonel's head coach, leaves Eastern Kentucky University after establishing one of the most successful college football programs in America.

His 39 years of coaching football at his alma mater, Coach Roy Kidd stands as a monument to his loyalty and dedication to the University, the game of football and to his student-athlete players and has set a high standard of excellence and reminded us what is best about college sports. All his victories, championships and honors only begin to reflect the impact he has had on Eastern Kentucky University, the Commonwealth of Kentucky, and beyond. It is his players, and their successes, who offer the best testament to Coach Kidd's unique ability to help young men make the most of their time here, and in their lives beyond EKU's campus.

Kidd has put together a I–AA footfall program acknowledged throughout the country, year in and year out, as one of the nation's elite. He has a produced 24 straight EKU teams with winning seasons and 29 consecutive Eastern teams with nonlosing seasons. There have been only two losing seasons at EKU in his 39-year tenure.

Along the way, his 38 Eastern Kentucky teams have won two NCAA I–AA national championships, two national runners-up titles and 16 Ohio Valley Conference championships. He has also directed Eastern Kentucky to 17, I–AA playoff appearances, the most by any school in the nation.

A native of Corbin, KY where he starred in football, basketball and baseball, Kidd chose Eastern Kentucky over the University of Kentucky under Bear Bryant's tutelage because EKU would let him play both baseball and football.

That decision set forth a legacy that is unmatched at all but one I–AA school and just five other programs in the history of college football.

In 1963, Kidd received the call from Eastern president, Dr. Robert R. Martin, offering him the position as EKU's head coach. 1964, Kidd's first at the helm of the Eastern Kentucky football program, produced just one of two losing seasons in the 38 years as follow as the Colonels went 3–5–1.

It only took Kidd and his staff four seasons to turn that around and produce an Ohio Valley Conference championship in 1967 that culminated with a 27–13 Grantland Rice Bowl victory over Ball State, which gave the Colonels the NCAA Mideast Regional Championship. He quickly followed that up the next season with a second OVC title as the Colonels went 8–2 behind quarterback Jim Guice and future American football League Rookie of the Year, wide receiver Aaron Marsh.

In between 1968 and the formation of Division I–AA by the NCAA in 1978, Eastern's teams produced winning seasons, collected two more conference crowns (1974 and 1976) and completed in the NCAA Division II playoffs in 1976.

EKU football's decade of the 80's arguably the most prestigious by any I–AA football program ever, produced seven conference championships, three trips to the NCAA title game with one remarkable 13–0 season that tended with the Colonel's second national title. Two other Colonel teams were eliminated in the national semifinals and a third Colonel squad made it to the quaterfinal round of the I–AA playoffs before losing.

EKU teams coached by Kidd made seven more trips to the I–AA playoffs in the 90's with EKU securing five additional OVC crowns during this 10-year span.

During the past 38 and one-half football seasons at Eastern Kentucky, there have been two National I–AA Coach of the Year awards, 10 OVC Coach of the Year honors, 55 EKU All-Americans, 197 first team All-OVC players, a term as President of the American Football Coaches Association, all with Roy Kidd's named stamped beside them.

Forty-one former Colonels have gone ahead to either sign or play in the National Football League. Four former Eastern Kentucky stars are still playing in the NFL, including defensive Chad Bratzke of the Indianapolis Colts, offensive tackle Tyrone Hopson of the Detroit Lions, tight end Jason Dunn of the Kansas City Chiefs and wide receiver Alex Bannister of the Seattle Seahawks.

Roy and his wife, Sue, have three children—Marc, Kathy, and Keith—and six grandchildren.

Roy Kidd is truly one of the legendary football coaches in America and, certainly, in the history of college football. His record speaks for itself and I wish him and his wife Sue, happiness and success always. May God continue to Bless Roy Kid and shine on Eastern Kentucky University for many years to come.

TRIBUTE TO DR. DAVID ROMEI

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. BRADY of Texas. Mr. Speaker, I rise today to recognize Dr. David Romei, a veteran and Executive Director of the Arts Council of Brazos Valley. Over the past two years Dr. Romei led the Brazos Valley community in the creation of a Veteran's Memorial dedicated to the preservation of the memory of all Brazos Valley Veterans and as a reminder of their sacrifice to future generations. This week I was privileged to share a speaker's platform with Dr. Romei at the dedication of this memorial and was so moved by his words that I felt compelled to relay them to you.

DR. P. DAVID ROMEI'S BRAZOS VALLEY VETERANS MEMORIAL DEDICATION CEREMONY SPEECH, NOVEMBER 11, 2002

Today, today upon this sacred site, blessed by all the powers of our eternal and infinite Creator, we celebrate the lives and mourn the deaths of America's heroes.

We see in this bronze representation not only realistic truth and imaginative power united that enwraps our hearts in pangs of longing and suffering, but also an emotional grandeur that gives new birth to our core foundation of strength and courage.

We see a soldier carrying his dying comrade from a field of violent horror. We feel the warm and weakening breath of a dying soldier upon the neck of his friend, the last friend he will ever have, but for a greater friend no one could ask. We imagine his eyes closing as his falling helmet fades, fades away into the distant horizon of the unknown. And, then, then his heart reaches out to his loved ones, slowly, painfully, reluctantly, and says goodbye. Parting from those whom he loves to join the ranks of America's eternal warriors, those men and women who have died with the words DUTY, HONOR, COUNTRY upon their lips; untainted by the cynicism of time.

The gallant soldier may be felled by the enemy, but the cause for which he fights shall never succumb. The American soldier's soul is a fragrant garden, and his colors never melt into the light of the moon. The freedom for which he fights stands in glory before the mightly rays of the midday sun and, and we call it America.

We who survive have the ultimate responsibility. It is we who must make immortal the memory of those who have sacrificed all that they were, all that they are, and all that they were promised to be. It is we who must allow no one to ever say that the sun has set, that darkness possesses the day, and time passes, time passes and these men of valor must lie alone.

To honor America's warriors is not a celebration of military triumphs that some people falsely associate with America's great victories. We are remembering. We are expressing our gratitude; the gratitude of a grateful nation to those who have served, suffered and died. But, even more importantly, we are saying to every man and woman who has served this nation that time does not pass on, life does not go on, nothing is the same because of you. Your deeds and sacrifices have altered our destiny and our lives are forever entwined with your life and, indeed with your death.

The goal of history is not to separate out events of different dimensions at a particular point in time, but to show their continuous interaction in an evolving story. There are those who see history as something we paint on a canvas, while others see history as something we record in a book and store upon an old dusty shelf. History is neither; it is as alive and as deep as the currents of the vast oceans. As civilization evolves so does history, and as people evolve so do nations.

Today we speak of the history of individuals, not nations. We speak of a fellow soldier, a friend, a brother wounded who stretches out his hand for help, a bloodied hand that we cannot reach, for duty demands we fight on, we cannot pull him from death here, but in heaven we shall embrace him in eternal life.

It is the memories of those who live, the memory of holding our dying buddy in our arms, of embracing his tired and broken body, of closing his eyes as the last tears streak his tender cheeks, because, because it is our duty.

Our goal today is not to separate America's warriors from Americans and hold them up as more important than others. Every soldier knows that without a supporting nation, without a loving family and without an ethical code of conduct his actions and his mission are worthless. Our sacred purpose is to demonstrate that it is only the soldier who is called upon to give his life to ensure freedom. We soldiers are the guardians of America's promise to the world. We show here today that the will that permits one to lay down his life for family and country separates those with pure souls fueled by courage from those who have yet been given such an opportunity and privilege.

Those of us who have put on the military uniform of our country have done so with the expectation of receiving no reward. We have been privileged to serve in the defense of freedom and liberty. There is no sense of entitlement; there is only a sense that we have been honored that you, those whom we serve with honor and love, the love of our entire hearts, have entrusted us with your lives. It is your trust that illuminates the soul of every American fighting man and woman with pride. It is your trust that sees us through the long, dark, cold and lonely nights as we stand watch. It is your love and trust that gives us the courage to leave our beloved parents, to say goodbye to our tender-hearted wives, and to ask God in silent prayer to watch over our children while we are away.

Today we recall the countless graves of brave Americans from the smallest islands in the great Pacific to the unforgiving shores of Normandy. We also remember those who froze to death at Valley Forge and who fought upon the burning sands of the Persian Gulf. From our nation's birth until this very moment, we have endured every cost and paid every price to protect, to defend and to serve our beloved nation.

Hundreds of thousands of Americans have given their lives in far away lands for us. Many are now interred in the earth of those distant lands, but their memories, their memories, we shall never yield, for those memories are our most valued treasure. Wherever an American soldier is buried, there also is a part of America.

It is in the memory of our heroes, friends and loved ones that we gather today. The Brazos Valley Veterans memorial is a sacred tribute that commemorates for time immemorial the sacrifice made by America's heroes. It honors those men and women who will never return to bless us with their smiles, to hold their children in their arms, and to share with their wives and husbands joys and sorrows that we take for granted. Indeed, even if some forget their names, no one must ever be allowed to forget their sacrifice. By the labor of our hands and hearts we have ensured that the generations that follow, even for a thousand years, will recall with pride our veterans' unselfish love for this light unto the world that we call America.

Some say our fallen heroes hear the grass growing over their graves and the leaves of autumn rustling above in the stilled heavens, finally bringing the loud guns of war to silence, but those of us living will never know peace until we pay in full the debt we owe them. This is the debt we honor today.

Do not look at the place where life has left an American warrior, do not say how the smoke of dreams has risen. This is the way one moment deserts another, and this is the way that the all-powerful sun suddenly deserts the world. Do not say this, for we shall always remember and our sun shall never desert our world. It is our faith that keeps America's flame of freedom alight.

Let me challenge each of you today. Look upon this work of art, an expression of Robert Eccleston's genius. Prepare your hearts, open your minds and allow the better nature of your souls to rise to a new level, a new level of historical purpose. Try to wrap yourselves in these soldiers' experience.

Whose heart does not explode like a million stars when looking upon this beautiful symbol of our love and respect for America's fighting men and women? Witness the bullet hole in the soldier's helmet and shudder, share the suffering of the wounded soldier and bleed, and behold the valor of the soldier who never leaves his friend behind—then, pray to God that you would do the same. Dare if you will to touch the name of a veteran, any veteran whose name is engraved in this Texas granite, and know that you are united with an American hero.

Never forget that when the bow of God's wrath is bent, America's fighting men and women are the arrow that finds heartless evil and draws from it all life. We are the instrument of God's justice, and we are the men and women who preserve civilization itself.

Now, as we dedicate this holy monument and leave it to the generations that follow us, be assured that we have done our duty. Let it never be said that we have forgotten those who have given the ultimate for our freedom. Let it be said that we have preserved their memories upon sacred ground.

We shall forever toll the bells in their honor. We raise our flags in their memory. We believe they have life eternal. May flowers always bloom under the shade of these trees. Let the sun break forth from tomorrow's sky and send its golden rays upon all the rays of our lives and the lives of generations upon generations that follow in the noble American dream. Let us ask God from the depths of our most prayerful souls to welcome our heroes and to hold them in His loving arms. Let it never be said that we forgot those who have given their all for our freedom—those whose courage and sacrifice define this land we call America.

To this we put our names.

To this we pledge our honor.

This is the sacred bond that makes us Americans.

God Bless America.

NATIONAL SEA GRANT COLLEGE PROGRAM ACT AMENDMENTS OF 2002

SPEECH OF

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mr. GREEN of Texas. Mr. Speaker, today I rise in support of H.R. 3389, the National Sea Grant College Program Act of 2002. This important legislation reauthorizes the sea grant program in Texas and its counterparts around the country to continue the important work being done in coastal, ocean and lake resources.

When Congress passed the Sea Grant College Program Act of 1966, it intended to apply the successful attributes of the Land Grant College Program to coastal and marine issues. Today, the National Sea Grant Program represents the bridge between government, academia, industry, scientists and private citizens to help Americans understand and maintain the oceans and Great Lakes for long-term economic growth.

Sea Grant also serves as a bond uniting more than 350 participating institutions in 35 states, U.S. territories and the District of Columbia and millions of people. In short, Sea Grant is an agent for scientific discovery, technology transfer, economic growth and public education as they involve coastal, ocean and Great Lakes resources.

Every day, Sea Grant scientists make progress on the important marine issues of our time. A network of outreach professionals takes this information out of the laboratory and into the field, working to enhance a coastal business, a fishery, or residents' safety and quality of life.

A dedicated corps of communication specialists builds public understanding of these issues for informed decision-making. Sea Grant educators bring the discoveries into the nation's schools, using them to pioneer better ways of teaching, helping to create a new generation of scientifically literate Americans.

Through these research, education and outreach activities, Sea Grant has helped position the United States as the world leader in marine research and the sustainable development of coastal resources.

Texas A&M University of Galveston, Texas was among the first four institutions to be designated a Sea Grant College in 1971, and its researchers had been involved since passage of the National Sea Grant College and Program Act in 1968.

As a Sea Grant College, Texas A&M Galveston provides research support for university-level faculty throughout the state through a competitive grants process.

In Texas, the Sea Grant program has conducted research in hyperbaric physiology, endangered species ecology, marine aquaculture, coastal processes, fisheries biology and ecosystem health.

As a result of these and other Sea Grant efforts, we have seen development of a major shrimp aquaculture industry in South Texas, marina initiatives to adopt best management practices and minimize water pollution, nonpoint source pollution reduction from residential landscapes, improvements in seafood handling to reduced loss in the retail markets and expanding marine educational opportunities in support of the state's, and nation's, teachers and students.

I urge my colleagues to support this legislation.

HONORING MRS. TERRY ROTH

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. DEUTSCH. Mr. Speaker, I rise today to honor the life of Mrs. Terry Roth, a great Floridian, a noted businesswoman and an award-winning baker. Born originally in New York, she moved to South Florida as a child and soon after graduated from Madonna High School in Hollywood. She met her husband, Mr. Bob Roth, at a high school dance in the old Miami Armory and the two married in 1967, settling down to raise a family shortly thereafter.

After their wedding, Mrs. Roth and her husband founded New River Groves, a citrus market located in Davie. The market remains open today and attracts thousands of customers every year. Disappointed and dissatisfied with local offerings and variations of the popular Key Lime Pie, Mrs. Roth began to prepare her own no-bake Key Lime Pie. Needless to say, her latest version of the South Florida dessert staple was a huge hit. Baking her highly-regarded pies in her own kitchen soon proved to be too monumental of a task, and soon thereafter her popularity led to an expansion of New River Groves to accommodate the increased demand of over 30,000 pies a year. As Mrs. Roth's fame grew, her pies attracted a national following, including notables such as Senator Hillary Rodham Clinton, Nick Nolte, and Robert DeNiro. Mr. DeNiro and Mr. Nolte first sampled Mrs. Roth's pies with Jessica Lange when the Roth's store was featured in the movie Cape Fear.

In addition to her success as a baker and entrepreneur, Mrs. Roth was truly dedicated to her family, and was described by all as compassionate and loving. Her battle with cancer began five years ago and was characterized by a positive spirit.

Mr. Speaker, it is a truly special occasion for me to honor Mrs. Terry Roth, who embodied community leadership and strength as an upstanding Floridian. Her legacy as one of South Florida's great innovators and great characters, who provided a unique service to the community with humility and goodwill, serves as an example for us all.

Mrs. Roth is survived by her husband Bob and son David of Cooper City, as well as her brother Sonny Grech of Naples, sister Doris Diehl of Marco Island, and father-in-law Al Roth of Davie.

TRIBUTE TO TERRY PHILLIPS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Terry Phillips and thank him for his contributions in the Colorado General Assembly. His hard work and dedication is appreciated, and I am honored to pay tribute to him today in front of this body of Congress. As he moves on in his career, let it be known that I, along with people of Colorado, am grateful for the work he has done for the Colorado General Assembly.

Terry Philips is finishing his second term in the Colorado State Senate, as the representative from Boulder County, Colorado's 17th District. During his tenure in the Senate, Terry has served on a number of committees, including Agriculture, Natural Resources and Energy; Appropriations; Business Affairs, Labor & Finance; Legislative Council; and Capital Development, where he served as Vice-Chair. In addition, he serves on the Colorado Student Loan Program Advisory Committee, the Advisory Commission on Intergovernmental Relations, and the Executive Committee of the Council of State Governments West, where he is on the Water Policy Committee.

Not only has Terry served the community as a member of the Colorado General Assembly, he is an active humanitarian. He is a member of the Louisville Lions Club, a past President of the Louisville Jaycees and a member of the Louisville Chamber of Commerce. He is a certified general appraiser; licensed in Colorado, with over 600 hours of course work on mass appraisal of property. Perhaps most important to recognize, Terry is married to his wife Sally.

Mr. Speaker, it is clear that Terry Phillips has served his state by providing his service and time during his tenure in the Colorado General Assembly. I am honored to bring his hard work and dedication to the attention of this body of Congress. Thank you, Terry, and good luck in your future endeavors.

HONORING LOUNE VIAUD

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. LEE. Mr. Speaker, I rise today to pay tribute to Ms. Loune Viaud, the 2002 recipient of the Robert F. Kennedy, Jr. Humanitarian Award.

The Robert F. Kennedy Human Rights Award was established in 1984 to honor creative individuals who are often at great personal risk, engaged in strategic and nonviolent efforts to overcome serious human rights violations.

Loune Viaud is well deserving of this award because she has demonstrated leadership by expanding the delivery of health and social services to indigent Haitians suffering from HIV/AIDS and other debilitating diseases. She is a champion of Haiti's poor.

We all know that Haiti is one of the most impoverished nations in the Western Hemisphere. With over 300,000 people infected with HIV/AIDS out of its small population of 8 million, Haiti is in a crisis. Haiti is also facing a devastating AIDS orphan crisis with more than 163,000 children whose parents have died from AIDS complications. It is appalling that only one in every ten thousand Haitians has access to a physician, and tuberculosis remains one of the major causes of adult mortality. In fact, cases of tuberculosis and multi-drug resistant tuberculosis in Haiti are more than ten times as high as those in other Latin American countries.

I want to praise Loune for rising to the challenge and for her significant work in Haiti. Her contributions are critical to the welfare of Haiti, as well as the welfare of our global community. Upon learning she had been selected as the Robert F. Kennedy award recipient, Loune Viaud stated, "For the Robert F. Kennedy Memorial to choose me, a humble foot soldier in the struggle for health and human rights, as the recipient of this prestigious award means more than I can say. For I am a Haitian, and the majority of Haitian people have always stood for equality. From 1791, when we fought against slavery to become the world's first independent republic born of a slave revolt, until 1990, when we again declared as a people our belief in social and economic rights as a human rights platform, the Haitians have struggled against long odds. Two hundred years of struggle, much of it in isolation even from those who profess a belief in human rights. Thank you for reminding us that we are never, in fact, really alone."

Loune maintains a clinic situated on the Central Plateau in rural Haiti. She offers free health care to the hundreds of thousands of people living in the region. Last year alone 56,000 people came to the clinic for medical help. In 2002 more than 100,000 people will be treated there.

The clinic, Zanmi Lasante, addresses the overall needs of the community surrounding it. It has special clinics for HIV/AIDS and tuberculosis, a clinic for women (Proje Sante Fanm), a special center for children and an operating theatre. The complex also develops educational projects on HIV/AIDS sanitation and human rights.

Although the clinic is built in an underdeveloped region, Zanmi Lasante's treatment program is proof that diseases that are difficult to treat can be addressed in rural areas. The clinic, however, does not stop there. It's program treats the patients and empowers them to understand their rights. In 2001, Viaud was instrumental in developing a patient's Bill of Rights with a group of 60 HIV-positive patients. The patients view their health care as a basic human right, not charity.

Viaud's work attacks the symptoms of a greater and more persistent human rights violation, namely the right to healthcare. Article 19 of the Haitian Constitution states that the Government of Haiti is obliged to provide basic health care to its citizens. The Government has stated that it would develop other health facilities, following Zanmi Lasante's model, in other parts of the country if it had the resources. I, along with other members of the CBC agree that the Haitian government should receive the funding already promised from the IDB Bank in 1996 for humanitarian assistance. In every sense, the disbursement of these loans can mean the difference between life and death.

I want to assure Loune and her partners in Haiti that their work does not go unrecognized. I stand with you in this effort. As African-Americans and as a members of the Congressional Black Caucas' Haiti Task Force, we have recognized the urgency in Haiti. Together, we have worked to introduce legislation that would decouple the humanitarian crisis in Haiti from the political impasse, which has further impeded Haiti's development since the 2000 elections. The resolutions was designed ensure that financial assistance from the international financial institutions can be disbursed to Haiti. You have my assurance that this work will continue. We must make it our mission to advance the development of a stronger and more meaningful partnership between the United States and Haiti.

In closing, I want to commend Loune Viaud for her work in Haiti. She is helping to build a strong foundation for the future development of Haiti. We must recognize the distress Haiti is in however, we must also look forward with hope. It is my honor to work with you and I look forward to our collective efforts to build a better relationship between the United States and Haiti. Loune, you are role model who is demonstrating today what can be possible tomorrow and into the future if we commit ourselves to a better brighter future for Haiti.

HONORING RYAN C. LEWIS

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. BENTSEN. Mr. Speaker, I rise to recognize one of my constituents, Ryan C. Lewis, who has demonstrated remarkable patriotism and immense love for the United States of America. Because of his desire to serve his fellow countrymen, Ryan joined the United States Army. He has composed a poem to articulate his feelings, and this written expression, which Ryan has so graciously shared, is a reflection of his heartfelt pride for our country. I feel that it is important to share this with my colleagues, as it is an inspiration to all those who hear it.

You asked me to show my patriotism
I think I already have, by flying the flag
In my room, by saying the pledge everyday
And when my eyes get watery and
The hair on my neck stands up when I hear the
National Anthem. I've shown you by joining
The Army just to serve my country.
It runs in the family, this patriotism in my heart,
This never ending pride, respect, honor, and love
I have for my country, this sweet land of liberty.
You know for you are my sister and you are my brother.

Mr. Speaker, Ryan's dedication to his country is an example for all Americans to follow, and I thank him for his selfless contribution to this nation and its people.

INTRODUCTION OF THE IMMIGRATION BOND FAIRNESS ACT OF 2002

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mrs. MEEK of Florida. Mr. Speaker, today, I am introducing the Immigration Bond Fairness Act of 2002, a bill to amend the Immigration and Nationality Act to provide for judicial review of detention and release determinations, and to provide a right to a bond hearing before an immigration judge to all aliens in removal and summary removal proceedings.

This bill would end the INS practice of indefinite detention of Haitians, even those seeking asylum, a racially discriminatory practice designed to send Haitian asylum seekers back home, regardless of the risk of persecution. It would ensure that every person in removal or summary removal proceedings would have a right to have custody, detention, and release determinations affecting them reviewed by an Immigration Judge.

Passing this bill would significantly improve the chance that asylum seekers will receive the legal help they need to present their best case for relief. It also would temper the problems that invariably arise when an agency is given complete, unreviewable discretion to make detention and release determinations.

Mr. Speaker, under this bill, everyone in removal or summary removal proceedings also would have the right to have an Immigration Judge, not an INS officer, decide whether it is appropriate to release them into the community on bond while their asylum claim is pending. None of us know what impact, if any, a judicial decision on bond claims will have on the frequency of release of asylum seekers into the community. Yet, surely, every person in detention deserves their day in court to make a case for release into the community on bond. That's just basic fairness.

Why should someone like Ernest Moise, who fled death threats in Haiti, and his teenage sons, remain locked up by the Miami INS office in March 2002, even though an Immigration Judge had granted him political asylum on February 22?

Mr. Speaker, historically, the INS practice was to release Haitian asylum seekers arriving in Miami into the community while their asylum claims were pending once they passed their interviews demonstrating a credible fear of persecution. Yet, in December 2001, after 187 Haitians were brought to shore in Miami for safety reasons from a Haitian boat that the Coast Guard intercepted at sea, the INS, apparently at the behest of the White House, secretly directed the Miami District INS office to detain Haitians even if they raised a credible fear of persecution if they are returned to Haiti.

It was only in March of this year when Miami immigration lawyers went to Federal court to challenge the INS's racially discriminatory policies against Haitians that the INS reluctantly acknowledged that the Miami INS office had adopted a policy of indefinite detention of all Haitians then or thereafter in INS custody, even Haitians with credible asylum claims. According to the Miami Herald, the President's brother, Florida Governor Jeb Bush, says that he was told about this change in policy immediately after it came into effect in December 2001. Yet Governor Bush didn't tell the people that he knew of this policy change until ten days ago!

Two weeks ago, after 211 Haitians arrived at Key Biscayne by boat, I asked Governor Bush to contact the President to ensure that these Haitians receive fair treatment, including fair consideration of their claims for asylum. While the Governor refused my request to contact the President, he said that he shared my belief that Haitians should be treated the same as all other asylum seekers. Just last week at his most recent press conference, the President himself said that procedures were being developed to ensure that Haitians were treated as all others except Cubans.

Apparently, what the President was referring to was a directive from the INS Commissioner announced late last Friday mandating that all persons arriving illegally by sea will be placed in expedited removal proceedings, and during their legal process will remain in detention unless released for humanitarian reasons at the discretion of the INS. What a cruel hoax. The Administration's idea of fairness for Haitians is simply expedited removal, coupled with indefinite detention!

In short, the policy is that Haitians who come to this country seeking asylum are being indefinitely detained by the Bush Administration, even when they demonstrate a credible fear of persecution if they are returned to Haiti. This policy is unfair. It's discriminatory. It's immoral. While the Administration denies that there is any racial element to this policy, the facts are that no group of asylum seekers other than the Haitians is treated this way.

Mr. Speaker, we can do better than this. We must do better than this. Let's give every asylum seeker their day in court and allow an Immigration Judge to decide whether an asylum seeker's release into the community on bond is warranted. I urge all my colleagues to support the Immigration Bond Fairness Act of 2002.

TRIBUTE TO FORT LEWIS MESA FIRE PROTECTION DISTRICT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to recognize the Fort Lewis Mesa Fire Protection District of Marvel, Colorado for their service and dedication during one of Colorado's most formidable fire seasons. Last summer, the Fire Protection District played an integral role in containing the Missionary Ridge forest fire that burned over 70,000 acres in Southwestern Colorado. Today, I would like to pay tribute to their heroic efforts before this body of Congress and this nation.

When the Missionary Ridge fire first erupted last June, the citizens of Durango, Bayfield and the surrounding communities called upon the Fort Lewis Mesa Fire Protection District to protect their loved ones, homes, and communities from what would become the worst fire in area history. The fire began in a ditch beside Missionary Ridge Road just 15 miles northeast of Durango and grew to consume more than 70,000 acres, 56 residences, and 27 outbuildings.

Although the Missionary Ridge fire was a devastating reminder of how destructive forest fires can be, it also served to remind us of the men and women who risk their lives to protect their fellow citizens on a daily basis. The Fort Lewis Mesa Fire Protection District has served its citizens and community since 1982 and oversees a 250 square mile region. The district relies upon a personnel of 28 volunteer EMT's and firefighters to remain on call, prepared to fight fires or provide medical assistance on a moment's notice.

Mr. Speaker, it is with sincere admiration that I recognize the Fort Lewis Mesa Fire Protection District of Marvel, Colorado before this body of Congress and this nation. I want to commend the Chief and all of the Fire District's fire fighters for their determination, courage, and resolve during last summer's efforts on Missionary Ridge. Without the help of the Fort Lewis Mesa Fire Protection District and others, the added devastation to our community, environment, and quality of life would have been unimaginable. Their tireless commitment throughout the fire season has served as an inspiration to us all and it is an honor to represent such an outstanding group of Americans in this Congress.

THE POEM "I AM A VETERAN"

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. ISRAEL. Mr. Speaker, I rise to share with you the words of Rabbi Paul Swerdlow, one of my constituents. Rabbi Swerdlow's poem "I Am a Veteran" conveys his love for his country. I am most grateful for his dedicated service to securing our freedom.

I AM A VETERAN

I am a veteran.

I shivered that cold winter in Valley Forge
And rejoiced at the glorious surrender at Yorktown.
I wept at the flames that engulfed Washington
And said "never again."
I wore blue and bled red.
I wore gray and bled red.
The blood I spilled was to reunite a nation
Of the people, by the people and for the people
I am a veteran.

I was at Little Big Horn and I prayed;
I was at Wounded Knee and I prayed;
I prayed that one day the old Americans
And the new Americans would be one people.
I was there to charge up the hill at San Juan;
Knowing that my country was emerging
Beyond its borders.
I was prepared to make the world safe for democracy.
Young and idealistic, I came to France
To turn back the hordes in this war to end all wars.
I am a veteran.

It was with disbelief that I became
A part of the day which will live in infamy.
Once more I said goodbye to those I loved
To protect my country.
Across the vast desert I met the enemy.
I met him on island after island.
I kept my promise to return.
I met him on the beaches of Normandy.
I repelled him from the gates of Bastogne.
I freed thousands from the shadow of death.
I am a veteran.

A small nation cried out for help
And I came because others had been there for me.
A nation was saved.
I felt the agony of defeat in the jungles of a distant land.
But I held my head high
When another people cried out,
I again put on my uniform to save them from tyranny.
Today I remain ready to pledge my life,
My property, my sacred honor,
Until there will be peace and freedom on earth
For everyone, everywhere.
I am a veteran.

THANKING MR. HENRY (BUD) COLLINS FOR HIS SERVICE TO THE HOUSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. NEY. Mr. Speaker, on the occasion of his retirement at the end of this year, we rise to thank Mr. Henry (Bud) Collins for his outstanding service to the U.S. House of Representatives over the past 27 years.

Over the years, Bud has made significant improvements to the Voice and Data Network programs of the U.S. House of Representatives. He began his career with the House on December 10, 1973, and has served this great institution in numerous capacities, most notably in House Information Resources (HIR) Communications positions within the Chief Administrative Officer. During the past three years, Bud has served as the Communications Infrastructure Team Leader. In this position, he has directed voice and data wiring installations to every entity of the House, Architect of the Capitol, and Congressional Budget Office. Bud's breadth of knowledge of the wiring standards and the House building construction has enabled rapid, effective wiring installations. These installations were fundamental in improving the information flow for Member and Committee operations.

On behalf of the entire House community, we extend congratulations to Bud for his many years of dedication, and his outstanding contributions to the communications and wiring infrastructure installations for the House. We wish Bud and his wife Harriet many wonderful years in fulfilling their retirement dreams.

IN MEMORY OF CHANG-LIN TIEN

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Ms. LEE. Mr. Speaker, I rise today to honor Chang-Lin Tien for his lifetime of distinguished public service. He was a tireless community activist and educational leader for more than 40 years. As Chancellor of the University of California, Berkeley, from 1990–97, Tien was an outspoken supporter of equal opportunity in higher education and preserved the campus's preeminence despite a prolonged State-wide budget crisis. He died Tuesday, October 29th at Kaiser Permanente hospital in Redwood City, California.

Tien was born on July 24, 1935, in Wuhan, China, and educated in Shanghai and Taiwan. With his family, he fled China's Communist regime for Taiwan in 1949. After completing his undergraduate education at National Taiwan University, Tien arrived penniless in the United States in 1956 to study at the University of Louisville. Supported by scholarships, he earned his master's degree there in 1957 and then a second master's degree and his PhD in mechanical engineering at Princeton University in 1959.

He joined the UC Berkeley faculty in 1959 as an Assistant Professor of mechanical engineering. In 1962, when he was 26 years old, Tien became the youngest professor to receive UC Berkeley's Distinguished Teaching Award, an award for which he was enduringly proud. Rising through the ranks, he became a full professor in 1968, later served as chair for seven years of the Department of Mechanical Engineering and, for two years, 1983 through 1985, was UC Berkeley's vice chancellor for research. In 1988, Tien left UC Berkeley—for his first and only time—when he was appointed executive vice chancellor at UC Irvine. He returned to UC Berkeley as chancellor in 1990.

One of the most popular and respected leaders in American higher education and an engineering scholar of international renown, Tien spend nearly his entire professional career at UC Berkeley. He was the campus's seventh chancellor and the first Asian American to head a major research university in the United States.

Both in the United States and overseas, Tien's expertise—in thermal science and engineering, as an educator and humanitarian—was called upon by engineers, scholars and government officials alike. In the field of thermal sciences, he was a visionary. Thermal radiation, thermal insulation and, most recently, microsale thermal phenomena were among the fields carved out by Tien. He also made important contributions to fluid flow, phase-change energy transfer, heat pipes, reactor safety, cryogenics and fire phenomena. In Japan, his basic formulas for "superinsulation" are used in the design of magnetic levitation trains. Both the United States and Hong Kong governments called upon Tien for technical advice. He helped solve problems with the Space Shuttle's insulating tiles and with the nuclear reactor meltdown at Three Mile Island in the late 1970s.

A man of great personal integrity and a fighter for justice and equal opportunity, Tien said his values and ideals were shaped, in part, by the racism and discrimination he encountered in America. To explain his support for affirmative action as a tool to level the playing field in college admissions, he often told the story, as a new immigrant, he confronted a South still divided along color lines.

"One day I got on a bus and saw that all the black people were in the back, the white people in front. I didn't know where I belonged, so for a long time I stood near the driver," Tien would recall. "Finally, he told me to sit down in the front, and I did. I didn't take another bus ride for a whole year. I would walk an hour to avoid that."

In addition to successfully battling years of devastating state budget cuts on campus, Tien developed ways to counter the impact of the UC Regents' ban on affirmative action. In 1995, for example, he launched the Berkeley Pledge which was a partnership between UC Berkeley and California's K–12 public schools that now is called School/University Partnerships. Designed to improve the academic performance of hundreds of students in the

Berkeley, Oakland, West Contra Costa and San Francisco unified school districts, the program was a model for Education Secretary Riley in creating a national program that today is active in almost every state in America.

As chancellor, Tien was beloved as a champion of students. He was famous for his frequent strolls to Sproul Plaza to greet students, bringing cookies to those studying late in the library, and yelling a heartfelt "Go, Bears!" at events. If he returned to UC Berkeley at night after a long trip, he'd frequently visit the campus to check in with students working in his lab before heading home.

Tien raised the profile of women in leadership at UC Berkeley by appointing the first woman Vice Chancellor and Provost—the second-in-command on campus—and the first woman Chief of the Campus Police Department. He also brought more ethnic diversity to the leadership of the university administration.

During his career, Tien's many honors included, in 1976, becoming one of the youngest members of the National Academy of Engineering, which awarded its highest honor to him, the NAE Founders Award, in September 2001. The award recognizes academy members who have made lifelong contributions to engineering and whose accomplishments have benefitted U.S. citizens.

Tien held 12 honorary doctorates, including degrees from universities in China, Hong Kong and Canada. One unique honor was when the Zi Jin Mountain Observatory in China named a newly discovered asteroid "Tienchanglin." Also bearing his name is one of the world's largest oil tankers—Chevron Corp.'s M/T Chang-Lin Tien.

He authored more than 300 research journal and monograph articles, 16 edited volumes and one book.

Chancellor Tien was a friend and supporter. I vividly remember many meetings with Chancellor Tien and being in awe of his intellect. Yet, his passion and compassion for students and the University of California permeated his existence. He was a unique individual, a true leader who led from his head to his heart.

I take great pride in joining Chancellor Tien's wife, children, grandchildren, and colleagues to salute the extraordinary Chang-Lin Tien.

HAITIAN IMMIGRANT EQUITABLE ADJUSTMENT ACT OF 2002

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mrs. MEEK of Florida. Mr. Speaker, I am today introducing a bill in Congress which will amend the Cuban Adjustment Act of 1966 to include Haitians as well.

My bill, the Haitian Immigrant Equitable Adjustment Act of 2002, will provide the exact same legal rights to Haitian immigrants that Cuban immigrants have enjoyed for almost 40 years.

Under my bill, the legal rights of Cuban immigrants would continue unchanged. But Haitian immigrants would finally have the same rights as Cubans, under the law.

Like the Cuban Adjustment Act, my bill would allow Haitians who have been physically present in the United States for at least one year to adjust to permanent residence status at the discretion of the Attorney General. Like Cubans, Haitians would have to be eligible to receive an immigrant visa and be admissible into the United States as a permanent resident. Also as in the case of Cubans, spouses and children of the Haitians applying for this adjustment are also covered.

Because there was no cut-off date or numerical limits for Cubans covered under the Cuban Adjustment Act, there would be no cut-off dates or numerical limitations for Haitians under my legislation.

Since the Cuban Adjustment Act became law, the Attorney General has used his discretion to allow over 600,000 Cubans to become permanent, lawful residents of the United States—making it possible for them to eventually become U.S. citizens. During that period, over 400,000 Haitians have come to the United States, but over half were returned to Haiti. Under my bill, these Haitians, like the Cubans, would be allowed to remain in this country.

What made the Cuban Adjustment Act provisions take effect was the U.S. Attorney General's willingness to use existing authority to allow Cubans to legally enter the country. Once they entered legally, the law took its course. I call upon the Bush administrations—both in Tallahassee and in Washington—to treat Haitians exactly the same way that Cubans are treated.

I have long sought to insure fairness for Haitians. In 1997, I introduced H.R. 3033, the Haitian Refugee Immigration Fairness Act. The provisions of my bill became law in 1998. It allowed Haitians who were in the country at the end of 1995 and who were paroled into the country, filed for asylum, or who were orphaned children to receive green cards.

I have also fought against the Bush administration's policy of indefinitely imprisoning Haitians who demonstrate a credible fear of persecution. This policy is, by any standard, unfair and discriminatory.

No other group of asylum seekers are treated this way. Non-Haitians are routinely released into their communities shortly following their initial asylum interviews and remain free throughout the adjudication process to meet with their counsels and prepare their strongest petitions.

There is no other group of asylum seekers to whom a blanket indefinite detention policy is applied. The Haitian people are the ones who suffer, and I will continue to do everything I can to end the unfair, unequal and discriminatory treatment they suffer at the hands of this administration.

HONORING ARTEMAS WARD

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. MCGOVERN. Mr. Speaker, I rise today to pay tribute to Artemas Ward, a true American hero. Mr. Ward was a resident of Shrewsbury, Massachusetts during the colonial era. The Shrewsbury 275 Committee and the Shrewsbury Historical Society are honoring his 275th birthday on November 26, 2002.

As my colleagues are aware, Mr. Ward was the first Commander-in-Chief of the Continental Army before George Washington was named to that post. Before leading the Continental Army, Mr. Ward was a colonel in the militia during the French and Indian War. During that war, Mr. Ward was recognized for his superior administrative skills. Like so many people in Massachusetts, Mr. Ward was an ardent anti-loyalist and was named Commander-in-Chief of the Massachusetts forces. In time, Mr. Ward became the highest-ranking major general in the 13 colonies. Following his retirement from the Continental Army in 1777, Mr. Ward went on to play a prominent roll in Massachusetts and American politics.

Mr. Ward was a graduate of Harvard College. After he passed away, Mr. Ward's estate was known as the Ward Homestead and the town of Shrewsbury administered it. However, Harvard University now operates the Ward Homestead and it is known as the Ward Museum.

Mr. Speaker, I am confident that the entire U.S. House of Representatives joins me in extending a birthday wish to Artemas Ward and the Town of Shrewsbury. Moreover, I ask that my colleagues join me in thanking Mr. Ward for his bravery, patriotism, and commitment to the ideals of the American Revolution.

TRIBUTE TO LOS PINOS FIRE PROTECTION DEPARTMENT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to recognize the Los Pinos Fire Protection Department for their service and dedication during one of Colorado's most formidable fire seasons. Last summer, the Fire Protection Department played an integral role in containing the Missionary Ridge forest fire that burned over 70,000 acres in Southwestern Colorado. Today, I would like to pay tribute to their heroic efforts before this body of Congress and this nation.

When the Missionary Ridge fire first erupted last June, the citizens of Durango, Bayfield and the surrounding communities called upon the Los Pinos Fire Protection District to protect their loved ones, homes, and communities from what would become the worst fire in area history. The fire began in a ditch beside Missionary Ridge Road just 15 miles northeast of Durango and grew to consume more than 70,000 acres, 56 residences, and 27 outbuildings.

Although the Missionary Ridge fire was a devastating reminder of how destructive forest fires can be, it also served to remind us of the men and women who risk their lives to protect their fellow citizens on a daily basis. The Los Pinos Fire Protection District has served the citizens of Colorado since 1985 and oversees a 217 square mile region. The district relies upon its five member staff and 10 volunteers to remain on call, prepared to fight fires or provide medical assistance on a moment's notice.

Mr. Speaker, it is with sincere admiration that I recognize the Los Pinos Fire Protection District before this body of Congress and this nation. I want to commend all of the Fire District's fire fighters for their determination, courage, and resolve during last summer's efforts on Missionary Ridge. Without the help of the Los Pinos Fire Protection District and others, the added devastation to our community, environment, and quality of life would have been unimaginable. Their tireless commitment throughout the summer's fire season has served as an inspiration to us all and it is an honor to represent such an outstanding group of Americans in this Congress.

RECOGNIZING NICHOLAS ROYCE

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Ms. WATSON of California. Mr. Speaker, I wish to acknowledge Mr. Nicholas Royce, a dedicated American and Southern Californian, who has spent more than fifty years as an advocate for the Eastern Orthodox religion and its inclusion as an integral part of American religious life.

Mr. Royce's first experience with religious discrimination was when he entered the Armed Forces and found the service had limited religious choices—Protestant, Catholic and Jewish. Through Mr. Royce's encouragement and a prolific letter writing campaign, U.S. Senator Leverett Saltonstall introduced and had passed legislation in 1955 which recognized the more than 500,000 Orthodox Catholics who had fought and died in uniform. Today, service men and women are able to wear name tags designating Eastern Orthodoxy and they have access to Orthodox chaplains. In addition, thirty-three states now recognize Eastern Orthodoxy as a major religion.

Having retired from a successful show business career that began at the age of 14 as a dancer, Mr. Royce has devoted his time to fighting for AIDS victims, the homeless and abused women and children. Breaking down gender barriers, Mr. Royce has been an active member of the Hollywood Women's Press Club. Women in Film and American Women in Radio and Television.

I am pleased to be able to recognize the accomplishments of Mr. Nicholas Royce on the occasion of his birthday and wish him many more years of successful activism.

CHRISTIAN DIOR'S "ADDICT" CAMPAIGN MARKETS ADDICTION TO YOUNG PEOPLE

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. RAMSTAD. Mr. Speaker, I am extremely dismayed by the continued public silence by fashion design house Christian Dior to repeated requests from outraged citizens asking Dior to stop marketing addiction to our young people.

As a grateful recovering alcoholic, I believe it is vitally important for us to condemn the glamorizing of addiction for profit by Christian Dior.

The Dior ad campaign for its new "Addict" line of fragrance, lipstick and nail polish shows a complete disregard for the millions of people who suffer from the disease of addiction and their families.

Mr. Speaker, Dior's massive new ad campaign is the ultimate in corporate irresponsibility. Dior's abuses trivialize America's No. 1 public health problem—alcohol and other drug addiction.

The Dior ads portray addiction as "bold, daring and totally sexy." Young women targeted by this ad campaign are told "every day a new temptation." Ad copy urges them to "follow your cravings."

Dior's outrageous and irresponsible ads claim that becoming an addict is hip, daring and sensual. Dior needs to hear there's nothing hip about the disease of addiction—a disease that killed 150,000 Americans last year.

Mr. Speaker, there's nothing hip about a disease that afflicts 26 million Americans, including 2.1 million teens. In Minnesota alone, more than 18,000 young people ages 14 to 17 are in need of treatment for their addiction.

The visuals of the "Addict" campaign are shameful. One example from the internet site is something called the "Addict Film." The music is hypnotic. The visuals pulsate with jarring quick cuts. A model, clad only in skimpy underwear and sweat, brushes her hair back as she leans forward. She's wide-eyed and anxious.

Her finger dips into something on a shiny mirror-like surface. She brings her finger up beside her nose. Later she grabs a blue bottle out of the air and settles down with half-closed eyes and an open mouth. Under the music a seductive voice whispers, "addict, addict, addict."

The ad asks, "Will you admit it?"

Mr. Speaker, Dior is part of LVMH (Louis Vuitton Moet Hennessy), a Fortune 500 company based in France. LVMH talks about corporate responsibility. Company documents say the principles of protection, prudence and care must be applied if the company is to "reconcile economic development with the overall well-being of humanity."

But their own annual report says the "Addict" marketing visuals are "the perfect illustration of the possible connotations of the word 'addict.' "

Mr. Speaker, they obviously don't tell the real truth of addiction. This ad campaign shows callous disregard for parents who have lost a child to addiction. It trivializes a critical public health issue and cheapens the hard work of recovery from addiction.

Magazines like Rolling Stone, Elle and Glamour carry these ads. People around the country are getting samples in the mail. These ads are appearing in newspapers that are in the homes of families, families with children. Faced with a multi-million dollar ad campaign that glamorizes addiction, how can parents teach their children it is not cool to try drugs?

Mr. Speaker, we need a tremendous public outcry against Dior's campaign to glamorize the disease of addiction—the same public outcry that would result if Dior tried to glamorize other deadly diseases like cancer or AIDS.

We need to put public pressure on Dior to pull the "Addict" campaign and rename the product.

We need to let Dior know their "Addict" campaign shows careless disregard for families who have lost a child to addiction.

Dior needs to know they are doing great harm to parents trying to each their children not to use drugs or alcohol.

Dior needs to know they are doing a tremendous disservice to people in recovery. Dior's marketing campaign is a slap in the face of each and every brave young person in recovery.

Mr. Speaker, the frequency and intensity of these ads will increase as we enter the Christmas shopping season. The city Council of Detroit has just condemned this marketing campaign. There are diverse coalitions working from coast to coast to protect the health and safety of our children and retain the dignity of people who are doing the hard work of recovery.

We must expose Dior's outrageous and irresponsible marketing campaign.

Mr. Speaker, it is my hope this body will join me in condemning this ad campaign which attempts to glamorize addiction. Please join me in using our leadership to send a clear message that addiction is not fashionable.

CELEBRATING THE EFFORTS OF THE MACOMB COUNTY INTERFAITH VOLUNTEER CAREGIVERS ON THE OCCASION OF THEIR 10TH ANNIVERSARY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. LEVIN. Mr. Speaker, I rise to recognize the efforts of the Macomb County Interfaith Caregivers as they celebrate their 10th Anniversary on November 19, 2002.

This celebration will bring together a variety of local support agencies, faith-based congregations, and residents to provide information on their programs and services available to the citizens of Macomb County and recently added areas in Oakland County.

The Macomb County Interfaith Caregivers was started in 1990 by a group of religious leaders from southeast Michigan who saw a need for a program that could reach out to a rapidly growing population of older and disabled adults. These older residents of our communities were struggling to maintain their independence and preserve their health and safety in their own homes. By 1994 the program was an independent, community-owned charitable organization.

The agency's mission is to provide essential support services like transportation, household assistance, meal preparation, home repairs and yard work. They also provide an important emotional support system through a respite program for full-time family caregivers, socialization visits, and ongoing communication with the participants.

The work of the Interfaith Volunteer Caregivers has touched the lives of more than 850 residents in the last ten years and has been made possible through the work of hundreds of volunteers, eighty local businesses and seventy local congregations.

Mr. Speaker, I ask my colleagues to join me in commending the passion and hard work of all of the individuals involved with the Macomb County Interfaith Caregivers. It has been my pleasure to work with them and to see first hand the value of their efforts. They have improved the lives of the elderly and strengthened the fabric of their community.

TRIBUTE TO DURANGO FIRE & RESCUE AUTHORITY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to recognize the Durango Fire & Rescue Authority for their service and dedication during one of Colorado's most formidable fire seasons. Last summer, the Fire & Rescue Authority played an integral role in containing the Missionary Ridge forest fire that burned over 70,000 acres in Southwestern Colorado. Today, I would like to pay tribute to their heroic efforts before this body of Congress and this nation.

When the Missionary Ridge fire first erupted last June, the citizens of Durango, Bayfield and the surrounding communities called upon the Durango Fire & Rescue Authority to protect their loved ones, homes, and communities from what would become the worst fire in area history. The fire began in a ditch beside Missionary Ridge Road just 15 miles northeast of Durango and grew to consume more than 70,000 acres, 56 residences, and 27 outbuildings.

Although the Missionary Ridge fire was a devastating reminder of how destructive forest fires can be, it also served to remind us of the men and women who risk their lives to protect their fellow citizens on a daily basis. The newly formed Durango Fire & Rescue Authority consolidated the efforts of the Hermosa Cliff Fire District, Animas Fire District, and the City of Durango Fire Department to serve the citizens in the Durango area and oversees 440 square mile region with a population of 29,700. The Durango Fire & Rescue Authority relies on a host of volunteer firefighters, paramedics, and support staff prepared to fight fires or provide medical assistance on a moment's notice.

Mr. Speaker, it is with sincere admiration that I recognize the Durango Fire & Rescue Authority of Durango before this body of Congress and this nation. I want to commend all of the Durango Fire & Rescue Authority's firefighters for their determination, courage, and resolve during last summer's efforts on Missionary Ridge. Without the help of the Durango Fire & Rescue Authority and others, the added devastation to our community, environment, and quality of life would have been unimaginable. Their tireless commitment throughout the summer's fire season has served as an inspiration to us all and it is an honor to represent such an outstanding group of Americans in this Congress.

HONORING JEAN WORTHAM

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. BENTSEN. Mr. Speaker, I rise to pay tribute to Jean Wortham, who was recently honored for her commitment to public service and her continuous efforts to better the communities of Harris County. Jean Wortham has been a community activist for well over 40 years, and her dedication and enthusiasm have energized both the Democratic party and the people of Harris County. For this reason, she has been recognized at a special event entitled "Salute to Jean Wortham," and I believe that this distinction could not be bestowed on a more deserving individual.

Jean Wortham maintains strong family roots in Oklahoma, but has resided in Pasadena, Texas for over forty years, during which time she began a distinguished career in public service. She was employed for fourteen years by State Representative Erwin Barton, who represented District 144, a constituency that included Pasadena. From there, Jean Wortham went on to work for Justice of the Peace Mike Parrott, where she demonstrated outstanding service, upholding the constitutional laws of Texas relating to the Transportation Code as well as the Texas Penal Code in misdemeanor cases, and Small Claims and Justice Court. Her professional public involvement then expanded to the labor movement when she moved on to work as Secretary to the International Vice President of the Boilermakers, where she has been employed since 1996.

Although Jean Wortham has had a notable professional career in public service, volunteer efforts have proved to be a major outlet for much of her community involvement. Her desire to further the Democratic cause is reflected in her years of fervent political activism, which began in 1976 when she took over as the Area 5 Democratic Headquarters Manager in Pasadena. While actively volunteering as a leader in the Area 5 Democratic Club, Jean also took on the position of Manager for Erwin Barton's campaign. Her energetic dynamic continued even after these positions ended. In 1984, she became involved in national politics as the coordinator for Walter Mondale for President in Texas' State Senate District 11.

Jean's public service stretched to many areas other than politics, as she became a driving force behind the success of the American Red Cross when she was appointed as Chair of Volunteers for the organization's Pasadena Service Center. During this same time, Jean Wortham kept up her political involvement, serving as a member of the State Democratic Executive Committee from State Senate District 11. More recently, Jean Wortham continued her drive to better the lives of others by establishing the first-ever Native American Caucus at the Texas State Convention in El Paso earlier this year.

Mr. Speaker, I commend the tireless devotion that Jean Wortham has pledged to the advancement and success of our community. Jean's extensive volunteer endeavors combined with her exceptional professional political career have distinguished her as a committed individual, who is extremely deserving of such a salute.

NATIONAL FAMILY WEEK

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. LAMPSON. Mr. Speaker, I rise today to recognize National Family Week and the importance of strong families to the future of our communities and our country.

The purpose of National Family Week, November 24–30, 2002, is to recognize that Connections Count when it comes to strengthening families and communities. Strong families are at the center of strong communities. Everyone has a role to play in making families successful, including neighborhood organizations, businesses, non-profits, policymakers, and, of course, families themselves.

Families thrive when they are connected to the opportunities, networks, support, and services that enable them to succeed. This includes everyday access to high-quality transportation, technology, education, and child care; opportunities to build solid financial foundations; and positive social relationships within and among families, as well as quality support from community networks and institutions.

National Family Week is a great time to honor the connections that support and strengthen families year-round. These connections can be as simple as the neighbor who watches the kids while parents work; the placement center that connects parents to new jobs; the place of worship or neighborhood organization that connects the family to others in the community; the community leader or policymaker who initiates policies, practices, and resources to better benefit families, and the parents who listen to their children and always have time for big hugs.

For 32 years, the Alliance for Children and Families and its non-profit members have promoted National Family Week throughout the nation. Every day these child- and family-serving organizations make a difference for families of all shapes and sizes.

National Family Week is a great time for all of us to recommit to enhancing and extending all families' connections. As we gather with our families this Thanksgiving, let us remember the special connections that help our families thrive, and encourage one another, our neighbors, our businesses, and our organizations to reach out to families in new ways, and honor the special gifts each can bring to our communities and to one another.

HOMELAND SECURITY ACT OF 2002

SPEECH OF

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 13, 2002

Mr. PAUL. Mr. Speaker, when the process of creating a Department of Homeland Security commenced, Congress was led to believe that the legislation would be a simple reorganization aimed at increasing efficiency, not an attempt to expand federal power. Fiscally conservative members of Congress were even told that the bill would be budget neutral! Yet, when the House of Representatives initially considered creating a Department of Homeland Security, the legislative vehicle almost overnight grew from 32 pages to 282 pages and the cost had ballooned to at least $3 billion. Now we are prepared to vote on a nearly 500-page bill that increases federal expenditures and raises troubling civil liberties questions. Adding insult to injury, this bill was put together late last night and introduced this morning. The text of the bill has not been made available and the only place members and their staff can access a copy of the bill is on the Rules Committee's website. Unfortunately, the location of the bill is not widely published: thus, many members and staffers are unaware of how to access a copy.

The last time Congress attempted to similarly ambitious reorganization of the government was with the creation of the Department of Defense in 1947. However, the process by which we are creating this new department bears little resemblance to the process by which the Defense Department was created. Congress began hearings on the proposed Department of Defense in 1945—two years before President Truman signed legislation creating the new Department into law! Despite the lengthy deliberative process through which Congress created the new department, turf battles and logistical problems continued to bedevil the military establishment, requiring several corrective pieces of legislation. In fact, Mr. Speaker, the Goldwater-Nicholas Department of Defense Reorganization Act of 1986 (P.L. 99–433) was passed to deal with problems steaming from the 1947 law! The experience with the Department of Defense certainly suggests the importance of a more deliberative process in the creation of this new agency.

H.R. 5710 grants major new powers to the Department of Health and Human Services (HHS) by granting HHS the authority to "administer" the smallpox vaccine to members of the public if the Department unilaterally determines that there is a public health threat posed by smallpox. HHS would not even have to demonstrate an actual threat of a smallpox attack, merely the "potential" of an attack. Thus, this bill grants federal agents the authority to force millions of Americans to be injected with a potentially lethal vaccine based on nothing more than a theoretical potential smallpox incident. Furthermore, this provision continues to restrict access to the smallpox vaccine from those who have made a voluntary choice to accept the risk of the vaccine in order to protect themselves from smallpox. It is hard to think of a more blantant violation of liberty than allowing government officials to force people to receive potentially dangerous vaccines based on hypothetical risks.

While this provision appears to be based on similar provisions granting broad mandatory vaccination and quarantine power to governors from the controversial "Model Health Emergency Power Act," this provision has not been considered by the House. Instead, this provision seems to have been snuck into the bill at the last minute. At the very least, Mr. Speaker, before Congress grants HHS such sweeping powers, we should have an open debate instead of burying the authorization in a couple of paragraphs tucked away in a 484 page bill!

H.R. 5710 also expands the federal police state by allowing the attorney general to authorize federal agency inspectors general and their agents to carry firearms and make warrantless arrests. One of the most disturbing trends in recent years is the increase in the number of federal officials authorized to carry guns. This is especially disturbing when combined with the increasing trend toward restricting the ability of average Americans to exercise their second amendment rights. Arming the government while disarming the public encourages abuses of power.

Mr. Speaker, H.R. 5710 gives the federal government new powers and increases federal expenditures, completely contradicting what members were told would be in the bill. Furthermore, these new power grabs are being rushed through Congress without giving members the ability to debate, or even properly study, this proposal. I must oppose this bill and urge my colleagues to do the same.

TRIBUTE TO FARMINGTON FIRE DEPARTMENT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to recognize the Farmington Fire Department for their service and dedication during one of Colorado's most formidable fire seasons. Last summer, the Fire Department played an integral role in containing the Missionary Ridge forest fire that burned over 70,000 acres in Southwestern Colorado. Today, I would like to pay tribute to their heroic efforts before this body of Congress and this nation.

When the Missionary Ridge fire first erupted last June, the citizens of Durango, Bayfield and the surrounding communities called upon the Farmington Fire Department to protect their loved ones, homes, and communities from what would become the worst fire in area history. The fire began in a ditch beside Missionary Ridge Road just 15 miles northeast of Durango and grew to consume more than 70,000 acres, 56 residences, and 27 outbuildings.

Although the Missionary Ridge fire was a devastating reminder of how destructive forest fires can be, it also served to remind us of the men and women who risk their lives to protect their fellow citizens on a daily basis. The Farmington Fire Department has served its citizens and community since 1924 and serves the entire Farmington area. The department relies upon a personnel of 72 firefighters who remain on call, prepared to fight fires, conduct rescue operations, or provide medical assistance on a moment's notice.

Mr. Speaker, it is with sincere admiration that I recognize the Farmington Fire Department before this body of Congress and this nation. I want to commend the department's fire fighters for their determination, courage, and resolve during last summer's efforts on Missionary Ridge. Without the help of the Farmington Fire Department and others, the added devastation to our community, environment, and quality of life would have been unimaginable. Their tireless commitment throughout the fire season has served as an inspiration to us all and I extend my sincere gratitude to everyone in the department.

CONFERENCE REPORT ON H.R. 4546, BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

SPEECH OF

HON. JO ANN DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 12, 2002

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today to speak on H.R. 4546, The Bob Stump National Defense Authorization Act of Fiscal Year 2003. I believe that this year's Defense Authorization package is a compromise that does many good things. In particular, I was extremely happy to see that the Committee would offer its full support for restoring the original schedule for CVNX–1.

However, Mr. Speaker, I must point out that I am disappointed at the lack of progress that we have made on the issue of concurrent receipt. Yes, this legislation would allow some of our retired veterans to receive both their VA disability and retirement pay. However, in a real sense, this is not true concurrent receipt as payments are authorized through the Special Stipend for the Severely Disabled Retirees. It is a step, but quite frankly, it is not enough.

Mr. Speaker, I would like to reemphasize my support for inclusion and passage of a full version of concurrent receipt in future years. It is something our veterans deserve and is owed to them. I am fully aware of its costs. The Administration, simply put, should either add the money and program for it, or request that this be made a mandatory spending measure.

Mr. Speaker, I am aware that many members do not fully support this and see it as simply "pork". However, let's look at what this is for. VA disability payments, in a very real sense, are earned. The military life is a job unlike any other profession. That's why it is often referred to as a calling. The risks associated with this profession are higher than most and often result in injury that years later becomes debilitating. That is why we have disability payments for our service members.

Mr. Speaker, as we hold this debate, we stand on the cusp of another war, one which will surely cause more casualties and more debilitating injuries to our young servicemen. We should do the right thing and grant concurrent receipt to our current and future veterans.

TRIBUTE TO SCHOOL PSYCHOLOGISTS IN SUFFOLK COUNTY, NY

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. ISRAEL. Mr. Speaker, I rise to recognize the work of school psychologists in Suffolk County, NY, during the week of November 4, 2002.

The children of Suffolk County, NY, have a natural desire and propensity to learn and the inalienable right to an education. It is imperative that our society supports the needs of children and youth and invest in education as our top priority.

Children's mental health is closely linked to their successful learning and development. Schools must apply sound psychological principles to instruction, learning and oversight, cultivate children's intellectual, social and emotional development, meet the educational and developmental needs of culturally diverse student populations, and promote prevention and early intervention to ensure students' achievement.

Suffolk County schools must ensure a safe, healthy learning environment for all children and be able to recognize and respond to their emotional and psychological difficulties.

Suffolk County school psychologists help parents and educators foster healthy child development and are the school-based experts in children's learning and development.

Suffolk County school psychologists and other trained school-based professionals have the opportunity and ability to help parents identify and access needed community resources to help their children.

Suffolk County school psychologists are leaders in delivering mental health services to children. It is appropriate that Americans recognize the important and vital role that school psychologists play in the personal and academic development of our nation's children.

HONORING MR. MIKE ALLEN, DIRECTOR, HOUSE RECORDING STUDIO

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. NEY. Mr. Speaker, on the occasion of his retirement at the end of this year, we rise to thank Mr. John Michael Allen for his exemplary service to the U.S. House of Representatives. The following statement by Robert F. Kennedy truly defines the caliber of work that Mike has provided to the House during the past 23 years: "Few of us have the greatness to bend history itself; but each of us can work to change a small portion of events, and in the total of those acts will be written the history of this generation." Mike's strong commitment to providing professional and flawless broadcast coverage of the House floor proceedings has made history. Every day that this House of the People is in session, Mike has guided a professional and dedicated team to provide flawless daily coverage to the country. We who are here and can just cross the street to watch history being made, may not appreciate what Mike has been helping to "make happen" for 23 years. Mike is to be admired and praised for providing this notable service to the House.

Mike is currently leading the House Recording Studio from operating in an analog environment to operating in a digital environment and to providing broadcast coverage of Committee Hearings. He continues to lay the groundwork for these technological transitions as he approaches the end of his career with the House. The strength and commitment of the team he has developed will ensure the success of these efforts even after he moves on to his new job of "retirement."

On behalf of the entire House community, we commend Mike for his dedication and long, selfless service to the House of Representatives. We wish Mike and his wife Sheila many wonderful years in fulfilling their retirement dreams.

TRIBUTE TO WILLIAM THIEBAUT, JR.

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to a man that has selflessly devoted his time and energies towards the betterment of the state of Colorado. A member of the Colorado State Legislature, the hard work and dedication of William Thiebaut, Jr., known as Bill, is a testament to the Western pride and character of my state and its citizens. Bill is now leaving the Colorado State Legislature after serving since 1993, and I can think of no better way to celebrate Bill's retirement than to honor his many achievements before this body of congress, and this nation.

Educated in Canon City and now living in Pueblo, Bill has not only experienced the best the state has to offer but also has been inspired to give back to the state and its people. He has served in both the House and the Senate as both an appointee and an elected official. During his time in the Colorado Generally Assembly he has served on countless committees and dedicated countless hours to improving the lives of Coloradoans. Most notably he has diligently served as the Senate Majority Leader and has selflessly given his time to the Legislative Councils Subcommittee on Sexual Harassment, the Criminal Justice Commission, the Governor's Job Training Coordination Council, the Federal Budget Task Force, and the Task Force on Worker's Compensation Premium Rate Increases. In addition he has worked on the issues of election reform, worker's rights, and children's rights. When Bill is not working in the General Assembly he is serving in his other roles as loving husband and devoted father of an amazing fifteen children.

Mr. Speaker, its clear that Bill Thiebaut is a man of dedication and commitment to his state and its citizens. He has achieved many things in his distinguished tenure in the Colorado General Assembly, and I am honored to be able to bring his hard work and dedication to the attention of this body of congress. It is my privilege to be able to express to him, and to this country, my gratitude for all that he has done for our wonderful state, and I wish him all the best in his future endeavors.

HONORING WORCESTER COMPREHENSIVE CHILD CARE SERVICES

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. McGOVERN. Mr. Speaker, I rise today to honor Worcester Comprehensive Child Care Services, Incorporated, WCCCS, Inc. Since its inception as Great Brook Valley Child Care in 1972, the agency has been serving the after-school needs of children who live in the Great Brook Valley. Building upon its success with that first class of school-age children, WCCCS, Inc. has grown into an agency that serves nearly 300 low-income Worcester children in 5 locations. In order to reflect its mission, the agency changed its name to Worcester Comprehensive Child Care Services, Inc.

WCCCS, Inc. employs 65 staff members and is proud that its national association has accredited all of its teaching personnel and centers for the Education of Young Children, NAEYC. Some of the staff have been working with the agency since its inception, and many of the staff have 10, 15, and 20-plus years of experience. Many of the staff members are themselves WCCCS alumni, and many of their own children, grandchildren, and great grandchildren participate in the program.

WCCCS, Inc. is proud of its policies of providing entry-level jobs for a culturally and ethnically diverse staff, paying for their education and professional development, and offering excellent pay and benefits. The agency is a 501–C3 not-for-profit, and a volunteer board of directors leads it.

Mr. Speaker, I would like to take this opportunity to commend the WCCCS, Inc. Board of Directors and staff for 30 years of dedicated service to the children of my hometown, Worcester, MA. I congratulate them as they celebrate the 30th Annual Meeting of the Board of Directors.

CONGRESSMAN SONNY CALLAHAN'S RETIREMENT

HON. J. RANDY FORBES

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. FORBES. Mr. Speaker, I rise today to pay tribute to our distinguished colleague, SONNY CALLAHAN, as he retires from Congress after 18 years of representing Alabama's first district.

Chairman CALLAHAN has dedicated most of his life to public service. In addition to his long and noteworthy career in the House of Representatives, he served in the Alabama legislature for 12 years and he has served his country in the Navy. I congratulate him on his remarkable record of service. I commend him for his proven dedication to his constituents and his countrymen.

Most recently, SONNY has served as the chairman of the Energy and Water Appropriations Subcommittee. In this role, he has had a direct, lasting, and positive impact on the basic infrastructure that enables America's economic might. Nearly every congressional district represented in the House, Mr. Speaker, has directly benefited from SONNY's leadership of this committee.

I have personally benefited from SONNY's leadership. His office in the Rayburn Building is next to mine. Because of his proximity, he has provided me with guidance and support in my first term in Congress. I am grateful, Mr. Speaker, for direct and positive impact Mr. CALLAHAN has had on me in his final term.

Our Nation is better off because of SONNY CALLAHAN's long and distinguished career. We in Congress are better off for knowing him. I wish him well in his future endeavors, and I thank him for his accomplishments.

HONORING VIJAY MITAL

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. WALSH. Mr. Speaker, I rise to recognize the retirement of Vijay Mital, the City of Auburn, New York's Director of Planning and Economic Development. Vijay, who retires next month, has been a dedicated public servant in the Auburn community for 32 years. Having worked with this exceptional individual for 14 years, I can say he will be missed by all those who have come to know and respect his work.

If anyone can attest to living the American dream, it is Vijay Mital. He grew up near New Dehli, India before immigrating to the United States in 1970 at the age of 30. While visiting his sister in my hometown of Syracuse, Vijay came across an employment ad for an opening in Cayuga County's planning department. He applied for the job, was hired five days later, and as they say, the rest is history. He has worked for the county for 20 years and spent the last 12 years with the City of Auburn in his current position.

A humble and modest man, Vijay is the only Director of Planning and Economic Development the city's ever had. Here are just some of the extraordinary accomplishments of his career. Vijay and his staff have diligently worked to bring over $50 million in state and federal aid for local projects. At one point, the Department of Housing and Urban Development awarded the city 19 consecutive grants. This is record at the agency that still stands today.

Upon learning SnyderGeneral, now McQuay International, was going to close its local plant and move elsewhere, Vijay led a city delegation to the company's headquarters in Texas. There, he convinced the company to stay open in Auburn saving 350 jobs. Since that time, the company has more than doubled its workforce, adding a new marketing division. Vijay has also been instrumental in developing the Stryker Homes and the Boyle Center senior citizen complexes, the Holiday Inn, and the new Falcon Park minor league baseball field.

As everyone can see, Vijay is truly an extraordinary person. I join his wife Nisha, daughter Seema, and son Mansha in saluting his lifetime of work for the people of Cayuga County and the City of Auburn. Vijay Mital has made a difference in his community and I wish him well in his future endeavors.

TRIBUTE TO STANLEY T. MATSUNAKA ——

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002—

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Stan T. Matsunaka and thank him for his contributions to the State of Colorado while serving as a state senator. After serving his state for eight years, Stan is leaving the Senate Assembly to continue his political career in other arenas. It is with a great deal of respect that I pay tribute to him today, in front of this body of Congress, and thank him for his hard work and dedication while in office.

Born and educated in Colorado, Stan has long held an interest in politics. As a student at Fort Morgan High School, Stan was elected student body president. He is known as a devoted father of three, and a loving husband. Stan has gone beyond the walls of the Capitol to serve his fellow citizens as a valued member of the community. He has led Boy Scout troops, Odyssey of the Mind teams, and coached his children's athletic teams for years. He has also served as a member and chairman of the Namaqua School Accountability Committee, the Thompson Valley Preschool, Hospice, Loveland Daycare Center and the Loveland Sertoma Club. Stan also acts as a deacon and elder in his church, and is well respected by his community.

Stan was elected to the State Legislature in 1994 and again in 1998 and has dedicated countless hours to his work. He currently serves as President of the Senate, chair of the Education Committee, and a member on the Public Policy and Planning and Senate Services committee. During his time as a state senator, Stan has worked on the issues of education, housing and government finance.

Mr. Speaker, I am honored to bring to the attention of this body of Congress, the service of Stan Matsunaka. His contributions to his state and constituents through his many years of public service are an example for our state. His service and commitment should serve as an example for us all, and I wish him the best of luck in the future.

REMEMBERING UKRAINE'S FAMINE

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. WELDON of Pennsylvania. Mr. Speaker, this Saturday, Ukrainians around the world will honor the millions that died in the man-made famine created by Josef Stalin's Soviet government. In 1932–33, citizens of Ukraine, the northern Caucasus and the lower Volga River regions died as a result of Stalin's implementation of forced collectivization. The heaviest losses occurred in Ukraine, where an estimated 7 to 10 million people perished.

This artificial famine was instituted to break the spirit of the Ukrainian farmer and force them into collectivization. Stalin was determined to crush Ukrainian nationalism and to do so required an ethnic cleansing of the most horrific nature. The task took the form of a man-made famine where the quota for grain from Ukraine was brutally increased. The extraordinarily high quota resulted in a severe grain shortage, effectively starving the Ukrainian people.

Additionally, the peasants were threatened if they did not perform the work expected of them and the Soviet government issued a decree stating that anyone found hiding food products or produced materials would be shot.

The end result was a demoralized and depleted Ukrainian ethnic population. Stalin covered up this genocide so effectively that little was known of this horrific event. However, the Ukrainian Government has exposed Stalin's atrocities by issuing a decree stating that the fourth Saturday of November is designated as the national memorial day for the millions of victims of the 1932–33 famine. This day of observance reminds us that freedom does not come easy.

I join those in mourning and aid their cause in expanding the world's acknowledgment of this horrific event in Ukraine's history. Furthermore, I support the Ukrainian community's action to erect a monument to the victims of the 1932–33 Ukrainian Famine-Genocide in Washington, D.C.

This monument will serve as a reminder of the sacrifices the Ukrainian people endured for their freedom and the knowledge of this horrible crime will spread and stimulate the fight for freedom all over the world.

TRIBUTE TO CONGRESSMAN BOB CLEMENT

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. QUINN. Mr. Speaker, as the 107th Congress comes to a close, I want to take this opportunity to pay tribute to a dear friend of mine.

For the past two years, Congressman BOB CLEMENT and I have had the privilege of working together as Chairman and Ranking Member of the Transportation Subcommittee on

Railroads. I affectionately describe Bob as my partner on the Subcommittee because we have worked so well together and approached every situation in a bipartisan way. Our relationship embodies the true spirit of bipartisanship, the type of open and honest discussions that other committee heads should envy. This level of cooperation is a direct result of Bob's admirable character and collegial personality.

Always the gentleman, Bob has been a pleasure to work with and his presence will be sorely missed on the Subcommittee next year. He has been a champion of a national passenger rail system and was instrumental in securing the passage of legislation to increase the pensions and benefits of retired railroad workers and their widows. His commitment to providing the necessary resources for mass transit is second to none and his overall passion for improving our country's transportation systems is irreplaceable.

I congratulate Bob on a distinguished career in the U.S. House of Representatives and I wish him and his family the best in their future endeavors.

CONGRATULATING NAN SHELBY WELLS

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. HOLT. Mr. Speaker, I rise today to recognize the contributions of Nan Shelby Wells on her retirement after 26 years with Princeton University.

In 1979, Nan founded the University's Office of Government Affairs and later moved it to Washington as one of the first university offices to be located there. For more than two decades, Nan made friends for Princeton in Washington and has represented the University on a broad range of issues, always ready to be helpful to Members of Congress and their staffs, as well as officials in the executive agencies.

A champion of higher education, especially graduate education, Nan played a central role in the creation and funding of the Education Department's Jacob Javits Fellowships, and she has been a leader in strengthening the National Science Foundation and the National Endowment for the Humanities.

For her entire career at Princeton, Nan has been an advocate for research and development and especially for the national fusion energy research program, and particularly for the excellent work that has been done at the Princeton Plasma Physics Laboratory. She has worked hard to educate policy makers and to establish and maintain strong support from the U.S. Congress and the Department of Energy for the Laboratory's mission.

When I was with the Plasma Physics Laboratory, I worked closely with Nan for ten years and know her to be a great advocate for education, for investment in our country's future prosperity, and for a compassionate humane society, and especially for Princeton University.

I know that all members who have worked with Nan join me in wishing her all the best as she retires from Princeton University and undertakes other activities.

TRIBUTE TO ABEL J. TAPIA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002—

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize the contributions of a true statesman from the State of Colorado, Abel J. Tapia. Abel has given four years of his life to the Colorado State Legislature as a Representative, a position that is simply his most recent in a long line of service to his state and fellow citizens. Abel is now leaving the State House, and I am honored take this opportunity to thank him for his service.

After a successful engineering career, including graduate work at the Graduate School of Business and John F. Kennedy School of Government at Harvard University, Abel switched gears, and embarked upon his political career. He ran for the Pueblo School District 60 School Board and he served there for eight years, helping the people of Pueblo drastically improve their public school system. He took on leadership positions on the board, serving as vice president for three years and as president for two years. In 1998 Abel took his service to the state level. As a member of the Colorado State House of Representatives, Abel has continued his long-standing dedication to the Pueblo area and its people. He is a member of the Legislative Council and is the Chairman of the Democratic Caucus, and also serves on the Finance and Appropriations Committee.

Abel is also a valued member of the Colorado community, both as a person and as an entrepreneur. He has long served Colorado through his engineering firm, Abel Engineering Professionals, which has been honored numerous times for its dedication to excellence and service. Abel is also known throughout his community for being a devoted husband and loving father of three, as well as a grandfather.

Mr. Speaker, I am quite sure that Abel's leadership and hard work will be sorely missed in the State House of Representatives, and I thank him for all that he has done for the great State of Colorado. I am honored to bring his accomplishments to the attention of this body of Congress, and wish him all the best in the future. His hard work and dedication truly embodies the spirit of the State, and it is with a great deal of pride that I thank him for his many years of public service.

IN HONOR OF EUNICE BREAZEALE

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. FROST. Mr. Speaker, I rise today in honor of Eunice Breazeale, a lifelong Texas resident celebrating her 100th birthday this week on November 17th.

Over her lifetime, Eunice has seen America and the world change around her again and again. Yet, through it all, one constant in her life has been her love of education. I know of very few people who have two high school diplomas—but Eunice does! Due to the demands of World War I, Eunice's high school dropped its senior year, and she graduated as a junior. She later returned to complete one last year—thus earning her second diploma.

All that education must have lured her into teaching, because she enrolled in Baylor Female College in September 1922 to become a certified teacher, and subsequently obtained a position in the Mt. Olive CSD of Mills County, Texas. So began her 29-year-long career as an educator.

Yet, as she taught, pursued a higher education for herself, and raised a family of her own, Eunice found time to lend her talents to service, and quickly became a leader in her community. Among her accomplishments, Eunice helped start the Teachers' Retirement in Texas, served as Adult Sunday School Superintendent for 10 years and Children's Sunday Coordinator for 2 years. She also worked in the Baptist W.M.U. for 27 years while holding a number of offices, worked in the PTA for 25 years, and played piano for the Kamay Baptist Church for 10 years. Even today, Eunice is active in her community and church.

Mr. Speaker, as Eunice's friends and family gather this weekend in Lampasas, Texas, I know my colleagues will join me in honoring this remarkable woman. I salute Eunice Breazeale today, and wish her a very happy 100th birthday with many more to come.

WOMEN'S EQUALITY AMENDMENT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mrs. MALONEY. Mr. Speaker, on the day when we have elected the first ever, highest-ranking woman in Congress, Nancy Pelosi, I issue a challenge to my colleagues and to the incoming freshman class: Pass the Women's Equality Amendment, also known as the Equal Rights Amendment in the 108th Congress!

We are in a new millennium, and we cannot continue to leave women behind. Times have changed, but the purposes of the Women's Equality Amendment remains the same. It's simple concept: Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

On March 22, 2001, I was joined by a group of my male colleagues from the House and Senate as we re-introduced the Women's Equality Amendment with over 160 original cosponsors. At the end of the 107th Congress, we have a record 210 cosponsors. We have worked too hard and too long to see these advances dashed as we enter a new legislative session. We must use the momentum we've established to launch an full-fledged campaign to pass the Women's Equality Amendment. We cannot wait another thirty years. For the sake of our daughters, we should not wait. Now is the time.

Thirty years ago, the Women's Equality Amendment passed the House, but a time limit was added. It was eventually ratified by 35 states, just 3 states shy of final ratification. This is why House Judiciary Chair Rodino reintroduced the Women's Equality Amendment in 1982. We have been trying to pass this legislation ever since. Don't get me wrong. Progress has been made. There are now 61 women Members of Congress and 13 women Senators compared to 1972's grand total of one women Senator and 10 women Members.

In modern America, after five decades of legal and legislative advices for women, it may seem to some that the Women's Equality Amendment is not needed. But the fact is women do not enjoy full, and equal protection under the law.

Yes, we have a patchwork and piecemeal set of legal protections that try to ensure equality under the law; the Equal Protection Clause, Title IX, the Equal Pay Act, the Pregnancy Discrimination Act. However, laws can be changed, repealed or swept away. It is a glaring gap in our body of laws that women do not enjoy the full force of constitutional protection. Gender must have the same level of judicial review as the other protections that combat the many forms of discrimination.

Women are paid less than their equally male counterparts in the workforce, just seventy three cents for each dollar the man earns.

In fact, many of you may know, that last January, Congressman JOHN DINGELL and I released a report title "A New Look Throughout the Glass Ceiling." The results were truly astonishing. Our study, based on data generated by the General Accounting Office, showed that women managers were actually losing ground to their male counterparts. In all ten industries studied, which employ 71 percent of U.S. women workers and 73 percent of U.S. women managers, full-time women managers earned less than men in both 1995 and 20000.

But I was truly shocked that in seven of the ten industries, the earning gap between full-time women and men managers actually widened between 1995 and 2000.

As this report shows, when our nation was at its strongest. We didn't spread the wealth, we grew the disparity.

The Supreme Court did not advance the protections for women in sex discrimination cases, however women still have a stricter burden of proof to prove discrimination than do racial minorities Ironically, a white male claiming race discrimination has a stronger legal standing than a black female claiming sex discrimination by the same employer or action.

In some states, a group of women cannot joint together to rent a home, While several men could, because ancient state laws consider women a greater risk of using that group home for illict sexual activities.

Overriding all of these examples is the simple fact that equal protection for men is guaranteed by the Constitution, and equal rights for women are secured at the whim of politicians and jurists. Any Congress or legislature or judge could roll back the gains women have secured in the last half century without risk the ultimate Constitutional penalty.

Across America and in this Congress, that simple reality is being recognized more and more;. The 210 co-sponsors of the Women's Equality Amendment is the highest for any Congress since 1983, the last time it reached the floor of the House.

It will not be long before an overwhelming majority of this House, and then this Congress, will endorse the Women's Equality Amendment once again, and repair a travesty in our nation's history.

Within this short, but essential, statement, women will be on their way to enjoying equal status in society. We must gather together, men and women on both sides of the aisle and pass the Women's Equality Amendment once and for all.

RECOGNIZING THE 100TH ANNIVERSARY OF THE MINNESOTA VISITING NURSE AGENCY

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Ms. MCCOLLUM. Mr. Speaker, I rise today with great honor to recognize the vital contributions to public health made by the Minnesota Visiting Nurse Agency throughout its 100 years of service. Founded in 1902 by women in the Minneapolis community, the MVNA has grown from a single Public Health Nurse into an indispensable public health organization serving thousands of patients every year. Today the MVNA provides crucial public health services to the Twin Cities community including care for families and children, care for adults and the elderly, and hospice care for the terminally ill. It is my great pleasure to extend congratulations to the Minnesota Visiting Nurse Agency on its 100th anniversary.

TRIBUTE TO GRANDMASTER GEORGE A. DILLMAN

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. GILMAN. Mr. Speaker, I rise today to pay tribute to Grandmaster George A. Dillman on the occasion of his 60th birthday.

George A. Dillman, a 9th degree black belt in ryukyu kempo tomari-te, was honored by Black Belt Magazine in 1997 as "Instructor of the Year." He is one of the USA's best-known and well-established martial arts personalities. There are many who believe Mr. Dillman has contributed more to the body of martial arts knowledge available to the public, than anyone else in the 20th century.

Mr. Dillman came to the attention of the martial arts press when he began competing in the early 1960's. By the middle of that decade, he had started running his own tournament, called the Northeast Open Karate Championships. This competition was held annually for many years.

Official Karate Magazine (Nov. 1982) described Dillman as "one of the winningest competitors karate has ever know." Dillman was four-times national karate champion (1969–1972) and during this period was consistently ranked among the top ten competitors in the nation by major karate magazines. During his nine-year competitive career, Dillman claimed a total of 327 trophies in fighting, forms, breaking and weapons.

Dillman began serious martial arts training in 1961 with Harry G. Smith. He went on to study with Daniel K. Pai, Robert Trias and Seiyu Oyata. Dillman has always considered himself a student, never a master of the martial arts. To this end he and his students have traveled throughout the United States to meet and train with various martial arts experts.

Because of his perseverance, Dillman's martial arts talents have earned him widespread U.S. media coverage. He has appeared on 34 national TV shows, including, Real People, Mike Douglas, PM Magazine, Evening Magazine, and NBC's Sports Machine. Dillman has also been featured five times in Ripley's Believe it or not, and has been the subject of over 300 newspaper and magazine articles. Dillman, who was a professional boxer for three and one half years, is the only person known to have trained with both Bruce Lee and Muhammad Ali. In May of 1988, Dillman was inducted into the Berks County Sports Hall of Fame. He was the first martial artist to be so included. Currently, Dillman travels the world teaching seminars on pressure points and tuite (grappling) hidden within the traditional movements of the old martial arts forms. It is his research and scientific dissection of the old forms that is earning him his most notoriety.

Never one to shy away from controversy, Dillman has rediscovered a formerly secret level of meaning for kata movements, and has made that interpretation understandable to all. He has produced a video tape instructional series on the pressure points, and has written six books with Chris Thomas, and Grandmaster Kimberly Fritz Dillman, herself a two-time U.S. National Champion: Kyusho-Jitsu: The Dillman Method of Pressure Point Fighting; Advanced Pressure Point Fighting of Ryukyu Kempo; Advanced Pressure Point Grappling: Tuite; Pressure Point Karate made easy; Little Jay Learns Karate; and Humane Pressure Point Self-Defense.

The books have been said to be, "the definitive martial arts books of the century," and "unparalleled among current martial arts literature."

Mr. Dillman is the chief instructor for Dillman Karate International, an organization of over 85 schools worldwide, with an enrollment of nearly 15,000 students. He has studied under five 10th degree black belts from Okinawa and is currently furthering his personal study through research, practice, and the sharing of techniques.

Mr. Speaker, it is indeed a great honor to pay tribute to this extraordinary man. George A. Dillman is a genius of the martial arts world.

USS "RONALD REAGAN"

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. WELDON of Pennsylvania. Mr. Speaker, next year, an important event takes place for the U.S. Navy. It is the commissioning of the aircraft carrier, USS *Ronald Reagan*.

Since leaving office, President Reagan has been honored in many ways for his remarkable legacy as our Nation's 40th President. Across the Potomac River is Ronald Reagan National Airport and down Pennsylvania Avenue stands the Ronald Reagan Building and International Trade Center. Throughout the Nation there are a number of other buildings and structures honoring the man credited with bringing down the Berlin Wall. He has received numerous awards for his contributions to world peace, contributions that will manifest themselves for many years to come.

But, Mr. Speaker, I can only assume that few honors means as much to President Reagan as the naming of a naval vessel as mighty as this one that will navigate the oceans protecting the ideals and values that he embraced and cherished.

Mr. Speaker, I hope to attend the commissioning next year, the final ceremonial exercise before the ship begins her long and, what will certainly be, illustrious voyage. As much as I look forward to this event, I am equally disappointed that I cannot attend a special ceremony today in Newport News, VA, aboard the USS *Ronald Reagan*.

A close friend and former constituent of mine, Chas Fagan, will present to the ship a bust of President Reagan. A highly talented artist and native of Pennsylvania, Mr. Fagan was commissioned to create the artwork of the former President, which will be placed in the ship's museum room located in the quarterdeck. The likeness is strikingly clear, capturing the President's confident expression that came to epitomize America's renaissance as the defender of the free world.

The bust, itself, is a profile of the President affixed to a piece of the Berlin Wall. The juxtaposition of the bust and Berlin Wall symbolize President Reagan's greatest legacy: the collapse of the Iron Curtain and reunification of Europe. It is a legacy matched by few individuals throughout the course of human history.

Mr. Speaker, the work of Chas Fagan covers many mediums and genres. As you know, each year in Washington, 2,000 national fire and emergency services leaders assemble together in Washington for the annual National Fire and Emergency Services Dinner. Mr. Fagan has often been commissioned to do a painting of the fire service, capturing the essence of heroism in this country. His work is without equal, receiving accolades for its realism and emotional energy. His latest title, "Protecting Our Nation," was recently featured on the front cover of Firehouse Magazine, the largest fire service publication in the world.

Art plays such a vital role in recording human history, and Mr. Speaker, I would like to commend Chas Fagan for doing his part in perpetuating the legacy of a truly great American icon, President Ronald Reagan. And to the sailors serving abroad the USS *Ronald Reagan*, I bid them good luck and God speed.

TRIBUTE TO DANIEL "DAN" GROSSMAN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002—

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to honor the achievements of an outstanding member of the Colorado State Legislature, and thank him for all that he has done for the state. After three terms in the Colorado House of Representatives, Dan Grossman is leaving the House in order to pursue other opportunities and I can think of no better way to thank Dan for his many years of service, than to bring his many accomplishments to light in front of this body of Congress.

A Colorado native, Dan was born in Denver, where he also attended high school. He then received his Bachelors Degree in Political Science from the University of Kansas, and his Jurist Doctorate from Denver College of Law. Dan is currently a corporate attorney for Tele Tech Holdings, Inc.

Dan was first elected to the house in 1996, and has since served on countless committees, working to improve the lives of those in Denver and in Arapahoe County. He has served diligently on the Judiciary, Agricultural, Livestock and Natural Resources Committees and is currently serving on the Executive Committee and the Veterans and Military affairs committee. Dan also served as the House Minority Leader for the 2001 and 2002 legislative sessions. During his time in the House, he has passionately dedicated himself to the issues of growth management, the environment, education and crime reduction.

Dan's compassion and philanthropic spirit goes beyond the walls of his office, and has touched the lives of many Coloradans. He is a member of the anti-defamation League, the Civil Rights Committee, Colorado Common Cause, is a former board member of the Democratic Leadership Council, and is also involved in his temple, Temple Emanuel. A true Coloradan, Dan spends his free time outdoors, running, skiing, and biking.

Mr. Speaker, I am positive that Dan's colleagues and constituents will sorely miss the leadership and compassion that he consistently gave to the State of Colorado, and I thank him for all that he has done for the state. I am honored to bring his accomplishments to the attention of this body of Congress, and wish him all the best in the future. His hard work and dedication truly embodies the spirit of the State, and it is with a great deal of pride that I thank him for his many years of public service.

TRADE DEVELOPMENT AGENCY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 14, 2002

Mr. BEREUTER. Mr. Speaker, this Member would like to highlight the important work of the Trade Development Agency (TDA). The TDA is an independent U.S. Government Agency that promotes U.S. exports in long-term, commercially sustainable projects in developing countries. Additionally, the TDA is unique because it is small, flexible, and can respond quickly. As a result, TDA is one of the first agencies to enter new markets. Moreover, TDA also makes the host country an important part of identifying priority developmental needs.

The TDA funds various forms of technical assistance, training grants, feasibility studies, orientation visits, and business workshops. To illustrate their work, in September of this year, TDA signed a grant with the National Bureau to Combat Desertification, State Forestry Administration in the People's Republic of China for $244,200. The Grantee selected Valmont Industries, Inc., a Nebraska company, to be the contractor for this study. The goal of the study is to help prevent and reduce desertification in Western China, thereby improving the air quality in Beijing and other Western areas and improving the areas immediately surrounding the desert. The study will examine Valmont's pivot irrigation technologies and how they can be utilized to best prevent the desert from expanding.

Furthermore, under the administration of President Bush, the Director of the TDA has refocused its priorities so that program activities support important policy initiatives and objectives, such as reconstruction efforts in Afghanistan. For example, TDA continues its cooperation with Afghan officials to address infrastructure, pipeline, airport, hotel development and telecommunications initiatives.

Another priority of the TDA is to support program activities in Africa. To demonstrate this, in October 2001, President Bush announced the establishment of an Africa Regional Trade Development Office under TDA. In July 2002, TDA opened an office in South Africa, which will help develop infrastructure and trade opportunities for the continent. For instance, in Nigeria, TDA allocated funds for the development of fertilizer production, power generation and agricultural irrigation.

It has come to my attention that the demand for TDA's services during FY2002 has been tremendous. Moreover, in light of priorities such as Afghanistan, the demands on TDA are expected to increase in FY2003.

Mr. Speaker, a little money goes a long way at TDA. As a result, this Member urges his colleagues to continue to support TDA.

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